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As filed with the Securities and Exchange Commission on March 19, 2004

Registration Number 333-111096

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

AMENDMENT NO. 2 TO

FORM SB-2
REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

Marchex, Inc.

(Name of small business issuer in its charter)

Delaware	**7389**	**35-2194038**
(State or other jurisdiction of incorporation or organization)	**(Primary standard industrial classification code number)**	**(I.R.S. employer identification number)**

Marchex, Inc.
2101 Fourth Avenue
Suite 1980
Seattle, Washington 98121
(206) 774-5000
(Address and telephone number of principal executive offices and principal place of business)

Russell C. Horowitz
Chairman and Chief Executive Officer
Marchex, Inc.
2101 Fourth Avenue
Suite 1980
Seattle, Washington 98121
(206) 774-5000
(Name, address and telephone number of agent for service)

Copies to:

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Michael Jay Brown, Esq.
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Seattle, WA 98101
(206) 903-8800

Approximate date of commencement of proposed sale to the public:
As soon as practicable after the effective date hereof.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering: ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐

If delivery of the prospectus is expected to be made pursuant to Rule 434 under the Securities Act, please check the following box: ☒

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, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said section 8(a), may determine.

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The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS (Subject to Completion)
Dated March 19, 2004

4,000,000 shares

Marchex, Inc.
Class B Common Stock

This is our initial public offering of shares of our Class B common stock. No public market currently exists for any shares of our capital stock. We anticipate the initial public offering price of our Class B common stock will be from $6.00 to $7.00 per share. This price may not reflect the market price of our Class B common stock after our offering.

We have two classes of authorized common stock: Class A common stock and Class B common stock. All of our outstanding Class A common stock is beneficially owned by our founding officers. Holders of our Class B common stock are entitled to one vote per share, while holders of our Class A common stock are entitled to twenty-five votes per share, on all matters submitted to a vote of our stockholders.

We have applied to list our Class B common stock on the NASDAQ National Market and have reserved the trading symbol "MCHX."

This offering involves a high degree of risk. Before buying any shares you should read the discussion of material risks of investing in our Class B common stock in " Risk Factors" beginning on page 7.

	Per Share(1)	Total(1)
Public offering price	$ 6.50	$ 26,000,000
Underwriting discounts and commissions	$ 0.325	$ 1,300,000
Proceeds, before expenses, to us(2)	$ 6.175	$ 24,700,000

(1) Based on the middle of the filing range on the date of this prospectus.
(2) We estimate the expenses of this offering will be approximately $1,400,000.

As additional compensation to the underwriters, we have granted the representatives of the underwriters warrants, exercisable over a period commencing one year after the offering date and ending five years from the offering date, to purchase 120,000 shares of our Class B common stock at an exercise price equal to 130% of the initial public offering price.

We granted the underwriters a 30-day option to purchase up to 600,000 shares of Class B common stock at the initial public offering price, less the underwriting discounts and commissions, to cover over-allotments, if any. If the underwriters exercise the option in full, the total underwriting discounts and commissions will be $1,495,000 and our total proceeds, before expenses, will be $28,405,000 (in each case assuming an initial public offering price of $6.50, which represents the middle of the filing range as of the date of this prospectus).

The underwriters are offering the Class B common stock on a firm commitment basis, such that the underwriters will purchase all offered shares if any of such shares are not purchased. The representatives, on behalf of the underwriters, expect to deliver the shares on or about , 2004.

Our directors, officers and employees will purchase up to 600,000 shares at the initial public offering price. At our request, the underwriters have reserved shares at the initial public offering price for this purpose. Any reserved shares which are not purchased will be offered by the underwriters to the general public on the same basis as the other shares offered by this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

Sanders Morris Harris **National Securities Corporation**

The date of this prospectus is March , 2004.

You should rely only on the information contained in this prospectus. We have not authorized anyone to provide information different from that contained in this prospectus. We are offering to sell, and seeking offers to buy, shares of Class B common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of our Class B common stock.

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Until , 2004, 25 days after the date of this offering, all dealers that effect transactions in our Class B common stock, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus while acting as underwriters and with respect to their unsold allotments or subscriptions.

PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this prospectus. This summary may not contain all of the information that you should consider before investing in our Class B common stock. You should carefully read the entire prospectus, including "Risk Factors" and the financial statements, before making an investment decision. Unless otherwise specified or the context otherwise requires, references in this prospectus to "we," "our" and "us" refer to Marchex, Inc. and its wholly-owned subsidiaries, including Enhance Interactive, Inc. (f/k/a ah-ha.com, Inc.), and TrafficLeader, Inc. (f/k/a Sitewise Marketing, Inc.), on a consolidated basis.

Our Company

We provide technology-based services to merchants engaged in online transactions. Our objective is to be a leader in terms of growth, profitability, technological innovation, and business model innovation. We anticipate achieving our objectives through a combination of consolidation opportunities, growing those businesses we acquire, internal development initiatives and strategic relationships.

We believe there is a significant, long-term opportunity to capture market share of online transactions, and services that support online transactions, by building a profitable, diversified global company that provides a wide range of technology-based services to merchants, including: Web site infrastructure and development services; online payment and commerce infrastructure; promotional tools to market and sell products and services; and automated tools to manage and track online transactions. We intend to leverage the experience of our senior management to capture this opportunity, as they have substantial operational and strategic experience, including experience in building and managing public companies, executing acquisitions and forming strategic relationships.

Our current operating businesses are in the performance-based advertising and search marketing industries, primarily focused on helping merchants market and sell their products and services via the Internet. We currently provide our merchant customers with the following technology-based services:

- ***Performance-Based Advertising*** primarily includes pay-per-click and paid inclusion services.
  - *Pay-Per-Click Services*. With pay-per-click services, merchant advertisers purchase keywords based on an amount they choose for a targeted placement, usually within search engine results.
  - *Paid Inclusion Services*. With paid inclusion services, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and indexed and included primarily within search engine and shopping engine results. Generally, the paid inclusion results are presented separately from the pay-per-click results.
- ***Search Marketing*** is designed for merchant advertisers who are focused on acquiring customers through search-based marketing methods, such as pay-per-click management ("advertising campaign management"), enhancing the performance of their campaigns through tracking and analyzing historical results ("conversion tracking and analysis"), and refining their Web sites for increased relevance in algorithmic search engine indexes ("search engine optimization").

In support of our partners and merchants, we devote resources to developing and building proprietary technology-based products and services that we believe are innovative and provide a high degree of utility. Additionally, we continually evaluate opportunities to evolve existing technologies and business models, and we regularly consider possible acquisitions and strategic relationships.

Our Industry

Internet-based transactions between consumers and merchants have grown rapidly in recent years. This growth is the result of decreasing price points of Internet access devices coupled with corresponding performance gains of such devices; a large installed base of personal computers in the workplace and home; penetration of broadband technologies and increased Internet usage; and the emergence of compelling commerce opportunities and a growing awareness among consumers of the convenience and other benefits of online shopping. We believe that today's consumers are becoming increasingly confident that they can find comprehensive product information and securely transact online. Additionally, we believe merchants' abilities to more efficiently and effectively acquire and monetize customers have also led to a steady increase in merchants coming online and therefore in the number of online transactions.

We believe there is a significant, long-term opportunity to capture market share of online transactions and services that support online transactions, by building a profitable, diversified global company that provides a wide range of technology-based services to merchants, including: Web site infrastructure and development services; online payment and commerce infrastructure; promotional tools to market and sell products and services; and automated tools to manage and track online transactions. On an ongoing basis, we intend to evaluate points in the merchant transactions value chain that will provide the greatest opportunity for us to build and acquire offerings with the following characteristics: growth, scalability, profitability and defensibility.

Our Strategy

We intend to leverage our senior management's experience, our financial and human resources, and our existing operating businesses to provide technology-based services for merchants engaged in online transactions. Key elements of our strategy include the following initiatives:

- provide quality services in support of merchants and distribution partners;
- increase the number of merchants served;
- continue to innovate and develop proprietary technologies and intellectual property;
- pursue selective acquisition and consolidation opportunities;
- drive increased profitability through revenue growth and operating leverage; and
- develop new markets.

Our Relationship with Our Founding Officers

In connection with our formation in January 2003, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou, John Keister and Victor Oquendo, our founding officers, provided our initial capital investment. As of December 31, 2003, these founding officers beneficially owned 71% of our capital stock, which represented 98% of the combined voting power of all of our outstanding stock. Upon completion of this offering, these founding officers will own 59% of all of our outstanding common stock, excluding any amounts that may be purchased by them in this offering, which will represent 97% of the combined voting power of all of our outstanding stock.

Company Information

We were incorporated in Delaware on January 17, 2003. On February 28, 2003, we acquired eFamily.com, Inc., together with its direct wholly-owned subsidiary Enhance Interactive. eFamily was incorporated in Utah on November 29, 1999, under the name FocusFilter.com, Inc. On October 24, 2003, we acquired TrafficLeader, which was incorporated in Oregon on January 24, 2000, under the name Sitewise Marketing, Inc.

From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives. During this period we had no revenues.

Our principal executive offices are located at 2101 Fourth Avenue, Suite 1980, Seattle, Washington 98121, and our telephone number is (206) 774-5000. Our corporate Web site address is *www.marchex.com*. Our subsidiaries have Web sites located at *www.enhance.com* and *www.trafficleader.com*. The information on our Web sites is not incorporated by reference into and does not form a part of this prospectus.

The Offering

Class B common stock offered	4,000,000 shares
Common stock to be outstanding after the offering:	
Class A common stock (twenty-five votes per share)	11,987,500 shares
Class B common stock (one vote per share)	12,291,563 shares
Total	24,279,063 shares
Proposed NASDAQ National Market symbol *	MCHX
Use of proceeds	We expect to use the net proceeds of the offering for: • product and business development; • acquisitions and strategic relationships; • capital expenditures; • personnel; • facilities; • our earn-out payment obligations (related to our acquisitions); and • working capital and other general corporate purposes. Pending such use, we plan to invest the net proceeds in short-term, investment grade, interest-bearing securities. See “Use of Proceeds.”

* We have applied to list our Class B common stock on the NASDAQ National Market and have reserved the trading symbol “MCHX.”

Unless we indicate otherwise, in preparing this prospectus:

- we have given effect to the conversion of all outstanding shares of our preferred stock into 6,724,063 shares of our Class B common stock upon the closing of this offering;
- we have *not* given effect to the exercise by the underwriters of the over-allotment option granted to them to purchase an additional 600,000 shares of Class B common stock in the offering;
- we have *not* given effect to the exercise by the representatives of the warrants to be issued as compensation under the underwriting agreement; and

- we have assumed the filing of our amended and restated certificate of incorporation concurrently with the completion of this offering.

The number of shares of common stock to be outstanding after this offering is based on 20,279,063 shares outstanding as of February 16, 2004. This number of shares:

- includes 6,724,063 shares of Class B common stock issuable upon the automatic conversion of all outstanding shares of our Series A convertible preferred stock upon the completion of this offering;
- excludes 5,013,953 shares of Class B common stock that we have reserved for issuance under our 2003 stock incentive plan and 300,000 shares of Class B common stock that we have reserved for issuance under our 2004 employee stock purchase plan. As of February 16, 2004, 3,196,600 shares were subject to outstanding options, of which 2,421,500 options have a weighted average exercise price of $1.67 per share and 775,100 options will have an exercise price equal to the initial public offering price; and
- excludes 262,500 shares of Class A common stock that are held in treasury.

The numbers of shares beneficially owned by our officers and directors and included in this prospectus do not include any shares of Class B common stock that any officer or director may purchase in the offering. In cases where we have calculated ownership percentages following the offering, these calculations assume that no additional shares of Class B common stock were purchased by the officers and directors in the offering. Our officers and directors may individually decide to purchase shares of the Class B common stock in the offering.

You should rely only on the information contained in this prospectus. This prospectus is not an offer to sell or a solicitation of an offer to buy shares in any jurisdiction where such offer or any sales of shares would be unlawful. The information in this prospectus is complete and accurate only as of the date on the front cover regardless of the time of delivery of this prospectus or of any sale of shares.

See “Risk Factors” and other information included in this prospectus for a discussion of factors you should consider before investing in shares of our Class B common stock.

Summary Consolidated Financial Data

The following tables summarize historical consolidated financial data regarding our business and should be read together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the related notes included elsewhere in this prospectus. The summary information as of December 31, 2003 and for the year ended December 31, 2002, the period from January 1, 2003 to February 28, 2003 and the period from January 17, 2003 (inception) to December 31, 2003 has been derived from our audited consolidated financial statements included elsewhere in this prospectus. The results of operations for Enhance Interactive have been presented as the "Predecessor" for the year ended December 31, 2002 and for the period from January 1, 2003 to February 28, 2003. See subsection "Presentation of Financial Reporting Periods" on page 29 for a further description of the basis of presentation of the 2003 period and of other financial reporting periods.

	Predecessor Periods		Successor Period
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Consolidated Statement of Operations Data:			
Revenue	$ 10,070,507	3,071,055	19,892,158
Income (loss) from operations	(238,150)	555,072	(3,327,723)
Net income (loss)	(89,783)	332,519	(2,169,352)
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885
Net income (loss) applicable to common stockholders	$ (89,783)	332,519	(3,488,237)
Consolidated Statement of Cash Flows Data:			
Cash flows from operating activities	$ 1,539,808	353,053	2,907,053
Other Financial Data:			
Operating income before amortization (OIBA) (1)	$ 126,543	594,053	1,820,795

	December 31, 2003		
	Actual	Pro forma (2)	Pro forma as Adjusted (2)
Consolidated Balance Sheet Data:			
Cash and cash equivalents	$ 6,019,119	6,019,119	29,348,996
Total current assets	8,343,151	8,343,151	31,673,028
Total assets	33,702,612	33,702,612	56,656,139
Total current liabilities	8,501,674	8,501,674	8,155,201
Series A redeemable convertible preferred stock	21,440,402	—	—
Total stockholders' equity	$ 1,834,332	23,274,734	46,574,734

(1) We report operating income before amortization (OIBA) that is a supplemental measure to GAAP. OIBA represents income (loss) from operations before (1) stock-based compensation expense and (2) amortization of intangible assets. This measure, among other things, is one of the primary metrics by which we evaluate the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, and should not be considered in

isolation, as a substitute for or superior to GAAP results. We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses. OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses, including non-cash stock-based compensation associated with our employees and acquisition-related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure. The following is a reconciliation of Income (loss) from operations and Net income (loss) applicable to common stockholders to the non-GAAP measure of Operating income before amortization:

	Predecessor Periods		Successor Period
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception to December 31, 2003
Operating income before amortization (OIBA)	$ 126,543	594,053	1,820,795
Stock-based compensation	(364,693)	(38,981)	(2,125,110)
Amortization of intangible assets	—	—	(3,023,408)
Income (loss) from operations	(238,150)	555,072	(3,327,723)
Other income:			
Interest income	5,491	1,529	45,874
Adjustment to fair value of redemption obligation	—	—	25,500
Other	—	—	2,685
Total other income	5,491	1,529	74,059
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)
Net income (loss)	(89,783)	332,519	2,169,352)
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885
Net income (loss) applicable to common stockholders	$ (89,783)	332,519	(3,488,237)

(2) Pro forma amounts give effect to the automatic conversion of all outstanding shares of our Series A redeemable convertible preferred stock into 6,724,063 shares of Class B common stock upon the closing of this offering. Pro forma as adjusted amounts also give effect to the issuance and sale of 4,000,000 shares of our Class B common stock at an assumed initial public offering price of $6.50 per share, which represents the middle of the filing range as of the date of this prospectus (after deducting $2.7 million in underwriting discounts and commissions and estimated expenses of the offering). As of December 31, 2003, the estimated expenses of the offering included approximately $376,000 in other assets as deferred offering costs, of which approximately $30,000 were paid and approximately $346,000 are reflected as current liabilities.

RISK FACTORS

Any investment in our Class B common stock involves a high degree of risk. You should carefully consider the following information about these risks, together with the other information contained in this prospectus, before you decide whether to purchase our Class B common stock. Additional risks and uncertainties not currently known to us or that we currently do not deem material may also become important factors that may harm our business. If any of the following risks occur, our business, financial condition and results of operations could be materially adversely affected. In such case, the trading price of our Class B common stock could decline, and you may lose all or part of your investment.

Risks Relating to Our Company

Our limited operating history makes evaluation of our business difficult.

We were formally incorporated in January 2003. We acquired Enhance Interactive in February 2003 and TrafficLeader in October 2003. As a result, we have limited historical financial data upon which to base planned operating expenses or forecast accurately our future operating results. Further, our limited operating history will make it difficult for investors and securities analysts to evaluate our business and prospects. You must consider our prospects in light of the risks, expenses and difficulties we face as an early stage company with a limited operating history.

We may need additional funding to support our operations and capital expenditures, which may not be available to us and which lack of availability could adversely affect our business.

We have no committed sources of additional capital. For the foreseeable future, we intend to fund our operations and capital expenditures from limited cash flow from operations, our cash on hand and the net proceeds of the offering. If our capital resources are insufficient, we will have to raise additional funds. We may need additional funds to continue our operations, pursue business opportunities (such as expansion, acquisitions of complementary businesses or the development of new products or services), to react to unforeseen difficulties or to respond to competitive pressures. There can be no assurance that any financing arrangements will be available in amounts or on terms acceptable to us, if at all. Furthermore, the sale of additional equity or convertible debt securities may result in additional dilution to existing stockholders. If adequate additional funds are not available, we may be required to delay, reduce the scope of or eliminate material parts of the implementation of our business strategy, including the possibility of additional acquisitions or internally developed businesses.

We may need additional funding to make payments to the former shareholders of Enhance Interactive and TrafficLeader, which may not be available to us and which lack of availability could adversely affect our financial condition.

We are obligated to make earnings-based performance payments to the original shareholders and certain employees of eFamily which we acquired in February 2003, together with its direct wholly-owned subsidiary, Enhance Interactive. These payment obligations are calculated based on a percentage of Enhance Interactive's earnings before taxes excluding stock-based compensation and amortization of intangibles relating to the acquisition for the calendar years 2003 and 2004, according to the terms of the merger agreement, with a maximum aggregate obligation of $13.5 million. For the 2003 calendar year, the total Enhance Interactive earnings-based payment obligation was approximately $3.5 million. We may also be obligated to make revenue-based performance payments to the original shareholders of TrafficLeader, which we acquired in October 2003. If TrafficLeader has revenues in excess of $15 million for 2004, we will be obligated to pay an amount equal to 10% of each dollar in revenue above the $15 million threshold, with a maximum obligation of $1 million. If we are unable to raise sufficient funds in this offering or any subsequent offerings, we may not be able to meet our payment obligations under our acquisition agreements for Enhance Interactive and TrafficLeader, which could have a material adverse effect upon our financial condition.

Further, in the event that we have not completed a firm commitment initial public offering with gross proceeds of at least $20 million prior to October 24, 2005, the original shareholders of TrafficLeader can require us to redeem 425,000 shares of our Class B common stock for $8 per share (for an aggregate redemption amount of $3.4 million) upon the affirmative vote of the holders of 75% of such shares. Our failure to meet this potential payment obligation could have a material adverse effect upon our financial condition.

We have incurred losses since our inception, and we expect our losses to continue for the foreseeable future, which will adversely affect our ability to achieve profitability.

To date, we have incurred net losses and had an accumulated deficit of $3.5 million for the period from January 17, 2003 (inception) through December 31, 2003 and as of December 31, 2003.

Our net losses are likely to continue for the foreseeable future. Also, our net losses may increase to the extent we increase our sales and marketing activities and acquire additional businesses. These efforts may prove to be more expensive than we currently anticipate, which could further increase our net losses. We cannot predict when, or if, we will become profitable in the future. Even if we achieve profitability, we may not be able to sustain it.

We may make acquisitions, which could divert management's attention, cause ownership dilution to our stockholders and be difficult to integrate.

Our business strategy depends heavily upon our ability to identify, structure and integrate acquisitions. Acquisitions, strategic relationships and investments in the technology and Internet sectors involve a high degree of risk. We may also be unable to find a sufficient number of attractive opportunities, if any, to meet our objectives. Although many technology and Internet companies have grown in terms of revenue, few companies are profitable or have competitive market share. Our potential strategic acquisition, strategic relationship or investment targets and partners may have histories of net losses and may expect net losses for the foreseeable future.

Acquisition transactions are accompanied by a number of risks that could harm us and our business, operating results and financial condition:

- we could experience a substantial strain on our resources, including time and money, and we may not be successful;
- our management's attention may be diverted from our ongoing business concerns;
- while integrating new companies, we may lose key executives or other employees of these companies;
- we could experience customer dissatisfaction or performance problems with an acquired company or technology;
- we may become subject to unknown or underestimated liabilities of an acquired entity or incur unexpected expenses or losses from such acquisitions; and
- we may incur possible impairment charges related to goodwill or other intangible assets or other unanticipated events or circumstances, any of which could harm our business.

Consequently, we might not be successful in integrating any acquired businesses, products or technologies, and might not achieve anticipated revenue and cost benefits.

The loss of our senior management, including our founding officers, could harm our current and future operations and prospects.

We are heavily dependent upon the continued services of Russell C. Horowitz and John Keister and the other members of our senior management team. We do not have long-term employment agreements with any of the members of our senior management team. Each of these individuals may voluntarily terminate his employment

with Marchex at any time upon short notice. Following any termination of employment, each of these employees would only be subject to a twelve-month period of non-competition under our standard confidentiality agreement.

Further, as of December 31, 2003, our founding officers together controlled ninety-eight percent (98%) of the combined voting power of our issued and outstanding capital stock and after the offering will control ninety-seven percent (97%) of such combined voting power. Their collective voting control is not tied to their continued employment with Marchex. The loss of the services of any member of our senior management, including our founding officers, for any reason, or any conflict among our founding officers, could harm our current and future operations and prospects.

We may have difficulty attracting and retaining qualified, experienced, highly skilled personnel, which could adversely affect the implementation of our business plan.

In order to fully implement our business plan, we will need to attract and retain additional qualified personnel. Thus, our success will in significant part depend upon the efforts of personnel not yet identified and upon our ability to attract and retain highly skilled managerial, engineering, sales and marketing personnel. We are also dependent on managerial and technical personnel to the extent they may have knowledge or information about our businesses and technical systems that may not be known by other personnel in our Company. There can be no assurance that we will be able to attract and retain necessary personnel. The failure to hire and retain such personnel could adversely affect the implementation of our business plan.

Our use of variable plan accounting for some stock options will result in stock-based compensation charges and reduce our reported net income.

We use variable plan accounting to account for certain non-qualified stock options (for the purchase of an aggregate of 125,000 shares) issued under our 2003 stock incentive plan and, accordingly, we may be required to record a compensation charge on a quarterly basis, which will lower our earnings. These options were issued in connection with the acquisition of Enhance Interactive and are conditioned upon employment. These options are potentially subject to forfeiture if certain indemnification obligations under the acquisition agreement are not met. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair value of the shares of our Class B common stock exceeds the exercise price for these options and is recognized over the vesting period of the options. Increases or decreases in the fair value of our Class B common stock between the date of grant and the date of the exercise of these options could result in a corresponding increase or decrease in the measure of compensation expense and thus could cause fluctuations in our earnings from period to period.

New rules, including those contained in and issued under the Sarbanes-Oxley Act of 2002, may make it difficult for us to retain or attract qualified officers and directors, which could adversely affect the management of our business and our ability to obtain or retain listing of our Class B common stock on NASDAQ.

We may be unable to attract and retain qualified officers, directors and members of board committees required to provide for our effective management as a result of the recent and currently proposed changes in the rules and regulations which govern publicly-held companies, including, but not limited to, certifications from executive officers and requirements for financial experts on the board of directors. The perceived increased personal risk associated with these recent changes may deter qualified individuals from accepting these roles. The enactment of the Sarbanes-Oxley Act of 2002 has resulted in the issuance of a series of new rules and regulations and the strengthening of existing rules and regulations by the Securities and Exchange Commission, as well as the adoption of new and more stringent rules by the NASDAQ National Market.

Further, certain of these recent and proposed changes heighten the requirements for board or committee membership, particularly with respect to an individual's independence from the corporation and level of

experience in finance and accounting matters. We may have difficulty attracting and retaining directors with the requisite qualifications. If we are unable to attract and retain qualified officers and directors, the management of our business and our ability to maintain the NASDAQ National Market System listing of our shares of Class B Common Stock (assuming we are successful in obtaining such listing) could be adversely affected.

If we are unable to obtain adequate insurance, our financial condition could be adversely affected in the event of uninsured or inadequately insured loss or damage. Our ability to effectively recruit and retain qualified officers and directors could also be adversely affected if we experience difficulty in obtaining adequate directors' and officers' liability insurance.

We may not be able to obtain insurance policies on terms affordable to us that would adequately insure our business and property against damage, loss or claims by third parties. To the extent our business or property suffers any damages, losses or claims by third parties, which are not covered or adequately covered by insurance, the financial condition of our Company may be materially adversely affected.

We currently have directors' and officers' liability insurance, but we may be unable to maintain sufficient insurance as a public company to cover liability claims made against our officers and directors. If we are unable to adequately insure our officers and directors, we may not be able to retain or recruit qualified officers and directors to manage our Company.

Risks Relating to Our Business

We are dependent on our distribution partners for a significant portion of our total revenue. A loss of distribution partners or decrease in revenue from distribution partners could adversely affect our operating results.

We rely primarily on distribution partners to provide us with access to users and consumers. This sector has experienced, and will likely continue to experience, consolidation among the larger distribution partners. This consolidation has reduced the number of partners that control the online advertising outlets with the most user traffic. For example, Yahoo! owns or controls multiple distribution networks and destinations. According to *U.S. Bancorp Piper Jaffray* in a March 2003 report, Yahoo! Search accounts for twenty-one percent (21%) of the online searches in the United States and Google accounts for thirty-four percent (34%). Certain Yahoo! subsidiaries are among our current distribution partners, and we purchase advertising on Google.

As a result, the larger distribution partners have greater control over determining the market terms of distribution, including placement of merchant advertisements and cost of placement. Our agreements with large distribution partners contain short-term termination clauses in their favor. We cannot be assured that we will maintain our current agreements with any of these distribution partners. In addition, we cannot be assured that any of these distribution partners will continue to generate current levels of revenue for us. A loss of any of these distribution partners or a decrease in revenue from any one of these distribution partners could have an adverse effect on our revenue and profitability, and the loss of any one large distribution partner could have a material adverse effect on our operating results.

If we do not maintain and grow a critical mass of merchant advertisers and distribution partners, the value of our services could be adversely affected.

Our success depends, in part, on the maintenance and growth of a critical mass of merchant advertisers and distribution partners and a continued interest in our performance-based advertising and search marketing services. If our business is unable to achieve a growing base of merchant advertisers, our current distribution partners may be discouraged from continuing to work with us, and this may create obstacles for us to enter into agreements with new distribution partners. Similarly, if our distribution network does not grow and improve over time, current and prospective merchant advertisers may reduce or terminate their business with us. In particular, we may not successfully develop or market technologies, products or services that are competitive or accepted by

merchant advertisers. Any decline in the number of merchant advertisers and distribution partners could adversely affect the value of our services generally.

We are dependent upon our distribution partners to continue to provide us traffic that our merchant advertisers deem to be of value, and if they do not, it could have a material adverse effect on the value of our services.

We are dependent upon our distribution partners to provide us traffic that our merchant advertisers deem to be of value. We monitor the traffic of our distribution partners in an attempt to optimize the quality of traffic we deliver to our merchant advertisers, which may include terminating certain distribution partners. We review factors such as non-human processes, including robots, spiders, scripts (or other software), mechanical automation of clicking and other sources and causes of low-quality traffic, including, but not limited to, other non-human clicking agents. Even with such monitoring in place, there is a risk that a certain amount of low-quality traffic will be provided to our merchant advertisers, which, if not contained, may be detrimental to those relationships. Low-quality traffic (or traffic that is deemed to be less valuable by our merchant advertisers) that is provided by our distribution partners may prevent us from growing our base of merchant advertisers and cause us to lose relationships with existing merchant advertisers.

We may be subject to intellectual property claims, which could adversely affect our financial condition and ability to use certain critical technologies, divert our resources and management attention from our business operations and create uncertainty about ownership of technology essential to our business.

Our success depends, in part, on our ability to protect our intellectual property and to operate without infringing on the intellectual property rights of others in the process. There can be no guarantee that any of our intellectual property will be adequately safeguarded, or that it will not be challenged by third parties. We may be subject to patent infringement claims or other intellectual property infringement claims that would be costly to defend and could limit our ability to use certain critical technologies.

For example, Overture Services, a subsidiary of Yahoo!, which operates in certain competitive areas with us, owns a patent (U.S. Patent No. 6,269,361), which purports to give Overture rights to certain bid-for-placement products and pay-per-performance search technologies. Overture is currently involved in litigation with two companies relating to this patent (FindWhat and Google). These companies are vigorously contesting Overture's patent. If we were to acquire or develop a related product or business model that Overture construes as infringing upon the above-referenced patent, then we could be asked to license, re-engineer our product(s) or revise our business model according to terms that may be extremely expensive and/or unreasonable. Additionally, if Overture construes any of our current products or business models as infringing upon the above-referenced patent, then we could be asked to license, re-engineer our product(s) or revise our business model according to terms that could be extremely expensive and/or unreasonable.

Any patent litigation could negatively impact our business by diverting resources and management attention from other aspects of the business and adding uncertainty as to the ownership of technology and services that we view as proprietary and essential to our business. In addition, a successful claim of patent infringement against us and our failure or inability to license the infringed or similar technology on reasonable terms, or at all, could have a material adverse effect on our business.

We currently have a reliance on certain distribution partners, including Yahoo! and its subsidiaries, to distribute our services. The termination of any of these distribution relationships could have a material adverse effect on our operating results.

We currently have certain distribution partners that deliver a significant percentage of traffic to our merchant listings, in terms of click-throughs. However, for the period of January 17, 2003 (inception) through December 31, 2003, none of these partners represented more than 10% of our total revenue. Given the

consolidation trend in distribution and ownership of traffic, we anticipate that one or more distribution partners could individually represent more than 10% of our total revenue in future periods. For example, Yahoo!, through its subsidiaries, such as Inktomi and Overture, is an important distribution partner of our paid inclusion services, and they represent less than 10% of our total revenue for the period from January 17, 2003 (inception) to December 31, 2003. Existing agreements with certain Yahoo! subsidiaries contain mutual termination clauses and are primarily structured on a variable-payment basis, under which we make payments based on a specified percentage of revenue or based on the number of paid click-throughs. We intend to continue devoting resources in support of our Yahoo! relationship, although there are no guarantees that this relationship will remain in place over the short- or long-term.

Currently, many participants in the performance-based advertising and search marketing industries own significant portions of the traffic that they deliver to advertisers. We do not believe, for example, that Yahoo! and Google are as reliant as we are on a distribution network to deliver their services. This gives these companies a significant advantage in delivering their services, and with a lesser degree of risk. If the existing relationships with our distribution partners were terminated, our operating results could suffer.

We have grown quickly and if we fail to manage our growth, our business could suffer.

We have rapidly expanded our operations and anticipate that further significant expansion, including the possible acquisition of third-party assets, technologies or businesses, will be required to address potential growth in our customer base and market opportunities. This expansion has placed, and is expected to continue to place, a significant strain on our management, operational and financial resources. If we are unable to manage our growth effectively or if we are unable to successfully integrate any assets, technologies or businesses that we may acquire, our business could be affected adversely.

Risks Relating to Our Industry

If we are unable to compete in the highly competitive performance-based advertising and search marketing industries, we may experience reduced demand for our products and services.

We operate in a highly competitive environment. We principally compete with other companies in five main areas:

- sales to merchant advertisers of performance-based advertising;
- sales to merchant advertisers of paid inclusion services;
- aggregation or optimization of advertising inventory for distribution through search engines, product shopping engines, directories, Web sites or other outlets;
- delivery of products and services to end users or customers of merchants at destination Web sites or other distribution outlets; and
- services that allow merchants to manage their advertising campaigns across multiple networks and track the success of these campaigns.

Although we currently pursue a strategy that allows us to potentially partner with all relevant companies in the industry, there are certain companies in the industry that may not wish to partner with us. Despite the fact that we currently work with several of our potential competitors, there are no guarantees that these companies will continue to work with us in the future.

We currently or potentially compete with a variety of companies, including Decide Interactive, DoubleClick, FindWhat, Google, LookSmart, Microsoft, ValueClick and Yahoo!. We currently have some form of relationship with a majority of these companies. Going forward, however, these relationships could be terminated by either party. Furthermore, our competitors may be able to secure agreements with more favorable terms, which could

reduce the usage of our services, increase the amount payable to our distribution partners and reduce our total revenue. Increased competition is likely to result in a loss of market share.

We expect competition to intensify in the future because current and new competitors can enter our market with little difficulty. The barriers to entering our market are relatively low. In fact, many current Internet and media companies presently have the technical capabilities and advertiser bases to enter the search marketing services industry. Further, if the consolidation trend continues among the larger media and search engine companies with greater brand recognition, the share of the market remaining for us and other smaller search marketing services providers could decrease, even through the number of smaller providers could continue to increase. These factors could adversely affect our competitive position in the search marketing services industry.

Some of our competitors, as well as potential entrants into our market, may be better positioned to succeed in this market. They may have:

- longer operating histories;
- more management experience;
- an employee base with more extensive experience;
- a better ability to service customers in multiple cities in the United States and internationally by virtue of the location of sales offices;
- larger customer bases;
- greater brand recognition; and
- significantly greater financial, marketing and other resources.

In addition, many current and potential competitors can devote substantially greater resources than we can to promotion, Web site development and systems development. Furthermore, currently and in the future to the extent the use of the Internet and other online services increases, there will likely be larger, more well-established and well-financed entities that acquire companies and/or invest in or form joint ventures in categories or countries of interest to us, all of which could adversely impact our business. Any of these trends could increase competition and reduce the demand for any of our services.

If we are not able to respond to the rapid technological change characteristic of our industry, our products and services may not be competitive.

The market for our products and services is characterized by rapid change in business models and technological infrastructure, and we will need to constantly adapt to changing markets and technologies to provide competitive products and services. We believe that our future success will depend, in part, upon our ability to develop our products and services for both our target market and for applications in new markets. We may not, however, be able to successfully do so, and our competitors may develop innovations that render our products and services obsolete or uncompetitive.

Our technical systems are vulnerable to interruption and damage that may be costly and time-consuming to resolve and may harm our business and reputation.

A disaster could interrupt our services for an indeterminate length of time and severely damage our business, prospects, financial condition and results of operations. Our systems and operations are vulnerable to damage or interruption from:

- fire;
- floods;

- network failure;
- hardware failure;
- software failure;
- power loss;
- telecommunications failures;
- break-ins;
- terrorism, war or sabotage;
- computer viruses;
- denial of service attacks;
- penetration of our network by unauthorized computer users and "hackers" and other similar events;
- natural disaster; and
- other unanticipated problems.

We may not have developed or implemented adequate protections or safeguards to overcome any of these events. We also may not have anticipated or addressed many of the potential events that could threaten or undermine our technology network. Any of these occurrences could cause material interruptions or delays in our business, result in the loss of data or render us unable to provide services to our customers. In addition, if a person is able to circumvent our security measures, he or she could destroy or misappropriate valuable information or disrupt our operations. We have deployed firewall hardware intended to thwart hacker attacks. Although we maintain property insurance and business interruption insurance, our insurance may not be adequate to compensate us for all losses that may occur as a result of a catastrophic system failure or other loss, and our insurers may not be able or may decline to do so for a variety of reasons.

If we fail to address these issues in a timely manner, we may lose the confidence of our merchant advertisers and distribution partners, our revenue may decline and our business could suffer. In addition, as we expand our service offerings and enter into new business areas, we may be required to significantly modify and expand our software and technology platform. If we fail to accomplish these tasks in a timely manner, our business and reputation will likely suffer.

We rely on third party technology, server and hardware providers, and a failure of service by these providers could adversely affect our business and reputation.

We rely upon third party colocation providers to host our main servers. In the event that these providers experience any interruption in operations or cease operations for any reason or if we are unable to agree on satisfactory terms for continued hosting relationships, we would be forced to enter into a relationship with other service providers or assume hosting responsibilities ourselves. If we are forced to switch hosting facilities, we may not be successful in finding an alternative service provider on acceptable terms or in hosting the computer servers ourselves. We may also be limited in our remedies against these providers in the event of a failure of service. In the past, we have experienced short term outages in the service maintained by one of our current colocation providers. We also rely on third party providers for components of our technology platform, such as hardware and software providers, credit card processors and domain name registrars. A failure or limitation of service or available capacity by any of these third party providers could adversely affect our business and reputation.

We may not be able to protect our intellectual property rights, which could result in our competitors marketing competing products and services utilizing our intellectual property and could adversely affect our competitive position.

Our success and ability to compete effectively are substantially dependent upon our internally developed and acquired technology and data resources, which we protect through a combination of copyright, trade secret, patent and trademark law. To date, we have filed two provisional patent applications with the United States Patent and Trademark Office and may in the future file additional patents with respect to internally developed or acquired technologies. Our industry is highly competitive and many individuals and companies have sought to patent processes in the industry. In addition, the patent process takes several years and involves considerable expense. Further, patent applications and patent positions in our industry are highly uncertain and involve complex legal and factual questions due in part to the number of competing technologies. As a result, we may not be able to successfully prosecute these patents, in whole or in part, or any additional patent filings that we may make in the future. We also depend on our trade name and domain names. We may not be able to adequately protect our technology and data resources. In addition, intellectual property laws vary from country to country, and it may be more difficult to protect our intellectual property in some foreign jurisdictions we may enter. If we fail to obtain and maintain patent or other intellectual property protection for our technology, our competitors could market competing products and services utilizing our technology which could have a material adverse effect on our competitive position.

Despite our efforts to protect our proprietary rights, unauthorized parties domestically and internationally may attempt to copy or otherwise obtain and use our services, technology and other intellectual property. We cannot be certain that the steps we have taken will prevent any misappropriation or confusion among consumers and merchant advertisers.

We may be involved in lawsuits to protect or enforce our patents, which could be expensive and time consuming.

We may initiate patent litigation against third parties to protect or enforce our patent rights, and we may be similarly sued by others. We may also become subject to interference proceedings conducted in the patent and trademark offices of various countries to determine the priority of inventions. The defense and prosecution, if necessary, of intellectual property suits, interference proceedings and related legal and administrative proceedings is costly and may divert our technical and management personnel from their normal responsibilities. We may not prevail in any of these suits. An adverse determination of any litigation or defense proceedings could put our patents at risk of being invalidated or interpreted narrowly and could put our patent applications at risk of not being issued.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, during the course of this kind of litigation, there could be public announcements of the results of hearings, motions or other interim proceedings or developments in the litigation. If securities analysts or investors perceive these results to be negative, it could have an adverse effect on the trading price of our Class B common stock.

Our quarterly results of operations might fluctuate due to seasonality, which could adversely affect our growth rate and in turn the market price of our Class B common stock.

Our quarterly results have fluctuated in the past and may fluctuate in the future due to seasonal fluctuations in the level of Internet usage. As is typical in our industry, the second and third quarters of the calendar year generally experience relatively lower usage than the first and fourth quarters. It is generally understood that during the spring and summer months of the year, Internet usage is lower than during other times of the year, especially in comparison to the fourth quarter of the calendar year. The extent to which usage may decrease during these off-peak periods is difficult to predict. Prolonged or severe decreases in usage during these periods may adversely affect our growth rate and in turn the market price of our Class B common stock.

We are susceptible to general economic conditions, and a downturn in advertising and marketing spending by merchants could adversely affect our operating results.

Our operating results will be subject to fluctuations based on general economic conditions, in particular those conditions that impact merchant-consumer transactions. If there were to be a general economic downturn that affected consumer activity in particular, however slight, then we would expect that business entities, including our merchant advertisers and potential merchant advertisers, could substantially and immediately reduce their advertising and marketing budgets. We believe that during periods of lower consumer activity, merchant spending on advertising and marketing is more likely to be reduced, and more quickly, than many other types of business expenses. These factors could cause a material adverse effect on our operating results.

We depend on the growth of the Internet and Internet infrastructure for our future growth and any decrease or less than anticipated growth in Internet usage could adversely affect our business prospects.

Our future revenue and profits, if any, depend upon the continued widespread use of the Internet as an effective commercial and business medium. Factors which could reduce the widespread use of the Internet include:

- possible disruptions or other damage to the Internet or telecommunications infrastructure;
- failure of the individual networking infrastructures of our merchant advertisers and distribution partners to alleviate potential overloading and delayed response times;
- a decision by merchant advertisers to spend more of their marketing dollars in offline areas;
- increased governmental regulation and taxation; and
- actual or perceived lack of security or privacy protection.

In particular, concerns over the security of transactions conducted on the Internet and the privacy of users may inhibit the growth of the Internet and other online services, especially online commerce. In order for the online commerce market to develop successfully, we and other market participants must be able to transmit confidential information, including credit card information, securely over public networks. Any decrease or less than anticipated growth in Internet usage could have a material adverse effect on our business prospects.

We are exposed to risks associated with credit card fraud and credit payment, and we may continue to suffer losses as a result of fraudulent data or payment failure by merchant advertisers.

We have suffered losses and may continue to suffer losses as a result of payments made with fraudulent credit card data. Our failure to control fraudulent credit card transactions adequately could reduce any gross profit margin. In addition, under limited circumstances, we extend credit to merchant advertisers who may default on their accounts payable to us.

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

Companies engaging in online search, commerce and related businesses face uncertainty related to future government regulation of the Internet. Due to the rapid growth and widespread use of the Internet, legislatures at the federal and state levels are enacting and considering various laws and regulations relating to the Internet. Furthermore, the application of existing laws and regulations to Internet companies remains somewhat unclear. Our business and operating results may be negatively affected by new laws, and such existing or new regulations may expose us to substantial compliance costs and liabilities and may impede the growth in use of the Internet.

The application of these statutes and others to the Internet search industry is not entirely settled. Further, several existing and proposed federal laws could have an impact on our business:

- The Digital Millennium Copyright Act and its related safe harbors, are intended to reduce the liability of online service providers for listing or linking to third-party Web sites that include materials that infringe copyrights or other rights of others.

- The Children's Online Protection Act and the Children's Online Privacy Protection Act are intended to restrict the distribution of certain materials deemed harmful to children, and they impose additional restrictions on the ability of online services to collect user information from minors.
- The Protection of Children from Sexual Predators Act of 1998 requires online service providers to report evidence of violations of federal child pornography laws under certain circumstances.
- The CAN-SPAM Act of 2003 and certain state laws are intended to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

With respect to the subject matter of each of these laws, courts may apply these laws in unintended and unexpected ways. As a company that provides services over the Internet, we may be subject to an action brought under any of these or future laws governing online services. Many of the services of the Internet are automated and companies, such as ours, may be unknowing conduits for illegal or prohibited materials. It is not known how courts will rule in many circumstances; for example, it is possible that some courts could find strict liability or impose "know your customer" standards of conduct in certain circumstances.

We may also be subject to costs and liabilities with respect to privacy issues. Several Internet companies have incurred costs and paid penalties for violating their privacy policies. Further, it is anticipated that new legislation will be adopted by federal and state governments with respect to user privacy. Additionally, foreign governments may pass laws which could negatively impact our business and/or may prosecute us for our products and services based upon existing laws. The restrictions imposed by, and costs of complying with, current and possible future laws and regulations related to our business could harm our business and operating results.

Future regulation of search engines may adversely affect the commercial utility of our search marketing services.

The Federal Trade Commission, or FTC, has recently reviewed the way in which search engines disclose paid placements or paid inclusion practices to Internet users. In 2002, the FTC issued guidance recommending that all search engine companies ensure that all paid search results are clearly distinguished from non-paid results, that the use of paid inclusion is clearly and conspicuously explained and disclosed and that other disclosures are made to avoid misleading users about the possible effects of paid placement or paid inclusion listings on search results. Such disclosures if ultimately mandated by the FTC or voluntarily made by us may reduce the desirability of our paid placement and paid inclusion services. We believe that some users may conclude that paid search results are not subject to the same relevancy requirements as non-paid search results, and will view paid search results less favorably. If such FTC disclosure reduces the desirability of our paid placement and paid inclusion services, and "click-throughs" of our paid search results decrease, the commercial utility of our search marketing services could be adversely affected.

State and local governments may in the future be permitted to levy additional taxes on Internet access and electronic commerce transactions, which could result in a decrease in the level of usage of our services.

In 1998, the federal government imposed a three-year moratorium on state and local governments' imposition of new taxes on Internet access or electronic commerce transactions. This moratorium was extended until November 1, 2003, and has now expired. It is expected that Congress will enter into a several month extension of the moratorium, but such an extension may not be enacted. Unless the moratorium is extended, state and local governments may levy additional taxes on Internet access and electronic commerce transactions. An increase in applicable taxes may make electronic commerce transactions less attractive for merchants and businesses, which could result in a decrease in the level of usage of our services.

We may incur liabilities for the activities of users of our service, which could adversely affect our service offerings.

The law relating to the liability of providers of online services for activities of their users and for the content of their merchant advertiser listings is currently unsettled and could damage our business, financial condition and operating results. Our insurance policies may not provide coverage for liability arising out of activities of our users or merchant advertisers for the content of our listings. Furthermore, we may not be able to obtain or maintain adequate insurance coverage to reduce or limit the liabilities associated with our businesses. We may not successfully avoid civil or criminal liability for unlawful activities carried out by consumers of our services or for the content of our listings. Our potential liability for unlawful activities of users of our services or for the content of our listings could require us to implement measures to reduce our exposure to such liability, which may require us, among other things, to spend substantial resources or to discontinue certain service offerings.

Risks Relating To This Offering

The market price of our Class B common stock is likely to be highly volatile, which could adversely impact the market price of our Class B common stock and cause investment losses for our stockholders and could result in shareholder litigation with substantial costs, economic loss and diversion of our resources.

The trading price of our Class B common stock is likely to be highly volatile and could be subject to wide fluctuations in price in response to various factors, many of which are beyond our control, including:

- developments concerning proprietary rights, including patents, by us or a competitor;
- announcements by us or our competitors of significant contracts, acquisitions, commercial relationships, joint ventures or capital commitments;
- actual or anticipated fluctuations in our operating results;
- developments concerning our various strategic collaborations;
- lawsuits initiated against us or lawsuits initiated by us;
- changes in the market valuations of similar companies; and
- changes in our industry and the overall economic environment.

In addition, the stock market in general, and the NASDAQ National Market and the market for online commerce companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of the listed companies. These broad market and industry factors may seriously harm the market price of our Class B common stock, regardless of our operating performance. In the past, following periods of volatility in the market, securities class action litigation has often been instituted against these companies. Litigation against us, whether or not a judgment is entered against us, could result in substantial costs and potentially economic loss, and a diversion of our management's attention and resources.

There may not be an active, liquid trading market for our Class B common stock, and the initial public offering price may not be indicative of prices that will prevail in the market.

Prior to this offering, there has been no public market for our Class B common stock. An active trading market for our Class B common stock may not develop or be sustained following this offering. The initial public offering price will be determined by negotiations between us and representatives of the underwriters based upon a number of factors. The initial public offering price may not be indicative of prices that will prevail in the trading market.

Our founding officers will control the outcome of stockholder voting, and there may be an adverse effect on the price of our Class B common stock due to the disparate voting rights of our Class A common stock and our Class B common stock.

Upon the completion of this offering, our founding officers will beneficially own all of our outstanding shares of Class A common stock, representing 96% of the voting power of all issued and outstanding shares of our capital stock. With respect to their entire holdings, the founding officers will hold 97% of the combined voting power of all of our outstanding capital stock. The holders of our Class A common stock and Class B common stock have identical rights except that the holders of our Class B common stock are entitled to one vote per share, while holders of our Class A common stock are entitled to twenty-five votes per share on all matters to be voted on by stockholders. This concentration of control could be disadvantageous to our other stockholders with interests different from those of our founding officers. This difference in the voting rights of our Class A common stock and Class B common stock could adversely affect the price of our Class B common stock to the extent that investors or any potential future purchaser of our shares of Class B common stock give greater value to the superior voting rights of our Class A common stock.

Further, as long as our founding officers have a controlling interest, they will continue to be able to elect our entire board of directors and generally be able to determine the outcome of all corporate actions requiring stockholder approval. As a result, our founding officers will be in a position to continue to control all fundamental matters affecting the Company, including any merger involving, sale of substantially all of the assets of, or change in control of, the Company.

Our founding officers' ability to control the Company may result in our Class B common stock trading at a price lower than the price at which it would trade if our founding officers did not have a controlling interest in us. This control may deter or prevent a third party from acquiring us which could adversely affect the market price of our Class B common stock.

Anti-takeover provisions may limit the ability of another party to acquire us, which could cause our stock price to decline.

Our certificate of incorporation, as amended, our by-laws and Delaware law contain provisions that could discourage, delay or prevent a third party from acquiring us, even if doing so may be beneficial to our stockholders. In addition, these provisions could limit the price investors would be willing to pay in the future for shares of our Class B common stock. The following are examples of such provisions in our certificate of incorporation, as amended or our by-laws:

- the authorized number of our directors can be changed only by a resolution of our board of directors;
- advance notice is required for proposals that can be acted upon at stockholder meetings;
- there are limitations on who may call stockholder meetings; and
- our board of directors is authorized, without prior stockholder approval, to create and issue "blank check" preferred stock.

We are also subject to Section 203 of the Delaware General Corporation Law, which provides, subject to enumerated exceptions, that if a person acquires 15% or more of our voting stock, the person is an "interested stockholder" and may not engage in "business combinations" with us for a period of three years from the time the person acquired 15% or more of our voting stock.

We anticipate that we will retain our future earnings, and as a result you are not likely to receive dividends as a holder of Class B common stock.

We anticipate that we will retain all of our future earnings, if any, for use in the operation and expansion of our business. Therefore, you are not likely to receive dividends in the foreseeable future. In addition, dividends, if and when paid, may be subject to income tax withholding.

You will incur immediate and substantial dilution in the book value of the common stock you purchase, which could adversely affect the market price of our Class B common stock.

The initial public offering price is substantially higher than the price paid for our common stock in the past. This is referred to as dilution. The offering, therefore, will result in an immediate increase in net tangible book value of $0.97 per share to existing stockholders and an immediate dilution in net tangible book value of $5.58 per share to new investors purchasing shares of our common stock in this offering (based on the middle of the filing range as of the date of this prospectus). The exercise of outstanding options or warrants may result in further dilution. See "Dilution."

Senior management will have broad discretion over the use of proceeds from this offering, which may be used for purposes that are not successful in increasing our operating results or market value.

The "Use of Proceeds" section reflects our current best estimate of the allocation of the net proceeds of this offering. The amounts actually expended by us for each purpose may vary significantly depending on a number of factors, such as the amount of cash used or generated by our operations and management's assessment of our specific needs. Our senior management team will have considerable discretion in the application of the net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. The net proceeds may be used for purposes that do not increase our operating results or market value. Until the net proceeds are used, they may be placed in investments that either do not produce income or lose value. See "Use of Proceeds."

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements. All statements other than statements of historical facts contained in this prospectus, including statements regarding our future financial position, business strategy and plans and objectives of management for future operations, are forward-looking statements. The words "believe," "may," "estimate," "continue," "anticipate," "intend," "expect" and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions described in "Risk Factors" and elsewhere in this prospectus, including, among other things:

- the anticipated benefits and risks associated with our business strategy;
- our future operating results and the future value of our Class B common stock;
- the anticipated sizes or trends of the markets in which we compete and the anticipated competition and consolidation in those markets;
- our ability to attract and maintain merchant advertisers and distribution partners in a cost-efficient manner and on beneficial commercial terms;
- potential intellectual property litigation;
- potential government regulation;
- our future capital requirements and our ability to satisfy our capital needs;
- the anticipated use of the proceeds realized from this offering;
- the potential for additional issuances of our securities; and
- the possibility of future acquisitions of businesses and technologies.

Market data and forecasts used in this prospectus, including for example, estimates of the size and growth rates of the performance-based advertising and search marketing industries and the Internet advertising and transaction markets generally, have been obtained from independent industry sources. Forecasts and other forward-looking information obtained from these sources are subject to the same qualifications and the additional uncertainties accompanying any estimates of future market size.

These risks are not exhaustive. Other sections of this prospectus include additional factors which could adversely impact our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for our management to predict all risk factors, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur and actual results could differ materially from those projected in the forward-looking statements.

USE OF PROCEEDS

We estimate that the net proceeds from the sale of the shares of our Class B common stock in this offering will be approximately $23.3 million, assuming an initial public offering price of $6.50, which represents the middle of the filing range as of the date of this prospectus, and after deducting the estimated underwriting discounts and commissions of approximately $1.3 million and estimated offering expenses of approximately $1.4 million. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds will be approximately $27.0 million.

The principal purposes of this offering are to:

- increase our working capital, capitalization and financial flexibility; and
- establish a public market for the Class B common stock, which will facilitate future access to public equity and debt markets, provide additional means to acquire potential businesses and technologies, and enhance our ability to use the Class B common stock as a means of attracting and retaining employees.

We expect to use the net proceeds from this offering approximately as follows:

	Approximate Dollar Amount	Approximate Percentage of Net Proceeds
Product and business development	$ 1.0 million	4%
Acquisitions and strategic relationships	12.0 million	52
Capital expenditures	1.0 million	4
Personnel (recruiting, hiring, training and other associated costs)	1.0 million	4
Facilities (rent, capital improvements, moving expenses and deposits)	1.0 million	4
Earn-out payment obligations (related to our acquisitions)	3.5 million	15
Working capital and other general corporate purposes	3.8 million	17
	$23.3 million	100%

The foregoing represents our current best estimate of the allocation of the net proceeds of this offering, based on the expected use of funds necessary to finance our existing activities in accordance with our senior management's current objectives and market conditions. The amounts actually expended by us for each purpose may vary significantly depending on a number of factors, such as the amount of cash used or generated by our operations, opportunities for the acquisition of assets, technologies or businesses, changes in competitive conditions and our senior management's assessments of our specific operational and strategic needs. For example, if the amount of cash used or generated by our operations were to be adversely affected in any way, our senior management could reallocate amounts in its discretion to meet any shortfall in cash flow from operations. At the time of any such reallocation, our senior management may make determinations to allocate less or more of the net proceeds to the remaining categories based on our specific priorities and needs at that time. In addition, the amounts of the allocations, which are not fixed obligations, may be proportionately reduced in the event the actual net proceeds are less than the estimated amount above. Our senior management may spend the proceeds from this offering in ways the stockholders may not deem desirable. See "Risk Factors—Senior management will have broad discretion over the use of proceeds from this offering . . . ."

Although we have no current agreements or commitments with respect to any acquisition, we may, if the opportunity arises, use a greater portion of the net proceeds to acquire or invest in products, technologies or companies. Any such acquisition could result in a reallocation of the estimated amounts set forth in the table above (which reallocation could be substantial).

In addition, we may be required to make additional payments for earn-out obligations relating to our acquisitions of Enhance Interactive and TrafficLeader.

Until we use the net proceeds of this offering for the above purposes, we intend to invest the funds in short-term, investment grade, interest-bearing securities. We cannot predict whether the proceeds will yield a favorable return.

DETERMINATION OF OFFERING PRICE

Prior to this offering, there has been no public market for the shares of our Class B common stock. The initial public offering price for the shares of our Class B common stock will be determined by negotiation between the representatives of the underwriters and us. Among the factors considered in determining the proposed filing range of our initial public offering price were our record of operations, our financial position and prospects, the experience of our management, our revenue and other operating information, and the market prices of securities and financial and operating information of companies engaged in businesses similar to ours.

CAPITALIZATION

The following table sets forth our capitalization as of December 31, 2003 on:

- an actual basis;
- a pro forma basis to give effect to the conversion of all outstanding shares of Series A redeemable convertible preferred stock into 6,724,063 shares of Class B common stock; and
- a pro forma as adjusted basis to also give effect to the sale of 4,000,000 shares of Class B common stock in this offering at an assumed initial public offering price of $6.50 per share, which represents the middle of the filing range as of the date of this prospectus, less $2.7 million in estimated underwriting discounts and commissions and estimated offering expenses. Of these estimated offering expenses, $376,000 are included in other assets as deferred offering costs of which approximately $30,000 were paid and approximately $346,000 are reflected as current liabilities.

You should read this table in conjunction with our consolidated financial statements and related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations," included elsewhere in this prospectus.

	As of December 31, 2003		
	Actual	Pro Forma	Pro Forma as Adjusted
Cash and cash equivalents	$ 6,019,119	6,019,119	29,348,996
Series A redeemable preferred stock, $0.01 par value: 8,500,000 shares authorized; 6,724,063 shares issued and outstanding actual; 8,500,000 shares authorized, none issued and outstanding pro forma; and 1,000,000 shares authorized, none issued and outstanding pro forma as adjusted	$ 21,440,402	—	—
Stockholders' equity:			
Common stock, $0.01 par value: 46,500,000 shares authorized;			
Class A: 12,500,000 shares authorized; 12,250,000 shares issued and 11,987,500 shares outstanding actual, pro forma and pro forma as adjusted	122,500	122,500	122,500
Class B: 34,000,000 shares authorized; 1,567,500 shares issued and outstanding actual, including 137,500 shares of restricted stock; 8,291,563 shares issued and outstanding pro forma; 12,291,563 shares issued and outstanding pro forma as adjusted	15,675	82,916	122,916
Treasury stock: 262,500 shares of Class A common stock actual, pro forma and pro forma as adjusted	—	—	—
Additional paid-in capital	6,716,734	28,089,895	51,349,895
Deferred stock-based compensation	(1,532,340)	(1,532,340)	(1,532,340)
Accumulated deficit	(3,488,237)	(3,488,237)	(3,488,237)
Total stockholders' equity	1,834,332	23,274,734	46,574,734
Total capitalization	$ 23,274,734	23,274,734	46,574,734

The above discussion and table exclude:

- 4,000,000 shares of Class B common stock reserved for issuance under our stock incentive plan as of December 31, 2003, as well as an additional 1,013,953 shares reserved for issuance under the "evergreen provision" of the plan as of January 1, 2004.

- 600,000 shares of Class B common stock issuable upon the exercise of the over-allotment option by the underwriters.
- 120,000 shares of Class B common stock issuable upon the exercise of the representatives' warrants.

As of December 31, 2003, 3,089,600 shares were subject to outstanding options under the stock incentive plan, of which 2,421,500 options are at a weighted average exercise price of $1.67 per share and 668,100 options will have an exercise price equal to the initial public offering price. As of December 31, 2003, 325,000 options were exercisable with a weighted average exercise price of $0.98 per share.

DILUTION

Purchasers of our Class B common stock in this offering will experience immediate and substantial dilution in the pro forma net tangible book value of the common stock from the initial public offering price. In our calculations, we have assumed an initial public offering price of $6.50 per share of Class B common stock, which represents the middle of the filing range as of the date of this prospectus.

Pro forma net tangible book value per common share is determined by dividing pro forma net tangible book value (total tangible assets less total liabilities) by the pro forma number of shares of common stock outstanding as of December 31, 2003. These pro forma amounts also assume the conversion of all outstanding shares of Series A convertible preferred stock into 6,724,063 shares of Class B common stock.

As of December 31, 2003, our pro forma net tangible book value of our common stock was approximately $(1.1) million, or approximately $(0.05) per share of our common stock.

As of December 31, 2003, after giving effect to the sale of 4,000,000 shares of Class B common stock offered by this prospectus (after deduction of the underwriting discounts of $1.3 million and estimated offering expenses of $1.4 million), our adjusted net tangible book value would have been approximately $22.3 million, or $0.92 per share of common stock.

The offering, therefore, will result in an immediate increase in net tangible book value of $0.97 per share to existing stockholders and an immediate dilution in net tangible book value of $5.58 per share to new investors purchasing shares of our Class B common stock in this offering.

The following table illustrates the per share dilution to the new investors:

Public offering price per share		$6.50
Pro forma net tangible book value per share as of December 31, 2003	$(0.05)	
Increase in net tangible book value per share attributable to this offering	$ 0.97	
As adjusted pro forma net tangible book value per share after offering		$0.92
Dilution per share to new investors in this offering		$5.58

The following table summarizes, on a pro forma basis as of December 31, 2003, after giving effect to this offering, the differences between existing holders of common stock and the new investors with respect to the number of shares of common stock purchased from us, the total cash consideration paid and the average price per share paid by existing holders and investors in this offering, in each case before deducting underwriting discounts and commissions and estimated offering expenses.

	Shares Purchased		Total Cash Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders	20,279,063	83.5%	$ 20,304,701	43.9%	$ 1.00
New investors	4,000,000	16.5	26,000,000	56.1	6.50
Total	24,279,063	100.0%	$ 46,304,701	100.0%	$ 1.91

The above discussion and table are based on pro forma shares outstanding as of December 31, 2003 and exclude:

- 4,000,000 shares of Class B common stock reserved for issuance under our stock incentive plan as of December 31, 2003, as well as an additional 1,013,953 shares reserved for issuance under the "evergreen provision" of the plan as of January 1, 2004, and an additional 300,000 shares of Class B common stock reserved for issuance under our employee stock purchase plan as of February 16, 2004;
- 600,000 shares of Class B common stock issuable upon the exercise of the over-allotment option by the underwriters; and
- 120,000 shares of Class B common stock issuable upon the exercise of the representatives' warrants.

The total cash consideration in the table above excludes the value ascribed to the issuance of 425,000 shares of Class B common stock issued in connection with the acquisition of TrafficLeader valued at $6.75 per share, subject to a redemption right, and the issuance of 137,500 shares of restricted Class B common stock to employees valued at $6.75 per share. The 137,500 shares of restricted Class B common stock vest over a period of three years.

To the extent that any of these shares of Class B common stock are issued, your investment may be further diluted. As of December 31, 2003, 3,089,600 shares were subject to outstanding options under the stock incentive plan of which 2,421,500 options are at a weighted average exercise price of $1.67 per share and 668,100 options will have an exercise price equal to the initial public offering price. As of December 31, 2003, 325,000 options were exercisable at a weighted average exercise price of $0.98 per share. We may also grant more options or warrants in the future.

DIVIDEND POLICY

We have never declared or paid any cash dividends on shares of our Class B common stock. We currently intend to retain our earnings for future growth and do not anticipate paying any cash dividends in the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on a number of factors, such as our results of operations, capital requirements, financial conditions, future prospects and other factors that the board of directors deems relevant.

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

You should read the following discussion and analysis of our financial condition and results of operations together with our financial statements and related notes appearing elsewhere in this prospectus. This discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including, but not limited to, those set forth under "Risk Factors" and elsewhere in this prospectus.

Overview

We are an early stage company focused on providing technology-based services to merchants engaged in online transactions. Our current operating businesses are in the performance-based advertising and search marketing industries, primarily focused on helping merchants market and sell their products and services via the Internet.

We currently provide our merchant advertisers with the following technology-based services through our wholly-owned operating subsidiaries Enhance Interactive and TrafficLeader:

- ***Performance-Based Advertising*** primarily includes pay-per-click and paid inclusion services.
  - *Pay-Per-Click Services.* With pay-per-click services, merchant advertisers purchase keywords based on an amount they choose for a targeted placement, usually within search engine results.
  - *Paid Inclusion Services*. With paid inclusion services, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and indexed and included primarily within search engine and shopping engine results.
- ***Search Marketing*** is designed for merchant advertisers who are focused on advertising campaign management, conversion tracking and analysis, and search engine optimization.

Enhance Interactive provides performance-based advertising services to merchant advertisers, including pay-per-click listings. Through Enhance Interactive, merchant advertisers market their products and services to millions of consumers and businesses through targeted pay-per-click listings that are primarily found in search engine or directory results when users search for information, products or services.

TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization. Through TrafficLeader's primary service, paid inclusion, TrafficLeader manages advertising campaigns and services for merchant advertisers that have hundreds or even thousands of products or content pages. TrafficLeader's paid inclusion service helps merchant advertisers reach prospective advertisers by placing their products or information, as well as associated detail and pricing, into many of the Internet's most-visited search engines, product shopping engines, and directories.

We were incorporated in Delaware on January 17, 2003. On February 28, 2003, we acquired eFamily, together with its direct wholly-owned subsidiary Enhance Interactive. eFamily was incorporated in Utah on November 29, 1999, under the name FocusFilter.com, Inc. On October 24, 2003, we acquired TrafficLeader, which was incorporated in Oregon on January 24, 2000, under the name Sitewise Marketing, Inc.

From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives. During this period we had no revenues.

We currently have offices in Seattle, Washington; Provo, Utah; and Eugene, Oregon.

Acquisitions

Enhance Interactive. In February 2003, we acquired eFamily together with its wholly-owned subsidiary Enhance Interactive, a Provo, Utah-based company, for the following consideration:

- $13.3 million in net cash and acquisition costs; plus
- additional consideration in the form of a contingent earnings-based cash payment of up to $13.5 million payable over two years.

The additional consideration consists of two components: (i) a contingent earnings-based payment to the original stockholders ("earn-out consideration") and (ii) a contingent earnings-based payment to certain employees ("retention consideration"). These amounts are payable by us with respect to the years 2003 and 2004. We shall have no obligation with respect to a calendar year in the event that Enhance Interactive's earnings before taxes, excluding stock-based compensation and amortization of intangibles relating to the acquisition ("earnings before taxes") do not exceed $3.5 million for that calendar year. The threshold determination is calculated separately for each of the calendar years 2003 and 2004. For the 2003 calendar year, the total Enhance Interactive earnings-based payment obligation was approximately $3.5 million.

The contingent payment of earn-out consideration, payable to the original stockholders of Enhance Interactive, is calculated based on the formula of 69.44% of earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $12.5 million in aggregate. This payment obligation for each calendar year is conditioned on Enhance Interactive meeting the earnings threshold described above. To the extent we make any payments under this obligation, we have and will account for such amounts as additional goodwill. For the 2003 calendar year, the earn-out consideration was approximately $3.2 million.

The contingent payment of retention consideration, payable to certain employees of Enhance Interactive, is calculated based on the formula of 5.56% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $1 million in aggregate. This payment obligation for each calendar year is also conditioned on Enhance Interactive meeting the earnings threshold described above. To the extent we make any payments under this obligation, we have and will account for such amounts as compensation. For the 2003 calendar year, the retention consideration was approximately $283,000.

In connection with this acquisition, we also issued nonqualified stock options to certain employees of Enhance Interactive, subject to their continued employment, to purchase up to an aggregate of 1,250,000 shares of our Class B common stock with an exercise price per share of $0.75.

The Enhance Interactive operations were consolidated in our results from the acquisition date of February 28, 2003 and have had a substantial impact on our results.

TrafficLeader. In October 2003, we acquired TrafficLeader, a Eugene, Oregon-based company, for the following consideration:

- $3.2 million in net cash and acquisition costs; plus
- 425,000 shares of Class B common stock with a redemption right that requires us to buy back the 425,000 shares for $8 per share, but only at the election of the holders of 75% of such shares in the event we have not completed a firm commitment initial public offering with gross proceeds of at least $20 million prior to October 24, 2005; plus
- 137,500 shares of restricted Class B common stock which will vest over a three-year period in installments of 16.67% after each six month period during that term; plus
- additional consideration in the form of a contingent revenue-based cash incentive payment of up to $1 million.

With respect to the second and third components of the acquisition consideration, the fair value of the shares and the redemption right were recorded at $3.9 million.

Of the 137,500 restricted shares, 108,432 were issued to employees of TrafficLeader and valued at $732,000, which amount will be recorded as compensation expense over the associated employment period during which these shares vest.

The contingent, revenue-based payment is conditioned on TrafficLeader having revenue in excess of $15 million for calendar 2004. To the extent we make any payment under this obligation, we will account for such amount as additional goodwill. In the event that TrafficLeader meets the minimum revenue threshold, we will be obligated to pay an amount equal to 10% of each dollar in revenue above the $15 million revenue threshold, up to a maximum payout of $1 million.

In the event on or prior to December 31, 2004, there is a change of control of TrafficLeader or of us, or both TrafficLeader's CEO and CTO either resign for good reason or are terminated without cause, or we take any action prior to the end of December 31, 2004, which makes it impractical to calculate or reconstruct the earn-out obligation, we will be obligated to pay the full amount of the $1 million contingent payment obligation.

Consolidated Statements of Operations

Our consolidated statements of operations, stockholders' equity, and cash flows have been presented for the period of January 17, 2003 (inception) through December 31, 2003. Business planning and other activities related to our business began in late 2002. We were organized and incorporated in Delaware in January 2003. Included in the results of operations subsequent to our incorporation in January 2003 are reimbursements to certain founding officers for approximately $86,000 in general and administrative pre-incorporation costs. Included in property and equipment are purchases from certain of our founding officers of approximately $62,000 for the carrying value of the assets.

The assets, liabilities and operations of Enhance Interactive and TrafficLeader are included in our consolidated financial statements since the date of their respective acquisitions in February and October 2003. All significant inter-company transactions and balances have been eliminated in consolidation. Our purchase accounting resulted in all assets and liabilities from our acquisitions of Enhance Interactive and TrafficLeader being recorded at their estimated fair values. For the period of February 28 through December 31, 2003 and October 24, 2003 through December 31, 2003, all goodwill, intangible assets and liabilities resulting from the respective Enhance Interactive and TrafficLeader acquisitions have been recorded in our financial statements. Accordingly, our consolidated financial results for periods subsequent to the acquisitions of Enhance Interactive and TrafficLeader are not comparable to the financial statements of Enhance Interactive and TrafficLeader presented for prior periods. The consolidated statements of operations, stockholders' equity, and cash flows reflecting Enhance Interactive's historical results have been presented for the year ended December 31, 2002 and the period from January 1, 2003 through February 28, 2003.

eFamily and its wholly-owned subsidiary Enhance Interactive are described as Enhance Interactive in the accompanying Management's Discussion and Analysis of Financial Condition and Results of Operations. In the accompanying consolidated financial statements, the statements of operations, stockholders' equity, and cash flows reflecting Enhance Interactive results have been presented as the "Predecessor" for the year ended December 31, 2002 and the period of January 1, 2003 to February 28, 2003.

Presentation of Financial Reporting Periods

For purposes of our discussion, we have included the results of operations of the Predecessor, Enhance Interactive. The results of operations of TrafficLeader have been included as of the acquisition date of October 24, 2003. The comparative periods presented are the results of Enhance Interactive for the year ended

December 31, 2002 (2002 period), compared to the combined results for the period of January 17, 2003 (inception) to December 31, 2003 and the results of Enhance Interactive for the period of January 1, 2003 to February 28, 2003 (2003 period). In the 2003 period, we have included the overlapping operating activities of Enhance Interactive and our operating activities for the period of January 17, 2003 (inception) through February 28, 2003. From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives. During this period we had no revenues. Accordingly, our activities were different from the operating activities of Enhance Interactive.

Revenue

We currently generate revenue through our operating businesses. The primary sources of revenue, amounting to greater than 91% in all periods presented, are the performance-based advertising services, which include pay-per-click listings and paid inclusion. The secondary sources of revenue, amounting to less than 9% in all periods presented, are the search marketing services, which include advertising campaign management, conversion tracking and analysis and search engine optimization. We recognize revenue upon the completion of our performance obligation, provided that: (i) evidence of an arrangement exists, (ii) the arrangement fee is fixed and determinable, and (iii) collection is reasonably assured. We have no barter transactions.

In providing pay-per-click advertising services primarily through Enhance Interactive, we generate revenue upon our delivery of qualified click-throughs to our merchant advertisers. These merchant advertisers pay us a designated transaction fee for each click-through, which occurs when an online user clicks on any of their advertisement listings after it has been placed by us or by our distribution partners. Each click-through on an advertisement listing represents a completed transaction. The advertisement listings are displayed within our distribution network, which includes search engines, directories, destination sites and other targeted Web-based content. We provide priority of placement within our displayed advertisement listings based on the merchant advertiser's price commitment for each click-through.

In our paid inclusion services delivered primarily through TrafficLeader, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and included in search engine and product shopping engine results within our distribution network. Generally, the paid inclusion results are presented separately on a Web page from the pay-per-click listings. For this service, revenue is generated when an online user clicks on a paid inclusion listing from search engine or product shopping engine results. Each click-through on an advertisement listing represents a completed transaction for which the merchant advertiser pays for on a per-click basis. The placement of a paid inclusion result within search engine results is largely determined by its relevancy, as determined by the search engine partner.

Merchant advertisers also pay us for our search marketing services, which are primarily delivered by TrafficLeader. Merchant advertisers pay us additional fees for such services as advertising campaign management, conversion tracking and analysis, and search engine optimization. Merchant advertisers generally pay us on a click-through basis, although in certain cases we receive a fixed fee for delivery of these services. In some cases we also deliver banner campaigns for select merchant advertisers, primarily through Enhance Interactive. We may also charge initial set-up or inclusion fees as part of our services. Total revenue from these services accounted for less than 9% of total revenue in all periods presented.

Banner advertising revenue (generated by Enhance Interactive) is primarily based on a fixed fee per click and is generated and recognized on click-through activity. In limited cases, banner payment terms are volume-based with revenue generated and recognized when impressions are delivered.

Non-refundable account set-up fees are paid by merchant advertisers and are recognized ratably over the longer of the term of the contract or the average expected merchant advertiser relationship period, which generally ranges from twelve months to more than two years.

Other inclusion fees are generally associated with monthly or annual subscription-based services where a merchant advertiser pays a fixed amount to be included in our index of listings or our distribution partners' indexes of listings. These subscription arrangements are recognized ratably over the service period.

We enter into agreements with various distribution partners to provide distribution for the URL strings and advertisement listings of our merchant advertisers. We generally pay distribution partners based on a percentage of revenue or a fixed amount per click-through on these listings. The level of click-throughs contributed by our distribution partners has varied, and we expect it will continue to vary, from quarter to quarter and year to year, sometimes significantly. Our growth will be impacted by our ability to increase our distribution, which impacts the number of Internet users who have access to our merchant advertisers' listings and the rate at which our merchant advertisers are able to convert clicks from these Internet users into completed transactions, such as a purchase or sign up. Our growth also depends on our ability to continue to increase the number of merchant advertisers who use our services and the amount these merchant advertisers spend on our services.

We anticipate that these variables will fluctuate in the future, affecting our growth rate and our financial results. In particular it is difficult to project the number of click-throughs we will deliver to our merchant advertisers and how much merchant advertisers will spend with us, and it is even more difficult to anticipate the average revenue per click-through.

In addition, we believe we will experience seasonality. Our quarterly results have fluctuated in the past and may fluctuate in the future due to seasonal fluctuations in levels of Internet usage. It is generally understood that during the spring and summer months, Internet usage is lower than during other times of the year, especially in comparison to the fourth quarter of the calendar year. The extent to which usage may decrease during these off-peak periods is difficult to predict. Prolonged or severe decreases in usage during these periods may adversely affect our growth rate and results.

Service Costs

Service costs include network operations and customer service costs that consist primarily of costs associated with serving our search results, maintaining our Web sites, credit card processing fees, network fees, fees paid to outside service providers, and customer service. Customer service and other costs associated with providing our performance-based advertising and search marketing services and maintaining our Web site include depreciation of Web site and network equipment, colocation service charges of our Web site equipment, bandwidth, and software license fees, salaries of related personnel, stock-based compensation and amortization of intangible assets.

Service costs also include user acquisition costs that relate primarily to payments to our distribution partners for access to their user traffic. We enter into agreements of varying durations with distribution partners that integrate our services into their sites and indexes. The primary economic structure of our distribution partner agreements is a variable payment based on a specified percentage of revenue. These variable payments are often subject to minimum payment amounts per click-through. Other economic structures that to a lesser degree exist include:

- fixed payments, based on a guaranteed minimum amount of usage delivered;
- variable payments based on a specified metric, such as number of paid click-throughs; and
- a combination arrangement with both fixed and variable amounts.

We expense user acquisition costs under two methods: agreements with fixed payments are generally expensed at the greater of pro-rata over the term the fixed payment covers; or usage delivered to date divided by the guaranteed minimum amount of usage delivered.

Agreements with variable payment based on a percentage of revenue, number of paid click-throughs or other metrics are generally expensed based on the volume of the underlying activity or revenue multiplied by the agreed-upon price or rate.

Sales and Marketing

Sales and marketing expenses consist primarily of payroll and related expenses for personnel engaged in marketing and sales functions; advertising and promotional expenditures; and cost of systems used to sell to and serve merchant advertisers.

Product Development

Product development costs consist primarily of expenses incurred in the research and development, creation and enhancement of our Internet site and services. Research and development expenses include compensation and related expenses, costs of computer hardware and software, and costs incurred in developing features and functionality of the services we offer. For the periods presented, substantially all of the product development expenses are research and development.

Product development costs are expensed as incurred or capitalized into property and equipment in accordance with the American Institute of Certified Public Accountants' Statement of Position 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use." This statement requires that costs incurred in the preliminary project and post-implementation stages of an internal use software project be expensed as incurred and that certain costs incurred in the application development stage of a project be capitalized.

General and Administrative

General and administrative expenses consist primarily of payroll and related expenses for executive and administrative personnel, bad debt provision, facilities, professional services (including legal and insurance), and other general corporate expenses.

Acquisition-Related Retention Consideration

Acquisition-related retention consideration results from our contingent, earnings-based payment obligation to certain employees of Enhance Interactive for each of the calendar years 2003 and 2004, pursuant to the terms of the merger agreement. See subsection "Acquisitions" above. We shall have no obligation with respect to a year in the event that Enhance Interactive's earnings before taxes do not exceed $3.5 million for that calendar year. The threshold determination is calculated separately for each of calendar years 2003 and 2004.

The contingent payment obligation is calculated based on the formula of 5.56% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $1 million in the aggregate. See subsection "Acquisitions" above. To the extent we make any payments under this obligation, we will account for such amounts as compensation. For the 2003 calendar year, the retention consideration was approximately $283,000.

Stock-Based Compensation

Stock-based compensation consists of the following components:

- the intrinsic value of employee option and restricted stock issuances in cases where the fair value of the underlying stock was greater than the exercise price on the date of the grant;
- the fair value of non-employee option issuances; and

- the amount by which the fair value of our Class B common stock exceeds the exercise price at the end of the period for certain options. We use variable accounting for the options to purchase 125,000 shares of our Class B common stock that were issued under our stock incentive plan. These options were being held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement, and were subject to forfeiture. We accounted for them as variable awards until the expiration of the agreed-upon escrow period on February 28, 2004.

Amortization of Identifiable Intangibles

Amortization of identifiable intangible assets relates to intangible assets identified in connection with the purchase of Enhance Interactive and, TrafficLeader. Intangible assets identified in connection with the purchase of Enhance Interactive were valued at $8.4 million at the acquisition date of February 28, 2003. Intangible assets identified in connection with the purchase of TrafficLeader were valued at $1.3 million at the acquisition date of October 24, 2003. The intangible assets have been identified as non-competition agreements, trade and domain names, distributor relationships, and merchant advertising customer base relationships and acquired technology. These assets are amortized over useful lives ranging from 12 to 42 months.

Provision for Income Taxes

For income tax purposes, we utilize the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in results of operations in the period that includes the enactment date. A valuation allowance is recorded for deferred tax assets when it is more likely than not that such deferred tax assets will not be realized.

As of December 31, 2003, we had net operating loss carryforwards of $1.8 million, which will begin to expire in 2019. The Tax Reform Act of 1986 limits the use of net operating loss (NOL) and tax credit carryforwards in certain situations where changes occur in the stock ownership of a company. We believe that such a change has occurred, and that the utilization of the approximately $1.8 million of carryforwards is limited such that substantially all of these NOL carryforwards will never be utilized.

Accretion to Redemption Value of Redeemable Convertible Preferred Stock

Holders of Series A redeemable convertible preferred stock are entitled to receive annual cumulative dividends at the per annum rate of 8% of the original purchase price per share when and if declared by the board of directors. Upon conversion of the Series A redeemable convertible preferred stock either by optional conversion or by mandatory conversion upon a firm commitment initial public offering with gross proceeds of at least $20 million, all accumulated and unpaid dividends on the Series A redeemable convertible preferred stock, whether or not declared, since the date of issue up to and including the conversion date, shall be forgiven.

No holders of common stock will receive any dividends or distributions until the holders of the Series A redeemable preferred stock receive a dividend or distribution equal to all accrued but unpaid dividends on such preferred stock plus the per-share amount declared for the common stock on an as-converted basis.

We account for the difference between the carrying amount of the redeemable preferred stock and the redemption amount by increasing the carrying amount for periodic accretion using the interest method, so that the carrying amount will equal the redemption amount at the earliest redemption date.

Results of Operations

Comparison of the year ended December 31, 2002 (2002 period), to the combined periods of January 17 (inception) to December 31, 2003, and of January 1 to February 28, 2003 (2003 period).

Revenue. Revenue increased 128%, from $10.1 million in the 2002 period to $23.0 million in the 2003 period. This increase was primarily attributable to an increase in performance-based advertising services from $9.3 million in the 2002 period to $21.7 million in the 2003 period. Of this $12.4 million increase, 34% related to an increase in the number of merchant advertisers, while 66% related to an increase in the average revenue per merchant advertiser.

We believe the increase in revenue is primarily a result of the growth of our existing distribution partners, the increased number of searches and the resulting click-throughs performed by users of our service, and the addition of new distribution partners and merchant advertisers. Our distribution partners increased from approximately 290 in December 2002 to approximately 410 in December 2003. We also believe the foregoing factors, combined with our sales efforts and improved operational controls, have contributed to an increase in the number of merchant advertisers. $1.2 million of the increase in revenue in the 2003 period is also attributable to the acquisition of TrafficLeader in October 2003, which added 11 unique distribution partners and more than 280 merchant advertisers. TrafficLeader's operating results were included in the 2003 period as of the acquisition date of October 24, 2003.

Our growth rate will depend, in part, on our ability to increase the number of click-throughs performed by users of our service, primarily through our distribution partners. If we do not renew our distribution partner agreements or replace traffic lost from terminated distribution agreements with other sources or if our distribution partners' search businesses do not grow or are adversely affected, our revenue and results of operations may be materially and adversely affected. Our growth rate will also depend in part on our ability to increase the number and volume of transactions with merchant advertisers. We believe this is dependent in part on delivering high quality traffic that ultimately results in purchases or conversions for our merchant advertisers.

Expenses

Service Costs. Service costs increased 106% from $6.3 million in the 2002 period to $13 million in the 2003 period. The net increase in costs was mainly attributable to an increase in payments to distribution partners of $6.2 million, an increase in credit card processing fees of $333,000, an increase in personnel costs of $171,000, a decrease in technology licensing costs of $104,000, and an increase in facility and other costs of $91,000. This net increase related to a greater number of searches, an increase in database and hardware capacity requirements as a result of an increase in our distribution partner base and corresponding number of searches, an increase in the number of personnel required to support our services and increased fees paid to outside service providers. Service costs represented 63% of revenue in the 2002 period and 57% of revenue in the 2003 period. As a percentage of revenue, the decrease in service costs for the 2003 period compared to the 2002 period was primarily a result of network operation expenses containing fixed costs and also not increasing at a higher rate than revenue. The decrease in the 2003 period was partially offset by the impact of $943,000 in service costs and the impact as a percentage of revenue resulting from the acquisition of TrafficLeader in October 2003. Since TrafficLeader's user acquisition costs are higher as a percentage of revenue than Enhance Interactive, to the extent that TrafficLeader's operations make up a larger percentage of future operations, we expect that service costs will increase as a percentage of revenue. We also expect that service costs will continue to increase in absolute dollars, since we anticipate expanding our operations.

Sales and Marketing. Sales and marketing expense increased 55% from $1.8 million in the 2002 period to $2.8 million in the 2003 period. As a percentage of revenue, sales and marketing expenses were 18% in the 2002 period and 12% in the 2003 period. The increase in dollars was primarily related to an increase in personnel costs of $614,000, primarily due to an increase in the number of employees including $72,000 resulting from the acquisition of TrafficLeader in October 2003. The remaining increase is related to increases in outside marketing

activities, rent, travel and other operating costs arising from operations in multiple jurisdictions. We expect that sales and marketing expenses will increase in absolute dollars in connection with any revenue increases, to the extent we expand our sales force, and to the extent we increase our marketing activities.

Product Development. Product development expenses increased 77% from $812,000 in the 2002 period to $1.4 million in the 2003 period. As a percentage of revenue, product development expenses were 8% in the 2002 period and 6% in the 2003 period. As a percentage of revenue, the decrease in product development expenses in the 2003 period compared to the 2002 period was primarily a result of the allocation of product development expenses over a larger revenue base. The increase in dollars was primarily due to an increase in personnel costs of $461,000, primarily due to an increase in the number of employees, including $40,000 resulting from the acquisition of TrafficLeader in October 2003, and rent and other operating expenses of $163,000 arising from operations in multiple jurisdictions. We expect that product development expenses will increase in absolute dollars as we expect to increase the number of personnel and consultants to enhance our service offerings.

General and Administrative. General and administrative expenses increased 205% from $977,000 in the 2002 period to $3.0 million in the 2003 period. As of percentage of revenue, general and administrative expenses were 10% in the 2002 period and 13% in the 2003 period. The increase in the dollars was due to an increase in personnel costs of $640,000, an increase in professional fees of $617,000, an increase in travel of $288,000, an increase in insurance of $74,000, an increase in bad debt expense of $126,000, and an increase in facility and other operating expenses of $257,000. Many of these costs and increases in costs as a percentage of revenue in the 2003 period result from operating in multiple jurisdictions commencing in 2003 and increased operating activity, including approximately $136,000 in general and administrative expenses from the acquisition of TrafficLeader in October 2003. We expect that our general and administrative expenses will increase in absolute dollars to the extent that we expand our operations and incur additional costs in connection with becoming a public company, such as professional fees and insurance.

Acquisition-Related Retention Consideration. Acquisition-related retention consideration increased from zero in the 2002 period to $283,000 in the 2003 period. During the 2003 period, the components of acquisition-related retention consideration were service costs of $34,000, sales and marketing of $96,000, product development of $104,000 and general and administrative of $49,000. The acquisition-related retention consideration was calculated as part of the contingent, earnings-based payment obligation to certain employees of Enhance Interactive and is equal to 5.56% of Enhance Interactive's earnings before taxes in excess of $3.5 million for the 2003 period of which $283,000, including $23,000 of employer-related payroll taxes, has been recorded in 2003. We accounted for this payment amount as compensation.

In addition, with respect to calendar year 2004, we will be obligated to pay additional acquisition-related retention consideration to certain employees of Enhance Interactive if Enhance Interactive has earnings before taxes in excess of $3.5 million. This acquisition-related retention consideration will be equal to 5.56% of Enhance Interactive's earnings before taxes for the 2004 period. The acquisition-related retention consideration for the calendar years 2003 and 2004 is subject to an aggregate maximum of $1 million. We will account for any payment amount as compensation.

Stock-Based Compensation. The amortization of stock-based compensation increased 493% from $365,000 in the 2002 period to $2.2 million in the 2003 period. During the 2002 period, the components of stock-based compensation were service costs of $3,000, sales and marketing of $149,000, product development of $57,000 and general and administrative of $156,000. The 2002 period amount related primarily to the January 2002 sale of 2,031,666 shares to employees for cash consideration totaling $10,000; $357,000 in stock-based compensation was recorded in connection with the share issuance based on the difference between the cash consideration and the estimated fair value. During the 2003 period, the components of stock-based compensation were service costs of $10,000, sales and marketing of $423,000, product development of $279,000 and general and administrative of $1.5 million. Amounts in the 2003 period related primarily to the vesting of stock options granted to employees in which the exercise price was less than the fair value of the shares at the date of grant, and $112,000 related to restricted stock issued to employees for future services in connection with the acquisition of

TrafficLeader. The 2003 period also includes $781,000 of stock-based compensation for options to purchase 125,000 shares of Class B common stock, which were being held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options were subject to forfeiture, until the expiration of the escrow period on February 28, 2004. Accordingly, we have accounted for these options as variable awards. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair value of the shares of our Class B common stock covered by the option grant exceeds the exercise price and is recognized over the option's vesting period. Increases or decreases in the fair value of our Class B common stock between the date of grant and the date of exercise result in a corresponding increase or decrease in the measure of compensation expense.

Amortization of Identifiable Intangibles. Intangible amortization expense increased from zero in the 2002 period to $3 million in the 2003 period as a result of amortizing identifiable intangibles associated with the purchase of Enhance Interactive and TrafficLeader. Of the $3 million intangible amortization expense in the 2003 period, $123,000 was associated with the acquisition of TrafficLeader. During the 2003 period, the components of amortization of intangibles were service costs of $2.2 million, sales and marketing of $348,000, and general and administrative of $458,000. Our purchase accounting resulted in all assets and liabilities from our acquisition of Enhance Interactive and TrafficLeader being recorded at their estimated fair values on the acquisition dates of February 28, 2003 and October 24, 2003, respectively. For the period of February 28, 2003, through December 31, 2003, all goodwill, identifiable intangible assets and liabilities resulting from the Enhance Interactive and TrafficLeader acquisitions have been recorded in our financial statements. The identified intangibles amounted to $9.7 million, including $1.3 million associated with TrafficLeader, and are being amortized over a range of useful lives of 12 to 42 months. Our consolidated financial results for periods subsequent to the acquisition of Enhance Interactive are not comparable to the financial statements of Enhance Interactive presented for prior periods. Our future growth depends upon our ability to identify, structure and integrate acquisitions. We may acquire identifiable intangible assets as part of future acquisitions and if so, we expect that our intangible amortization will increase in absolute dollars.

Other Income. Other income increased from $5,000 in the 2002 period to $76,000 in the 2003 period. Interest income and the adjustment to the fair value of the TrafficLeader redemption obligation account for primarily all of the increase. Interest income includes interest on cash balances. Interest income increased from $5,000 in the 2002 period to $47,000 in the 2003 period due to an increase in the average cash balance for the period resulting from the Series A redeemable convertible preferred stock financing.

The adjustment to fair value of the redemption obligation went from zero in the 2002 period to $26,000 in the 2003 period. As of the date of acquisition of TrafficLeader, a redemption obligation was recorded at fair value in the amount of $81,000. The $26,000 adjustment reflects the decrease in the fair value of the obligation to $55,000 as of December 31, 2003.

Income Taxes. The income tax benefit increased from $143,000 in the 2002 period to $860,000 in the 2003 period. The 2002 period effective tax rate benefit of 61% differed from the expected effective rate of 34% primarily due to reversing $208,000 of the valuation allowance on deferred tax assets and due to the effective rate impact of the $133,000 of non-deductible stock-based compensation during the 2002 period. During the 2002 period, Enhance Interactive determined that it was more likely than not, based on improved operating performance, that it would realize all of the available net deferred tax assets. The income tax effective rate was 32% in the 2003 period. This differed from the expected rate of 34% primarily due to state income taxes offset by non-deductible stock compensation amounts. The 2003 period was also impacted by the following factors:

- On February 28, 2003, and October 24, 2003 in connection with the purchase accounting for the respective acquisitions of Enhance Interactive and TrafficLeader, we recorded net deferred tax liabilities in the amount of approximately $3.5 million, including $456,000 associated with the acquisition of TrafficLeader, relating to the difference in the book basis and tax basis of its assets and liabilities.
- Approximately $3.6 million of these deferred tax liabilities, including $479,000 associated with the acquisition of TrafficLeader, related to the book basis versus tax basis of the identifiable intangible assets in the acquisitions totaling approximately $9.7 million.

During the period of January 1 through February 28, 2003, as a result of a tax deduction from stock option exercises, Enhance Interactive recognized a tax-effected benefit of approximately $231,000, which was recorded as a credit to additional paid in capital.

Accretion to Redemption Value of Redeemable Convertible Preferred Stock. The accretion to redemption value of preferred stock was $1,319,000 in the 2003 period. The accretion to the redemption value recorded during the period is based upon 6,724,063 shares of Series A preferred stock outstanding as of December 31, 2003 with a dividend rate of 8% per annum.

Net Income (Loss) Applicable to Common Stockholders. Net loss applicable to common stockholders increased from $90,000 in the 2002 period to $3.2 million in the 2003 period. The increase was primary attributable to an increase in operating income offset by an increase of $3.0 million in amortization of intangible assets and an increase of $1.8 million in stock-based compensation.

Operating Income Before Amortization. Our management believes that certain non-GAAP measures are helpful, when presented in conjunction with the comparable GAAP measures. The non-GAAP measures are not meant to replace or supercede the GAAP measures, but rather to supplement the information to present to the readers of the financial statements the same information as management considers in assessing the results of operations and performance.

When presenting non-GAAP measures we will present a reconciliation of the most directly comparable GAAP measure. These non-GAAP measures are consistent with how management views the results of operations in assessing performance.

We report Operating Income Before Amortization ("OIBA") that is a supplemental measure to GAAP. This measure, among other things, is one of the primary metrics by which the company evaluates the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of information that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered in isolation, as a substitute for, or superior to, GAAP results. OIBA is defined as income (loss) from operations before (1) stock-based compensation expense and (2) amortization of intangible assets. This measure includes acquisition-related retention consideration resulting from the 2003 earn-out payment obligation from the Enhance Interactive acquisition. We provide and encourage investors to examine the reconciling adjustments between the GAAP and non-GAAP measures, which we discuss below.

We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses. OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses including non-cash stock-based compensation associated with our employees and acquisition related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure.

The following are the non-cash expenses that are excluded from our non-GAAP measures:

- stock-based compensation consists of restricted stock and options expense, which relates mostly to restricted stock and options issued in connection with acquisitions. We view this expense as part of transaction costs which are not paid in cash. Stock-based compensation also includes the expense associated with certain employee stock options where on the date of grant the fair value of the underlying stock exceeded the exercise price.

- amortization of intangible assets is a non-cash expense relating primarily to acquisitions. At the time of an acquisition, the intangible assets of the acquired company, such as distribution partner relationships and merchant advertiser customer relationships are valued and amortized over their estimated lives. While it is likely that we will have significant intangible amortization expense as we continue to acquire companies, we believe that since intangibles represent costs incurred by the acquired company to build value prior to the acquisition, they were part of transaction costs and will not be replaced with cash costs when the intangibles are fully amortized.

The following is a reconciliation of income (loss) from operations and net income (loss) applicable to common stockholders to the non-GAAP measure of operating income before amortization for the year ended December 31, 2002, the period of January 1, 2003 to February 28, 2003 and the period of January 17, 2003 (inception) to December 31, 2003.

	Predecessor Periods		Successor Period
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Operating income before amortization (OIBA)	$ 126,543	594,053	1,820,795
Stock-based compensation	(364,693)	(38,981)	(2,125,110)
Amortization of intangible assets	—	—	(3,023,408)
Income (loss) from operations	(238,150)	555,072	(3,327,723)
Other income:			
Interest income	5,491	1,529	45,874
Adjustments to fair value of redemption obligation	—	—	25,500
Other	—	—	2,685
Total other income	5,491	1,529	74,059
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)
Net income (loss)	(89,783)	332,519	(2,169,352)
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885
Net income (loss) applicable to common stockholders	$ (89,783)	332,519	(3,488,237)

Operating income before amortization ("OIBA") increased from $127,000 in the 2002 period to $2.4 million in the 2003 period. The increase was primarily attributable to increased operating activity that resulted in an increase in revenue of $12.9 million offset by an increase in operating expenses of $10.6 million, excluding stock-based compensation expense and amortization of intangible assets.

Quarterly Results of Operations

The following tables set forth our unaudited quarterly results of operations data for the eight most recent quarters and periods ended December 31, 2003, as well as such data expressed as a percentage of our revenues for the
periods presented. The information in the tables below should be read in conjunction with our consolidated financial statements and the notes thereto included elsewhere in this prospectus. We have prepared this information on the same basis as the consolidated financial statements and the information includes all adjustments, consisting only of normal recurring adjustments, that we consider necessary for a fair statement of our financial position and operating results for the quarters/periods presented. Our quarterly operating results have varied substantially in the past and may vary substantially in the future. You should not draw any conclusions about our future results from the results of operations for any particular quarter or period presented.

	Predecessor Periods					Successor Periods			
	Quarter ended March 31, 2002	Quarter ended June 30, 2002	Quarter ended Sept 30, 2002	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from Jan 17 (inception) to March 31, 2003	Quarter ended June 30, 2003	Quarter ended Sept 30, 2003	Quarter ended Dec 31, 2003
Revenue	$ 1,725,659	2,070,213	2,631,707	3,642,928	3,071,055	1,715,933	5,356,286	5,359,274	7,460,665
Expenses:									
Service costs (1)	1,098,184	1,310,469	1,755,041	2,170,479	1,732,813	883,280	2,955,535	2,967,206	4,486,049
Sales and marketing (1)	327,406	372,028	436,950	684,853	365,043	214,615	654,182	723,753	868,133
Product development (1)	128,969	157,811	202,350	322,543	144,479	104,947	354,927	384,248	447,300
General and administrative (1)	220,564	165,314	233,166	357,837	234,667	426,919	729,856	659,177	927,967
Acquisition-related retention consideration (2)	—	—	—	—	—	—	—	—	283,269
Stock-based compensation (3)	358,141	1,910	2,221	2,421	38,981	710,991	550,078	326,407	537,634
Amortization of intangible assets (4)	—	—	—	—	—	290,087	869,588	869,588	994,145
Total operating expenses	2,133,264	2,007,532	2,629,728	3,538,133	2,515,983	2,630,839	6,114,166	5,930,379	8,544,497
Income (loss) from operations	(407,605)	62,681	1,979	104,795	555,072	(914,906)	(757,880)	(571,105)	(1,083,832)
Other income:									
Interest income	106	686	1,732	2,967	1,529	3,092	13,479	16,931	12,372
Adjustment to fair value of redemption obligation	—	—	—	—	—	—	—	—	25,500
Other	—	—	—	—	—	—	—	—	2,685
Total other income	106	686	1,732	2,967	1,529	3,092	13,479	16,931	40,557
Income (loss) before provision for income taxes	(407,499)	63,367	3,711	107,762	556,601	(911,814)	(744,401)	(554,174)	(1,043,275)
Income tax expense (benefit)	—	—	(190,717)	47,841	224,082	(323,092)	(263,771)	(196,368)	(301,081)
Net income (loss)	(407,499)	63,367	194,428	59,921	332,519	(588,722)	(480,630)	(357,806)	(742,194)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	—	—	119,081	385,274	407,265	407,265
Net income (loss) applicable to common stockholders	$ (407,499)	63,367	194,428	59,921	332,519	(707,803)	(865,904)	(765,071)	(1,149,459)
(1) Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangible assets									
(2) Components of acquisition-related retention consideration:									
Service costs	$ —	—	—	—	—	—	—	—	33,723
Sales and marketing	—	—	—	—	—	—	—	—	96,262
Product development	—	—	—	—	—	—	—	—	104,233
General and administrative	—	—	—	—	—	—	—	—	49,051
(3) Components of stock-based compensation:									
Service costs	$ 2,350	241	285	285	190	—	—	—	9,776
Sales and marketing	145,602	920	1,074	1,073	715	128,993	99,861	87,720	105,297
Product development	56,238	210	315	315	37,710	69,769	95,108	38,348	37,855
General and administrative	153,951	539	547	748	366	512,229	355,109	200,339	384,706
(4) Components of amortization of intangible assets:									
Service costs	$ —	—	—	—	—	215,087	644,588	644,588	712,694
Sales and marketing	—	—	—	—	—	29,167	87,500	87,500	143,951
Product development	—	—	—	—	—	—	—	—	—
General and administrative	—	—	—	—	—	45,833	137,500	137,500	137,500

	As A Percentage of Net Revenue								
	Predecessor Periods					Successor Periods			
	Quarter ended March 31, 2002	Quarter ended June 30, 2002	Quarter ended Sept 30, 2002	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from Jan 17 (inception) to March 31, 2003	Quarter ended June 30, 2003	Quarter ended Sept 30, 2003	Quarter ended Dec 31, 2003
Revenue	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Expenses:									
Service costs (1)	63.6	63.3	66.7	59.6	56.4	51.5	55.2	55.4	60.1
Sales and marketing (1)	19.0	18.0	16.6	18.8	11.9	12.5	12.2	13.5	11.6
Product development (1)	7.5	7.6	7.7	8.9	4.7	6.1	6.6	7.2	6.0
General and administrative (1)	12.8	8.0	8.9	9.8	7.6	24.9	13.6	12.3	12.4
Acquisition-related retention consideration (2)	—	—	—	—	—	—	—	—	3.8
Stock-based compensation (3)	20.8	0.1	0.1	0.1	1.3	41.4	10.3	6.1	7.2
Amortization of intangible assets (4)	—	—	—	—	—	16.9	16.2	16.2	13.3
Total operating expenses	123.6	97.0	99.9	97.1	81.9	153.3	114.1	110.7	114.5
Income (loss) from operations	(23.6)	3.0	0.1	2.9	18.1	(53.3)	(14.1)	(10.7)	(14.5)
Other income:									
Interest income	—	—	0.1	0.1	—	0.2	0.3	0.3	0.2
Adjustment to fair value of redemption obligation	—	—	—	—	—	—	—	—	0.3
Other	—	—	—	—	—	—	—	—	—
Total other income	—	—	0.1	0.1	—	0.2	0.3	0.3	0.5
Income (loss) before provision for income taxes	(23.6)	3.1	0.1	3.0	18.1	(53.1)	(13.9)	(10.3)	(14.0)
Income tax expense (benefit)	0.0	0.0	(7.2)	1.3	7.3	(18.8)	(4.9)	(3.7)	(4.0)
Net income (loss)	(23.6)	3.1	7.4	1.6	10.8	(34.3)	(9.0)	(6.7)	(9.9)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	—	—	6.9	7.2	7.6	5.5
Net income (loss) applicable to common stockholders	(23.6)%	3.1%	7.4%	1.6%	10.8%	(41.2)%	(16.2)%	(14.3)%	(15.4)%

For purposes of discussion, we have included the results of operations of the Predecessor, Enhance Interactive. The results of operations of TrafficLeader have been included since the acquisition date of October 24, 2003. The results of operations for the quarter ended March 31, 2003 as discussed below is based on the combined periods including our results from January 17, 2003 (inception) to March 31, 2003 and Enhance Interactive's results from January 1, 2003 to February 28, 2003 (quarter ended March 31, 2003). From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives and accordingly, our activities were different from the operating activities of Enhance Interactive. For further discussion of the presentation of Financial Reporting Periods, see page 30.

Revenue progressively increased in the quarters presented due primarily to an increase in the number of and growth of distribution partners, an increase in the number of merchant advertisers, and an overall increase in the number of searches and resulting click-throughs performed by users of our service. Revenue in the quarter ended December 31, 2003 also increased as a result of the acquisition of TrafficLeader.

Service costs increased in each quarter presented mainly as a result of increases each quarter in payments to distribution partners, costs of processing larger numbers of transactions, such as related credit card processing fees, and personnel and facility costs. Service costs generally decreased as a percentage of revenue in the 2003 quarters as compared to the 2002 quarters. The decrease in the percentage of revenue during this period is attributable to fixed network costs not increasing as revenue has grown, as well as economies of scale in our support and network infrastructure being realized, and certain variable costs having increased at a lower rate than revenue. Service costs increased as a percentage of revenue in the quarter ended December 31, 2003 primarily due to the acquisition of TrafficLeader in this period. TrafficLeader's operations have a higher ratio of service costs to revenue than the operations of Enhance Interactive since user acquisition costs account for a higher ratio of its revenue.

Sales and marketing expense, product development expense, and general and administrative expense generally increased over the quarters presented, largely as a result of increases in personnel associated with selling, developing, and supporting our services. The increases in the 2003 quarters relative to the 2002 quarters are also related to increases in rent and other operating expenses arising from maintaining operations in multiple jurisdictions. The quarter ended December 31, 2003 was also impacted by the inclusion of TrafficLeader personnel in that period.

Stock-based compensation for the quarter ended March 31, 2002 was primarily related to the sale of shares to employees for cash consideration for amounts less than the estimated fair value. The stock-based compensation in the 2003 quarters related primarily to (i) employee stock options, for which the exercise price was less than the fair value on the date of grant, and (ii) the options to purchase 125,000 shares of Class B common stock held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. The options held in escrow are accounted for as variable awards. Stock-based compensation increased in the quarter ended December 31, 2003 primarily due to amounts recognized for restricted shares issued to employees in connection with the acquisition of TrafficLeader.

Amortization of intangible assets expense in the initial three quarters of 2003 resulted from amortizing identifiable intangibles associated with the purchase of Enhance Interactive. Amortization of intangible assets expense increased in the quarter ended December 31, 2003 as a result of the additional amortization of identifiable intangibles associated with the purchase of TrafficLeader.

	Predecessor Periods					Successor Periods			
	Quarter ended March 31, 2002	Quarter ended June 30, 2002	Quarter ended Sept 30, 2002	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from Jan 17 (inception) to March 31, 2003	Quarter ended June 30, 2003	Quarter ended Sept 30, 2003	Quarter ended Dec 31, 2003
Operating income before amortization (OIBA) (1)	$ (49,464)	64,591	4,200	107,216	594,053	86,172	661,786	624,890	447,947
Stock-based compensation	(358,141)	(1,910)	(2,221)	(2,421)	(38,981)	(710,991)	(550,078)	(326,407)	(537,634)
Amortization of intangible assets	—	—	—	—	—	(290,087)	(869,588)	(869,588)	(994,145)
Income (loss) from operations	(407,605)	62,681	1,979	104,795	555,072	(914,906)	(757,880)	(571,105)	(1,083,832)
Other income:									
Interest income	106	686	1,732	2,967	1,529	3,092	13,479	16,931	12,372
Adjustment to fair value of redemption obligation	—	—	—	—	—	—	—	—	25,500
Other	—	—	—	—	—	—	—	—	2,685
Total other income	106	686	1,732	2,967	1,529	3,092	13,479	16,931	40,557
Income (loss) before provision for income taxes	(407,499)	63,367	3,711	107,762	556,601	(911,814)	(744,401)	(554,174)	(1,043,275)
Income tax expense (benefit)	—	—	(190,717)	47,841	224,082	(323,092)	(263,771)	(196,368)	(301,081)
Net income (loss)	(407,499)	63,367	194,428	59,921	332,519	(588,722)	(480,630)	(357,806)	(742,194)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	—	—	119,081	385,274	407,265	407,265
Net income (loss) applicable to common stockholders	$ (407,499)	63,367	194,428	59,921	332,519	(707,803)	(865,904)	(765,071)	(1,149,459)

(1) We report operating income before amortization ("OIBA") that is a supplemental measure to GAAP. OIBA represents income (loss) from operations plus (1) stock-based compensation expense and (2) amortization of intangible assets. This measure, among other things, is one of the primary metrics by which we evaluate the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered in isolation, as a substitute for, or superior to GAAP results. We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses.

OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses including non-cash stock-based compensation associated with our employees and acquisition-related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure. This table provides a reconciliation of income (loss) from operations and net income (loss) applicable to common stockholders to the non-GAAP measure of operating income before amortization for the eight most recent quarters and/or periods ended December 31, 2003.

Liquidity and Capital Resources

We have financed our Company through the private sales of securities in January through May of 2003, which totaled approximately $20.3 million. Primarily from such proceeds, we have funded our business operations and the acquisitions of Enhance Interactive and TrafficLeader. The acquisition of Enhance Interactive resulted in $13.3 million in net cash consideration and the acquisition of TrafficLeader amounted to $3.2 million in net cash consideration. As of December 31, 2003, we had cash and cash equivalents of $6.0 million. As of December 31, 2003, we had contractual obligations of $836,000 of which $694,000 is for rent under our facility leases. In March 2004, we entered into a $2.3 million commitment for additional office space in Seattle, Washington, and this commitment extends through 2009. As of December 31, 2003, we had $21.4 million outstanding of Series A redeemable convertible preferred stock which are not included as components of

stockholders' equity because they are redeemable in certain events at the option of the holders, but are a part of our overall capital structure. If the offering is consummated under the terms presently anticipated, each of the outstanding shares of our Series A redeemable convertible preferred stock will automatically convert into one share of Class B common stock upon closing, and any accumulated dividends will be forgiven.

Net cash flow provided by operating activities was $1.5 million for the 2002 period and $3.3 million for the 2003 period. Cash was provided primarily from net income (losses) offset by non-cash amounts including depreciation and amortization of identifiable intangibles and stock-based compensation. The TrafficLeader acquisition, which occurred near the end of the 2003 period, contributed limited net cash flow to operations in the 2003 period. Accordingly, the operating cash flows were principally derived from Enhance Interactive's operating activity.

Enhance Interactive working capital cash flows contribute to cash provided by operations, in large part as a result of the advance payment structure in place for most merchant advertisers. With respect to most of these merchant advertisers, we receive payment for pay-per-click advertising services prior to our delivery of the click-throughs. Our corresponding payments to the distribution partners who provide placement for the listings are generally made only after our delivery of a click-through. In most cases, the amount payable to the distribution partner will be calculated at the end of a calendar month, with a payment period following the delivery of the click-throughs. This payment structure results in a lag period between the receipt of the cash from the merchant advertisers and the payment to the distribution partners. These services constituted the majority of revenue in the 2003 period.

Nearly all of the TrafficLeader merchant advertisers are billed on a monthly basis following the month of our click-through delivery. This payment structure results in our advancement of monies to the distribution partners who have provided the corresponding placements of the listings. Merchant advertisers' payments are generally received one to two weeks following payment to distribution partners. We expect that in future periods, if the paid inclusion service provided by TrafficLeader accounts for a greater percentage of our operating activity, working capital requirements will increase as a result.

Net cash flow used in investing activities was $334,000 for the 2002 period and $17.2 million for the 2003 period. Cash flow used in investing activities include capital expenditures for property and equipment and the acquisition of Enhance Interactive for $13.3 million in February 2003 and the acquisition of TrafficLeader for $3.2 million in October 2003. As a result of the Enhance Interactive and TrafficLeader acquisitions, we increased our property and equipment purchases for items such as network equipment and software, furniture, software and equipment for our personnel, and systems used to sell to and serve merchant advertisers. Purchases of property, plant and equipment for the period following the Enhance Interactive acquisition date of February 28, 2003 through December 31, 2003 totaled $466,000. As our operations increase, we expect property and equipment purchases will increase as we continue to invest in equipment and software for our systems and personnel.

Net cash flow provided by financing activities was $24,000 for the 2002 period and $20.3 million for the 2003 period. Cash flows from financing activities for the 2002 period relate to eFamily's issuance of stock. Cash flows from financing activities for the 2003 period relate to proceeds from employees exercising stock options and proceeds from the sale of Class A and Class B common stock and Series A redeemable convertible preferred stock in the aggregate amount of $20.3 million.

For the 2003 period, the total aggregate Enhance Interactive contingent, earnings-based payment obligation is approximately $3.5 million. This payment obligation includes the earn-out consideration of approximately $3.2 million and the retention consideration of approximately $283,000, for the 2003 period. These amounts are payable on the earlier of (i) April 1, 2004 or (ii) three days after we have received gross proceeds of at least $20 million from an initial public offering.

For purposes of the calculations of the contingent earnings and revenue-based payment obligations for Enhance Interactive and TrafficLeader, we have allocated revenue based on the source of revenue. We attribute revenue

from products and services originating with Enhance Interactive to Enhance Interactive, and likewise we attribute revenue from products and services originating with TrafficLeader to TrafficLeader. Consistent with that approach, we allocate revenues based on origination of merchant advertiser and distribution partner relationships and agreements.

Future contingent earnings- and revenue-based payment obligations related to the Enhance Interactive and TrafficLeader acquisitions, which will be determined in early 2005 for the 2004 calendar year, could significantly impact our cash flows and could significantly reduce our available cash and cash equivalents balances. These payment obligations are still subject to the aggregate maximums of $13.5 million, of which $3.5 million has been recorded in 2003, for Enhance Interactive and $1 million for TrafficLeader.

The following table summarizes our contractual obligations as of December 31, 2003, as well as an amount relating to a lease commitment entered into in February 2004 and the effect these obligations are expected to have on our liquidity and cash flows in future periods:

	Total	Less than 1 year	1-3 years	4-5 years	After 5 years
Contractual Obligations:					
Operating leases (A)	$ 3,009,905	615,375	1,028,330	910,800	455,400
Other contractual obligations	142,000	142,000	—	—	
Series A redeemable convertible preferred stock (B)	34,800,000	—	—	—	34,800,000
Earn-out obligation associated with acquisition of Enhance Interactive (C)	Up to 13,500,000	3,502,369	Up to 9,997,631	—	—
Class B common stock subject to put redemption right (D)	3,400,000	—	3,400,000	—	—
Earn-out obligation associated with acquisition of TrafficLeader (E)	Up to 1,000,000	Up to 1,000,000	Up to 1,000,000	—	—
Total Contractual Obligations	Up to $55,851,905	Up to 5,259,744	Up to 15,425,961	910,800	35,255,400

(A) Included in operating leases in the table above is a $2.3 million commitment for additional office space in Seattle, Washington that extends through 2009. We anticipate relocating from our current Seattle offices in the first half of 2004. We expect to record a charge in the first half of 2004 relating to the relocation of up to $350,000.

(B) The Series A redeemable convertible preferred stock has redemption rights that will be eliminated upon the automatic conversion of the Series A redeemable convertible preferred stock into Class B common stock upon completion of the offering. Holders of Series A redeemable convertible preferred stock are entitled to receive cumulative dividends at the per annum rate of 8% of the original issue price per share when and if declared by the board of directors. The cumulative amount of preferred dividends in arrears is $1,317,000 or $0.20 per share at December 31, 2003. The board of directors has not declared any dividends as of December 31, 2003. Upon conversion of the Series A redeemable convertible preferred stock, either by optional conversion or by mandatory conversion upon an initial public offering, all accumulated and unpaid dividends on the Series A redeemable convertible preferred stock, whether or not declared, since the date of issue up to and including the conversion date, shall be forgiven. If dividends or other distributions are paid

on the Class B common stock, the holders of Series A redeemable convertible preferred stock are entitled to the preferential dividends above and are entitled to per share dividends equal to those declared or paid to holders of Class B common stock. At the election of the holders of at least a majority of the outstanding shares of Series A redeemable convertible preferred stock on each of the First Redemption Date (March 31, 2011), Second Redemption Date (March 31, 2012), Third Redemption Date (March 31, 2013) and Final Redemption Date (March 31, 2014), we shall redeem one-third of the number of shares of Series A redeemable convertible preferred stock held by such holders on each of the first three redemption dates and the remainder of any shares not already redeemed shall be redeemed on the final redemption date. The aggregate redemption amount is $21,489,000 at December 31, 2003.

(C) A contingent, earnings-based payment obligation may be owed to the former shareholders of Enhance Interactive. The payment obligation has two components, which consist of earn-out consideration and retention consideration.

The earn-out consideration is calculated based on the formula of 69.44% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to an aggregate maximum payout cap of $12.5 million. In the event earnings before taxes do not exceed $3.5 million for 2003 or 2004, then no amount shall be payable for the related period. Any amounts payable will be accounted for as additional goodwill.

The retention consideration is calculated based on the formula of 5.56% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to an aggregate maximum payout cap of $1 million. In the event earnings before taxes do not exceed $3.5 million for 2003 or 2004, then no amount shall be payable for the related period. Any amounts payable will be accounted for as compensation.

Based on the calculation for calendar year 2003, we have recorded a $3.5 million payment liability for the total 2003 earnings-based payment obligations, which will reduce the maximum aggregate obligation by the same amount.

(D) In the event we have not completed a firm commitment initial public offering with gross proceeds of at least $20 million prior to October 24, 2005, the former shareholders of TrafficLeader have the right to require us to redeem 425,000 shares of Class B common stock for $8 per share (for an aggregate redemption of $3.4 million), but only upon the affirmative vote of the holders of 75% of such shares. These shares were valued at $6.75 per share and the associated redemption right has a value of $55,000 at December 31, 2003, and will be reflected as a liability, until such time as a qualifying initial public offering occurs. Based upon the terms of the redemption right, we will mark the redemption right to fair value at each reporting period until such time as the redemption right expires or the shares are redeemed.

(E) A contingent, revenue-based payment obligation may be owed under the TrafficLeader acquisition agreement. The contingent revenue-based payment is conditioned on TrafficLeader having revenue in excess of $15 million for calendar year 2004. In the event that TrafficLeader meets the minimum revenue threshold, we will be obligated to pay an amount equal to 10% of each dollar in revenue above the $15 million threshold, up to a maximum payout cap of $1 million. Any amount payable will be accounted for as additional goodwill.

In the event on or prior to December 31, 2004, there is a change of control of TrafficLeader or of us, or both TrafficLeader's CEO and CTO either resign for good reason or are terminated without cause, or we take any action prior to the end of December 31, 2004, which makes it impractical to calculate or reconstruct the earn out obligation, we will be obligated to pay the full amount of the $1 million contingent payment obligation.

We anticipate that we will need to invest working capital towards the development and expansion of our overall operations. We may make further acquisitions, which, in addition to the issuance of equity securities, could result in the reduction of our cash balances or the incurrence of debt. We have allocated approximately $12 million of the net proceeds from this offering to fund acquisitions. See "Use of Proceeds." Furthermore, we expect that future capital expenditures may be higher than amounts recorded in the 2003 period if our operating activity continues to increase. In addition, TrafficLeader expenditures were only included in the 2003 period as of the

acquisition date of October 24, 2003. Future reporting periods will include all of TrafficLeader's operating results for such periods. TrafficLeader's operations have a higher ratio of service costs to revenue than the operations of Enhance Interactive.

Based on our operating plans, we believe that the proceeds from this offering, together with our existing resources and cash flows provided by operations, will be sufficient to fund our planned operations for at least twelve months from the date of this prospectus. However, additional equity and debt financing may be needed to support our Company needs. If additional financing is necessary, it may not be available; and if it is available, it may not be possible for us to obtain financing on satisfactory terms. Failure to generate sufficient revenue or raise additional capital could have a material adverse effect on our ability to continue as a going concern and to achieve our intended business objectives.

Critical Accounting Policies

The policies below are critical to our business operations and the understanding of our results of operations. In the ordinary course of business, we make a number of estimates and assumptions relating to the reporting of our results.

Our consolidated financial statements have been prepared with accounting principles generally accepted in the United States. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses and the related disclosures of contingent assets and liabilities. We base our estimates on historical experience and on various assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Our critical accounting policies relate to the following matters and are described below:

- Revenue;
- Goodwill and intangible assets;
- Stock-based compensation; and
- Allowance for doubtful accounts and merchant advertiser credits.

Revenue

We currently generate revenue through our operating businesses by delivering performance-based and search marketing services to merchant advertisers. The primary revenue driver has been performance-based advertising, which includes pay-per-click listings, delivered primarily through Enhance Interactive; and beginning in October 2003, paid inclusion, delivered primarily through TrafficLeader. For these particular services, revenue is recognized upon a user's click-through of a merchant advertiser listing within our distribution network. Each click-through represents a completed transaction.

We have entered into agreements with various distribution partners in order to expand our distribution network, which includes search engines, directories, product shopping engines and other Web sites through which we distribute our merchant advertisers' listings. We generally pay distribution partners based on a specified percentage of revenue or a fixed amount per click-through on these listings. We act as the primary obligor in these transactions, and we are responsible for providing customer and administrative services to the merchant advertiser. In accordance with EITF Issue No. 99-19, "Reporting Revenue Gross as a Principal Versus Net as an Agent," the revenue derived from merchant advertisers who receive paid introductions through us as supplied by distribution partners is reported gross based upon the amounts received from the merchant advertiser.

Goodwill and Intangible Assets

Goodwill represents the excess of the purchase price over the fair value of identifiable assets acquired and liabilities assumed in business combinations accounted for under the purchase method.

We apply the provisions of the Financial Accounting Standards Board's (FASB) Statements of Financial Accounting Standards (SFAS) No. 142, "Goodwill and Other Intangible Assets," (SFAS 142). Goodwill and intangible assets acquired in a purchase business combination and determined to have an indefinite useful life are not amortized, but instead tested for impairment at least annually in accordance with the provisions of SFAS 142. SFAS 142 also requires that intangible assets with definite useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," (SFAS 144).

Goodwill not subject to amortization is tested annually for impairment, and is tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value. To date, no impairment charge has been taken for the goodwill related to our acquisitions of Enhance Interactive or TrafficLeader. If the fair value is lower than the carrying value, a material impairment charge may be reported in our financial results.

We review our long-lived assets for impairment in accordance with SFAS 144 whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment is to be recognized by the amount by which the carrying amount of the assets exceeds fair value. Assets to be disposed of are separately presented on the balance sheet and reported at the lower of their carrying amount or fair value less costs to sell, and are no longer depreciated.

No impairment of our intangible assets has been indicated to date. To the extent such evaluation indicates that the useful lives of intangible assets are different than originally estimated, the amortization period is reduced or extended and, accordingly, the quarterly amortization expense is increased or decreased.

As a result of the significance of the goodwill and intangible asset carrying values, any impairment charges or changes to the estimated amortization periods could have a material adverse effect on our financial results.

Stock-Based Compensation

Our stock-based compensation plan is described more fully in Note 8 to the consolidated financial statements. We account for the plan under the recognition and measurement principles of APB Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations including FASB Interpretation No. 44, "Accounting for Certain Transactions involving Stock Compensation," an interpretation of APB Opinion No. 25 issued in March 2000, to account for our employee stock options. Under this method, employee compensation expense is recorded on the date of grant only if the fair value of the underlying stock exceeded the exercise price. SFAS No. 123, "Accounting for Stock-Based Compensation," established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans.

As allowed by SFAS No. 123, we have elected to continue to apply the intrinsic value-based method of accounting described above for options granted to employees, and have adopted the disclosure requirements of SFAS No. 123. We recognize compensation expense over the vesting period utilizing the accelerated methodology described in Financial Accounting Standards Board Interpretation No. 28, "Accounting for Stock Appreciation Rights and Other Variable Stock Option or Award Plans." We account for non-employee stock-based compensation in accordance with SFAS No. 123 and EITF No. 96-18.

We use variable plan accounting to account for options to purchase 125,000 shares of our Class B common stock issued under our stock incentive plan that were held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options were subject to forfeiture, until the expiration of the escrow period on February 28, 2004. Accordingly, we may be required to record a compensation charge on a quarterly basis, which will lower our earnings. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair value of the shares of our Class B common stock covered by the option grant exceeds the exercise price and is recognized over the option's vesting period. Increases or decreases in the fair value of our Class B common stock between the date of grant and the date of exercise result in a corresponding increase or decrease in the measure of compensation expense.

The amount of stock-based compensation to be recognized is derived based on our determination of the fair value of our Class B common stock. We determine the fair value of our Class B common stock based on several factors, including our operating performance, issuances of our convertible preferred stock, liquidation preferences of our preferred stock, and valuations of other publicly-traded companies.

The amount of compensation expense actually recognized in future periods could be lower than currently anticipated if unvested stock options for which deferred compensation has been recorded are forfeited. In addition, if we used different assumptions to determine the deemed fair value of our Class B common stock, we could have reported materially different amounts of stock-based compensation. We currently are not required to record stock-based compensation charges if the employee stock option exercise price or restricted stock purchase price equals or exceeds the deemed fair value of our common stock at the date of grant. Several companies have recently elected to change their accounting policies and begun to record the fair value of options as an expense. In addition, we understand that discussions of potential changes to applicable accounting standards are ongoing. If we had estimated the fair value of options on the date of grant using a Black-Scholes pricing model, and then amortized this estimated fair value over the vesting period of the options, our net income (loss) would have been adversely affected. See Note 1(m) to our consolidated financial statements for a discussion of how our net income (loss) would have been adversely affected.

Allowance for Doubtful Accounts and Merchant Advertiser Credits

Accounts receivable balances are presented net of allowance for doubtful accounts and merchant advertiser credits. The allowance for doubtful accounts is our best estimate of the amount of probable credit losses in our accounts receivable. We determine our allowance based on analysis of historical bad debts, advertiser concentrations, advertiser creditworthiness and current economic trends. We review the allowance for collectibility on a quarterly basis. Account balances are written off against the allowance after all reasonable means of collection have been exhausted and the potential recovery is considered remote. If the financial condition of our advertisers were to deteriorate, resulting in an impairment of their ability to make payments, or if we underestimated the allowances required, additional allowances may be required which would result in increased general and administrative expenses in the period such determination was made.

We determine our allowance for merchant advertiser credits and adjustments based upon our analysis of historical credits. Material differences may result in the amount and timing of our revenue for any period if our management made different judgments and estimates.

Related Party Transactions

For a description of our related party transactions see "Certain Relationships and Related Transactions."

Recent Accounting Pronouncements

In November 2002, the Emerging Issues Task Force (EITF) reached a consensus on Issue No. 00-21 (EITF 00-21), "Revenue Arrangements with Multiple Deliverables." EITF 00-21 addresses certain aspects of the accounting by a vendor for arrangements under which the vendor will perform multiple revenue generating

activities. EITF 00-21 became effective for fiscal periods beginning after June 15, 2003. The adoption of EITF 00-21 has not had a material impact on our financial position and results of operations.

In May 2003, the FASB issued SFAS 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity." The Statement establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity. It requires that an issuer classify a financial instrument that is within its scope as a liability (or an asset in some circumstances). It is effective for financial instruments entered into or modified after May 31, 2003, and otherwise is effective at the beginning of the first interim period beginning after June 15, 2003. The adoption of this Statement did not have a material impact on our financial statements.

In December 2003, the SEC issued Staff Accounting Bulletin No. 104, "Revenue Recognition" (SAB No. 104), which revises or rescinds certain sections of SAB No. 101, "Revenue Recognition in Financial Statements" in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC rules and regulations. The changes noted in SAB No. 104 did not have a material effect on our financial position and results of operations.

BUSINESS

Company Overview

We provide technology-based services to merchants engaged in online transactions. Our objective is to be a leader in terms of growth, profitability, technological innovation, and business model innovation. We anticipate achieving our objectives through a combination of consolidation opportunities, growing those businesses we acquire, internal development initiatives and strategic relationships.

We believe there is a significant, long-term opportunity to capture market share of online transactions, and services that support online transactions, by building a profitable, diversified global company that provides a wide range of technology-based services to merchants, including: Web site infrastructure and development services; online payment and commerce infrastructure; promotional tools to market and sell products and services; and automated tools to manage and track online transaction. We intend to leverage the experience of our senior management to capture this opportunity, as they have substantial operational and strategic experience, including experience in building and managing public companies, executing acquisitions and forming strategic relationships.

Our current operating businesses are in the performance-based advertising and search marketing industries, primarily focused on helping merchants market and sell their products and services via the Internet. We currently provide our merchant customers with the following technology-based services: (1) performance-based advertising, including pay-per-click services, primarily through Enhance Interactive; and paid inclusion services, primarily through TrafficLeader; and (2) search marketing services, including advertising campaign management, conversion tracking and analysis, and search engine optimization, through TrafficLeader.

Enhance Interactive. Enhance Interactive provides performance-based advertising services to merchant advertisers, including pay-per-click services. Through Enhance Interactive's pay-per-click service, merchant advertisers create keyword listings that describe their product or service, which are marketed to millions of consumers and businesses primarily through search engine or directory results.

TrafficLeader. TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization. Through TrafficLeader's primary service, paid inclusion, TrafficLeader manages search-based advertising campaigns and services for merchant advertisers. TrafficLeader's paid inclusion service helps merchant advertisers, who have hundreds or even thousands of products, reach prospective customers by first indexing their product databases and creating highly relevant product listings and then placing these listings in front of potential customers, primarily through search engines. Merchant advertiser's product listings map directly to user search queries, which link to specific product or information pages when clicked. On behalf of merchant advertisers, TrafficLeader indexes these highly relevant listings into many of the Internet's most-visited search engines, product shopping engines, and directories.

Collectively, our operating businesses distribute advertisements and paid listings through hundreds of partners, including search engines, directories, product shopping engines and other Web sites.

In support of our partners and merchants, we devote resources to developing and building proprietary technology-based products and services that we believe are innovative and provide a high degree of utility. Additionally, we continually evaluate opportunities to evolve existing technologies and business models, and we regularly consider possible acquisitions and strategic relationships.

We were incorporated in Delaware on January 17, 2003. On February 28, 2003, we acquired eFamily together with its direct wholly-owned subsidiary Enhance Interactive. eFamily was incorporated in Utah on November 29, 1999, under the name FocusFilter.com, Inc. On October 24, 2003, we acquired TrafficLeader, which was incorporated in Oregon on January 24, 2000, under the name Sitewise Marketing, Inc.

From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives. During this period we had no revenues.

Industry Overview

Internet-based transactions between consumers and merchants have grown rapidly in recent years. This growth is the result of decreasing price points of Internet access devices coupled with corresponding performance gains of such devices; a large installed base of personal computers in the workplace and homes; penetration of broadband technologies and increased Internet usage; and the emergence of compelling commerce opportunities and a growing awareness among consumers of the convenience and other benefits of online shopping.

Today's consumers are becoming increasingly confident that they can find comprehensive product information and securely transact online. This, combined with merchants' ability to more efficiently and effectively acquire and monetize customers, has led to a steady increase in online merchant transactions. We believe that the combination of these and other factors have significantly enhanced the effectiveness of the Internet as a mass commerce medium. We further believe that these characterizations are supported by the following industry estimates:

- **Growing Internet Population and Internet Penetration Levels**. *Morgan Stanley* estimates that global Internet users will grow at a compounded annual growth rate of 17% to 976 million by 2005 (representing 15% global population penetration), up from 609 million users at the end of 2002 (representing 10% global population penetration). *Morgan Stanley* also estimates that Internet users in North America will grow at a compounded annual growth rate of 11% to 242 million by 2005, up from 176 million users at the end of 2002.
- **Large Number of Small Businesses Operating Online**. According to *International Data Corporation (IDC)*, by the end of 2007, 77% of the 8.5 million small businesses in the United States (defined as firms with under 100 employees that are not based at home) will have Web sites, compared to 62% of the 8 million small businesses in 2003.
- **Growth of Electronic Commerce**. *Forrester Research* believes that electronic commerce activity in the United States, fueled by a steady stream of new online shoppers and new product category sales, will grow at a compounded annual growth rate of 19% over the next five years to nearly $230 billion in 2008 (representing 10% of total retail sales in the United States).
- **Growth of Online Advertising**. *U.S. Bancorp Piper Jaffray* estimates that online advertising in the United States will grow at a compounded annual growth rate of 19% from $6.7 billion in 2003 to more than $15 billion in 2008 (representing approximately 6% of total advertising spending, compared to approximately 2% of total advertising spending in 2003).
- **Growth of Performance-Based Advertising and Search Marketing**. *U.S. Bancorp Piper Jaffray* estimates that the global market for performance-based advertising and search marketing, such as pay-per-click listings and paid inclusion, will grow at a compounded annual growth rate of 38% from approximately $1.4 billion in 2002 to approximately $7 billion in 2007.
- **Growth in Certain Businesses that Support Online Merchants**. According to *IDC*, the Web hosting market in the United States will grow at a compounded annual growth rate of 15% from more than $5.1 billion in 2002 to $10.4 billion in 2007.

Given the preceding global Internet user and online commerce trends, we believe there is a significant, long-term opportunity to capture market share of online transactions, and services that support online transactions, through

building a profitable, diversified global company that provides a wide range of technology-based services to merchants, including: online payment infrastructure; automated tools and services to facilitate transactions; promotional tools to market goods and services; and automated tools to manage and track all aspects of online transactions. On an ongoing basis, we intend to evaluate points in the merchant transactions value chain that will provide the greatest opportunity for us to build and acquire offerings with the following characteristics: growth, scalability, profitability and defensibility.

Strategy

We intend to leverage our senior management's experience, our financial and human resources, and our existing operating businesses to provide technology-based services for merchants engaged in online transactions. Key elements of our strategy include the following initiatives:

- ***Provide Quality Services in Support of Merchants and Partners***. We believe that providing high quality services makes us more attractive to merchants and partners. In addition to selected strategic acquisitions, we intend to expand our offerings through internal development initiatives to provide merchants and partners additional, value-added services. Specifically, we intend to expand our services by providing systems and information that help merchant advertisers maximize the performance of online marketing budgets; and to partners by working with them to develop and market new products. For example, we currently offer services that optimize and enhance a merchant advertiser's listing with a service that allows us to extract relevant product information from merchant advertisers' sites to create separate listings, an analytics service that calculates the effectiveness of an advertising campaign, and optimization services to improve performance within algorithmic search engines. We have developed these services to meet the needs of our merchant advertisers, and we expect to continue to develop technologies as their needs and those of the market continue to evolve.
- ***Increase the Number of Merchants Served.*** By providing merchants a consistently high level of service, support and ability to achieve their targeted return-on-investment thresholds, we strive to build merchant loyalty and deliver long-term value. We intend to increase our merchants served through:
  - direct sales force efforts for each of our operating companies, including strategic sales and telesales initiatives;
  - referral arrangements with entities that can promote our services to potential merchants;
  - trade show, seminar and conference attendance and sponsorships; and
  - the acquisition of complementary operating businesses and services.
- ***Continue to Innovate and Develop Proprietary Technologies and Intellectual Property.*** In support of our partners and merchants, we are building additional, proprietary products and services that we believe are innovative and provide a high degree of utility. We intend to invest our resources in identifying potential offerings that create or evolve new products, technologies and/or business models. We intend to continue to file patents as appropriate to protect such proprietary products and business models. We are building and intend to continue to build new technologies that are in line with these objectives.
- ***Pursue Selective Acquisition and Consolidation Opportunities*****.** We plan to selectively pursue strategic acquisition candidates. We apply rigorous evaluation criteria to acquisition candidates that are intended to help achieve our return-on-invested capital requirements, which we believe will translate into increased shareholder value. We do this through focusing on acquisition opportunities that represent a combination of the following characteristics:
  - underleveraged and/or under-commercialized assets;
  - opportunities for business model, product or service innovation and evolution;
  - critical mass of transactions volume, merchants, revenue and/or profits;

- revenue growth and expanding margins and operating profitability (or the characteristics to achieve significant scale and profitability); and
- an opportunity to enhance efficiencies and provide incremental growth opportunities for our operating businesses.

- ***Drive Increased Profitability through Revenue Growth and Operating Leverage***. We are focused on achieving consistent growth in a manner that promotes profitability. Our operating structure, internal operating initiatives and strategic acquisition initiatives are concentrated on building businesses with profit margins that increase as our revenue increases. As such, we invest our resources in new initiatives only after planning and analysis that outline targeted return-on-invested-capital parameters.
- ***Develop New Markets***. We will analyze opportunities and may seek to expand our technology-based services into new categories or new countries where our services can be replicated on a cost effective basis, or where the creation or evolution of a service may be appropriate. We anticipate utilizing various strategies to enter new markets, including: strategic relationships; acquiring products that address a new category or opportunity; acquiring country-specific properties; and creating joint venture relationships and internal initiatives where existing services can be extended internationally.

Operating Businesses

We currently deliver technology-based services through our operating companies, Enhance Interactive and TrafficLeader. Our current operating businesses are focused on supporting and building the businesses of our partners: our merchant advertisers focused on acquiring transactions and customers; and our distribution partners focused on building the number of advertisers and revenue opportunities within their networks. Specifically, our operating businesses deliver products and services in the performance-based advertising and search marketing industries, primarily focused on helping merchants market and sell their products and services via the Internet through the following technology-based services: (1) performance-based advertising, including pay-per-click services, primarily through Enhance Interactive; and paid inclusion, primarily through TrafficLeader; and (2) search marketing services, including advertising campaign management, conversion tracking and analysis, and search engine optimization, through TrafficLeader.

- ***Performance-Based Advertising***, primarily including pay-per-click and paid inclusion services. Each of these services enables merchants to reach their target audience through search and directory results. The key difference between the common implementation of these services is whether payment by a merchant advertiser influences the rank of its listing within the applicable search or directory results.
  - *Pay-Per-Click Services.* With pay-per-click services, merchant advertisers purchase keywords based on an amount they choose for a targeted placement, usually within search engine results. In this model, the advertiser drives pricing.
  - *Paid Inclusion Services.* With paid inclusion services, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and indexed and included primarily within search engine and shopping engine results. Generally, the paid inclusion results are presented separately from the pay-per-click results. In this model, pricing is generally driven by the distribution partner, and does not affect placement in search results; rather, listings are generally ranked based on relevancy as determined by the partner search engine.

    We believe that paid inclusion is an important complement to the algorithmic search technologies that determine the ranking of results within many of the major search engines (such as AltaVista, Ask Jeeves, Google and Inktomi), since merchant advertisers typically provide paid inclusion technology companies direct access to their internal product databases. Often, only once a paid inclusion company has crawled, replicated and optimized hundreds or thousands of individual product and informational Web pages for a merchant advertiser do links to these pages appear within search engine results. The indexing and subsequent listing of these Web pages made possible by paid inclusion companies enhances the overall relevancy of the search engines with which the company partners.

- ***Search Marketing***, designed for merchant advertisers who are focused on acquiring customers through search-based marketing methods, optimizing the performance of their campaigns through tracking and analyzing historical results, and refining their Web sites for increased relevance in algorithmic search engine indexes. These services include advertising campaign management, conversion tracking and analysis, and search engine optimization. We believe that businesses may benefit from the search marketing services we provide to enhance the performance of their advertising campaigns.

Enhance Interactive

Enhance Interactive provides performance-based advertising services, including pay-per-click listings, to merchant advertisers. Through Enhance Interactive, merchant advertisers market their products and services to millions of consumers and businesses through targeted pay-per-click listings that are primarily found in the form of search engine or directory results when a user searches for information, products or services. For the quarter ended December 31, 2003, Enhance Interactive processed more than 4 billion search queries. Enhance Interactive also delivers other advertising services such as banner advertising, branded advertisements that include a merchant advertiser logo associated with its advertisements (LogoLinks™ program), and paid inclusion services.

Merchant Advertising on Enhance Interactive. The pay-per-click results sold and distributed by the Enhance Interactive service are prioritized for users by the amount the merchant advertiser is willing to pay each time a user clicks on the merchant's advertisement. Merchant advertisers pay Enhance Interactive when a click-through occurs on their advertisement.

Enhance Interactive provides services to thousands of merchant advertisers who want to drive consumers and customer leads to their Web sites. Potential merchant advertisers find Enhance Interactive directly, through contact by our telesales force, through direct sales efforts, through third-party referral programs, and through a variety of marketing activities that include trade shows, targeted mailings, e-mails and other promotional material sent directly to merchant advertisers, advertising agencies and search engine marketers.

When Enhance Interactive merchant advertisers submit advertisement listings to the Enhance Interactive service, Enhance Interactive reviews them for relevance and for conformity with our editorial guidelines. Merchant advertisers participate only in markets that are relevant to their Web site and product or service offerings. Enhance Interactive may also assist merchant advertisers in optimizing their advertisement campaigns by recommending relevant keywords available to them based on their Web sites and product or service offerings.

Distribution on Enhance Interactive. Enhance Interactive distributes merchant advertisements through hundreds of partners, including search engines, directories and other Web sites. The economic arrangements with Enhance Interactive's distribution partners vary and may include:

- payment by Enhance Interactive based on a specified percentage of revenue generated;
- payment by Enhance Interactive based on a fixed click-through price; and
- combinations of the foregoing.

As of February 16, 2004, Enhance Interactive had arrangements for inclusion of its pay-per-click results and advertisements on four of the top 25 most visited Internet properties according to the December 2003 report of *comScore MediaMetrix*.

TrafficLeader

TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization.

- *Paid Inclusion*. TrafficLeader's paid inclusion program delivers targeted advertiser listings into some of the Internet's most-visited search engines. Paid inclusion leverages proprietary technology to crawl and extract relevant product data and content from a merchant advertiser database and Web site, and create highly relevant, optimized Uniform Resource Locator (URL) strings and advertisement listings.

Increased listing relevancy frequently translates into a better search experience for users, allowing them to find targeted results in response to their search queries; and better return-on-investment for merchant advertisers, as higher relevance typically leads to increased click-through rates and customer acquisition rates.

Once TrafficLeader's technology has crawled, extracted, optimized and refined the merchant advertiser URL strings and advertisement listings, such strings and listings are automatically tagged and placed into partner search and directory indexes. These URL strings and listings map directly to user search queries, which link back to specific product pages when clicked. We believe that this process typically leads to high advertiser conversion rates or customer acquisitions. As TrafficLeader's merchant advertisers typically have dynamically-updating product databases, TrafficLeader frequently refreshes merchant advertisers' listings to ensure that the most up-to-date product information and/or content is available to TrafficLeader's partners. Merchant advertiser URL strings and advertisement listings are typically ordered based on relevance to the user search query. Merchant advertisers pay TrafficLeader a fixed price for each click received on their URL string and advertisement listing.

Additionally, through leveraging proprietary technology, TrafficLeader analyzes an advertiser's database as well as thousands to millions of actual, relevant user search queries to create additional, unique merchant advertiser listings that drive targeted traffic resulting in highly competitive conversion, or customer acquisition, rates. These additional, unique listings are generally included as part of TrafficLeader's basic paid inclusion service.

- *Search Engine Data Feed Creation.* TrafficLeader also promotes a self-managed paid inclusion service, FeedWorks. FeedWorks is a technology-based service that extracts all relevant data from a merchant advertiser's database and Web site, autonomously generates properly structured data feeds, and then provides the merchant advertiser with those feeds, which the merchant advertiser may then submit into search engine indexes.
- *Conversion Tracking and Analysis.* TrafficLeader's Web analytics service, Real Performance Measurement (RPM), allows merchant advertisers to calculate the effectiveness of paid inclusion and performance-based advertising campaigns. Through RPM, merchant advertisers examine which URL strings and advertisement listings are converting to sales and which are not; and identify future opportunities based on this data.
- *Advertising Campaign Management.* TrafficLeader's Preferred Placement program is an advertising campaign management service that continuously tracks, monitors and optimizes the placement of performance-based search advertising campaigns for merchant advertisers across a number of performance-based search advertising engines.
- *Search Engine Optimization.* TrafficLeader also offers search engine optimization services, Site Centric Services. Site Centric Services help merchant advertisers better organize and design their Web sites so their listings are optimized on the algorithmic search engines, such as AltaVista, Ask Jeeves (Teoma), Google, LookSmart (WiseNut), and Yahoo! (Inktomi).

Merchant Advertising on TrafficLeader. TrafficLeader primarily attracts merchant advertisers that have product databases, want to increase their online sales, and want to achieve target return-on-investment metrics. Potential merchant advertisers find TrafficLeader directly, through a variety of means, including contact by our direct sales staff, through marketing efforts such as trade shows or advertising, and through third-party referral programs.

Distribution on TrafficLeader. TrafficLeader distributes merchant advertiser URL strings and advertisement listings through distribution partners, including search engines and product shopping engines. The economic arrangements with TrafficLeader's partners vary and may include:

- payment by TrafficLeader based on a specified percentage of revenue;
- payment by TrafficLeader based on a fixed click-through price; and
- combinations of the foregoing.

For example, current agreements with certain Yahoo! subsidiaries contain mutual termination clauses and are primarily structured on a variable-payment basis, under which we make payments based on a specified percentage of revenue or based on the number of paid click-throughs.

As of February 16, 2004, TrafficLeader's results appeared on a majority of the top 10 most visited Internet properties according to the December 2003 report of *comScore MediaMetrix*.

Sales, Business Development, Marketing, Advertising and Promotion

As of February 16, 2004, we had 39 full-time employee equivalents in our sales departments, including 32 at Enhance Interactive, and seven at TrafficLeader; 12 full-time employee equivalents in our business development departments, including seven at Enhance Interactive and four at TrafficLeader; and five full-time employee equivalents in our marketing departments, including four at Enhance Interactive. Our sales departments currently focus on adding new merchant advertisers to our operating businesses, while our business development departments are currently directed to service existing distribution partnerships and selectively add new distribution partners. Our marketing departments focus on promoting our operating businesses through affiliate relationships, press coverage, industry exposure, and trade shows. Our advertising and promotion of our services is broken into four main categories: direct sales, agency sales, online promotion, and referral agreements.

- Direct Sales: Our sales staff targets new merchant advertiser relationships through telesales efforts, direct marketing, and attendance and sponsorship at various trade shows and conferences.
- Agency Sales: Our agency program includes a group within the sales team that targets interactive agencies and other entities that service merchant advertisers. This sales group focuses on in-person and remote presentations of our services to agencies, and is also periodically engaged in various marketing initiatives at industry trade shows and conferences. Our agency agreements may include a combination of revenue sharing, performance-based fees and other costs.
- Online Promotion: We engage in certain advertising and direct marketing focused on acquiring new merchant advertisers and new distribution partners.
- Referral Agreements: We seek to build referral arrangements with entities that can promote our services to large numbers of potential advertisers. Our referral partner agreements are based on a combination of revenue sharing and performance-based fees.

We intend to continue our strategy of growing our merchant advertiser base through sales and marketing programs while being as efficient as possible in terms of our marketing and advertising costs. We continually evaluate our marketing and advertising strategies to maximize the effectiveness of our programs and their return on investment.

Information Technology and Systems

We have a proprietary technology platform for the purposes of managing and delivering advertisements to our partners. We also combine third party licenses and hardware to create an operating environment that focuses on quality products and services, with such features as automated online customer purchasing, real-time customer support and interactive reporting for customers and partners. We employ commercially available technologies and products distributed by various companies, including Cisco, Dell, Intel, Microsoft, Sun Microsystems and Veritas. We also utilize public domain software such as Apache, Linux, MySQL, Sun Microsystems Java, and Tomcat.

Our technology platform must be compatible with the systems used by our distribution partners, enabling us to deliver advertisement listings in rapid response to user queries made through such partners. We continue to build and innovate additional functionality to attempt to meet the quickly evolving demands of the marketplace. We devote significant financial and human resources to improving our merchant and partner experiences by continuing to develop our technology infrastructure. The cost of developing our technology solutions is included in the overall cost structure of our services and is not separately funded by any individual merchants or partners.

In order to maintain a professional level of service and availability, we primarily rely upon third parties to provide hosting services, including hardware support and service, and network monitoring. Our servers are configured for high availability and large volumes of Internet traffic and are located in leased third-party facilities. Back-end databases make use of redundant servers and data storage arrays. We also have standby servers that provide for additional capacity as necessary. The facilities housing our servers provide redundant HVAC, power and Internet connectivity.

We continuously review ways to improve major aspects of our technology support and maintenance, including improving, upgrading and implementing business continuity plans, data retention initiatives, and backup and recovery processes.

Competition

Many of our potential competitors, as well as potential entrants into our target markets, have longer operating histories, larger customer or user bases, greater brand recognition and greater financial, marketing and other resources than we have. Many current and potential competitors can devote substantially greater resources than we can to promotion, Web site and systems development. In addition, currently and in the future as the use of the Internet and other online services increases, there will likely be larger, more well-established and well-financed entities that acquire companies relevant to our business strategy; and invest in or form joint ventures in categories or countries relevant to our business strategy; all of which could adversely impact our business. Any of these trends could increase competition, reduce the demand for any of our services and could have a material adverse effect on our business, operating results and financial condition.

We, as well as our operating companies, pursue a strategy that we believe allows us to work with all relevant companies in the industry, even those companies that some people or entities may perceive as our competitors. We intend to continue with a strategy that allows us to consider and pursue business arrangements with all companies in our industry.

We provide our services to: (i) merchant advertisers who acquire advertisement inventory through Enhance Interactive or TrafficLeader; (ii) partners who provide said inventory; and (iii) other intermediaries who may provide purchase and/or sales opportunities, including advertising agencies, search engine marketing companies and search engine optimization companies. Our operating businesses depend on maintaining and continually expanding their network of partners and merchants to generate transactions. As a result, we may compete with those who:

- sell performance-based advertising or search marketing services to merchants;
- aggregate or optimize advertising inventory for distribution through search engines, product shopping engines, directories, Web sites or other outlets; or
- provide destination Web sites or other distribution outlets that reach end users or customers of the merchants.

The industry defined by the sale of online advertising and marketing services is highly competitive. Although overall Internet advertising expenditures have increased in the last few years, the advertising industry has suffered in certain respects as many online businesses have ceased operations and many traditional businesses have scaled back their advertising budgets. In addition, we believe that today’s typical Internet advertiser is becoming more sophisticated regarding the different forms of Internet advertising, how to purchase Internet advertising in a cost-effective manner, and return-on-investment measurement. The competition for this pool of advertising dollars has also put downward pressure on pricing points, and online advertisers have demanded more effective means of reaching customers. We believe that these factors have contributed to the growth in performance-based advertising relative to certain other forms of online advertising and marketing, and as a result this sector has attracted many competitors.

Due to the long-term growth trends in online advertising, these competitors, real and potential, range in size and focus. Our competitors may include such diverse participants as small referral companies, established advertising agencies, inventory resellers, search engines, and destination Web sites. To some extent, we may compete with our business partners, as we do with all other types of advertising sales companies and agencies. Furthermore, to a more limited extent, we may also compete with traditional offline media such as television, radio and print and direct marketing companies, for a share of merchant advertisers' total advertising budgets. Although we pursue a strategy that enables us to work with most, if not all, of our competitors, there are no guarantees that all companies will view us as a potential partner.

We are also affected by the competition among destination Web sites that reach users or customers of search services. Several large media and search engine companies dominate this end of the transaction channel, although thousands of other smaller outlets are available to customers as well. User traffic among the media and search engine companies is concentrated among such larger participants as AOL, Google, Microsoft through MSN Search, and Yahoo! through FAST, Inktomi, Overture and Yahoo! Search. The online search industry continues to experience consolidation of major Web sites and search engines, which has the effect of increasing the negotiating power of these parties in relation to smaller providers. The major destination Web sites and distribution providers may have leverage to demand more favorable contract terms, such as pricing, renewal and termination provisions.

We expect competition to intensify in the future as new competitors can enter our market with little difficulty. The barriers to entering our market are relatively low. In fact, many current Internet and media companies presently have the technical capabilities and advertiser bases to enter the search marketing services industry. Further, if the consolidation trend continues among the larger media and search engine companies with greater brand recognition, the share of the market remaining for us and other smaller search marketing services providers could decrease, even though the number of smaller providers could continue to increase. These factors could adversely affect our competitive position and relatively small market share in the search marketing services industry.

Intellectual Property and Proprietary Rights

We seek to protect our intellectual property through existing laws and regulations and by contractual restrictions. We rely upon trademark, patent and copyright law, trade secret protection and confidentiality or license agreements with our employees, customers, partners and others to help us protect our intellectual property.

Our technologies involve a combination of proprietary rights, owned and developed by us, commercially available software and hardware elements that are licensed or purchased by us from various providers, including Cisco, Dell, Intel, Microsoft, Sun Microsystems and Veritas, and public domain software, such as Apache, Linux, MySQL, Sun Microsystems Java and Tomcat. We continue to develop additional technologies to update, supplement and replace existing components of the platform. We intend to protect these additional intellectual property rights through patent applications and trade secret enforcement.

Our policy is to apply for patents or for other appropriate statutory protection when we develop valuable new or improved technology. We currently do not have any registered patents. We have filed two patent applications with the U.S. Patent and Trademark Office for various aspects of our transaction technologies and services, with the following titles, numbers and descriptions:

- US Provisional Patent Application Serial Number 60/504,963, of Horowitz et al., entitled "Performance-Based Online Advertising System and Method," was filed on September 23, 2003 and is currently pending. This patent application describes a system, method, and computer program product for implementing an online, performance-based service for advertisers that provides the ability for advertisers to purchase various advertising products.

- US Provisional Patent Application Serial Number 60/523,688, of Horowitz et al., entitled "Online Advertising System and Method," was filed on November 21, 2003 and is currently pending. This patent application describes an online advertising system, method, and computer program product configured to present an advertiser with keyword-driven pricing for advertisements.

The status of any patent involves complex legal and factual questions. The scope of allowable claims is often uncertain. As a result, we cannot be sure that any patent application filed by us will result in a patent being issued, nor that any patents issued in the future will afford adequate protection against competitors with similar technology; nor can we provide assurance that patents issued to us will not be infringed upon or designed around by others. Furthermore, the performance-based search advertising industry has been the subject of numerous patents and patent applications, which in turn has resulted in litigation. The outcome of this ongoing litigation or any future claims in this sector may adversely affect our business or financial prospects.

We have been issued registered trademarks in the United States covering certain goods and services for "TrafficLeader," "Sitewise" and "Direct Search Inclusion." We have applied for registered trademark status for "Marchex" and "Enhance Interactive." We do not know whether we will be able to successfully defend our proprietary rights since the validity, enforceability and scope of protection of proprietary rights in Internet-related industries are uncertain and still evolving.

Government Regulation

We are subject to governmental regulation much like many other companies. There are still relatively few laws or regulations specifically addressed to the Internet. As a result, the manner in which existing laws and regulations should be applied to the Internet in general, and how they relate to our businesses in particular, is unclear in many cases. Such uncertainty arises under existing laws regulating matters, including user privacy, defamation, pricing, advertising, taxation, gambling, sweepstakes, promotions, content regulation, quality of products and services, and intellectual property ownership and infringement.

To resolve some of the current legal uncertainty, we expect new laws and regulations to be adopted that will be directly applicable to our activities. Any existing or new legislation applicable to us could expose us to substantial liability, including significant expenses necessary to comply with such laws and regulations, and could dampen the growth in use of the Internet in general.

Several new federal laws that could have an impact on our business have already been adopted. The Digital Millennium Copyright Act is intended to reduce the liability of online service providers for listing or linking to third party Web sites that include materials that infringe copyrights or rights of others. The Children's Online Protection Act and the Children's Online Privacy Protection Act are intended to restrict the distribution of certain materials deemed harmful to children and impose additional restrictions on the ability of online services to collect user information from minors. In addition, the Protection of Children from Sexual Predators Act requires online services providers to report evidence of violations of federal child pornography laws under certain circumstances.

The foregoing legislation may impose significant additional costs on our business or subject us to additional liabilities, if we were not to comply fully with their terms, whether intentionally or not. If we did not meet the safe harbor requirements of the Digital Millennium Copyright Act, we could be exposed to copyright actions, which could be costly and time-consuming. The Children's Online Protection Act and the Children's Online Privacy Protection Act impose fines and penalties to persons and operators that are not fully compliant with their requirements. The federal government could impose penalties on those parties that do not meet the full compliance practices of the Protection of Children from Sexual Predators Act. We intend to fully comply with the laws and regulations that govern our industry, and we employ internal resources and incur outside professional fees to establish, review and maintain policies and procedures to reduce the risk of noncompliance.

We post our privacy policy and practices concerning the use and disclosure of any user data on our Web sites. Any failure by us to comply with posted privacy policies, Federal Trade Commission requirements or other domestic or international privacy-related laws and regulations could result in proceedings by governmental or regulatory bodies that could potentially harm our businesses, results of operations and financial condition. In this regard, there are a large number of legislative proposals before the U.S. Congress and various state legislative bodies regarding privacy issues related to our businesses. It is not possible to predict whether or when such legislation may be adopted, and certain proposals, if adopted, could harm our business through a decrease in user registrations and revenue. These decreases could be caused by, among other possible provisions, the required use of disclaimers or other requirements before users can utilize our services.

Employees

As of February 16, 2004, we employed a total of 170 full-time employee equivalents. We have never had a work stoppage, and none of our employees are represented by a labor union. We consider our employee relationships to be positive. If we were unable to retain our key employees or we were unable to maintain adequate staffing of qualified employees, particularly during peak sales seasons, our business would be adversely affected.

Properties

We do not own property. Our corporate offices are located at 2101 Fourth Avenue, Suite 1980, Seattle, Washington, and are comprised of approximately 8,453 square feet leased under sublease and lease agreements expiring in June 2006 and April 2004 respectively, at a combined monthly rental of $15,123. Our Enhance Interactive offices are located at 360 West 4800 North, Provo, Utah, and are comprised of approximately 13,050 square feet under a sublease agreement expiring in May 2005, at a monthly rental of $16,802. Additionally, our TrafficLeader offices are located at 2986 Crescent Avenue, Eugene, Oregon, and are comprised of approximately 6,725 square feet leased under sublease and lease agreements expiring in July 2004 and October 2004 respectively, at a combined monthly rental of approximately $9,572 per month.

In March 2004, we entered into a sublease agreement for additional office space in Seattle, Washington, and this commitment extends through 2009. The sublease agreement provides for the leasing of 11,400 square feet of office space at $16,150 per month, increasing to 26,788 square feet at $37,950 per month, over the term of the agreement ending in 2009.

Our information technology systems are hosted and maintained in third-party facilities under colocation services agreements. See “Information Technology and Systems.”

Legal Proceedings

We are not currently a party to any material legal proceeding and, to the best of our knowledge, none is threatened. From time to time, however, we may be subject to legal proceedings and claims in the ordinary course of business, including claims of alleged infringement of intellectual property rights, and a variety of claims arising in connection with our services.

MANAGEMENT

Executive Officers and Directors

Our executive officers and directors, their ages and their positions are as follows.

Name	Age	Position(s)
Russell C. Horowitz	37	Chairman of the Board of Directors, Chief Executive Officer and Treasurer
Michael A. Arends	33	Chief Financial Officer
Ethan A. Caldwell	35	Chief Administrative Officer, General Counsel and Secretary
Peter Christothoulou	32	Chief Strategy Officer
John Keister	37	President, Chief Operating Officer and Director
Walter Korman	30	Senior Vice President of Engineering
Victor Oquendo	31	Senior Vice President of Technology Operations
Dennis Cline (1) (2)	43	Director
Jonathan Fram (1) (2)	47	Director
Rick Thompson (1) (2)	44	Director

(1) Member of the Audit Committee.
(2) Member of the Nominating and Governance Committee.

Russell C. Horowitz. Mr. Horowitz is a founding officer and has served as the Chairman of our board of directors, Chief Executive Officer and Treasurer since our inception in January 2003. From January 2001 to December 2002, Mr. Horowitz and our founding officers jointly reviewed new business opportunities in the retail, media, finance and technology industries. Mr. Horowitz was previously a founder of Go2Net, a provider of online services to merchants and consumers, including online payment authorization technology, Web search and directory services and merchant web hosting, and served as its Chairman and Chief Executive Officer from its inception in February 1996 until its merger into InfoSpace, a provider of online services focused on Web search, online payment solutions for merchants, mobile infrastructure applications and content for wireless carriers, in October 2000, at which time Mr. Horowitz served as the Vice Chairman and President of the combined company through the merger integration process until January 2001. Additionally, Mr. Horowitz served as the Chief Financial Officer of Go2Net from its inception until May 2000. Prior to Go2Net, Mr. Horowitz served as the Chief Executive Officer and a director of Xanthus Management, LLC, the general partner of Xanthus Capital, a merchant bank focused on investments in early-stage companies, and was a founder and Chief Financial Officer of Active Apparel Group, now Everlast Worldwide. Mr. Horowitz received a B.A. in Economics from Columbia College of Columbia University.

Michael A. Arends. Mr. Arends has served as our Chief Financial Officer since May 2003. Prior to joining Marchex, Mr. Arends held various positions at KPMG since 1995, most recently as a Partner in KPMG's Pacific Northwest Information, Communications and Entertainment assurance practice. Mr. Arends is a Certified Public Accountant and a Chartered Accountant and received a Bachelor of Commerce from the University of Alberta.

Ethan A. Caldwell. Mr. Caldwell is a founding officer and has served as our Chief Administrative Officer, General Counsel and Secretary since our inception in January 2003. From January 2001 to December 2002, Mr. Caldwell reviewed, together with the other founding officers, new business opportunities in the retail, media, finance and technology industries. Mr. Caldwell was previously Senior Vice President, General Counsel and Corporate Secretary of Go2Net, from November 1996, until its merger with InfoSpace in October 2000. Mr. Caldwell assisted in the integration of Go2Net with InfoSpace through December 2000. Mr. Caldwell received his J.D. from the University of Maryland and his B.A. in Political Science from Occidental College.

Peter Christothoulou. Mr. Christothoulou is a founding officer and has served as our Chief Strategy Officer since our inception in January 2003. From January 2001 to December 2002, Mr. Christothoulou reviewed, together with the other founding officers, new business opportunities in the retail, media, finance and technology industries. Mr. Christothoulou was previously the Senior Vice President of Strategic Initiatives for Go2Net, focused on strategic acquisitions and investments, from January 2000 until its merger with InfoSpace in October 2000, at which time he served as the Senior Vice President of Corporate Strategy and Development of the combined company through the merger integration process until January 2001. Prior to Go2Net, Mr. Christothoulou was a Vice President in the Investment Banking Group of U.S. Bancorp Piper Jaffray, focused primarily on merger and acquisition advisory services for technology companies, and was with the investment banking firm from 1996 until January 2000. Mr. Christothoulou received a B.A. in Economics from the University of Washington.

John Keister. Mr. Keister is a founding officer and has served as our Chief Operating Officer and as a member of our board of directors since our inception in January 2003, and as our President since December 2003. From February 2001 to December 2002, Mr. Keister reviewed, together with the other founding officers, new business opportunities in the retail, media, finance and technology industries. Mr. Keister was previously a founder of Go2Net and served as its President from 1999 until its merger into InfoSpace in October 2000, at which time he served as Executive Vice President of the Consumer Division through the merger integration process until January 2001. He also served as a member of the board of directors of Go2Net and as its Chief Operating Officer from 1996 to 1999. Mr. Keister received B.A. degrees in Philosophy and in Diplomacy & World Affairs from Occidental College.

Walter Korman. Mr. Korman has been an executive in our technology organization since March 2003, and currently serves as Senior Vice President of Engineering. Mr. Korman was previously Director of Technology Mergers and Acquisitions at Go2Net from 1999 until its merger with InfoSpace in October 2000, after which he served as the combined company's Senior Director of Operations Integration until June 2001. From 2001 to February 2003, he was a Software Engineer with Three Rings Design, an Internet games development company. Mr. Korman received a B.A. and M.S. in Computer Science from the University of California, San Diego.

Victor Oquendo. Mr. Oquendo is a founding officer and has been a leader of our technology organization since our inception in January 2003, and currently serves as Senior Vice President of Technology Operations. From January 2001 to January 2003, Mr. Oquendo reviewed, together with the other founding officers, new business opportunities in the retail, media, finance and technology industries. Mr. Oquendo was previously the Senior Vice President of Technology for Go2Net from 1998 until its merger with InfoSpace in October 2000, at which time he served as the combined company's Senior Vice President of Technology Operations through the merger integration process until January 2001. Mr. Oquendo received a B.S. in Computer Science from the Rose-Hulman Institute of Technology.

Dennis Cline. Mr. Cline has served as a member of our board of directors since May 2003. Mr. Cline is currently the managing partner of DMC Investments, a firm he founded in 2000, which provides capital and consulting services to technology companies. From 1998 to 2000, Mr. Cline was the Chief Executive Officer of DirectWeb, a provider of a bundled solution of computer hardware and Internet access for consumers. Prior to DirectWeb Mr. Cline was a senior executive at Network Associates, a provider of computer security solutions. Mr. Cline received his J.D. from Rutgers School of Law and his B.A. from Rutgers University.

Jonathan Fram. Mr. Fram has served as a member of our board of directors since May 2003. Mr. Fram currently serves as a consultant to companies that provide media and voice services over the Internet. From May 2002 through December 2003, Mr. Fram was the CEO for Envivio, a privately-held company, where he remains a member of the board of directors, a provider of MPEG-4 broadcast and streaming solutions. From October 2001 to May 2002, Mr. Fram was the Acting CEO of Envivio while he was a consultant to France Telecom, Envivio's majority shareholder at that time. From August 2000 to July 2001, Mr. Fram was the President and CEO of eVoice, an online voicemail and unified messaging provider, until its sale to America Online in July 2001. Prior

to eVoice from July 1999 to August 2000, Mr. Fram was the President of Net2Phone, a provider of voice services over IP networks, until AT&T acquired a controlling interest in the company. Prior to Net2Phone, from 1991 to 1999, Mr. Fram was a General Manager at Bloomberg, responsible for the Television, Internet and Radio divisions. Mr. Fram received a B.S. degree in Electrical Engineering and Computer Science from Princeton University.

Rick Thompson. Mr. Thompson has served as a member of our board of directors since May 2003. Mr. Thompson has been the Vice President for the Extended Windows Platform Group at Microsoft since December 2002. From February 2001 to November 2002, Mr. Thompson was a business consultant to retail automotive, packaged goods and health and fitness companies, with a particular focus on providing product and market analysis services and management consulting. From May 2000 through January 2001, Mr. Thompson was the CFO and EVP for Product Development for Go2Net. Prior to Go2Net, from 1987 through 2000, Mr. Thompson was the Vice President of Hardware for Microsoft. Mr. Thompson received B.A. degrees in Economics and in French from Bates College.

Election of Directors and Officers

Our board of directors currently consists of the following five members: (i) Russell C. Horowitz (Chairman), (ii) John Keister, (iii) Dennis Cline, (iv) Jonathan Fram and (v) Rick Thompson. Messrs. Horowitz and Keister are the only management members of our board of directors and were selected as directors pursuant to a voting provision in the stockholders' agreement that will automatically terminate upon the closing of this offering. Messrs. Cline, Fram and Thompson are independent directors as defined by the applicable rules of the National Association of Securities Dealers, Inc. listing standards. We refer to these directors as our "independent directors." There are no family relationships among any of our directors and executive officers.

The directors are elected at each annual meeting of stockholders to serve until their successors have been duly elected and qualified, or until their earlier resignation or removal, if any. Executive officers are appointed by, and serve at the discretion of, the board of directors.

Board Committees

Audit Committee

The audit committee of our board of directors is comprised of Messrs. Cline, Fram and Thompson, each of whom is an independent director. The audit committee shall act pursuant to a formal charter adopted by the board, which will be available on our Web site. The audit committee reviews, with our independent auditors, the scope and timing of the auditors' services, the auditors' report on our consolidated financial statements following completion of the audit, and our internal accounting and financial control policies and procedures. In addition, the audit committee makes annual recommendations to the board of directors for the appointment of independent auditors for the ensuing year. The board has determined that each of the members of the audit committee qualifies as an "audit committee financial expert" as that term is defined in accordance with the Securities and Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002 and that each also satisfies related NASDAQ finance or accounting experience requirements. Mr. Thompson currently serves as the chairman of the audit committee.

Compensation Committee

Prior to the consummation of the offering, our board of directors shall establish a compensation committee comprised of at least two persons among Messrs. Cline, Fram and Thompson, each of whom is an independent director. The compensation committee will act pursuant to a formal charter to be adopted by the board, which will be available on our Web site. At such time, the compensation committee shall review and evaluate the compensation and benefits of all of our officers, including the compensation of our CEO, review general policy matters relating to compensation and employee benefits, and make recommendations concerning these matters to our board of directors. The compensation committee shall also administer our stock incentive plan and our employee stock purchase plan. For a more detailed description of our stock incentive plan, please see "Benefit Plans."

Nominating and Governance Committee

The nominating and governance committee is comprised of Messrs. Cline, Fram and Thompson, each of whom is an independent director. The nominating and governance committee shall act pursuant to a formal charter adopted by the board, which will be available on our Web site. The nominating and governance committee identifies individuals qualified to become board members, recommend to the board those persons to be nominated by the board of directors as directors at the annual meeting of stockholders, develop and recommend to the board a set of corporate governance principles applicable to our company and oversee the evaluation of the board and management. Mr. Fram currently serves as the chairman of the nominating and governance committee.

Our board of directors may establish other committees it deems necessary or appropriate from time to time.

Code of Conduct and Code of Ethics

We have adopted a code of conduct applicable to each of our officers, directors and employees, and a code of ethics applicable to our Chief Executive Officer and our senior financial officers, as contemplated by Section 406 of the Sarbanes-Oxley Act of 2002 and will include both codes on our Web site at *www.marchex.com*. We will disclose any amendments to, or waivers from, any provisions of either our code of conduct or our code of ethics on a Form 8-K filed with the Securities and Exchange Commission and on our Web site by posting such information within five days after such amendment or waiver.

Corporate Governance Guidelines

Prior to the consummation of the offering, our board of directors will adopt corporate governance guidelines to ensure effective corporate governance. These guidelines will also provide that our independent directors shall meet regularly (not less than two times per year) in executive session at which only our independent directors shall be present.

Compensation of Directors

Our directors currently do not receive cash compensation for their services as members of the board of directors. Directors are, however, reimbursed for the expenses they incur in attending meetings of the board of directors or board of director committees. We have granted a non-qualified stock option pursuant to our stock incentive plan to purchase 40,000 shares of our Class B common stock, at an exercise price of $3 per share and with vesting in equal annual increments on the first, second, third and fourth anniversaries of their respective dates of board service, to each of Messrs. Cline, Fram and Thompson.

Compensation Committee Interlocks and Insider Participation

No interlocking relationship exists between any proposed member of our compensation committee and any member of any other company's board of directors or compensation committee. Members of the compensation committee will not receive additional compensation other than the compensation noted above that they received pursuant to becoming members of the board of directors. See "Security Ownership of Certain Beneficial Owners and Management" and "Certain Relationships and Related Transactions" for a summary of the holdings, rights and transactions of these members with respect to our shares of our Class B common stock.

EXECUTIVE COMPENSATION

The following table sets forth the compensation earned by our Chief Executive Officer and our Chief Financial Officer for services rendered in all capacities during the period from our inception, January 17, 2003, to December 31, 2003. No other executive officer's total annual salary and bonus for 2003 exceeds $100,000. We refer to these executives as our "named executive officers" elsewhere in this prospectus.

Summary Compensation Table

	2003 Compensation			Long-term Compensation
Name and Principal Position	Salary	Bonus	All other compensation	Securities Underlying Options
Russell C. Horowitz (Chief Executive Officer)(1)	$ 39,712	0	*	0
Michael A. Arends (Chief Financial Officer)(2)	$ 104,000	0	*	450,000

(1) Mr. Horowitz was not paid a salary for the period from January 17, 2003 (inception) through March 16, 2003, and his salary compensation commenced as of March 17, 2003.
(2) Mr. Arends joined Marchex as of May 1, 2003, and his salary compensation commenced as of that date.
* No other compensation in excess of the lesser of either $50,000 or 10% of total annual salary and bonus.

The following table sets forth information with respect to stock options granted to our named executive officers during the period from our inception, January 17, 2003, to December 31, 2003.

Option Grants

Name	Number of Securities underlying options granted	Percentage of Total Options Granted to Employees	Exercise Price Per Share	Expiration Date
Russell C. Horowitz	0	0%	N/A	N/A
Michael A. Arends	350,000	11.3%	$3.00	5/1/2013
	100,000	3.3%	IPO price	5/1/2013
	450,000	14.6%		

The following table sets forth information regarding unexercised options held as of December 31, 2003, by our named executive officers. There was no public trading market for our Class B common stock as of December 31, 2003. Accordingly, these values have been calculated on the basis of an assumed initial public offering price of $6.50, which represents the middle of the filing range as of the date of this prospectus, less the applicable exercise price per share, multiplied by the number of shares issued or issuable, as the case may be, on the exercise of the option.

Aggregate Option Exercises/Option Values

	Number of Shares Acquired on Exercise		Number of Securities Underlying Unexercised Options At December 31, 2003		Value of Unexercised In-the-Money Options At December 31, 2003	
Name	Exercised	Value Realized	Exercisable	Unexercisable	Exercisable	Unexercisable
Russell C. Horowitz	N/A	N/A	N/A	N/A	N/A	N/A
Michael A. Arends	N/A	N/A	33,333	416,667	116,667	1,108,335

Employment Contract with Named Executive Officers

Russell C. Horowitz

We have entered into an Executive Employment Agreement with Russell C. Horowitz, our Chief Executive Officer, effective as of January 17, 2003. The agreement with Mr. Horowitz provides for an at-will employment term and an annual base salary of $50,000. Mr. Horowitz has signed our standard confidentiality agreement, which provides, among other things, that Mr. Horowitz will not compete with us for twelve months following termination of his employment.

Michael A. Arends

We have also entered into an Executive Employment Agreement with Michael A. Arends, our Chief Financial Officer, effective as of May 1, 2003. The agreement with Mr. Arends provides for an at-will employment term and an initial annual base salary of $156,000, which will be adjusted to $135,000 upon the closing of a qualified initial public offering with gross proceeds to us in excess of $20 million.

Under the agreement, Mr. Arends was granted a stock option to purchase 350,000 shares of Class B common stock at an exercise price of $3.00, subject to a four-year vesting schedule, 166,665 shares of which are designated as an incentive stock option and the remainder of which are designated as a non-qualified stock option. In addition, Mr. Arends was granted a non-qualified stock option to purchase 100,000 shares of Class B common stock at an exercise price equal to either the fair value one year from the date of the agreement or, if earlier, the initial public offering price, subject to a vesting schedule through October 31, 2007.

In the event that either (i) Russell C. Horowitz ceases to be a Marchex employee for any reason or (ii) a change in control occurs while Mr. Arends is employed by Marchex, all options or other equity awards held by Mr. Arends with respect to our Class B common stock shall become fully vested. For purposes of this provision, a change in control occurs if one person or entity acquires control of 50% or more of our common stock entitled to vote for directors, but does not occur as a result of an acquisition by Marchex or any corporation controlled by Marchex.

Mr. Arends has the right to a severance payment in the event of termination meeting certain conditions as set forth in the employment agreement, up to a maximum payment of one year’s salary.

Mr. Arends has signed our standard confidentiality agreement, which provides, among other things, that Mr. Arends will not compete with us for twelve months following termination of his employment.

Benefit Plans

Stock Incentive Plan. On January 17, 2003, we adopted our 2003 stock incentive plan. The plan provides for the granting of shares of Class B common stock to employees, directors, and consultants of Marchex, its affiliates and strategic partners and provides for the following types of option grants:

- incentive stock options within the meaning of Section 422 of the Internal Revenue Code (sometimes known as ISOs);
- non-statutory stock options, which are options not intended to qualify as ISOs (sometimes known as non-qualified options); and
- right to purchase shares pursuant to restricted stock purchase agreements.

Marchex has reserved 5,013,953 shares of Class B common stock for issuance under the plan. The plan also provides for annual increases in the number of shares available for issuance under the plan, on the first day of our fiscal year, equal to 5% of the outstanding shares of Class B common stock (including any shares of common stock issuable upon conversion of any outstanding capital stock) on such date. The total number of shares of

Class B common stock for which options designated as ISO's may be granted shall not exceed 8,000,000. As of December 31, 2003, options to purchase 3,089,600 shares of Class B common stock were outstanding. As of December 31, 2003, no options had been exercised under the plan.

At the discretion of the board, the plan administrator shall be either the full board of directors or a special committee of the board consisting of at least two members of the board. A majority of the members of the committee constitutes a quorum and any action may be taken by a majority of those present and voting at the meeting. The entire board of directors or the special committee administering the plan selects the participants who will receive awards and determines the terms and conditions of such awards. Grants of stock under the plan will be subject to the terms of an option agreement or stock grant agreement, each in a form approved by the plan administrator.

Pursuant to the plan, ISOs may only be granted to employees. No option designated as an ISO may be granted to any participant who owns stock totaling more than 10% of the voting power of all classes of our outstanding capital stock, unless the exercise price of such stock equals at least 110% of the fair value on the grant date and the term of the option does not exceed five years.

The plan will terminate automatically ten years from the date of adoption by the stockholders, on January 17, 2013, unless terminated sooner by the vote of the plan administrator or the requisite stockholder vote.

Employee Stock Purchase Plan. Our 2004 employee stock purchase plan, which will become effective on the first date that our Class B common stock is publicly traded as a result of this offering assuming we receive gross proceeds in excess of $20 million, was adopted by our board of directors and approved by our stockholders on February 15, 2004. This plan will be intended to qualify under Section 423 of the Internal Revenue Code and will permit eligible employees to purchase our Class B common stock for amounts up to 15% of their compensation in offering periods under the plan. Under the purchase plan, no employee will be permitted to purchase stock worth more than $25,000 in any calendar year, valued as of the first day of each offering period. We have authorized an aggregate of 300,000 shares of our Class B common stock for issuance under the purchase plan to participating employees.

The purchase plan will provide for offering periods which shall be determined by the board of directors. Eligible participants may purchase Class B common stock under the purchase plan at a price equal to the lesser of 85% of the fair value on the first day of an offering period and 85% of the fair value on the last day of an offering period.

401(k) Plan (Enhance Interactive). Our subsidiary, Enhance Interactive, sponsors a 401(k) plan covering its employees. The 401(k) plan is intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended, so that contributions to the 401(k) plan by employees or by Enhance Interactive and the investment earnings thereon, are not taxable to employees until withdrawn from the 401(k) plan, and so that contributions by Enhance Interactive, if any, will be deductible by Enhance Interactive when made. Under the 401(k) plan, employees may elect to reduce their current compensation by up to the plan's prescribed annual limit and to have the amount of such reduction contributed to the 401(k) plan. The 401(k) plan permits, but does not require, additional matching and profit sharing contributions to the 401(k) plan by Enhance Interactive on behalf of all eligible participants in the 401(k) plan. To date, no matching or profit sharing contributions have been made by Enhance Interactive to the 401(k) plan.

401(k) Plan (TrafficLeader). Our subsidiary, TrafficLeader, sponsors a 401(k) plan covering its employees. The 401(k) plan is intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended, so that contributions to the 401(k) plan by employees or by TrafficLeader and the investment earnings thereon, are not taxable to employees until withdrawn from the 401(k) plan, and so that contributions by TrafficLeader, if any, will be deductible by TrafficLeader when made. Under the 401(k) plan, employees may elect to reduce their current compensation by up to the statutorily prescribed annual limit and to have the amount of such reduction contributed to the 401(k) plan. The 401(k) plan permits, but does not require, additional matching and non-

elective contributions to the 401(k) plan by TrafficLeader on behalf of all eligible participants in the 401(k) plan. To date, no matching or non-elective contributions have been made by TrafficLeader to the 401(k) plan.

Limitations on Directors' Liability and Indemnification Matters

As permitted by Delaware General Corporation Law, we have included in our certificate of incorporation a provision to eliminate the personal liability of our directors for monetary damages for breach or alleged breach of their fiduciary duties as directors, other than breaches of their duty of loyalty, actions not in good faith or which involve intentional misconduct, or transactions from which they derive improper personal benefit. In addition, our by-laws provide that we are required to indemnify our officers and directors under certain circumstances, including those circumstances in which indemnification would otherwise be discretionary, and we are required to advance expenses to our officers and directors as incurred in connection with proceedings against them for which they may be indemnified.

The limitations summarized above, however, do not affect our ability or the ability of our stockholders to seek non-monetary-based remedies, such as an injunction or rescission, against a director for breach of his fiduciary duty nor would such limitations limit liability under the federal securities laws. Our by-laws provide that we shall, to the extent permitted by Delaware law, indemnify and advance expenses to our currently acting and former directors, officers, employees and agents or director, officers, employees and agents of other corporations, partnerships, joint ventures, trusts or other enterprises if serving at our request arising in connection with their acting in such capacities.

At present, we are not aware of any pending or threatened litigation or proceeding involving our directors, officers, employees or agents in which indemnification would be required or permitted. We believe that our certificate of incorporation and by-law provisions are necessary to attract and retain qualified persons as directors and officers.

We have also entered into indemnification agreements with each of our directors and executive officers.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of our common stock as of February 16, 2004 and as adjusted to reflect the sale of the Class B common stock offered hereby by:

- each person (or group of affiliated persons) who is known by us to own beneficially more than 5% of the outstanding shares of our common stock;
- each of our directors who own our common stock;
- each of our executive officers listed in the "Summary Compensation Table" who owns our common stock; and
- all directors and executive officers as a group.

Percentage of beneficial ownership is based on 20,279,063 shares of common stock outstanding as of February 16, 2004 (assuming the conversion of the outstanding convertible preferred stock), and 24,279,063 shares of common stock outstanding after completion of the offering. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock subject to options held by that person that are currently exercisable or exercisable within 60 days of February 16, 2004, are deemed outstanding. These shares are not, however, deemed outstanding for the purposes of computing the percentage ownership of any other person. Except as otherwise noted below, the address for each beneficial owner listed below is c/o Marchex, Inc., 2101 Fourth Avenue, Suite 1980, Seattle, Washington 98121.

Name and Address of Beneficial Owner	Number of Shares Owned	Percentage of Shares Outstanding	
		Before Offering	After Offering
Russell C. Horowitz (1)	9,525,040	47.0%	39.2%
Michael A. Arends (2)	48,333	*	*
John Keister (3)	2,695,160	13.3%	11.1%
Rainwater River Authority, LLC (4)	770,000	3.8%	3.2%
Twin Oaks Plateau, LLC (5)	500,000	2.5%	2.1%
Dennis Cline (6)	100,000	*	*
Jonathan Fram	0	0%	0%
Rick Thompson (7)	1,158,333	5.7%	4.8%
All directors and executive officers as a group (10 persons) (8)	15,762,492	77.5%	64.8%

Except as indicated in the footnotes below and except as subject to community property laws where applicable, the persons named in the table above have sole voting and investment power with respect to all shares of common stock shown as beneficially owned by them.

The table above does not include any shares that may be purchased in the offering.

* Less than one percent of the outstanding shares of common stock.

(1) Includes: (i) 8,026,707 shares of our Class A common stock held by MARRCH Investments, LLC; (ii) 1,400,000 shares of our Class B common stock held by MARRCH Investments, LLC; and (ii) 83,333 shares of our Class B common stock held by Pemrose, LLC. Mr. Horowitz is the managing member of these entities and, as such, may be deemed to exercise voting and investment power over the shares held by all of these entities. It also includes 5,000 shares of our Class B common stock held in an Individual Retirement Account for the benefit of Mr. Horowitz and 10,000 shares of our Class B common stock.

(2) Includes: (i) 33,333 shares of our Class B common stock issuable upon exercise of options; (ii) 4,500 shares of our Class B common stock; and (iii) 10,500 shares of our Class B common stock held by the Nicole

Marie Arends 2003 Trust for the benefit of Nicole Marie Arends, the daughter of Mr. Arends, for which shares Mr. Arends disclaims beneficial ownership.

(3) Includes: (i) 2,000,167 shares of our Class A common stock; (ii) 6,160 shares of our Class B common stock held in an Individual Retirement Account for the benefit of Mr. Keister; (iii) 65,000 shares of our Class B common stock held in a Grantor Retained Annuity Trust, of which Mr. Keister is the grantor; and (iv) 623,833 shares of our Class B common stock.

(4) The David Horowitz Trust II is the sole member of Rainwater River Authority, LLC. The beneficiary of such trust is Mr. David M. Horowitz. The address for Rainwater River Authority, LLC is: 10900 NE 8th Street, Suite 900, Bellevue, Washington 98004.

(5) The David Horowitz Trust is the sole member of Twin Oaks Plateau, LLC. The beneficiary of such trust is Mr. David M. Horowitz. The address for Twin Oaks Plateau, LLC is: 10900 NE 8th Street, Suite 900, Bellevue, Washington 98004.

(6) Consists of 100,000 shares held by DMC Investments, LLC, a limited liability company of which Mr. Cline is the managing member.

(7) Consists of 1,158,333 shares of our Class B common stock.

(8) Includes an aggregate of: (i) 11,987,500 shares of our Class A common stock; (ii) 3,716,659 shares of our Class B common stock (including 10,500 shares for which beneficial ownership has been disclaimed); and (iii) 58,333 shares of our Class B common stock issuable upon exercise of options, of which options for the purchase of 33,333 shares of Class B common stock are exercisable at this time.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Transactions with Our Founding Officers

Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou, John Keister and Victor Oquendo, our founding officers, were involved in our initial funding and by reason of such involvement would be deemed to be acting as promoters as such term is defined by Rule 405 of Regulation C under the Act. Following our inception, in January 2003, we issued an aggregate of 12,250,000 shares of our Class A common stock to these founding officers at a purchase price of $0.01 per share for a total purchase price of $122,500 and 1,000,000 shares of our Class B common stock for the benefit of Russell C. Horowitz individually or a Russell C. Horowitz–designated affiliated entity, at a purchase price of $0.01 per share for a total purchase price of $10,000. In connection with, and as part of, our preferred stock financing in February and May 2003, we issued an aggregate of 2,442,326 shares of our Series A redeemable convertible preferred stock to these founding officers at a purchase price of $3 per share for an aggregate purchase price of $7,326,980.

As part of our original organization, we purchased certain property and equipment from Russell C. Horowitz and an affiliated entity for approximately $57,000 and from Ethan A. Caldwell for approximately $4,000.

Private Placement Financing

In February and May 2003, we sold an aggregate of 6,724,063 shares of our Series A redeemable convertible preferred stock in a private placement at a purchase price of $3 per share for a total purchase price of $20,172,201 (this amount includes all investments, including investments of the executive officers and directors). Upon closing of this offering, all outstanding shares of preferred stock will automatically convert into Class B common stock and all share and per share amounts have been adjusted to reflect this conversion. The following table summarizes purchases, valued in excess of $60,000, of shares of our Series A redeemable convertible preferred stock by certain of our executive officers, directors, five-percent stockholders and certain of their family members or permitted transferees:

Investor	Number of Shares Purchased	Aggregate Consideration
Ethan A. Caldwell	50,000	$ 150,000
DMC Investments, LLC (1)	100,000	$ 300,000
Rainwater River Authority, LLC (2)	720,000	$ 2,160,000
Donald J. Horowitz (3)	171,200	$ 513,600
Entities affiliated with Russell C. Horowitz (4)	1,488,333	$ 4,465,000
John Keister (5)	706,993	$ 2,120,980
Marcia McGreevy Lewis (6)	33,333	$ 100,000
Sylvia Mathews (7)	150,000	$ 450,000
Victor Oquendo	200,000	$ 600,000
Rick Thompson	833,333	$ 2,500,000

(1) Dennis Cline, one of our directors, is the managing member of DMC Investments, LLC.

(2) The David Horowitz Trust II is the sole member of Rainwater River Authority, LLC. The beneficiary of such trust, Mr. David M. Horowitz, is the brother of Mr. Russell C. Horowitz.

(3) Mr. Donald J. Horowitz is Mr. Russell C. Horowitz's father. These shares are held jointly with rights of survivorship with Lynda Horowitz.

(4) The record holders of these securities consist of: (i) MARRCH Investments, LLC and (ii) Pemrose, LLC. See footnote (1) in "Security Ownership of Certain Beneficial Ownership and Management" for a description of Mr. Horowitz's relationship to these entities. It also includes 5,000 shares issued to an Individual Retirement Account for the benefit of Mr. Horowitz.

(5) Includes 6,160 shares issued to an Individual Retirement Account for the benefit of Mr. Keister and 65,000 shares issued to a Grantor Retained Annuity Trust, of which Mr. Keister is the grantor.

(6) Ms. McGreevy Lewis is Mr. Keister's mother.
(7) Ms. Mathews is Mr. Russell C. Horowitz's mother. Includes 58,000 shares issued to an Individual Retirement Account for the benefit of Ms. Mathews.

In connection with the sale of the preferred stock, the investors were granted piggy-back registration rights, and we may therefore become obligated if requested after completing this offering to effect a registration under the Securities Act of 1933 of the shares of Class B common stock held by these investors upon the conversion of the preferred stock. See "Description of Capital Stock" for a more complete description of these registration rights.

We believe that we have executed all of the transactions set forth above on terms no less favorable to us than we could have obtained from unaffiliated third parties. It is our intention to ensure that all future transactions between us and our officers, directors and principal stockholders and their affiliates, are approved by a majority of the board of directors, including a majority of the independent and disinterested members of our board of directors, and are on terms no less favorable to us than those that we could obtain from unaffiliated third parties.

DESCRIPTION OF CAPITAL STOCK

General

The following summary description of our capital stock is not intended to be complete and is subject, and qualified in its entirety by reference, to our certificate of incorporation, as amended and restated, and our bylaws. We have filed copies of each of these documents as exhibits to the registration statement of which this prospectus is a part.

The amended and restated certificate of incorporation will be adopted prior to the consummation of the offering. The following summary assumes the filing of the certificate of amendment to the certificate of incorporation.

Authorized and Outstanding Capital Stock

Upon the completion of this offering, Marchex will be authorized to issue 12,500,000 shares of Class A common stock, $0.01 par value per share, 125,000,000 shares of Class B common stock, $0.01 par value per share and 1,000,000 shares of undesignated preferred stock, $0.01 par value per share. All currently outstanding shares of Series A redeemable preferred stock will be converted into shares of Class B common stock at a conversion ratio of one-to-one upon the closing of this offering on a firm commitment basis with gross proceeds to Marchex of at least $20 million. The shares of Class A common stock are convertible on a one for one basis into shares of Class B common stock, but only upon the election of the individual holders. In the event that any shares of Class A are converted into shares of Class B, the number of outstanding Class A shares will be reduced on a one for one basis, and the number of Class B shares shall be increased on the same basis.

Prior to Completion of the Offering

As of February 16, 2004, assuming the mandatory conversion of all outstanding shares of the preferred stock, there were 20,279,063 shares of common stock outstanding that were held by 141 stockholders of record. Of these shares:

- 11,987,500 shares were authorized as Class A common stock, and as of this date were held by five stockholders of record, and
- 8,291,563 shares were authorized as Class B common stock, and as of this date were held by 136 stockholders of record.

As of February 16, 2004, we had options outstanding for the purchase an aggregate of 3,196,600 shares of Class B common stock of which 2,421,500 options are at a weighted average exercise price of $1.67 per share and 775,100 options will have an exercise price equal to the initial public offering price. These options were issued under our stock incentive plan, which is discussed in more detail below.

Upon Completion of the Offering

Our authorized capital stock, following the completion of this offering, will consist of shares of common stock and preferred stock:

- with 12,500,000 shares authorized as our Class A common stock, $0.01 par value per share, of which 11,987,500 will be outstanding and 262,500 will be held in treasury;
- with 125,000,000 shares authorized as our Class B common stock, $0.01 par value per share, of which 12,291,563 will be outstanding (12,891,563 shares if the underwriters' over-allotment option is exercised in full). The representatives of the underwriters may also exercise warrants for the purchase of up to 120,000 shares of Class B common stock over a period commencing one year after the initial public offering date and ending five years from the initial public offering date for an exercise price of 130% of the initial public offering price; and
- with 1,000,000 shares as undesignated preferred stock, $0.01 par value per share, none of which will be outstanding.

Common Stock

We have two classes of authorized common stock: Class A common stock and Class B common stock. Except with respect to voting rights, the Class A and Class B shares have identical rights. Holders of our Class A common stock are entitled to twenty-five votes for each share held and holders of our Class B common stock are entitled to one vote for each share held on all matters submitted to a vote of the stockholders, including the election of directors. Except as otherwise required by the laws of the State of Delaware, the holders of outstanding shares of Class A common stock and the holders of outstanding shares of Class B common stock vote as one class with respect to the election of directors and with respect to all other matters to be voted on by the stockholders of the Company.

Each share of Class A common stock is convertible, at the holder's option, into one share of Class B common stock. Our Class B common stock is not convertible into our Class A common stock. Subject to the prior rights of any of our outstanding preferred stock to receive dividends and distributions, holders of our common stock are entitled to receive ratably any dividends that may be declared by the board of directors out of funds legally available and are entitled to receive, pro rata, all of our assets available for distribution to such holders upon liquidation, dissolution or winding up of the Company. The outstanding shares of Class A common stock and Class B common stock are, and the shares of Class B common stock to be issued upon completion of this offering will be, fully paid and non-assessable.

Preferred Stock

Upon the closing of this offering, all outstanding shares of Series A redeemable convertible preferred stock will be converted into 6,724,063 shares of Class B common stock based on the then-effective conversion ratio of one-to-one and the Series A redeemable preferred stock will automatically be retired. Thereafter, our board of directors will have the authority, without further action by the stockholders, to issue up to 1,000,000 shares of preferred stock, $0.01 par value, in one or more series. Our board of directors will also have the authority to designate the rights, preferences, privileges and restrictions of each such series, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting any series. The issuance of preferred stock may have the effect of delaying, deferring or preventing a change in control of Marchex without further action by the stockholders. The issuance of preferred stock with voting and conversion rights may also adversely affect the voting power of the holders of Class B common stock. In certain circumstances, an issuance of preferred stock could have the effect of decreasing the market price of the Class B common stock. Upon the closing of this offering, no shares of preferred stock will be outstanding. Marchex currently has no plans to issue any shares of preferred stock.

Representatives' Warrants

At the closing of this offering, we will sell warrants to purchase shares of our Class B common stock to the representatives for nominal consideration.

The representatives of the underwriters, or their designees, may exercise warrants for the purchase of up to 120,000 shares of Class B common stock over a period commencing one year after the initial public offering date and ending five years from the initial public offering date for an exercise price of 130% of the initial public offering price. We have reserved an equivalent number of shares of Class B common stock for issuance upon exercise of the warrants. The holders of the warrants will not possess any rights as a stockholder unless the warrants are exercised. The representatives' warrants grant to the holders thereof certain rights of registration for the shares of Class B common stock issuable upon exercise thereof.

Stock Consideration in the Traffic Leader Acquisition

As partial consideration in the acquisition of TrafficLeader, Marchex issued an aggregate of 562,500 shares of Class B common stock to the former stockholders of TrafficLeader, 425,000 of which are fully vested on the date

of grant and 137,500 of which are subject to vesting over time. Marchex is subject to continuing obligations under the agreement and plan of merger dated as of October 1, 2003, entered into by Marchex and TrafficLeader and its stockholders. We also refer to this agreement as the acquisition agreement. The shares issued in connection with the acquisition are subject to a stock transfer and restriction agreement dated as of October 24, 2003, between the former stockholders of TrafficLeader and Marchex.

The acquisition agreement and the stock transfer and restriction agreement provide that 137,500 shares of the total stock consideration are classified as "restricted equity consideration." The restricted equity consideration is subject to a three year vesting schedule, with the first 16.67% vesting on the six month anniversary of the closing date and an additional 16.67% shall vest on the last day of each successive six month period over the next two and one half years. These shares of restricted equity consideration shall become fully vested in the event of an acceleration event as defined in the acquisition agreement with respect to Gerald Wiant and Bruce Fabbri, the former principal stockholders of TrafficLeader, and upon a "change of control" of Marchex with respect to all of the other stockholders who are identified in the stock transfer and restriction agreement. The restricted equity consideration granted to each of Gerald Wiant and Bruce Fabbri shall be subject to forfeiture in the event that their employment relationship with us terminates for any reason.

Pursuant to the acquisition agreement, Marchex is obligated to redeem 425,000 shares of Class B common stock at a price of $8 per share, in the event that Marchex has not effected the sale of shares of common stock in firm commitment underwritten public offering pursuant to an effective registration statement with at least $20 million of gross proceeds by October 24, 2005, upon the election of the holders of at least 75% of such shares.

With respect to the vested shares, the holders shall also have certain registration and drag along rights pursuant to the stock transfer and restriction agreement, as set forth in more detail below.

Registration Rights

After the completion of this offering, the holders of approximately 20,279,063 shares of our Class A and Class B common stock, or their permitted transferees, will be entitled to certain "piggy-back" rights with respect to registration of their shares, or "registrable securities," under the Securities Act. These registration rights were granted pursuant to two separate agreements, the stockholders' agreement entered into with investors as of January 23, 2003, and the stock transfer and restriction agreement entered into with the holders of those shares of Class B common stock which were issued in connection with the acquisition of TrafficLeader as of October 24, 2003. Of the total number of shares subject to registration rights, 19,716,563 shares of Class A and Class B common stock have rights under the January 2003 agreement, and 562,500 shares of Class B common stock have rights under the October 2003 agreement.

Under the terms of these agreements, if we determine to register any of our securities under the Securities Act in connection with a public offering for cash following this offering, either for our own account or for the account of other security holders exercising registration rights, the holders of these shares are entitled to notice of the registration and to include their shares of common stock in the registration upon request at our expense.

These "piggy-back" registration rights are not triggered in the case of certain excluded offerings such as registrations relating solely to employee benefit plans, Rule 145 transactions, common stock issuable upon the conversion of debt securities or any form that does not require substantially the same information that would be required to register these shares.

These "piggy-back" registration rights are subject to the right of the representatives of an offering to limit the number of shares included in such registration and underwriting. Each of the holders shall also be required to enter into the underwriting agreement for any offering including their shares. These agreements also provide that the holders of these registration rights if requested by the Company and the representatives shall not sell, transfer or otherwise dispose of their shares for 180 days following the closing of this offering.

If our stockholders with registration rights cause a large number of securities to be registered and sold in the public market, those sales could cause the market price of our common stock to fall. If we were to initiate a registration and include registrable securities because of the exercise of registration rights, the inclusion of registrable securities could adversely affect our ability to raise capital.

We have agreed to certain "piggy-back" registration rights for the securities underlying the representatives' warrants, which shall continue with respect to the shares for a period of five years from the first closing date of this offering.

Drag Along Rights

After the completion of this offering, the holders of approximately 13,555,000 shares of our Class A and Class B common stock, or their permitted transferees, will be entitled to drag along rights with respect to the sale of their shares. Of the total number of shares subject to these drag along rights, 12,992,500 shares of Class A and Class B common stock have rights under the January 2003 agreement, and 562,500 shares of Class B common stock have rights under the October 2003 agreement.

Under each of these agreements, the stockholders have drag along rights in the event that a majority of the voting power of a defined group of stockholders proposes to either:

- make a bona fide sale or exchange (in a business combination or otherwise) of all of the shares they hold to a third party who is not an affiliate or associate; or
- enter into a transaction pursuant to which we agree to merge with or into another entity or agree to sell all or substantially all of our assets.

For the holders who are party to the January 2003 agreement, those stockholders who hold a majority of the voting power of the outstanding securities subject to such agreement may effectuate the drag along right. For the holders who are party to the October 2003 agreement, those stockholders who hold a majority of the voting power of all of our outstanding securities may effectuate the drag along right.

Under each of these agreements, these majority stockholders have the right, exercisable upon 30 days' notice to the other stockholders, subject thereto to require the other stockholders to sell or vote all of their shares of our common stock in favor of the subject transaction.

2003 Stock Incentive Plan

See "Executive Compensation—Benefit Plans" for a complete explanation of the plan.

2004 Employee Stock Purchase Plan

See "Executive Compensation—Benefit Plans" for a complete explanation of the plan.

Anti-Takeover Provisions Affecting Stockholders

Following this offering, our founding officers will control ninety-seven percent (97%) of the combined voting power of our outstanding common stock, which could be deemed to have an anti-takeover effect.

Our certificate of incorporation, as amended, provides that no director shall be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director notwithstanding any provision of law imposing such liability, provided that, to the extent provided by applicable law, the certificate of incorporation shall not eliminate the liability of a director for:

- any breach of the director's duty of loyalty to us or our stockholders;
- acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;

- acts or omissions in respect of certain unlawful dividend payments or stock redemptions or repurchases; or
- any transaction from which such director derives improper personal benefit.

Our by-laws provide that we shall, to the extent permitted by Delaware law, indemnify and advance expenses to our currently acting and former directors, officers, employees and agents or director, officers, employees and agents of other corporations, partnerships, joint ventures, trusts or other enterprises if serving at our request arising in connection with their acting in such capacities. We have entered into indemnification agreements with each of our directors and executive officers.

We are subject to Section 203 of the Delaware General Corporation Law. Subject to specific exceptions, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the time the person became an interested stockholder, unless:

- the business combination, or the transaction in which the stockholder became an interested stockholder, is approved by our board of directors prior to the time the interested stockholder attained that status;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding those shares owned by persons who are directors and also officers and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or after the time a person became an interested stockholder, the business combination is approved by our board of directors and authorized at an annual or special meeting of stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock that is not owned by the interested stockholder.

"Business combinations" include mergers, asset sales and other transactions resulting in a financial benefit to the interested stockholder. Subject to various exceptions, in general an "interested stockholder" is a person who, together with his or her affiliates and associates, owns, or within three years did own, 15% or more of the shares of the corporation's outstanding voting stock. These restrictions could prohibit or delay the accomplishment of mergers or other takeover or change in control attempts with respect to us and, therefore, may discourage attempts to acquire us.

In addition, our certificate of incorporation, as amended and restated, authorizes the board of directors to issue up to 1,000,000 shares of undesignated preferred stock, $0.01 par value per share. The preferred stock may be issued in one or more series, the terms of which may be determined at the time of issuance by our board of directors without further action by the stockholders. These terms may include voting rights, including the right to vote as a series on particular matters, preferences as to dividends and liquidation, conversion rights and redemption rights.

The provisions described above could have the effect of discouraging open market purchases of our Class B common stock because they may be considered disadvantageous by a stockholder who desires to undertake a business combination with us.

NASDAQ National Market Listing

We have applied to list our Class B common stock on the NASDAQ National Market and have reserved the trading symbol "MCHX."

Transfer Agent and Registrar

The transfer agent and registrar for our Class B common stock is Mellon Investor Services LLC.

MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

General

Market Information

Prior to this offering, there has been no public market for our Class B common stock.

Upon completion of this offering, we will have 12,291,563 shares of Class B common stock outstanding, assuming no exercise of the underwriters' over-allotment option, and 12,891,563 shares of Class B common stock outstanding if the underwriters exercise their over-allotment option. Of these shares:

- the 4,000,000 shares of Class B common stock included in this offering, plus any shares issued upon exercise of the over-allotment option by the underwriters, will be freely tradable without restriction under the Securities Act, unless purchased by our "affiliates" as that term is defined in Rule 144 under the Securities Act; and
- the remaining 8,291,563 shares of Class B common stock that will be outstanding after this offering, and all of the shares of Class A common stock are "restricted securities" within the meaning of Rule 144.

Approximately 180 days after the date of this prospectus, we intend to file one or more registration statements on Form S-8 under the Securities Act to register the shares of Class B common stock to be issued under our stock incentive plan and our employee stock purchase plan and, as a result, all shares of Class B common stock acquired upon exercise of stock options and other equity-based awards granted under these plans will thereafter be freely tradable under the Securities Act unless purchased by our affiliates. These registration statements are expected to become effective upon filing.

Restricted securities generally may be sold only if they are registered under the Securities Act or are sold under an exemption from registration, including the exemptions provided by Rules 144 and 701 under the Securities Act, which are summarized below. Subject to the lock-up agreements described below, shares held by our affiliates that are not restricted securities may be sold subject to compliance with Rule 144 of the Securities Act without regard to the prescribed holding period under Rule 144.

The representatives have requested pursuant to the underwriting agreement the lock-up of shares held prior to this offering by officers, directors and holders of at least 1% of the outstanding shares for a period of 180 days after the consummation of this offering. In addition, for shares reserved for purchase in this offering by our officers, directors and employees, they will agree to such restrictions for a period of 180 days after the consummation of this offering. The representatives, may, in their sole discretion, permit early release of shares subject to the lock-up agreements. In considering any request to release shares subject to this lock-up agreement, the representatives will consider the possible impact of the release of the shares on the trading price of the stock sold in the offering. The representatives do not have any present intention or any understandings, implicit or explicit, to release any of the shares subject to the lock-up agreements prior to the expiration of the lock-up period.

Securities Authorized for Issuance under Equity Compensation Plans

Equity Compensation Plan Information as of December 31, 2003:*

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance
Equity compensation plans approved by security holders**	2,421,500 668,100	$1.67 per share initial public offering price	910,400
Equity compensation plans not approved by security holders	Not applicable	Not applicable	Not applicable
Total	3,089,600	$1.67 to IPO price	910,400

* This table omits our 2004 employee stock purchase plan as such plan was not adopted by our board of directors until February 15, 2004 and was not approved by our stockholders until February 15, 2004. This plan will become effective on the date that the Class B common stock is publicly traded as a result of an initial public offering with gross proceeds in excess of $20 million pursuant to an effective registration statement.

** We have reserved 5,013,953 shares of Class B common stock for issuance under our 2003 stock incentive plan, of which an increase of 1,013,953 to the authorized number of shares available under the plan occurred on January 1, 2004 as a result of the "evergreen provision" under the plan. The "evergreen provision" provides for annual increases in the number of shares available for issuance under the plan, on the first day of our fiscal year, equal to 5% of the outstanding shares of Class B common stock (including any shares of common stock issuable upon conversion of any outstanding capital stock) on such date.

Holders

As of February 16, 2004, assuming the mandatory conversion of all outstanding shares of the preferred stock, there were 20,279,063 shares of common stock outstanding that were held by 141 stockholders of record. Of these shares:

- 11,987,500 shares were authorized as Class A common stock, and as of this date were held by five stockholders of record; and
- 8,291,563 shares were authorized as Class B common stock, and as of this date were held by 136 stockholders of record.

Rule 144

In general, under Rule 144 as currently in effect, a person who has beneficially owned shares for at least one year is entitled to sell in "brokers' transactions" or to market makers, within any three-month period commencing 90 days after the date of this prospectus, a number of shares that does not exceed the greater of:

- one percent of the number of shares of Class B common stock then outstanding, approximately 242,791 shares immediately after the completion of this offering (248,791 shares if the underwriters' over-allotment option is exercised in full); or
- the average weekly trading volume in our Class B common stock during the four calendar weeks preceding the required filing of a Form 144 with respect to such sale.

Sales under Rule 144 are generally subject to the availability of current public information about us. In addition, a person who is not deemed to have been an affiliate at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least two years would be entitled to sell those shares under Rule 144(k) without regard to the requirements described above.

Rule 701

Rule 701 permits our directors, officers, employees or consultants who purchase shares pursuant to a written compensatory plan or contract to resell such shares in reliance upon Rule 144, but without compliance with certain restrictions. Rule 701 provides that affiliates may sell their Rule 701 shares under Rule 144 90 days after effectiveness of the registration statement of which this prospectus forms a part without complying with the holding period requirement and that non-affiliates may sell such shares in reliance on Rule 144 90 days after the effectiveness of such registration statement without complying with the holding period, public information, volume limitation or notice requirements of Rule 144. Those shares issuable upon the exercise of vested options will be saleable 180 days after the effectiveness of the registration statement, subject to the provisions of Rule 144.

Registration of Shares

We have entered into a stockholders' agreement with certain of our investors and a stock transfer and restriction agreement with the former stockholders of TrafficLeader, each of which provide our stockholders with "piggy-back" registration rights. See "Description of Capital Stock—Registration Rights."

We have agreed to certain "piggy-back" registration rights for the securities underlying the representatives' warrants. See "Underwriting."

UNDERWRITING

Under the terms and subject to the conditions contained in an underwriting agreement dated the date of this prospectus, the underwriters named below, for whom Sanders Morris Harris Inc. and National Securities Corporation are acting as representatives, have severally agreed to purchase, and we have agreed to sell to them, severally, the number of shares indicated below:

Name	Number of Shares
Sanders Morris Harris Inc.	
National Securities Corporation	
Total	

The underwriting agreement provides that the obligations of the several underwriters to pay for and accept delivery of the shares of Class B common stock offered hereby are subject to a number of conditions, including the receipt by the representatives of the legal opinions of their counsel and our counsel, officer's certificates and a letter from our independent auditors, and to certain other conditions, including the conditions that no stop order suspending the effectiveness of the registration statement be in effect and no proceedings for such purpose are threatened by the Securities and Exchange Commission. The underwriters are obligated to take and pay for all of the shares of Class B common stock offered hereby (other than those covered by the over-allotment option described below) if any are purchased.

Over-Allotment Option

We have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to an aggregate of 600,000 additional shares of our Class B common stock at the public offering price listed on the cover page of this prospectus, less underwriting discounts and commissions. The underwriters may exercise this option solely for the purpose of covering over-allotments, if any, made in connection with the offering of the shares of our Class B common stock offered by this prospectus. To the extent this option is exercised, all purchases shall be made by the representatives for the representatives' accounts unless representatives elect to purchase less than all of additional shares, in which case the remaining additional shares not purchased by the representatives shall be purchased for the account of each underwriter (other than representatives) in the same proportion as the number of shares of firm stock set forth opposite such underwriter's name in the above table bears to the total number of shares of firm stock purchased by all underwriters (other than representatives).

Directed Share Program

At our request, the underwriters have reserved for sale, at the initial public offering price, up to 600,000 shares for our officers, directors, employees, consultants and others having a relationship with us. The number of shares of our Class B common stock available for sale to the general public will be reduced to the extent these reserved shares are purchased. Any reserved shares that are not purchased by these persons will be offered by the underwriters to the general public on the same basis as the other shares in this offering.

Commissions and Discounts

The following table shows the per-share and total underwriting discounts and commissions to be paid to the underwriters by us in connection with this offering. The underwriting discounts and commissions have been determined through negotiations between the underwriters and us, and have been calculated as a percentage of the offering price. These amounts are shown assuming both no exercise and full exercise of the over-allotment option.

	Per Share	No Exercise	Full Exercise
Public offering price (1)	$ 6.50	$ 26,000,000	$ 29,900,000
Underwriting discounts & commissions	$ 0.325	$ 1,300,000	$ 1,495,000
Proceeds, before expenses, to us (2)	$ 6.175	$ 24,700,000	$ 28,405,000

(1) Based on the middle of the filing range on the date of this prospectus.
(2) We estimate the expenses of this offering will be approximately $1,400,000.

The underwriters propose to offer the shares of Class B common stock directly to the public at the initial public offering price per share set forth on the cover page of this prospectus and to selected dealers at such price less a concession not in excess of $ per share. The underwriters may allow, and these dealers may re-allow, a concession not in excess of $ per share to certain other dealers. After this offering, the public offering price, concession and re-allowance may be changed by the representative.

We have agreed to pay to the representatives the maximum amount of $50,000 to account for the representatives' direct expenses in connection with this offering on a non-accountable basis, of which $25,000 has been paid by us and the balance shall be paid upon the first closing date. Subject to our written pre-approval, additional direct expenses of the representatives shall be paid up to a maximum of $50,000.

Representatives' Warrants

In connection with this offering, we have agreed to sell warrants to the representatives for $100.00. The representatives' warrants are for the account of the representatives or their designees, which will be limited to their officers, directors and employees, to purchase 120,000 shares of our Class B common stock. The shares issuable upon exercise of the representatives' warrants will be in all respects identical to the shares offered to you. No holder of the representatives' warrants will possess any rights as a shareholder unless the warrants are exercised. The representatives' warrants contain a cashless exercise provision and provide for adjustment in the number of shares issuable upon exercise thereof as a result of certain subdivisions and combinations of the common stock. The representatives' warrant will be limited to a term of five years from the first closing date and will become exercisable only commencing 12 months after the first closing date at a per share exercise price equal to 130% of the initial public offering price per share set forth on the cover page of this prospectus. The one-year restriction on the exercise of the representatives' warrants is pursuant to Rule 2710(c)(7)(A) of the NASD Conduct Rules. The representatives' warrants may not be sold, assigned, transferred, pledged or hypothecated except to the representatives' designees for a period of one year from the completion of the offering.

The representatives' warrants are not redeemable by us. In addition, we have agreed to certain "piggy-back" registration rights for the securities underlying the representatives' warrants which shall continue with respect to the shares for a period of five years from the first closing date.

Any profit realized by the representatives on the sale of the securities issuable upon exercise of the representatives' warrants may be deemed to be additional underwriting compensation. During the term of the representatives' warrants, the holders thereof are given the opportunity to profit from a rise in the market price of our Class B common stock. We may find it more difficult to raise additional equity capital while the representatives' warrants are outstanding. At any time at which the representatives' warrants are likely to be exercised, we may be able to obtain additional equity capital on more favorable terms.

Lock-up Agreements

The representatives have requested pursuant to the underwriting agreement the lock-up of shares held prior to this offering by officers, directors and holders of at least 1% of the outstanding shares for a period of 180 days after the consummation of this offering. In addition, for shares reserved for purchase in this offering by our officers, directors and employees, they will agree to such restrictions for a period of 180 days after the consummation of this offering. The representatives, may, in their sole discretion, permit early release of shares subject to the lock-up agreements.

Indemnification

We and the underwriters have agreed to indemnify each other against certain liabilities, including liabilities under the Securities Act of 1933, as amended, and to contribute to payments which the indemnified party may be required to make in respect thereof. We and the underwriters are each aware that, in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act of 1933, as amended, and is, therefore, unenforceable.

Stabilizing Transactions, Short Positions and Penalty Bids

In order to facilitate the offering of the Class B common stock, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of our Class B common stock in accordance with Regulation M under the Securities Exchange Act of 1934.

- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- Over-allotment involves sales by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase, which creates a syndicate short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares which they may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriters may close out any short position by either exercising their over-allotment option and/or purchasing shares in the open market.
- Syndicate covering transactions involve purchases of the Class B common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option. If the underwriters sell more shares than could be covered by the over-allotment option—a naked short position—that position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.
- Penalty bids permit the representatives to reclaim a selling concession from a syndicate member when the common stock originally sold by the syndicate member is purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.
- In passive market making, market makers in the Class B common stock who are underwriters or prospective underwriters may, subject to limitations, make bids for or purchases of the Class B common stock until the time, if any, at which a stabilizing bid is made.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of the Class B common stock or preventing or retarding a decline in the market price of the Class B common stock. As a result, the price of the Class B common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on the Nasdaq National Market or otherwise and, if commenced, may be discontinued at any time.

Determination of Offering Price

Prior to this offering, there has been no public market for our Class B common stock. Consequently, the public offering price of our Class B common stock will be determined by negotiation between the representatives of the underwriters and us.

LEGAL MATTERS

The validity of the shares of Class B common stock offered hereby will be passed upon for us by Nixon Peabody LLP. A partner with the law firm of Nixon Peabody LLP beneficially owns 30,000 shares of Class B common stock.

EXPERTS

The consolidated financial statements of the Predecessor to Marchex, Inc. as of December 31, 2002 and February 28, 2003 and of Marchex, Inc. and subsidiaries as of December 31, 2003, and for the year ended December 31, 2002, the period from January 1, 2003 through February 28, 2003, and the period from January 17, 2003 (inception) through December 31, 2003 and the financial statements of Sitewise Marketing, Inc. as of December 31, 2002 and September 30, 2003, and for the year ended December 31, 2002 and the nine month period ended September 30, 2003 have been included herein in reliance upon the reports of KPMG LLP, independent auditors, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

DISCLOSURE OF COMMISSION POSITION ON INDEMNIFICATION FOR SECURITIES ACT LIABILITIES

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the small business issuer pursuant to the foregoing provisions, or otherwise, the small business issuer has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy and, is therefore, unenforceable.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form SB-2 with the Securities and Exchange Commission, or SEC, for the Class B common stock we are offering by this prospectus. This prospectus does not contain all of the information set forth in the registration statement or in the exhibits and schedules thereto. For further information with respect to Marchex and our Class B common stock, we make reference to the registration statement and to the exhibits and schedules filed therewith. Statements contained in this prospectus, relating to the contents of any contract or any other document referred to 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, each such statement being qualified in all respects by such reference.

A copy of the registration statement may be inspected by anyone without charge at the SEC's principal office in Washington, D.C., and copies of all or any part of the registration statement may be obtained from the Public Reference Section of the SEC, 450 Fifth Street, N.W., Washington, D.C. 20549, upon payment of certain fees prescribed by the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference rooms. The SEC maintains a web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of the Web site is www.sec.gov.

Upon completion of the offering, we will be subject to the information reporting requirements of the Securities Exchange Act of 1934, as amended and, in accordance therewith, will file reports, proxy statements and other information with the SEC.

We intend to furnish our stockholders with annual reports containing financial statements audited by our independent public accountants and to make available to our stockholders quarterly reports for the first three fiscal quarters of each fiscal year containing unaudited interim financial information.

INDEX TO FINANCIAL STATEMENTS

Independent Auditors' Report

The Board of Directors and Stockholders
Marchex, Inc.:

We have audited the accompanying consolidated balance sheets of the Predecessor to Marchex, Inc. as of December 31, 2002 and February 28, 2003 and of Marchex, Inc. and subsidiaries as of December 31, 2003 and the related consolidated statements of operations, stockholders' equity and cash flows for the years ended December 31, 2002, the period from January 1, 2003 through February 28, 2003 (Predecessor periods), and the period from January 17, 2003 (inception) through December 31, 2003 (Successor period). These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. 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 the Predecessor to Marchex, Inc. and Marchex, Inc. and its subsidiaries, as of December 31, 2002, February 28, 2003 and December 31, 2003 and the results of their operations and their cash flows for the Predecessor periods and Successor period in conformity with accounting principles generally accepted in the United States of America.

/s/ KPMG LLP

Seattle, Washington
February 16, 2004, except as to note 15(a),
which is as of March 18, 2004

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

	Predecessor Periods		Successor Period	
	December 31, 2002	February 28, 2003	December 31, 2003	December 31, 2003 Pro Forma
				(unaudited)
Assets				
Current assets:				
Cash and cash equivalents	$ 1,494,300	1,820,763	6,019,119	
Accounts receivable, net	489,664	538,213	1,627,730	
Other receivables	—	1,137	384	
Prepaid expenses	30,014	49,615	117,596	
Income tax receivable	—	—	290,939	
Deferred tax assets	89,920	117,645	263,193	
Other current assets	39,211	46,159	24,190	
Total current assets	2,143,109	2,573,532	8,343,151	
Property and equipment, net	473,793	494,087	994,793	
Deferred tax assets	52,956	32,187	—	
Other assets	9,435	9,435	409,878	
Goodwill	—	—	17,252,999	
Identifiable intangible assets, net	—	—	6,701,791	
Total assets	$ 2,679,293	3,109,241	33,702,612	
Liabilities and Stockholders' Equity				
Current liabilities:				
Accounts payable	$ 1,294,877	891,124	2,842,229	
Accrued payroll and benefits	128,301	257,000	252,642	
Accrued expenses and other current liabilities	118,581	107,015	1,031,850	
Deferred revenue	736,594	812,385	848,958	
Earn-out liability payable	—	—	3,525,995	
Total current liabilities	2,278,353	2,067,524	8,501,674	
Deferred tax liabilities	—	—	1,829,687	
Deferred revenue	27,682	27,541	38,993	
Other non-current liabilities	2,993	4,085	2,274	
Fair value of redemption obligation	—	—	55,250	
Total liabilities	2,309,028	2,099,150	10,427,878	
Series A redeemable convertible preferred stock, $0.01 par value. Authorized 8,500,000; ($21,489,395 aggregate liquidation preference and redemption value at December 31, 2003) issued and outstanding 6,724,063 shares at December 31, 2003; (no shares issued and outstanding on pro forma basis)	—	—	21,440,402	—
Commitments, contingencies, and subsequent events				
Stockholders' equity:				
Predecessor Periods:				
Common stock, no par value. Authorized 35,000,000 shares;				
Class A: 30,496,112 authorized through February 28, 2003; 23,355,421 and 24,894,319 issued and outstanding at December 31, 2002 and February 28, 2003, respectively	398,774	696,815	—	—
Class B: 4,503,888 authorized through February 28, 2003 4,503,888 issued and outstanding at December 31, 2002 and February 28, 2003	1,419,986	1,419,986	—	—
Successor Period:				
Common stock, $.01 par value. Authorized 46,500,000 shares;				
Class A: 12,500,000 authorized; 12,250,000 issued and 11,987,500 outstanding at December 31, 2003	—	—	122,500	122,500
Class B: 34,000,000 authorized; issued and outstanding 1,567,500 at December 31, 2003, including 137,500 of restricted stock; (8,291,563 issued and outstanding on pro forma basis)	—	—	15,675	82,916
Additional paid-in capital	—	—	6,716,734	28,089,895
Deferred stock-based compensation	(9,266)	—	(1,532,340)	(1,532,340)
Accumulated deficit	(1,439,229)	(1,106,710)	(3,488,237)	(3,488,237)
Total stockholders' equity	370,265	1,010,091	1,834,332	23,274,734
Total liabilities and stockholders' equity	$ 2,679,293	3,109,241	33,702,612	33,702,612

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Operations

	Predecessor Periods		Successor Period
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Revenue	$ 10,070,507	3,071,055	19,892,158
Expenses:			
Service costs (1)	6,334,173	1,732,813	11,292,070
Sales and marketing (1)	1,821,237	365,043	2,460,683
Product development (1)	811,673	144,479	1,291,422
General and administrative (1)	976,881	234,667	2,743,919
Acquisition-related retention consideration (2)	—	—	283,269
Stock-based compensation (3)	364,693	38,981	2,125,110
Amortization of intangible assets (4)	—	—	3,023,408
Total operating expenses	10,308,657	2,515,983	23,219,881
Income (loss) from operations	(238,150)	555,072	(3,327,723)
Other income:			
Interest income	5,491	1,529	45,874
Adjustment to fair value of redemption obligation	—	—	25,500
Other	—	—	2,685
Total other income	5,491	1,529	74,059
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)
Net income (loss)	(89,783)	332,519	(2,169,352)
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885
Net income (loss) applicable to common stockholders	$ (89,783)	332,519	(3,488,237)
Basic and diluted net loss per share applicable to common stockholders			$ (0.26)
Shares used to calculate basic and diluted net loss per share			13,259,747
Pro forma basic and diluted net loss per share applicable to common stockholders (unaudited)			$ (0.18)
Shares used to calculate pro forma basic and diluted net loss per share (unaudited)			19,011,093
(1) Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangible assets			
(2) Components of acquisition-related retention consideration:			
Service costs	$ —	—	33,723
Sales and marketing	—	—	96,262
Product development	—	—	104,233
General and administrative	—	—	49,051
(3) Components of stock-based compensation:			
Service costs	$ 3,161	190	9,776
Sales and marketing	148,669	715	421,871
Product development	57,078	37,710	241,080
General and administrative	155,785	366	1,452,383
(4) Components of amortization of intangible assets:			
Service costs	$ —	—	2,216,957
Sales and marketing	—	—	348,118
Product development	—	—	—
General and administrative	—	—	458,333

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Stockholders' Equity

	Class A common stock		Class B common stock		Deferred stock-based compensation	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount			
PREDECESSOR PERIODS:							
Balances at December 31, 2001	18,564,400	$ 10,315	4,503,888	$ 1,419,986	(9,455)	(1,349,446)	71,400
Exercise of stock options	2,759,355	13,797	—	—	—	—	13,797
Sale of stock to employees at less than fair market value	2,031,666	367,210	—	—	—	—	367,210
Stock compensation from options	—	7,452	—	—	189	—	7,641
Net loss	—	—	—	—	—	(89,783)	(89,783)
Balances at December 31, 2002	23,355,421	$ 398,774	4,503,888	$ 1,419,986	(9,266)	(1,439,229)	370,265
Exercise of stock options	1,306,603	37,288	—	—	—	—	37,288
Issuance of additional shares to employee shareholder	73,529	37,500	—	—	—	—	37,500
Issuance of additional shares to existing shareholders	158,766	—	—	—	—	—	—
Stock compensation from options	—	—	—	—	1,481	—	1,481
Cancellations of unvested options	—	(7,785)	—	—	7,785	—	—
Income tax benefit of option exercises	—	231,038	—	—	—	—	231,038
Net income	—	—	—	—	—	332,519	332,519
Balances at February 28, 2003	24,894,319	$ 696,815	4,503,888	$ 1,419,986	—	(1,106,710)	1,010,091

	Class A common stock		Class B common stock		Additional paid-in capital	Deferred stock-based compensation	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
SUCCESSOR PERIOD:								
Balances at January 17, 2003 (inception)	—	$ —	—	$ —	—	—	—	—
Sale of common stock	12,250,000	122,500	1,000,000	10,000	—	—	—	132,500
Issuance of stock for services	—	—	5,000	50	3,700	—	—	3,750
Issuance of stock in connection with acquisition	—	—	454,068	4,541	3,060,418	—	—	3,064,959
Issuance of stock for services as part of acquisition	—	—	108,432	1,084	730,832	(731,916)	—	—
Share forfeiture	(262,500)	—	—	—	—	—	—	—
Stock compensation from options	—	—	—	—	2,921,784	(800,424)	—	2,121,360
Net loss	—	—	—	—	—	—	(2,169,352)	(2,169,352)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	—	—	—	(1,318,885)	(1,318,885)
Balances at December 31, 2003	11,987,500	$ 122,500	1,567,500	$ 15,675	6,716,734	(1,532,340)	(3,488,237)	1,834,332

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

	Predecessor Periods		Successor Period
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Cash flows from operating activities:			
Net income (loss)	$ (89,783)	332,519	(2,169,352)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Amortization and depreciation	214,562	43,584	3,337,108
Adjustment to fair value of redemption obligation	—	—	(25,500)
Allowance for doubtful accounts and merchant advertiser credits	256,817	86,908	469,782
Stock-based compensation	364,693	38,981	2,125,110
Deferred income taxes	(142,876)	(6,956)	(1,878,373)
Income tax benefit related to stock options	—	231,038	—
Change in certain assets and liabilities, net of acquisition:			
Accounts receivable, net	(463,243)	(135,457)	(761,427)
Other receivables	7,223	(1,137)	753
Income tax receivable	—	—	(290,939)
Prepaid expenses and other current assets	(43,392)	(26,549)	(37,442)
Accounts payable	916,188	(403,753)	1,334,024
Accrued expenses, payroll, benefits and other current liabilities	73,136	117,133	393,917
Deferred revenue	443,490	75,650	127,934
Acquisition-related retention consideration in earn-out liability	—	—	283,269
Other non-current liabilities	2,993	1,092	(1,811)
Net cash provided by (used in) operating activities	1,539,808	353,053	2,907,053
Cash flows from investing activities:			
Purchases of property and equipment	(349,856)	(63,878)	(543,245)
Cash paid for acquisition, net of cash acquired	—	—	(16,523,613)
Decrease (increase) in other non-current assets	15,565	—	(45,216)
Net cash used in investing activities	(334,291)	(63,878)	(17,112,074)
Cash flows from financing activities:			
Deferred offering costs paid	—	—	(29,877)
Proceeds from exercises of stock options	13,797	37,288	—
Proceeds from sale of stock	10,158	—	132,500
Proceeds from sale of redeemable convertible preferred stock	—	—	20,121,517
Net cash provided by financing activities	23,955	37,288	20,224,140
Net increase in cash and cash equivalents	1,229,472	326,463	6,019,119
Cash and cash equivalents at beginning of period	264,828	1,494,300	—
Cash and cash equivalents at end of period	$ 1,494,300	1,820,763	6,019,119
Supplemental disclosure of cash flow information—cash paid during the period for income taxes	$ —	—	1,085,000
Supplemental disclosure of non-cash investing and financing activities:			
Issuance of stock and redemption right in connection with acquisition	$ —	—	3,415,709
Accretion to redemption value of redeemable convertible preferred stock	$ —	—	1,318,885
Deferred offering costs recorded in accrued expenses	$ —	—	346,473
Additional acquisition earn-out consideration included in earn-out liability	$ —	—	3,242,726

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(1) Description of Business and Summary of Significant Accounting Policies and Practices

(a) Description of Business and Basis of Presentation

Marchex, Inc. (the "Company"), formed in January 2003, provides technology-based services to merchants engaged in online transactions over the Internet.

Prior to February 28, 2003, the Company was involved in business and product development activities, as well as financing and acquisition initiatives. Revenue commenced with the acquisition of eFamily.com, Inc. and its wholly-owned operating subsidiary ah-ha.com, Inc.

On February 28, 2003, the Company acquired 100% of the outstanding stock of eFamily.com, Inc. and its wholly-owned operating subsidiary, based in Provo, Utah. ah-ha.com, Inc. was renamed Enhance Interactive, Inc. in December 2003. The aggregate cash consideration, including acquisition costs to acquire Enhance Interactive was approximately $15,117,000. The purchase price excludes performance-based contingent payments that depend on Enhance Interactive's achievement of a minimum threshold of income before income taxes, excluding stock-based compensation and amortization of intangible assets relating to the purchase ("earnings before taxes"), in calendar years 2003 and 2004. Additional details regarding this acquisition are in note 11 to these consolidated financial statements.

Enhance Interactive provides performance-based advertising services to merchant advertisers, including pay-per-click listings. Through Enhance Interactive's pay-per-click service, merchant advertisers create keyword listings that describe their products or services, which are marketed to consumers and businesses primarily through search engine or directory results when users search for information, products or services using the Internet.

The Company's consolidated statements of operations, stockholders' equity and cash flows have been presented for the period from January 17, 2003 (inception) through December 31, 2003. The assets, liabilities and operations of Enhance Interactive are included in the Company's consolidated financial statements since the February 28, 2003 date of acquisition. All significant inter-company transactions and balances have been eliminated in consolidation. The Company's purchase accounting resulted in all assets and liabilities being recorded at their estimated fair values on the acquisition date. Accordingly, the Company's consolidated financial results for periods subsequent to the acquisition are not comparable to the financial statements of Enhance Interactive presented for prior periods. The consolidated statements of operations, stockholders' equity and cash flows representing Enhance Interactive's results prior to February 28, 2003 have been presented as the "Predecessor" for the year ended December 31, 2002 and the period from January 1 to February 28, 2003. The Company, including the results of Enhance Interactive since the date of its acquisition, is referred to as the "Successor" in the accompanying consolidated financial statements.

The consolidated financial statements of the Predecessor include the financial statements of eFamily.com, Inc. and its wholly-owned subsidiary, Enhance Interactive (formerly known as ah-ha.com, Inc.). All significant inter-company transactions and balances have been eliminated in consolidation.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

On October 24, 2003, the Company acquired 100% of the outstanding stock of Sitewise Marketing, Inc. (d.b.a TrafficLeader) ("TrafficLeader"). In November, 2003, Sitewise Marketing, Inc., based in Eugene, Oregon, was renamed TrafficLeader, Inc. The purchase consisted of:

- Cash and acquisition costs of approximately $3,570,000;
- 425,000 shares of Class B common stock, which are subject to a redemption right;
- 137,500 shares of restricted Class B common stock that vest over a period of 3 years.

The purchase price excludes performance-based contingent payments that depend on TrafficLeader's achievement of revenue thresholds. The assets, liabilities and operations of TrafficLeader are included in the Company's consolidated financial statements since the October 24, 2003 date of acquisition. Additional details of this acquisition are in note 12.

TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization. Through its primary service, paid inclusion, TrafficLeader manages search-based advertising campaigns and services for merchant advertisers. TrafficLeader's paid inclusion service helps merchant advertisers reach prospective customers by first creating relevant product listings and then placing these listings in front of potential customers, primarily through search engines. Merchant advertiser's product listings map directly to user search queries, which link to specific product or information pages when clicked. On behalf of merchant advertisers, TrafficLeader indexes these relevant listings through its distribution partners, including search engines, product shopping engines and directories.

(b) Cash and Cash Equivalents

The Company and the Predecessor consider all highly liquid investments with an original maturity of three months or less at the date of purchase and proceeds in-transit from credit and debit card transactions with settlement terms of less than five days to be cash equivalents. Cash equivalents totaled approximately $722,000, $1,226,000 and $4,590,000 at December 31, 2002, February 28, 2003 and December 31, 2003, respectively. Cash equivalents as of the periods presented consist primarily of money market funds and include credit and debit card in-transit amounts of approximately $99,000, $137,000 and $161,000 at December 31, 2002, February 28, 2003 and December 31, 2003, respectively.

(c) Fair Value of Financial Instruments

The Company and the Predecessor had the following financial instruments as of the periods presented: cash and cash equivalents, accounts receivable, other receivables, accounts payable and accrued liabilities, fair value of redemption obligation and Series A redeemable convertible preferred stock. The carrying value of cash and cash equivalents, accounts receivable, other receivables, accounts payable and accrued liabilities approximates their fair value based on the liquidity of these financial instruments or based on their short-term nature. The fair value of the redemption obligation is recorded in the consolidated balance sheet at its estimated fair value. Factors affecting the fair value determination include, among others, interest rates, the difference between the redemption amount and the fair market value of our Class B common stock, the proximity in time to the redemption date and the probability of the redemption right being exercised. The carrying value of the Series A redeemable

convertible preferred stock is recorded at its accreted redemption value. The fair value is estimated to be approximately $47,070,000 at December 31, 2003.

(d) Accounts Receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. Accounts receivable balances are presented net of allowance for doubtful accounts and allowance for merchant advertiser credits.

Allowance for Doubtful Accounts

The allowance for doubtful accounts is the Company's and the Predecessor's best estimate of the amount of probable credit losses in existing accounts receivable. The Company and Predecessor determine the allowance based on analysis of historical bad debts, advertiser concentrations, advertiser credit-worthiness and current economic trends. Past due balances over 90 days and specific other balances are reviewed individually for collectibility. The Company and Predecessor review the allowance for collectibility quarterly. Account balances are written off against the allowance after all
means of collection have been exhausted and the potential for recovery is considered remote.

The allowance for doubtful account activity for the periods indicated is as follows:

	Balance at beginning of period	February 28, 2003 Enhance Interactive acquisition date	October 24, 2003 TrafficLeader acquisition date	Charged to costs and expenses	Write-offs	Balance at end of period
Allowance for doubtful accounts:						
Predecessor Periods:						
December 31, 2002	$ 159,259	—	—	75,798	226,112	8,945
February 28, 2003	8,945	—	—	35,540	8,842	35,643
Successor Period:						
December 31, 2003	$ —	35,643	48,654	162,990	156,007	91,280

There were no merchant advertisers who represented 10% or greater of revenue for the periods presented. Merchant advertisers who had an account receivable balance of 10% or greater of accounts receivable were as follows: one merchant advertiser represented 22% of outstanding balances at December 31, 2002 and three merchant advertisers represented 44% at February 28, 2003, respectively. There were no merchant advertisers representing 10% or greater at December 31, 2003.

Allowance for Merchant Advertiser Credits

The allowance for merchant advertiser credits is the Company's and Predecessor's best estimate of the amount of expected future reductions in a merchant advertiser's payment obligations related to delivered services. The Company and the Predecessor determine the allowance for merchant advertiser credits and adjustments based on analysis of historical credits.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The allowance for merchant advertiser credits activity for the periods indicated is as follows:

	Balance at beginning of period	February 28, 2003 Enhance Interactive acquisition date	October 24, 2003 TrafficLeader acquisition date	Additions charged against revenue	Credits processed	Balance at end of period
Allowance for merchant advertiser credits:						
Predecessor Periods:						
December 31, 2002	$ 22,823	—	—	181,019	163,852	39,990
February 28, 2003	39,990	—	—	51,368	36,653	54,705
Successor Period:						
December 31, 2003	$ —	54,705	6,000	306,792	299,651	67,846

(e) Property and Equipment

Property and equipment are stated at cost. Depreciation on computers and other related equipment, purchased and internally developed software, and furniture and fixtures is calculated on the straight-line method over the estimated useful lives of the assets, generally averaging three years. Leasehold improvements are amortized straight-line over the shorter of the lease term or estimated useful lives of the assets ranging from three to five years.

(f) Goodwill

Goodwill represents the excess of the purchase price over the fair value of identifiable assets acquired and liabilities assumed in business combinations accounted for under the purchase method.

The Company applies the provisions of the Financial Accounting Standards Board's (FASB) Statements of Financial Accounting Standards (SFAS) No. 142, *Goodwill and Other Intangible Assets* (SFAS 142). Goodwill and intangible assets acquired in a purchase business combination and determined to have an indefinite useful life are not amortized, but instead tested for impairment at least annually in accordance with the provisions of SFAS 142. SFAS 142 also requires that intangible assets with definite useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment in accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (SFAS 144).

Goodwill not subject to amortization is tested annually for impairment, and is tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value.

(g) Impairment or Disposal of Long-Lived Assets

The Company reviews its long-lived assets for impairment in accordance with SFAS 144 whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying

amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds fair value. Assets to be disposed of would be separately presented on the balance sheet and reported at the lower of their carrying amount or fair value less costs to sell, and are no longer depreciated.

(h) Revenue Recognition

Revenue is generated primarily through performance-based advertising and search marketing services, which include pay-per-click listings and paid inclusion. Revenue from pay-per-click listings and paid inclusion listings is generated when a user clicks on a merchant advertiser's listings after it has been placed by the Company, the Predecessor, or by our distribution partners into a search engine, directory, or other Web site.

The secondary sources of revenue include other search marketing services, including advertising campaign management, conversion tracking and analysis and search engine optimization, as well as banner advertising, account set-up fees and other inclusion fees. These secondary sources of revenue together constituted less than 9%, 6% and 6% of revenue for the year ended December 31, 2002, the period from January 1 to February 28, 2003, and the period from January 17, 2003 (inception) to December 31, 2003, respectively. The Company and the Predecessor have no barter transactions.

The Company and the Predecessor follow Staff Accounting Bulletin 101, *Revenue Recognition in Financial Statements* (SAB No. 101) as amended by SAB No. 104, *Revenue Recognition* that revises and rescinds certain sections of SAB No. 101. These bulletins summarize certain of the Security and Exchange Commission (SEC) staff's views on the application of accounting principles generally accepted in the United States of America to revenue recognition. We generally recognize revenue upon completion of our performance obligation, provided evidence of an arrangement exits, the arrangement fee is fixed and determinable and collection is reasonably assured.

Merchant advertisers generally pay for the supplementary search marketing services based on usage that is billed on a fixed amount per click-through or a fixed monthly amount. Revenue is recognized on a click-through basis or in the month the service is provided.

Banner advertising revenue is primarily based on a fixed fee per click-through and recognized on click-through activity. In limited cases, banner payment terms are volume-based with revenue recognized when impressions are delivered.

Non-refundable account set-up fees paid by merchant advertisers are recognized ratably over the longer term of the contract or the average expected merchant advertiser relationship period, which generally ranges between one and two years.

Other inclusion fees are generally associated with monthly or annual subscription-based services where a merchant advertiser pays a fixed amount to be included in the Predecessor's, Company's or distribution partners' index of listings. Other inclusion fees are recognized ratably over the service period, which is typically one year.

The Company and the Predecessor enter into agreements with various distribution partners to provide merchant advertisers' listings. The Company and the Predecessor generally pay distribution partners based on a percentage of revenue or a fixed amount per click-through on these listings. The Company

and the Predecessor act as the primary obligor with the merchant advertiser for revenue click-through transactions and are responsible for the fulfillment of services. In accordance with Emerging Issues Task Force (EITF) Issue No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, the revenue derived from advertisers are reported gross based upon the amounts received from the merchant advertiser.

(i) Service Costs

Service costs include network operations and customer service costs that consist primarily of costs associated with providing performance-based advertising and search marketing services, maintaining the Company's and the Predecessor's Web site, credit card processing fees and network and fees paid to outside service providers that provide the Company's and the Predecessor's paid listings and customer services. Customer service and other costs associated with serving the Company's and the Predecessor's search results and maintaining the Company's and the Predecessor's Web site include depreciation of Web site and network equipment, colocation charges of the Company's and the Predecessor's Web site equipment, bandwidth, software license fees, salaries of related personnel, stock-based compensation and amortization of intangible assets.

Service costs also include user acquisition costs that relate primarily to payments made to distribution partners who provide an opportunity for the Company's merchant advertisers to market and sell their products. The Company and the Predecessor enter into agreements of varying durations with distribution partners that integrate the Company's and the Predecessor's services into their Web sites and indexes. The primary economic structure of the distribution partner agreements is a variable payment based on a specified percentage of revenue. These variable payments are often subject to minimum payment amounts per click-through. Other economic structures that to a lesser degree exist include: 1) fixed payments, based on a guaranteed minimum amount of usage delivered, 2) variable payments based on a specified metric, such as number of paid click-throughs, and 3) a combination arrangement with both fixed and variable amounts.

The Company and the Predecessor expense user acquisition costs under two methods; agreements with fixed payments are expensed as the greater of the following:

- pro-rata over the term the fixed payment covers, or
- usage delivered to date divided by the guaranteed minimum amount of usage.

Agreements with variable payment based on a percentage of revenue, number of paid click-throughs or other metrics are expensed as incurred based on the volume of the underlying activity or revenue multiplied by the agreed-upon price or rate.

(j) Advertising Expenses

Advertising costs are expensed as incurred and include Internet-based direct advertising and trade shows. Such costs are included in sales and marketing. The amounts for all periods presented were approximately $84,000, $11,000 and $133,000 for the years ended December 31, 2002, the period from January 1 to February 28, 2003 and the period from January 17 (inception) to December 31, 2003, respectively.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(k) Product Development

Product development costs consist primarily of expenses incurred by the Company or the Predecessor in the research and development, creation, and enhancement of the Company's or the Predecessor's Web site and services. Research and development expenses are expensed as incurred and include compensation and related expenses, costs of computer hardware and software, and costs incurred in developing features and functionality of the services. For the periods presented, substantially all of the product development expenses are research and development.

Product development costs are expensed as incurred or capitalized into property and equipment in accordance with the American Institute of Certified Public Accountants' (AICPA) Statement of Position 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use* (SOP 98-1). SOP 98-1 requires that cost incurred in the preliminary project and post-implementation stages of an internal use software project be expensed as incurred and that certain costs incurred in the application development stage of a project be capitalized.

(l) Income Taxes

The Company and the Predecessor utilize the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in results of operations in the period that includes the enactment date. A valuation allowance is recorded for deferred tax assets when it is more likely than not that such deferred tax assets will not be realized.

In connection with the purchase accounting for the acquisition of the Predecessor and TrafficLeader, the Company recorded net deferred tax liabilities in the amount of approximately $3.0 million and $456,000, respectively, relating to the difference in the book basis and tax basis of its assets and liabilities.

(m) Stock Option Plan

The Company and the Predecessor apply the intrinsic value-based method of accounting prescribed by Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations including FASB Interpretation No. 44, *Accounting for Certain Transactions involving Stock Compensation an interpretation of APB Opinion No. 25* issued in March 2000, to account for its employee stock options and restricted stock grants. Under this method, employee compensation expense is recorded on the date of grant only if the current market price of the underlying stock exceeded the exercise price. SFAS No. 123, *Accounting for Stock-Based Compensation*, established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans. As allowed by SFAS No. 123, the Company and the Predecessor have elected to apply the intrinsic value-based method of accounting described above for options granted to employees, and have adopted the disclosure requirements of SFAS No. 123.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The Company and the Predecessor recognize compensation expense over the vesting period utilizing the accelerated methodology described in FASB Interpretation No. 28, *Accounting for Stock Appreciation Rights and Other Variable Stock Option or Award Plans*.

The following table illustrates the effect on net loss if the fair-value-based method had been applied to all outstanding awards in each period.

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Net income (loss) applicable to common stockholders:			
As reported	$ (89,783)	322,519	(3,488,237)
Add: stock-based employee expense included in reported net income (loss), net of related tax effect	361,843	38,428	1,436,147
Deduct: stock-based employee compensation expense determined under fair-value-based method for all awards, net of related tax effect (1)	(380,907)	(42,375)	(2,267,730)
Pro forma	$ (108,847)	318,572	(4,319,820)
Net loss per share applicable to common stockholders:			
As reported (basic and diluted)			$ (0.26)
Pro forma (basic and diluted)			$ (0.33)

(1) See note 6(b) and 7(c) for details of the assumptions used to arrive at the fair value of each option grant.

The Company and the Predecessor account for non-employee stock-based compensation in accordance with SFAS No. 123 and FASB Emerging Issues Task Force (EITF) Issue No. 96-18, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*.

(n) Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company and the Predecessor have used estimates in determining certain provisions, including allowance for doubtful accounts, allowance for merchant advertiser credits, useful lives for property and equipment, intangibles, the fair value of a redemption right obligation, the fair-value of the Company's and the Predecessor's common stock and stock option awards, the fair value of the Series A redeemable convertible preferred stock and a valuation allowance for deferred tax assets. Actual results could differ from those estimates.

(o) Concentrations

The Company and the Predecessor maintain substantially all of their cash and cash equivalents with two financial institutions.

Primarily all of the Company's and the Predecessor's revenue earned from merchant advertisers is generated through arrangements with distribution partners. The Company may not be successful in

renewing any of these agreements, or if they are renewed, they may not be on terms as favorable as current agreements. The Company may not be successful in entering into agreements with new distribution partners on commercially acceptable terms. In addition, several of these distribution partners may be considered potential competitors.

The percentage of revenue earned from merchant advertisers supplied by distribution partners representing more than 10% of consolidated revenue is as follows:

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Distribution partner A	11%	12%	7%

(p) Segment Reporting and Geographic Information

Operating segments are revenue-producing components of the enterprise for which separate financial information is produced internally for the Company's or the Predecessor's management. For all periods presented the Company and the Predecessor operated as a single segment. The Company and the Predecessor operate in a single business segment principally in domestic markets providing Internet merchant transaction services to enterprises.

Revenues from merchant advertisers by geographical areas are tracked on the basis of the location of the merchant advertiser. The vast majority of the Company's and its Predecessor's revenue and accounts receivable are derived from domestic sales to advertisers engaged in various activities involving the Internet.

Revenues by geographic region are as follows (in percentages):

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
United States	92%	90%	91%
Canada	5%	5%	4%
Other countries	3%	5%	5%
	100%	100%	100%

(q) Net Income (Loss) Per Share

The Company's basic and diluted net loss per share is presented for the period from January 17, 2003 (inception) to December 31, 2003. Basic net loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of common and dilutive common equivalent shares outstanding

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

during the period. Net loss applicable to common stockholders consists of net loss as adjusted for the impact of accretion of redeemable convertible preferred stock to its redemption value. As the Company had a net loss during the period from January 17, 2003 (inception) to December 31, 2003 basic and diluted net loss per share are the same.

The following table reconciles the Company's reported net loss to net loss applicable to common stockholders used to compute basic and diluted net loss per share for the period from January 17, 2003 (inception) to December 31, 2003:

	Successor Period
	Period from January 17 (inception) to December 31, 2003
Net loss	$ (2,169,352)
Accretion to redemption value of Series A redeemable convertible preferred stock	1,318,885
Net loss applicable to common stockholders	$ (3,488,237)
Basic and diluted net loss per share applicable to common stockholders	$ (0.26)
Weighted average number of shares outstanding used to calculate basic and diluted net loss per share	13,259,747

The computation of diluted net loss per share excludes the following because their effect would be anti-dilutive:

- 6,724,063 shares issuable upon conversion of the Series A redeemable convertible preferred stock;
- outstanding options at December 31, 2003 to acquire 2,421,500 shares of Class B common stock with a weighted average exercise price of $1.67 per share and 668,100 options to acquire shares of Class B common stock with an exercise price that will equal the initial public offering price. In the event that twelve months from the option grant date the Company has not completed a firm commitment initial public offering with gross proceeds of at least $20 million, these options will have an exercise price equal to the then determined fair market value.
- 108,432 shares of restricted Class B common stock issued in connection with the October 2003 acquisition of TrafficLeader. These shares are for future services that vest over 3 years. Additionally, these shares were excluded from the computation of basic net loss per share.

(r) Guarantees

The Predecessor adopted FASB Interpretation (FIN) No. 45*, Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, during the year ended December 31, 2002. FIN No. 45 provides expanded accounting guidance surrounding liability recognition and disclosure requirements related to guarantees, as defined by the interpretation. The Company adopted FIN No. 45 upon inception. In the ordinary course of business, neither the Company nor the Predecessor is subject to potential obligations under guarantees that fall within the scope of FIN No. 45 except for standard indemnification provisions that are contained within many of

our advertiser and distribution partner agreements, and give rise only to the disclosure requirements prescribed by FIN No. 45.

Indemnification provisions contained within the Company's and the Predecessor's advertiser and distribution partner agreements are generally consistent with those prevalent in the Company's industry. The Company and its Predecessor have not incurred significant obligations under advertiser and distribution partner indemnification provisions historically and do not expect to incur significant obligations in the future. Accordingly, the Company and the Predecessor do not maintain accruals for potential advertiser and distribution partner indemnification obligations.

(s) Initial Public Offering (IPO), Pro Forma Net Loss Per Share and Pro Forma Balance Sheet

In December 2003, the Board of Directors authorized the filing of a registration statement with the SEC that would permit the Company to sell shares of the Company's Class B common stock in connection with a proposed IPO.

If the offering is consummated under the terms presently anticipated, each of the 6,724,063 outstanding shares of the Company's Series A redeemable convertible preferred stock will automatically convert into one share of Class B common stock upon closing of the proposed IPO and the Series A redeemable convertible preferred stock will automatically be retired. Thereafter, the authorized number of shares of preferred stock will be 1,000,000 and authorized number of shares of Class B common stock will be 125,000,000. The Board of Directors will have the authority to issue up to 1,000,000 shares of preferred stock, $.01 par value in one or more series and have the authority to designate rights, preferences, privileges and restrictions of each such series, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting any series. The foregoing automatic conversion has been reflected in the accompanying unaudited pro forma balance sheet as if it had occurred as of December 31, 2003.

The pro forma net loss per share is calculated as if the Series A redeemable convertible preferred stock had converted into shares of common stock at the original issuance date.

(t) Recently Issued Accounting Standards

In November 2002, the Emerging Issues Task Force (EITF) reached a consensus on Issue No. 00-21 ("EITF 00-21"), *Revenue Arrangements with Multiple Deliverables.* EITF 00-21 addresses certain aspects of the accounting by a vendor for arrangements under which the vendor will perform multiple revenue generating activities. EITF 00-21 became effective for fiscal periods beginning after June 15, 2003. The adoption of EITF 00-21 has not had a material impact on the Company's financial position and results of operations.

In May 2003, the FASB issued SFAS 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity.* The Statement establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity. It requires that an issuer classify a financial instrument that is within its scope as a liability (or an asset in some circumstances). It is effective for financial instruments entered into or modified after May 31, 2003, and otherwise is effective at the beginning of the first interim period beginning after June 15, 2003. The adoption of this Statement did not have a material impact on our financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

In December 2003, the SEC issued Staff Accounting Bulletin No. 104, *Revenue Recognition* (SAB No. 104) which revises or rescinds certain sections of SAB No. 101, *Revenue Recognition in Financial Statements* in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC rules and regulations. The changes noted in SAB No. 104 did not have a material effect on the Company's financial position and results of operations.

(2) Related Party Transactions

From January 1, 2002 to February 28, 2003, MyFamily.com, Inc. ("MyFamily") owned all 4,503,888 shares of the Predecessor's Class B common stock representing an approximate 20% interest. On February 28, 2003, the Company acquired 100% of the outstanding stock of the Predecessor, including MyFamily's stockholder interest. Amounts earned from advertising services provided to MyFamily are disclosed below. The Company and the Predecessor also purchased certain miscellaneous supplies and leased space from MyFamily or entities affiliated with MyFamily. The amounts in relation to these transactions follow:

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Revenue earned from MyFamily	$ 18,606	2,559	7,849
General and administrative expenses paid to MyFamily:			
Rental expense	158,105	36,717	179,668
Supplies and other purchases	5,101	600	3,000

Amounts due from MyFamily included in accounts receivable are as follows:

	Predecessor Periods		Successor Period
	December 31, 2002	February 28, 2003	December 31, 2003
Due from MyFamily	$ 24,580	17,855	—

TrafficLeader subleases office space to Wiant Design, an entity owned by an employee of TrafficLeader. In connection with the sublease, $554 was received subsequent to the TrafficLeader acquisition from Wiant Design and included in the period from January 17 (inception) to December 31, 2003. The amount has been recorded as a reduction to rent expense.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(3) Property and Equipment

Property and equipment consisted of the following:

	Predecessor Periods		Successor Period
	December 31, 2002	February 28, 2003	December 31, 2003
Computer and other related equipment	$ 653,652	703,113	878,583
Purchased and internally developed software	214,852	229,269	368,247
Furniture and fixtures	4,000	4,000	41,225
Leasehold improvements	—	—	19,137
	872,504	936,382	1,307,192
Less accumulated depreciation and amortization	(398,711)	(442,295)	(312,399)
Property and equipment, net	$ 473,793	494,087	994,793

Depreciation and amortization expense incurred by the Company and the Predecessor was approximately $215,000, $44,000, and $313,700 for the year ended December 31, 2002, the period from January 1 to February 28, 2003 and the period from January 17, 2003 (inception) to December 31, 2003, respectively.

(4) Commitments

The Company has commitments for future payments related to office facilities leases and other contractual obligations. The Company leases its office facilities under operating lease agreements expiring through 2006. The Company also has other contractual obligations expiring over varying time periods through 2004. Future minimum payments are as follows:

	Office leases	Other contractual obligations	Total
2004	$ 427,474	142,000	569,474
2005	203,415	—	203,415
2006	62,639	—	62,639
2007 and thereafter	—	—	—
Total minimum payments	$ 693,528	142,000	835,528

Other contractual obligations primarily relate to minimum contractual payments due to distribution partners and other service providers. Rent expense incurred by the Company and the Predecessor was approximately $158,100, $36,700, $361,000 for the year ended December 31, 2002, the period from January 1 to February 28, 2003, and the period from January 17, 2003 (inception) to December 31, 2003, respectively.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(5) Income Taxes

The provision for income taxes for the Company and the Predecessor periods consists of the following:

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Current provision			
Federal	$ —	—	701,689
State	—	—	92,372
Deferred provision			
Federal	(130,236)	(25,417)	(1,735,078)
State	(12,640)	(2,467)	(237,104)
Utilization of net operating loss carryforwards	—	115,940	93,809
Tax expense of equity adjustment for stock option exercise	—	136,026	—
Total income tax provision (benefit):	$ (142,876)	224,082	(1,084,312)

Income tax expense (benefit) differed from the amounts computed by applying the U.S. federal income tax rate of 34% to loss before income taxes as a result of the following:

	Predecessor Periods		Successor Period
	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17 (inception) to December 31, 2003
Income tax expense (benefit) at U.S. statutory rate of 34%	$ (79,104)	189,244	(1,106,246)
State taxes, net of federal benefit	(7,678)	18,368	(95,523)
Non-deductible stock compensation	133,180	13,988	93,660
Other non-deductible expenses	18,942	2,482	23,797
Change in valuation allowance	(208,216)	—	—
Total income tax provision (benefit):	$ (142,876)	224,082	(1,084,312)

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities are presented below:

	Predecessor Periods		Successor Period
	December 31, 2002	February 28, 2003	December 31, 2003
Deferred tax assets:			
Net operating loss carryforwards	$ 115,840	95,012	—
Accrued liabilities not currently deductible	51,768	78,572	258,278
Stock compensation	3,171	—	687,585
Deferred revenue	39,268	40,596	40,459
Start-up costs not currently deductible	—	—	48,719
Total deferred tax assets	210,047	214,180	1,035,041
Valuation allowance	—	—	—
	210,047	214,180	1,035,041
Deferred tax liabilities:			
Intangible assets-amortization not deductible for tax	—	—	2,459,921
Excess of tax over financial statement depreciation	67,271	64,348	141,614
	67,271	64,348	2,601,535
Net deferred tax assets (liabilities)	$ 142,776	149,832	(1,566,494)

At December 31, 2003, the Company had net operating loss carryforwards of approximately $1,782,000 which begin to expire in 2019. The Tax Reform Act of 1986 limits the use of net operating loss (NOL) and tax credit carryforwards in certain situations where changes occur in the stock ownership of a company. The Company believes that such a change has occurred, and that the utilization of the approximately $1,782,000 in carryforwards is limited such that substantially all of these NOL carryforwards will never be utilized.

As of January 1, 2002, due to the Predecessor's history of net operating losses, and the restrictions on the ability to utilize its NOL carryforwards due to ownership changes, the Predecessor had previously established a valuation allowance equal to its net deferred tax assets. During 2002, the Predecessor reversed the valuation allowance on its net deferred tax assets, as the Predecessor believed it was more likely than not, based on improved operating performance that these assets would be realized. In determining that it was more likely than not that the Predecessor would realize all of the available net deferred tax assets, the following factors were considered: historical trends relating to merchant advertiser usage rates and click-throughs, projected revenues and expenses, and the amount of existing net operating loss carryforwards.

The valuation allowance decreased approximately $208,000 during the year ended December 31, 2002. The valuation allowance did not change during the period from January 1 to February 28, 2003 or the period from January 17 (inception) to December 31, 2003.

On February 28, 2003 and October 24, 2003, in connection with the purchase accounting for the respective acquisitions of the Predecessor and TrafficLeader, the Company recorded a net deferred tax liability in the amount of approximately $3.0 million and $456,000, respectively, relating to the difference in the book basis and tax basis of its assets and liabilities. Approximately $3.1 million and $479,000, respectively, of this net deferred tax liability related to the book basis versus tax basis of the identifiable intangible assets in the acquisition totaling approximately $8.4 million and $1.3 million, respectively.

The Company has recorded a deferred tax asset for stock-based compensation recorded on unexercised non-qualified stock options. The ultimate realization of this asset is dependent upon the fair value of the Company's stock when the options are exercised.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

During the period from January 1 through February 28, 2003, as a result of a tax deduction from stock option exercises, the Predecessor recognized a tax-effected benefit of approximately $231,000 which was recorded as a credit to additional paid in capital.

(6) Stockholders' Equity – Predecessor Periods

(a) Common Stock and Authorized Capital

The Predecessor's articles of incorporation provided for 35,000,000 shares of common stock authorized and issued, no par value. A total of 30,496,112 shares were designated as Class A common stock and 4,503,888 shares as Class B common stock. MyFamily held the Class B common stock representing approximately 20% of the interest in the Predecessor. Each share of Class A and B common stock has the right to one vote per share.

The Class B holders had the right to elect one of the Predecessor's four members of the Board of Directors, as long as Class B common stock made up greater than 5% of the common stock. Any amendments to the articles of incorporation, bylaws, increase in the authorized number of shares of common stock issuable under of the Predecessor's stock option plans or issuance of additional shares of common stock outside of the Predecessor's stock option plan required approval of greater than 50% of the Class B holders.

Each share of Class B common stock could be converted into Class A common stock at the option of the holder at any time based upon a conversion ratio, subject to adjustment for dilution. The initial conversion ratio was determined by dividing the original issue price of $0.01 by the conversion price in effect at the time the shares are converted. The conversion price was the original issue price adjusted for subsequent equity adjustments. Each share would automatically convert into Class A common stock upon the closing of a public offering of common stock with gross proceeds of at least $40,000,000.

(b) Stock Option Plans

2001 Plan

In June 2001, the Predecessor adopted the 2001 Stock Incentive Plan (the 2001 Plan). The 2001 Plan was maintained for officers, employees, directors and consultants under which approximately 8,000,000 shares of Class A common stock were reserved for issuance. Generally, stock options were granted with 10 year terms and vested monthly over 2 years.

During 2002, the Predecessor granted options to acquire Class A common stock with exercise prices less than the then current fair market value. As a result, the Predecessor recorded total deferred compensation expense of approximately $18,000.

Approximately $8,000 and $1,000 was recognized as stock compensation expense related to these options during the year ended December 31, 2002 and the period from January 1 to February 28, 2003, respectively.

Prior to February, 2003, all outstanding vested options, totaling 1,306,603 were exercised and all unvested options were cancelled.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The fair value for each option grant is estimated at the date of grant using a Black-Scholes option pricing model based on the following assumptions for the year ended December 31, 2002, and the period from January 1 to February 28, 2003: risk-free interest rates of 6%; no dividends; volatility factor of the expected market price of the Company's common stock of 174%; and a weighted-average expected life of 3 years.

The following table summarizes stock option activity:

	Options available for grant	Number of options outstanding	Weighted average exercise price of options outstanding	Weighted average fair value of options granted
Balance at December 31, 2001	3,672,952	4,327,048	$ 0.005	$ —
Granted below fair value	(177,500)	177,500	0.230	0.242
Granted equal or above fair value	(172,000)	172,000	0.230	0.202
Exercised	—	(2,759,355)	0.005	
Expired and cancelled	72,125	(72,125)	0.092	
Balance at December 31, 2002	3,395,577	1,845,068	0.044	
Exercised	—	(1,306,603)	0.029	
Expired or cancelled	538,465	(538,465)	0.082	
Balance at February 28, 2003	3,934,042	—	$ —	

In January 2002, the Predecessor sold 2,031,666 shares of Class A common stock to employees for cash consideration totaling approximately $10,000. In connection with the sale, the Predecessor recorded approximately $357,000 in compensation expense related to the difference between the cash consideration and the estimated fair market value of the shares sold.

In February 2003, the Predecessor issued 232,295 shares of Class A common stock to several existing investors whose investments had been diluted subsequent to their initial contribution. One of the investors, who was issued 73,529 common shares, was an employee and, accordingly, the Predecessor recorded compensation expense of $37,500 representing the estimated fair value of the shares issued.

(7) Stockholders' Deficit – Successor Period

(a) Authorized Capital and Common Stock

The Company's articles of incorporation have 46,500,000 shares of common stock authorized, $0.01 par value, of which 12,500,000 shares have been authorized as Class A common stock and 34,000,000 shares have been authorized as Class B common stock, and 8,500,000 shares of preferred stock authorized, of which all such shares were designated Series A redeemable convertible preferred stock, $0.01 par value per share.

The initial capitalization of the Company included the issuance of 12,250,000 shares of Class A common stock and 1,000,000 shares of Class B common stock. Except with respect to voting rights, the Class A and Class B common stock have identical rights.

In October 2003, in connection with a voluntary change in job responsibilities, a member of senior management voluntarily forfeited 262,500 Class A common shares and returned them to the Company.

Each share of Class A common stock has the right to twenty-five votes per share and each share of Class B common stock has the right to one vote per share.

Each share of Class A common stock is convertible at the holder's option into one share of Class B common stock.

In accordance with the stockholders' agreement signed by Class A and the founding Class B common stockholders, the following provisions exist:

The Company holds a repurchase right in the event of a proposed sale of Class A common stock. In the event the Company does not exercise the repurchase right, the other Class A stockholders have the right to purchase the shares based on their proportionate interests. In the event Class A shares are transferred to parties other than the Company or other Class A stockholders, they automatically convert to Class B shares.

So long as an individual stockholder subject to the stockholders agreement has a beneficial ownership interest of 5% or more of any class of stock in the Company, the stockholder shall have a right to participate on a pro-rata basis in any new issuance of securities, other than shares issued in an IPO.

At each annual meeting to elect board of director members, stockholders subject to the agreement agree to vote in favor of two Directors as designated by an entity controlled by the Company's CEO.

(b) Series A Redeemable Convertible Preferred Stock

In February and May 2003, the Company issued a total of 6,724,063 shares, $0.01 par value per share, of Series A redeemable convertible preferred stock (Series A Preferred Stock), at $3.00 per share for net proceeds totaling $20,121,517, net of issuance costs of $50,684.

A summary of the significant terms of the Series A Preferred Stock is as follows:

Conversion

Each share of Series A Preferred Stock can be converted at the option of the holder at any time after issuance according to a conversion ratio, subject to adjustment for dilution. The initial conversion ratio is determined by dividing the original issue price of $3.00 by the conversion price in effect at the time the shares are converted. The conversion price is the original issue price adjusted for subsequent equity adjustments of which there have been none through December 31, 2003. Each share shall automatically convert into Class B common stock upon the closing of a public offering of common stock with gross proceeds of at least $20,000,000.

Redemption

At the election of the holders of at least a majority of the outstanding shares of Series A Preferred Stock on each of the First Redemption Date (March 31, 2011), Second Redemption Date (March 31, 2012), Third Redemption Date (March 31, 2013) and the final redemption date (March 31, 2014) the Company shall redeem one-third of the number of shares of Series A Preferred Stock held by such holder on each of the first three redemption dates and the remainder of any shares not already redeemed shall be redeemed on the final redemption date, in each case for $3.00 per share plus all accrued and unpaid dividends thereon whether or not declared.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The Company accounts for the difference between the carrying amount of redeemable preferred stock and the redemption amount by increasing the carrying amount for periodic accretion using the interest method, so that the carrying amount will equal the redemption amount at the redemption date. The aggregate redemption amount is approximately $21,489,000 at December 31, 2003.

Voting

Each share of Series A Preferred Stock has voting rights equal to the Class B common stock into which it is convertible.

Dividends

Holders of Series A Preferred Stock are entitled to receive cumulative dividends at the per annum rate of 8% of the original issue price per share when and if declared by the board of directors. The cumulative amount of preferred dividends in arrears is approximately $1,317,000 or $0.20 per share at December 31, 2003. The board of directors has not declared any dividends as of December 31, 2003. Upon conversion of the Series A Preferred Stock, either by optional conversion or by mandatory conversion upon an initial public offering, all accumulated and unpaid dividends on the Series A Preferred Stock, whether or not declared, since the date of issue up to and including the conversion date, shall be forgiven. If dividends or other distributions are paid on the common stock, the holders of Series A Preferred Stock are entitled to the preferential dividends above and are entitled to per share dividends equal to those declared or paid to holders of common stock.

Liquidation

In the event of liquidation, dissolution or winding up of the Company, holders of Series A Preferred Stock are entitled to receive, prior to the distribution of any Company assets, an amount of $3.00 per share in addition to any accumulated and unpaid dividends, whether or not declared.

After the original liquidation distribution has been paid to the holders of Series A Preferred Stock, the remaining assets of the corporation shall be distributed pro-rata among the holders of the common stock and Series A Preferred Stock on an as-converted basis.

(c) Stock Option Plan

In January 2003, the Company adopted a stock incentive plan (the “Plan”) pursuant to which the Plan’s Administrative Committee, appointed by the Company’s Board of Directors, may grant both stock options and restricted stock awards to employees, officers, non-employee directors, and consultants and may be designated as incentive or non-qualified stock options at the discretion of the Administrative Committee. The Plan authorizes grants of options to purchase up to 4,000,000 shares of authorized but unissued Class B common stock and provides for the total number of shares of Class B common stock for which options designated as incentive stock options may be granted shall not exceed 8,000,000 shares. Annual increases are to be added on the first day of each fiscal year beginning on January 1, 2004 equal to 5% of the outstanding common stock (including for this purpose any shares of common stock issuable upon conversion of any outstanding capital stock of the Company). As a result of this provision, the authorized number of shares available under this Plan was increased by 1,013,953 to 5,013,953 on January 1, 2004. Generally, stock options have 10-year terms and vest 25% at the end of each year over a 4 year period.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

In connection with the purchase of Enhance Interactive, the Company agreed to grant 1,250,000 options to purchase Class B common stock at an exercise price of $0.75 per share to employees of Enhance Interactive. The options were not accounted for as purchase consideration as they were contingent upon the employees signing employment agreements with the Company. A total of 416,667 of these options were vested upon issuance. The remaining 833,333 shares vest in one-third increments at the end of each year over a 3 year period.

The purchase agreement requires 125,000 of the 416,667 vested options be held in escrow as security for the indemnification obligations under the merger agreement. While in escrow, these options are not exercisable and are subject to forfeiture. These options are accounted for as variable awards because they are subject to forfeiture, until the expiration of the escrow period on February 28, 2004. In accounting for variable awards, compensation cost is measured each period as the amount by which the then fair market value of the stock exceeds the exercise price. Changes, either increases or decreases, in the fair value of those awards between the date of grant and the measurement date result in a change in the measure of compensation for the award. Compensation costs recognized for the period from January 17, 2003 (inception) to December 31, 2003 for these 125,000 options were approximately $781,000.

During the period from January 17, 2003 (inception) to December 31, 2003, the Company granted certain options including those discussed above with exercise prices less than the then current fair market value. As a result, the Company recorded total deferred compensation expense of approximately $2,104,000, excluding the variable awards noted above. The Company recognized compensation expense over the vesting period utilizing the accelerated methodology described in FASB Interpretation No. 28, *Accounting for Stock Appreciation Rights and Other Variable Stock Option or Award Plans* (FIN 28).

In accordance with the accelerated methodology under FIN 28, approximately $1,192,000 was recognized as stock-based compensation expense during the period January 17, 2003 (inception) to December 31, 2003 and approximately $913,000 remained as deferred compensation December 31, 2003, which will continue to be amortized over the vesting period of the options.

In May 2003, in consideration for consulting services, the Company issued options under the Plan enabling a consultant to purchase 12,500 shares of its Class B common stock, at an exercise price of $3.00 per share. The options were fully vested at the grant date. Based on the fair value of the options, the Company recognized total compensation expense of approximately of $36,000 during the period from January 17, 2003 (inception) to December 31, 2003. The $2.89 fair value of each option was determined on the date of grant using the Black-Scholes option pricing model with the following assumptions: expected dividend yield of 0%, risk free interest rate of 5.5%, volatility of 111%, and an expected life equal to the option term of ten years.

The per share fair value of stock options granted during the period from January 17, 2003 (inception) to December 31, 2003 was determined on the date of grant using the Black Scholes option-pricing model with the following weighted-average assumptions: expected dividend yield 0%, risk-free interest rate of 5.5%, volatility ranging from 102% to 111%, for employee and director grants, an expected life of 4 years for employees, and for consultants, an expected life of 10 years. At December 31, 2003, there were 910,400 additional shares available for grant under the Plan.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

Stock option activity during the period indicated is as follows:

	Options available for grant	Number of options outstanding	Weighted average exercise price of options outstanding	Weighted average fair value of options granted
Plan adoption (January 17, 2003)	4,000,000	—	$ —	$ —
Granted below fair value	(1,714,500)	1,714,500	1.28	2.22
Granted equal or above fair value	(707,000)	707,000	2.60	1.52
Granted equal or above fair value	(668,100)	668,100	IPO price	4.33
Balance at December 31, 2003	910,400	3,089,600	$ 1.67 – IPO price	2.52

The Company granted 668,100 options with an exercise price that will be equal to Company's initial public offering price.

The following table summarizes information concerning currently outstanding and exercisable options at December 31, 2003:

Options Outstanding			Options Exercisable	
Weighted average exercise price	Number outstanding	Weighted average remaining contractual Life	Number exercisable	Weighted average exercise price of exercisable options
$0.75	1,434,000	9.16	291,667	$0.75
$3.00	987,500	9.32	33,333	$3.00
IPO price	668,100	9.53	—	—
$1.67 – IPO price	3,089,600	9.29	325,000	$0.98

A total of 450,350 of the outstanding options were vested at December 31, 2003 of which 125,000 were held in escrow as security for the indemnification obligations under the eFamily.com, Inc. merger agreement and were not exercisable.

An additional 107,000 options with exercise prices that will equal the initial public offering price were granted subsequent to December 31, 2003 through February 11, 2004.

(d) Issuance of Class B Common Stock

In February 2003, in consideration for consulting services, the Company issued 5,000 shares of Class B common stock and recognized approximately $4,000 of compensation expense representing the estimated fair value of the shares issued during the period from January 17, 2003 (inception) to December 31, 2003.

In October 2003, in connection with the acquisition of TrafficLeader, the Company issued 108,432 shares of restricted Class B common stock that were valued at $6.75 per share. The shares are forfeitable and were issued to employees for future services, and vest over a period of three years, with the first 16.67% vesting after six months and each additional 16.67% vesting each successive 6-month period over the next thirty months. The 108,432 shares were valued at approximately $732,000 and are being recorded as compensation expense over the associated employment period in which these shares vest. In accordance with the accelerated methodology under FIN 28, approximately $112,000 was recognized as stock-based compensation during the period January 17, 2003 (inception) to December 31, 2003 and approximately $620,000 remained as deferred compensation at December 31, 2003.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(8) Contingencies

The Company is involved in legal and administrative proceedings and claims of various types from time to time. While any litigation contains an element of uncertainty, management presently believes that the outcome of each such proceeding or claim which is pending or known to be threatened, or all of them combined, will not have a material adverse effect on the Company.

(9) 401(k) Savings Plan

The Company has a Retirement/Savings Plan ("401(k) Plan") under Section 401(k) of the Internal Revenue Code which covers those employees that meet eligibility requirements. Eligible employees may contribute up to 15% of their compensation subject to Internal Revenue Code provisions. Under the 401(k) Plan, management may, but is not obligated to, match a portion of the employee contributions up to a defined maximum. No matching contributions have been made to date.

(10) Pre-Incorporation Costs

Business planning and other activities related to the Company's business began in late 2002. On January 17, 2003, the Company was incorporated as a separate legal entity. Included in the results of operations subsequent to January 17, 2003 are Company reimbursements to certain founders for approximately $86,000 in general and administrative pre-incorporation costs. Included in property and equipment are purchases from its founders of approximately $62,000 which equated to the carrying value of the assets.

(11) Acquisition of Predecessor

On February 28, 2003, the Company acquired 100% of the outstanding shares of the Predecessor. The results of the Predecessor's operations have been included in the Company's consolidated financial statements since that date. The Predecessor provides online advertising services to advertisers, including pay-for-performance advertising. The Predecessor's merchant advertisers can market to consumers and businesses through advertisements that are primarily found in the form of results on search engines, directories and other Web sites.

The aggregate cash consideration including acquisition costs was approximately $15,117,000. The purchase price excludes earnings-based contingent payments that depend on the achievement of minimum income before taxes, excluding stock-based compensation and amortization of intangibles related to the acquisition ("earnings before taxes") thresholds in calendar year 2003 and 2004 of the business acquired from the Predecessor. The payment of the earnings-based contingent amounts is based on the formula of 69.44% of the acquired businesses' 2003 and 2004 earnings before taxes up to an aggregate maximum payout cap of $12,500,000 ("earn-out consideration"). In the event earnings before taxes do not exceed $3,500,000 for 2003 or 2004, then no amount shall be payable for the related period. The contingent earn-out consideration payments are being accounted for as additional goodwill, as all former Predecessor shareholders receive the consideration in proportion to their former share interests and the amounts reflect additional purchase price. For 2003, additional goodwill of $3,243,000 was recorded for the earn-out consideration.

In addition, if the minimum $3,500,000 thresholds above are achieved, a payment of 5.56% of the acquired business' earnings before taxes for calendar years 2003 and 2004, up to an aggregate maximum of $1,000,000 will be paid to certain current employees of the acquired business ("acquisition-related retention consideration"). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of calendar years 2003 and 2004. For 2003, $283,000 was recorded for the acquisition-related retention consideration including employer payroll-related taxes.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The 2003 earn-out and acquisition-related retention consideration amounts are payable on the earlier of (i) April 1, 2004 or (ii) three days after receipt of gross proceeds of $20 million from an IPO.

As part of the purchase agreement and conditioned upon continued employment, the Company agreed to issue 1,250,000 options to purchase Class B common shares at an exercise price of $0.75 per share to employees of the Predecessor. Of these options, 416,667 were vested upon issuance. The remaining 833,333 shares vest in one-third increments at the end of each year over a 3 year period.

A total of $1,500,000 and 125,000 of the 416,667 vested options were placed in escrow to secure indemnification obligations of the former shareholders of the Predecessor. The amounts can be released after 12 months. The cash escrow is included as part of the purchase price consideration and will ultimately be released to the former Predecessor shareholders in the event no indemnification obligations are identified.

The Company's purchase price has been recorded in the accompanying consolidated financial statements from the date of acquisition. As a result, the consolidated financial statements after the acquisition reflect a different basis of accounting than the historical financial statements prepared for the Predecessor Periods prior to February 28, 2003.

The following table summarizes the estimated fair value of the assets acquired and liabilities assumed at the date of acquisition:

Current assets, including acquired cash of $1,820,763	$ 2,532,050
Property and equipment	494,087
Other non-current assets	9,435
Identifiable intangible assets	8,400,000
Goodwill	8,736,783
Total assets acquired	20,172,355
Current liabilities	1,986,229
Non-current deferred tax liabilities	3,065,347
Other non-current liabilities	4,085
Total liabilities assumed	5,055,661
Net assets acquired	$ 15,116,694

The total goodwill related to the acquisition at December 31, 2003 was $11,980,000 which includes $3,243,000 of goodwill recorded for the 2003 earnings-based earn-out obligation.

The $8,400,000 of acquired intangible assets have a weighted average useful life of approximately 2.5 years. The identifiable intangible assets are comprised of a merchant advertising customer base valued at approximately $700,000 (2-year weighted-average useful life), distribution partner base valued at approximately $900,000 (2.5-year weighted-average useful life), non-compete agreements valued at approximately $1,100,000 (2-year weighted-average useful life), trademarks/domain names valued at approximately $400,000 (3-year weighted average useful life), acquired technology valued at 5,300,000 (2.6-year weighted-average useful life). The $11,980,000 of goodwill, including the $3,243,000 goodwill amount for the 2003 earnings-based earn-out obligation, and the acquired intangible assets not deductible for tax purposes.

The results of Predecessor's operations are included in the pro forma information presented in note 14.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(12) Acquisition of TrafficLeader, Inc.

On October 24, 2003, the Company acquired 100% of the outstanding stock of Sitewise Marketing, Inc. (d.b.a. TrafficLeader) ("TrafficLeader"). Sitewise Marketing, Inc. was renamed TrafficLeader, Inc. in November, 2003. TrafficLeader provides search marketing services. As a result of the acquisition, the Company obtained a broader base of service offerings and distribution partners. The purchase price consideration consisted of:

- Cash and acquisition costs of approximately $3,570,000; and
- 425,000 shares of class B common stock. In the event the Company has not completed an IPO with gross proceeds of $20 million prior to October 24, 2005, the purchase agreement provides the selling shareholders with a right to cause the 425,000 shares of Class B common stock to be redeemed for $8 per share (aggregate redemption amount of $3,400,000) upon the affirmative vote of holders of 75% of such shares. These shares were valued at $6.75 per share and the associated redemption right was recorded at an estimated fair value of $80,750. Based on the terms of the redemption right, the obligation is subject to variable accounting and the Company will mark the redemption right to fair value at each reporting period until such time as the redemption right expires or the shares are redeemed. The estimated fair value of the redemption right, which has been recorded as a liability, was $55,250 at December 31, 2003.

In addition, the Company issued 137,500 shares of restricted Class B common stock, valued at $6.75 per share. The shares were issued to employees and vest over a period of three years, with the first 16.67% vesting after six months and each additional 16.67% vesting each successive 6-month period over the next thirty months. Of these restricted shares, 29,068 shares valued at approximately $196,000 are non-forfeitable and included as part of the purchase consideration. As part of employment agreements signed with certain employees of TrafficLeader, a deferred stock compensation charge of approximately $732,000 was recorded in association with 108,432 of these shares. The Company expects to recognize compensation costs for the value of the shares over the associated three-year employment periods over which those shares vest. Stock-based compensation cost of approximately $112,000 was recognized from the acquisition date through December 31, 2003.

The purchase price excludes revenue-based contingent payments that depend on the TrafficLeader's achievement of revenue thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, the Company, at the end of 2004, will pay 10% in the form of a revenue-based payment to the former TrafficLeader shareholders up to a maximum $1.0 million. Any amounts paid will be accounted for as additional goodwill.

In the event there is a change in control of the Company or of TrafficLeader, or the termination without cause or resignation for good reason of both of TrafficLeader's CEO and CTO on or prior to December 31, 2004, the Company will be obligated to pay the full amount of the $1 million performance-based contingent payment; if awarded, the payment would be recorded as compensation.

In connection with the acquisition, $175,000 of cash consideration and 100,000 shares of the 425,000 shares of Class B common stock were placed in escrow to secure indemnification obligations of the former shareholders of TrafficLeader. The cash can be released after nine months and the shares can be released after one year. The escrowed amounts are included as part of the purchase price consideration and will ultimately be released to the former TrafficLeader shareholders in the event no indemnification obligations are identified.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The following table summarizes the estimated fair value of the assets acquired and liabilities assumed at the date of acquisition.

Current assets, including acquired cash of $342,451	$ 1,175,439
Property and equipment	271,161
Other non-current assets	4,077
Intangible assets	1,300,000
Goodwill	5,273,490
Total assets acquired	8,024,167
Current liabilities	826,095
Non-current deferred tax liabilities	482,229
Total liabilities assumed	1,308,324
Net assets acquired	$ 6,715,843

The $1,300,000 of acquired intangible assets have a weighted average useful life of approximately 2.4 years. The identifiable intangible assets are comprised of a merchant advertising customer base of approximately $300,000 (12-month weighted-average useful life), distribution partner base of approximately $600,000 (3-year weighted-average useful life), trademarks/domain names of approximately $100,000 (3-year weighted-average useful life), and acquired technology of $300,000 (2.5-year weighted-average useful life). The $5,273,490 of goodwill and the acquired intangible assets are not deductible for tax purposes. The estimated fair values of assets acquired and liabilities assumed are based upon preliminary estimates and may vary from the final allocation of the purchase price consideration.

(13) Acquired Identifiable Intangible Assets

Indentifiable intangible assets at December 31, 2003 consist of the following:

Merchant advertiser customer	$ 1,000,000
Distribution partner base	1,500,000
Non-compete agreements	1,100,000
Trademarks/domains	525,199
Acquired technology	5,600,000
	9,725,199
Less accumulated amortization	(3,023,408)
Total	$ 6,701,791

Aggregate amortization expense for the period from January 17, 2003 (inception) to December 31, 2003 was approximately $3,023,000. Estimated amortization expense for the next three years is approximately: $4,082,000 in 2004, $2,304,000 in 2005 and $316,000 in 2006.

Marchex, Inc.

Notes to Consolidated Financial Statements—(Continued)

(14) Pro Forma Results of Operations – Predecessor and TrafficLeader (Unaudited)

The following table presents pro forma results of operations as if the acquisition of the Predecessor and TrafficLeader had occurred as of the beginning of each of the periods presented. The following pro forma results of operations are based on the historical results of operations of the Predecessor and TrafficLeader for the year ended December 31, 2002, and in 2003 the historical results of operations of the Company for the period from January 17, 2003 (inception) to December 31, 2003, the Predecessor for the two months ended February 28, 2003, and TrafficLeader for the period ended October 23, 2003.

	Year ended December 31, 2002	January 2003 to December 31, 2003
Revenue	$ 14,075,109	27,351,966
Net loss	$ (3,879,332)	(2,880,362)
Net loss applicable to common stockholders	$ (3,879,332)	(4,199,247)
Net loss per share applicable to common stockholders		
Basic and diluted loss per share		$ (0.31)

The pro forma information is not necessarily indicative of the combined results that would have occurred had the acquisitions taken place at the beginning of 2002 or at the beginning of 2003, nor is it necessarily indicative of results that may occur in the future.

(15) Subsequent Events

(a) In March 2004, the Company entered into a sublease agreement for additional office facilities in Seattle, Washington. Future minimum payments related to these facilities are as follows: $188,000 in 2004, $340,000 in 2005, $422,000 in 2006, and $455,000 in each of 2007, 2008 and 2009. The remaining lease obligation at December 31, 2003 for office facilities in Seattle, Washington, from which the Company expects to relocate, totalled $313,000.

(b) On February 15, 2004, the Company's board of directors and shareholders approved the 2004 Employee Stock Purchase Plan, which will become effective on the first date that our Class B common stock is publicly traded as a result of an offering with gross proceeds in excess of $20 million. The plan provides employees the opportunity to purchase the Company's Class B common stock at 85% of the lower of the fair value at the beginning or end of a three-month offering period. A total of 300,000 shares have been initially reserved under the plan.

Independent Auditors' Report

The Board of Directors and Stockholders
Marchex, Inc.:

We have audited the accompanying balance sheets of Sitewise Marketing, Inc. as of December 31, 2002, and September 30, 2003 and the related statements of operations, stockholders' equity, and cash flows for the year ended December 31, 2002 and nine month period ended September 30, 2003. 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 auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Sitewise Marketing, Inc. as of December 31, 2002 and September 30, 2003, and the results of its operations and their cash flows for the year ended December 31, 2002 and nine month period ended September 30, 2003 in conformity with accounting principles generally accepted in the United States of America.

/s/ KPMG LLP

Seattle, Washington
December 1, 2003

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Balance Sheets

	December 31, 2002	September 30, 2003
Assets		
Current assets:		
Cash and cash equivalents	$ 132,652	473,210
Accounts receivable, net of allowance for doubtful accounts and merchant advertiser credits of $16,037 and $40,643 at December 31, 2002 and September 30, 2003, respectively	775,384	639,289
Prepaid expenses	4,577	8,646
Total current assets	912,613	1,121,145
Property and equipment, net	152,341	279,291
Other assets	—	4,077
Total assets	$ 1,064,954	1,404,513
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 404,237	503,935
Accrued payroll and benefits	140,953	163,938
Accrued expenses and other current liabilities	602	97,677
Line of credit	27,000	—
Deferred revenue	16,794	39,601
Total current liabilities	589,586	805,151
Other non-current liabilities	1,585	—
Total liabilities	591,171	805,151
Stockholders' equity:		
Common stock, no par value, 20,000,000 authorized; issued and outstanding 10,007,500 at December 31, 2002 and 10,008,500 at September 30, 2003	692,819	689,547
Deferred stock-based compensation	(21,101)	(8,490)
Accumulated deficit	(197,935)	(81,695)
Total stockholders' equity	473,783	599,362
Total liabilities and stockholders' equity	$ 1,064,954	1,404,513

See accompanying notes to financial statements.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Statements of Operations

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Revenue	$ 4,004,602	3,986,156
Expenses:		
Service costs (*)	2,986,685	3,045,991
Sales and marketing (*)	322,106	339,150
Product development (*)	102,358	125,292
General and administrative (*)	380,408	311,443
Stock-based compensation (**)	24,474	9,139
Total expenses	3,816,031	3,831,015
Income from operations	188,571	155,141
Other income (expense):		
Interest income	—	416
Other income (expense), net	(1,785)	(793)
Net income	$ 186,786	154,764

(*) Amounts exclude stock-based compensation

(**) Components of stock-based compensation

Service costs	$ 12,412	2,954
Sales and marketing	4,209	2,891
Product development	6,823	2,901
General and administrative	1,030	393

See accompanying notes to financial statements.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Statements of Stockholders' Equity

	Common stock		Deferred stock-based compensation	Accumulated deficit	Total stockholders' equity
	Shares	Amount			
Balances at December 31, 2001	10,000,000	$ 697,196	(51,452)	(384,721)	261,023
Exercise of employee stock options	7,500	1,500	—	—	1,500
Stock-based compensation on options granted at less than fair market value	—	9,481	(9,481)	—	—
Amortization of stock based compensation	—	—	24,474	—	24,474
Cancellation of unvested options	—	(15,358)	15,358		—
Net income	—	—	—	186,786	186,786
Balances at December 31, 2002	10,007,500	692,819	(21,101)	(197,935)	473,783
Exercise of employee stock options	1,000	200	—	—	200
Dividend distribution to stockholders	—	—	—	(38,524)	(38,524)
Amortization of stock based compensation	—	—	9,139	—	9,139
Cancellation of unvested options	—	(3,472)	3,472	—	—
Net income	—	—	—	154,764	154,764
Balances at September 30, 2003	10,008,500	$ 689,547	(8,490)	(81,695)	599,362

See accompanying notes to financial statements.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Statements of Cash Flows

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Cash flows from operating activities:		
Net income	$ 186,786	154,764
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization and depreciation	61,895	80,564
Allowance for doubtful accounts	98,196	74,318
Stock-based compensation	24,474	9,139
Gain on sale of fixed asset	27	—
Change in certain assets and liabilities:		
Accounts receivable, net	(332,502)	61,777
Prepaid expenses	(4,578)	(4,068)
Accounts payable	81,874	99,698
Accrued expenses and other	36,363	120,059
Deferred revenue	1,402	22,807
Non-current liabilities	1,271	(1,585)
Net cash provided by operating activities	155,208	617,473
Cash flows from investing activities:		
Purchases of property and equipment	(116,869)	(207,514)
Proceeds from sale of property and equipment	393	—
Decrease (increase) in other non-current assets	—	(4,077)
Net cash used in investing activities	(116,476)	(211,591)
Cash flows from financing activities:		
Proceeds from exercises of stock options	1,500	200
Repayment of bank line of credit	(8,000)	(27,000)
Dividends paid to shareholders	—	(38,524)
Net cash used in financing activities	(6,500)	(65,324)
Net increase in cash and cash equivalents	32,232	340,558
Cash and cash equivalents at beginning of period	100,420	132,652
Cash and cash equivalents at end of period	$ 132,652	473,210
Supplemental disclosure of cash flow information—cash paid during the period for interest	$ 1,812	793

See accompanying notes to financial statements.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements
Year ended December 31, 2002 and nine month period ended September 30, 2003

(1) Description of Business and Summary of Significant Accounting Policies and Practices

(a) Description of Business and Basis of Presentation

Sitewise Marketing, Inc. d.b.a. TrafficLeader ("the Company"), based in Eugene, Oregon, was formed in January, 2000. TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization. Through TrafficLeader's primary service, paid inclusion, TrafficLeader manages search-based advertising campaigns and services for merchant advertisers. TrafficLeader's paid inclusion service helps merchant advertisers reach prospective customers by first creating highly relevant product listings and then placing them in front of potential customers, primarily through search engines. The merchant advertiser's product listings map directly to user search queries, which link to specific product or information pages when clicked. On behalf of merchant advertisers, TrafficLeader indexes these highly relevant listings into many of the Internet's most visited search engines, product shopping engines, directories and other Web sites.

(b) Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity at date of purchase of three months or less to be cash equivalents. At December 31, 2002 and September 30, 2003 all accounts were held in bank deposit accounts.

(c) Fair Value of Financial Instruments

At December 31, 2002 and September 30, 2003, the Company had the following financial instruments: cash and cash equivalents, accounts receivables, accounts payable and accrued liabilities. The carrying value of cash and cash equivalents, accounts receivable, accounts payable, accrued liabilities and the line of credit approximates their fair value based on the liquidity of these financial instruments or based on their short-term nature.

(d) Accounts Receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. The allowance for doubtful accounts is the Company's best estimate of the amount of probable credit losses in the Company's existing accounts receivable. The Company determines the allowance based on analysis of historical bad debts, merchant advertiser concentrations, merchant advertiser credit-worthiness and current economic trends. The Company reviews its allowance for collectibility quarterly. Past due balances over 90 days and specified other balances are reviewed individually for collectibility. All other balances are reviewed on an aggregate basis. Account balances are written off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

The Company does not have any off-balance sheet credit exposure related to its merchant advertisers.

The allowance for doubtful account activity for the periods indicated is as follows:

	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Write-offs	Balance at End of Period
Allowance for doubtful accounts:				
December 31, 2002	$ 67,097	98,196	158,709	$ 6,584
September 30, 2003	6,584	74,318	41,260	39,642

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

At December 31, 2002 and September 30, 2003, one merchant advertiser represented 15% and 11%, respectively, of total accounts receivable.

For the year ended December 31, 2002 and the nine month period ended September 30, 2003, one merchant advertiser represented approximately 19% and 24%, respectively, of total revenue.

(e) Property and Equipment

Property and equipment are stated at cost. Depreciation on computers and other related equipment, purchased and internally developed software and furniture and fixtures is calculated on the straight-line method over the estimated useful lives of the assets generally averaging three years. Leasehold improvements are amortized on the straight line method over the shorter of the lease term or estimated useful lives of the assets ranging from three to five years.

(f) Impairment or Disposal of Long-Lived Assets

In accordance with Statement of Financial Accounting Standards ("SFAS") No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, the Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds their estimated fair value. Assets to be disposed of would be separately presented on the balance sheet and reported at the lower of their carrying amount or fair value less costs to sell, and are no longer depreciated.

(g) Advertising Expenses

Advertising costs are expensed as incurred and include Internet-based direct advertising and trade shows. Such costs are included in sales and marketing. The amounts for the periods presented were not significant.

(h) Product Development

Product development costs consist primarily of expenses incurred by the Company in the research and development, creation and enhancement of its Internet site and services. Research and development expenses include compensation and related expenses, costs of computer hardware and software, and costs incurred in developing features and functionality of the services. For all periods presented, substantially all product development expenses are research and development.

Product development costs are expensed as incurred or capitalized into property and equipment in accordance with Statement of Position 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use* (SOP 98-1). SOP 98-1 requires that costs incurred in the preliminary project and post-implementation stages of an internal use software project be expensed as incurred and that certain costs incurred in the application development stage of a project be capitalized.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

(i) Stock Option Plan

The Company applies the intrinsic value-based method of accounting prescribed by Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations including Financial Accounting Standards Board ("FASB") Interpretation No. 44, "Accounting for Certain Transactions involving Stock Compensation an interpretation of APB Opinion No. 25" issued in March 2000, to account for its employee stock options. Under this method, employee compensation expense is recorded on the date of grant only if the current market price of the underlying stock exceeded the exercise price. SFAS No. 123, *Accounting for Stock-Based Compensation*, established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans. As allowed by SFAS No. 123, the Company has elected to continue to apply the intrinsic value-based method of accounting described above for options granted to employees, and has adopted the disclosure requirements of SFAS No. 123.

The Company recognizes compensation expense over the vesting period utilizing the accelerated methodology described in FASB Interpretation No. 28, *Accounting for Stock Appreciation Rights and Other Variable Stock Option or Award Plans*.

The following table illustrates the effect on net income if the fair-value-based method had been applied to all outstanding and unvested awards in each period:

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Net income:		
As reported	$ 186,786	154,764
Add: stock-based employee expense included in reported net income	24,474	9,139
Deduct: stock-based employee compensation expense determined under fair-value-based method for all awards (1)	(38,515)	(14,614)
Pro forma	$ 172,745	149,289

(1) See Note 4 for details of the assumptions used to arrive at the fair value of each.

The Company accounts for non-employee stock-based compensation in accordance with SFAS No. 123 and FASB's Emerging Issues Task Force ("EITF") Issue No. 96-18, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods and Services.*

(j) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company has used estimates in determining certain provisions, including uncollectible accounts receivable, useful lives for property and equipment and the fair-value of the Company's common stock. Actual results could differ from those estimates.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

(k) Concentrations

The Company maintains substantially all of its cash and cash equivalents with one financial institution.

Primarily all of the Company's revenue earned from merchant advertisers is supplied through distribution partners under short-term agreements. The Company may not be successful in renewing any of these agreements, or if they are renewed, they may not be on terms as favorable as current agreements. The Company may not be successful in entering into agreements with new distribution partners on commercially acceptable terms. In addition, several of these distribution partners may be considered potential competitors.

The percentage of revenue earned from merchant advertisers supplied by distribution partners representing more than 10% of revenue is as follows:

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Affiliate A	42%	40%
Affiliate B	12%	12%

(l) Segment Reporting and Geographic Information

Operating segments are revenue-producing components of the enterprise for which separate financial information is produced internally for the Company's management. For all periods presented, the Company operated as a single segment. The Company operates in a single business segment principally in domestic markets providing Internet merchant transaction services to enterprises.

The Company attributes revenue from merchant advertisers in different geographical areas on the basis of the location of the customer. Substantially all of the Company's revenue and accounts receivable are derived from domestic sales to merchant advertisers engaged in various activities involving the Internet.

(m) Revenue Recognition

Revenue is generated primarily through paid inclusion services, that is, revenue is generated when a user clicks on a merchant advertiser's listings after it has been included by our distribution partners in their index of search listings. In paid inclusion services, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and included within search engine results. Generally, the paid inclusion results are delivered in a different section of the results than the pay-per-click listing results where the merchant advertiser drives placement through the price they choose to pay per click. For this inclusion service, revenue is not a result of placement in search results; rather the arrangement provides for inclusion in particular search engines, which may determine ranking based on individual algorithms such as relevancy determinations for a particular query.

Merchant advertisers also pay for supplementary search marketing services including advertising campaign management, conversion tracking and analysis, and search engine optimization. Merchants generally pay on a per click-through basis for these fees, although in limited cases a flat service fee is received for delivery of these services. These supplementary services allow merchant advertisers to track, monitor and optimize the placement of their advertising listings; to calculate conversion of listings that result in sales and those that do not; and optimize and organize their sites and listings for enhanced performance within algorithmic search engines. Revenue also consists of initial set-up fees.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

Revenue from these collective services accounted for less than 2% of total revenue in all periods presented. The Company has no barter transactions.

The supplementary services are generally based on usage that is billed on a fixed amount per click-through or a fixed monthly amount. Revenue is recognized on a click-through basis or in the month the service is provided.

The Company follows Staff Accounting Bulletin 101, *Revenue Recognition in Financial Statements* (SAB No. 101). This pronouncement summarizes certain of the Security and Exchange Commissions (SEC) staff's view on the application of accounting principles generally accepted in the United States of America to revenue recognition. Revenue associated with paid inclusion fees and supplementary search marketing services is recognized once persuasive evidence of an arrangement is obtained, services are performed, provided the fee is fixed and determinable and collection is reasonably assured.

Non-refundable initial account set-up fees paid by a merchant advertiser are recognized ratably over the longer of the contract or the average expected merchant advertiser campaign period which is currently estimated to be one year.

The Company has entered into agreements with various distribution partners to provide merchant advertisers' listings. The Company generally pays distribution partners based on a specified percentage of revenue or a fixed amount per click-through on these listings. The Company acts as principal to revenue transactions and bears the risk of loss. In accordance with EITF No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, the revenue derived from merchant advertisers who receive paid introductions through the Company as supplied by distribution partners is reported gross of the payment to distribution partners.

(n) Service Costs

Service costs represent those costs specifically applicable to our revenue. Service costs include network operations and customer service costs that consist primarily of costs associated with serving our search results, maintaining our Web site, credit card processing fees and network and fees paid to outside service providers that provide our paid listings and customer services. Customer service and other costs associated with providing our performance-based advertising and search marketing services, and maintaining our Web site include depreciation of Web site and network equipment, colocation charges of our Web site equipment, bandwidth, software license fees and salaries of related personnel.

Service costs also include user acquisition costs that relate primarily to payments made to distribution partners who provide an opportunity for the Company's merchant advertisers to market and sell their products through such distribution partners. The Company enters into agreements of varying durations with distribution partners that integrate the Company's services into their sites and indexes. The primary economic structure of the distribution partner agreements is a variable payment based on a specified percentage of revenue. These variable payments are often subject to minimum payment amounts per click-through. Other economic structures that to a lesser degree exist include: 1) fixed payments, based on a guaranteed minimum amount of traffic delivered, 2) variable payments based on a specified metric, such as number of paid click-throughs, and 3) a combination arrangement with both fixed and variable amounts.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

The Company expenses user acquisition costs under two methods; agreements with fixed payments are expensed as the greater of the following:

- Ÿ pro-rata over the term the fixed payment covers, or
- Ÿ usage delivered to date divided by the guaranteed minimum amount of usage

Agreements with variable payment based on a percentage of revenue, number of paid click-throughs or other metric are expensed as incurred based on the volume of the underlying activity or revenue multiplied by the agreed-upon price or rate.

(o) Income Taxes

The stockholders of the Company elected to utilize the provisions of subchapter S of the Internal Revenue Code. In lieu of corporate income taxes, the stockholders of a subchapter S corporation are taxed on their portion of the Company's taxable income. Therefore, no provision or liability for Federal income taxes was recorded in the financial statements.

(p) Guarantees

The Company adopted FASB Interpretation (FIN) No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, during the year ended December 31, 2002. FIN No. 45 provides expanded accounting guidance surrounding liability recognition and disclosure requirements related to guarantees, as defined by the interpretation. In ordinary course of business, the Company is not subject to potential obligations under guarantees that fall within the scope of FIN No. 45, except for standard indemnification provisions that are contained within many of it's merchant advertiser and distribution partner agreements, and give rise only to the disclosure requirements prescribed by FIN No. 45.

Indemnification provisions contained within the Company's merchant advertiser and distribution partner agreements are generally consistent with those prevalent in industry. The Company has not incurred significant obligations under merchant advertiser and distribution partner indemnification provisions historically and does not expect to incur significant obligations in the future. Accordingly, the Company does not maintain accruals for potential merchant advertiser and distribution partner indemnification obligations.

(q) Recently Issued Accounting Standards

In November 2002, the Emerging Issues Task Force (EITF) reached a consensus on Issue No. 00-21 ("EITF 00-21"), *Revenue Arrangements with Multiple Deliverables*. EITF 00-21 addresses certain aspects of the accounting by a vendor for arrangements under which the vendor will perform multiple revenue generating activities. EITF 00-21 became effective for fiscal periods beginning after June 15, 2003. The adoption of EITF 00-21 has not had a material impact on the Company's financial position and results of operations.

In May 2003, the FASB issued SFAS 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*. The Statement establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

It requires that an issuer classify a financial instrument that is within its scope as a liability (or an asset in some circumstances). It is effective for financial instruments entered into or modified after May 31, 2003, and otherwise is effective at the beginning of the first interim period beginning after June 15, 2003. The adoption of this Statement did not have a material impact on our financial statements.

(r) Related Party Transactions

The Company subleases office space to Wiant Design, an entity owned by the Company's CEO. Amounts received from Wiant Design for the year ended December 31, 2002 and the nine months ended September 30, 2003 are $2,940 and $2,205, respectively, and have been recorded as a reduction to rent expense.

(2) Property and Equipment

Property and equipment consisted of the following at:

	December 31, 2002	September 30, 2003
Computer and other related equipment	$ 123,787	299,111
Purchased and internally developed software	127,801	150,580
Furniture and fixtures	7,547	14,258
Leasehold improvements	3,483	6,183
Less accumulated depreciation and amortization	(110,277)	(190,841)
Property and equipment, net	$ 152,341	279,291

Depreciation and amortization expense incurred by the Company was approximately $61,895 and $80,564 for the year ended December 31, 2002 and the nine-month period ended September 30, 2003, respectively.

(3) Commitments

The Company has commitments for future payments related to office facility leases and other contractual obligations. The Company leases its office facilities under operating lease agreements expiring through 2004. The Company also has other contractual obligations expiring over varying time periods through 2004. Future minimum payments are as follows:

	Office Leases	Contractual Obligations	Total
Through end of 2003	$ 28,556	4,571	33,127
2004	83,491	7,500	90,991
Total minimum payments	$ 112,047	12,071	124,118

Other contractual obligations primarily relate to minimum contractual payments due to content and other service providers. Rent expense was $61,000 and $66,000 for the year ended December 31, 2002 and the nine-month period ended September 30, 2003, respectively.

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

(4) Stockholders' Equity

2000 Stock Incentive Plan

In November 2000, the Company adopted the 2000 Stock Incentive Plan (the 2000 Plan). The 2000 Plan was maintained for officers, employees, directors and consultants under which 1,000,000 shares of Common stock were reserved for issuance. Generally, stock options were granted with 10 year terms and vest 12.5% after the first six months and then 6.25% every three months for the next 3.5 years.

The Company granted certain options with exercise prices less than the then current fair market value. As a result, the Company recorded total deferred stock-based compensation of approximately $185,000. The Company recognized compensation expense over the vesting period utilizing the accelerated methodology described in FASB Interpretation No. 28, *Accounting for Stock Appreciation Rights and Other Variable Stock Option or Award Plans*.

In accordance with this methodology approximately $24,000 and $9,000 was recognized as stock compensation expense for the year ended December 31, 2002 and nine-month period ended September 30, 2003 respectively.

The fair value for each option grant is estimated at the date of grant using a Black-Scholes option pricing model based on the following assumptions for the year ended December 31, 2002 and the nine-month period ended September 30, 2003: risk-free interest rates of 6%; no dividends; volatility factor of the expected market price of the Company's common stock of 111%; and a weighted-average expected life of approximately 3 years.

The following table summarizes stock option activity:

	Options available for grant	Number of options outstanding	Weighted average exercise price of options outstanding	Weighted average fair value of options granted
Balance at December 31, 2001	310,500	689,500	$ 0.20	
Granted below fair value	(30,000)	30,000	$ 0.25	$ 0.48
Exercised	—	(7,500)	$ 0.20	
Expired or cancelled	98,500	(98,500)	$ 0.20	
Balance at December 31, 2002	379,000	613,500	$ 0.20	
Exercised	—	(1,000)	$ 0.20	
Expired or cancelled	30,000	(30,000)	$ 0.20	
Balance at September 30, 2003	409,000	582,500	$ 0.20	

SITEWISE MARKETING, INC.
(D.B.A. TRAFFICLEADER)

Notes to Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

The following table summarizes information concerning outstanding and exercisable options at September 30, 2003:

	Options outstanding			Options exercisable	
Exercise prices	Number outstanding	Weighted-average remaining contractual life (years)	Weighted-average exercise price	Number exercisable	Weighted-average exercise price
$ 0.20	562,500	7.69	$ 0.20	463,438	$ 0.20
0.28	20,000	8.72	0.28	5,625	0.28
$ 0.20 – 0.28	582,500	7.72	$ 0.20	469,063	$ 0.20

(5) Contingencies

The Company is involved in legal and administrative proceedings and claims of various types from time to time. While any litigation contains an element of uncertainty, management presently believes that the outcome of each such proceeding or claim which is pending or known to be threatened, or all of them combined, will not have a material adverse effect on the Company.

(6) Line of Credit

At December 31, 2002, the Company had available a $200,000 bank line of credit, secured by substantially all of the Company's assets, bearing interest at the prime rate plus 1% (approximately 6% at December 31, 2002). Borrowings under this line of credit were $27,000 at December 31, 2002. The line of credit was repaid in full and terminated in August 2003.

(7) 401(k) Savings Plan

The Company's Retirement/Savings Plan ("401 (k) Plan") adopted May 1, 2003 under Section 401 (k) of the Internal Revenue Code covers those employees that meet eligibility requirements. Eligible employees may contribute up to 25% of their compensation subject to Internal Revenue Code provisions. Under the 401 (k) Plan, management may, but is not obligated to, match a portion of the employee contributions up to a defined maximum. No matching contributions have been made to date.

(8) Subsequent Events

On October 24, 2003, Marchex, Inc. acquired 100% of the outstanding stock of the Company. The consideration consisted of:

- cash and acquisition costs of approximately $3,570,000;
- 425,000 shares of class B common stock. In the event that Marchex has not completed an IPO with gross proceeds of $20 million prior to October 24, 2005, the 425,000 shares of Class B common stock can be redeemed for $8 per share upon the affirmative vote of the holders of 75% of such shares.

In addition, Marchex, Inc. issued 137,500 shares of restricted class B common stock, of which 29,068 shares are non-forfeitable and 108,432 shares are based on continued employment agreements. The restricted shares vest over a period of 3 years, one-third at the end of each year, valued at $6.75 per share.

The purchase price excludes performance-based contingent payments that depend on the TrafficLeader's achievement of revenues thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, Marchex, at the end of 2004, will pay 10% in the form of a performance-based payment to the former TrafficLeader shareholders up to a maximum $1 million. Any amounts will be accounted for as additional goodwill.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Enhance Interactive Acquisition

On February 28, 2003, Marchex, Inc. ("Company") acquired 100% of the outstanding stock of eFamily.com, Inc. and its wholly-owned subsidiary, ah-ha.com, Inc. ah-ha.com, Inc., based in Provo, Utah was renamed Enhance Interactive, Inc. in December 2003. The aggregate net cash consideration including acquisition costs to acquire Enhance Interactive was approximately $13.3 million. The $13.3 million purchase price excludes earnings-based contingent payments that depend on, Enhance Interactive's achievement of pre-tax minimum income before tax thresholds in calendar years 2003 and 2004. The payment of the earnings-based amounts is based on the formula of 69.44% of Enhance Interactive's 2003 and 2004 income before taxes up to an aggregate maximum payout cap of $12.5 million ("earn-out consideration"). In the event income before taxes, excluding stock-based compensation and amortization of intangible assets related to the acquisition ("earnings before taxes"), does not exceed $3.5 million for 2003 and 2004, then no amount shall be payable for the related period. These contingent payments, if made, will be accounted for as additional goodwill. For 2003, additional goodwill of approximately $3,423,000 was recorded for the earn-out consideration.

Additionally, if the minimum $3.5 million thresholds above are achieved, a payment of 5.56% of Enhance Interactive's income before taxes for calendar years 2003 and 2004, up to an aggregate maximum of $1 million will be paid to certain then current employees of Enhance Interactive ("acquisition-related retention consideration"). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of the calendar years 2003 and 2004. For 2003, approximately $283,000 was recorded for the acquisition-related retention consideration including employer payroll-related taxes. The amount of the total consideration to be paid to the former shareholders of Enhance Interactive was determined by an arms-length negotiation between the parties. As part of the purchase price and conditioned upon their employment subsequent to the acquisition, the Company agreed to issue 1,250,000 options to purchase Class B common shares at an exercise price of $0.75 per share to employees of Enhance Interactive. Of these options, 416,667 shares were vested upon issuance. The remaining 833,333 shares vest in one-third increments at the end of each year over a three year period. The contingent payments will be recorded as an expense in the period during which they would be earned.

The Company's purchase method of accounting for its acquisition of Enhance Interactive resulted in all assets and liabilities being recorded at their estimated fair values on the acquisition date. For the period from February 28, 2003 through December 31, 2003, all goodwill, identifiable intangible assets and liabilities resulting, exclusive of any 2004 contingent consideration, from the Enhance Interactive acquisition have been recorded in the consolidated financial statements of the Company. The statement of operations reflecting Enhance Interactive's results have been labeled as the "Predecessor" for the period from January 1 through February 28, 2003. The Company, including the results of Enhance Interactive since the date of acquisition, is labeled as the "Successor" in the accompanying unaudited Pro Forma condensed financial statements.

TrafficLeader Acquisition

On October 24, 2003, the Company acquired 100% of the outstanding stock of TrafficLeader, a Eugene, Oregon based company, for approximately $3.2 million in cash and acquisition costs, net of cash acquired.

Additionally, the Company issued 425,000 shares of Class B common stock subject to a separate redemption right. In the event the Company has not completed a firm commitment initial public offering with gross proceeds of at least $20 million prior to October 24, 2005, the former shareholders of TrafficLeader can redeem 425,000 shares of our Class B common stock for $8 per share (an aggregate redemption amount of $3.4 million) upon the affirmative vote of the holders of 75% of such shares. The shares were valued at $6.75 per share and the associated redemption right will be recorded as a liability, until such time as the redemption right expires or the shares are redeemed. Based on the terms of the redemption right, the redemption right will be marked to market at each reporting period until such time as the redemption right expires or the shares are redeemed.

The Company also issued 137,500 shares of restricted class B common stock that are valued at $6.75 per share. The shares were issued to employees that vest over a period of three years, with the first 16.67% vesting after six months and each additional 16.67% vest each successive 6-month period over the next two and a half years. Of those restricted shares, 29,068 non-forfeitable shares valued at approximately $196,000 are included as part of the purchase consideration. The remaining 108,432 shares were issued to employees of TrafficLeader for future services. The 108,432 shares were valued at approximately $732,000 and will be recorded as compensation expense over the associated employment period in which the shares vest. The purchase price excludes revenue-based contingent payments that depend on TrafficLeader's achievement of revenue thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, the Company will pay 10% in the form of a revenue-based payment to the former shareholders up to a maximum $1 million. These contingent payments, if made, will be accounted for as additional goodwill. For the period from October 24, 2003 through December 31, 2003, all goodwill, identifiable intangible assets and resulting liabilities, exclusive of contingent consideration, from the TrafficLeader acquisition have been recorded in the consolidated financial statements of the Company. The estimated fair values of assets acquired and liabilities assumed are based upon preliminary estimates and may not be indicative of the final allocation of purchase price consideration.

Pro Forma Financial Information

The following unaudited pro forma condensed consolidated statements of operations for the year-ended December 31, 2003 give effect to the Company's acquisition of the Predecessor, and the acquisition of TrafficLeader as if they had occurred on January 1, 2003.

The unaudited pro forma condensed consolidated statements of operations for the period ended December 31, 2003 are based upon the historical results of operations of the Company for the period from January 17, 2003 (inception) through December 31, 2003, the Predecessor for the period from January 1 through February 28, 2003 and TrafficLeader for the period ended October 23, 2003. The unaudited pro forma condensed consolidated statements of operations and the accompanying notes should be read in conjunction with the historical financial statements and notes thereto of the Company, the Predecessor and TrafficLeader.

The unaudited pro forma condensed consolidated financial information is intended for illustrative purposes only and is not necessarily indicative of the combined results that would have occurred had the acquisitions taken place on January 1, 2003, nor is it necessarily indicative of results that may occur in the future.

MARCHEX, INC.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
For the year ended December 31, 2003

	Predecessor	Successor	TrafficLeader		
	Period from January 1 to February 28, 2003	Period from January 17, 2003 (inception) to December 31, 2003	Period from January 1 to October 23, 2003	Pro Forma Adjustments	Pro Forma Combined
Revenue	$ 3,071,055	19,892,158	4,388,753	—	27,351,966
Expenses:					
Service Costs (1)	1,732,813	11,292,070	3,372,050		16,396,933
Sales and marketing (1)	365,043	2,460,683	374,293		3,200,019
Product development (1)	144,479	1,291,422	140,647		1,576,548
General and administrative (1)	234,667	2,743,919	343,369		3,321,955
Acquisition-related retention consideration (2)	—	283,269	—		283,269
Stock-based compensation (3)	38,981	2,125,110	9,968	362,999 (e) 122,222 (g)	2,659,280
Amortization of intangible assets (4)	—	3,023,408	—	579,500 (a) 530,400 (c)	4,133,308
Total operating expenses	2,515,983	23,219,881	4,240,327	1,595,121	31,571,312
Income (loss) from operations	555,072	(3,327,723)	148,426	(1,595,121)	(4,219,346)
Other income (expense)					
Interest income	1,529	45,874	663	—	48,066
Adjustment to fair value of redemption obligation	—	25,500	—	—	25,500
Other income (expense)	—	2,685	(793)	—	1,892
Total other income (expense)	1,529	74,059	(130)	—	75,458
Income (loss) before provision for income taxes	556,601	(3,253,664)	148,296	(1,595,121)	(4,143,888)
Income tax expense (benefit)	224,082	(1,084,312)	—	(216,200) (b) (203,408) (d) 61,323 (f) (45,011) (k)	(1,263,526)
Net income (loss)	332,519	(2,169,352)	148,296	(1,191,825)	(2,880,362)
Accretion of redemption value of redeemable convertible preferred stock	—	1,318,885	—	—	1,318,885
Net Income (loss) applicable to common stockholders	$ 332,519	(3,488,237)	148,296	(1,191,825)	(4,199,247)
Basic and diluted net loss per share applicable to common stockholders	$	(0.26)			(0.31)
Shares used to calculate basic and diluted net loss per share		13,259,747		374,384 (i)	13,634,131
Adjusted pro forma basic and diluted net loss per share applicable to common stockholders	$	(0.18)			(0.22)
Shares used to calculate adjusted pro forma basic and diluted net loss per share		19,011,093		374,384 (l)	19,385,477
(1) Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangible assets					
(2) Components of acquisition-related retention consideration:					
Service costs	$ —	33,723	—	—	33,723
Sales and marketing	—	96,262	—	—	96,262
Product development	—	104,233	—	—	104,233
General and administrative	—	49,051	—	—	49,051
(3) Components of stock-based compensation:					
Service costs	$ 190	9,776	3,219	3,300	16,485
Sales and marketing	715	421,871	3,156	21,755	447,497
Product development	37,710	241,080	3,166	8,187	290,145
General and administrative	366	1,452,383	427	451,977	1,905,153
(4) Components of amortization of intangible assets:					
Service costs	$ —	2,216,958	—	716,352	2,933,310
Sales and marketing	—	348,117	—	301,882	649,999
Product development	—	—	—	—	—
General and administrative	—	458,333	—	91,666	549,999

See notes to unaudited pro forma condensed consolidated Statements of Operations.

MARCHEX, INC.

Notes To Unaudited Pro Forma Condensed Consolidated Statements of Operations

Pro Forma Adjustments.

The following adjustments were applied to the historical statements of operations of the Company, the Predecessor and TrafficLeader to arrive at the unaudited pro forma condensed consolidated statements of operations:

(a) Represents the amortization of identifiable intangible assets associated with the Company's acquisition of the Predecessor, which are amortized over their useful lives ranging from 24 to 42 months, amortization of $3.5 million in the first twelve months, following the acquisition. The Company, for the period from January 17, 2003 (inception) to December 31, 2003, recorded approximately $2.9 million of amortization related to the above-noted identifiable intangible assets.

(b) Represents the deferred income tax benefit associated with the amortization of intangibles in connection with the Company's acquisition of the Predecessor.

(c) Represents the amortization of identifiable intangible assets associated with the acquisition of TrafficLeader, which are amortized over their useful lives ranging from 12 to 36 months, amortization of $653,000 in the first twelve months following the acquisition. The Company, for the period of January 17, 2003 (inception) to December 31, 2003, recorded approximately $123,000 of amortization related to the above-noted identifiable intangible assets.

(d) Represents the deferred income tax benefit associated with the amortization of intangibles in connection with the acquisition of TrafficLeader.

(e) Represents stock-based compensation charges associated with shares of restricted Class B common stock issued to employees of TrafficLeader valued at approximately $732,000 at the transaction date. The Company is recognizing stock-based compensation expense for the value of these shares over the associated employment period in which these shares vest, which results in $476,000 in amortization in the first twelve months following the acquisition. The Company, for the period from January 17, 2003 (inception) to December 31, 2003, recorded approximately $112,000 relating to the above-noted restricted shares.

(f) Represents pro-forma income tax expense as though TrafficLeader was taxed as a C Corporation for the periods presented. Prior to the Company's acquisition, TrafficLeader was an S-Corp, in which case shareholders were taxed on their portion of TrafficLeader's taxable income.

(g) Represents stock-based compensation charges associated with options issued to employees of Enhance Interactive. As part of the Enhance Interactive purchase agreement, the Company agreed to issue 1,250,000 options to purchase Class B common shares at an exercise price of $0.75 per share to employees of Enhance Interactive. 416,667 of these options were vested upon issuance. The remaining 833,333 shares vest in one-third increments at the end of each year over a three year period. The intrinsic value associated with the initial grant of the 1,250,000 options totaled $1,800,000. Compensation totaling $600,000 was recognized for the 416,667 options that vested upon issuance. For the 833,333 remaining options, the Company is recognizing stock-based compensation expense over the associated employment period in which these shares vest which results in $733,333 in amortization for the first twelve months following the acquisition. The Company, for the period from January 17 (inception) to December 31, 2003, recorded approximately $1,211,000 relating to the above-noted options, excluding the variable accounting charges noted below.

125,000 of the 416,667 vested options are held in escrow as security for the indemnification obligations under the merger agreement and are subject to forfeiture. These options are accounted for by the Company as variable awards because they are subject to forfeiture, until the expiration of the escrow period which is

MARCHEX, INC.

Notes To Unaudited Pro Forma Condensed Consolidated Statements of Operations—(Continued)

February 28, 2004. In accounting for variable awards, compensation cost is measured each period as the amount by which the then fair market value of the stock exceeds the exercise price. Changes, either increases or decreases in the fair value of those awards between the date of grant and the measurement date, result in a change in the measure of compensation for the award. Compensation costs recognized by the Company for the period from January 17, 2003 (inception) to December 31, 2003 for these 125,000 options were approximately $781,000. Of the $781,000, a total of $180,000 is included as part of the $600,000 compensation amount noted above that was recognized at the time of issuance. In periods prior to the acquisition of the Enhance Interactive, the Company and the Predecessor have not given effect in the pro forma statement of operations to the potential impact of the variable plan accounting because the effect is non-recurring.

The option grants were for post acquisition services and were not accounted for as part of the merger consideration.

(h) Represents the deferred income tax expense (benefit) associated with the recognition of stock-based compensation adjustments for options issued to employees of Enhance Interactive.

(i) The following is a reconciliation of shares used to compute historical basic and diluted net loss per share to historical pro forma basic and diluted net loss per share and to shares used to compute adjusted pro forma basic and diluted net loss per share for the combined twelve month period ended December 31, 2003. Potentially dilutive securities were not included in the computations because their effects would be anti-dilutive.

	Pro Forma basic and diluted	Adjusted Pro Forma basic and diluted
Shares used to calculate net loss per share	13,259,747	13,259,747
Pro forma shares issued in TrafficLeader acquisition subject to redemption right	341,954	341,954
Pro forma restricted shares issued in TrafficLeader acquisition	23,394	23,394
Weighted average restricted shares issued in TrafficLeader acquisition for services expected to vest during the period	9,036	9,036
Weighted average shares assuming conversion of Series A redeemable convertible Preferred stock at the original issuance date	—	5,751,346
Shares used to calculate pro forma and adjusted pro forma basic and diluted net loss per share	13,634,131	19,385,477

If the proposed initial public offering (IPO) is consummated under the terms presently anticipated, each of the 6,724,063 outstanding shares of the Company's Series A redeemable convertible preferred stock will automatically convert into 1 share of Class B common stock upon closing of the proposed IPO.

The adjusted pro forma basic and diluted shares used to calculate net loss per share are calculated above as if the Series A redeemable convertible preferred stock had converted into shares of common stock at the original issuance date.

(j) Based upon the terms of the redemption right of $8 per share on the 425,000 shares issued in the TrafficLeader acquisition, the obligation will be reflected as a liability and is subject to variable plan

MARCHEX, INC.

Notes To Unaudited Pro Forma Condensed Consolidated Statements of Operations—(Continued)

accounting. The obligation will be marked to market at each reporting date until such time as the redemption right expires or the shares are redeemed. No adjustment for possible changes in the value of the redemption right has been reflected in the accompanying pro forma statements.

(k) Other information.

The purchase price for Enhance Interactive ("Predecessor") excludes earnings-based contingent payments that depend on Enhance Interactive's achievement of minimum income before taxes excluding stock-based compensation and amortization of intangible assets related to the acquisition ("earnings before taxes") thresholds in calendar year 2003 and 2004. The payment of the earn-out amounts is based on the formula of 69.44% of the Enhance Interactive's 2003 and 2004 earnings before taxes up to an aggregate maximum payout cap of $12.5 million. In the event earnings before taxes does not exceed $3.5 million for 2003 or 2004, then no amount shall be payable for the related period. Any amounts will be accounted for as additional goodwill. For 2003, additional goodwill of $3,243,000 was recorded for the earn-out consideration.

In addition, if the individual $3.5 million thresholds above are achieved, a payment of 5.56% of Enhance Interactive's earnings before taxes for calendar years 2003 and 2004, up to an aggregate maximum of $1 million will be paid to certain current employees of Enhance Interactive (acquisition retention consideration). These amounts will be accounted for as compensation. The threshold determination is calculated separately for each of calendar years 2003 and 2004. For 2003, $283,000 was recorded for the acquisition-related retention consideration.

Estimated amortization relating to intangible assets acquired as part of the acquisition of Enhance Interactive for the next five years is: $3.5 million in 2004, $1.9 million in 2005 and $83,000 in 2006.

The purchase price for TrafficLeader excludes revenue-based contingent earn-out payments that depend on TrafficLeader's achievement of revenue thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, the Company, at the end of 2004, will pay 10% in the form of an earn-out based payment to the former TrafficLeader shareholders up to a maximum $1 million. Any amounts paid under this provision will be accounted for as additional goodwill.

In the event there is a change in control of the Company or of TrafficLeader, or the termination without cause or resignation for good reason of both of TrafficLeader's CEO and CTO on or prior to December 31, 2004, the Company will be obligated to pay the full amount of the $1 million performance-based contingent payment; if awarded, the payment would be recorded as compensation.

Estimated amortization relating to intangible assets acquired as part of the acquisition of TrafficLeader for the next five years is: $597,000 in 2004, $353,000 in 2005 and $227,000 in 2006.

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4,000,000 Shares

Marchex, Inc.

Class B Common Stock

Dealer Prospectus Delivery Obligation

Until , 2004, 25 days after the date of this offering, all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 24. ***Indemnification of Directors and Officers***

The certificate of incorporation and the by-laws of the registrant provide that the registrant shall indemnify its officers, directors and certain others to the maximum extent permitted by the General Corporation Law of the State of Delaware.

Section 145 of the General Corporation Law of the State of Delaware provides in relevant part as follows:

> (a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative) other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.
>
> (b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interest of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

The General Corporation Law does not allow for the elimination or limitation of liability of a director: (i) for any breach of a director's duty of loyalty to the corporation or its stockholders; (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) arising under Section 174 thereof; or (iv) for any transaction from which the director derived an improper personal benefit. The General Corporation Law provides further that the indemnification permitted thereunder shall not be deemed exclusive of any rights to which the directors and officers may be entitled under the corporation's bylaws, any agreement, a vote of stockholders or otherwise.

In addition, pursuant to our certificate of incorporation and by-laws, we shall indemnify our directors and officers against expenses (including judgments or amounts paid in settlement) incurred in any action, civil or criminal, to which any such person is a party by reason of any alleged act or failure to act in his capacity as such, except as to a matter as to which such director or officer shall have been finally adjudged not to have acted in good faith in the reasonable belief that his action was in the best interest of the corporation.

The underwriting agreement between us and the underwriters of this offering provides that the underwriters are obligated, under certain circumstances, to indemnify our directors, officers and controlling persons against certain liabilities, including liabilities under the Securities Act. Reference is made to the form of Underwriting Agreement filed at Exhibit 1.1 hereto.

We maintain directors and officers liability insurance for the benefit of our directors and certain of our officers.

We have entered into indemnification agreements with each of our directors and our executive officers.

Item 25. ***Other Expenses of Issuance and Distribution***

The following table sets forth the expenses (other than the underwriting discounts and commissions) payable in connection with the sale of the Class B common stock offered hereby, all of which will be paid by Marchex, Inc. Certain of these expenses are based on the best estimate of Marchex, Inc., as indicated below.

	Amount to be Paid
SEC registration fee	$ 2,832*
NASD filing fee	3,996*
NASDAQ National Market listing fee	100,000*
Underwriter expenses	50,000*
Printing and engraving expenses	125,000*
Legal fees and expenses	355,000*
Accounting fees and expenses	435,000*
Blue sky fees and expenses	35,000*
Transfer agent and registrar fees and expenses	25,000*
Director & officer liability insurance premium	250,000*
Miscellaneous fees and expenses	18,172*
Total	$1,400,000

* Estimated amount of expense as of the filing date of this Amendment No. 2 to Registration Statement.

Item 26. ***Recent Sales of Unregistered Securities***

Since our inception on January 17, 2003, we have issued the following securities, none of which have been registered under the Securities Act of 1933, as amended (the "Act"):

1. In January 2003, we issued and sold an aggregate of 12,250,000 shares of our Class A common stock to our five founding officers for aggregate cash consideration of $122,500.

2. In January 2003, we issued and sold 1,000,000 shares of our Class B common stock to a limited liability company controlled and managed by one of our founding officers for cash consideration of $10,000.

3. In February 2003, we also issued 5,000 shares of Class B common stock for services pursuant to a stock grant agreement.

4. In February and May 2003, we issued and sold 6,724,063 shares of our Series A redeemable convertible preferred stock to ninety-four (94) investors, each of whom we reasonably believe is an "accredited investor" within the meaning of Rule 501 of Regulation D of the Act, for an aggregate cash consideration of approximately $20,172,201.

5. In October 2003, we issued 562,500 shares of our Class B common stock as partial consideration in connection with our acquisition of TrafficLeader, with an allocated value of $3,796,875.

6. Since our inception, under the stock incentive plan, we have granted options to a number of our employees, directors and consultants to purchase an aggregate of: (i) 2,421,500 shares of our Class B common stock with a weighted average exercise price of $1.67 per share; and (ii) 775,100 shares of our Class B common stock with an exercise price equal to the initial public offering price per share.

No underwriters were involved in any of the foregoing transactions. Such sales and issuances of stock and issuance of options were made in reliance upon an exemption from the registration provisions of the Act set forth in Section 4(2) and Rule 506 of Regulation D thereof relative to the sale by an issuer not involving a public offering or the rules and regulations thereunder, or in the case of certain options to purchase shares of Class B common stock, Rule 701 of the Act. All of the foregoing securities are deemed restricted securities for purposes of the Act.

Item 27. ***Exhibits and Financial Statement Schedules***

(a) Exhibits

Number	Description
*1.1	Revised Form of Underwriting Agreement.
**2.1	Agreement and Plan of Merger, dated as of February 19, 2003, by and among Registrant, Marchex Acquisition Corporation, eFamily.com, Inc., the Shareholders of eFamily.com, Inc., ah-ha.com, Inc. and Paul J. Brockbank, as Stockholder Representative.
**2.2	Agreement and Plan of Merger, dated as of October 1, 2003, by and among Registrant, Sitewise Acquisition Corporation, TrafficLeader, Inc., the Shareholders of TrafficLeader, Inc. and Gerald Wiant, as Shareholder Representative.
**3.1	Certificate of Incorporation of the Registrant.
**3.2	Certificate of Designation, Preferences and Rights of the Series A Convertible Preferred Stock.
*3.3	Form of Amended and Restated Certificate of Incorporation of the Registrant to be in effect upon completion of the offering.
**3.4	By-laws of the Registrant, as currently in effect.
***4.1	Specimen stock certificate representing shares of Class B common stock of the Registrant.
**4.2	Stockholders' Agreement, dated as of January 23, 2003, by and among the Registrant and the investors named therein.
**4.3	Stock Transfer and Restriction Agreement, dated as of October 24, 2003, by and among the Registrant and those holders of Class B common stock named therein.
**4.4	Series A Preferred Stock Subscription and Stock Purchase Agreement.
*4.5	Revised Form of Representative's Warrant Agreement for Sanders Morris Harris Inc.
*4.6	Revised Form of Representative's Warrant Agreement for National Securities Corporation.
*5.1	Revised Form of Opinion of Nixon Peabody LLP.
*10.1	Form of Amended and Restated 2003 Stock Incentive Plan to be in effect upon completion of the offering.
**10.2	Sublease Assignment and Assumption Agreement, dated as of January 18, 2003, by and between Marrch Holdings, LLC, the Registrant and Ecology and Environment, Inc.
**10.3	Office Lease, dated as of September 5, 2003, by and between the Registrant and Selig Real Estate Holdings Five.
**10.4	Sublease, dated as of March 13, 2000, by and between MyFamily.com, Inc. and ah-ha.com, Inc.
**10.5	Indenture of Lease, dated as of August 31, 2001, by and between A&A Properties, N.W., L.L.C. and Sitewise Marketing, Inc.

Number	Description
**10.6	Sublease, dated as of June 1, 2003, by and between Radiant Marketing Solutions, Inc., as sublessor, and Sitewise Marketing, Inc., as sublessee, and Jerry Wiant and Bruce Fabbri, as guarantors.
**10.7	Executive Employment Agreement, dated as of January 17, 2003, by and between Russell C. Horowitz and the Registrant.
**10.8	Executive Employment Agreement, dated as of May 1, 2003, by and between Michael A. Arends and the Registrant.
**10.9	Form of Director and Executive Officer Indemnification Agreement.
**10.10	2004 Employee Stock Purchase Plan.
**10.11	Letter of Intent, dated as of February 11, 2004, by and between Seattle's Best Coffee, LLC and the Registrant.
*10.12	Sublease, dated as of March 1, 2004, by and between Seattle's Best Coffee, LLC and the Registrant.
*10.13	Indemnification Agreement, dated as of February 4, 2004, by and between Russell C. Horowitz and the Registrant.
**21.1	Subsidiaries of the Registrant.
*23.1	Independent Auditors' Consent.
*23.2	Consent of Counsel (included in Exhibit 5.1).
**24.1	Power of Attorney.

* Filed herewith.
** Previously filed.
*** To be filed by amendment.

(b) Financial Statement Schedules

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 28. ***Undertakings***

Undertaking Required by Regulation S-B, Item 512 (d):

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing of this offering specified in the underwriting agreement certificates in such denomination and registered in such names as required by the underwriters to permit proper delivery to each purchaser.

Undertaking Required by Regulation S-B, Item 512 (e):

Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended (the "Act"), may be permitted to directors, officers and controlling persons of the Registrant pursuant to any arrangement, provision 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 payment by the Registrant of expenses 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.

Undertaking Required by Regulation S-B, Item 512 (f):

The undersigned registrant hereby undertakes to:

(1) for determining any liability under the Securities Act of 1933, as amended (the "Securities Act"), treat the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act as part of this registration statement as of the time it was declared effective; and

(2) for determining any liability under the Securities Act, treat each post-effective amendment that contains a form of prospectus 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.

SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form SB-2 and authorizes this Amendment No. 2 to Registration Statement to be signed on its behalf by the undersigned, in the City of Seattle, State of Washington on March 19, 2004.

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Chairman and Chief Executive Officer

In accordance with the requirements of the Securities Act of 1933, this Amendment No. 2 to Registration Statement was signed by the following persons in the capacities indicated below on the 19th day of March, 2004.

Signature	
/s/ RUSSELL C. HOROWITZ	
Russell C. Horowitz	**Chairman and Chief Executive Officer (Principal Executive Officer)**
/s/ MICHAEL A. ARENDS	
Michael A. Arends	**Chief Financial Officer (Principal Financial and Accounting Officer)**
*	
John Keister	**President, Chief Operating Officer and Director**
*	
Dennis Cline	**Director**
*	
Jonathan Fram	**Director**
*	
Rick Thompson	**Director**

*By: /s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Attorney-in-Fact

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**21.1	Subsidiaries of the Registrant.
*23.1	Independent Auditors' Consent.
*23.2	Consent of Counsel (included in Exhibit 5.1).
**24.1	Power of Attorney.

* Filed herewith.
** Previously filed.
*** To be filed by amendment.

Exhibit 1.1

4,000,000 Shares

Marchex, Inc.

Class B Common Stock ($.01 Par Value)

REVISED FORM OF UNDERWRITING AGREEMENT

_____, 2004

SANDERS MORRIS HARRIS INC.
3100 Chase Tower
Houston, TX 77002-3003

NATIONAL SECURITIES CORPORATION
1001 Fourth Avenue
Suite 2200
Seattle, Washington 98154-1100

As Representatives of the several Underwriters
named in Schedule A hereto

Dear Ladies and Gentlemen:

1. INTRODUCTORY. Marchex, Inc., a Delaware corporation (the "Company"), proposes to issue and sell through SANDERS MORRIS HARRIS INC. ("Sanders") and NATIONAL SECURITIES CORPORATION ("National"), pursuant to the terms of this Agreement, to the several underwriters named in Schedule A hereto (the "Underwriters," or, each, an "Underwriter"), an aggregate of 4,000,000 shares of Class B Common Stock, $.01 par value per share (the "Common Stock"), of the Company. The aggregate of 4,000,000 shares so proposed to be sold is hereinafter referred to as the "Firm Stock". The Company also grants to the Underwriters an option, upon the terms and conditions set forth in Section 3 hereof, to purchase up to an additional 600,000 shares of Common Stock (the "Additional Shares"). The Firm Stock and the Additional Shares are hereinafter collectively referred to as the "Shares." Sanders and National are acting as representatives of the several Underwriters and in such capacity are hereinafter referred to as the "Representatives".

In connection with the proposed offering of the Shares, the Representatives have agreed to administer a directed share program (the "Directed Share Program") pursuant to which up to 600,000 Firm Shares, or fifteen percent (15%) of the Firm Shares, to be purchased by it (the "Reserved Shares") shall be reserved for sale at the initial public offering price to the Company's officers, directors, employees and consultants and others having a relationship with the Company (the "Directed Share Participants") as part of the distribution of the Shares by the Underwriters, subject to the terms of this Agreement, the applicable rules, regulations and interpretations of the National Association of Securities Dealers, Inc. ("NASD") and all other applicable laws, rules

and regulations. The number of Shares available for sale to the general public will be reduced to the extent that the Directed Share Participants purchase the Reserved Shares. Reserved Shares not confirmed for purchase by the Directed Share Participants by the end of the business day on which this Agreement is executed will be offered to the general public by the Underwriters on the same basis as the other Shares being issued and sold hereunder. The Company has supplied the Representatives with the names, addresses and telephone numbers of the individuals or other entities which the Company has designated to be participants in the Directed Share Program. It is understood that any number of those designated to participate in the Directed Share Program may decline to do so.

The Company also proposes, pursuant to Section 3 hereof, upon the successful closing of the offering of the Shares and the fulfillment of the terms of the Underwriting Agreement by Representatives, to issue and sell to the Representatives, for their own accounts or for the account of such Representative's Designee (as hereinafter defined) for an aggregate price of One Hundred Dollars ($100.00), warrants to purchase up to an aggregate of 120,000 shares of Common Stock (the "Representatives' Warrants") at a per share price equal to 130% of the per share initial offering price of the Shares set forth in the "Registration Statement" and "Prospectus" (as hereinafter defined). Of such Representatives' Warrants, Sanders, for its own account or for the account of its Representative's Designee, shall purchase, for an aggregate price of Fifty Dollars ($50.00), a Representatives' Warrant to purchase up to an aggregate of 60,000 shares of Common Stock and National, for its own account or for the account of its Representative's Designee, shall purchase, for an aggregate price of Fifty Dollars ($50.00), a Representatives' Warrant to purchase up to an aggregate of 60,000 shares of Common Stock. The Representatives' Warrants shall only be exercisable during the period commencing one (1) year from the First Closing Date (as hereinafter defined) and ending five (5) years from such First Closing Date, in accordance with the terms and conditions of the form of Representatives' warrant agreement substantially in the form of Exhibit III (the "Representatives' Warrant Agreement").

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents and warrants to, and agrees with, the several Underwriters that:

(a) A registration statement on Form SB-2 in the form in which it became or becomes effective and also in such form as it may be when any post-effective amendment thereto shall become effective with respect to the Shares, including any pre-effective prospectus included as part of the registration statement as originally filed or as part of any amendment or supplement thereto, or filed pursuant to Rule 424 under the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations (the "Rules and Regulations") of the Securities and Exchange Commission (the "Commission") thereunder, copies of which have heretofore been delivered to you, has been carefully prepared by the Company in conformity with the requirements of the Securities Act and has been filed with the Commission under the Securities Act; one or more amendments to such registration statement, including in each case an amended pre-effective prospectus, copies of which amendments have heretofore been delivered to you, have been so prepared and filed. Such registration statement, as amended (SEC File No. 333-111096), including all exhibits and financial statements, is referred to hereinafter as the "Registration Statement." Each prospectus was endorsed with the legend required by Item 501(a)(7) of Regulation S-B. If it is contemplated, at the time this Agreement is executed, that a

post-effective amendment to the Registration Statement will be filed and must be declared effective before the offering of the Shares may commence, the term "Registration Statement" as used in this Agreement means the Registration Statement as amended by said post-effective amendment. The term "Registration Statement" as used in this Agreement shall also include any registration statement relating to the Shares that is filed and declared effective pursuant to Rule 462(b) under the Securities Act. The term "Prospectus" as used in this Agreement means the prospectus in the form included in the Registration Statement, or, (A) if the prospectus included in the Registration Statement omits information in reliance on Rule 430A under the Securities Act and such information is included in a prospectus filed with the Commission pursuant to Rule 424(b) under the Securities Act, the term "Prospectus" as used in this Agreement means the prospectus in the form included in the Registration Statement as supplemented by the addition of the Rule 430A information contained in the prospectus filed with the Commission pursuant to Rule 424(b) and (B) if any prospectus that meet the requirements of Section 10(a) of the Securities Act are delivered pursuant to Rule 434 under the Securities Act, then (i) the term "Prospectus" as used in this Agreement means the "prospectus subject to completion" (as such term is defined in Rule 434(g) under the Securities Act) as supplemented by (a) the addition of Rule 430A information or other information contained in the form of prospectus delivered pursuant to Rule 434(b)(2) under the Securities Act or (b) the information contained in the term sheets described in Rule 434(b)(3) under the Securities Act, and (ii) the date of any such prospectus shall be deemed to be the date of the term sheets. The term "Pre-Effective Prospectus" as used in this Agreement means the prospectus subject to completion in the form included in the Registration Statement at the time of the initial filing of the Registration Statement with the Commission, and as such prospectus shall have been amended from time to time prior to the date of the Prospectus.

(b) The Commission has not issued or threatened to issue any order preventing or suspending the use of any Pre-Effective Prospectus, and, at its date of issue, each Pre-Effective Prospectus conformed in all material respects with the requirements of the Securities Act and the Rules and Regulations and did not include 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, in light of the circumstances under which they were made, not misleading. When the Registration Statement becomes effective and by the Closing Date (as hereafter defined), the Registration Statement and Prospectus and any amendment or supplement thereto will contain all material statements and information required to be included therein by the Securities Act and the Rules and Regulations and conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and neither the Registration Statement nor the Prospectus, nor any amendment or supplement thereto, included or will include any untrue statement of a material fact or omit to state any 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 misleading; provided, however, that the foregoing representations, warranties and agreements shall not apply to information contained in or omitted from any Pre-Effective Prospectus or the Registration Statement or the Prospectus or any such amendment or supplement thereto in reliance upon, and in conformity with, written information furnished to the Company by or on behalf of any Underwriter through National specifically for use in the preparation thereof.

(c) Subsequent to the respective dates as of which information is given in the Registration Statement and Prospectus, and except as set forth or contemplated or otherwise identified as a risk factor in the Prospectus, (i) the Company has not incurred any material liabilities or obligations, direct or contingent, purchased any of its outstanding capital stock or paid or declared any dividends or other distributions on its capital stock or entered into any material transactions, whether or not incurred in the ordinary course of business, nor entered into any transactions not in the ordinary course of business, and (ii) there has not been any material adverse change in the condition (financial or otherwise), properties, business, management, net worth or results of operations of the Company and its subsidiaries considered as a whole, or any material change in the capital stock, short-term or long-term debt of the Company.

(d) The financial statements, together with the related notes and schedules, set forth in the Prospectus and elsewhere in the Registration Statement fairly present, the financial position, the results of operations and changes in financial position, shareholders' equity and cash flows of the Company at the respective dates or for the respective periods therein specified. Such statements and related notes and schedules have been prepared in accordance with generally accepted accounting principles applied on a consistent basis except as may be set forth in the Prospectus. The summary and selected financial and statistical data included in the Prospectus and the Registration Statement present fairly the information shown therein and such data have been prepared on a basis consistent with the financial statements contained therein.

(e) KPMG LLP, who have expressed their opinions on the audited financial statements and related schedules included in the Registration Statement and the Prospectus, are independent public accountants as required by the Securities Act and the Rules and Regulations.

(f) The Company and each of its subsidiaries (each of which is set forth on Schedule C, a "Subsidiary" or the "Subsidiaries"), have been duly incorporated, are and at the Closing Date will be validly existing as corporations in good standing under the laws of the jurisdiction of each of their incorporation, have the corporate power and authority to own or lease their property and to conduct their business as described in the Registration Statement and Prospectus and are duly qualified to transact business and are in good standing in each jurisdiction in which the conduct of their business or their ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a material adverse effect on the Company or its Subsidiaries.

(g) The Company's authorized and outstanding capital stock is on the date hereof, and will be on the First Closing Date (as hereinafter defined), as set forth under the heading "Capitalization" in the Prospectus; the securities of the Company conform to the descriptions thereof in the Prospectus and have been duly authorized and validly issued and are fully paid and nonassessable and have been issued in compliance with all federal and state securities laws and were not issued in violation of or subject to any preemptive rights or similar rights to subscribe for or purchase securities and conform to the description thereof contained in the Prospectus. Except as disclosed in or contemplated by the Prospectus and the financial statements of the Company and related notes thereto included in the Prospectus, the Company does not have outstanding any options or warrants to purchase, or any preemptive rights or other rights to subscribe for or to purchase, any securities or obligations convertible into, or any contracts or commitments to issue or sell, shares of its capital stock or any such options, rights,

convertible securities or obligations. The description of the Company's stock option and other stock plans or arrangements, and the options or other rights granted or exercised thereunder, as set forth in the Prospectus, fairly presents the information required to be shown with respect to such plans, arrangements, options and rights.

(h) The Shares to be issued and sold by the Company to the Underwriters hereunder (including the Additional Shares) have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform to the description thereof in the Prospectus. The form of certificate for the Shares conforms to the requirements of the Delaware General Corporation Law. The shares to be issued and sold by the Company pursuant to the Representatives' Warrant Agreement have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein and in the Representatives' Warrant Agreement, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform to the description thereof in the Prospectus. The Company has reserved a sufficient number of shares of Common Stock from its authorized but unissued Common Stock for issuance upon exercise of the Representatives' Warrants in accordance with the provisions of the Representatives' Warrant Agreement. No further approval or authority of the stockholders or the Board of Directors of the Company will be required for the issuance and sale of the Shares or shares issuable upon exercise of the Representatives' Warrant as contemplated herein.

(i) Except as set forth in the Prospectus, there are no legal or governmental proceedings pending to which the Company or any Subsidiary is a party or of which any property of the Company or any Subsidiary is subject, which, if determined adversely to the Company might individually or in the aggregate (i) prevent or adversely affect the transactions contemplated by this Agreement, (ii) suspend the effectiveness of the Registration Statement, (iii) prevent or suspend the use of the Pre-Effective Prospectus in any jurisdiction; (iv) is required to be disclosed in the Registration Statement, which is not so disclosed; or (v) result in a material adverse change in the condition (financial or otherwise), properties, business, management, net worth or results of operations of the Company considered as a whole; and to the Company's knowledge no such proceedings are threatened or contemplated against the Company by governmental authorities or others. Neither the Company nor any Subsidiary is a party or subject to the provisions of any material injunction, judgment, decree or order of any court, regulatory body or other governmental agency or body. The description of the Company's litigation under the heading "Business—Legal Proceedings" in the Prospectus fairly presents the information set forth therein.

(j) The execution, delivery and performance of this Agreement and the Representatives' Warrant Agreement and the consummation of the transactions herein and therein, as the case may be, contemplated will not result in a breach or violation of any of the terms or provisions of or constitute a default under any indenture, mortgage, deed of trust, note agreement or other agreement or instrument to which the Company is a party or by which it or any of its properties is or may be bound, the Certificate of Incorporation, By-laws or other organizational documents of the Company or any of its Subsidiaries, or any law, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its properties or will result in the creation of a lien.

(k) No consent, approval, authorization or order of any court or governmental agency or body is required for the consummation by the Company of the transactions contemplated by this Agreement, except such as may be required by NASD or under the Securities Act or the securities or "Blue Sky" laws of any jurisdiction in connection with the purchase and distribution of the Shares by the Underwriters.

(l) The Company has the full corporate power and authority to enter into this Agreement and to perform its obligations hereunder (including to issue, sell and deliver the Shares), and this Agreement has been duly and validly authorized, executed and delivered by the Company and is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except to the extent that rights to indemnity and contribution hereunder may be limited by federal or state securities laws or the public policy underlying such laws.

(m) The Company is in all material respects in compliance with, and conducts its business in conformity with, all applicable federal, state, local and foreign laws, rules and regulations or any court or governmental agency or body; to the knowledge of the Company, otherwise than as set forth in the Registration Statement and the Prospectus, no prospective change in any of such federal or state laws, rules or regulations has been adopted which, when made effective, would have a material adverse effect on the operations of the Company.

(n) The Company and its Subsidiaries own or possess all patents, trademarks, trademark registrations, service marks, service mark registrations, tradenames, copyrights, licenses, inventions, trade secrets and rights described in the Prospectus as being owned by them or described in the Prospectus as being necessary for the conduct of their business (collectively, "Company Intellectual Property"), and neither the Company nor any of its Subsidiaries is aware of any claim against the Company or its Subsidiaries to the contrary or any challenge by any other person to the rights of the Company or its Subsidiaries with respect to the foregoing. No claim has been made against the Company or its Subsidiaries alleging the infringement by the Company or its Subsidiaries of any patent, trademark, service mark, tradename, copyright, trade secret, license in or other intellectual property right or franchise right of any person. To the knowledge of the Company, no person is infringing or misappropriating any Company Intellectual Property, which is material to the conduct of its business. To the knowledge of the Company, no current or former employee, officer, director, shareholder, consultant or independent contractor of the Company or any Subsidiary has any valid right, claim or interest in or with respect to any Company Intellectual Property which would materially impair or which could give rise to the material impairment of the use, distribution, license or other exploitation of the Company Intellectual Property by the Company or any such Subsidiary. The Company and each of its Subsidiaries have taken reasonable measures and precautions necessary to protect, preserve and maintain the confidentiality and secrecy of all trade secrets and other confidential information used in the business of the Company and such Subsidiaries and otherwise to maintain and protect the value of all Company Intellectual Property.

(o) The Company and its Subsidiaries have performed all material obligations required to be performed by them under any indenture, mortgage, deed of trust, note agreement or other material agreement or instrument to which any one or more of them is a party or by which any one or more of them or any of their properties is or may be bound, and neither the

Company nor any of its Subsidiaries is in default under or in breach of any such material obligation which, if enforced by the other party, would result in a material adverse effect on the operations of the Company or any of its Subsidiaries.

(p) Neither the Company nor any of its Subsidiaries is involved in any material labor dispute nor is any such material dispute threatened. The Company is not aware that any executive, key employee or significant group of employees of the Company or any Subsidiary plans to terminate employment with the Company. The Company does not have nor does it expect to have nor does any Subsidiary have or expect to have any liability for any prohibited transaction or funding deficiency or any complete or partial withdrawal liability with respect to any pension, profit sharing or other plan which is subject to the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"), to which the Company or any Subsidiary makes or ever has made a contribution and in which any employee of the Company or a Subsidiary is or has ever been a participant. With respect to such plans, the Company and each Subsidiary is in compliance in all material respects with all presently applicable provisions of ERISA; no "reportable event" (as defined in ERISA) has occurred with respect to any "pension plan" (as defined in ERISA) for which the Company or any Subsidiary would have any liability; neither the Company nor any Subsidiary has incurred liability under Section 412 or 4971 of the Internal Revenue Code of 1986, as amended, including the regulations and published interpretations thereunder (the "Code"); and each "Pension Plan" for which the Company or any Subsidiary would have liability that is intended to be qualified under Section 401(a) of the Code is so qualified in all material respects.

(q) The Company or a Subsidiary has obtained the written agreement described in Section 8(j) of this Agreement from each of its officers and directors and holders of 1% or more of the outstanding securities of the Company as of the date hereof (as set forth on Schedule B hereto) (subject to earlier release at the discretion of the Underwriters)**.**

(r) The Company, and each of its Subsidiaries, has, and as of the First Closing Date will have, good and marketable title in fee simple to all real property referred to in the Prospectus as being owned by the Company, and each of its Subsidiaries, and good and marketable title to all personal property owned by it or the applicable Subsidiary which is material to the business of the Company or the applicable Subsidiary, in each case free and clear of all liens, encumbrances and defects except such as are described in the Prospectus or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company or the applicable Subsidiary; and any real property and buildings described in the Prospectus as being held under lease by the Company or the applicable Subsidiary are, and will be as of the First Closing Date, held by it under valid, subsisting and enforceable leases or subleases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company or the applicable Subsidiary except as described in the Prospectus.

(s) The Company, and each of its Subsidiaries, is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the business of the Company or the applicable Subsidiary as described in the Prospectus; and neither the Company nor any Subsidiary has reason to believe that it will

not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not materially and adversely affect the condition, financial or otherwise, or the earnings, business or operations of the Company and the applicable Subsidiary, except as described in or contemplated by the Prospectus.

(t) Other than as contemplated by this Agreement, there is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder's fee or other fee or commission as a result of any of the transactions contemplated by this Agreement.

(u) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences and the Company is otherwise in compliance in all material respects with all applicable effective provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations issued thereunder by the Commission.

(v) The Company is not, nor after giving effect to the issuance and sale of the Shares will it be, an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended and the rules and regulations of the Commission promulgated thereunder.

(w) Each certificate signed by any officer of the Company and delivered to the Underwriters or counsel for the Underwriters shall be deemed to be a representation and warranty by the Company as to the matters covered thereby.

(x) All executed agreements or copies of executed agreements filed or incorporated by reference as exhibits to the Registration Statement to which the Company or any Subsidiary is a party or by which any such company is or may be bound or to which its assets, properties or businesses are or may be subject have been duly and validly authorized, executed and delivered by the Company or the applicable Subsidiary and constitute the legal, valid and binding agreements of the Company or the applicable Subsidiary enforceable by and against it in accordance with their respective terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to enforcement of creditors' rights generally, and general equitable principles relating to the availability of remedies, and except as rights to indemnity or contribution may be limited by federal or state securities laws and the public policy underlying such laws). The descriptions in the Registration Statement of contracts and other documents are accurate and fairly present in all material respects the information required to be shown with respect thereto by the Securities Act and Rules and Regulations, and there are no contracts or other documents that are required by the Securities Act or Rules and Regulations to be described in the Registration Statement or filed as exhibits to the Registration Statement that are not described or filed as required and the exhibits that have been filed are complete and correct copies of the documents of which they purport to

be copies. Except as described in the Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company or to require the Company to include such securities with the Shares registered pursuant to the Registration Statement.

(y) The Company and its Subsidiaries are conducting their business in compliance with all applicable laws, ordinances or governmental rules or regulations of the jurisdictions in which they are conducting business, except where the failure to be so in compliance would not materially and adversely affect the business, properties, financial condition or results of operations of the Company and its Subsidiaries. Each approval, consent, order, authorization, designation, declaration or filing by or with any regulatory, administrative or other governmental body necessary in connection with the execution and delivery by the Company of this Agreement and the consummation of the transactions herein contemplated (except such additional steps as may be required by NASD, the Securities Act, the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or to qualify or exempt the Shares for public offering by the Underwriters under state securities or Blue Sky laws) has been obtained or made and is in full force and effect.

(z) Neither the Company nor, to the Company's knowledge, any of its officers, directors or affiliates (within the meaning of the rules and regulations promulgated under the Securities Act) has taken or may take, directly or indirectly, any action designed to cause or result in, or that has constituted or that might reasonably be expected to constitute, the stabilization or manipulation of the price of the shares of Common Stock of the Company, to facilitate the sale or resale of the Shares or otherwise.

(aa) There are no transfer taxes or similar fees or charges under federal law or the laws of any state or foreign jurisdiction, or any political subdivision thereof, required to be paid in connection with the execution and delivery of this Agreement or the issuance and sale by the Company of the Shares.

(bb) No relationship, direct or indirect, exists between or among the Company, on the one hand, and the current or prior directors, officers, shareholders, customers or suppliers of the Company, on the other hand, which is required to be described in the Prospectus that is not so described.

(cc) Neither the Company nor to the Company's knowledge any director, officer, agent, employee or other person associated with or acting on behalf of the Company has used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provisions of the Foreign Corrupt Practices Act of 1972; or made any bribe, rebate, payoff, influence, payment, kickback or other unlawful payment.

(dd) The business, operations and facilities of the Company have been and are being conducted or operated in compliance with all applicable laws, ordinances, rules, regulations, licenses, permits, approvals, plans, authorizations or requirements relating to

occupational safety and health, pollution, protection of health or the environment (including, without limitation, those relating to emissions, discharges, release or threatened releases of pollutants, contaminants or hazardous or toxic substances, materials or wastes into ambient air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use treatment, storage, disposal, transport or handling of chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, gaseous or liquid in nature) or otherwise relating to remediating real property in which the Company has or has had any interest, whether owned or leased, of any governmental department, commission, board, bureau, agency or instrumentality of the United States, any state or political subdivision thereof and all applicable judicial or administrative agency or regulatory decrees, awards, judgments and orders relating thereto, except for such failures to so comply as would not, individually or in the aggregate, have a material adverse effect on the business, properties, financial condition or results of operations of the Company, and the Company has not received any notice from a governmental instrumentality or any third party alleging any violation thereof or liability thereunder (including, without limitation, liability for costs of investigating or remediating sites containing hazardous substances or damage to natural resources).

(ee) Neither the Company nor to the Company's knowledge any officer or employee of the Company is a party to any contract or commitment that restricts in any material respect the ability of the Company to engage in the business of the Company as described in the Registration Statement and the Prospectus.

3. PURCHASE BY, AND SALE AND DELIVERY TO, UNDERWRITERS—CLOSING DATES. The Company agrees to sell to the Underwriters the Firm Stock, and on the basis of the representations, warranties, covenants and agreements herein contained, but subject to the terms and conditions herein set forth, the Underwriters agree, severally and not jointly, to purchase the Firm Stock from the Company, the number of shares of Firm Stock to be purchased by each Underwriter being set opposite its name in Schedule A, subject to adjustment in accordance with Section 12 hereof. The purchase price per share to be paid by the Underwriters to the Company will be $_____ per share [the initial offering price less 5%](the "Purchase Price"). The Company will deliver the Firm Stock to the Representatives for the respective accounts of the several Underwriters (in the form of definitive certificates, issued in such names and in such denominations as the Representatives may direct by notice in writing to the Company given at or prior to 12:00 noon, New York City time, on the third full business day preceding the First Closing Date (as defined below) or, if no such direction is received, in the names of the respective Underwriters or in such other names as the Representatives may designate (solely for the purpose of administrative convenience) and in such denominations as the Representatives may determine), against payment of the aggregate Purchase Price therefor in immediately available funds, payable to the order of the Company, all at the offices of Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110. The time and date of the delivery and closing shall be at 10:00 A.M., New York City time, on _____, 2004, in accordance with Rule 15c6-1 of the Exchange Act. The time and date of such payment and delivery are herein referred to as the "First Closing Date". The First Closing Date and the location of delivery of, and the form of payment for, the Firm Stock may be varied by agreement between the Company and Representatives. The First Closing Date may be postponed pursuant to the provisions of Section 12. The Company shall make the certificates for the Shares available to the Representatives for examination on behalf of the Underwriters not later than 10:00 A.M.,

New York City time, on the business day preceding the First Closing Date at the offices of Mellon Investor Services LLC.

It is understood that each of Sanders and National, individually and not as a Representative of the several Underwriters, may (but shall not be obligated to) make payment to the Company on behalf of any Underwriter or Underwriters, for the Shares to be purchased by such Underwriter or Underwriters. Any such payment by either Sanders or National shall not relieve such Underwriter or Underwriters from any of its or their other obligations hereunder.

The several Underwriters agree to make an initial public offering of the Firm Stock at the initial public offering price as soon after the effectiveness of the Registration Statement as practicable. The Representatives shall promptly advise the Company of the making of the initial public offering.

For the purpose of covering any over-allotments in connection with the distribution and sale of the Firm Stock as contemplated by the Prospectus, the Company hereby grants to the Underwriters an option to purchase, severally and not jointly, the Additional Shares. The price per share to be paid for the Additional Shares shall be the Purchase Price. The option granted hereby for the purpose of covering over-allotments may be exercised as to all or any part of the Additional Shares at any time, and from time to time, not more than thirty (30) days after (i) the date the Registration Statement becomes effective, if the Company has elected not to rely on Rule 430A under the Rules and Regulations, or (ii) the date of this Agreement if the Company has elected to rely upon Rule 430A under the Rules and Regulations. No Additional Shares shall be sold and delivered unless the Firm Stock previously has been, or simultaneously is, sold and delivered. The right to purchase the Additional Shares or any portion thereof may be surrendered and terminated at any time upon notice by the Underwriters to the Company.

The option granted hereby may be exercised by the Underwriters by giving written notice from the Representatives to the Company setting forth the number of shares of the Additional Shares to be purchased by them and the date and time for delivery of and payment for the Additional Shares. Each date and time for delivery of and payment for the Additional Shares (which may be the First Closing Date, but not earlier) is herein called the "Option Closing Date" and shall in no event be earlier than two (2) business days nor later than ten (10) business days after written notice is given. (The Option Closing Date and the First Closing Date are herein called the "Closing Dates"). All purchases of Additional Shares from the Company shall be made by the Representatives for the account of the Representatives unless the Representatives elects to purchase less than all of the Additional Shares, in which case the remaining shares of Additional Shares not purchased by the Representatives shall be purchased for the account of each Underwriter (other than the Representatives) in the same proportion as the number of shares of Firm Stock set forth opposite such Underwriter's name in Schedule A hereto bears to the total number of shares of Firm Stock purchased by all Underwriters (other than the Representatives) (subject to adjustment by the Underwriters to eliminate odd lots). Upon exercise of the option by the Underwriters, the Company agrees to sell to the Underwriters the number of shares of Additional Shares set forth in the written notice of exercise and the Underwriters agree, severally and not jointly and subject to the terms and conditions herein set forth, to purchase the number of such shares determined as aforesaid.

The Company will deliver the Additional Shares to the Underwriters (in the form of definitive certificates, issued in such names and in such denominations as the Representatives may direct by notice in writing to the Company given at or prior to 12:00 noon, New York City time, on the second full business day preceding the Option Closing Date or, if no such direction is received, in the names of the respective Underwriters or in such other names as the Representatives may designate (solely for the purpose of administrative convenience) and in such denominations as the Representatives may determine), against payment of the aggregate Purchase Price therefor in immediately available funds, payable to the order of the Company all at the offices of Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110. The Company shall make the certificates for the Additional Shares available to the Underwriters for examination not later than 10:00 A.M., New York City time, on the business day preceding the Option Closing Date at the offices of Mellon Investor Services LLC. The Option Closing Date and the location of delivery of, and the form of payment for, the Additional Shares may be varied by agreement between the Company and the Representatives. The Option Closing Date may be postponed pursuant to the provisions of Section 12.

Upon the successful closing of the offering of the Shares and the fulfillment of the terms of the Underwriting Agreement by Representatives, on the First Closing Date, the Company will issue and sell to the Representatives or to the officers and directors and employees of Representatives (individually, the "Representative's Designee" and collectively, the "Representative's Designees") for an aggregate purchase price of One Hundred Dollars ($100.00) the Representatives' Warrants at a per share price equal to 130% of the per share initial public offering price of the Shares set forth in the Registration Statement and Prospectus. Of such Representatives' Warrants, Sanders, for its own account or for the account of its Representative's Designee, shall purchase, for an aggregate price of Fifty Dollars ($50.00), a Representatives' Warrant to purchase up to an aggregate of 60,000 shares of Common Stock, and National, for its own account or for the account of its Representative's Designee, shall purchase, for an aggregate price of Fifty Dollars ($50.00), a Representatives' Warrant to purchase up to an aggregate of 60,000 shares of Common Stock. The Representatives' Warrant shall only be exercisable during the period commencing one (1) year from the Closing Date and ending five (5) years from such Closing Date (in the form of, and in accordance with the provisions of the Representatives' Warrant Agreement substantially in the form filed as Exhibit III to the Registration Statement). The Representatives' Warrant will be restricted from sale, transfer, assignment or hypothecation for a period of one (1) year from the effective date of the Registration Statement pursuant to NASD Corporate Financing Rule 2710, except to Representative's Designees. Payment for the Representatives' Warrants will be made to the Company by check, by Sanders and National, respectively, on the First Closing Date against delivery of the certificates representing the Representatives' Warrants in accordance with the terms and conditions of the Representatives' Warrant Agreement.

The information set forth on the cover page of the Prospectus concerning the Underwriters and under the caption "Plan of Distribution" or otherwise specifically relating to the Underwriters in any Preliminary Prospectus or in the Prospectus relating to the Shares proposed to be filed by the Company (insofar as such information relates to the Underwriters) as heretofore filed and as presently proposed to be amended constitutes the only information furnished by the Underwriters to the Company for inclusion therein, and the Underwriters represent and warrant to the Company that the statements made therein are correct and do not

include any untrue statements of material fact or omit to state a material fact required to be state therein, or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

4. COVENANTS AND AGREEMENTS OF THE COMPANY. The Company covenants and agrees with the several Underwriters that:

(a) The Company will (i) if the Company and the Representatives have determined not to proceed pursuant to Rule 430A, use its commercially reasonable efforts to cause the Registration Statement to become effective, (ii) if the Company and the Representatives have determined to proceed pursuant to Rule 430A, use its commercially reasonable efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to Rule 430A and Rule 424 of the Rules and Regulations and (iii) if the Company and the Representatives have determined to deliver Prospectuses pursuant to Rule 434 of the Rules and Regulations, to use its commercially reasonable efforts to comply with all the applicable provisions thereof. The Company will advise the Representatives promptly as to the time at which the Registration Statement becomes effective, will advise the Representatives promptly of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of the institution of any proceedings for that purpose, and will use its commercially reasonable efforts to prevent the issuance of any such stop order and to obtain as soon as possible the lifting thereof, if issued. The Company will advise the Representatives promptly of the receipt of any comments of the Commission or any request by the Commission for any amendment of or supplement to the Registration Statement or the Prospectus or for additional information and will not at any time file any amendment to the Registration Statement or supplement to the Prospectus which shall not previously have been submitted to the Representatives a reasonable time prior to the proposed filing thereof or to which the Representatives shall reasonably object in writing or which is not in compliance with the Securities Act and the Rules and Regulations.

(b) The Company will prepare and file with the Commission, promptly upon the request of the Representatives, any amendments or supplements to the Registration Statement or the Prospectus which in the opinion of the Representatives is necessary to enable the several Underwriters to continue the distribution of the Shares and will use its commercially reasonable efforts to cause the same to become effective as promptly as possible.

(c) If at any time after the effective date of the Registration Statement when a prospectus relating to the Shares is required to be delivered under the Securities Act any event relating to or affecting the Company or any of its Subsidiaries occurs as a result of which the Prospectus or any other prospectus as then in effect would include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or if it is necessary at any time to amend the Prospectus to comply with the Securities Act, the Company will promptly notify the Representatives thereof and will prepare an amended or supplemented prospectus which will correct such statement or omission and file such document with the Commission; and in case any Underwriter is required to deliver a prospectus relating to the Shares nine (9) months or more after the effective date of the Registration Statement, the Company upon the request of the Representatives and at the expense of such Underwriter will prepare promptly such

prospectus or prospectuses as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act.

(d) The Company will deliver to the Representatives, at or before the Closing Dates, signed copies of the Registration Statement, as originally filed with the Commission, and all amendments thereto including all financial statements and exhibits thereto and will deliver to the Representatives such number of copies of the Registration Statement, including such financial statements but without exhibits, and all amendments thereto, as the Representatives may reasonably request. The Company will deliver or mail to or upon the order of the Representatives, from time to time until the effective date of the Registration Statement, as many copies of the Pre-Effective Prospectus as the Representatives may reasonably request. The Company will deliver or mail to or upon the order of the Representatives on the date of the initial public offering, and thereafter from time to time during the period when delivery of a prospectus relating to the Shares is required under the Securities Act, as many copies of the Prospectus, in final form or as thereafter amended or supplemented, as the Representatives may reasonably request; provided, however, that the expense of the preparation and delivery of any prospectus required for use nine (9) months or more after the effective date of the Registration Statement shall be borne by the Underwriters required to deliver such prospectus.

(e) The Company will make generally available to its stockholders as soon as practicable, but not later than fifteen (15) months after the effective date of the Registration Statement, an earnings statement which will be in reasonable detail (but which need not be audited) and which will comply with Section 11(a) of the Securities Act, covering a period of at least twelve (12) months beginning after the "effective date" (as defined in Rule 158 under the Securities Act) of the Registration Statement.

(f) The Company will cooperate with the Representatives to enable the Shares to be registered or qualified for offering and sale by the Underwriters and by dealers under the securities laws of such jurisdictions as the Representatives may designate and at the request of the Representatives will make such applications and furnish such consents to service of process or other documents as may be required of it as the issuer of the Shares for that purpose; provided, however, that the Company shall not be required to qualify to do business or to file a general consent (other than that arising out of the offering or sale of the Shares) to service of process in any such jurisdiction where it is not now so subject. The Company will, from time to time, prepare and file such statements and reports as are or may be required of it as the issuer of the Shares to continue such qualifications in effect for so long a period as the Representatives may reasonably request for the distribution of the Shares. The Company will advise the Representatives promptly after the Company becomes aware of the suspension of the qualifications or registration of (or any such exception relating to) the Common Stock of the Company for offering, sale or trading in any jurisdiction or of any initiation or threat of any proceeding for any such purpose, and, in the event of the issuance of any orders suspending such qualifications, registration or exception, the Company will, with the cooperation of the Representatives, use its commercially reasonable efforts to obtain the withdrawal thereof.

(g) The Company will furnish to its stockholders annual reports containing financial statements certified by independent public accountants in accordance with the Rules and Regulations. So long as the Company has active subsidiaries, such financial statements will

be on a consolidated basis to the extent the accounts of the Company and its Subsidiaries are consolidated in reports furnished to its stockholders generally, to the extent required by the Rules and Regulations.

(h) The Company will use its commercially reasonable efforts to cause the Common Stock to be listed for quotation on the Nasdaq National Market at or before the time of purchase.

(i) The Company will not, without the prior written consent of the Representatives, offer, sell, assign, transfer, encumber, contract to sell, grant an option to purchase or otherwise dispose of any shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock during the one hundred and eighty (180) days following the Effective Date, other than the (i) Company's sale of Common Stock hereunder, (ii) the issuance of Common Stock upon the automatic conversion, as a result of the offering and sale of the Shares, of the Company's outstanding convertible preferred stock as described in the Prospectus, (iii) the issuance of Common Stock upon the exercise of stock options which are presently outstanding and described in the Prospectus, (iv) the grant of options to purchase shares of Common Stock under the stock option plan described in the Prospectus, (v) the issuance of Common Stock in connection with the acquisition of any businesses, assets or technologies, and (vi) the Representatives' Warrants and the shares issuable upon the exercise of the Representatives' Warrants.

(j) The Company will apply the net proceeds from the sale of the Shares as set forth in the description under "Use of Proceeds" in the Prospectus, which description complies in all respects with the requirements of Item 504 of Regulation S-K.

(k) The Company will supply you with copies of all correspondence to and from, and all documents issued to and by, the Commission in connection with the registration of the Shares under the Securities Act.

(l) Upon the successful closing of the offering of the Shares and the fulfillment of the terms of the Underwriting Agreement by Representatives, the Company, on the First Closing Date, shall sell to each Representative or to such Representative's Designee, as the case may be, a Representatives' Warrant according to the terms specified in Section 3 hereof. The Company has reserved and shall continue to reserve a sufficient number of shares of Common Stock for issuance upon exercise of each such Representatives' Warrant.

(m) During a period of three years after the date hereof, the Company will furnish to National, and to each Underwriter who may so request in writing, copies of all periodic and special reports furnished to stockholders of the Company and of all information, documents and reports filed with the Commission.

(n) The Company will maintain a transfer agent and, if necessary under the jurisdiction of incorporation of the Company, a registrar (which may be the same entity as the transfer agent) for its Common Stock.

(o) During the period of three years after the date hereof, the Company will timely file all such reports, forms or other documents as may be required from time to time,

under the Securities Act, the Rules and Regulations, the Exchange Act and the rules and regulations promulgated thereunder, and all such reports, forms and documents filed will comply as to form and substance with the applicable requirements under the Securities Act, the Rules and Regulations, the Exchange Act and the rules and regulations promulgated thereunder.

(p) To comply with all applicable securities and other applicable laws, rules and regulations in each jurisdiction in which the Directed Shares are offered in connection with the Directed Share Program.

(q) The Company will endeavor to qualify the shares for offer and sale under the securities or blue sky laws of such jurisdictions as National shall reasonably request.

5. PAYMENT OF EXPENSES. The Company will pay (directly or by reimbursement) all costs, fees and expenses incurred by the Company in connection with the performance of its obligations under this Agreement and incurred by the Company in connection with the transactions contemplated hereby, including but not limited to (i) all expenses and taxes incident to the issuance and delivery of the Firm Stock and Option Stock; (ii) all expenses incident to the registration of the Firm Stock and Option Stock under the Securities Act; (iii) the costs of preparing stock certificates (including printing and engraving costs); (iv) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Firm Stock and Option Stock; (v) fees and expenses of the Company's counsel and the Company's independent public accountants; (vi) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Registration Statement, each Pre-Effective Prospectus and the Prospectus (including all exhibits and financial statements) and all amendments and supplements provided for herein; (vii) all filing fees, attorneys' fees and expenses incurred by the Company in connection with exemptions from the qualifying or registering (or obtaining qualification or registration of) all or any part of the Firm Stock and Option Stock for offer and sale and determination of its eligibility for investment under the Blue Sky or other securities laws of such jurisdictions as the Representatives may designate; (viii) all fees and expenses of the registrar and transfer agent of the Firm Stock and Option Stock; and (ix) all fees and expenses paid or incurred in connection with filings made with the NASD. Further, upon receipt of a request from Representatives, either orally or in writing, Company shall deliver a check to Representatives for any amounts paid or payable by Representatives pursuant to subparagraph (ix) above.

Representatives will pay the following expenses: (a) fees and expenses of Representatives' counsel; (b) any advertising, telecommunications, photocopying, printing and other out-of-pocket expenses outside of Company's expenses under (vi) above; and (c) any travel, hotel, meals, car rental and other miscellaneous expenses associated with the carrying out of Representatives' responsibilities.

Company agrees to reimburse Representatives for the foregoing direct expenses of Representatives, on a non-accountable basis, in the maximum amount of $50,000, of which $25,000 was previously paid, 2004 and the balance shall be paid upon the First Closing Date. Subject to the written pre-approval of the Company, the Company agrees to reimburse Representatives for Representatives' additional direct expenses in an amount not to exceed an additional $50,000.

6. INDEMNIFICATION AND CONTRIBUTION.

(a) The Company agrees to indemnify and hold harmless each Underwriter and each person, if any, who controls such Underwriter within the meaning of the Securities Act and the respective officers, directors, partners, employees, representatives and agents of each of such Underwriter (collectively, the "Underwriter Indemnified Parties" and, each, an "Underwriter Indemnified Party"), against any losses, claims, damages, liabilities or expenses (including the reasonable cost of investigating and defending against any claims therefor and counsel fees incurred in connection therewith), joint or several, which may be based upon (i) the Securities Act, or any other statute or at common law, on the ground or alleged ground that any Pre-Effective Prospectus, the Registration Statement or the Prospectus (or any Pre-Effective Prospectus, the Registration Statement or the Prospectus as from time to time amended or supplemented) includes or allegedly includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, unless such statement or omission was made in reliance upon, and in conformity with, written information furnished to the Company by any Underwriter through National specifically for use in the preparation thereof; provided, that with respect to any untrue statement or omission or alleged untrue statement or omission made in any Pre-Effective Prospectus, the indemnity agreement contained in this subsection (a) shall not inure to the benefit of any Underwriter Indemnified Party from whom the person asserting any such losses, claims, damages or liabilities purchased the shares of Shares concerned to the extent that any such loss, claim, damage or liability of such Underwriter Indemnified Party results from the fact that a copy of the Prospectus was not sent or given to such person at or prior to the written confirmation of the sale of such shares of Shares to such person as required by the Securities Act and if the untrue statement or omission concerned has been corrected in the Prospectus, or (ii) the Directed Share Program, provided that the Company shall not be responsible under this clause (ii) for any loss, damage, expense, liability, or claim that resulted from the act(s) or omission(s) of the Underwriters in administering and conducting the Directed Share Program. The Company will be entitled to participate at its own expense in the defense or, if it so elects, to assume the defense of any suit brought to enforce any such liability, but if the Company elects to assume the defense, such defense shall be conducted by counsel chosen by it. In the event the Company elects to assume the defense of any such suit and retain such counsel, any Underwriter Indemnified Parties, defendant or defendants in the suit, may retain additional counsel but shall bear the fees and expenses of such counsel unless (i) the Company shall have specifically authorized the retaining of such counsel or (ii) the parties to such suit include any such Underwriter Indemnified Parties, and the Company and such Underwriter Indemnified Parties at law or in equity have been advised in writing by counsel to the Underwriters that one or more legal defenses may be available to it or them which may not be available to the Company, in which case the Company shall bear the fees and expenses of one counsel to the Underwriter Indemnified Parties. The Company shall not be liable to indemnify any person for any settlement of any such claim effected without the Company's prior written consent. This indemnity agreement is not exclusive and will be in addition to any liability which the Company might otherwise have and shall not limit any rights or remedies which may otherwise be available at law or in equity to each Underwriter Indemnified Party.

(b) Each Underwriter severally and not jointly agrees to indemnify and hold harmless the Company, its directors, its officers who have signed the Registration Statement and

each person, if any, who controls the Company or any Subsidiary within the meaning of the Securities Act (collectively, the "Company Indemnified Parties"), against any losses, claims, damages, liabilities or expenses (including, unless the Underwriter or Underwriters elect to assume the defense, the reasonable cost of investigating and defending against any claims therefor and counsel fees incurred in connection therewith), joint or several, which arise out of or are based in whole or in part upon the Securities Act, the Exchange Act or any other federal, state, local or foreign statute or regulation, or at common law, on the ground or alleged ground that any Pre-Effective Prospectus, the Registration Statement or the Prospectus (or any Pre-Effective Prospectus, the Registration Statement or the Prospectus, as from time to time amended and supplemented) includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading, but only insofar as any such statement or omission was made in reliance upon, and in conformity with, written information furnished to the Company by such Underwriter, directly or through the Representatives, specifically for use in the preparation thereof; provided, however, that in no case is such Underwriter to be liable with respect to any claims made against any Company Indemnified Party against whom the action is brought unless such Company Indemnified Party shall have notified such Underwriter in writing within a reasonable time after the summons or other first legal process giving information of the nature of the claim shall have been served upon the Company Indemnified Party, but failure to notify such Underwriter of such claim shall not relieve it from any liability which it may have to any Company Indemnified Party other than on account of its indemnity agreement contained in this paragraph. The Underwriter against whom indemnity may be sought shall not be liable to indemnify any person for any settlement of any such claim effected without such Underwriter's prior written consent. This indemnity agreement is not exclusive and will be in addition to any liability which such Underwriter might otherwise have and shall not limit any rights or remedies which may otherwise be available at law or in equity to any Company Indemnified Party.

(a) If the indemnification provided for in this Section 6 is unavailable or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages, liabilities or expenses (or actions in respect thereof) referred to herein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Shares. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bears to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material

fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or expenses (or actions in respect thereof) referred to above shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, defending, settling or compromising any such claim. Notwithstanding the provisions of this subsection (c), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the shares of the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. The Underwriters' obligations to contribute are several in proportion to their respective underwriting obligations and not joint. No person guilty of fraudulent misrepresentations (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentations.

7. SURVIVAL OF INDEMNITIES, REPRESENTATIONS, WARRANTIES, ETC. The respective indemnities, covenants, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by them respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter, the Company or any of its officers or directors or any controlling person, and shall survive delivery of and payment for the Shares.

8. CONDITIONS OF UNDERWRITERS' OBLIGATIONS. The respective obligations of the several Underwriters hereunder shall be subject to the accuracy, at and (except as otherwise stated herein) as of the date hereof and at and as of the Closing Dates, of the representations and warranties made herein by the Company as to compliance at and as of the Closing Dates by the Company with its covenants and agreements herein contained and other provisions hereof to be satisfied at or prior to the Closing Dates, and to the following additional conditions:

(a) The Registration Statement shall have become effective and no stop order suspending the effectiveness thereof shall have been issued and no proceedings for that purpose shall have been initiated or, to the knowledge of the Company, shall be threatened by the Commission, and any request for additional information on the part of the Commission (to be included in the Registration Statement or the Prospectus or otherwise) shall have been complied with to the reasonable satisfaction of the Representatives. Any filings of the Prospectus, or any supplement thereto, required pursuant to Rule 424(b) or Rule 434 of the Rules and Regulations, shall have been made in the manner and within the time period required by Rule 424(b) and Rule 434 of the Rules and Regulations, as the case may be.

(b) The Representatives shall have been satisfied that there shall not have occurred any change, on a consolidated basis, prior to the Closing Dates in the condition

(financial or otherwise), properties, business, management, net worth or results of operations of the Company, or any change in the capital stock, short-term or long-term debt of the Company, such that the Registration Statement or the Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact which, in the opinion of the Representatives, is material, or omits to state a fact which, in the opinion of the Representatives, is required to be stated therein or is necessary to make the statements therein not misleading.

(c) The Representatives shall be satisfied that no legal or governmental action, suit or proceeding affecting the Company which is material and adverse to the Company or which affects or may affect the Company's ability to perform its obligations under this Agreement shall have been instituted or threatened and there shall have occurred no material adverse development in any existing such action, suit or proceeding.

(d) The Representatives shall have received from KPMG LLP, independent certified public accountants, a letter, dated the Closing Date, to the effect set forth in Exhibit I hereto.

(e) The Representatives shall have received from Nixon Peabody LLP, counsel for the Company, an opinion, dated the Closing Dates, to the effect set forth in Exhibit II hereto. In rendering such opinion, Nixon Peabody LLP may rely as to all matters governed other than by the laws of the Commonwealth of Massachusetts and the State of Delaware or federal laws on the opinion of local counsel of good standing in such jurisdictions

(f) The Representatives shall have received from Dorsey & Whitney LLP, counsel for the Underwriters, their opinion or opinions dated the Closing Dates with respect to the incorporation of the Company, the validity of the Shares, the Registration Statement and the Prospectus and such other related matters as it may reasonably request, and the Company shall have furnished to such counsel such documents as they may request for the purpose of enabling them to pass upon such matters.

(g) The Representatives shall have received a certificate, dated the Closing Dates, of the Chief Executive Officer of the Company certifying to the effect that:

(i) No stop order suspending the effectiveness of the Registration Statement has been issued, and, to the best of the knowledge of the signers, no proceedings for that purpose have been instituted or are pending or contemplated under the Securities Act;

(ii) Neither any Pre-Effective Prospectus, as of its date, nor the Registration Statement nor the Prospectus, nor any amendment or supplement thereto, as of the time when the Registration Statement became effective and at all times subsequent thereto up to the delivery of such certificate, included any untrue statement of a material fact or omitted to state any 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 misleading;

(iii) Subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, and except as set forth or contemplated in the Prospectus, the Company has not incurred any material liabilities or obligations, direct or

contingent, nor entered into any material transactions not in the ordinary course of business and there has not been any material adverse change in the condition (financial or otherwise), properties, business, management, net worth or results of operations of the Company or any change in the capital stock, short-term or long-term debt of the Company; and

(iv) The representations and warranties of the Company in this Agreement are true and correct at and as of the Closing Dates, and the Company has complied with all the agreements and performed or satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Dates.

(i) The Company shall have furnished to the Representatives such additional certificates as the Representatives may have reasonably requested as to the accuracy, at and as of the Closing Dates, of the representations and warranties made herein by it and as to compliance at and as of the Closing Dates by it with its covenants and agreements herein contained and other provisions hereof to be satisfied at or prior to the Closing Dates, and as to satisfaction of the other conditions to the obligations of the Underwriters hereunder.

(j) Representatives shall have received the written agreements of (i) all officers and directors of the Company and holders of 1% or more of the outstanding securities of the Company as of the date hereof with respect to shares of Common Stock held by such persons prior to the Offering (including securities convertible into or exercisable for Common Stock) (as set forth on Schedule B hereto) and (ii) those holders of shares purchased pursuant to the Directed Share Program, that each will not, without the prior written consent of Representatives, offer, sell, assign, transfer, encumber, contract to sell, grant an option to purchase or otherwise dispose of, other than by operation of law, gifts, pledges or dispositions by estate representatives, any of such shares (including, without limitation, Common Stock which may be deemed to be beneficially owned by such officer, director or holder in accordance with the Rules and Regulations) or securities convertible into or exercisable or exchangeable for Common Stock during the one hundred and eighty (180) days following the Effective Date (subject to earlier release at the discretion of the Underwriters).

(k) The Shares shall have been approved for listing for quotation on the Nasdaq National Market, subject only to notice of issuance at or prior to the Closing Date.

9. EFFECTIVE DATE. This Agreement shall become effective (i) if Rule 430A under the Securities Act is not used, when you shall have received notification of the effectiveness of the Registration Statement, or (ii) if Rule 430A under the Securities Act is used, when the parties hereto have executed and delivered this Agreement.

10. TERMINATION.

(a) This Agreement may be terminated by the Company at any time before it becomes effective in accordance with Section 9 by notice to the Representatives and may be terminated by the Representatives at any time before it becomes effective in accordance with Section 9 by notice to the Company. In the event of any termination of this Agreement under this or any other provision of this Agreement, there shall be no liability of any party to this

Agreement to any other party, other than as provided in Section 6 and other than as provided in Section 11 as to the liability of defaulting Underwriters; provided, however, that (i) in the event of such termination, the Company agrees to indemnify and hold harmless the Underwriters from all costs or expenses incident to the performance of the Underwriters' obligations under this Agreement; and (ii) if this Agreement is terminated by the Representatives because of any refusal, inability or failure on the part of the Company to perform any agreement herein, to fulfill any of the conditions or covenants herein, or to comply with any provision hereof other than by reason of a default by any of the Underwriters, but specifically excluding any termination pursuant to Section 10(b) hereof, the Company will reimburse the Underwriters severally upon demand for all out-of-pocket expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the transactions contemplated hereby, less any amounts previously paid pursuant to Section 5 hereof.

(b) This Agreement may be terminated after it becomes effective by Representatives by notice to the Company (i) if at or prior to the First Closing Date trading in securities on any of the New York Stock Exchange, American Stock Exchange or Nasdaq National Market shall have been suspended or minimum or maximum prices shall have been established on any such exchange or market, or a banking moratorium shall have been declared by New York or United States authorities; (ii) trading of any securities of the Company shall have been suspended on any exchange or in any over-the-counter market; or (iii) if at or prior to the First Closing Date there shall have been (A) an outbreak of major hostilities between the United States and any foreign government excluding hostilities existing as of the date hereof or (B) any material adverse change in financial markets which, in the reasonable judgment of National, makes it impracticable or inadvisable to offer or sell the Firm Stock on the terms contemplated by the Prospectus.

11. SUBSTITUTION OF UNDERWRITERS. If on the First Closing Date or the Option Closing Date, as the case may be, any Underwriter or Underwriters shall default in its or their obligations to purchase Shares hereunder (otherwise than by reason of default on the part of the Company), you, as Representatives of the Underwriters, shall use your commercially reasonable efforts to procure within thirty six (36) hours thereafter one or more of the other Underwriters, or any others, to purchase from the Company such amounts as may be agreed upon and upon the terms set forth herein, the Shares which the defaulting Underwriter or Underwriters failed to purchase. If during such thirty six (36) hours you, as such Representatives, shall not have procured such other Underwriters, or any others, to purchase the Shares agreed to be purchased by the defaulting Underwriter or Underwriters, then the other Underwriters shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed to purchase. If the remaining Underwriters or substituted Underwriters are required hereby or agree to take up all or part of the Shares of a defaulting Underwriter or Underwriters as provided in this Section 11, (i) the Company shall have the right to postpone the Closing Dates for a period of not more than seven (7) full business days in order that the Company may effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees promptly to file any amendments to the Registration Statement or supplements to the Prospectus which may thereby be made necessary, and (ii) the respective numbers of shares to be purchased by the remaining Underwriters or substituted Underwriters shall be taken as the basis of their

underwriting obligation for all purposes of this Agreement. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or the other Underwriters for damages occasioned by its default hereunder. The term Underwriter as used in this Agreement shall refer to and include any Underwriter substituted under this Section 11 with like effect as if such substituted Underwriter had originally been named in Schedule A.

NOTICES. All communications hereunder shall be in writing and, if sent to the Underwriters, shall be mailed, delivered or telegraphed and confirmed to you, as their Representatives c/o Sanders Morris Harris Inc. at 3100 Chase Tower, Houston, Texas 77002-3003 Attention: [_____] and National Securities Corporation at 1001 Fourth Avenue, Suite 2200, Seattle, Washington 93154-1100, Attention: [_____], with a copy to Michael Jay Brown, Esq., Dorsey & Whitney LLP, U.S. Bank Centre, 1420 Fifth Avenue, Suite 3400, Seattle, Washington 98101-4010, except that notices given to an Underwriter pursuant to Section 6 hereof shall be sent to such Underwriter at the address furnished by the Representatives or, if sent to the Company, shall be mailed, delivered or telegraphed and confirmed c/o Marchex, Inc., 2101 Fourth Avenue, Suite 1980, Seattle Washington 98121, Attention: Chief Executive Officer, with a copy to Francis J. Feeney, Jr., Esq., Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110.

12. SUCCESSORS. This Agreement shall inure to the benefit of and be binding upon the several Underwriters, the Company and their respective successors and legal representatives. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person other than the persons mentioned in the preceding sentence any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person; except that the representations, warranties, covenants, agreements and indemnities of the Company contained in this Agreement shall also be for the benefit of the person or persons, if any, who control any Underwriter or Underwriters within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, and the indemnities of the several Underwriters shall also be for the benefit of each director of the Company, each of its officers who has signed the Registration Statement and the person or persons, if any, who control the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act.

13. APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of Washington without giving effect to the choice of law principles thereof.

14. SUBMISSION TO JURISDICTION. Each party hereby consents to the personal jurisdiction of the State of Washington, acknowledges that venue is proper in any state or Federal court in the State of Washington, located in King County, agrees that any action related to this Agreement must be brought in a state or Federal court located in King County in the State of Washington and waives any objection that may exist, now or in the future, with respect to any of the foregoing. Each party (or their respective stockholders and affiliates) waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement.

15. AUTHORITY OF THE REPRESENTATIVES. In connection with this Agreement, you will act for and on behalf of the several Underwriters, and any action taken under this Agreement by Sanders and National, as Representatives, will be binding on all the Underwriters.

16. PARTIAL UNENFORCEABILITY. The invalidity or unenforceability of any Section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other Section, paragraph or provision hereof. If any Section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

17. GENERAL. This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. In this Agreement, the masculine, feminine and neuter genders and the singular and the plural include one another. The section headings in this Agreement are for the convenience of the parties only and will not affect the construction or interpretation of this Agreement. This Agreement may be amended or modified, and the observance of any term of this Agreement may be waived, only by a writing signed by the Company and the Representatives.

18. COUNTERPARTS. This Agreement may be signed in two (2) or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

If the foregoing correctly sets forth our understanding, please indicate your acceptance thereof in the space provided below for that purpose, whereupon this letter and your acceptance shall constitute a binding agreement between us.

Very truly yours,

Marchex, Inc.

By: _____

Name: Chief Executive Officer
Title: Russell C. Horowitz

Accepted and agreed to
as of the date first above written.

SANDERS MORRIS HARRIS INC. &
NATIONAL SECURITIES CORPORATION
Acting on their own behalf
and as Representatives of the several
Underwriters referred to in the
foregoing Agreement.

By: Sanders Morris Harris Inc.

By: _____

Name:
Title:

By: National Securities Corporation

By: _____

Name:
Title:

FORM OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF MARCHEX, INC.

Marchex, Inc. (the "Corporation"), organized and existing under the and by virtue of the General Corporation Law of the State of Delaware, does hereby certify as follows: By unanimous vote of the Board of Directors of the Corporation, a resolution was adopted, pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware, setting forth an amendment and restatement to the Certificate of Incorporation of the Corporation and declaring said amendment and restatement to be advisable. The stockholders of the Corporation duly approved said proposed amendment and restatement by written consent in accordance with Sections 228 and 242 of the General Corporation Law of the State of Delaware and written notice of such consent has been given to all stockholders who have not consented in writing to said amendment and restatement. The resolution setting forth the amendment and restatement is as follows:

RESOLVED: That the Board of Directors of the Corporation recommends and deems it advisable that the Certificate of Incorporation of the Corporation be amended and restated (the "Amended and Restated Certificate of Incorporation") by substituting for the current Certificate of Incorporation, the Amended and Restated Certificate set forth as Exhibit A attached hereto; and

RESOLVED: That the aforesaid proposed Amended and Restated Certificate of Incorporation be submitted to the stockholders of the Corporation for their consideration; and

RESOLVED: That following the approval by the stockholders of the aforesaid amendment as required by law, the officers of this Corporation be, and they hereby are, and each of them hereby is, authorized and directed (i) to prepare, execute and file with the secretary of state of the State of

Delaware an Amended and Restated Certificate of Incorporation setting forth the aforesaid amendment and restatement in the form approved by the stockholders and (ii) to take any and all other actions necessary, desirable or convenient to give effect to the aforesaid amendment and restatement or otherwise to carry out the purposes of the foregoing Resolutions.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its Chief Executive Officer this day of March 2004.

MARCHEX, INC.

By: _____

Name: Russell C. Horowitz
Title: Chief Executive Officer

EXHIBIT A

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
MARCHEX, INC.

FIRST: The name of the corporation (the "Company") is Marchex, Inc.

SECOND: The address of the registered office of the Company in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle, 19801 and the name of its registered agent at such address is The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of capital stock which the Company has authority to issue is 138,500,000 shares, consisting of (i) 137,500,000 shares of common stock, par value $.01 per share (the "Common Stock"), of which 12,500,000 shares are designated Class A Common Stock (the "Class A Common Stock") and 125,000,000 shares are designated Class B Common Stock (the "Class B Common Stock") and (ii) 1,000,000 shares of preferred stock, par value $.01 per share (the "Preferred Stock").

The Board of Directors is authorized, subject to limitations prescribed by law, to provide for the issuance of the shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, voting powers, preferences and rights of the shares of each such series and any qualifications, limitations or restrictions thereof.

The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote or written consent of the holders of a majority in voting power of the shares of Common Stock, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required or permitted pursuant to the certificate or certificates establishing any series of Preferred Stock.

The powers, preferences and rights of the Class A Common Stock and Class B Common Stock, and the qualifications, limitations or restrictions thereof, shall be in all respects identical, except as otherwise required by law or expressly provided in this Certificate of Incorporation, as amended.

A. COMMON STOCK

1. Dividends.

Dividends may be declared and paid to the holders of Class A Common Stock and Class B Common Stock in cash, property or other securities of the Company out of any net profits or net assets of the Company legally available therefor. If and when a dividend is paid to the holders of Class A Common Stock, the Company also shall pay to the holders of Class B Common Stock a dividend per share equal to the dividend per share paid to the holders of the Class A Common Stock, and if and when a dividend is paid to the holders of Class B Common Stock, the Company also shall pay to the holders of the Class A Common Stock a dividend per share equal to the dividend per share paid to the holders of the Class B Common Stock, except that if dividends are declared that are payable in shares of Class A Common Stock or Class B Common Stock, the dividends shall be declared that are payable at the same rate on both classes of stock and the dividends payable in shares of Class A Common Stock shall be payable to holders of that class of stock and the dividends payable in shares of Class B Common Sock shall be payable to holders of that class of stock. If the Company shall in any manner reclassify, subdivide or combine the outstanding shares of Class A Common Stock or Class B Common Stock, the outstanding shares of the other such class of stock shall be proportionally reclassified, subdivided or combined in the same manner and on the same basis as the outstanding shares of Class A Common Stock or Class B Common Stock, as the case may be, have been reclassified, subdivided or combined.

2. Liquidation, Dissolution or Winding-up.

Upon any liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary, the net assets of the Company shall be distributed pro rata to the holders of the Class A Common Stock and Class B Common Stock in accordance with their respective rights and interests.

3. Voting Rights.

Holders of Class A Common Stock shall be entitled to twenty-five (25) votes for each share of such stock held, and holders of Class B Common Stock shall be entitled to one (1) vote for each share of such stock held, on all matters presented to such stockholders. Except as may otherwise be required by the laws of the State of Delaware, the holders of outstanding shares of Class A Common Stock and the holders of outstanding shares of Class B Stock shall vote as one class with respect to the election of directors and with respect to all other matters to be voted on by stockholders of the Company (including, without limitation, any proposed amendment to this Certificate of Incorporation, as amended, that would increase the number of authorized shares of Common Stock, Class A Common Stock or Class B Common Stock or of any other class or series of stock or decrease the number of authorized shares of any class or series of stock (but not below the number of shares thereof then outstanding)), and no separate vote or consent of the holders of shares of Class A Common Stock or the holders of shares of Class B Common Stock shall be required for the approval of any such matter.

4. Conversion.

The holders of the Class A Common Stock shall have conversion rights as follows:

(a) Right to Convert. Each share of a Class A Common Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, into one (1) fully paid and non-assessable share of Class B Common Stock, on and subject to the terms and conditions hereinafter set forth.

(b) Mechanics of Conversion. Any holder of Class A Common Stock shall exercise its right to convert shares of Class A Common Stock into shares of Class B Common Stock by giving written notice that the holder elects to convert a stated number of shares of Class A Common Stock into Class B Common Stock and by surrender of a certificate or certificates for the shares to be converted, at the office of the Company, and shall give written notice to the Company of the name or names in which the certificate or certificates for shares of Class B Common Stock are to be issued. The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Class A Common Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Class B Common Stock to which such holder shall be entitled as aforesaid, together with any dividends declared but unpaid with respect to the shares of Class A Common Stock so converted. 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 Class A Common Stock to be converted, and the person or persons entitled to receive the shares of Class B Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class B Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Class A Common Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Class B Common Stock upon conversion of the Class A Common Stock shall not be deemed to have converted such Class B Common Stock until immediately prior to the closing of such sale of securities.

(c) Reservation of Stock. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock, solely for the purposes of effecting the conversion of shares of Class A Common Stock, such number of shares of Class B Common Stock as shall from time to time be sufficient to effect the conversion of all shares of Class A Common Stock.

(d) Consolidation or Merger. In case of any consolidation or merger of the Company as a result of which the holders of Class B Common Stock shall be entitled to receive stock, other securities or other property with respect to or in exchange for Class B Common Stock or in the case of any sale or conveyance of all or substantially all of the property or business of the Company as an entirety, a holder of shares of Class A Common Stock shall have the right thereafter, so long as the conversion right hereunder shall exist, to convert each such share into the kind and amount of shares of stock and other securities and properties receivable upon such consolidation, merger, sale or conveyance by a holder of one share of Class B Common Stock and shall have no other conversion rights with regard to such share. The provisions of this Section 4(d) shall similarly apply to successive consolidations, mergers, sales or conveyances.

(e) Surrendered Shares. All shares of Class A Common Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding, and all rights with respect to such shares, including the rights, if any, to receive notices and to vote, shall thereupon cease and terminate, except only the right of the holders thereof, subject to the provisions of this Section 4, to receive shares of Class B Common Stock in exchange therefor.

B. PREFERRED STOCK

1. Issuance.

Shares of Preferred Stock may be issued from time to time in one or more series as designated by the Board of Directors, each of said series to be distinctly designated. All shares of any one series of Preferred Stock shall be alike in every particular, except that there may be different dates from which dividends, if any, thereon shall be cumulative, if made cumulative. The voting powers, if any, and the designations, relative preferences, participating, optional or other special rights or privileges of each such series, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

2. Authority of the Board of Directors.

The Board of Directors is authorized to adopt a resolution or resolutions, subject to limitations prescribed by law and the provisions of this Article FOURTH, to provide for the issuance of shares of Preferred Stock in a series and the designations, relative preferences, participating, optional or other special rights or privileges, and the qualifications, limitations or restrictions of such series, including, but without limiting the generality of the foregoing, the following:

(a) Designation. The distinctive designation of and the number of shares of the Preferred Stock which shall constitute such series. The designation of a series of preferred stock need not include the words “preferred” or “preference” and may be designated “special” or other distinctive term. Unless otherwise provided in the resolution issuing such series, the number of shares of any series of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the Board of Directors in the manner prescribed by law;

(b) Dividends. The rate and times at which, and the terms and conditions upon which, dividends, if any, on the Preferred Stock of such series shall be paid, the extent of the preference or relation, if any, of such dividends to the dividends payable on any other class or classes, or series of the same or other classes of stock and whether such dividends shall be cumulative or non-cumulative and, if cumulative, the date from which such dividends shall be cumulative;

(c) Conversion. Whether the series shall be convertible into, or exchangeable for, at the option of the holders of the Preferred Stock of such series or the Company or upon the happening of a specified event, shares of any other class or classes or any other series of the

same or any other class or classes of stock of the Company, and the terms and conditions of such conversion or exchange, including provisions for the adjustment of any such conversion rate in such events as the Board of Directors shall determine;

(d) Redemption. Whether or not the Preferred Stock of such series shall be subject to redemption at the option of the Company or the holders of such series or upon the happening of a specified event, and the redemption price or prices and the time or times at which, and the terms and conditions upon which, the Preferred Stock of such series may be redeemed;

(e) Liquidation, Dissolution, Consolidation or Merger. The rights, if any, of the holders of the Preferred Stock of such series upon the voluntary or involuntary liquidation, merger, consolidation, distribution or sale of assets, dissolution or winding-up, of the Company; and

(f) Voting Rights. Subject to the third paragraph of Article FOURTH and subparagraph (d) of Article FIFTH, whether such series of the Preferred Stock shall have full, limited or no voting powers including, without limiting the generality of the foregoing, whether such series shall have the right, voting as a series by itself or together with other series of the Preferred Stock or all series of the Preferred Stock as a class, to elect one or more directors of the Company if there shall have been a default in the payment of dividends on any one or more series of the Preferred Stock or under such other circumstances and on such conditions as the Board of Directors may determine.

(g) General Authority. Such other special rights and protective provisions with respect to any series the Board of Directors may provide.

C. OTHER PROVISIONS

1. No holder of any of the shares of any class or series of stock or of options, warrants or other rights to purchase shares of any class or series of stock or of other securities of the Company shall have any preemptive right to purchase or subscribe for any unissued stock of any class or series or any additional shares of any class or series to be issued by reason of any increase of the authorized capital stock of the Company of any class or series, or bonds, certificates of indebtedness, debentures or other securities convertible into or exchangeable for stock of the Company of any class or series, or carrying any right to purchase stock of any class or series, but any such unissued stock, additional authorized issue of shares of any class or series of stock or securities convertible into or exchangeable for stock, or carrying any right to purchase stock, may be issued and disposed of pursuant to resolution of the Board of Directors to such persons, firms, corporations or associations (including such holders or others) and upon such terms as may be deemed advisable by the Board of Directors in the exercise of its sole discretion.

2. The relative powers, preferences and rights of each series of the Preferred Stock in relation to the powers, preferences and rights of each other series of the Preferred Stock shall, in each case, be as fixed from time to time by the Board of Directors in a resolution or resolutions. The consent, by class or series vote or otherwise, of the holders of such of the series of the Preferred Stock as are from time to time outstanding shall not be required for the issuance

by the Board of Directors of any other series of the Preferred Stock whether or not the powers, preferences and rights of such other series shall be fixed by the Board of Directors as senior to, or on a parity with, the powers, preferences and rights of such outstanding series, or any of them; provided, however, that the Board of Directors may provide in the resolution or resolutions as to any series of the Preferred Stock, the conditions, if any, under which the consent of the holders of a majority (or such greater proportion as shall be fixed therein) of the outstanding shares of such series shall be required for the issuance of any or all other series of the Preferred Stock.

3. Subject to the provisions of subparagraph 2 of this Paragraph C, shares of any series of the Preferred Stock may be issued from time to time as the Board of Directors of the Company shall determine and on such terms and for such consideration as shall be fixed by the Board of Directors.

4. Shares of authorized Common Stock may be issued from time to time as the Board of Directors of the Company shall determine and on such terms and for such consideration as shall be fixed by the Board of Directors.

FIFTH: In furtherance of and not in limitation of powers conferred by statute, it is further provided that:

(a) Subject to the limitations and exceptions, if any, contained in the By-Laws of the Company, the By-Laws may be adopted, amended or repealed by the Board of Directors of the Company with, and only with, the approval of a majority of the directors then in office; and

(b) Elections of directors need not be by written ballot unless, and only to the extent, otherwise provided in the By-Laws; and

(c) Subject to any applicable requirements of law, the books of the Company may be kept outside the State of Delaware at such locations as may be designated by the Board of Directors or in the By-Laws of the Company; and

(d) Except as provided to the contrary in the provisions establishing a class or series of stock, the number of authorized shares of such class or series may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote or written consent of the holders of a majority in voting power of the stock of the Company entitled to vote thereon, voting together as a single class.

SIXTH: The Company shall indemnify each person who at any time is, or shall have been, a director, officer, employee or agent and their respective heirs, executors and administrators of the Company and was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement incurred in connection with any such action, suit or proceeding, to the maximum extent permitted by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended. In furtherance of and not in limitation of the foregoing, the Company

shall advance expenses, including attorneys' fees, incurred by a director, officer, employee or agent of the Company in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director, officer, employee or agent to repay such advances if it shall be ultimately determined that he is not entitled to be indemnified by the Company. The foregoing right of indemnification shall in no way be exclusive of any other rights of indemnification to which any such director, officer, employee or agent may be entitled, under any By-Law, agreement, vote of directors or stockholders or otherwise, including any right under policies of insurance that may be purchased and maintained by the Company or others. No amendment to or repeal of the provisions of this Article SIXTH shall deprive a director, officer, employee or agent of the benefit hereof with respect to any act or failure to act occurring prior to such amendment or repeal. Nothing herein shall prevent or restrict the power of the Company to make or provide for any further indemnity, or provisions for determining entitlement to indemnity, pursuant to one or more indemnification agreements, By-Laws or other arrangements.

SEVENTH: Whenever a compromise or arrangement is proposed between this Company and its creditors or any class of them and/or between this Company and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Company or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Company under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Company under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Company, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Company, as the case may be, agree to any compromise or arrangement and to any reorganization of this Company as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Company, as the case may be, and also on this Company.

EIGHTH: No director of the Company shall be personally liable to the Company or to any of its stockholders for monetary damages arising out of such director's breach of his fiduciary duty as a director of the Company, except to the extent that the elimination or limitation of such liability is not permitted by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended. No amendment to or repeal of the provisions of this Article EIGHTH shall deprive any director of the Company of the benefit hereof with respect to any act or failure to act of such director occurring prior to such amendment or repeal.

NINTH: The Company reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation in the manner now or hereafter prescribed by statute and this Certificate of Incorporation, and all rights conferred upon stockholders herein, are granted subject to this reservation.

MARCHEX, INC.

AND

SANDERS MORRIS HARRIS INC.

REVISED FORM OF REPRESENTATIVE'S
WARRANT AGREEMENT

DATED AS OF _____, 2004

REPRESENTATIVE'S WARRANT AGREEMENT dated as of _____, 2004 between MARCHEX, INC., a Delaware corporation (the "Company") and SANDERS MORRIS HARRIS INC. ("Sanders" or the "Representative").

W I T N E S S E T H:

WHEREAS, Representative has agreed pursuant to the underwriting agreement (the "Underwriting Agreement") dated as of the date hereof between the Company and Representative, to act as co-managing and lead underwriter in connection with the Company's proposed public offering (the "Public Offering") of an aggregate of 4,000,000 shares of the Company's Class B common stock, par value $.01 per share (the "Class B Common Stock") at an initial public offering price of [_____] per share of Class B Common Stock, plus up to an additional 600,000 shares of Class B Common Stock pursuant to the Representative's over-allotment option; and

WHEREAS, the Company proposes to issue warrants (the "Warrants") to the managing underwriters exercisable for up to an aggregate of 120,000 shares of the Class B Common Stock of which the Representative shall receive warrants to purchase up to 60,000 shares of Class B Common Stock and National Securities Corporation, as the other co-managing underwriter, shall receive warrants to purchase up to 60,000 shares of Class B Common Stock; and

WHEREAS, the Warrants issued pursuant to this Agreement are being issued by the Company to Representative, for its own account or for the account of Representative's designee (limited to officers, directors and employees of Representative, individually, "Representative's Designee" and collectively, "Representative's Designees") on the First Closing Date (as such term is defined in the Underwriting Agreement) in consideration for, and as part of Representative 's compensation in connection with, Representative acting as the representative pursuant to the Underwriting Agreement;

NOW, THEREFORE, in consideration of the foregoing premises, the payment by the Representative to the Company of an aggregate of fifty dollars ($50.00), the agreements herein set forth and other good and valuable consideration, hereby acknowledged, the parties hereto agree as follows:

1. Grant. Upon the successful closing of the Public Offering and the fulfillment of the terms of the Underwriting Agreement by the Representative, the Representative and/or the Representative's Designee (together, the "Holders" and each a "Holder") is hereby granted the right to purchase, at any time from _____, 2005 (one (1) year from the First Closing Date (as such term is defined in the Underwriting Agreement) (the "Initial Exercise Date") until 5:30 P.M., New York time, on _____, 2009 (five (5) years from the First Closing Date (as such term is defined in the Underwriting Agreement) of the registration statement and any supplement thereto, on Form SB-2, No. 333-111096) (the "Expiration Date"), up to an aggregate of 60,000 shares of Class B Common Stock at an initial exercise price (subject to adjustment as provided in Section 8 hereof) (the "Shares") of 130% of the Public Offering price per share (the "Initial Exercise Price"). Except as set forth herein, the shares of Class B Common Stock issuable upon exercise of the Warrants are in all respects identical to the shares of Class B Common Stock being purchased by the Underwriters for resale to the public pursuant to the terms and provisions of the Underwriting Agreement.

2. Warrant Certificates. The warrant certificates (the "Warrant Certificates") delivered and to be delivered pursuant to this Agreement shall be in the form set forth in Exhibit A, attached hereto and made a part hereof, with such appropriate insertions, omissions, substitutions, and other variations as required or permitted by this Agreement. This Warrant shall not entitle its Holder to any rights as a stockholder of the Company prior to the exercise of this Warrant.

3. Exercise of Warrant.

3.1 Method of Exercise. The Warrants initially are exercisable commencing on the Initial Exercise Date at the Initial Exercise Price (subject to adjustment as provided in Section 8 hereof) set forth in Section 6 hereof payable by certified or official bank check in New York Clearing House funds, subject to adjustment as provided in Section 8 hereof. Upon surrender of a Warrant Certificate with a Form of Election to Purchase duly executed (substantially in the form of Annex A to the Warrant Certificate), together with payment of the Exercise Price (as hereinafter defined) for the shares of Class B Common Stock purchased at the Company's principal executive offices in Seattle, Washington (presently located at 2101 Fourth Avenue, Suite 1980, Seattle, Washington 98121) the registered holder of a Warrant Certificate shall be entitled to receive a certificate or certificates for the shares of Class B Common Stock so purchased. The purchase rights represented by each Warrant Certificate are exercisable at the option of the Holder thereof, in whole or in part (but not as to fractional shares of the Class B Common Stock). The Warrants may be exercised to purchase all or part of the shares of Class B Common Stock. In the case of the purchase of less than all the shares of Class B Common Stock under any Warrant Certificate, the Company shall cancel said Warrant Certificate upon the surrender thereof and shall execute and deliver a new Warrant Certificate of like tenor for the balance of the shares of Class B Common Stock purchasable thereunder.

3.2 Exercise by Surrender of Warrant. In addition to the method of payment set forth in Section 3.1 and in lieu of any cash payment required thereunder, the Holder(s) shall have the right, at any time and from time to time prior to the Expiration Date, to exercise the Warrants in full or in part by surrendering the Warrant Certificate(s) representing a certain number of additional Warrants as payment of the aggregate Exercise Price for the shares of Class B Common Stock being acquired upon exercise of the Warrants. The Warrants are exercisable pursuant to this Section 3.2 by surrender of the Warrant Certificate(s) with a Form of Election to Purchase duly executed (substantially in the form of Annex B to the Warrant Certificate) and surrender of a certain number of Warrants in addition to those being exercised. The number of additional Warrants to be surrendered in payment of the aggregate Exercise Price for the Warrants being exercised shall be determined by multiplying the number of Warrants to be exercised by the Exercise Price, and then dividing the product thereof by an amount equal to the Market Price (as defined below). Solely for the purposes of this paragraph, Market Price shall be calculated either (i) on the date on which the Form of Election to Purchase attached hereto is deemed to have been sent to the Company pursuant to Section 13 hereof ("Notice Date") or (ii) as the average of the Market Prices for each of the three (3) trading days preceding the Notice Date, whichever of (i) or (ii) is greater.

3.3 Definition of Market Price. As used herein, the phrase "Market Price" at any date shall be deemed to be the last reported sale price, or, in case no such reported sale takes place on such day, the average of the last reported sale prices for the last three (3) trading days, in either case as officially reported by the principal securities exchange on which the Class B Common Stock is listed or admitted to trading or by the Nasdaq National Market ("Nasdaq National Market") or by the National Association of Securities Dealers Automated Quotation System ("Nasdaq"), or, if the Class B Common Stock is not listed or admitted to trading on any national securities exchange or quoted by Nasdaq, the average closing bid price as furnished by the National Association of Securities Dealers, Inc. ("NASD") through Nasdaq or similar organization if Nasdaq is no longer reporting such information, or if the Class B Common Stock is not quoted on Nasdaq, as determined in good faith by resolution of the members of the Board of Directors of the Company, based on the best information available to it.

4. Issuance of Certificates. Upon the exercise of the Warrants, the issuance of certificates for shares of Class B Common Stock shall be made promptly (and in any event within five (5) business days thereafter) without charge to the Holder thereof including, without limitation, any stock transfer or similar tax which may be payable in respect of the issuance thereof, and such certificates shall (subject to the provisions of Sections 5 and 7 hereof) be issued in the name of, or in such names as may be directed by, the Holder thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder, and the Company shall not be required to issue or deliver such certificates unless or until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

The Warrant Certificates and the certificates representing the shares of Class B Common Stock issued upon exercise thereof shall be executed on behalf of the Company by the manual or facsimile signature of the then Chairman of the Board of Directors or President of the Company, attested to by the manual or facsimile signature of the then Secretary of the Company. Warrant Certificates shall be dated the date of execution by the Company upon initial issuance, division, exchange, substitution or transfer. Certificates representing the shares of Class B Common Stock shall be dated as of the Notice Date (regardless of when executed or delivered).

5. Restriction on Transfer of Warrants. The Holder of a Warrant Certificate, by its acceptance thereof, covenants and agrees that the Warrants are being acquired as an investment and not with a view to the distribution thereof, and that the Warrants may not be sold, transferred, assigned, hypothecated or otherwise disposed of, in whole or in part, pursuant to NASD Corporate Financing Rule 2710 (currently a period of one (1) year from the date hereof), except to Representative's Designees (each of which is hereinafter referred to as a "Transferee"), in which case such Transferee shall be entitled to receive a replacement Warrant Certificate in accordance with Section 9 hereof upon presentment of a properly executed Form of Assignment in the form set forth on Annex C to the Warrant Certificate attached hereto and made a part hereof. The Holder of a Warrant Certificate, by its acceptance thereof, further covenants and agrees that this Warrant and the Shares which may be issued upon exercise hereof are being acquired for investment, that the Holder has no present intention to resell or otherwise dispose of all or any part of this Warrant or any Shares, and that the Holder will not offer, sell or otherwise dispose of all or any part of this Warrant or any Shares except under circumstances which will not result in a violation of the Securities Act of 1933, as amended (the "Act"). If the Company conducts any registered offering, the Holder of the Warrant or any Shares shall not, without the prior written consent of the Company and the managing underwriter, if any, in such offering: (i) sell, transfer or otherwise dispose of, or agree to sell, transfer or otherwise dispose of the Warrant or any of the Shares; (ii) sell, transfer or otherwise dispose of, or agree to sell, transfer or otherwise dispose of any right to purchase the Warrant or any of the Shares; or (iii) sell or grant, or agree to sell or grant, options, rights or warrants with respect to the Warrant or any of the Shares. Such restrictions shall be effective for a period of time equal to the period during which the managing underwriter imposes such transfer restrictions on the Company's officers and directors; provided, that in no event shall the restricted period applicable to a Holder of this Warrant or Shares exceed one hundred eighty (180) days after effectiveness of the Company's registration statement filed with the United Stated Securities and Exchange Commission (the "Commission") with respect to such offering.

In connection with the transfer or exercise of Warrants, the Transferee and Holder agree to execute any documents which may be reasonably required by counsel to the Company to comply with the provisions of the Act and applicable state securities laws.

6. Exercise Price.

6.1 Initial and Adjusted Exercise Price. Except as otherwise provided in Section 8 hereof, the initial exercise price of each Warrant shall be the Initial Exercise Price. The adjusted exercise price shall be the price which shall result from time to time from any and all adjustments of the initial exercise price in accordance with the provisions of Section 8 hereof.

6.2 Exercise Price. The term "Exercise Price" herein shall mean the Initial Exercise Price or the adjusted exercise price, depending upon the context or unless otherwise specified.

7. Registration Rights.

7.1 Registration under the Securities Act of 1933. The Warrants and the shares of Class B Common Stock issuable upon exercise of the Warrants (collectively, the "Warrant Securities") have not been registered under the Act and the certificates representing the Warrant Securities or any other evidence thereof shall bear the following legends:

> The warrant represented by this certificate and the other securities issued upon exercise thereof may not be offered or sold except pursuant to (i) an effective registration statement under the Securities Act of 1933 (the "Act"), (ii) to the extent applicable, Rule 144 under such Act (or any similar rule under such Act relating to the disposition of securities), or (iii) an opinion of counsel, if such opinion shall be reasonably satisfactory to counsel to the issuer, that an exemption from registration under such Act is available.

7.2 Piggyback Registration. If, at any time commencing on the Initial Exercise Date and expiring on the Expiration Date, the Company proposes to register any of its securities under the Act (other than in connection with a merger or pursuant to Form S-4 or Form S-8 or successor form thereto) it will give written notice by registered mail, at least thirty (30) days prior to the filing of each such registration statement, to the Holders of the Warrant Securities of its intention to do so; provided, however, in accordance with the NASD rules and regulations, in no event shall the right contained in this Section 7.2 continue for more than seven (7) years from the date hereof. If any of the Holders of the Warrant Securities notify the Company within twenty (20) days after mailing of any such notice of its or their desire to include any such securities in such proposed registration statement, the Company shall afford such Holders of the Warrant Securities the opportunity to have any such Warrant Securities registered under such registration statement. In the event that the managing underwriter for said offering advises the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold in such offering without causing a diminution in the offering price or otherwise adversely affecting the offering, the Company will include in such registration (a) FIRST, the securities the Company proposes to sell, (b) SECOND, the total number of securities which in the opinion of such underwriter can be sold by holders of the Warrant Securities and the holders of securities with registration rights granted by the Company prior to the date hereof, *provided*, *however*, if the number of shares to be included in the registration in accordance with the foregoing is less than the total number of shares which such holders have requested to be included, then the holders of such shares who have requested registration shall participate in the registration pro rata based upon their total ownership of shares of Class B Common Stock (giving effect to the conversion or exercise into

Class B Common Stock of all securities convertible or exercisable thereinto) and if any such holder would thus be entitled to include more securities than such holder requested to be registered, the excess shall be allocated among the other requesting holders pro rata in the manner described in this subsection (b), and (c) THIRD, other securities requested to be included in such registration.

Notwithstanding the provisions of this Section 7.2, the Company shall have the right at any time after it shall have given written notice pursuant to this Section 7.2 (irrespective of whether a written request for inclusion of any such securities shall have been made) to elect not to file any such proposed registration statement or to withdraw the same after the filing but prior to the effective date thereof.

7.3 Covenants of the Company with respect to Registration.

In connection with any registration under Section 7.2 hereof, the Company covenants and agrees as follows:

(a) The Company shall pay all costs (excluding fees and expenses of Holder(s)' counsel and any underwriting or selling commissions), fees and expenses in connection with all registration statements filed pursuant to Section 7.2 including, without limitation, the Company's legal and accounting fees, printing expenses, blue sky fees and expenses.

(b) The Company will take all necessary action which may be required in qualifying or registering the Warrant Securities included in a registration statement for offering and sale under the securities or blue sky laws of such states as reasonably are requested by the Holder(s), provided that the Company shall not be obligated to execute or file any general consent to service of process or to qualify as a foreign corporation to do business under the laws of any such jurisdiction.

(c) The Company shall indemnify the Holder(s) of the Warrant Securities to be sold pursuant to any registration statement and each person, if any, who controls such Holders within the meaning of Section 15 of the Act or Section 20(a) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Act, the Exchange Act or otherwise, arising from such registration statement but only to the same extent and with the same effect as the provisions pursuant to which the Company has agreed to indemnify each of the Underwriters contained in Section 6 of the Underwriting Agreement and to provide for just and equitable contribution as set forth in Section 6 of the Underwriting Agreement.

(d) The Holder(s) of the Warrant Securities to be sold pursuant to a registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, its officers and directors and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which they may become subject under

the Act, the Exchange Act or otherwise, arising from information furnished by or on behalf of such Holders, or their successors or assigns, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in Section 6 of the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the Company and to provide for just and equitable contribution as set forth in the Underwriting Agreement.

(e) Nothing contained in this Agreement shall be construed as requiring the Holder(s) to exercise their Warrants prior to the initial filing of any registration statement or the effectiveness thereof.

(f) The Company shall deliver promptly to each Holder participating in the offering requesting the correspondence and memoranda described below and to the managing underwriters, copies of all correspondence between the Commission and the Company, its counsel or auditors and all memoranda relating to discussions with the Commission or its staff with respect to the registration statement and permit each Holder and underwriter to do such investigation, upon reasonable advance notice, with respect to information contained in or omitted from the registration statement as it deems reasonably necessary to comply with applicable securities laws or rules of the NASD.

7.4 Obligations of Holders. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 7 hereof that each of the selling Holders shall:

(a) Furnish to the Company such information regarding themselves, the Warrant Securities held by them, the intended method of sale or other disposition of such securities, the identity of and compensation to be paid to any underwriters proposed to be employed in connection with such sale or other disposition, and such other information as may reasonably be required to effect the registration of their Warrant Securities.

(b) Notify the Company, at any time when a prospectus relating to the Warrant Securities covered by a registration statement is required to be delivered un the Act, of the happening of any event with respect to such selling Holder 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 in the light of the circumstances then existing.

8. Adjustments to Exercise Price and Number of Securities.

8.1 Subdivision and Combination. In case the Company shall at any time subdivide or combine the outstanding shares of Class B Common Stock, the Exercise Price shall forthwith be proportionately decreased in the case of subdivision or increased in the case of combination.

8.2 Stock Dividends and Distributions. In case the Company shall at any time after the date hereof pay a dividend in, or make a distribution of, shares of Class B Common

Stock or of the Company's capital stock convertible into Class B Common Stock, the Exercise Price shall forthwith be proportionately decreased. An adjustment made pursuant to this Section 8.2 shall be made as of the record date for the subject stock dividend or distribution.

8.3 Adjustment in Number of Securities. Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 8, the number of Class B Common Stock issuable upon the exercise at the adjusted exercise price of each Warrant shall be adjusted to the nearest full amount by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of Class B Common Stock issuable upon exercise of the Warrants immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

8.4 Definition of Class B Common Stock. For the purpose of this Agreement, the term "Class B Common Stock" shall mean (i) the class of stock designated as Class B Common Stock in the Certificate of Incorporation of the Company as amended to date, or (ii) any other class of stock resulting from successive changes or reclassifications of such Class B Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value.

8.5 Merger or Consolidation. In case after the date hereof of any consolidation of the Company with, or merger of the Company with, or merger of the Company into, another corporation (other than a consolidation or merger which does not result in any reclassification or change of the outstanding Class B Common Stock), the corporation formed by such consolidation or merger shall execute and deliver to the Holder a supplemental warrant agreement providing that the holder of each Warrant then outstanding or to be outstanding shall have the right thereafter (until the expiration of such Warrant) to receive, upon exercise of such Warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or merger, by a holder of the number of securities of the Company for which such Warrant might have been exercised immediately prior to such consolidation, merger, sale or transfer. Such supplemental warrant agreement shall provide for adjustments which shall be identical to the adjustments provided in this Section 8. The above provision of this subsection shall similarly apply to successive consolidations or mergers.

8.6 No Adjustment of Exercise Price in Certain Cases. No adjustment of the Exercise Price shall be made if the amount of said adjustment shall be less than two cents (2) per Warrant Security, provided, however, that in such case any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment so carried forward, shall amount to at least two cents ($.02) per Warrant Security.

9. Exchange and Replacement of Warrant Certificates.

9.1 Exchange. Each Warrant Certificate is exchangeable without expense, upon the surrender thereof by the registered Holder at the principal executive office of the Company, for a new Warrant Certificate of like tenor and date representing in the aggregate the right to

purchase the same number of Warrant Securities in such denominations as shall be designated by the Holder thereof at the time of such surrender.

9.2 Replacement. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of any Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of the Warrants, if mutilated, the Company will make and deliver a new Warrant Certificate of like tenor, in lieu thereof.

10. Limitation of Fractional Interests. The Company shall not be required to issue certificates representing fractions of shares of Class B Common Stock upon the exercise of the Warrants, nor shall it be required to issue scrip or pay cash in lieu of fractional interests, it being the intent of the parties that all fractional interests shall be eliminated by rounding any fraction up to the nearest whole number of shares of Class B Common Stock or other securities, properties or rights.

11. Reservation and Listing of Securities. The Company shall at all times reserve and keep available out of its authorized shares of Class B Common Stock, solely for the purpose of issuance upon the exercise of the Warrants, such number of shares of Class B Common Stock or other securities, properties or rights as shall be issuable upon the exercise thereof. The Company covenants and agrees that, upon exercise of the Warrants and payment of the Exercise Price therefor, all shares of Class B Common Stock issuable upon such exercise shall be duly and validly issued, fully paid, non-assessable and not subject to the preemptive rights of any stockholder.

12. Notices to Warrant Holders. Nothing contained in this Agreement shall be construed as conferring upon the Holders the right to vote or to consent or to receive notice as a stockholder in respect of any meetings of stockholders for the election of directors or any other matter, or as having any rights whatsoever as a stockholder of the Company. If, however, at any time prior to the expiration of the Warrants and their exercise, any of the following events shall occur:

(a) the Company shall take a record of the holders of its shares of Class B Common Stock for the purpose of entitling them to receive a dividend or distribution payable otherwise than in cash, or a cash dividend or distribution payable otherwise than out of current or retained earnings or capital surplus (in accordance with applicable law), as indicated by the accounting treatment of such dividend or distribution on the books of the Company; or

(b) the Company shall offer to all the holders of its Class B Common Stock any additional shares of capital stock of the Company or securities convertible into or exchangeable for shares of capital stock of the Company, or any option, right or warrant to subscribe therefor; or

(c) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or merger) or a sale of all or substantially all of its property, assets and business as an entirety shall be proposed;

then, in any one or more of said events, the Company shall give written notice of such event at least fifteen (15) days prior to the date fixed as a record date or the date of closing the transfer books for the determination of the stockholders entitled to such dividend, distribution, convertible or exchangeable securities or subscription rights, or entitled to vote on such proposed dissolution, liquidation, winding up or sale. Such notice shall specify such record date or the date of closing the transfer books, as the case may be. Failure to give such notice or any defect therein shall not affect the validity of any action taken in connection with the declaration or payment of any such dividend, or the issuance of any convertible or exchangeable securities, or subscription rights, options or warrants, or any proposed dissolution, liquidation, winding up or sale.

13. Notices.

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been duly made and sent when delivered, or mailed by registered or certified mail, return receipt requested or by Federal Express or other recognized overnight courier:

(a) If to the registered Holder of the Warrants, to the address of such Holder as shown on the books of the Company; or

(b) If to the Company, to the address set forth in Section 3 hereof or to such other address as the Company may designate by notice to the Holders.

14. Supplements and Amendments. The Company and the Representative may from time to time supplement or amend this Agreement without the approval of any Holders of Warrant Certificates (other than the Representative) in order to cure any ambiguity, to correct or supplement any provision contained herein which may be defective or inconsistent with any provisions herein, or to make any other provisions in regard to matters or questions arising hereunder which the Company and the Representative may deem necessary or desirable and which the Company and the Representative deem shall not adversely affect the interests of the Holders of Warrant Certificates.

15. Successors. All the covenants and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Holders and their respective successors and assigns hereunder. Neither the Warrants or the Shares may be sold, transferred, assigned or hypothecated for a period of one (1) year from the date of this Warrant Agreement, except to Transferees.

16. Termination. This Agreement shall terminate at 5:30 P.M., New York time, on _____, 2009. Notwithstanding the foregoing, this Agreement will terminate on any earlier date when all Warrants have been exercised.

17. Governing Law; Submission to Jurisdiction. This Agreement and each Warrant Certificate issued hereunder shall be governed by and construed in accordance with the internal substantive laws of the State of Washington without giving effect to the choice of law principles thereof. Each party hereby consents to the personal jurisdiction of the State of Washington, acknowledges that venue is proper in any state or Federal court in the State of Washington, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Washington and waives any objection that may exist, now or in the future, with respect to any of the foregoing. Each party (or their respective stockholders and affiliates) waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. In the event of litigation between the parties arising hereunder, the prevailing party shall be entitled to costs and reasonable attorney's fees.

18. Entire Agreement; Modification. This Agreement (including the Underwriting Agreement to the extent portions thereof are referred to herein) contains the entire understanding between the parties hereto with respect to the subject matter hereof and may not be modified or amended except by a writing duly signed by the party against whom enforcement of the modification or amendment is sought.

19. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement.

20. Captions. The caption headings of the Sections of this Agreement are for convenience of reference only and are not intended, nor should they be construed as, a part of this Agreement and shall be given no substantive effect.

21. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any person or corporation other than the Company and the Representative and any other registered Holder(s) of the Warrant Securities any legal or equitable right, remedy or claim under this Agreement; and this Agreement shall be for the sole benefit of the Company and the Representative and any other registered Holders of Warrant Securities.

22. No Limitation on Corporate Action. No provisions of the Warrant and no right or option granted or conferred hereunder shall in any way limit, affect, or abridge the exercise by the Company of any of its corporate rights or powers to recapitalize, amend its certificate of incorporation, reorganize or merge with or into another corporation, or to transfer all or any part of its property or assets, or the exercise of any other of its corporate rights and powers, provided such rights or powers as exercised are not inconsistent with any other provision of this Agreement.

23. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as an instrument under seal, as of the day and year first above written.

MARCHEX, INC.

By: _____

Name: Russell C. Horowitz
Title: Chief Executive Officer

Attest:

_____

Name: Ethan A. Caldwell
Title: Secretary

SANDERS MORRIS HARRIS INC.

By: _____

Name:
Title:

EXHIBIT A

FORM OF WARRANT CERTIFICATE

THE WARRANTS REPRESENTED BY THIS CERTIFICATE AND THE OTHER SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (i) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, (ii) TO THE EXTENT APPLICABLE, RULE 144 UNDER SUCH ACT (OR ANY SIMILAR RULE UNDER SUCH ACT RELATING TO THE DISPOSITION OF SECURITIES), OR (iii) AN OPINION OF COUNSEL, IF SUCH OPINION SHALL BE REASONABLY SATISFACTORY TO COUNSEL FOR THE ISSUER, THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.

THE TRANSFER OR EXCHANGE OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE IS RESTRICTED IN ACCORDANCE WITH THE WARRANT AGREEMENT REFERRED TO HEREIN.

EXERCISABLE ON OR BEFORE
5:30 P.M., NEW YORK TIME, _____, 2009

No. W-____

Warrants to Purchase
[_____] shares of Class B
Common Stock

WARRANT CERTIFICATE

This Warrant Certificate certifies that SANDERS MORRIS HARRIS INC., or registered assigns, is the registered holder of Warrants to purchase at any time from _____, 2005 until 5:30 p.m. New York time on _____, 2009 ("Expiration Date"), up to [_____] fully-paid and non-assessable shares of Class B Common Stock, $0.01 par value ("Class B Common Stock"), of MARCHEX, INC., a Delaware corporation (the "Company"), and [at the initial exercise price, subject to adjustment in certain events (the "Exercise Price"), of $____ per share] of Class B Common Stock upon surrender of this Warrant Certificate and payment of the Exercise Price at an office or agency of the Company, but subject to the conditions set forth herein and in the warrant agreement dated as of _____, 2004 between the Company and SANDERS MORRIS HARRIS INC. (the "Warrant Agreement"). Payment of the Exercise Price shall be made by certified or official bank check in New York Clearing House funds payable to the order of the Company or by surrender of this Warrant Certificate.

No Warrant may be exercised after 5:30 p.m., New York time, on the Expiration Date, at which time all Warrants evidenced hereby, unless exercised prior thereto, hereby shall thereafter be void.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants issued pursuant to the Warrant Agreement, which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a

description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Company and the holders (the words “holders” or “holder” meaning the registered holders or registered holder) of the Warrants.

The Warrant Agreement provides that upon the occurrence of certain events the Exercise Price and the type and/or number of the Company’s securities issuable thereupon may, subject to certain conditions, be adjusted. In such event, the Company will, at the request of the holder, issue a new Warrant Certificate evidencing the adjustment in the Exercise Price and the number and/or type of securities issuable upon the exercise of the Warrants; provided, however, that the failure of the Company to issue such new Warrant Certificates shall not in any way change, alter, or otherwise impair, the rights of the holder as set forth in the Warrant Agreement.

Upon due presentment for registration of transfer of this Warrant Certificate at an office or agency of the Company, a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided herein and in the Warrant Agreement, without any charge except for any tax or other governmental charge imposed in connection with such transfer.

Upon the exercise of less than all of the Warrants evidenced by this Certificate, the Company shall forthwith issue to the holder hereof a new Warrant Certificate representing such number of unexercised Warrants.

The Company may deem and treat the registered holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, and of any distribution to the holder(s) hereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

Neither the Warrants or the Shares may be sold, transferred, assigned or hypothecated pursuant to NASD Corporate Financing Rule 2710 (currently a period of one year from the date of this Warrant Certificate), except to one or more Designees.

All terms used in this Warrant Certificate which are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be duly executed under its corporate seal.

Dated as of _____, 2004

MARCHEX, INC.

By: _____

Name: Russell C. Horowitz
Title: Chief Executive Officer

Attest:

_____

Name: Ethan A. Caldwell
Title: Secretary

Annex A to Warrant Certificate

FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.1

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

_____ shares of Class B Common Stock;

and herewith tenders in payment for such securities a certified or official bank check payable in New York Clearing House Funds to the order of Marchex, Inc. in the amount of $_____, all in accordance with the terms of Section 3.1 of the Representative's Warrant Agreement dated as of _____, 2004 between Marchex, Inc. and Sanders Morris Harris Inc. The undersigned requests that a certificate for such securities be registered in the name of _____ whose address is _____ and that such Certificate be delivered to _____ whose address is _____.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

Annex B to Warrant Certificate

FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.2

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

_____ shares of Class B Common Stock;

and herewith tenders in payment for such securities _____ Warrants all in accordance with the terms of Section 3.2 of the Representative's Warrant Agreement dated as of _____, 2004 between Marchex, Inc. and Sanders Morris Harris Inc. The undersigned requests that a certificate for such securities be registered in the name of _____ whose address is and that such Certificate be delivered to _____ whose address is _____.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

Annex C to Warrant Certificate

FORM OF ASSIGNMENT

(To be executed by the registered holder if such holder desires to transfer the Warrant Certificate to Representative's Designee.)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto

_____

(Please print name and address of transferee)

this Warrant Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer the within Warrant Certificate on the books of the within-named Company, with full power of substitution.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

MARCHEX, INC.

AND

NATIONAL SECURITIES CORPORATION

REVISED FORM OF REPRESENTATIVE'S
WARRANT AGREEMENT

DATED AS OF _____, 2004

REPRESENTATIVE'S WARRANT AGREEMENT dated as of _____, 2004 between MARCHEX, INC., a Delaware corporation (the "Company") and NATIONAL SECURITIES CORPORATION ("National" or the "Representative").

W I T N E S S E T H:

WHEREAS, Representative has agreed pursuant to the underwriting agreement (the "Underwriting Agreement") dated as of the date hereof between the Company and Representative, to act as co-managing underwriter in connection with the Company's proposed public offering (the "Public Offering") of an aggregate of 4,000,000 shares of the Company's Class B common stock, par value $.01 per share (the "Class B Common Stock") at an initial public offering price of [_____] per share of Class B Common Stock, plus up to an additional 600,000 shares of Class B Common Stock pursuant to the Representative's over-allotment option; and

WHEREAS, the Company proposes to issue warrants (the "Warrants") to the managing underwriters exercisable for up to an aggregate of 120,000 shares of the Class B Common Stock of which the Representative shall receive warrants to purchase up to 60,000 shares of Class B Common Stock and Sanders Morris Harris Inc., as the other co-managing underwriter and lead underwriter, shall receive warrants to purchase up to 60,000 shares of Class B Common Stock; and

WHEREAS, the Warrants issued pursuant to this Agreement are being issued by the Company to Representative, for its own account or for the account of Representative's designee (limited to officers, directors and employees of Representative, individually, "Representative's Designee" and collectively, "Representative's Designees") on the First Closing Date (as such term is defined in the Underwriting Agreement) in consideration for, and as part of Representative 's compensation in connection with, Representative acting as the representative pursuant to the Underwriting Agreement;

NOW, THEREFORE, in consideration of the foregoing premises, the payment by the Representative to the Company of an aggregate of fifty dollars ($50.00), the agreements herein set forth and other good and valuable consideration, hereby acknowledged, the parties hereto agree as follows:

1. Grant. Upon the successful closing of the Public Offering and the fulfillment of the terms of the Underwriting Agreement by the Representative, the Representative and/or the Representative's Designee (together, the "Holders" and each a "Holder") is hereby granted the right to purchase, at any time from _____, 2005 (one (1) year from the First Closing Date (as such term is defined in the Underwriting Agreement) (the "Initial Exercise Date") until 5:30 P.M., New York time, on _____, 2009 (five (5) years from the First Closing Date (as such term is defined in the Underwriting Agreement) of the registration statement and any supplement thereto, on Form SB-2, No. 333-111096) (the "Expiration Date"), up to an aggregate of 60,000 shares of Class B Common Stock at an initial exercise price (subject to adjustment as provided in Section 8 hereof) (the "Shares") of 130% of the Public Offering price per share (the "Initial Exercise Price"). Except as set forth herein, the shares of Class B Common Stock issuable upon exercise of the Warrants are in all respects identical to the shares of Class B Common Stock being purchased by the Underwriters for resale to the public pursuant to the terms and provisions of the Underwriting Agreement.

2. Warrant Certificates. The warrant certificates (the "Warrant Certificates") delivered and to be delivered pursuant to this Agreement shall be in the form set forth in Exhibit A, attached hereto and made a part hereof, with such appropriate insertions, omissions, substitutions, and other variations as required or permitted by this Agreement. This Warrant shall not entitle its Holder to any rights as a stockholder of the Company prior to the exercise of this Warrant.

3. Exercise of Warrant.

3.1 Method of Exercise. The Warrants initially are exercisable commencing on the Initial Exercise Date at the Initial Exercise Price (subject to adjustment as provided in Section 8 hereof) set forth in Section 6 hereof payable by certified or official bank check in New York Clearing House funds, subject to adjustment as provided in Section 8 hereof. Upon surrender of a Warrant Certificate with a Form of Election to Purchase duly executed (substantially in the form of Annex A to the Warrant Certificate), together with payment of the Exercise Price (as hereinafter defined) for the shares of Class B Common Stock purchased at the Company's principal executive offices in Seattle, Washington (presently located at 2101 Fourth Avenue, Suite 1980, Seattle, Washington 98121) the registered holder of a Warrant Certificate shall be entitled to receive a certificate or certificates for the shares of Class B Common Stock so purchased. The purchase rights represented by each Warrant Certificate are exercisable at the option of the Holder thereof, in whole or in part (but not as to fractional shares of the Class B Common Stock). The Warrants may be exercised to purchase all or part of the shares of Class B Common Stock. In the case of the purchase of less than all the shares of Class B Common Stock under any Warrant Certificate, the Company shall cancel said Warrant Certificate upon the

surrender thereof and shall execute and deliver a new Warrant Certificate of like tenor for the balance of the shares of Class B Common Stock purchasable thereunder.

3.2 Exercise by Surrender of Warrant. In addition to the method of payment set forth in Section 3.1 and in lieu of any cash payment required thereunder, the Holder(s) shall have the right, at any time and from time to time prior to the Expiration Date, to exercise the Warrants in full or in part by surrendering the Warrant Certificate(s) representing a certain number of additional Warrants as payment of the aggregate Exercise Price for the shares of Class B Common Stock being acquired upon exercise of the Warrants. The Warrants are exercisable pursuant to this Section 3.2 by surrender of the Warrant Certificate(s) with a Form of Election to Purchase duly executed (substantially in the form of Annex B to the Warrant Certificate) and surrender of a certain number of Warrants in addition to those being exercised. The number of additional Warrants to be surrendered in payment of the aggregate Exercise Price for the Warrants being exercised shall be determined by multiplying the number of Warrants to be exercised by the Exercise Price, and then dividing the product thereof by an amount equal to the Market Price (as defined below). Solely for the purposes of this paragraph, Market Price shall be calculated either (i) on the date on which the Form of Election to Purchase attached hereto is deemed to have been sent to the Company pursuant to Section 13 hereof ("Notice Date") or (ii) as the average of the Market Prices for each of the three (3) trading days preceding the Notice Date, whichever of (i) or (ii) is greater.

3.3 Definition of Market Price. As used herein, the phrase "Market Price" at any date shall be deemed to be the last reported sale price, or, in case no such reported sale takes place on such day, the average of the last reported sale prices for the last three (3) trading days, in either case as officially reported by the principal securities exchange on which the Class B Common Stock is listed or admitted to trading or by the Nasdaq National Market ("Nasdaq National Market") or by the National Association of Securities Dealers Automated Quotation System ("Nasdaq"), or, if the Class B Common Stock is not listed or admitted to trading on any national securities exchange or quoted by Nasdaq, the average closing bid price as furnished by the National Association of Securities Dealers, Inc. ("NASD") through Nasdaq or similar organization if Nasdaq is no longer reporting such information, or if the Class B Common Stock is not quoted on Nasdaq, as determined in good faith by resolution of the members of the Board of Directors of the Company, based on the best information available to it.

4. Issuance of Certificates. Upon the exercise of the Warrants, the issuance of certificates for shares of Class B Common Stock shall be made promptly (and in any event within five (5) business days thereafter) without charge to the Holder thereof including, without limitation, any stock transfer or similar tax which may be payable in respect of the issuance thereof, and such certificates shall (subject to the provisions of Sections 5 and 7 hereof) be issued in the name of, or in such names as may be directed by, the Holder thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder, and the Company shall not be required to issue or deliver such certificates unless or until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

The Warrant Certificates and the certificates representing the shares of Class B Common Stock issued upon exercise thereof shall be executed on behalf of the Company by the manual or facsimile signature of the then Chairman of the Board of Directors or President of the Company, attested to by the manual or facsimile signature of the then Secretary of the Company. Warrant Certificates shall be dated the date of execution by the Company upon initial issuance, division, exchange, substitution or transfer. Certificates representing the shares of Class B Common Stock shall be dated as of the Notice Date (regardless of when executed or delivered).

5. Restriction on Transfer of Warrants. The Holder of a Warrant Certificate, by its acceptance thereof, covenants and agrees that the Warrants are being acquired as an investment and not with a view to the distribution thereof, and that the Warrants may not be sold, transferred, assigned, hypothecated or otherwise disposed of, in whole or in part, pursuant to NASD Corporate Financing Rule 2710 (currently a period of one (1) year from the date hereof), except to Representative's Designees (each of which is hereinafter referred to as a "Transferee"), in which case such Transferee shall be entitled to receive a replacement Warrant Certificate in accordance with Section 9 hereof upon presentment of a properly executed Form of Assignment in the form set forth on Annex C to the Warrant Certificate attached hereto and made a part hereof. The Holder of a Warrant Certificate, by its acceptance thereof, further covenants and agrees that this Warrant and the Shares which may be issued upon exercise hereof are being acquired for investment, that the Holder has no present intention to resell or otherwise dispose of all or any part of this Warrant or any Shares, and that the Holder will not offer, sell or otherwise dispose of all or any part of this Warrant or any Shares except under circumstances which will not result in a violation of the Securities Act of 1933, as amended (the "Act"). If the Company conducts any registered offering, the Holder of the Warrant or any Shares shall not, without the prior written consent of the Company and the managing underwriter, if any, in such offering: (i) sell, transfer or otherwise dispose of, or agree to sell, transfer or otherwise dispose of the Warrant or any of the Shares; (ii) sell, transfer or otherwise dispose of, or agree to sell, transfer or otherwise dispose of any right to purchase the Warrant or any of the Shares; or (iii) sell or grant, or agree to sell or grant, options, rights or warrants with respect to the Warrant or any of the Shares. Such restrictions shall be effective for a period of time equal to the period during which the managing underwriter imposes such transfer restrictions on the Company's officers and directors; provided, that in no event shall the restricted period applicable to a Holder of this Warrant or Shares exceed one hundred eighty (180) days after effectiveness of the Company's registration statement filed with the United Stated Securities and Exchange Commission (the "Commission") with respect to such offering.

In connection with the transfer or exercise of Warrants, the Transferee and Holder agree to execute any documents which may be reasonably required by counsel to the Company to comply with the provisions of the Act and applicable state securities laws.

6. Exercise Price.

6.1 Initial and Adjusted Exercise Price. Except as otherwise provided in Section 8 hereof, the initial exercise price of each Warrant shall be the Initial Exercise Price. The

adjusted exercise price shall be the price which shall result from time to time from any and all adjustments of the initial exercise price in accordance with the provisions of Section 8 hereof.

6.2 Exercise Price. The term "Exercise Price" herein shall mean the Initial Exercise Price or the adjusted exercise price, depending upon the context or unless otherwise specified.

7. Registration Rights.

7.1 Registration under the Securities Act of 1933. The Warrants and the shares of Class B Common Stock issuable upon exercise of the Warrants (collectively, the "Warrant Securities") have not been registered under the Act and the certificates representing the Warrant Securities or any other evidence thereof shall bear the following legends:

> The warrant represented by this certificate and the other securities issued upon exercise thereof may not be offered or sold except pursuant to (i) an effective registration statement under the Securities Act of 1933 (the "Act"), (ii) to the extent applicable, Rule 144 under such Act (or any similar rule under such Act relating to the disposition of securities), or (iii) an opinion of counsel, if such opinion shall be reasonably satisfactory to counsel to the issuer, that an exemption from registration under such Act is available.

7.2 Piggyback Registration. If, at any time commencing on the Initial Exercise Date and expiring on the Expiration Date, the Company proposes to register any of its securities under the Act (other than in connection with a merger or pursuant to Form S-4 or Form S-8 or successor form thereto) it will give written notice by registered mail, at least thirty (30) days prior to the filing of each such registration statement, to the Holders of the Warrant Securities of its intention to do so; provided, however, in accordance with the NASD rules and regulations, in no event shall the right contained in this Section 7.2 continue for more than seven (7) years from the date hereof. If any of the Holders of the Warrant Securities notify the Company within twenty (20) days after mailing of any such notice of its or their desire to include any such securities in such proposed registration statement, the Company shall afford such Holders of the Warrant Securities the opportunity to have any such Warrant Securities registered under such registration statement. In the event that the managing underwriter for said offering advises the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold in such offering without causing a diminution in the offering price or otherwise adversely affecting the offering, the Company will include in such registration (a) FIRST, the securities the Company proposes to sell, (b) SECOND, the total number of securities which in the opinion of such underwriter can be sold by holders of the Warrant Securities and the holders of securities with registration rights granted by the Company prior to the date hereof, *provided*, *however*, if the number of shares to be included in the registration in accordance with the foregoing is less than the total number of shares which such holders have requested to be included, then the holders of such shares who

have requested registration shall participate in the registration pro rata based upon their total ownership of shares of Class B Common Stock (giving effect to the conversion or exercise into Class B Common Stock of all securities convertible or exercisable thereinto) and if any such holder would thus be entitled to include more securities than such holder requested to be registered, the excess shall be allocated among the other requesting holders pro rata in the manner described in this subsection (b), and (c) THIRD, other securities requested to be included in such registration.

Notwithstanding the provisions of this Section 7.2, the Company shall have the right at any time after it shall have given written notice pursuant to this Section 7.2 (irrespective of whether a written request for inclusion of any such securities shall have been made) to elect not to file any such proposed registration statement or to withdraw the same after the filing but prior to the effective date thereof.

7.3 Covenants of the Company with respect to Registration.

In connection with any registration under Section 7.2 hereof, the Company covenants and agrees as follows:

(a) The Company shall pay all costs (excluding fees and expenses of Holder(s)' counsel and any underwriting or selling commissions), fees and expenses in connection with all registration statements filed pursuant to Section 7.2 including, without limitation, the Company's legal and accounting fees, printing expenses, blue sky fees and expenses.

(b) The Company will take all necessary action which may be required in qualifying or registering the Warrant Securities included in a registration statement for offering and sale under the securities or blue sky laws of such states as reasonably are requested by the Holder(s), provided that the Company shall not be obligated to execute or file any general consent to service of process or to qualify as a foreign corporation to do business under the laws of any such jurisdiction.

(c) The Company shall indemnify the Holder(s) of the Warrant Securities to be sold pursuant to any registration statement and each person, if any, who controls such Holders within the meaning of Section 15 of the Act or Section 20(a) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Act, the Exchange Act or otherwise, arising from such registration statement but only to the same extent and with the same effect as the provisions pursuant to which the Company has agreed to indemnify each of the Underwriters contained in Section 6 of the Underwriting Agreement and to provide for just and equitable contribution as set forth in Section 6 of the Underwriting Agreement.

(d) The Holder(s) of the Warrant Securities to be sold pursuant to a registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, its officers and directors and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, against all loss,

claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which they may become subject under the Act, the Exchange Act or otherwise, arising from information furnished by or on behalf of such Holders, or their successors or assigns, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in Section 6 of the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the Company and to provide for just and equitable contribution as set forth in the Underwriting Agreement.

(e) Nothing contained in this Agreement shall be construed as requiring the Holder(s) to exercise their Warrants prior to the initial filing of any registration statement or the effectiveness thereof.

(f) The Company shall deliver promptly to each Holder participating in the offering requesting the correspondence and memoranda described below and to the managing underwriters, copies of all correspondence between the Commission and the Company, its counsel or auditors and all memoranda relating to discussions with the Commission or its staff with respect to the registration statement and permit each Holder and underwriter to do such investigation, upon reasonable advance notice, with respect to information contained in or omitted from the registration statement as it deems reasonably necessary to comply with applicable securities laws or rules of the NASD.

7.4 Obligations of Holders. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 7 hereof that each of the selling Holders shall:

(a) Furnish to the Company such information regarding themselves, the Warrant Securities held by them, the intended method of sale or other disposition of such securities, the identity of and compensation to be paid to any underwriters proposed to be employed in connection with such sale or other disposition, and such other information as may reasonably be required to effect the registration of their Warrant Securities.

(b) Notify the Company, at any time when a prospectus relating to the Warrant Securities covered by a registration statement is required to be delivered un the Act, of the happening of any event with respect to such selling Holder 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 in the light of the circumstances then existing.

8. Adjustments to Exercise Price and Number of Securities.

8.1 Subdivision and Combination. In case the Company shall at any time subdivide or combine the outstanding shares of Class B Common Stock, the Exercise Price shall forthwith be proportionately decreased in the case of subdivision or increased in the case of combination.

8.2 Stock Dividends and Distributions. In case the Company shall at any time after the date hereof pay a dividend in, or make a distribution of, shares of Class B Common Stock or of the Company's capital stock convertible into Class B Common Stock, the Exercise Price shall forthwith be proportionately decreased. An adjustment made pursuant to this Section 8.2 shall be made as of the record date for the subject stock dividend or distribution.

8.3 Adjustment in Number of Securities. Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 8, the number of Class B Common Stock issuable upon the exercise at the adjusted exercise price of each Warrant shall be adjusted to the nearest full amount by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of Class B Common Stock issuable upon exercise of the Warrants immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

8.4 Definition of Class B Common Stock. For the purpose of this Agreement, the term "Class B Common Stock" shall mean (i) the class of stock designated as Class B Common Stock in the Certificate of Incorporation of the Company as amended to date, or (ii) any other class of stock resulting from successive changes or reclassifications of such Class B Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value.

8.5 Merger or Consolidation. In case after the date hereof of any consolidation of the Company with, or merger of the Company with, or merger of the Company into, another corporation (other than a consolidation or merger which does not result in any reclassification or change of the outstanding Class B Common Stock), the corporation formed by such consolidation or merger shall execute and deliver to the Holder a supplemental warrant agreement providing that the holder of each Warrant then outstanding or to be outstanding shall have the right thereafter (until the expiration of such Warrant) to receive, upon exercise of such Warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or merger, by a holder of the number of securities of the Company for which such Warrant might have been exercised immediately prior to such consolidation, merger, sale or transfer. Such supplemental warrant agreement shall provide for adjustments which shall be identical to the adjustments provided in this Section 8. The above provision of this subsection shall similarly apply to successive consolidations or mergers.

8.6 No Adjustment of Exercise Price in Certain Cases. No adjustment of the Exercise Price shall be made if the amount of said adjustment shall be less than two cents (2) per Warrant Security, provided, however, that in such case any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment so carried forward, shall amount to at least two cents ($.02) per Warrant Security.

9. Exchange and Replacement of Warrant Certificates.

9.1 Exchange. Each Warrant Certificate is exchangeable without expense, upon the surrender thereof by the registered Holder at the principal executive office of the Company,

for a new Warrant Certificate of like tenor and date representing in the aggregate the right to purchase the same number of Warrant Securities in such denominations as shall be designated by the Holder thereof at the time of such surrender.

9.2 Replacement. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of any Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of the Warrants, if mutilated, the Company will make and deliver a new Warrant Certificate of like tenor, in lieu thereof.

10. Limitation of Fractional Interests. The Company shall not be required to issue certificates representing fractions of shares of Class B Common Stock upon the exercise of the Warrants, nor shall it be required to issue scrip or pay cash in lieu of fractional interests, it being the intent of the parties that all fractional interests shall be eliminated by rounding any fraction up to the nearest whole number of shares of Class B Common Stock or other securities, properties or rights.

11. Reservation and Listing of Securities. The Company shall at all times reserve and keep available out of its authorized shares of Class B Common Stock, solely for the purpose of issuance upon the exercise of the Warrants, such number of shares of Class B Common Stock or other securities, properties or rights as shall be issuable upon the exercise thereof. The Company covenants and agrees that, upon exercise of the Warrants and payment of the Exercise Price therefor, all shares of Class B Common Stock issuable upon such exercise shall be duly and validly issued, fully paid, non-assessable and not subject to the preemptive rights of any stockholder.

12. Notices to Warrant Holders. Nothing contained in this Agreement shall be construed as conferring upon the Holders the right to vote or to consent or to receive notice as a stockholder in respect of any meetings of stockholders for the election of directors or any other matter, or as having any rights whatsoever as a stockholder of the Company. If, however, at any time prior to the expiration of the Warrants and their exercise, any of the following events shall occur:

(a) the Company shall take a record of the holders of its shares of Class B Common Stock for the purpose of entitling them to receive a dividend or distribution payable otherwise than in cash, or a cash dividend or distribution payable otherwise than out of current or retained earnings or capital surplus (in accordance with applicable law), as indicated by the accounting treatment of such dividend or distribution on the books of the Company; or

(b) the Company shall offer to all the holders of its Class B Common Stock any additional shares of capital stock of the Company or securities convertible into or exchangeable for shares of capital stock of the Company, or any option, right or warrant to subscribe therefor; or

(c) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or merger) or a sale of all or substantially all of its property, assets and business as an entirety shall be proposed;

then, in any one or more of said events, the Company shall give written notice of such event at least fifteen (15) days prior to the date fixed as a record date or the date of closing the transfer books for the determination of the stockholders entitled to such dividend, distribution, convertible or exchangeable securities or subscription rights, or entitled to vote on such proposed dissolution, liquidation, winding up or sale. Such notice shall specify such record date or the date of closing the transfer books, as the case may be. Failure to give such notice or any defect therein shall not affect the validity of any action taken in connection with the declaration or payment of any such dividend, or the issuance of any convertible or exchangeable securities, or subscription rights, options or warrants, or any proposed dissolution, liquidation, winding up or sale.

13. Notices.

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been duly made and sent when delivered, or mailed by registered or certified mail, return receipt requested or by Federal Express or other recognized overnight courier:

(a) If to the registered Holder of the Warrants, to the address of such Holder as shown on the books of the Company; or

(b) If to the Company, to the address set forth in Section 3 hereof or to such other address as the Company may designate by notice to the Holders.

14. Supplements and Amendments. The Company and the Representative may from time to time supplement or amend this Agreement without the approval of any Holders of Warrant Certificates (other than the Representative) in order to cure any ambiguity, to correct or supplement any provision contained herein which may be defective or inconsistent with any provisions herein, or to make any other provisions in regard to matters or questions arising hereunder which the Company and the Representative may deem necessary or desirable and which the Company and the Representative deem shall not adversely affect the interests of the Holders of Warrant Certificates.

15. Successors. All the covenants and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Holders and their respective successors and assigns hereunder. Neither the Warrants or the Shares may be sold, transferred, assigned or hypothecated for a period of one (1) year from the date of this Warrant Agreement, except to Transferees.

16. Termination. This Agreement shall terminate at 5:30 P.M., New York time, on _____, 2009. Notwithstanding the foregoing, this Agreement will terminate on any earlier date when all Warrants have been exercised.

17. Governing Law; Submission to Jurisdiction. This Agreement and each Warrant Certificate issued hereunder shall be governed by and construed in accordance with the internal substantive laws of the State of Washington without giving effect to the choice of law principles thereof. Each party hereby consents to the personal jurisdiction of the State of Washington, acknowledges that venue is proper in any state or Federal court in the State of Washington, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Washington and waives any objection that may exist, now or in the future, with respect to any of the foregoing. Each party (or their respective stockholders and affiliates) waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. In the event of litigation between the parties arising hereunder, the prevailing party shall be entitled to costs and reasonable attorney's fees.

18. Entire Agreement; Modification. This Agreement (including the Underwriting Agreement to the extent portions thereof are referred to herein) contains the entire understanding between the parties hereto with respect to the subject matter hereof and may not be modified or amended except by a writing duly signed by the party against whom enforcement of the modification or amendment is sought.

19. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement.

20. Captions. The caption headings of the Sections of this Agreement are for convenience of reference only and are not intended, nor should they be construed as, a part of this Agreement and shall be given no substantive effect.

21. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any person or corporation other than the Company and the Representative and any other registered Holder(s) of the Warrant Securities any legal or equitable right, remedy or claim under this Agreement; and this Agreement shall be for the sole benefit of the Company and the Representative and any other registered Holders of Warrant Securities.

22. No Limitation on Corporate Action. No provisions of the Warrant and no right or option granted or conferred hereunder shall in any way limit, affect, or abridge the exercise by the Company of any of its corporate rights or powers to recapitalize, amend its certificate of incorporation, reorganize or merge with or into another corporation, or to transfer all or any part of its property or assets, or the exercise of any other of its corporate rights and powers, provided such rights or powers as exercised are not inconsistent with any other provision of this Agreement.

23. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as an instrument under seal, as of the day and year first above written.

MARCHEX, INC.

By: _____

Name: Russell C. Horowitz
Title: Chief Executive Officer

Attest:

_____

Name: Ethan A. Caldwell
Title: Secretary

NATIONAL SECURITIES CORPORATION

By: _____

Name:
Title:

EXHIBIT A

FORM OF WARRANT CERTIFICATE

THE WARRANTS REPRESENTED BY THIS CERTIFICATE AND THE OTHER SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (i) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, (ii) TO THE EXTENT APPLICABLE, RULE 144 UNDER SUCH ACT (OR ANY SIMILAR RULE UNDER SUCH ACT RELATING TO THE DISPOSITION OF SECURITIES), OR (iii) AN OPINION OF COUNSEL, IF SUCH OPINION SHALL BE REASONABLY SATISFACTORY TO COUNSEL FOR THE ISSUER, THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.

THE TRANSFER OR EXCHANGE OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE IS RESTRICTED IN ACCORDANCE WITH THE WARRANT AGREEMENT REFERRED TO HEREIN.

EXERCISABLE ON OR BEFORE
5:30 P.M., NEW YORK TIME, _____, 2009

No. W-____

Warrants to Purchase
[_____] shares of Class B
Common Stock

WARRANT CERTIFICATE

This Warrant Certificate certifies that [NATIONAL SECURITIES CORPORATION], or registered assigns, is the registered holder of Warrants to purchase at any time from _____, 2005 until 5:30 p.m. New York time on _____, 2009 ("Expiration Date"), up to [_____] fully-paid and non-assessable shares of Class B Common Stock, $0.01 par value ("Class B Common Stock"), of MARCHEX, INC., a Delaware corporation (the "Company"), and [at the initial exercise price, subject to adjustment in certain events (the "Exercise Price"), of $_____ per share] of Class B Common Stock upon surrender of this Warrant Certificate and payment of the Exercise Price at an office or agency of the Company, but subject to the conditions set forth herein and in the warrant agreement dated as of _____, 2004 between the Company and NATIONAL SECURITIES CORPORATION (the "Warrant Agreement"). Payment of the Exercise Price shall be made by certified or official bank check in New York Clearing House funds payable to the order of the Company or by surrender of this Warrant Certificate.

No Warrant may be exercised after 5:30 p.m., New York time, on the Expiration Date, at which time all Warrants evidenced hereby, unless exercised prior thereto, hereby shall thereafter be void.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants issued pursuant to the Warrant Agreement, which Warrant Agreement is hereby

incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Company and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants.

The Warrant Agreement provides that upon the occurrence of certain events the Exercise Price and the type and/or number of the Company's securities issuable thereupon may, subject to certain conditions, be adjusted. In such event, the Company will, at the request of the holder, issue a new Warrant Certificate evidencing the adjustment in the Exercise Price and the number and/or type of securities issuable upon the exercise of the Warrants; provided, however, that the failure of the Company to issue such new Warrant Certificates shall not in any way change, alter, or otherwise impair, the rights of the holder as set forth in the Warrant Agreement.

Upon due presentment for registration of transfer of this Warrant Certificate at an office or agency of the Company, a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided herein and in the Warrant Agreement, without any charge except for any tax or other governmental charge imposed in connection with such transfer.

Upon the exercise of less than all of the Warrants evidenced by this Certificate, the Company shall forthwith issue to the holder hereof a new Warrant Certificate representing such number of unexercised Warrants.

The Company may deem and treat the registered holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, and of any distribution to the holder(s) hereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

Neither the Warrants or the Shares may be sold, transferred, assigned or hypothecated pursuant to NASD Corporate Financing Rule 2710 (currently a period of one year from the date of this Warrant Certificate), except to one or more Designees.

All terms used in this Warrant Certificate which are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be duly executed under its corporate seal.

Dated as of _____,2004

MARCHEX, INC.

By: _____

Name: Russell C. Horowitz
Title: Chief Executive Officer

Attest:

_____

Name: Ethan A. Caldwell
Title: Secretary

Annex A to Warrant Certificate

FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.1

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

_____ shares of Class B Common Stock;

and herewith tenders in payment for such securities a certified or official bank check payable in New York Clearing House Funds to the order of Marchex, Inc. in the amount of $_____, all in accordance with the terms of Section 3.1 of the Representative's Warrant Agreement dated as of _____, 2004 between Marchex, Inc. and National Securities Corporation. The undersigned requests that a certificate for such securities be registered in the name of _____ whose address is _____ and that such Certificate be delivered to _____ whose address is _____.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

Annex B to Warrant Certificate

FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.2

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

_____ shares of Class B Common Stock;

and herewith tenders in payment for such securities _____ Warrants all in accordance with the terms of Section 3.2 of the Representative's Warrant Agreement dated as of _____, 2004 between Marchex, Inc. and National Securities Corporation. The undersigned requests that a certificate for such securities be registered in the name of _____ whose address is _____ and that such Certificate be delivered to _____ whose address is _____.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

Annex C to Warrant Certificate

FORM OF ASSIGNMENT

(To be executed by the registered holder if such holder desires to transfer the Warrant Certificate to Representative's Designee.)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto

_____

(Please print name and address of transferee)

this Warrant Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer the within Warrant Certificate on the books of the within-named Company, with full power of substitution.

Dated: _____

Signature: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____

(Insert Social Security or Other Identifying Number of Holder)

Exhibit 5.1

[REVISED FORM OF OPINION OF NIXON PEABODY LLP]

April __, 2004

Marchex, Inc.
2101 Fourth Avenue, Suite 1980
Seattle, WA 98121

Re: Registration Statement on Form SB-2; Registration No. 333-111096

Ladies and Gentlemen:

This opinion is furnished to you in connection with a Registration Statement on Form SB-2 (File No. 333-111096) (the "Registration Statement") filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), on December 11, 2003, as amended by Amendment No. 1 filed with the Commission on February 19, 2004 and Amendment No. 2 filed with the Commission on March 19, 2004, for the registration of 4,600,000 shares of Class B common stock, par value $0.01 per share (the "Shares"), of Marchex, Inc., a Delaware corporation (the "Company"), including 600,000 Shares issuable upon exercise of an underwriters' over-allotment option to be granted by the Company.

The Shares are to be sold by the Company pursuant to an underwriting agreement (the "Underwriting Agreement") to be entered into among the Company and the several underwriters to be named in the Underwriting Agreement for whom National Securities Corporation is acting as a representative. The form of the Underwriting Agreement has been filed as Exhibit 1.1 to the Registration Statement.

In our capacity as special counsel to the Company in connection with such registration, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the authorization, issuance and sale of the Shares, and for the purposes of this opinion, have assumed such proceedings will be timely completed in the manner presently proposed. We have examined signed copies of the Registration Statement as filed with the Commission. We have also examined and relied upon the Underwriting Agreement, minutes of meetings of the stockholders and the Board of Directors of the Company as provided to us by the Company, the Certificate of Incorporation and By-Laws of the Company, each as restated and/or amended to date, and such other documents as we have deemed necessary for purposes of rendering the opinion hereinafter set forth. In addition, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this opinion.

In our examination of the foregoing documents, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such latter documents and the legal competence of all signatories to such documents.

We assume that the appropriate actions will be taken, prior to the offer and sale of the Shares in accordance with the Underwriting Agreement, to register and qualify the Shares for sale under all applicable state securities or "blue sky" laws.

We are opining herein as to the effect on the subject transaction only of Delaware law including the statutory provisions, all applicable provisions of the Delaware constitution and reported judicial decisions interpreting those laws, and we express no opinion with respect to the applicability thereto, or the effect thereon, of any other laws.

Subject to the foregoing, it is our opinion that as of the date hereof, (i) the Shares have been duly authorized by all necessary corporate action of the Company, and (ii) the Shares, upon issuance, delivery and payment therefor in the manner contemplated by the Registration Statement, will be validly issued, fully paid and nonassessable.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

It is understood that this opinion is to be used only in connection with the offer and sale of the Shares while the Registration Statement is in effect. We consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm contained under the heading “Legal Matters.”

Very truly yours,

/s/ Nixon Peabody LLP

Exhibit 10.1

MARCHEX, INC.

FORM OF AMENDED AND RESTATED

2003 STOCK INCENTIVE PLAN

1. DEFINITIONS.

Unless otherwise specified or unless the context otherwise requires, the terms set forth on Schedule A, shall have the meanings used therein.

2. PURPOSES OF THE PLAN.

The Plan is intended to encourage ownership of Shares by Employees and by directors of and consultants to the Company, its Affiliates and Strategic Partners in order to attract such people, to induce them to work for the benefit of the Company and its Affiliates and to provide incentive for them to promote the success of the Company and its Affiliates. The Plan provides for the granting of ISOs, Non-Qualified Options and Stock Grants.

3. SHARES SUBJECT TO THE PLAN.

(a) The total number of Shares which shall be reserved and available for Stock Rights pursuant to this Plan shall be 4,000,000, plus an annual increase to be added on January 1st of each year equal to five percent (5.0 %) of the outstanding Common Stock (including for this purpose any shares of Common Stock issuable upon conversion of any outstanding capital stock of the Company) on such date; provided, however, that notwithstanding the foregoing, the total number of shares of Common Stock for which Options designated as ISOs may be granted under the Plan shall not exceed 8,000,000 shares, in each case subject to adjustment in accordance with Paragraph 16 hereof. Shares issued under the Plan may be authorized but unissued shares of Common Stock or shares of Common Stock held in treasury.

(b) To the extent that any Option shall lapse, terminate, expire or otherwise be cancelled without the issuance of Shares, or if the Company shall reacquire any Shares issued pursuant to a Stock Grant, the Shares shall be available for the granting of other Stock Rights under the Plan.

(c) Shares issuable under the Plan may be subject to such restrictions on transfer, repurchase rights or other restrictions as shall be determined by the Administrator.

4. ADMINISTRATION OF THE PLAN.

(a) At the discretion of the Company's Board of Directors, the Administrator of the Plan shall be either (i) by the full Board of Directors of the Company or (ii) by a committee (the "Committee") consisting of two or more members of the Company's

Board of Directors; provided, however, that (i) to the extent necessary in order to permit officers and directors of the Company to be exempt from the provisions of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "1934 Act") with respect to transactions pursuant to the Plan, each of such persons shall be a "non-employee director" within the meaning of Rule 16b-3 ("Rule 16b-3") promulgated by the Securities and Exchange Commission under the 1934 Act and (ii) if such qualification is deemed necessary in order for the grant or exercise of awards made under the Plan to qualify for any tax or other material benefit to participants of the Company under applicable regulations under Section 162(m) of the Code, each of such persons shall be an "outside director" (as defined in applicable regulations thereunder). In the event the full Board of Directors is the Administrator of the Plan, references herein to the Committee shall be deemed to mean the full Board of Directors. The Board of Directors may from time to time appoint a member or members of the Committee in substitution for or in addition to the member or members then in office and may fill vacancies on the Committee however caused. The Committee may choose one of its members as Chairman and shall hold meetings at such times and places as it shall deem advisable. A majority of the members of the Committee shall constitute a quorum and any action may be taken by a majority of those present and voting at any meeting; provided however, that if the Committee consists of only two members, both members shall be required to constitute a quorum and to act at a meeting or to approve actions in writing.

(b) Any action may also be taken without the necessity of a meeting by a written instrument signed by a majority of the Committee. The decision of the Committee as to all questions of interpretation and application of the Plan shall be final, binding and conclusive on all persons. The Committee shall have the authority to adopt, amend and rescind such rules and regulations as, in its opinion, may be advisable in the administration of the Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plan or in any Option Agreement or Stock Grant Agreement in the manner and to the extent it shall deem expedient to carry the Plan into effect and shall be the sole and final judge of such expediency. No Committee member shall be liable for any action or determination made in good faith.

(c) Subject to the terms of the Plan, the Administrator is authorized to:

i. Interpret the provisions of the Plan or of any Option or Stock Grant and to make all rules and determinations which it deems necessary or advisable for the administration of the Plan;

ii. Determine which persons shall be considered eligible Participants in the Plan and which of such eligible persons shall be granted Stock Rights;

iii. Determine the number of Shares for which Stock Rights shall be granted;

iv. Specify the terms and conditions upon which Stock Rights may be granted, including, but not limited to, the time or times when Stock Rights may be granted, shall become exercisable (including any acceleration of

exercisability), the duration of the exercise period, and the price of Shares subject to each Stock Right; and

v. Authorize any officer to execute on behalf of the Company an Option Agreement or Stock Grant in connection with each Option or Stock Grant, as the case may be.

Notwithstanding the foregoing, all such interpretations, rules, determinations, terms and conditions shall be made and prescribed in the context of preserving the tax status under Section 422 of the Code of those Options which are designated as ISOs. Subject to the foregoing, the interpretation and construction by the Administrator of any provisions of the Plan or of any Stock Right shall be final, unless otherwise determined by the Board of Directors, if the Administrator is the Committee.

5. ELIGIBILITY FOR PARTICIPATION.

The Administrator will, in its sole discretion, name the Participants in the Plan, provided, however, that each Participant must be a Employee, director or consultant of the Company, an Affiliate, or of a Strategic Partner at the time a Stock Right is granted. Notwithstanding the foregoing, the Administrator may authorize the grant of a Stock Right to a person not then an Employee, director or consultant of the Company or of an Affiliate; provided, however, that the actual grant of such Stock Right shall be conditioned upon such person becoming eligible to become a Participant at or prior to the time of the delivery of the Agreement evidencing such Stock Right. ISOs may be granted only to Employees. Non-Qualified Options and Stock Grants may be granted to any Employee, director or consultant of the Company, an Affiliate or Strategic Partner or any other eligible Participant. The granting of any Stock Right to any individual shall neither entitle that individual to, nor disqualify him or her from, participation in any other grant of Stock Rights.

In determining the eligibility of an individual to be granted an Option or Stock Grant, as well as in determining the number of Shares to be optioned or granted to any individual, the Administrator shall take into account the position and responsibilities of the individual being considered, the nature and value to the Company or an Affiliate of his or her service and accomplishments, his or her present and potential contribution to the success of the Company or an Affiliate, and such other factors as the Committee may deem relevant.

No Option designated as an ISO shall be granted to any Employee of the Company or an Affiliate if such Employee owns, immediately prior to the grant of an Option, stock representing more than 10% of the combined voting power of all classes of stock of the Company or an Affiliate, unless the purchase price for the stock under such Option shall be at least 110% of its Fair Market Value at the time such Option is granted and the Option, by its terms, shall not be exercisable more than five (5) years from the date it is granted. In determining the stock ownership under this paragraph, the provisions of Section 424(d) of the Code shall be controlling.

Subject to the provisions hereof relating to adjustments upon changes in the shares of Common Stock, no Employee shall be eligible to be granted Options covering more than 4,000,000 shares of Common Stock during any calendar year, except that this restriction shall not apply at any time prior to the date on which the Company lists any shares of its securities on any securities exchange. The restriction contained in this paragraph shall also not apply until the earliest of: (1) the first material modification of the Plan (including any increase in the number of shares of Common Stock reserved for issuance hereunder); (2) the issuance of all of the shares of Common Stock reserved for issuance under the Plan; (3) the expiration of the Plan; (4) the first meeting of stockholders at which Directors are to be elected that occurs after the close of the third (3rd) calendar year following the calendar year in which occurred the first registration of an equity security by the Company under Section 12 of the 1934 Act; or (5) such other date required by Section 162(m) of the Code.

6. TERMS AND CONDITIONS OF OPTIONS.

Each Option shall be set forth in writing in an Option Agreement, duly executed on behalf of the Company and by the Participant to whom such Option is granted. The Administrator may provide that Options be granted subject to such terms and conditions, consistent with the terms and conditions specifically required under this Plan, as the Administrator may deem appropriate including, without limitation, subsequent approval by the stockholders of the Company of this Plan or any amendments thereto.

A. Non-Qualified Options: Each Option intended to be a Non-Qualified Option shall be subject to the terms and conditions which the Administrator determines to be appropriate and in the best interest of the Company, subject to the following minimum standards for any such Non-Qualified Option:

a. Option Price: Each Option Agreement shall state the option price (per Share) of the Shares covered by each Option, which option price shall be determined by the Administrator but shall not be less than the par value per share of Common Stock.

b. Each Option Agreement shall state the number of Shares to which it pertains;

c. Each Option Agreement shall state the date or dates on which it first is exercisable and the date after which it may no longer be exercised, and may provide that the Option rights accrue or become exercisable in installments over a period of months or years, or upon the occurrence of certain conditions or the attainment of stated goals or events;

d. Exercise of any Option may be conditioned upon the Participant's execution of certain agreements in form satisfactory to the Administrator providing for certain protections for the Company

and its stockholders including, without limitation, requirements that:

i. The Participant's or the Participant's Survivors' right to sell or transfer the Shares may be restricted; and

ii. The Participant or the Participant's Survivors may be required to execute letters of investment intent and must also acknowledge that the Shares will bear legends noting any applicable restrictions; and

e. No Employment Rights: The Plan does not confer upon any Participant any right with respect to continued employment nor shall any Option interfere with the Company's right to terminate the Participant's employment with or without cause, at any time, for any reason or no reason at all.

B. ISOs: Each Option intended to be an ISO shall be issued only to a Employee of the Company (and not any other person including a Employee of a Strategic Partner) and shall be subject to the following terms and conditions and to such additional restrictions or changes as the Administrator determines are appropriate but that are not in conflict with Section 422 of the Code:

a. Minimum standards: The ISO shall meet the minimum standards required of Non-Qualified Options, as described in Paragraph 6(A) above, except clause (a) thereunder.

b. Option Price: Immediately before the Option is granted, if the Participant owns, directly or by reason of the applicable attribution rules in Section 424(d) of the Code:

i. Ten percent (10%) or less of the total combined voting power of all classes of stock of the Company or an Affiliate, the Option price per share of the Shares covered by each Option shall not be less than one hundred percent (100%) of the Fair Market Value per share of the Shares on the date of the grant of the Option as determined by the Administrator in accordance with Section 422 of the Code.

ii. More than ten percent (10%) of the total combined voting power of all classes of stock of the Company or an Affiliate, the Option price per share of the Shares covered by each Option shall not be less than one hundred ten percent (110%) of the said Fair Market Value on the date of grant.

c. Term of Option: For Participants who own:

i. Ten percent (10%) or less of the total combined voting power of all classes of stock of the Company or an Affiliate, each Option shall terminate not more than ten (10) years from the date of the grant or at such earlier time as the Option Agreement may provide.

ii. More than ten percent (10%) of the total combined voting power of all classes of stock of the Company or an Affiliate, each Option shall terminate not more than five (5) years from the date of the grant or at such earlier time as the Option Agreement may provide.

d. Limitation on Yearly Exercise: The Option Agreements shall restrict the amount of Options which may be exercisable in any calendar year (under this or any other ISO plan of the Company or an Affiliate) so that the aggregate Fair Market Value (determined at the time each ISO is granted) of the stock with respect to which ISOs are exercisable for the first time by the Participant in any calendar year does not exceed one hundred thousand dollars ($100,000), provided that this subparagraph (d) shall have no force or effect if its inclusion in the Plan is not necessary for Options issued as ISOs to qualify as ISOs pursuant to Section 422(d) of the Code.

e. No Employment Rights: The Plan does not confer upon any Participant any right with respect to continued employment nor shall any Option interfere with the Company's right to terminate the Participant's employment with or without cause, at any time, for any reason or no reason at all.

7. TERMS AND CONDITIONS OF STOCK GRANTS.

Each offer of a Stock Grant to a Participant shall state the date prior to which the Stock Grant must be accepted by the Participant, and the principal terms of each Stock Grant shall be set forth in a Stock Grant Agreement, duly executed by the Company and the Participant. The Stock Grant Agreement shall be in a form approved by the Administrator and shall contain terms and conditions which the Administrator determines to be appropriate and in the best interest of the Company, subject to the following minimum standards:

(a) Each Stock Grant Agreement shall state the purchase price (per share), if any, of the Shares covered by each Stock Grant, which purchase price

shall be determined by the Administrator but shall not be less than the par value on the date of the grant of the Stock Grant;

(b) Each Stock Grant Agreement shall state the number of Shares to which the Stock Grant pertains;

(c) Each Stock Grant Agreement shall include the terms of any right of the Company to reacquire the Shares subject to the Stock Grant, including the time and events upon which such rights shall accrue and the purchase price therefor, if any; and

(d) The Plan does not confer upon any Participant any right with respect to continued employment nor shall any Stock Grant interfere with the Company's right to terminate the Participant's employment with or without cause, at any time, for any reason or no reason at all.

8. EXERCISE OF OPTIONS AND ISSUE OF SHARES.

To the extent that the right to purchase Shares under an Option has accrued and is in effect, an Option (or any part or installment thereof) shall be exercised by giving written notice to the Company at its principal executive office, together with payment of the full purchase price in accordance with this Paragraph for the Shares as to which the Option is being exercised, and upon compliance with any other condition(s) set forth in the Option Agreement. Such written notice shall be signed by the person exercising the Option, shall state the number of Shares with respect to which the Option is being exercised and shall contain any representation required by the Plan or the Option Agreement.

Each Option granted under the Plan shall, subject to the other provisions of this Plan, be exercisable at such time or times and during such period as shall be set forth in the Option Agreement.

To the extent that an Option to purchase shares is not exercised by a Participant when it becomes initially exercisable, it shall not expire but shall be carried forward and shall be exercisable, on a cumulative basis, until the expiration of the exercise period. No partial exercise may be made for less than 100 full shares of Common Stock.

Payment of the purchase price for the Shares as to which such Option is being exercised shall be made (a) in United States dollars in cash or by check, or (b) at the discretion of the Administrator, and so long as there is no adverse tax or accounting impact to the Company, through delivery of shares of Common Stock owned by the Participant for at least six (6) months and having a Fair Market Value equal as of the date of the exercise to the cash exercise price of the Option, or (c) at the discretion of the Administrator, by delivery of the grantee's personal recourse note bearing interest at a fair market interest rate in accordance with applicable accounting practice for such note, or at 100% of the applicable Federal rate ("AFR"), as defined in Section 1274(d) of the

Code, if the AFR is greater than a fair market interest rate, or (d) at the discretion of the Administrator, by any combination of (a), (b) and (c) above.

When an Option is exercised, the Company shall then reasonably promptly deliver the Shares as to which such Option was exercised to the Participant (or to the Participant's Survivors, as the case may be). In determining what constitutes "reasonably promptly," it is expressly understood that the issuance and delivery of the Shares may be delayed by the Company in order to comply with any law or regulation (including, without limitation, state securities or "blue sky" laws) which requires or makes it desirable for the Company to take any action with respect to the Shares prior to their issuance. The Shares shall, upon delivery, be evidenced by an appropriate certificate or certificates for fully paid, non-assessable Shares.

The Administrator shall have the right to accelerate the date of exercise of any installment of any Option; provided that the Administrator shall not accelerate the exercise date of any installment of any Option granted as an ISO (and not previously converted into a Non-Qualified Option pursuant to Paragraph 26) if such acceleration would violate any vesting limitation contained in Section 422(d) of the Code.

The Administrator may, in its discretion, amend any term or condition of an outstanding Option provided (i) such amendment is permitted by the Plan, (ii) any such amendment shall be made only with the consent of the Participant to whom the Option was granted, or in the event of the death of the Participant, the Participant's Survivors, if the amendment is adverse to the Participant, and (iii) any such amendment of any ISO shall be made only after the Administrator, after consulting the counsel for the Company, determines whether such amendment would constitute a "modification" of any Option which is an ISO (as that term is defined in Section 424(h) of the Code) or would cause any adverse tax consequences for the holder of such ISO.

9. ACCEPTANCE OF STOCK GRANT AND ISSUE OF SHARES.

A Stock Grant (or any part or installment thereof) shall be accepted by executing the Stock Grant Agreement and delivering it to the Company at its principal office, together with payment of the full purchase price, if any, in accordance with this Paragraph for the Shares as to which such Stock Grant is being accepted, and upon compliance with any other conditions set forth in the Stock Grant Agreement. Payment of the purchase price for the Shares as to which such Stock Grant is being accepted shall be made (a) in United States dollars in cash or by check, or (b) at the discretion of the Administrator and only so long as there is no adverse tax or accounting impact to the Company, through delivery of shares of Common Stock owned by the Participant for at least six (6) months and having a fair market value equal as of the date of acceptance of the Stock Grant to the purchase price of the Stock Grant determined in good faith by the Administrator, or (c) at the discretion of the Administrator, by delivery of the grantee's personal recourse note bearing interest at a fair market interest rate in accordance with applicable accounting practice for such note, or at 100% of the applicable Federal rate ("AFR"), as defined in Section 1274(d) of the Code, if the AFR is greater than a fair

market interest rate, or (d) at the discretion of the Administrator, by any combination of (a), (b) and (c) above.

The Company shall then reasonably promptly (as determined in paragraph 8 above) deliver the Shares as to which such Stock Grant was accepted to the Participant (or to the Participant's Survivors, as the case may be), subject to any escrow provision set forth in the Stock Grant Agreement.

The Administrator may, in its discretion, amend any term or condition of an outstanding Stock Grant or Stock Grant Agreement provided (i) such amendment is permitted by the Plan, and (ii) any such amendment shall be made only with the consent of the Participant to whom the Stock Grant was made, if the amendment is adverse to the Participant.

10. RIGHTS AS A STOCKHOLDER.

No Participant to whom a Stock Right has been granted shall have rights as a stockholder with respect to any Shares covered by such Stock Right, except after: (a) due exercise of the Option or acceptance of the Stock Grant in compliance with the terms of the Stock Right and tender of the full purchase price, if any, for the Shares being purchased pursuant to such exercise or acceptance; and (b) registration of the Shares in the Company's share register in the name of the Participant.

11. ASSIGNABILITY AND TRANSFERABILITY OF STOCK RIGHTS.

By its terms, a Stock Right granted to a Participant shall not be assignable or transferable by the Participant other than (i) by will or by the laws of descent and distribution, except that an optionee may transfer Stock Rights that are not ISOs granted under the Plan to the Participant's spouse or children or to a trust or partnership for the benefit of the Participant or Participant's spouse or children, or (ii) as otherwise determined by the Administrator and set forth in the applicable Option Agreement or Stock Grant Agreement. The designation of a beneficiary of a Stock Right by a Participant shall not be deemed a transfer prohibited by this Paragraph. Except as provided above, a Stock Right shall only be exercisable or may only be accepted, during the Participant's lifetime, by such Participant (or by his or her legal representative) and shall not be assigned, pledged or hypothecated in any way (whether by operation of law or otherwise) and shall not be subject to execution, attachment or similar process. Any Stock Right granted under the Plan shall be null and void and without effect upon the bankruptcy of the Participant to whom the Stock Right is granted, or upon any attempted transfer, assignment, pledge, hypothecation or other disposition except as herein provided, including without limitation any disposition, attachment, divorce, trustee process or similar process, whether legal or equitable upon such Stock Right.

12. EFFECT ON OPTIONS OF TERMINATION OF SERVICE.

A. Termination Other Than Due to Disability or Death. Except as otherwise provided in the pertinent Option Agreement, in the event of a termination of service (whether as an Employee, director or consultant) with the Company or an Affiliate before the Participant has exercised an Option, the following rules apply:

a. A Participant who ceases to be an Employee, director or consultant of the Company or of an Affiliate (for any reason other than termination due to Disability or death for which events there are special rules in Subparagraphs B and C, respectively), may exercise any Option granted to him or her to the extent that the Option is exercisable on the date of such termination of service, but only within such term as the Administrator has designated in the pertinent Option Agreement.

b. Except as provided in elsewhere in this Paragraph, in no event may an Option Agreement provide, if an Option is intended to be an ISO, that the time for exercise be later than three (3) months after the Participant's termination of employment.

c. The provisions of this Paragraph, and not the provisions of subparagraph B or C, shall apply to a Participant who subsequently becomes Disabled or dies after the termination of employment, director status or consultancy, provided, however, in the case of a Participant's Disability or death within three (3) months after the termination of employment, director status or consultancy, the Participant or the Participant's Survivors may exercise the Option within one (1) year after the date of the Participant's termination of employment, but in no event after the date of expiration of the term of the Option.

d. A Participant to whom an Option has been granted under the Plan who is absent from work with the Company or with an Affiliate because of temporary disability (any disability other than a Disability), or who is on leave of absence for any purpose, shall not, during the period of any such absence, be deemed, by virtue of such absence alone, to have terminated such Participant's employment, director status or consultancy with the Company or with an Affiliate, except as the Administrator may otherwise expressly provide.

e. Except as required by law or as set forth in the pertinent Option Agreement, Options granted under the Plan shall not be affected by any change of a Participant's status within or among the Company and any Affiliates, so long as the Participant continues to be an Employee, director or consultant of the Company or any Affiliate.

B. Termination for Disability. Except as otherwise provided in the pertinent Option Agreement, a Participant who ceases to be an Employee, director or consultant of the Company or of an Affiliate by reason of Disability may exercise any Option granted to such Participant:

a. To the extent exercisable but not exercised on the date of Disability; and

b. In the event rights to exercise the Option accrue periodically, to the extent of a pro rata portion of any additional rights as would have accrued had the Participant not become Disabled prior to the end of the accrual period which next ends following the date of Disability. The proration shall be based upon the number of days of such accrual period prior to the date of Disability.

A Disabled Participant may exercise such rights only within the period ending one (1) year after the date of the Participant's termination of employment, directorship or consultancy, as the case may be, notwithstanding that the Participant might have been able to exercise the Option as to some or all of the Shares on a later date if the Participant had not become Disabled and had continued to be an Employee, director or consultant or, if earlier, within the originally prescribed term of the Option.

C. Termination Due to Death. Except as otherwise provided in the pertinent Option Agreement, in the event of the death of a Participant while the Participant is an Employee, director or consultant of the Company or of an Affiliate, such Option may be exercised by the Participant's Survivors:

a. To the extent exercisable but not exercised on the date of death; and

b. In the event rights to exercise the Option accrue periodically, to the extent of a pro rata portion of any additional rights which would have accrued had the Participant not died prior to the end of the accrual period which next ends following the date of death. The proration shall be based upon the number of days of such accrual period prior to the Participant's death.

If the Participant's Survivors wish to exercise the Option, they must take all necessary steps to exercise the Option within one (1) year after the date of death of such Participant, notwithstanding that the decedent might have been able to exercise the Option as to some or all of the Shares on a later date if he or she had not died and had continued to be an Employee, director or consultant or, if earlier, within the originally prescribed term of the Option.

13. EFFECT OF TERMINATION OF SERVICE ON STOCK GRANTS.

A. General. In the event of a termination of service (whether as an Employee, director or consultant) with the Company or an Affiliate for any reason before the Participant has accepted the offer of, and complied with all purchase or acquisition

requirements under, a Stock Grant in accordance with its terms, such offer of a Stock Grant shall terminate.

For purposes of this Paragraph 13, a Participant to whom a Stock Grant has been offered under the Plan who is absent from work with the Company or with an Affiliate because of temporary disability (any disability other than a "Disability"), or who is on leave of absence for any purpose, shall not, during the period of any such absence, be deemed, by virtue of such absence alone, to have terminated such Participant's employment, director status or consultancy with the Company or with an Affiliate, except as the Administrator may otherwise expressly provide.

In addition, for purposes of this Paragraph 13, any change of employment or other service within or among the Company and any Affiliates shall not be treated as a termination of employment, director status or consultancy so long as the Participant continues to be an Employee, director or consultant of the Company or any Affiliate.

Except as otherwise provided in the pertinent Stock Grant Agreement, in the event of a termination of service (whether as an Employee, director or consultant), other than due to Disability or death for which events there are special rules in subparagraphs B and C, the Company shall have the right to repurchase all unvested Shares at the original purchase price.

B. Termination Due to Disability. Except as otherwise provided in the pertinent Stock Grant Agreement, if a Participant ceases to be an Employee, director or consultant of the Company or of an Affiliate by reason of Disability, the Company and shall have the right to purchase all unvested Shares at the original purchase price, to the extent such rights of repurchase are to lapse periodically after the date of Disability, such rights of repurchase shall lapse on a pro rata portion of the Shares subject to such Stock Grant as would have lapsed had the Participant not become Disabled prior to the end of the vesting period which next ends following the date of Disability. The proration shall be based upon the number of days of such vesting period prior to the date of Disability.

C. Termination Due to Death. Except as otherwise provided in the pertinent Stock Grant Agreement in the event of the death of a Participant while the Participant is an Employee, director or consultant of the Company or of an Affiliate, the Company shall have the right to repurchase unvested Shares at the original purchase price. To the extent such rights of repurchase are to lapse periodically after the date of death, such rights of repurchase shall lapse on a pro rata portion of the Shares subject to such Stock Grant as would have lapsed had the Participant not died prior to the end of the vesting period following the date of death. The proration shall be based upon the number of days of such vesting period prior to the Participant's death.

14. PURCHASE FOR INVESTMENT.

Unless the offering and sale of the Shares to be issued upon the particular exercise or acceptance of a Stock Right shall have been effectively registered under the Securities

Act of 1933, as now in force or hereafter amended (the "1933 Act"), the Company shall be under no obligation to issue the Shares covered by such exercise unless and until the following conditions have been fulfilled:

a. The person(s) who exercise(s) or accept(s) such Stock Right shall warrant to the Company, prior to the receipt of such Shares, that such person(s) are acquiring such Shares for their own respective accounts, for investment, and not with a view to, or for sale in connection with, the distribution of any such Shares, in which event the person(s) acquiring such Shares shall be bound by the provisions of the following legend which shall be endorsed upon the certificate(s) evidencing their Shares issued pursuant to such exercise or such grant:

> "The shares represented by this certificate have been taken for investment and they may not be sold or otherwise transferred by any person, including a pledgee, unless (1) either (a) a Registration Statement with respect to such shares shall be effective under the Securities Act of 1933, as amended, or (b) the Company shall have received an opinion of counsel satisfactory to it that an exemption from registration under such Act is then available, and (2) there shall have been compliance with all applicable state securities laws."

b. At the discretion of the Administrator, the Company shall have received an opinion of its counsel that the Shares may be issued upon such particular exercise or acceptance in compliance with the 1933 Act without registration thereunder.

In the event that the Company shall deem it necessary or desirable to register under the 1933 Act or other applicable statutes any Shares with respect to which a Stock Right shall have been exercised, or to qualify any such Shares for exemption from the 1933 Act or other applicable statutes, then the Company may take such action and may require from each Participant such information in writing for use in any registration statement, supplementary registration statement, prospectus, preliminary prospectus or offering circular as is reasonably necessary for such purpose and may require reasonable indemnity to the Company and its officers and directors from such holder against all losses, claims, damages and liabilities arising from such use of the information so furnished and caused by any untrue statement of any materials fact therein or caused by the omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made.

15. DISSOLUTION OR LIQUIDATION OF THE COMPANY.

Upon the dissolution or liquidation of the Company, all Options granted under this Plan which as of such date shall not have been exercised and all Stock Grants which

have not been accepted will terminate and become null and void; provided, however, that if the rights of a Participant or a Participant's Survivors have not otherwise terminated and expired, the Participant or the Participant's Survivors will have the right immediately prior to such dissolution or liquidation to exercise or accept any Stock Right to the extent that the Stock Right is exercisable or subject to acceptance as of the date immediately prior to such dissolution or liquidation.

16. ADJUSTMENTS.

Upon the occurrence of any of the following events, a Participant's rights with respect to any Stock Right granted to him or her hereunder shall be adjusted as hereinafter provided, unless otherwise specifically provided in the pertinent Option Agreement or Stock Grant Agreement:

A. Stock Dividends and Stock Splits. If (i) the shares of Common Stock shall be subdivided or combined into a greater or smaller number of shares or if the Company shall issue any shares of Common Stock as a stock dividend on its outstanding Common Stock, or (ii) additional shares or new or different shares or other securities of the Company or other non-cash assets are distributed with respect to such shares of Common Stock, the number of shares of Common Stock deliverable upon the exercise or acceptance of such Stock Right shall be appropriately increased or decreased proportionately, and appropriate adjustments shall be made in the purchase price per share to reflect such events.

B. Consolidations or Mergers. If the Company is to be consolidated with or acquired by another entity in a merger, consolidation, private sale or sale of all or substantially all of the Company's assets or otherwise (an "Acquisition"), the Administrator or the board of directors of any entity assuming the obligations of the Company hereunder (the "Successor Board"), shall, as to outstanding Options, either (i) make appropriate provision for the continuation of such Options by substituting on an equitable basis for the Shares then subject to such Options either the consideration payable with respect to the outstanding shares of Common Stock in connection with the Acquisition or securities of any successor or acquiring entity; or (ii) upon written notice to the Participants, provide that all Options must be exercised (to the extent then exercisable after taking into account any applicable acceleration of vesting) at the end of which period the Options shall terminate; or (iii) terminate all Options in exchange for a cash payment equal to the excess of the Fair Market Value of the Shares subject to such Options (to the extent then exercisable after taking into account any applicable application of vesting) over the exercise price thereof.

With respect to outstanding Stock Grants, the Administrator or the Successor Board, shall either (i) make appropriate provisions for the continuation of such Stock Grants by substituting on an equitable basis for the Shares then subject to such Stock Grants either the consideration payable with respect to the outstanding Shares of Common Stock in connection with the Acquisition or securities of any successor or acquiring entity; or (ii) upon written notice to the Participants, provide that all Stock

Grants must be accepted (to the extent then subject to acceptance) within a specified number of days of the date of such notice, at the end of which period the offer of the Stock Grants shall terminate; or (iii) terminate all Stock Grants in exchange for a cash payment equal to the excess of the Fair Market Value of the Shares subject to such Stock Grants over the purchase price thereof, if any. In addition, in the event of an Acquisition, the Administrator may waive any or all Company repurchase rights with respect to outstanding Stock Grants.

C. Recapitalization or Reorganization. In the event of a recapitalization or reorganization of the Company (other than a transaction described in Subparagraph B above) pursuant to which securities of the Company or of another corporation are issued with respect to the outstanding shares of Common Stock, a Participant upon exercising or accepting a Stock Right shall be entitled to receive, for the purchase price, if any, paid upon such exercise or acceptance, the securities which would have been received if such Stock Right had been exercised or accepted prior to such recapitalization or reorganization.

D. Modification of ISOs. Notwithstanding the foregoing, any adjustments made pursuant to Subparagraph A, B or C with respect to ISOs shall be made only after the Administrator, after consulting with counsel for the Company, determines whether such adjustments would constitute a "modification" of such ISOs (as that term is defined in Section 424(h) of the Code) or would cause any adverse tax consequences for the holders of such ISOs. If the Administrator determines that such adjustments made with respect to ISOs would constitute a modification of such ISOs, it may refrain from making such adjustments, unless the holder of an ISO specifically requests in writing that such adjustment be made and such writing indicates that the holder has full knowledge of the consequences of such "modification" on his or her income tax treatment with respect to the ISO.

17. ISSUANCES OF SECURITIES.

Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares subject to Stock Rights. Except as expressly provided herein, no adjustments shall be made for dividends paid in cash or in property (including without limitation, securities) of the Company prior to any issuance of Shares pursuant to a Stock Right.

18. FRACTIONAL SHARES.

No fractional shares shall be issued under the Plan and the person exercising a Stock Right shall receive from the Company cash in lieu of such fractional shares equal to the Fair Market Value thereof.

19. CONVERSION OF ISOs INTO NON-QUALIFIED OPTIONS; TERMINATION OF ISOs.

The Administrator, at the written request of any Participant, may in its discretion take such actions as may be necessary to convert such Participant's ISOs (or any portions thereof) that have not been exercised on the date of conversion into Non-Qualified Options at any time prior to the expiration of such ISOs, regardless of whether the Participant is an Employee of the Company or an Affiliate at the time of such conversion. Such actions may include, but not be limited to, extending the exercise period or reducing the exercise price of the appropriate installments of such Options. At the time of such conversion, the Administrator (with the consent of the Participant) may impose such conditions on the exercise of the resulting Non-Qualified Options as the Administrator in its discretion may determine, provided that such conditions shall not be inconsistent with this Plan. Nothing in the Plan shall be deemed to give any Participant the right to have such Participant's ISOs converted into Non-Qualified Options, and no such conversion shall occur until and unless the Administrator takes appropriate action. The Administrator, with the consent of the Participant, may also terminate any portion of any ISO that has not been exercised at the time of such conversion.

20. WITHHOLDING.

In the event that any federal, state, or local income taxes, employment taxes, Federal Insurance Contributions Act ("F.I.C.A.") withholdings or other amounts are required by applicable law or governmental regulation to be withheld from the Participant's salary, wages or other remuneration in connection with the exercise or acceptance of a Stock Right or in connection with a Disqualifying Disposition (as defined in Paragraph 21) or upon the lapsing of any right of repurchase, the Company may withhold from the Participant's compensation, if any, or may require that the Participant advance in cash to the Company, or to any Affiliate of the Company which employs or employed the Participant, the amount of such withholdings unless a different withholding arrangement, including the use of shares of the Company's Common Stock or a promissory note, is authorized by the Administrator (and permitted by law). For purposes hereof, the fair market value of the shares withheld for purposes of payroll withholding shall be determined in the manner provided in Paragraph 1 above, as of the most recent practicable date prior to the date of exercise and shall not exceed the minimum amount required by law to be withheld. If the fair market value of the shares withheld is less than the amount of payroll withholdings required, the Participant may be required to advance the difference in cash to the Company or the Affiliate employer. The Administrator in its discretion may condition the exercise of an Option for less than the then Fair Market Value on the Participant's payment of such additional withholding.

21. NOTICE TO COMPANY OF DISQUALIFYING DISPOSITION.

Each Employee who receives an ISO must agree to notify the Company in writing immediately after the Employee makes a Disqualifying Disposition of any shares acquired pursuant to the exercise of an ISO. A Disqualifying Disposition is any

disposition (including any sale) of such shares before the later of (a) two (2) years after the date the Employee was granted the ISO, or (b) one (1) year after the date the Employee acquired Shares by exercising the ISO. If the Employee has died before such stock is sold, these holding period requirements do not apply and no Disqualifying Disposition can occur thereafter.

22. TERMINATION OF THE PLAN.

The Plan will terminate on, the date which is ten (10) years from the earlier of the date of its adoption and the date of its approval by the stockholders of the Company. The Plan may be terminated at an earlier date by vote of the Administrator or by the Requisite Stockholder Vote (as defined herein) provided, however, that any such earlier termination shall not affect any Option Agreements or Stock Grant Agreements executed prior to the effective date of such termination.

23. AMENDMENT OF THE PLAN AND AGREEMENTS.

The Plan may be amended by the Administrator, including, without limitation, to the extent necessary to qualify any or all outstanding Stock Rights granted under the Plan or Stock Rights to be granted under the Plan for favorable federal income tax treatment (including deferral of taxation upon exercise) as may be afforded incentive stock options under Section 422 of the Code, and to the extent necessary to qualify the shares issuable upon exercise or acceptance of any outstanding Stock Rights granted, or Stock Rights to be granted, under the Plan for listing on any national securities exchange or quotation in any national automated quotation system of securities dealers. Any amendment approved by the Administrator which the Administrator determines is of a scope that requires stockholder approval shall be subject to obtaining the Requisite Stockholder Vote (as defined herein); provided, however, that the Administrator may not, without obtaining the Requisite Stockholder Vote, increase the maximum number of shares for which Stock Rights may be granted (except by operation of Sections 3 and 16 above) or change the designation of the class of persons eligible to receive ISOs under the Plan. Any modification or amendment of the Plan shall not, without the consent of a Participant, adversely affect his or her rights under a Stock Right previously granted to him or her. With the consent of the Participant affected, the Administrator may amend outstanding Option Agreements and Stock Grant Agreements in a manner which may be adverse to the Participant but which is not inconsistent with the Plan. In the discretion of the Administrator, outstanding Option Agreements and Stock Grant Agreements may be amended by the Administrator in a manner which is not adverse to the Participant.

24. EMPLOYMENT OR OTHER RELATIONSHIP.

Nothing in this Plan or any Option Agreement or Stock Grant Agreement shall be deemed to prevent the Company or an Affiliate from terminating the employment, consultancy or director status of a Participant, nor to prevent a Participant from terminating his or her own employment, consultancy or director status or to give any

Participant a right to be retained in employment or other service by the Company or any Affiliate for any period of time.

25. RESTRICTION ON ISSUE OF SHARES.

(a) Notwithstanding the provisions of Paragraph 8, the Company may delay the issuance of Shares covered by the exercise of an option and the delivery of a certificate for such Shares until the delivery or distribution of any shares issued under this Plan complies with all applicable laws (including without limitation, the 1933 Act), and with the applicable rules of any stock exchange upon which the shares of the Company are listed or traded.

(b) It is intended that all exercises of options shall be effective, and the Company shall use its best efforts to bring about compliance with all applicable legal and regulatory requirements within a reasonable time, except that the Company shall be under no obligation to qualify Shares or to cause a registration statement or a post-effective amendment to any registration statement to be prepared for the purpose of covering the issue of Shares in respect of which any option may be exercised, except as otherwise agreed to by the Company in writing.

26. COMPLIANCE WITH RULE 16B-3.

It is intended that the provisions of the Plan and any Stock Right granted hereunder to a person subject to the reporting requirements of Section 16(a) of the 1934 Act shall comply in all respects with the terms and conditions of Rule 16b-3, or any successor provisions. Any agreement granting Stock Rights shall contain such provisions as are necessary or appropriate to assure such compliance. To the extent that any provision hereof is found not to be in compliance with such Rule 16b-3, such provision shall be deemed to be modified so as to be in compliance with such Rule 16b-3, or if such modification is not possible, shall be deemed to be null and void, as it relates to a recipient subject to Section 16(a) of the 1934 Act.

27. RESERVATION OF STOCK.

The Company shall at all times during the term of the Plan reserve and keep available such number of Shares as will be sufficient to satisfy the requirements of the Plan and shall pay all fees and expenses necessarily incurred by the Company in connection therewith.

28. NOTICES.

Any communication or notice required or permitted to be given under the Plan shall be in writing, and mailed by registered or certified mail or delivered by hand, if to the Company, to its principal place of business, attention: General Counsel, and, if to a Participant, to the address as appearing on the records of the Company.

29. GOVERNING LAW.

This Plan shall be construed and enforced in accordance with the internal substantive laws of The State of Delaware.

30. APPROVAL OF STOCKHOLDERS**.**

The Plan shall be subject to approval by the vote of the stockholders holding shares representing at least a majority of the voting power of the outstanding shares (on a fully diluted basis) of the Company present, or represented, and entitled to vote at a duly held stockholders' meeting, or by written consent of the stockholders as provided for under applicable state law (the "Requisite Stockholder Vote"), within twelve (12) months after the adoption of the Plan by the Board of Directors and shall take effect as of the date of adoption by the Board of Directors upon such approval. The Committee may not grant Stock Rights under the Plan prior to such approval.

SCHEDULE A

TO 2003 AMENDED AND RESTATED STOCK INCENTIVE PLAN

DEFINITIONS

"Administrator" means the Board of Directors, unless it has delegated power to act on its behalf to the Committee, in which case the Administrator means the Committee.

"Affiliate" means a corporation which, for purposes of Section 424 of the Code, is a parent or subsidiary of the Company, direct or indirect.

"Board of Directors" means the Board of Directors of the Company.

"Code" means the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated thereunder by the regulatory agencies with authority thereunder.

"Committee" means the committee of the Board of Directors to which the Board of Directors has delegated power to act under or pursuant to the provisions of the Plan.

"Common Stock" means shares of the Company's Class B Common Stock, $.01 par value per share.

"Company" means Marchex, Inc., a Delaware corporation.

"Disability" or "Disabled" means permanent and total disability as defined in Section 22(e)(3) of the Code. The Administrator shall make the determination both of whether Disability has occurred and the date of its occurrence (unless a procedure for such determination is set forth in another agreement between the Company and such Participant, in which case such procedure shall be used for such determination). If requested, the Participant shall be examined by a physician selected or approved by the Administrator, the cost of which examination shall be paid for by the Company.

"Employee" means an employee of the Company, an Affiliate or a Strategic Partner (including, without limitation, an employee who is also serving as an officer or director of the Company or of an Affiliate), designated by the Administrator to be eligible to be granted one or more Stock Rights under the Plan.

"Fair Market Value" of a Share of Common Stock means:

(1) If the Common Stock is listed on a national securities exchange or traded in the over-the-counter market and sales prices are regularly reported for the Common Stock, the closing or last price of the Common Stock on the composite tape or other comparable reporting system for the trading day immediately preceding the applicable date;

(2) If the Common Stock is not traded on a national securities exchange but is traded on the over-the-counter market, if sales prices are not regularly reported for the Common Stock for the trading day referred to in clause (1), and if bid and asked prices for the Common Stock are regularly reported, the mean between the bid and the asked price for the Common Stock at the close of trading in the over-the-counter market for the trading day on which Common Stock was traded immediately preceding the applicable date; and

(3) If the Common Stock is neither listed on a national securities exchange nor traded in the over-the-counter market, such value as the Administrator, in good faith, shall determine.

"ISO" means an option meant to qualify as an incentive stock option under Section 422 of the Code.

"Non-Qualified Option" means an option which is not intended to qualify as an ISO.

"Option" means an ISO or Non-Qualified Option granted under the Plan.

"Option Agreement" means an agreement between the Company and a Participant delivered pursuant to the Plan, in such form as the Administrator shall approve.

"Participant" means a Employee, director or consultant of the Company or its Affiliates to whom one or more Stock Rights are granted under the Plan and who are eligible to participate in this Plan under Paragraph 2. As used herein, "Participant" shall include "Participant's Survivors" where the context requires.

"Plan" means this Marchex, Inc. 2003 Amended and Restated Stock Incentive Plan.

"Shares" means shares of the Common Stock as to which Stock Rights have been or may be granted under the Plan or any shares of capital stock into which the Shares are changed or for which they are exchanged within the provisions of the Plan.

"Stock Grant" means a grant by the Company of Shares under the Plan also means the grant by the Company of a right to purchase Shares under a restricted stock purchase arrangement on terms that the Administrator deems appropriate.

"Stock Grant Agreement" means an agreement between the Company and a Participant delivered pursuant to the Plan, in such form as the Administrator shall approve.

"Stock Right" means a right to Shares of the Company granted pursuant to the Plan under a ISO, a Non-Qualified Option or a Stock Grant.

"Strategic Partners" means any contractor, joint venture partner or other entity having a relationship with the Company, which relationship the Administrator, at its discretion, determines will promote the success of the Company.

"Survivors" means a deceased Participant's legal representatives and/or any person or persons who acquired the Participant's rights to a Stock Right by will or by the laws of descent and distribution.

EXHIBIT 10.12

SUBLEASE

This SUBLEASE (the "Sublease") is entered into as of the 1st day of March, 2004, by and between Seattle Coffee Company, a Georgia corporation ("Sublandlord") and Marchex, Inc., a Delaware corporation ("Subtenant").

RECITALS

A. Sublandlord, as tenant, is a party to that certain Lease Agreement dated as of June 29, 2001, as amended by that certain First Amendment to Lease dated September 30, 2002 (collectively, the "Master Lease") with Pine Street Development L.L.C.("Master Landlord"), as landlord, for certain premises containing approximately twenty five thousand nine hundred eighty three (25,983) contiguous rentable square feet of space on Floor 5 as well as the entire server room (comprising approximately eight hundred five (805) rentable square feet) located on Floor 4 ("Server Room") (collectively, the "Premises") of the building commonly known as the Fifth and Pine Building with an address of 413 Pine Street, Seattle, Washington 98101 (the "Building"), as further described on Exhibit A attached thereto.

B. Subject to the schedule for possession set forth in Section 1 below, Sublandlord wishes to sublease the Subleased Premises (as defined below) to Subtenant, and Subtenant wishes to sublease the Subleased Premises from Sublandlord.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Sublease. On the terms and subject to the conditions stated herein, Sublandlord hereby subleases the Subleased Premises (as defined herein) to Subtenant and Subtenant hereby subleases the Subleased Premises from Sublandlord based on the following schedule:

Dates ("Must Take Periods")	**Total Rentable Square Feet Subleased**
Commencement Date to 6/30/04	11,400
7/1/04 to 9/30/04	15,000
10/1/04 to 3/31/05	17,500
4/1/05 to 9/30/05	20,000
10/1/05 to 3/31/06	22,500
4/1/06 to 9/30/06	25,000
10/1/06 to 12/30/09	26,778

The portion of the Premises subleased by Subtenant from time to time shall be known as the "Subleased Premises". The Server Room shall be subleased by Subtenant throughout the Term and thus shall be included in the first calculation of rentable square feet set forth above and shall be a part of the Subleased Premises throughout the Term. The parties agree that after mutual execution and delivery of this Sublease, but before the Commencement Date, the parties shall mutually mark the site plan attached hereto as Schedule A and by this reference incorporated herein to show the boundaries of the initial Subleased Premises on Floor 5 of the Building. As Subtenant occupies each incremental portion of rentable square feet set forth in the above schedule (or at such earlier time as Subtenant may occupy additional space), the parties shall further amend the site plan to reflect the then-current boundaries of the Subleased Premises determined in accordance with the procedure described below. Subtenant agrees clearly to demark the space in the Subleased Premises that Subtenant is occupying during any Must Take Period (or during such earlier period that Subtenant occupies additional space); provided, however that Subtenant's occupancy of fewer rentable square feet than that set forth above for a particular Must Take Period shall not reduce the Rent due for such period.

At least fifteen (15) days before any Must Take Period or such earlier date that Subtenant elects to occupy space in excess of that allocated for a particular Must Take Period (as provided below), Subtenant shall send written notice to Sublandlord along with a proposal for Subtenant's incorporation of the next increment of space (which proposal shall include a site plan depiction of the new boundaries of the Subleased Premises and the number of square feet contained within such boundaries). If Sublandlord approves of Subtenant's proposal, then the proposed site plan therefor shall be used to amend Schedule A attached hereto and the boundaries of the Subleased Premises as depicted thereon shall be effective until the next Must Take Period or such earlier date that Subtenant elects to sublease additional space pursuant to the terms of this Sublease. If Sublandlord disapproves of Subtenant's proposal and thinks that the expanded Subleased Premises contains square feet in excess of the Space Threshold (as defined below), then Sublandlord shall send written notice of the same to Subtenant and Subtenant shall either (a) promptly revise and re-submit its proposal to Sublandlord showing a decrease in the size of the Subleased Premises below the Space Threshold, or (b) engage an independent certified architect or surveyor to measure the actual floor area of the proposed Subleased Premises. Such measurement shall be made using BOMA standards of measurement and shall be binding on the parties with respect to the square footage in Subtenant's proposal. The parties agree that Subtenant's proposed occupancy of one thousand (1,000) square feet (or less) more than the square feet allocated for a particular Must Take Period (the "Space Threshold") shall not result in an increase in Subtenant's Base Rent under this Sublease. If it is determined that Subtenant's proposal for the Subleased Premises does not include space in excess of the Space Threshold, then Sublandlord shall not object thereto. After the parties have agreed upon the new boundaries for the Subleased Premises from time to time, Schedule A shall be amended to depict the same.

If Sublandlord discovers at any time during the Term that Subtenant is occupying square feet in excess of that allocated for a particular Must Take Period (and Subtenant

did not previously give Sublandlord written notice thereof as described above), and such additional square footage exceeds the Space Threshold, upon written notice from Sublandlord, Subtenant shall, within five (5) days after receipt of Sublandlord's notice, either withdraw the boundaries of the Subleased Premises to the space allocated for that Must Take Period, or Subtenant may elect to pay Base Rent on such additional space at the rate of Seventeen Dollars ($17.00) per square foot in excess of the space allocated for that Must Take Period (which rate includes Eight Dollars and Seventy Six Cents ($8.76) attributable to Additional Rent) and Subtenant shall thereafter commence to pay Base Rent at such increased rate. If Sublandlord discovers a second time during the Term that Subtenant is occupying square feet in excess of that allocated for a particular Must Take Period (and Subtenant did not previously give Sublandlord written notice thereof as described above), and such additional square footage exceeds the Space Threshold, then Subtenant shall pay Base Rent on the excess space so occupied from the date that the parties confirm that Subtenant is occupying such excess space retroactive to the beginning of such Must Take Period (based on a rate of Seventeen Dollars ($17.00) per square foot of excess space). Thereafter, Subtenant shall have the option either to continue paying such increased Base Rent or to decrease its occupancy by the excess square feet occupied. Subtenant shall make such election by sending written notice thereof to Sublandlord within five (5) days after the parties determine the amount of excess space being occupied by Subtenant and if Subtenant elects to reduce its occupancy, then Sublandlord and Subtenant shall mutually approve the boundaries of the reduced Subleased Premises.

Subject to compliance with the applicable terms of the Master Lease, and without in any way reducing the Rent due from Subtenant, Sublandlord may sublease the portions of the Premises that are not part of the Subleased Premises, including any unused and clearly demarked space within a Zone, from time to time provided that such portions are made available for Subtenant as of the applicable Must Take Period set forth above.

Notwithstanding the foregoing, and subject to third parties' rights under subleases for the portions of the Premises not part of the Subleased Premises from time to time as described above, at any time prior to the applicable Must Take Period for a particular portion of the Subleased Premises, Subtenant shall have the option to sublease the next portion or remaining portions scheduled to become part of the Subleased Premises (as described in the schedule above) by giving Sublandlord not less than fifteen (15) days' prior written notice of such intent, which notice shall include Subtenant's proposal for the new boundaries of the Subleased Premises in accordance with the requirements described above. Upon the effective date of Subtenant's sublease of such additional space, the Subleased Premises shall be deemed to include the same and the parties shall amend Schedule A accordingly.

Except as otherwise stated herein, Subtenant accepts the Subleased Premises subject to all the terms and conditions of the Master Lease. Unless otherwise defined herein, all capitalized terms used in this Sublease shall have the meanings given such terms in the Master Lease.

2. Term. The term (the "Term") of this Sublease shall commence on March 31, 2004 (the "Commencement Date"); provided, however, that Sublandlord shall not be obligated to deliver the Subleased Premises, nor shall Subtenant be obligated to take possession of the same, and the Commencement Date shall not occur until April 30, 2004 if Master Landlord provides its consent between March 31, 2004 and April 29, 2004, and Sublandlord shall not be obligated to deliver the Subleased Premises, nor shall Subtenant be obligated to take possession of the same, and the Commencement Date shall not occur until May 31, 2004 if Master Landlord provides its consent between April 30, 2004 and May 30, 2004. Promptly after the Commencement Date, Sublandlord and Subtenant shall execute a memorandum stating the actual Commencement Date. Notwithstanding the foregoing, Subtenant shall be permitted to access the Subleased Premises prior to the Commencement Date (but subject to all of the terms and conditions of this Sublease and the Master Lease, including, without limitation, the obligation to carry insurance during such period of early access) but only after the date of mutual execution and delivery of this Sublease and receipt of Master Landlord's written consent hereto. The Term shall expire on December 30, 2009, which is one day before the expiration date of the Master Lease (the "Expiration Date"), or upon such earlier date as this Sublease may be canceled or terminated pursuant to any of the provisions of this Sublease, the Master Lease or pursuant to law.

3. Rent.

3.1 Rent Commencement Date. Subtenant shall pay to Sublandlord, at the address set forth in Section 17 below, all Rent (as defined herein) when due under this Sublease commencing on the Commencement Date. Subtenant shall further commence to pay for utilities, personal property taxes, and other similar occupancy charges for periods commencing on the Commencement Date through the end of the Term. In addition, upon mutual execution of this Sublease and Sublandlord's receipt of Master Landlord's written consent to this Sublease (as further described below), promptly after written notice from Sublandlord and before Subtenant enters the Subleased Premises, Subtenant shall deliver to Sublandlord a cashiers check or a wire transfer in an amount equal to the payment of the first full month's installment of Rent (Sixteen Thousand One Hundred Fifty Dollars ($16,150.00)) (along with the Deposits described in Section 20 below). Such amount shall be applied to the Base Rent and Additional Rent first due. Subtenant shall thereafter continue to pay Rent in monthly installments on or before the first day of every month thereafter during the Term. Rent shall be paid without demand, notice, abatement, deduction or offset. If the Term includes any partial calendar months, the monthly installment of Rent for such months shall be prorated as set forth in the Master Lease. For purposes of this Sublease, "Rent" shall mean Base Rent, Additional Rent, and any other amounts due from Subtenant to Sublandlord hereunder.

3.2 Base Rent. Subtenant shall pay Sublandlord minimum rent ("Base Rent") in equal monthly installments as shown in the following schedule:

Dates	Monthly Installment*
Commencement Date to 6/30/04	$16,150.00
7/1/04 to 9/30/04	$21,250.00
10/1/04 to 3/31/05	$24,791.67
4/1/05 to 9/30/05	$28,333.33
10/1/05 to 3/31/06	$31,875.00
4/1/06 to 9/30/06	$35,416.67
10/1/06 to 12/30/09	$37,949.67

* The monthly installments set forth above shall be increased for a particular period if and when Subtenant elects to take possession of additional square footage in the Subleased Premises prior to the applicable Must Take Period for such square footage as described in Section 1 above.

3.3 Additional Rent. Subtenant shall also pay to Sublandlord Subtenant's pro rata share of all Additional Rent when due under the Master Lease. For purposes of this Sublease, "Additional Rent" shall mean any amount payable under the Master Lease which is attributable to the Subleased Premises, including, without limitation, operating costs, taxes, and insurance. The parties understand and acknowledge that the initial Base Rent figures set forth above for the calendar year 2004 take into account Additional Rent at the annual rate of Eight Dollars and Seventy Six Cents ($8.76) per square foot. After 2004 and throughout the remainder of the Term, in addition to Base Rent, Subtenant shall pay Subtenant's pro rata share of any increases in Additional Rent above the per square foot rate set forth herein. Subtenant's pro rata share shall equal the ratio of the then-current rentable square footage of the Subleased Premises divided by the total rentable square footage of the Premises. Subtenant's pro rata share shall be adjusted throughout the Term as Subtenant subleases additional space in the Subleased Premises as described in Section 1 above. After Subtenant has subleased at least twenty thousand (20,000) rentable square feet (i.e., on or before April 1, 2005) pursuant to this Sublease, the portion of Subtenant's pro rata share (on a per square foot per month basis) of Additional Rent attributable to "controllable operating expenses" (i.e., janitorial costs, management fees, mechanical system service contracts, and security guard costs) for any twelve (12) month period during the Term thereafter shall not increase by more than five percent (5%) over Subtenant's pro rata share (on a per square foot per month basis) of Additional Rent attributable to the actual controllable operating expenses for the previous twelve (12) month period.

In addition, for the first twelve (12) months of the Sublease, Subtenant further shall pay to Sublandlord One Hundred Dollars ($100.00) per month, commencing on the Commencement Date, in consideration for Subtenant's access to and right to use the

lunchroom, the large conference room, and the showers and restrooms located within the Premises but initially located outside of the Subleased Premises.

3.4 Late Charges and Interest. If any monthly installment of Rent and/or any other payments to be made by Subtenant to Sublandlord hereunder is not paid when due, Sublandlord shall be entitled to collect any late charge and/or interest which would apply to past due amounts under the terms of the Master Lease (including, without limitation, pursuant to Section 35(f) thereof).

3.5 Administration of Rent Payments. Sublandlord may advise Subtenant in a single notice of multiple payments to become due in the future and such notice shall be effective notice as to each of the payments mentioned therein. Sublandlord may direct that any or all of such payments shall be made directly to a third party until otherwise directed in writing by Sublandlord.

3.6 Other Charges Under Master Lease. Notwithstanding any provision to the contrary contained herein, in the event Subtenant fails to perform or observe any of the terms and conditions of the Master Lease (to the extent incorporated herein) or this Sublease, and Subtenant's failure to perform or failure to observe any of the terms and conditions of the Master Lease (to the extent incorporated herein) or this Sublease, or Subtenant's acts, negligence or occupancy, result(s) in an additional charge against Sublandlord, the Premises or the Subleased Premises, Subtenant shall, upon demand, pay the entire amount of such charge to Sublandlord. Notwithstanding the foregoing, in no event shall Subtenant be obligated to pay Sublandlord's income tax; however, if a rental tax is imposed, Subtenant shall pay the same with respect to Rent due under this Sublease.

4. Personal Property Taxes. Subtenant shall pay, prior to delinquency, all personal property taxes assessed against Subtenant directly and applicable to its personal property located in the Subleased Premises.

5. Extension Term. Except as provided in the Landlord Consent to Sublease, the parties acknowledge that Subtenant shall not have the right to exercise any option to extend the Term beyond the Expiration Date.

6. Condition of Subleased Premises.

6.1 Subtenant acknowledges that it has had an opportunity to thoroughly inspect the Subleased Premises and the Premises, and Subtenant agrees to accept the same "as is, where is," with all faults; provided, however, that the Subleased Premises shall be delivered in a broom clean condition, with routine maintenance completed by Master Landlord pursuant to Master Landlord's obligations under the Master Lease prior to the Commencement Date, and with the existing furniture, fixtures, and equipment (as further described on Schedule B attached hereto) ("FF&E") remaining in the Subleased Premises. Within fourteen (14) days after the date of mutual execution and delivery of this Sublease, Sublandlord and Subtenant shall walk through the Premises

together to inventory and confirm the items listed on Schedule B and the parties shall make any necessary adjustments, additions, deletions, and/or corrections to Schedule B at such time. Provided such use and reconfiguration complies with the Master Lease, this Sublease, and all applicable laws, codes, rules and regulations, Subtenant shall have the right to use and reconfigure the FF&E throughout the Term as and when Subtenant acquires possession of the space containing such FF&E according to Section 1, and Subtenant shall assume all of Sublandlord's obligations under, and shall pay the cost of, any equipment maintenance contracts for the FF&E listed on Schedule B. In no event shall Subtenant dispose of or remove any FF&E from the Subleased Premises without Sublandlord's prior written consent, which consent shall not be unreasonably withheld or delayed. Sublandlord shall respond to Subtenant's request to dispose of and/or remove any FF&E within ten (10) days after Sublandlord's receipt of Subtenant's reasonably detailed written request. If Sublandlord disapproves of Subtenant's request to dispose of and/or remove any FF&E, then Subtenant may remove such FF&E subject to the requirement that Subtenant delivers the same, in good condition, reasonable wear and tear excepted, to Sublandlord, at which point Subtenant shall have no further right to use the same. Provided the Sublease remains in effect as of the Expiration Date, Subtenant shall have the right to purchase the FF&E from Sublandlord for the nominal sum of One Dollar ($1.00).

6.2 SUBTENANT ACKNOWLEDGES THAT SUBLANDLORD HAS NOT MADE AND WILL NOT MAKE ANY WARRANTIES TO SUBTENANT WITH RESPECT TO THE QUALITY OF CONSTRUCTION OF ANY LEASEHOLD IMPROVEMENTS OR TENANT FINISHES WITHIN THE SUBLEASED PREMISES OR THE PREMISES OR AS TO THE CONDITION OF THE SUBLEASED PREMISES OR THE PREMISES, WHETHER EXPRESS, STATUTORY, IMPLIED OR OTHERWISE, AND THAT SUBLANDLORD EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY THAT THE SUBLEASED PREMISES OR THE PREMISES ARE OR WILL BE SUITABLE FOR SUBTENANT'S USE OR INTENDED COMMERCIAL PURPOSES. IN NO EVENT WILL ANY OF MASTER LANDLORD'S REPRESENTATIONS AND WARRANTIES IN THE MASTER LEASE BE ATTRIBUTED TO OR ASSUMED BY SUBLANDLORD.

7. Use and Operations.

7.1 Use. Subtenant shall use the Subleased Premises solely for the use permitted by the Master Lease.

7.2 Operating Requirements. In addition to complying with all operational requirements imposed on Subtenant by the terms of the Master Lease, Subtenant agrees as follows:

(a) Subtenant's operations shall at all times be first class and in keeping with the highest commercial standards.

(b) Subtenant shall not create or permit a nuisance or otherwise interfere with or disturb Sublandlord, Master Landlord, any neighboring tenants or any of their employees, contractors, agents or invitees.

(c) Subtenant shall not operate in any manner that increases the rate for or invalidates any policy of insurance carried by Sublandlord or Master Landlord.

7.3 Rules. Subtenant shall comply with any reasonable rules and regulations established by Sublandlord or Master Landlord for the Premises and/or the Subleased Premises and communicated to Subtenant in writing.

7.4 Compliance with Law. Subtenant, at its expense, shall comply promptly with all laws, rules, and regulations made by any governmental authority having jurisdiction over the Subleased Premises, and shall comply with all laws, rules and regulations as required by the Master Lease.

8. Subordination; Incorporation of Master Lease.

8.1 Incorporation of Master Lease. Except as otherwise provided herein, this Sublease is subject and subordinate to all of the covenants, agreements, terms, provisions, conditions and obligations of the Master Lease. It is expressly understood that this Sublease and the enforceability hereof shall not in any way be subject to or contingent upon execution or assignment of any subordination, non-disturbance and attornment agreement or any other non-disturbance agreement, nor shall Sublandlord have any obligation to obtain the same on Subtenant's behalf. Subtenant agrees that all rights and privileges granted hereunder are subject to the limitations imposed on Sublandlord by the Master Lease and that Sublandlord is not granting any rights or privileges to Subtenant that are not expressly granted to Sublandlord under the Master Lease. All of the covenants, agreements, terms, provisions, conditions, obligations and rules and regulations of the Master Lease are incorporated herein by reference, with the same force and effect as if they were fully set forth herein. Subtenant agrees to be bound by and to comply with the terms of the Master Lease and to perform Sublandlord's obligations thereunder for the benefit of Master Landlord and Sublandlord with respect to the Sublease Premises, except that:

(a) Any reference in the Master Lease to: (i) "Landlord" shall mean Master Landlord; and (ii) "Tenant" shall mean Subtenant.

(b) In all instances where the consent or approval of the Master Landlord is required pursuant to the Master Lease, the consent or approval of each of Master Landlord and Sublandlord shall be required hereunder and Sublandlord agrees to send to Master Landlord, at Subtenant's expense, copies of Subtenant's written request for any consents required.

(c) Notwithstanding anything to the contrary contained in this Sublease, the following provisions of the Master Lease shall not be incorporated into this Sublease: Sections 1(c), 1(d), 1(g), 1(l), 3(a), 3(d), 4(b), 5(a), 5(b), 35(c) and 36 and Exhibit A-2.

8.2 Receipt of Master Lease. Sublandlord has provided to Subtenant, and Subtenant acknowledges receipt of, a true, correct and complete copy of the Master Lease and Subtenant represents and warrants that it has read and is familiar with all of the terms and provisions of the Master Lease.

8.3 Limitation on Sublandlord's Liability. Sublandlord is not assuming and shall not be obligated to perform nor be liable for the performance by Master Landlord of any of the obligations of Master Landlord under the Master Lease. Sublandlord shall, however, have the benefit of all of Master Landlord's rights under the Master Lease and shall be entitled to exercise such rights with respect to Subtenant in Sublandlord's discretion. Subtenant shall have no claim against Sublandlord by reason of any default by Master Landlord. Notwithstanding anything to the contrary contained herein, after written request from Subtenant and at Subtenant's sole cost and expense, Sublandlord shall take commercially reasonable and diligent actions to obtain the performance of any unperformed obligations owed by Master Landlord under the Master Lease or to obtain reasonably adequate remedies therefor as outlined in the Master Lease or available at applicable law; provided that in no event shall the foregoing imply any obligation on the part of Sublandlord to commence or pursue a lawsuit in connection with Sublandlord's obligations hereunder. Sublandlord's obligations hereunder shall be determined on a case by case basis in Sublandlord's commercially reasonable discretion. If Sublandlord pursues performance by the Master Landlord or pursues other remedies as described herein, then Subtenant shall reimburse Sublandlord for any expenses, fees or other costs Sublandlord incurs in connection therewith within ten (10) days after receipt of written notice and an invoice for such costs from Sublandlord. In addition, Subtenant shall be entitled to amounts (if any) recovered by Sublandlord from Master Landlord in connection with such enforcement which solely relates the Subleased Premises after Sublandlord recovers all of its expenses, fees, and other costs incurred in connection with such enforcement (to the extent not paid or reimbursed by Subtenant). In the event that Subtenant reasonably requests that Sublandlord commence or pursue legal action to enforce the Master Landlord's obligations and Sublandlord refuses to commence or pursue such legal action, Subtenant may commence or pursue legal action to enforce Master Landlord's obligations; provided, however, that Subtenant shall defend, protect, indemnify, and hold Sublandlord and Sublandlord's agents, officers, directors, contractors, employees, parents, subsidiaries, successors and assigns from and against any and all injuries, costs, expenses, liabilities, losses, damages, injunctions, suits, actions, judgments, settlements, fines, penalties, and demands of any kind or nature (including, without limitation, reasonable attorneys' fees) by or on behalf of any person, entity, or governmental authority occasioned by or arising out of Subtenant's commencement and/or pursuit of legal action as described herein.

9. Alterations.

9.1 Subtenant shall be responsible, at its sole cost and expense, for any and all costs related to space plans and construction drawings (including, without limitation, costs of any necessary approvals, permits, and any other expenses related thereto). So long as Subtenant obtains Sublandlord's consent, which consent shall not be unreasonably withheld, Subtenant may make such alterations, improvements, or installations in or to the Subleased Premises to the extent permitted by the terms of the Master Lease and Exhibit B attached thereto. Any permitted alterations, additions or improvements shall be completed in a first-class manner, furnishings and fixtures, and shall be performed at Subtenant's sole cost and expense. Subtenant shall use only first-class, reputable contractors to perform any work in the Subleased Premises. Subtenant shall perform all work in accordance with all of the requirements of the Master Lease, at Subtenant's sole cost and expense. Subtenant acknowledges and agrees that it shall be responsible for any and all costs related to moving, and that Sublandlord shall not pay any moving allowance, improvement allowance, or any other amount to Subtenant.

9.2 Upon Sublandlord's or Master Landlord's request, Subtenant shall remove any and all alterations, additions, improvements and signage from the Subleased Premises upon the expiration or termination of the Sublease and shall repair any damage caused by such removal.

9.3 Subtenant shall not permit any mechanics' or materialmen's liens to be levied against the Subleased Premises, the Premises or the property on which it is located for any labor or material furnished to Subtenant or to its agents or contractors and shall indemnify and hold Sublandlord and Master Landlord harmless from and against any such claims. If Subtenant has not removed any lien within ten (10) days after the lien is filed, then Sublandlord may pay the lien holder and Subtenant shall reimburse Sublandlord for such costs as Additional Rent.

10. Repair and Maintenance; Surrender.

10.1 Repair and Maintenance. Subtenant, at Subtenant's expense, shall keep the Subleased Premises in good order, condition and repair, including maintaining all items that are Tenant's responsibility under the Master Lease. Subtenant shall further provide, at its sole cost and expense, janitorial service for the showers and restrooms used by Subtenant if the same is not provided in connection with building maintenance by the Master Landlord. If Subtenant fails to perform Subtenant's obligations under this Section, Sublandlord may, but shall not be required to, enter upon the Subleased Premises, after ten (10) days written notice to Subtenant, and put the same in good order, condition and repair, and the reasonable costs thereof shall become due and payable as additional rental to Sublandlord together with Subtenant's next Rent installment falling due after Subtenant's receipt of an invoice for such costs.

10.2 Surrender. Upon the expiration or termination of this Sublease, Subtenant shall surrender the Subleased Premises to Sublandlord in broom clean condition, in comparable or better than the condition in which the Subleased Premises were delivered at the beginning of the Term, ordinary wear and tear excepted, and in accordance with all applicable terms and standards of the Master Lease.

11. Compliance with Master Lease. Notwithstanding anything to the contrary contained in this Sublease, Subtenant shall not do or permit anything to be done by its employees, agents, contractors, invitees, or any other party by, through or under Subtenant which would constitute a violation or breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination or forfeiture reserved by or vested in Master Landlord. Subtenant shall indemnify, defend and hold Sublandlord harmless from and against any and all losses, claims, liabilities, damages, costs or expenses (including, without limitation, reasonable attorneys' fees and disbursements) arising from Subtenant's failure to perform or observe any of the terms and conditions of the Master Lease (as and to the extent incorporated herein) or this Sublease. Subtenant's obligations and indemnity in this Section shall survive the expiration or sooner termination of this Sublease.

Notwithstanding anything to the contrary contained in this Sublease, Sublandlord shall not do or permit anything to be done by its employees, agents, contractors, invitees, or any other party by, through or under Sublandlord which would constitute a violation or breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination or forfeiture reserved by or vested in Master Landlord. Sublandlord shall indemnify, defend and hold Subtenant harmless from and against any and all losses, claims, liabilities, damages, costs or expenses (including, without limitation, reasonable attorneys' fees and disbursements) arising from Sublandlord's failure to perform or observe any of the terms and conditions of the Master Lease or this Sublease applicable to Sublandlord. Sublandlord's obligations and indemnity in this Section shall survive the expiration or sooner termination of this Sublease.

12. Intentionally Omitted.

13. Default.

13.1 The occurrence of any one or more of the following events shall constitute a default and breach of this Sublease by Subtenant:

(a) The failure by Subtenant to make any payment of Rent or any other payment required to be made by Subtenant hereunder, as and when due.

(b) The failure by Subtenant to observe or perform any of the covenants, conditions, or provisions of this Sublease to be observed or performed by Subtenant (including the terms of the Master Lease which have been incorporated herein

by reference), other than the payment of sums due hereunder, where such failure shall continue for a period of fifteen (15) days after written notice thereof from Sublandlord to Subtenant; provided, however, that if the nature of Subtenant's default is such that more than fifteen (15) days are reasonably required for its cure, then Subtenant shall not be deemed to be in default if Subtenant commences such cure within such fifteen (15) day period and thereafter diligently pursues such cure to completion.

(c) The occurrence of any act or omission of Subtenant or its employees, agents, or contractors that is, or with the giving of notice or passage of time would be, a default under the Master Lease.

13.2 In the event of any breach hereunder by Subtenant, Sublandlord shall have all of the rights and remedies available at law or in equity or available to Master Landlord against Sublandlord under the Master Lease, as if such breach occurred under such document.

13.3 Without limiting or waiving any other remedy, if Subtenant defaults in the performance of any of its obligations under this Sublease, other than its obligation to pay Rent to Sublandlord, Sublandlord, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of Subtenant and Subtenant shall pay upon demand any amount incurred in connection therewith by Sublandlord.

14. Insurance; Indemnity.

14.1 Subtenant's Insurance. Throughout the Term of this Sublease, Subtenant shall, for the benefit of Sublandlord and Master Landlord, obtain and keep in full force and effect, the insurance required by Section 16 of the Master Lease with respect to the Subleased Premises. Subtenant shall cause Sublandlord and Master Landlord to be named as additional insureds or additional loss payees (as applicable) in all such policies. Subtenant shall provide Sublandlord with an original insurance certificate prior to taking possession of the Subleased Premises and a new original certificate at least thirty (30) days prior to expiration of each such policy.

14.2 Waiver of Subrogation. Neither Sublandlord nor Subtenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees if any such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required to be covered by insurance pursuant to this Sublease. Sublandlord and Subtenant shall require their respective insurance companies to include a standard waiver of subrogation provision in their respective policies.

14.3 Indemnification by Subtenant. Subtenant shall defend, indemnify, and hold Sublandlord and Sublandlord's agents, officers, directors, employees, and contractors harmless against and from any and all injuries, costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, and demands of any kind or nature (including reasonable attorneys' fees) arising in connection with any and all third party claims arising out of (a) injuries occurring within the Subleased Premises on or after the Commencement Date or that result from Subtenant exercising its right to access the Subleased Premises prior to the Commencement Date; (b) any intentional acts or negligence of Subtenant or Subtenant's agents, employees, or contractors; (c) any breach or default in the performance of any obligation on Subtenant's part to be performed under this Sublease or the Master Lease; or (d) the failure of any representation or warranty made by Subtenant herein to be true when made. This indemnity does not include the intentional or negligent acts or omissions of Sublandlord or its agents, officers, contractors or employees. This indemnity shall survive termination of this Sublease only as to claims arising out of events that occur prior to termination of the Sublease.

15. Assignment; Subletting. Except as otherwise permitted by the Master Lease, Subtenant shall not assign or otherwise transfer its interest in and to this Sublease nor sublet all or any portion of the Subleased Premises without the prior written consent of Sublandlord (which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that any assignment, sublease or transfer by Subtenant shall further be subject to the terms of Section 17 of the Master Lease. If an assignment, sublease, or other transfer is permitted by the Master Lease without Master Landlord's consent, then such assignment, sublease or other transfer shall also be permitted without Sublandlord's consent so long as such assignment, sublease or transfer complies with the applicable terms and conditions of the Master Lease relating thereto. Subject to Master Landlord's approval of the following, for the purpose of this Sublease, if Subtenant's stock is traded on a nationally recognized public exchange, any sale or transfer of Subtenant's capital stock, redemption or issuance of additional stock of any class shall not be deemed an assignment, subletting or any other transfer of the Sublease or the Subleased Premises. In no event shall any sublease, assignment or other transfer by Subtenant release Subtenant from any liability under this Sublease. Sublandlord shall be entitled to one half of any "excess rental" (as defined herein) gained in connection with any assignment, sublease or other transfer by Subtenant. For the purpose of this Section, "excess rental" shall mean all the consideration payable to Subtenant by any assignee, subtenant or transferee that exceeds the Rent payable under this Sublease less (i) reasonable leasing commissions; (ii) payment attributable to the amortization of the cost of improvements made to the Subleased Premises at Subtenant's cost; and (iii) any other reasonable, documented out-of-pocket costs related to Subtenant securing an assignee, subtenant or assignee. Excess rental shall not include any consideration received by Subtenant in connection with an assignment arising from a sale of substantially all of Subtenant's assets or stock or payments. In addition, if Sublandlord has incurred any adverse monetary impacts from the cap on Subtenant's obligation to pay its pro rata share of Additional Rent as set forth in Section 3.3 above, then Subtenant shall reimburse Sublandlord for all such amounts on the effective date of an assignment, sublease or other

transfer, and thereafter, the cap on increases in Subtenant's pro rata share of Additional Rent shall be null and void.

16. Brokers. Except for James Keating of Grubb & Ellis Company (whose commission shall be paid by Sublandlord in accordance with the terms of a separate agreement), Sublandlord and Subtenant hereby warrant and represent to each other that they have dealt with no brokers or agents in connection with the Subleased Premises, the Premises or this Sublease or Subtenant's leasing of the Subleased Premises, and that no other broker(s) or agent(s) brought the Subleased Premises, the Premises and/or the other party to the attention of the indemnifying party. Sublandlord and Subtenant hereby agree to indemnify, defend and hold each other harmless from and against any and all claims, losses, liabilities, damages, costs or expenses (including, without limitation, reasonable attorneys' fees and disbursements) arising or resulting from the indemnifying party's breach or alleged breach of its warranty and representation contained in this Section. The provisions of this Section shall survive the expiration or sooner termination of this Sublease.

17. Notices. Whenever a provision is made under this Sublease for any demand, notice or declaration of any kind, or where it is deemed desirable or necessary by either party to give or serve any such notice, demand or declaration to the other party, it shall be in writing and served either personally or sent by United States mail, certified, postage prepaid or sent via nationally recognized overnight courier such as Federal Express. Notices to the parties shall be given to the address set forth below:

To Subtenant:	Marchex, Inc. 413 Pine Street Seattle, WA 98101
To Sublandlord:	
By Mail:	c/o Starbucks Corporation Mailstop S-RE3 P.O. Box 34067 Seattle, WA 98124-1067 Attn: Property Management Department
By Overnight Delivery:	c/o Starbucks Corporation 2401 Utah Avenue South, 8th Floor Mailstop S-RE3 Seattle, WA 98134 Attn: Property Management Department

With a duplicate copy of any notice to Sublandlord to the attention of the Law and Corporate Affairs Department at the same address.

Each party shall have the right to change its notice addresses from time to time by written notice given in accordance with this Section; provided, however, that legal service of process may always be served on Subtenant by service on the employee in charge of the Subleased Premises.

18. Parking. Sublandlord makes no representations with respect to parking. Subtenant agrees that it has the sole responsibility for investigating parking and ensuring that adequate parking exists for its intended use.

19. Signage. Subject to compliance with all applicable governmental regulations and ordinances, as well as the terms of the Master Lease, and receipt of Master Landlord's prior written consent thereto pursuant to the terms of the Master Lease, Subtenant may at its sole cost and expense install its corporate signage in the windows of the Subleased Premises and on the Building to the extent of Sublandlord's signage rights set forth in the Master Lease. If Subtenant elects to replace or remove signage, Subtenant shall be responsible, at its sole cost and expense, for removing Sublandlord's signage and installing Subtenant's signage described herein. Subtenant's obligations with respect to signage shall include, without limitation, obtaining any necessary permits and approvals therefor, and designing, fabricating, installing, maintaining, repairing, and replacing such signage, all at Subtenant's sole cost and expense. Sublandlord makes no representation, express or implied, as to the amount or type of signage Subtenant may install at the Subleased Premises.

20. Security Deposit. At the same time that Subtenant pays Sublandlord the first installment of Rent (as described in Section 3.1 above), Subtenant shall deposit with Sublandlord the following: (a) the sum of Twenty Four Thousand Seven Hundred Ninety One Dollars and Sixty Seven Cents ($24,791.67) ("Initial Security Deposit"), which sum shall be held by Sublandlord as security for the full and faithful performance of all terms, conditions and agreements contained in this Sublease by Subtenant during the first full year of the Term; and (b) the sum of Thirty Seven Thousand Nine Hundred Forty Nine Dollars and Sixty Seven Cents ($37,949.67) ("Security Deposit"), which sum shall be held by Sublandlord as security for the full and faithful performance of all terms, conditions and agreements contained in this Sublease by Subtenant throughout the Term. The Initial Security Deposit and the Security Deposit are collectively referenced herein as the "Deposits". The Deposits shall be paid to Sublandlord by cashiers check or wire transfer.

In the event of any default by Subtenant hereunder, or in the event Sublandlord advances sums on Subtenant's behalf, Sublandlord shall have the right to use the Deposits to recover its expenditures, and Subtenant shall, within ten (10) days request of Sublandlord, restore the Deposit so used to its original amount.

Sublandlord may commingle the Deposits with Sublandlord's other funds and shall not be required to pay interest on the deposits. Within thirty (30) days after the end of the first full year of the Term, Sublandlord shall return the Initial Security Deposit to

Subtenant, less any costs incurred by Sublandlord due to Subtenant's failure to comply with the terms of this Sublease which have not been reimbursed as described in the preceding paragraph. Within thirty (30) days after the Expiration Date, Sublandlord shall return the Security Deposit to Subtenant, less any costs incurred by Sublandlord due to Subtenant's failure to comply with the terms of this Sublease which have not been reimbursed as described in the preceding paragraph.

21. Governing Law; Sectional Headings. This Sublease shall be governed, enforced and regulated by the laws of the state where the Subleased Premises and the Premises are located. The sectional headings herein are inserted for convenience only and shall not be used in any way to limit or modify the terms and provisions of this Sublease.

22. Partial Invalidity. If any term or provision of this Sublease, or any application thereof, shall be found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Sublease and any other application thereof shall not be affected thereby, but shall remain in full force and effect.

23. Entire Agreement. This Sublease, together with all of the terms and provisions of the Master Lease wholly or partially incorporated herein, constitute the entire agreement between the parties hereto concerning the matters set forth herein, and any prior or contemporaneous agreement or understanding (whether oral or written) between such parties with respect to the subject matter herein shall have no force or effect.

24. Changes. This Sublease shall not be modified or amended except by a writing signed by the party against whom enforcement of the modification or amendment is sought.

25. Unexecuted/Undelivered Drafts. Unless and until executed and delivered by all parties to this Sublease, this Sublease is, and shall remain, a draft only, and delivery or discussion of the draft shall not be construed as an offer or commitment with respect to the proposed transaction to which the draft pertains. No party to the proposed transaction (and no person or entity related to any such party) will be under any legal obligation with respect to the proposed transaction or any similar transaction, and no offer, commitment, undertaking, estoppel or obligation of any nature whatsoever shall be implied in fact, in law or in equity, unless and until the formal Sublease providing for the transaction has been executed and delivered by all parties hereto.

26. Binding Effect. The terms and provisions of this Sublease shall bind and inure to the benefit of Master Landlord, Sublandlord and Subtenant and their respective successors and assigns, but this Section shall not give Subtenant any rights to assign this Sublease or to sub-sublet the Subleased Premises except as and if allowed by some other Section(s) of this Sublease.

27. Conflict in Terms. If any provision of this Sublease (express or implied) shall be in unintentional conflict with the terms of the Master Lease, the terms of the Master Lease shall be controlling.

28. Holding Over. In the event of any holding over by Subtenant after the expiration or any termination of this Sublease without the prior written consent of Sublandlord and Master Landlord, Subtenant shall pay as liquidated damages the amount which Sublandlord would have to pay to Master Landlord under the terms of Section 25 of the Master Lease, pro rated on a daily basis for the entire holdover period, and otherwise subject to the terms and conditions of Section 25 of the Master Lease. In the event of any unauthorized holding over, Subtenant shall also indemnify Sublandlord against all claims for damages by any other tenant to whom Sublandlord or Master Landlord may have subleased all or any part of the Subleased Premises or the Premises effective upon the expiration or termination of this Sublease. Any such holding over, without the prior written consent of Sublandlord, shall create only a tenancy at sufferance relationship with Subtenant and shall not operate to renew or extend this Sublease for any period of time.

29. Utilities. For periods commencing as of the Commencement Date through the end of the Term and to the extent not included in Additional Rent, Subtenant shall pay directly to the utility provider or reimburse Sublandlord for any and all utilities consumed at or for the Subleased Premises, and shall otherwise comply with Section 9 of the Master Lease.

30. No Waiver. No oral waiver, delay in enforcing, or failure to enforce, any right(s) (including but not limited to the right to collect late charges and interest) of either party under this Sublease shall prevent, hinder or delay such party's future enforcing of any such right(s), with respect to the same or any other matter.

31. Intentionally Omitted.

32. Attorneys' Fees. If any party to this Sublease brings an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the court.

33. Authority. Sublandlord and Subtenant each represent and warrant to the other that no consent by such representing party's lender(s) or any other third party (except for Master Landlord, as described below) is required for or as a condition precedent to the effective, non-contingent and fully binding execution of this Sublease by such representing party and that the below signatory for such party is fully authorized to execute this Sublease on behalf of such representing party so as to fully bind it hereto. Sublandlord and Subtenant shall each indemnify and hold harmless the other from any actual or alleged failure or breach of the preceding representation and warranty by the representing party. The preceding indemnity and hold harmless covenant shall include the obligation to pay reasonable attorneys' fees and costs

incurred by the party receiving the representation and warranty in connection with such actual or alleged breach or failure, whether or not litigation is commenced.

34. Master Landlord Contingency. This Sublease is contingent upon the Master Landlord signing the attached Consent within thirty (30) days after the mutual execution of this Sublease, unless otherwise agreed to by Subtenant and Sublandlord. Any amounts pre-paid by Subtenant shall be returned in the event that the Master Landlord has not granted consent within the time period set forth herein (as the same may be extended).

IN WITNESS WHEREOF, Sublandlord and Subtenant have hereunto caused this Sublease to be duly executed as of the date first set forth above.

SUBTENANT:	**SUBLANDLORD:**
MARCHEX, INC., a Delaware corporation	SEATTLE COFFEE COMPANY a Georgia corporation
By /S/ RUSSELL C. HOROWITZ	By /S/ MICHAEL MALANGA
Its CEO	Its AUTHORIZED AGENT

Sublandlord Notary Acknowledgment

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 3rd day of March, 2004, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Michael Malanga, to me known to be the Authorized Agent of SEATTLE COFFEE COMPANY, a Georgia corporation, the corporation that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year this certificate above written.

/S/ CHRISTINE A. MCCOMB

NOTARY PUBLIC, in and for the State
of Washington, residing at Kirkland
Commission expires: May 30, 2004
Print Name: Christine A. McComb

Subtenant Notary Acknowledgment

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 1st day of March, 2004, before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared Russell Horowitz, to me known as, or providing satisfactory evidence that he/she is the CEO of MARCHEX, INC., a Delaware corporation, the party that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

/S/ GRETCHEN BRAUNSCHWEIG

NOTARY PUBLIC in and for the County of
King residing at Seattle
My commission expires March 15, 2004
Print Name: Gretchen Braunschweig

SCHEDULE A

SITE PLAN

(attached)

SCHEDULE B

DESCRIPTION OF FF&E

Furnishings type/group	Quantity	Description
Hard Office	42	Smed, 74” extended corner surface 44” straight surface 1 – 74” closed door overhead 1 – BBF, 1 – FF, some incl. lateral files 1 – 36” round maple table 1 – desk chair, sit-on-it 2 – side chairs, H. Miller
Workstations	105	Smed, 1999, size = 5’ 7” X 5’ 7” 1” thick panels, install double sided 1 corner and 2 straight surfaces, laminate 1 – 67” closed door overhead 1 – BBF, 1 – FF 1 – desk chair, sit-on-it
Storage/Filing (mostly Hon)	81	lateral files
	5	vertical files
	20	storage cabinets
	1	fire file
Auxiliary Spaces	1	24” round table
	2	half round 60” tables
	6	30” x 60” tables, Bretford
	39	meeting/training room chairs, Keilhauer
	9	stacker chairs
	15	bar stools, Amisco
	1	24” x 9’ meeting room table
	1	36” round meeting room table
	1	10” boat mahogany conference table
	11	leather conference chairs, Gunlocke
	2	24” X 70” credenza, cherry
	1	reception center
	1	board room table, maple
	15	board room leather chairs
	2	lab spaces, workstation product
Equipment	1	PBX Wall Mount 2 cabinet, Definity, total licenses 400 – used 91
	1	Avaya Voice Mail, Intuity LS Audix, 8 ports, SN 03J206800023
	1	Terminal for Vmail, AlphaScan, 511, SN 54600310RL00206
	1	Keyboard for Vmail, N/A, SN R9005681
	1	PBX Keyboard, Lucent, SN 97ST12080686
	1	Terminal for PBX, Lucent, SN 97ST12080684
	2	Avaya phones, Lucent, N/A, N/A
	1	Avaya phone, Lucent, N/A, N/A
	120	Avaya phones, Lucent, N/A, N/A

1	AEI Music on Hold, AEI, SN 34489038
1	Printer for Switch Terminal, KXP2130
1	US Robotics Modem for Audix, US Robotics, 5686, SN 2SNSBB7CBE70
5	Polycom Speaker Phones, Polycom, N/A, N/A
20	Headsets, N/A, N/A, N/A
1	Video Conf. Unit, Polycom Venue 2000, 528074001RAS97004319
1	Video Conf. Microphone, N/A, MIC415002
1	Video Conf. Monitor, N/A, 8085758
1	Video Conf. Wireless Control Panel, N/A, 36740

LANDLORD CONSENT TO SUBLEASE

This Consent is entered into as of this 9th day of March, 2004, by and among Pine Street Development L.L.C., a Washington limited liability company ("Landlord"), Seattle Coffee Company, a Georgia corporation ("Sublandlord"), and Marchex, Inc., a Washington corporation ("Subtenant").

RECITALS:

A. Landlord, as landlord, and Sublandlord, as tenant, are parties to that certain Lease Agreement dated June 29, 2001 (as amended) (the "Lease") pursuant to which Landlord has leased to Sublandlord certain premises containing approximately 25,983 rentable square feet on Floor 5 and the entire Server Room on Floor 4 (collectively, the "Premises") located in the building commonly known as the Fifth and Pine Building located at 413 Pine Street, Seattle, Washington (the "Building").

B. Sublandlord and Subtenant have entered into (or are about to enter into) that certain sublease agreement dated March 1, 2004 attached hereto as **Exhibit A** (the "Sublease Agreement") pursuant to which Sublandlord has agreed to sublease to Subtenant portions of the Premises at certain dates as further described therein (the "Sublet Premises").

C. Sublandlord and Subtenant have requested Landlord's consent to the Sublease Agreement.

D. Landlord has agreed to give such consent upon the terms and conditions contained in this Consent.

NOW THEREFORE, in consideration of the foregoing preambles which by this reference are incorporated herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby consents to the Sublease Agreement subject to the following terms and conditions, all of which are hereby acknowledged and agreed to by Sublandlord and Subtenant:

1. Sublease Agreement. Sublandlord and Subtenant hereby represent that a true and complete copy of the Sublease Agreement is attached hereto and made a part hereof as **Exhibit A.**

2. Representations. Sublandlord hereby represents and warrants that Sublandlord (i) has full power and authority to sublease the Sublet Premises to Subtenant, (ii) has not transferred or conveyed its interest in the Lease to any person or entity collaterally or otherwise, and (iii) has full power and authority to enter into the Sublease Agreement and this Consent. Subtenant hereby represents and warrants that Subtenant has full

power and authority to enter into the Sublease Agreement and this Consent.

3. Indemnity and Insurance. Subtenant hereby assumes, with respect to Landlord, all of the indemnity and insurance obligations of the Sublandlord under the Lease, provided that the foregoing shall not be construed as relieving or releasing Sublandlord from any such obligations under the Lease with respect to the portion of the Premises not subleased by Subtenant (if any) from time to time.

4. No Release. Nothing contained in the Sublease Agreement or this Consent shall be construed as relieving or releasing Sublandlord from any of its obligations under the Lease, it being expressly understood and agreed that Sublandlord shall remain liable for such obligations notwithstanding anything contained in the Sublease Agreement or this Consent or any subsequent assignment(s), sublease(s) or transfer(s) of the interest of the tenant under the Lease. Sublandlord shall be responsible for the collection of all rent due it from Subtenant, and for the performance of all the other terms and conditions of the Sublease Agreement, it being understood that Landlord is not a party to the Sublease Agreement and, notwithstanding anything to the contrary contained in the Sublease Agreement, is not bound by any terms or provisions contained in the Sublease Agreement and is not obligated to Sublandlord or Subtenant for any of the duties and obligations contained therein, provided, however, that Landlord shall continue to perform its obligations under the Lease.

5. No Transfer. Except pursuant to the terms and conditions of the Lease, Subtenant shall not further sublease the Sublet Premises, assign its interest as the Subtenant under the Sublease Agreement or otherwise transfer its interest in the Sublet Premises or the Sublease Agreement to any person or entity without the written consent of Landlord, which Landlord may withhold in its sole discretion.

6. Lease. In no event shall the Sublease Agreement or this Consent be construed as granting or conferring upon the Sublandlord or the Subtenant any greater rights than those contained in the Lease nor shall there be any diminution of the rights and privileges of the Landlord under the Lease. Without limiting the scope of the preceding sentence, any construction or alterations performed in or to the Sublet Premises shall be performed with Landlord's prior written approval and in accordance with the terms and conditions of the Lease, except as follows:

a. Direct Lease. Landlord hereby grants Subtenant the option to enter into a lease agreement for the Sublet Premises between Landlord and Subtenant, upon expiration of the Sublease and upon substantially the

terms and conditions contained in the Lease, except for Rent (as defined in the Lease). Rent for the renewal option shall be ninety five percent (95%) of the projected Prevailing Market (as defined in the Lease) rate, as determined in accordance with Article 5(b) of the Lease. If Subtenant wishes to exercise this lease option, Subtenant shall provide written notice of its intent to exercise the lease option at least twelve (12) months prior to the expiration of the Sublease. Notwithstanding the foregoing, Subtenant shall not be entitled to exercise the lease option if (i) Subtenant is in default under the Lease or the Sublease beyond any applicable notice and cure periods either at the time it delivers its notice to exercise its lease option; (ii) Subtenant has assigned its rights under the Sublease, other than pursuant to Article 17(a)(aa) of the Lease; or (iii) Tenant has exercised its option to extend the lease term pursuant to the Lease. It is further understood and agreed that Tenant shall be released from all liability under the Lease upon the effective date of any direct lease between Subtenant and Landlord and, in any event, as of the Expiration Date of the Lease.

b. Signage. Subject to compliance with the terms of the Master Lease and Sublease related thereto as well as all applicable laws, codes, rules and regulations, Landlord hereby grants Subtenant the right to install signs as depicted in **Exhibit B** attached hereto.

7. Sublandlord Notice Address. As set forth in the Sublease Agreement, Sublandlord hereby notifies Landlord of the new addresses for notices to Sublandlord under the Lease.

8. Counterparts. This Consent may be executed in counterparts and shall constitute an agreement binding on all parties notwithstanding that all parties are not signatories to the original or the same counterpart provided that all parties are furnished a copy or copies thereof reflecting the signature of all parties.

IN WITNESS WHEREOF, Landlord, Sublandlord and Subtenant have executed this Consent as of this 9th day of March, 2004.

LANDLORD:

PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company

By: RGHK Seattle L.L.C., a Washington limited liability company, Manager

By: /S/ M.J. GRIFFIN

Its: Managing Partner

SUBLANDLORD:

SEATTLE COFFEE COMPANY, a Georgia corporation

By: /S/ MICHAEL MALANGA

Its: Authorized Agent

SUBTENANT:

MARCHEX, INC., a Washington corporation,

By: /S/ ETHAN A. CALDWELL

Its: CAO & General Counsel

EXHIBIT A

SUBLEASE

(attached)

EXHIBIT B

INITIAL APPROVED MARCHEX SIGNAGE

(attached)

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE ("First Amendment") is made and entered into as of this 30th day of September, 2002, between **PINE STREET DEVELOPMENT L.L.C.,** a Washington limited liability company ("Landlord"), and **SEATTLE COFFEE COMPANY,** a Georgia corporation ("Tenant"), a wholly owned subsidiary of **AFC Enterprises, Inc.,** a Minnesota corporation ("AFC").

WHEREAS, Landlord and Tenant have entered into that certain Lease Agreement dated as of June 29, 2001 (the "Lease") for the lease of Floor Five, consisting of approximately 25,983 contiguous rentable square feet and the entire Server Room consisting of approximately 805 rentable square feet located on Floor 4 (the "Premises") in the Fifth and Pine Building, located in Seattle, Washington (the "Building") for a term expiring on the thirty-first (31st) of December 2009;

WHEREAS, Tenant wishes to lease on a temporary basis approximately 1,394 square feet of additional space located on Floor 4 ("Additional Premise"), as outlined on the floor plan attached hereto as Exhibit Aa;

WHEREAS, the parties desire to amend the Lease as hereinafter set forth;

NOW, THEREFORE, in consideration of the above recitations (which are hereby acknowledged to be true and correct) and of the Premises and the mutual covenants and agreements herein contained, the Lease is hereby amended as follows:

1. Defined terms used in the Lease shall have their same meanings when used in this First Amendment.

2. The Additional Premise is leased on an "AS IS, WHERE LOCATED" basis.

3. The Commencement Date for the Additional Premise shall be October 1, 2002, provided, however, that the Commencement Date shall be earlier if Tenant opens for business in the Premises on an earlier date.

4. The Expiration Date for the Additional Premise shall be March 31, 2003. However, Landlord and Tenant acknowledges that each party has the right to terminate this First Amendment and require Tenant to vacate the Additional Premise upon 30 days written notice at anytime prior to the expiration date.

5. In addition to the rent stipulated in Section 5 (a) to the Lease, Tenant shall pay the following:

Period	**Monthly Rent**
10/01/02 – 03/31/03:	

All other charges stipulated in lease will also apply to this additional area.

6. Full Force and Effect. Except to the extent expressly modified herein, all terms and conditions of the Lease shall apply to the Additional Premises to the same extent as the Premises and shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF this Lease has been executed as of the day and year first above set forth.

LANDLORD: **PINE STREET DEVELOPMENT L.L.C.,** a Washington limited liability company

BY: **RGHK SEATTLE L.L.C.,** a Washington limited liability company, Manager

By: /s/ Matthew Griffin

Its Managing Partner

TENANT: **SEATTLE COFFEE COMPANY,** a Georgia corporation

By: /s/ Steve Schickler

Steve Schickler
Its President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that on this 3rd day of October, 2002, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Matthew J. Griffin, to me known to be the Managing Partner of RGHK SEATTLE L.L.C., a Washington limited liability company, Manager of **Pine Street Development L.L.C.,** the Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

[GRAPHIC] /s/ Ronalyn J. Huenergard

Printed Name: Ronalyn J. Huenergard
Notary public in and for the state of Washington, residing at Belfair
My appointment expires: 1-06-06
Name: Ronalyn J. Huenergard

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that on this 26th day of September, 2002, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Steve Schickler, to me known to be the President of **SEATTLE COFFEE COMPANY,** a Georgia corporation, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year in this certificate first above written.

[GRAPHIC]

/s/ David C. Reed

Printed Name: David C. Reed
Notary public in and for the state of Washington, residing at Seattle
My appointment expires: 02/08/03
Name: David C. Reed

[GRAPHIC]

[FLOOR FOUR PLAN]

SEATTLE COFFEE COMPANY
LEASE AGREEMENT
FIFTH AND PINE BUILDING

THIS LEASE made this 29th day of June, 2001, between **PINE STREET DEVELOPMENT** L.L.C., a Washington limited liability company ("Landlord"), and **SEATTLE COFFEE COMPANY,** a Georgia corporation ("Tenant"), a wholly owned subsidiary of **AFC Enterprises, Inc.,** a Minnesota corporation ("AFC").

As parties hereto, Landlord and Tenant agree:

1. LEASE: The following terms as used herein shall have the meanings provided in this Article 1, unless otherwise specifically modified by provisions of this Lease:

(a) Building. The building commonly known as the Fifth and Pine Building located on the real property described on Exhibit A-1 hereto, with an address of 413 Pine Street, Seattle, Washington.

(b) Premises. Consisting of approximately 25,983 contiguous rentable square feet of space on Floor 5 and the entire Server Room located on Floor 4 of the Building, as outlined on the floor plan attached hereto as Exhibit A. The square footage related to the Server Room shall be measured and defined prior to Lease execution but shall not in any event be deemed to exceed 805 rentable square feet and no corridor space shall be included in the Server Room.

(c) Remeasurement of Premises. Landlord and Tenant each reserve the right to remeasure the Premises at any time within thirty (30) days of Tenant's receipt of possession of the Premises from Landlord. All measurements shall be applied in conformance with BOMA standards (as such term is defined below). If any remeasurement determines that the Premises contain a different number of square feet than set forth in paragraph (b) above, the Rent shall be adjusted retroactively and prospectively on a pro rata basis to reflect the number of square feet determined by such remeasurement. Upon either party's request, the revised square footage shall be confirmed in an amendment to this Lease signed by both parties. In the event of a dispute between Landlord and Tenant as to the actual square footage of the Premises, the parties shall have the right to choose an independent third party, mutually selected by Landlord and Tenant to resolve such dispute and the findings of such third party shall be binding on the parties.

Once such area is finally determined by Landlord and Tenant, the Rent, Pass Through Expenses, Additional Rent and the Allowance, and any other items based on the area of the Premises shall be appropriately adjusted.

(d) Commencement Date: June 21, 2001, provided, however, that the Commencement Date shall be earlier if Tenant opens for business in the Premises on an earlier date. Tenant acknowledges that Landlord and Tenant may be working for a time side by side until Landlord finishes any Landlord's Work required to be performed or any work elected to be performed by Landlord.

(e) Expiration Date: December 31, 2009.

(f) Rent: See Article 5 below.

(g) Security Deposit: None.

(h) Parking: See Article 7 below.

(i) Notice Addresses:

Landlord:	Pine Street Development L.L.C. 520 Pike Tower, Suite 2200 Seattle, Washington 98101 Attention:
With a copy to:	Patricia J. Pokorski, Esq. 612 Concord Place Barrington, IL 60010
Tenant:	Prior to the Rent Commencement Date: Seattle Coffee Company 1321 2nd Avenue, Suite 200 Seattle, Washington 98101 After the Rent Commencement Date: Seattle Coffee Company 5th and Pine Streets Seattle, Washington 98101 Attention: Office Manager
With a copy to:	AFC Enterprises, Inc. Six Concourse Parkway, Suite 1700 Atlanta, Georgia 30328 Attention: Corporate Real Estate

(j) Exhibits. The following exhibits or riders are made a part of this Lease:

Exhibit A	Floor Plan of Premises
Exhibit A-1	Legal Description of Land
Exhibit A-2	Schedule of Rent
Exhibit B	Tenant Improvements
Exhibit C	Form of Guaranty
Exhibit D	Form of Landlord's Subordination of Lien
Exhibit E	Sign Criteria
Exhibit F	Building Standard Cleaning Specifications
Exhibit G	Form of SNDA from Riggs Bank

(k) Guarantor. AFC Enterprises, Inc., a Minnesota corporation ("AFC").

(l) Guaranty. That certain Guaranty attached hereto and made a part hereof as Exhibit C, which shall be signed and delivered by Guarantor simultaneously with the execution and delivery of this Lease by Tenant to Landlord as a condition to the effectiveness of this Lease.

(m) Master Lease. Landlord, as tenant, and Kassel and Rebecca Gottstein Co., Inc., a Washington corporation and Laurie A. Friedman, together as landlord, entered into a Lease dated January 27, 1999, demising the Land, together with the

Building and any other improvements located thereon. Landlord desires to sublease to Tenant and Tenant desires to sublease from Landlord certain premises herein described. The parties acknowledge that since Landlord is leasing the Land pursuant to the Master Lease, the demise of the Premises to Tenant is technically a sublease and all references herein to lease shall be deemed to mean sublease pursuant to the Master Lease. Landlord has not received any notices of default under the Master Lease which remain uncured as of the date hereof. Further, Landlord does not require any permits or approvals under the Master Lease to enter into this Lease which have not or will not have been obtained by the date of execution of this Lease.

2. PREMISES: Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, upon the terms and conditions herein set forth, the Premises described in Article 1(b) hereof as shown on Exhibit A hereto, together with rights of ingress and egress over common areas in the Building located on the land ("Land") more particularly described on Exhibit A-1 attached hereto from the Commencement Date through the Expiration Date, as the same may be terminated as provided herein (the "Term").

All references to "rentable square feet" and "rentable area" as used herein shall mean "Rentable Area" as determined in accordance with the American National Standard Method of measuring floor space in office buildings as published by the Building Owners and Managers Association International dated June 7, 1996 ("BOMA"), and all references to "usable square feet" and "usable area" shall mean "Usable Area" as determined in accordance with BOMA.

3. COMMENCEMENT AND EXPIRATION DATES

(a) Rent Commencement Date. The Commencement Date shall occur on the date stated in Article l(d) above, provided that Tenant shall have no obligation to pay either Rent or Pass Through Expenses (as such terms are hereinafter defined) until January 1, 2002 (the "Rent Commencement Date"). The Rent Commencement Date shall occur on the date stated in this paragraph regardless of whether or not Tenant has completed the Tenant Improvements (as defined below). If requested by either party, Landlord and Tenant shall confirm the Commencement Date and the Rent Commencement Date in writing.

(b) Intentionally Omitted.

(c) Expiration Date. The Lease shall expire on the date specified in Article 1(e).

(d) Renewal Term. Landlord hereby grants Tenant one option to extend the Lease Term for five (5) years (the "Renewal Term"), upon all of the terms and conditions contained in this Lease (excluding initial concessions such as, by way of example, the free rental period, to which Tenant may not be entitled), except for Rent. Rent for the renewal option shall be 95% of the projected Prevailing Market rate, as determined in accordance with Article 5(b) below. If Tenant wishes to exercise this extension option, Tenant shall provide written notice of its intent to extend the Lease at least twelve (12) months prior to the expiration of the then-current Lease term. Notwithstanding the foregoing, Tenant shall not be entitled to extend the Lease Term if (i) Tenant is in default under this Lease beyond any applicable notice and cure periods either at the time it delivers its notice to extend or at the commencement of the Renewal Term; or (ii) Tenant has assigned its rights under this Lease, other than pursuant to Article 17 (a) (aa) below.

4. ACCEPTANCE OF PREMISES:

(a) Tenant has made or shall make such inspection of the Premises as Tenant deems appropriate prior to its signing of this Lease and Tenant hereby accepts the Premises in "AS –IS" condition, except for such matters which Landlord has expressly agreed to provide ("Landlord's Work") and are expressly set forth in Exhibit B, except that Tenant does not accept the Premises subject to latent defects in the Premises of which Tenant notifies Landlord in writing within twelve (12) months after the Premises are delivered to Tenant. All other work shall be performed by Tenant and shall be referred to as the "Tenant Improvements". Tenant shall, on or before the Commencement Date : (i) demolish all existing tenants improvements, where applicable, and completely construct or remodel (as the case may be) the Premises and install a new sign and trade fixtures in and for the same in accordance with the other provisions of this Lease ("Tenant's Initial Work"), and (ii) open the Premises for business, in compliance with all provisions of this Lease. Landlord may require that Tenant accept possession of the Premises and proceed with Tenant's Initial Work and/or the preparation and submission of plans therefor prior to the Commencement Date upon ten (10) days' advance notice. During any period that Tenant shall be permitted or required to enter the Premises prior to the Commencement Date (to plan or perform Tenant's Initial Work), Tenant shall comply with all terms and provisions of this Lease, except those provisions requiring the payment of Rent, Pass Through Expenses or Additional Rent (other than such charges as Landlord may impose under Exhibit B).

(b) Landlord has advanced $ as a tenant improvement allowance to Tenant and Tenant purchased certain furniture, fixtures and equipment (the "Purchased Property") identified on Exhibit A to that certain Bill of Sale and Assignment dated June 7, 2001, and executed by Rivals.com Inc., a Washington corporation (a/k/a/ Rival Networks Inc. and Rivalnet), as seller. If at any time during the Term it is determined by a bankruptcy court or other court of competent jurisdiction that the Purchased Property is a fraudulent conveyance, does not constitute the property of Tenant and must be removed from the Premises, then Landlord shall be responsible, at Landlord's sole cost and expense, for negotiating a deal to procure the Purchased Property for Tenant, or replace the same as soon as possible using reasonable efforts not to have Tenant's business operations interrupted. In addition, during any period that Tenant is unable to use the Premises because of the loss of the use of the Purchased Property or the replacement property described above, Tenant's Rent shall abate until Tenant is again able to use the Premises.

Tenant shall pay Landlord, by cash, cashier's check or certified check, the amount of $138,792.53, as partial reimbursement for a portion of the tenant allowance, which amount shall be paid no later than ten (10) business days after full execution of this Lease.

Notwithstanding anything herein to the contrary, Tenant and Landlord agree that Landlord shall have no responsibility to provide the "Rivals Inventory" or HVAC units in the Server Room, the same being the sole responsibility, cost and expense of Tenant.

(c) Notwithstanding anything herein to the contrary, upon the Expiration Date or earlier termination of the Term, all SMED or other walls, or other full height partitions, floors, window coverings, data/telephone cables, whether now or hereafter installed in the Premises, shall automatically be transferred to Landlord in good condition, ordinary wear and tear excepted, and shall become the property of the Landlord. In such event, Tenant agrees, if requested by Landlord, to execute such bills of sale, affidavits of title and other documentation necessary to convey full legal title to such property to Landlord.

5. RENT:

(a) Rent for the initial term of the Premises shall be as set forth on Exhibit A-2 to the Lease.

(b) Rent for the Renewal Term shall be at 95% of the then Prevailing Market rate (defined below). Within sixty (60) days after receipt of Tenant's notice to extend (as provided in Article 4(d) above), Landlord shall advise Tenant of the applicable Rent for the Premises during the Renewal Term. Tenant, within thirty (30) days after the date on which Landlord advises Tenant of the applicable Rent, shall deliver to Landlord a written notice (the "Notice") stating whether or not Tenant accepts such Rent. Tenant's failure to deliver the Notice within such 30-day period shall be deemed an acceptance of the Rent proposed by Landlord. If Tenant does not accept the Rent so proposed by Landlord, Tenant and Landlord shall attempt to agree upon Rent for such period. If Landlord and Tenant fail to agree upon the Prevailing Market rate within thirty (30) days after the date of the Notice, the Prevailing Market rate shall be determined by binding arbitration in accordance with the procedures set forth below. Landlord and Tenant, at their sole cost and expense, shall each employ an appraiser within fifteen (15) days after expiration of such 30-day period. Each such appraiser shall be a member of the Master Appraisers Institute or similar reputable organization, with ten (10) years of experience appraising office buildings comparable to the location and type of that of the Building. Each appraiser shall render an appraisal of the Prevailing Market rate for the Premises within fifteen (15) calendar days. The two appraisers, within ten (10)days after the exchange of appraisals, shall mutually agree upon the Prevailing Market rate and notify Landlord and Tenant in writing of their determination. Such determination shall be binding upon both Landlord and Tenant. If the appraisers cannot agree on a determination of the Prevailing Market rate within ten (10) days of the exchange of appraisals, then Landlord and Tenant shall select an independent third appraiser acceptable to both with ten (10) days. If Landlord and Tenant are unable to select an independent third appraiser acceptable to both with ten (10) days, either party may request that the American Arbitration Association in the county in which the Building is located appoint an independent third appraiser that meets the qualifications described above. Within ten (10) days following appointment (whether by mutual agreement or arbitration), the third appraiser shall choose the appraisal of either Landlord's appraiser or Tenant's appraiser and the chosen appraisal shall be deemed to represent the Prevailing Market rate for the Premises. Such detenuination shall be binding upon both Landlord and Tenant. The parties shall share equally in the cost of any such third appraiser. For purpose hereof, "Prevailing Market" shall mean the arms length fair market annual rental rate per rentable square foot under leases entered into on or about the date on which the Prevailing Market is being determined hereunder for space comparable to the Premises in the Building and office buildings comparable to the Building in Seattle, Washington for comparable term extensions for comparable space for renewal tenants considering all concessions, including without limitation, construction allowances, brokerage commissions and the like. The determination of Prevailing Market shall take into account any material economic differences between the terms of this Lease and any comparison lease, such as rent abatements, construction costs and other concessions and the manner, if any, in which the Landlord under any such lease is reimbursed for operating expenses, operating costs and taxes. The determination of Prevailing Market shall also take into consideration any reasonably anticipated changes in the Prevailing Market rate from the time such Prevailing Market rate is being determined and the time such Prevailing Market rate will become effective under this Lease. In no event shall the Prevailing Market rate be less than the rate payable under this Lease immediately prior to the date the Prevailing Market rate will become effective.

(c) Tenant shall pay without notice the Rent, the Pass Through Expenses (as defined in Article 10(a) below) and Additional Rent (as defined in Article 20(f)) without deduction or offset in lawful money of the United States in advance on or before the first day of each month at Landlord's Notice Address set forth in Article 1(k) hereof, or to such other party or at such other place as Landlord may hereafter from time to time designate in writing. Rent, Pass Through Expenses and Additional Rent for any partial month at the beginning or end of the Lease term shall be prorated in proportion to the number of days in such month.

6. Intentionally Omitted.

7. PARKING: Tenant shall have the right to enter into license agreements for 20 parking spaces at the Securities Building Garage in downtown Seattle for the period ending February 17, 2005, upon the then owner's standard form; provided that Tenant must notify Landlord by no later than September 1, 2001, of the number of spaces it will commit to take for such period. All spaces are unreserved and are located in the Third Avenue portion of the garage and currently (in today's dollars) cost *$'.* per month. In the event Landlord loses such spaces for any reason, including force majeure, casualty, sale of the building, etc., Landlord will use reasonable efforts to find other comparable parking spaces in the area. The cost to Tenant of the parking shall in no event exceed Landlord's actual costs from time to time plus 10%. Landlord's current rate for parking at the Securities Building Garage is at market rate plus 30%. No costs allocable to the Tenant parking spaces shall be included in Rent, Pass Through Expenses or Additional Rent, other than as set forth herein. In no event shall Tenant's rights in and to the license agreements be transferable or assignable in any way.

8. USES: The Premises are to be used only for general office purposes ("Permitted Uses"), and for no other business or purpose without the prior written consent of Landlord, which consent may be withheld if Landlord determines that any proposed use is inconsistent with or detrimental to the maintenance and operation of the Building as a first-class office building or is inconsistent with any restriction on use of the Premises, the Building or the Land contained in any lease, mortgage or other agreement or instrument by which the Landlord is bound or to which any of such property is subject. Tenant shall not commit any act that will increase the then existing rate of insurance on the Building without Landlord's consent. Tenant shall promptly pay upon demand the amount of any increase in insurance rates caused by any act or acts of Tenant. Tenant shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance or other act which disturbs the quiet enjoyment of any other tenant in the Building or which is unlawful or which will cause any substantial noise, vibration, smoke or fumes. If Tenant should disturb the quiet enjoyment of any other tenant in the Building, Tenant shall provide adequate insulation or take other action as reasonably necessary to eliminate the disturbance. Tenant shall comply with all laws relating to its use or occupancy of the Premises and shall observe such reasonable rules and regulations (not inconsistent with the terms of this Lease) as may be adopted and made available to Tenant by Landlord from time to time for the safety, care and cleanliness of the Premises or the Building, and for the preservation of good order therein. Landlord acknowledges that Tenant may use a reasonable amount of storage area pertinent to the office area and may use portions of the premises for classroom training of employees and franchisees, and cuppings (coffee tastings).

9. SERVICES AND UTILITIES

(a) Standard Services. Landlord shall furnish the Premises with electricity for normal office use, including lighting and operation of low power usage office machines, computers, photocopy machines, and other machinery and equipment normally used in offices, not to exceed, however, 6.2 Va per square foot. Landlord shall also furnish hot and cold water sufficient for drinking, lavatory, toilet and ordinary cleaning purposes to be drawn from approved fixtures on the plans and specifications for the Premises approved in writing by Landlord. Landlord shall furnish the Premises with automatic passenger elevators as currently exist in the Premises on the date of signing of this Lease at all times during the term of the Lease and extermination and pest control, when necessary. Landlord shall also provide lamp replacement service for building standard light fixtures, toilet room supplies, window washing at reasonable intervals, and customary building janitorial service. No janitorial service shall be provided Saturdays, Sundays or legal holidays. The costs of any janitorial or other service provided by

Landlord to Tenant which are in addition to the services ordinarily provided Building tenants shall be repaid by Tenant as part of the Pass Through Expenses upon receipt of billings therefor.

From 7:00 a.m. to 6:00 p.m. on weekdays and from 8:00 a.m. to 1:00 p.m. on Saturdays, excluding legal holidays ("Normal Business Hours"), Landlord shall furnish to the Premises heat and air conditioning suitable for normal office operations, subject to the provisions of Paragraph 9 (c) below. If requested by Tenant, Landlord shall furnish heat and air conditioning at times other than Normal Business Hours and the cost of such services, as established by Landlord, shall be paid by Tenant as part of the Pass Through Expenses upon receipt of billings therefor. After hours HVAC shall be available initially at $35.00 per hour, which amount shall be adjusted from time to time to reflect changes in utility rates and Landlord costs. The Server Units shall operate 24 hours per day at additional charges to Tenant.

During other than Normal Business Hours, Landlord may restrict access to the Building in accordance with the Building's security system, provided that Tenant shall have at all times during the term of this Lease (24 hours of all days) reasonable access to the Premises.

Janitorial services will be provided in accordance with Landlord's specifications adopted from time to time, a copy of which is attached hereto and made a part hereof as Exhibit F and shall be consistent with first class office buildings in downtown Seattle, Washington.

The Building has a card key access system. The suite uses a key fob that is compatible with the Building system. The card key access system currently in the Premises shall remain at no additional cost to Tenant.

Landlord shall maintain the common areas in a first class manner comparable to other first class office buildings in the Seattle, Washington area. The maintenance shall include, without limitation, cleaning, HVAC, illumination; snow shoveling, deicing, repairs, replacements, and landscaping.

(b) Interruption of Services. Landlord shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption, or failure of such services due to any cause whatsoever. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements, or due to accident, strike or other conditions or events shall be deemed an eviction of Tenant or relieve Tenant from any of Tenant's obligations hereunder; provided, however, if such interruption or failure shall continue for five (5) consecutive business days, then, as Tenant's sole and exclusive remedy (except as provided in the following proviso), Tenant's Rent hereunder shall be thereafter equitably abated to the extent the Premises are thereby rendered untenantable for Tenant's normal business operations until such services shall be restored; and provided further that if such interruption or failure shall continue for 120 consecutive business days, then Tenant, as its sole and exclusive remedy hereunder (other than as provided in the preceding proviso,) shall have the right lo terminate this Lease upon no less than fifteen (15) days notice to Landlord tendered within ten (10) days after expiration of such 120 days.

(c) Additional Services. The Building Standard mechanical system is designed to accommodate heating loads generated by lights and equipment using up to 6.2 Va per square foot. Before installing lights and equipment in the Premises which in the aggregate exceed such amount, Tenant shall obtain the written permission of Landlord. Landlord may refuse to grant such permission unless Tenant shall agree to pay the costs of Landlord for installation of supplementary air conditioning or electrical systems as necessitated by such equipment or lights.

In addition, Tenant shall pay in advance, as part of the Pass Through Expenses, on the first day of each month during the Lease term, Landlord the reasonable amount estimated by Landlord as the cost of furnishing electricity for the operation of such equipment or lights and the reasonable amount estimated by Landlord as the cost of operation and maintenance of supplementary air conditioning units necessitated by Tenant's use of such equipment or lights. Landlord shall be entitled to install and operate at Tenant's cost a monitoring/metering system in the Premises to measure the added demands on electrical, heating, ventilation and air conditioning systems resulting from such equipment and lights and from Tenant's after-hours heating, ventilation and air conditioning service requirements. If more than one tenant directly benefits from these services, then the cost shall be equitably allocated proportionately between or among the benefiting tenants. Tenant shall comply with Landlord's instructions for the use of drapes and thermostats in the Building.

10. COSTS OF OPERATIONS AND REAL ESTATE TAXES

(a) Pass Through Expenses. In addition to the Rent stated in Article 5 above, Tenant shall pay its pro rata share of operating costs and taxes, as described below (the "Pass Through Expenses"). If Tenant is billed directly by a provider of any of the Pass Through Expenses, Tenant shall pay the cost thereof directly to such provider. If Tenant is not billed directly for any of such costs, Landlord shall pass such obligation through to Tenant and Tenant shall pay such costs to Landlord. Upon Landlord's request, Tenant shall pay its pro rata share of any of the Pass Through Expenses directly to the provider thereof.

(b) Definitions. For the purposes of this section, "taxes" shall mean taxes and assessments on real and personal property payable during any calendar year with respect to the Land, the Building and all property of Landlord, real or personal, used directly in the operation of the Building and located in or on the Building, together with any taxes levied or assessed in addition to or in lieu of any such taxes or any tax upon leasing of the Building or the rents collected (excluding any federal, state or local income or franchise taxes, gift, transfer, excise, capital stock, estate, succession or inheritance taxes, and, provided that Tenant has timely paid its pro rata share of taxes, penalties or interest for late payment of taxes). If Landlord shall obtain a refund of any portion of taxes that were included in Pass Through Expenses paid by Tenant, then Landlord shall, to the extent the refund exceeds three months Rent, reimburse Tenant by cash or check its pro rata share of the refunded taxes, less any expenses Landlord reasonably incurred to obtain the refund, and otherwise such net amount shall be credited to portions of Rent next becoming due hereunder.

"Operating costs" or "costs" shall mean all expenses of Landlord for maintaining, operating and repairing the Land and Building and the personal property used in connection therewith, including without limitation labor costs (including wages, salaries, employment taxes and benefits), insurance premiums, utilities, customary management fees and other expenses which in accordance with generally accepted accounting and management practices would be considered an expense of maintaining, operating or repairing the Building; **excluding, however:** (i) costs of any special services rendered to individual tenants for which a separate charge is collected, including tenant alterations; (ii) leasing commissions and other leasing expenses; (iii) costs of improvements required to be capitalized in accordance with generally accepted accounting principles, except operating costs shall include amortization of capital improvements made subsequent to initial development of the Building which are designed with a reasonable probability of improving the operating efficiency of the Building, provided that such amortization shall not exceed the reasonably expected savings in operating costs, or which are reasonably responsive to requirements imposed with respect to the Building under any amendment to any applicable building, health, safety, fire or similar code ("code"), or any new code, or any new interpretation of a code, which amendment, code or interpretation is adopted after the Commencement Date of this Lease; (iv) any management fee assessed to Landlord in excess of three percent (3%) of gross receipts from the Building; (v) salaries paid to employees of Landlord above the level of building

manager; (vi) interest and amortization on mortgages and other debt costs; (vii) depreciation of buildings and other improvements (except permitted amortization of certain capita] expenditures as provided below), (viii) improvements, repairs or alterations to spaces leased to other tenants; (ix) legal fees and consulting fees incurred with respect to specific tenants at the Building; (x) costs, fine or penalties incurred in connection with Landlord's failure to comply with laws, unless caused by acts or omissions of Tenant; (xi) compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord, except to the extent receipts from such concessions are credited again Operating costs; (xii) advertising and promotional expenses with regard to the leasing of the Building; (xiii) costs of correcting bona fide defects in the original construction of the Building (this shall in no event include the cost of maintenance or repair resulting from wear and tear or by damage by outside elements); (xiv) costs incurred to remove, encapsulate or otherwise contain any asbestos or any other hazardous substance or toxic material or waste; (xv) costs to repair structural defects discovered within one year of completion of the work to which the defect relates; (xvi) costs of repairs, alterations or replacements caused by casualty losses; and (xvii) the amount of any deductibles under Landlord's insurance policies. Operating costs and taxes shall be reduced by any reimbursement, credit, discount, or reduction actually received by Landlord. In the event the occupancy level of the Building for any year is not one hundred percent (100%) of full occupancy, then the operating costs and taxes for such year shall be proportionately adjusted by Landlord to reflect those Operating costs and taxes which would have occurred had the Building been one hundred percent (100%) occupied during such year. Only variable expenses affected by occupancy will be "grossed up", such as electricity and janitorial services. In calculating the "gross up", Landlord shall take into account the way services are purchased, such as price based on square footage occupied, price discounted on vacancies, price based on use, and price based on time of year.

Upon Tenant's written request, Landlord shall deliver to Tenant a description of how Landlord has computed the "gross up", together with documentation to support the gross up calculation.

"Tenant's pro rata share" shall mean a percentage determined by dividing the rentable area of the Premises by: 1) the rentable area of the Building for expenses relating to the entire Building; and 2) by the rentable area of the office space in the Building for expenses relating solely to the office portion of the Building. Landlord will provide an accounting of such calculation to Tenant annually.

"Year" shall mean the calendar year.

(c) Estimated Costs. At the beginning of each year, Landlord shall furnish Tenant a written statement of estimated operating costs and taxes for such year and a calculation of Tenant's pro rata share of any such amount. Tenant shall pay one-twelfth (1/12) of that amount as Pass Through Expenses for each month during the year. If at any time during the year Landlord reasonably believes that the actual costs or taxes will vary from such estimated costs or taxes by more than five percent (5%), Landlord may by written notice to Tenant revise the estimate for such year, and Pass Through Expenses for the balance of such year shall be paid based upon such revised estimates.

(d) Actual Costs. Within ninety (90) days after the end of each year or as soon thereafter as practicable, but in no event later than 180 days after the end of each year, Landlord shall deliver to Tenant a written (the "Statement") setting forth Tenant's pro rata share of the actual Operating costs and taxes during the preceding year. If the actual Operating costs or actual taxes, or both, exceeds the estimates for each paid by Tenant during the year, Tenant shall pay the amount of such excess to Landlord as part of the Pass Through Expenses within thirty (30) days after receipt of the Statement. If the actual Operating costs or actual taxes, or both, are less than the amount paid by Tenant to Landlord, then the amount of such overpayment by Tenant shall be credited against the next Rent payable by Tenant hereunder, except that to the extent that such refund exceeds three months Rent, Landlord shall reimburse Tenant its pro rata share of such refund. If the overpayment by Tenant shall exceed eight percent (8%) of the estimate of Pass Through Expenses, then Landlord shall also pay Tenant interest on

such overpayment at the rate of 18% per annum, or the maximum then allowed by law, whichever is less from the date of the overpayment until the date of the refund or credit to Tenant. The Statement shall show in reasonable detail Operating costs broken down into reasonable components.

(e) Records and Adjustments. Landlord shall keep records showing all expenditures made in connection with operating costs and taxes, and such records shall be available for inspection by Tenant. Operating costs and taxes shall be prorated for any portion of a year **at** the beginning or end of the term of this Lease. Notwithstanding this Article 10, the Rent payable by Tenant shall in no event be less than the Rent specified in Article l(h) hereof.

(f) Personal Property Taxes. Tenant shall pay all personal property taxes with respect to property of Tenant located on the Premises or in the Building. "Property of Tenant" shall include all improvements which are paid for by Tenant and "personal property taxes" shall include all property taxes assessed against the property of Tenant, whether assessed as real or personal property.

(g) Tenant's Right to Audit. By notice to Landlord within ninety (90) days after Tenant shall have received the Statement with respect to a particular calendar year, Tenant shall have the right, at its sole cost and expense, through its agent and representative (which must be an independent certified public account), upon notice to Landlord, to audit and inspect the books and records of Landlord with respect to Pass Through Expenses for such year ("Tenant's Audit"). Tenant shall reimburse Landlord for any photocopying done at Landlord's or Landlord's agent's office in connection therewith. Tenant's Audit shall take place at such time and location as may be reasonably determined by Landlord, and Tenant shall have such audit right only once with respect to each Statement. Unless Landlord agrees to a longer period of time, Tenant's Audit shall be performed within sixty (60) days after Tenant's notice to Landlord. Nothing herein shall relieve Tenant of the obligation to pay Pass Through Expenses pending Tenant's Audit, nor shall payment by Tenant of the Statement be deemed a waiver of Tenant's right to dispute the Statement. If an error in the amount of such Pass Through Expenses billed to Tenant for such calendar year has been made, there shall be a recalculation of Tenant's Pass Through Expenses for such calendar year and an appropriate readjustment between Landlord and Tenant to reflect any underpayment or overpayment by Tenant, provided Tenant notifies Landlord within ninety (90) days after the audit of any error Tenant believes exists in the Statement.

Notwithstanding the foregoing, Landlord shall have the right to challenge Tenant's Audit, in which event the matter shall be submitted to an independent certified public accountant mutually acceptable to both parties, whose certification as to the proper amount shall be final and binding as between Landlord and Tenant. Tenant shall pay the cost of such certification unless such certification determines that Tenant was overbilled by at least 2% in which event Landlord shall pay the cost of such certification. Pending resolution of the matter, Tenant shall pay the amounts as determined by Landlord, subject to retroactive adjustment after the matter is resolved.

Tenant shall keep the results of all Tenant audits confidential.

11. CARE OF PREMISES: Landlord shall perform all normal maintenance and repairs to the Premises which Landlord reasonably determines necessary to maintain the Premises and the Building in clean and good operating condition comparable to other first class office buildings located in the Seattle, Washington area; including, without limitation, the roof, foundation, exterior walls, interior structural walls, all structural components, and all systems such as mechanical, electrical, HVAC, and plumbing,: provided that Landlord shall not be required to maintain or repair any Property of Tenant or any appliances (such as water heaters, refrigerators and the like) which are part of the Premises. Landlord acknowledges that as of the date of signing of this Lease Landlord has received no notices of any violations of applicable laws, ordinances, rules or regulations of governmental authorities with

respect to the Premises and the Building ("Applicable Laws"). Landlord and shall, within ten (10) business days of receipt thereof furnish Tenant with copies of any notices of violations of Applicable Laws.

Tenant shall take good care of the Premises and shall, within ten (10) business days of receipt thereof furnish Landlord with copies of any notices of violations of Applicable Laws. Tenant shall not make any alterations, additions or improvements ("Alterations") in or to the Premises, or make changes to locks on doors, or add, disturb or in any way change any plumbing or wiring ("Changes") without first obtaining the written consent of Landlord and, where appropriate, in accordance with plans and specifications approved by Landlord, provided that Tenant may, without Landlord's consent, make alterations to the interior of the Premises which do not affect the structural or storefront portions of the Premises, or the plumbing, heating, ventilating, air-conditioning, mechanical, or life-safety systems in the Premises, provided (i) the cost of said alterations does not exceed $50,000.00 in any twelve (12) month period, (ii) such alterations comply with all the requirements of this Lease, including Exhibit B and Landlord's design criteria for the Building, and (iii) such alterations do not materially alter the original design concept or detrimentally affect the appearance of the Premises. Tenant shall submit to Landlord copies of all invoices documenting that the cost of such work does not exceed such amount.

Tenant shall reimburse Landlord for any reasonable sums expended for examination and approval of architectural or mechanical plans and specifications of the Alterations and Changes and direct costs reasonably incurred during any inspection or supervision of the Alterations or Changes. All damages or injury done to the Premises or Building by Tenant or by any persons who may be in or upon the Premises or Building with the express or implied consent of Tenant, including but not limited to the cracking or breaking of any glass of windows and doors, shall be paid for by Tenant, except to the extent covered by insurance pursuant to Paragraph 14 hereof.

12. ACCESS: Upon reasonable prior notice (which notice may be oral and may be delivered to the office manager), except in the case of emergency, in which case no notice need be given, Tenant shall permit Landlord and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same or for the purpose of cleaning, repairing, altering or improving the Premises or the Building. Upon reasonable notice, Landlord shall have the right to enter the Premises for the purpose of showing the Premises to prospective tenants within the period of one hundred eighty (180) days prior to the expiration or sooner termination of the Lease term.

13. DAMAGE OR DESTRUCTION:

(a) Damage and Repair. If the Building is damaged by fire or any other cause to such extent that the cost of restoration, as reasonably estimated by Landlord, will equal or exceed thirty percent (30%) of the replacement value of the Building (exclusive of foundations) just prior to the occurrence of the damage, or if insurance proceeds sufficient for restoration are for any reason unavailable, then Landlord may no later than the sixtieth day following the damage, give Tenant a notice of election to terminate this Lease. In the event of such election, this Lease shall be deemed to terminate on the third day after the giving of such notice, and Tenant shall surrender possession of the Premises within a reasonable time thereafter, and the Rent, Pass Through Expenses and Additional Rent shall be apportioned as of the date of Tenant's surrender and any Rent paid for any period beyond such date shall be repaid to Tenant. If the cost of restoration as estimated by Landlord shall amount to less than thirty percent (30%) of said replacement value of the Building and insurance proceeds sufficient for restoration are available, Landlord shall restore the Building and the Premises (with improvements substantially comparable in quality to the improvements to the Premises originally provided by Landlord hereunder) with reasonable promptness, subject to delays beyond Landlord's control and delays in the making of insurance adjustments by Landlord; provided, however, that Tenant shall, at Tenant's sole cost and expense restore all improvements required to be made or made by Tenant hereunder. To the extent that

the Premises are rendered untenantable, the Rent shall, as Tenant's sole and exclusive remedy (except as set forth in this paragraph) proportionately abate, except in the event such damage resulted from or was contributed to, directly or indirectly, by the act, fault or neglect of Tenant, Tenant's officers, contractors, agents, employees, clients, customers or licensees, in which event Rent shall abate only to the extent Landlord receives proceeds from any rental income insurance policy to compensate Landlord for loss of Rent hereunder. No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or the Building. In addition, if fifty percent (50%) or more of the rentable square footage of the Premises is damaged or destroyed and repair thereof would reasonably (in the certified opinion of an independent contractor mutually selected by Landlord and Tenant) take more than six (6) months to repair or if Tenant is prevented access to the Premises for a period in excess of six (6) months, Tenant shall have the option (except in cases of Tenant's willful misconduct), as Tenant's sole and exclusive remedy (except as expressly provided above), to terminate this Lease upon giving notice to Landlord of exercise thereof within thirty (30) days after the date of such damage or destruction, and if Tenant exercises its option to terminate, then Tenant shall not have to rebuild the Premises so long as Tenant tenders to Landlord an assignment of any insurance proceeds to the extent received.

(b) Destruction During Last Year of Term. In case the Building shall be substantially destroyed by fire or other cause at any time during the last twelve (12) months of the term of this Lease, either Landlord or Tenant may terminate this Lease upon written notice to the other within sixty (60) days of the date of such destruction.

(c) Tenant Improvements. Landlord will not carry insurance of any kind on any improvements paid for by Tenant as provided in Exhibit B or on Tenant's furniture, furnishings, fixtures, equipment or appurtenances of Tenant under this Lease and Landlord shall not be obligated to repair any damage thereto or replace the same.

14. WAIVER OF SUBROGATION: Whether the loss or damage is due to the negligence of either Landlord or Tenant or any other cause, Landlord and Tenant each hereby release and relieve the other, its agents or employees, from responsibility for, and waive its entire claim of recovery for (i) any loss or damage to its real or personal property located anywhere in the Building, including the Building itself, arising out of or incident to the occurrence of any of the perils which are covered by its property and related insurance policies, and (ii) any loss resulting from business interruption at the Premises or loss of rental income from the Building, arising out of or incident to the occurrence of any of the perils covered by any business interruption or loss of rental income insurance policy held by it. Each party shall use best efforts to cause its insurance carriers to consent to the foregoing waiver of rights of subrogation against the other party. Notwithstanding the foregoing, no such release shall be effective except to the extent the applicable insurance policy or policies shall expressly permit such a release or contain a waiver of the carrier's right to be subrogated.

15. INDEMNIFICATION: Tenant shall indemnify and hold Landlord harmless from and against liabilities, damages, losses, claims and expenses, including attorneys fees, arising from any act, omission, or negligence of Tenant or its officers, contractors, licensees, agents, employees, clients or customers in or about the Building or Premises or arising from any injury or damage to any person or property, occurring in or about the Building or Premises or arising from any breach or default under this Lease by Tenant. The foregoing provisions shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the negligence of Landlord, or its officers, contractors, licensees, agents, employees, clients or customers or other tenants of the Building.

Landlord shall indemnify and hold Tenant harmless from and against all liabilities, damages, losses, claims and expenses, including attorneys fees, arising from any act, omission or negligence of Landlord or its officers, contractors, licensees, agents or employees in or about the Building or Premises, or from any breach or default under this Lease by Landlord. Landlord shall not be liable for any loss or damage to persons or property sustained by Tenant or other persons, which may be caused by theft, or by any act or neglect of Tenant or any other tenant or occupant of the Building or any third parties.

16. INSURANCE:

(a) Tenant's Insurance. Tenant shall, throughout the term of this Lease and any renewal hereof, at its own expense, keep and maintain in full force and effect, a policy of commercial general liability insurance including contractual liability coverage insuring Tenant's obligations under Article 15, insuring Tenant's activities upon, in or about the Premises or the Building against claims of bodily injury or death or property damage or loss with a limit of not less than Two Million Dollars ($2,000,000) combined single limit and what is commonly referred to as "all risk" coverage insurance (excluding earthquake and flood) on Tenant's leasehold improvements in an amount not less than one hundred percent (100%) of the current replacement value thereof. Tenant's liability policy shall name Landlord, its property manager, and any association of condominium owners within the Building as additional insureds.

(b) Insurance Policy Requirements. All insurance policies required under this Article 16 shall be with companies reasonably approved by Landlord and each policy shall provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days' prior written notice to Landlord. Tenant shall deliver to Landlord upon the Commencement Date and from time to time thereafter, certificates evidencing the existence and amounts of all such policies.

(c) Landlord's Insurance. Landlord shall maintain during the Term insurance on the Building against fire and such other risks as may be included in extended coverage insurance from time to time available in an amount not less than eighty percent (80%) of the full insurance replacement value of the Building. Also, Landlord shall carry public liability insurance with respect to the Common Areas of the Building in an amount of at least $2 million. The specific types and conditions of the foregoing insurance, including deductibles, shall be as Landlord determines. Any such insurance may be obtained as part of a blanket insurance policy.

17. ASSIGNMENT AND SUBLETTING:

(a) Assignment or Sublease. Tenant shall not assign, mortgage, encumber or otherwise transfer this Lease or sublet the whole or any part of the Premises without in each case first obtaining Landlord's prior written consent. Such consent may be withheld in Landlord's sole discretion, including without limitation: (1) Landlord may withhold its consent if in Landlord's judgment occupancy by any proposed assignee, subtenant or other transferee: (i) is not consistent with the maintenance and operation of a first-class office building due to the nature of the proposed occupant's business or the manner of conducting its business or its experience or reputation in the community, or (ii) is likely to cause disturbance to the normal use and occupancy of the Building; (2) Landlord's consent to any mortgage, hypothecation, pledge or other encumbrance of any interest in this Lease or the Premises by Tenant or any subtenant, whereby this Lease or any interest therein becomes collateral for any obligation of Tenant; and (3) Landlord may withhold its consent to the extent Landlord determines necessary to comply with a restriction on use of the Premises, the Building or the Land contained in any lease, mortgage, or other agreement or instrument by which the Landlord is bound or to which any of such property is subject. No such assignment, subletting or other transfer shall relieve Tenant of any primary liability under this

Lease. Consent to any such assignment, subletting or transfer shall not operate as a waiver of the necessity for consent to any subsequent assignment, subletting or transfer. In lieu of granting any such consent, Landlord reserves the right to terminate this Lease or, in the case of a subletting of less than all the Premises, to terminate this Lease with respect to such portion of the Premises, as of the proposed effective date of such subletting or assignment, in which event Landlord may enter into the relationship of landlord and tenant with such proposed assignee or subtenant based upon the Rent and other compensation and terms agreed to by such subtenant or assignee and otherwise upon the terms and conditions of this Lease; provided that if Landlord elects to terminate this Lease, in whole or in part, Tenant may withdraw its request to assign or sublease upon ten (10) days notice to Landlord following Landlord's election to terminate. If Landlord approves such assignment, subletting or transfer and does not elect to terminate this Lease as provided above, Tenant shall pay Landlord 50% of all rent which Tenant receives as a result of such assignment, subletting or transfer that is in excess of the rent payable to Landlord for the portion of the Premises and term covered by the assignment, subletting or transfer. Tenant shall pay Landlord for Landlord's share of any excess within 30 days after Tenant's receipt of such excess consideration. Tenant may deduct from the excess all reasonable and customary expenses directly incurred by Tenant attributable to the assignment, subletting or transfer (other than Landlord's review fee), including brokerage fees, legal fees and construction costs. In connection with each request for an assignment or subletting, Tenant shall pay $1,000.00 for the cost of processing such assignment or subletting, including reasonable attorneys fees, upon demand of Landlord. Tenant shall provide Landlord with copies of all assignments, subleases and assumption instruments.

If Tenant is a corporation or partnership, any transfer of this Lease by merger, consolidation or liquidation, or any change in the ownership of, or power to vote, a majority of its outstanding voting stock or partnership interests shall constitute an assignment for the purpose of this Section 17. In addition, no change in control of ownership or merger or consolidation o Tenant or its parent shall constitute an assignment or subletting.

(aa) Related Transfer.

Notwithstanding anything contained to the contrary in this Article 17, Tenant may assign this Lease to its parent corporation or to any wholly-owned subsidiary corporation of Tenant without obtaining the prior written consent of Landlord, provided that the following conditions are met:

(i) Any such assignee shall remain the parent of Tenant, or a wholly-owned subsidiary corporation of Tenant, as the case may be;

(ii) Tenant shall have given Landlord not less than thirty (30) days' prior notice of such assignment;

(iii) Tenant shall not be in default under any of the provisions of this Lease at the time of such assignment; and

(iv) The assignee furnishes Landlord, at least thirty (30) days' prior to the effective date of said assignment, a written instrument satisfactory to Landlord agreeing to assume and be bound by all the conditions, obligations and agreements contained in this Lease.

Notwithstanding any such assignment the assignor shall remain fully and primarily liable for the performance of all conditions, obligations and agreements of Tenant under this Lease.

(bb) Sales of Assets, Merger, and Consolidation.

Notwithstanding anything contained to the contrary in Article 17, Tenant may, without Landlord's prior written consent, assign this Lease to an entity which is buying all or substantially all (being no less than ninety percent [90%]) of the assets of Tenant, or with which Tenant is merging or consolidating, provided the following conditions are met:

(i) The assignee has a net worth equal to or greater than that of Tenant at the date of execution of this Lease or at the time of assignment, whichever is greater;

(ii) Tenant shall have given Landlord not less than thirty (30) days' prior notice of such assignment, which notice contains all information and documentation Landlord reasonably requires to satisfy itself as to the above conditions;

(iii) Tenant shall not be in default under any of the provisions of this Lease at the time of the assignment; and

(iv) The assignee furnishes Landlord, at least thirty (30) days' prior to the effective date of the assignment, a written assignment instrument satisfactory to Landlord in which assignee agrees to assume and be bound by all the conditions, obligations and agreements of Tenant contained in this Lease.

Notwithstanding any such assignment the assignor shall remain fully and primarily liable for the performance of all conditions, obligations and agreements of Tenant under this Lease.

(b) Assignee Obligations. As a condition to Landlord's approval, any potential assignee otherwise approved by Landlord shall assume in writing all obligations of Tenant under this Lease and shall be jointly and severally liable with Tenant for the payment of Rent and performance of all terms, covenants and conditions of this Lease.

(c) Sublessee Obligations. Any sublessee shall assume all obligations of Tenant as to that portion of the Premises which is subleased to such sublessee and shall be jointly and severally liable with Tenant for rental and other payments and performance of all terms, covenants, and conditions of this Lease with respect to such portion of the Premises.

18. SIGNS: Tenant shall not place or in any manner display any sign, graphics, or any advertising matter anywhere in or about the Premises or the Building at places visible (either directly or indirectly) from anywhere outside the Premises without first obtaining Landlord's written consent thereto, such consent to be at Landlord's sole discretion. Landlord hereby approves the signage shown on the photo attached hereto and made a part hereof as Exhibit E. In addition, all signs shall be in conformance with the sign criteria set forth on Exhibit E. Any such consent by Landlord shall be upon the understanding and condition that, upon request of Landlord, Tenant shall remove the same at the expiration or sooner termination of this Lease and Tenant shall repair any damage to the Premises or the Building caused thereby.

19. LIENS AND INSOLVENCY:

(a) Liens. Tenant shall keep its interest in this Lease and any property of Tenant (other than unattached personal property) and the Premises, the Land and the Building free from any liens or other encumbrances arising out of any work performed or materials ordered or obligations incurred by or on behalf of Tenant, except for Landlord's Work, and hereby indemnifies and holds Landlord harmless from any liability from any such lien, including, without limitation, liens arising from any work performed by or on behalf of Tenant pursuant to Exhibit B hereto, excluding, however, Landlord's Work.

In the event any lien is filed against the Building, the Land or the Premises by any person claiming by, through or under Tenant, Tenant shall, upon request of Landlord, at Tenant's expense immediately cause such lien to be released of record, insured or bonded over to the reasonable satisfaction of Landlord and its mortgagee within ten (10) business days after notice from Landlord.

(b) Insolvency. If Tenant becomes insolvent or voluntarily or involuntarily becomes a debtor or alleged debtor in a bankruptcy proceeding, and such proceeding is not terminated or withdrawn within sixty (60) days of the filing thereof, or if a receiver, assignee or other liquidating officer is appointed for the business of Tenant, Landlord at its option may terminate this Lease and Tenant's right of possession under this Lease and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant in any bankruptcy, insolvency or reorganization proceeding.

20. DEFAULT:

(a) Cumulative Remedies. All rights of Landlord herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law. In addition to the other remedies provided in this Lease, Landlord shall be entitled to restrain by injunction the violation or attempted violation of any of the covenants, agreements or conditions of this Lease.

(b) Tenant's Right to Cure. Tenant shall have a period of five (5) business days from the date of written notice from Landlord to Tenant within which to cure any default in the payment of Rent, Pass Through Expenses, Additional Rent or other sums due hereunder. Tenant shall have a period of fifteen (15) days from the date of written notice from Landlord to Tenant within which to cure and other default hereunder which is capable of being cured by Tenant; provided, however, that with respect to any default capable of being cured by Tenant but which cannot be cured within such fifteen (15) day period, the default shall not be deemed to be uncured if Tenant commences to cure within fifteen (15) days and for so long as Tenant is diligently prosecuting the cure thereof.

(c) Abandonment. Abandonment means an absence from the Premises of five (5) days or more while Tenant is in default. Abandonment by Tenant shall be considered a default with no right to cure, allowing Landlord to reenter the Premises under Section 20(d). Notwithstanding the foregoing, vacation of the Premises by Tenant shall not constitute a default by Tenant hereunder, so long as Tenant shall continue to pay Rent, Pass Through Expenses and Additional Rent and fulfill all of its other obligations under this Lease.

(d) Landlord's Reentry. Upon a default under this Lease by Tenant and expiration of any applicable cure period, Landlord, at its option, may enter the Premises or any part thereof, and expel, remove or put out Tenant or any other persons who may be thereon, together with all personal property found therein; and Landlord may terminate this Lease, or it may from time to time, without terminating this Lease, relet the Premises or any part thereof for such term or terms (which may be for a term less than or extending beyond the term hereof) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, with the right to repair, remodel and change the Premises, Tenant remaining liable for any deficiency computed as provided in Section 20(e). This Lease shall not be deemed terminated by Landlord unless Landlord expressly so provides in writing. In the case of any default, reentry and/or dispossession by summary proceedings or otherwise, all Rent, Pass Through Expenses and Additional Rent shall become due thereupon and be paid up to the time of such reentry or dispossession, together with such expenses as Landlord may reasonably incur for attorneys fees, advertising expenses, brokerage fees and/or putting the Premises in good order or preparing the same for re-rental, together with interest thereon as provided in Section 35(f) hereof, accruing from the date of any such expenditure by Landlord.

(e) Reletting the Premises. At the option of Landlord, rents received by Landlord from such reletting shall be applied first to the payment of any indebtedness from Tenant to Landlord other than Rent, Pass Through Expenses and Additional Rent due hereunder; second, to the payment of reasonable costs and expenses of such reletting and including, but not limited to, attorneys fees, advertising fees and brokerage fees, and to the costs of any repairs, remodeling and changes in the Premises; third, to the payment of Rent, Pass Through Expenses and Additional Rent due and to become due hereunder, and, if after so applying said Rents there is any deficiency in the Rent, Pass Through Expenses or Additional Rent to be paid by Tenant under this Lease, Tenant shall pay any deficiency to Landlord monthly on the dates specified herein and any payment made or suits brought to collect the amount of the deficiency for any month shall not prejudice in any way the right of Landlord to collect the deficiency for any subsequent month. Subject to any applicable duty to mitigate damages, the failure of Landlord to relet the Premises or any part or parts thereof shall not release or affect Tenant's liability hereunder, nor shall Landlord be liable for failure to relet, or in the event of reletting, for failure to collect the Rent thereof, and in no event shall Tenant be entitled to receive any excess of net Rents collected over sums payable by Tenant to Landlord hereunder. No such reentry or taking possession of the Premises shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention be given to Tenant. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach and default. Should Landlord at any time terminate this Lease by reason of any default, in addition to any other remedy it may have, it may recover from Tenant the amount of Rent, Pass Through Expenses and Additional Rent reserved in this Lease for the balance of the Term, as it may have been extended, in excess of the then fair market rental value of the Premises for the same period, plus all court costs and reasonable attorneys fees incurred by Landlord in the collection of the same.

(f) Nonpayment of Additional Rent. All costs and expenses which Tenant assumes or agrees to pay to Landlord pursuant to this Lease other than Rent or Pass Through Expenses shall be deemed "Additional Rent" and, in the event of nonpayment of Pass Through Expenses or Additional Rent, Landlord shall have all the rights and remedies herein provided for in case of nonpayment of Rent.

21. PRIORITY: This Lease shall be subordinate to all mortgages or deeds of trust now existing or hereafter placed upon the Land, the Building or the Premises, created by or at the instance of Landlord, and to any and all advances to be made thereunder, and to interest thereon and all modifications, renewals and replacements or extensions thereof ("Landlord's Mortgage"). Upon request, Tenant shall attorn to the holder of any Landlord's Mortgage or any person or persons purchasing or otherwise acquiring the Land, Building or Premises at any sale or other proceeding under any Landlord's Mortgage; provided, however, Tenant shall not be required to subordinate to a mortgage that is entered into with a new mortgagee after the date of this Lease unless Tenant is furnished with a non-disturbance agreement from the mortgagee on mortgagee's standard form or a form which is otherwise reasonably acceptable to the mortgagee, provided furnishing such non-disturbance agreement shall not be a condition to Tenant's subordination to the Mortgage if Tenant is in default under this Lease.

Tenant shall properly execute, acknowledge and deliver documents which the holder of any Landlord's Mortgage may require to effectuate the provisions of this Section 21, provided such documents shall contain a provision whereby the holder of any Landlord's Mortgage agrees not to disturb Tenant's possession of the Premises so long as Tenant is not in default under this Lease. Landlord shall use reasonable efforts to obtain a Subordination Nondisturbance and Attornment Agreement from its current lender on the form attached hereto and made a part hereof as Exhibit G within thirty (30) days of full execution of this Lease.

22. SURRENDER OF POSSESSION: Subject to the terms of Section 13 relating to condemnation, damage and destruction, upon expiration or sooner termination of this Lease, Tenant shall promptly and peacefully surrender the Premises to Landlord in as good condition as when received by

Tenant from Landlord or as thereafter improved, reasonable use, wear and tear, any condition existing due either to Landlord's breach of any repair obligation or warranty hereunder, and the act of another tenant of Landlord excepted. Without limitation of the foregoing, Tenant agrees to leave the SMED Inventory when Tenant vacates the Premises whether through the natural expiration of the Term or any earlier termination thereof. The Rivals Inventory shall remain the property of Tenant and may be removed by Tenant upon the expiration or sooner termination of this Lease.

23. REMOVAL OF PROPERTY: Except for the SMED Inventory, Tenant shall remove all of its movable personal property and trade fixtures paid for by Tenant which can be removed without damage to the Premises at the expiration or sooner termination of this Lease, and shall pay Landlord any damages for injury to the Premises or Building resulting from such removal; and all other improvements and additions to the Premises shall thereupon become the property of Landlord.

24. NON-WAIVER: Waiver by Landlord or Tenant of any term, covenant or condition herein contained or any breach thereof shall not be deemed to be a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Rent, Pass Through Expenses or Additional Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent, Pass Through Expenses or Additional Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent, Pass Through Expenses or Additional Rent.

25. HOLDOVER: If Tenant shall, with the written consent of Landlord, hold over after the expiration of the term of this Lease, such tenancy shall be deemed a month-to-month tenancy which may be terminated as provided by applicable law. During such tenancy, Tenant shall be bound by all of the terms, covenants and conditions herein so far as applicable, except rental which shall be the greater of (a) 150% of the then Market Rate or (b) the Rent, Pass Through Expenses and Additional Rent stated herein. Notwithstanding anything contained herein to the contrary, for a period not to exceed thirty (30) days after the scheduled end of the Term, Tenant shall not be required to pay the Rent increase provided for in Article 25 for failing to vacate after the end of the Term if and only if Landlord and Tenant are actively engaged in bonafide negotiations with regard to an extension or renewal of this Lease for the Premises. Notice at any time from Landlord to Tenant that Landlord does not wish to negotiate any extension, which notice may be given prior to the beginning of the holdover period, shall be dispositive that bonafide negotiations are not in progress, (although such a notice is not required to be given by Landlord). Nothing herein shall obligate Landlord or Tenant lo negotiate for a renewal or extension of this Lease. In addition, nothing herein shall limit Landlord's rights and remedies for Tenant's unlawfully detaining the Premises after any expiration or earlier termination of this Lease.

26. CONDEMNATION:

(a) Entire Taking. If all of the Premises or such portions of the Building as may be required for the reasonable use of the Premises are taken by eminent domain, this Lease shall automatically terminate as of the date title vests in the condemning authority. In the event of a taking of a material part of but less than all of the Building, where Landlord shall determine that the remaining portions of the Building cannot be economically and effectively used by it (whether on account of physical, economic, aesthetic or other reasons) or where Landlord determines the Building should be restored in such a way as to materially alter the Premises, Landlord shall forward a written notice to Tenant of such determination not more than sixty (60) days after the date of taking. The term of this

Lease shall expire upon such date as Landlord shall specify in such notice but not earlier than sixty (60) days after the date of such notice.

(b) Partial Taking. Subject to the provisions of the preceding Section 26(a), in case of taking of a part of the Premises, or a portion of the Building not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the Rent shall be equitably reduced based on the proportion by which the floor area of the Premises is reduced, such Rent reduction to be effective as of the date title to such portion vests in the condemning authority. If a portion of the Premises shall be so taken which renders the remainder of the Premises unsuitable for continued occupancy by Tenant under this Lease, Tenant may terminate this Lease by written notice to Landlord no later than sixty (60) days after the date of such taking and the term of this Lease shall expire upon such date as Tenant shall specify in such notice not later than sixty (60) days after the date of such notice.

(c) Awards and Damages. Landlord reserves all rights to damages to the Premises for any partial, constructive, or entire taking by eminent domain, and Tenant hereby assigns to Landlord any right Tenant may have to such damages or award. Tenant shall make no claim against Landlord or the condemning authority for damages for termination of the leasehold interest or interference with Tenant's business. Tenant shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Tenant may be put for Tenant's moving expenses, business interruption or taking of Tenant's personal property and leasehold improvements paid for by Tenant (not including Tenant's leasehold interest) provided that such damages may be claimed only if they are awarded separately in the eminent domain proceedings and not out of or as part of the damages recoverable by Landlord.

27. NOTICES: All notices under this Lease shall be in writing and delivered in person or sent by registered or certified mail, postage prepaid, to Landlord and to Tenant at the Notice Addresses provided in Section l(j) (provided that after the Commencement Date any such notice may be mailed or delivered by hand to Tenant at the Premises and to Landlord's principal office in the Building) and to the holder of any mortgage or deed of trust at such place as such holder shall specify to Tenant in writing; or such other addresses as may from time to time be designated by any such party in writing. Notices mailed as aforesaid shall be deemed given on the date of such mailing.

28. COSTS AND ATTORNEYS FEES: If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Rent, Pass Through Expenses, Additional Rent or other payments hereunder or possession of the Premises, each party shall, and hereby does, to the extent permitted by law, waive trial by jury and the losing party shall pay the prevailing party a reasonable sum for attorneys fees in such suit, at trial and on appeal, and in any bankruptcy proceeding, and such attorneys fees shall be deemed to have accrued on the commencement of such action.

29. **LANDLORD'S LIABILITY:** Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Landlord are made and intended not as personal covenants, undertakings and agreements for the purpose of binding Landlord personally or the assets of Landlord except Landlord's interest in the Premises and Building, but are made and intended for the purpose of binding only the Landlord's interest in the Premises and Building, as the same may from time to time be encumbered. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against Landlord or its partners or their respective heirs, legal representatives, successors or assigns on account of this Lease or on account of any covenant, undertaking or agreement of Landlord in this Lease contained.

30. ESTOPPEL CERTIFICATES: Tenant shall, from time to time, upon written request of Landlord, execute, acknowledge and deliver to Landlord or its designee a written statement stating: The date this Lease was executed and the date it expires; the date the term commenced and the date Tenant accepted the Premises; the amount of minimum monthly Rent and the date to which such Rent has been paid; and certifying to the extent true: That this Lease is in full force and effect; that all conditions under this Lease to be performed by the Landlord have been satisfied; that there are no claims, defenses or off-sets which the Tenant has against the enforcement of this Lease; that no Rent has been paid more than one month in advance; and such other matters as Landlord may reasonably request. Any such statement delivered pursuant to this paragraph may be relied upon by a prospective purchaser of Landlord's interest or holder of any mortgage upon Landlord's interest in the Building. If Tenant shall fail to respond within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee and to have certified that this Lease is in full force and effect, that there are no uncured defaults in Landlord's performance, that the security deposit is as stated in the Lease, and that not more than one month's Rent has been paid in advance.

Landlord agrees, not more than once per calendar year, upon not less than twenty (20) days' prior notice by Tenant, to execute and deliver to Tenant, in connection with a permitted transfer of this Lease or permitted transfer of ownership of Tenant, a statement in writing certifying the following to the extent applicable: that this Lease is unmodified (or if there be modifications, identifying the same by the date thereof and specifying the nature thereof), that no notice of default or notice of termination of this Lease has been served on Tenant (or if Landlord has served such notice that the same has been revoked, if such be the case), that to the knowledge of Landlord no default exists hereunder (or if any such default does exist, specifying the same and stating that the same has been cured, if such is the case), and the date to which the Rent has been paid by Tenant.

31. TRANSFER OF LANDLORD'S INTEREST: In the event of any transfers of Landlord's interest in the Premises or in the Building, other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing form and after the date of such transfer and such transferee shall have no obligation or liability with respect to any matter occurring or arising prior to the date of such transfer provided Landlord shall be released from obligations under this Lease accruing prior to the disposition only if the party taking the disposition fully assumed all of the obligations of Landlord under the Lease. Tenant agrees to attorn to the transferee upon written notice to Tenant of such transfer.

32. RIGHT TO PERFORM: If Tenant shall fail to pay any sum of money required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue for ten (10) days after notice thereof by Landlord, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease, and any sums paid or incurred by Landlord shall be immediately due and payable by Tenant to Landlord. Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment of sums due under this Section 33 as in the case of default by Tenant in the payment of Rent.

33. QUIET ENJOYMENT: Tenant shall have the right to the peaceable and quiet use and enjoyment of the Premises subject to the provisions of this Lease, as long as Tenant is not in Default hereunder.

34. HAZARDOUS MATERIALS:

(a) Hazardous Materials. Tenant shall not transport, use, store, maintain, generate, manufacture, handle, dispose, release or discharge any "Hazardous Material" (as defined below) upon or about the Building, or permit Tenant's employees, agents, contractors, invitees and other occupants of the Premises to engage in such activities upon or about the Building. However, the foregoing provisions shall not prohibit the transportation to and from, and use, storage, maintenance and handling within, the Premises of substances customarily used in the business or activity expressly permitted to be undertaken in the Premises under this Lease, provided: (a) Tenant gives Landlord written notice of the types of all such substances, including the use and location intended for such types of substances, (b) Landlord may from time to time inspect the use and storage of such items, (c) such substances shall be used and maintained only in such quantities as are reasonably necessary for such permitted use of the Premises and the ordinary course of Tenant's business therein, strictly in accordance with applicable Law, highest prevailing standards, and the manufacturers' instructions therefor, (d) such substances shall not be disposed of, released or discharged in the Building, and shall be transported to and from the Premises in compliance with all applicable Laws, and as Landlord shall reasonably require, (e) if any applicable Law or Landlord's trash removal contractor requires that any such substances be disposed of separately from ordinary trash, Tenant shall make arrangements at Tenant's expense for such disposal directly with a qualified and licensed disposal company at a lawful disposal site (subject to scheduling and approval by Landlord), (f) any remaining such substances shall be completely, properly and lawfully removed by Tenant from the Building upon expiration or earlier termination of this Lease, and (g) for purposes of removal and disposal of any such substances, Tenant shall be named as the owner and generator, obtain a waste generator identification number, and execute all permit applications, manifests, waste characterization documents and any other required forms.

(b) Notices. Tenant shall promptly notify Landlord of: (i) any enforcement, cleanup or other regulatory action taken or threatened by any governmental or regulatory authority with respect to the presence of any Hazardous Material on the Premises or the migration thereof from or to other property, (ii) any demands or claims made or threatened by any party relating to any loss or injury resulting from any Hazardous Material on the Premises, (iii) any release, discharge or nonroutine, improper or unlawful disposal or transportation of any Hazardous Material on or from the Premises or in violation of this Article, and (iv) any matters where Tenant is required by Law to give a notice to any governmental or regulatory authority respecting any Hazardous Material on the Premises. Landlord shall have the right (but not the obligation) to join and participate, as a party, in any legal proceedings or actions affecting the Premises initiated in connection with any environmental, health or safety Law. At such times as Landlord may reasonably request, Tenant shall provide Landlord with a written list, certified to be true and complete, identifying any Hazardous Material then used, stored, or maintained upon the Premises, the use and approximate quantity of each such material, a copy of any material safety data sheet ("MSDS") issued by the manufacturer therefor, and such other information as Landlord may reasonably require or as may be required by Law. The term "Hazardous Material" for purposes hereof shall mean any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by any such body, or for which any such body has adopted any requirements for the preparation or distribution of an MSDS.

(c) Remediation. If any Hazardous Material is released, discharged or disposed of by Tenant or any other occupant of the Premises, or their employees, agents or contractors, on or about the Building in violation of the foregoing provisions, Tenant shall immediately, properly and in compliance with applicable Laws clean up and remove the Hazardous Material from the Building and any other affected property and clean or replace any affected personal property (whether or not owned by Landlord), at Tenant's expense (without limiting Landlord's other remedies therefor). Such clean up and

removal work shall be subject to Landlord's prior written approval (except in emergencies), and shall include, without limitation, any testing, investigation, and the preparation and implementation of any remedial action plan required by any court or governmental body having jurisdiction or reasonably required by Landlord. If Landlord or any Mortgagee(s) or governmental body arranges for any tests or studies showing that this Article has been violated, Tenant shall pay for the costs of such tests. If any Hazardous Material is released, discharged or disposed of on or about the Building and such release, discharge or disposal is not caused by Tenant or other occupants of the Premises, or their employees, agents or contractors, such release, discharge or disposal shall be deemed casualty damage under Article 14 to the extent that the Premises are affected thereby; in such case, Landlord and Tenant shall have the obligations and rights respecting such casualty damage provided under such Article. Landlord acknowledges that it has received no notice from any governmental department or agency, whether federal, stale or local, that the Building or the Premises are in violation of applicable laws regarding Hazardous Materials.

(d) Landlord's Obligations. If subsequent to the date Tenant accepts possession of the Premises it is determined that there are any asbestos-containing materials or other Hazardous Materials in the Premises which were installed prior to Landlord's delivery of the Premises to Tenant, and such Hazardous Materials were not installed by Tenant or any affiliate of Tenant (or any party acting under Tenant or its affiliate) during a prior occupancy of the Premises or a portion thereof, and such Hazardous Materials are required by applicable Law to be removed, encapsulated or otherwise treated ("Remediated"), Landlord shall notify Tenant and Landlord, at Landlord's expense, shall as soon as practicable after notice thereof from Tenant, Remediate said Hazardous Materials as Landlord deems appropriate so that all laws are complied with. Such remediation shall be Tenant's sole remedy on account of such Hazardous Materials, except that Rent shall abate for any period of time that Tenant is unable to use the Premises due to the Remediation.

35. GENERAL:

(a) Headings. Titles to Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

(b) Heirs and Assigns. Subject to the provisions of Section 17 hereof, all of the covenants, agreements, terms and conditions contained in this Lease shall inure to and be binding upon the Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns.

(c) Brokers.

1. Tenant hereby represents to Landlord that it has dealt directly with and only with Michael Dash of Colliers International as a broker in connection with this Lease. Landlord hereby represents to Tenant that it has dealt directly with and only with Parker Ferguson of Flinn Ferguson Corporate Real Estate as a broker in connection with this Lease. Tenant agrees to indemnify and hold Landlord harmless from all claims of any brokers claiming to have represented Tenant in connection with this Lease. Landlord agrees to indemnify and hold Tenant harmless from all claims of any brokers claiming to have represented Landlord in connection with this Lease.

2. Agency Disclosure. At the signing of this Lease, Tenant's agent, Michael Dash of Colliers International represented Tenant. Each party signing this document confirms

that the prior oral and/or written disclosure of agency was provided to such party in this transaction, as required by RCW 1 8.86.030(1)(g).

3. Landlord and Tenant, by their execution of this Lease, each acknowledge and agree that they have timely received a pamphlet on the law of real estate agency as required under RCW 18.86.O3O(l)(f).

(d) Entire Agreement. This Lease contains all covenants and agreements between Landlord and Tenant relating in any manner to the leasing, use and occupancy of the Premises, to Tenant's use of the Building and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified or added to except in writing signed by Landlord and Tenant.

(e) Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

(f) Overdue Payments. In the event any Rent, Pass Through Expenses, Additional Rent or other sums payable by Tenant under this Lease are not paid upon the due date thereof, Tenant shall pay to Landlord the greater of (i) interest on the overdue amount at a rate equal to three percentage points above the prime rate of interest published or announced from time to time by Bank of America, or its successor, or, in the absence of an established prime rate, five percentage points over that bank's rate for one year certificates of deposit, but not in excess of the highest lawful rate permitted under applicable laws, calculated from the original due date thereof to the date of payment; or (ii) a late payment fee equal to five percent (5%) of the overdue amount to compensate Landlord for the administrative and collection costs incident thereto.

(g) Force Majeure. Except for the payment of Rent, Pass Through Expenses, Additional Rent or other sums payable by Tenant, time periods for Tenant's or Landlord's performance under any provisions of this Lease shall be extended for periods of time during which Tenant's or Landlord's performance is prevented due to circumstances beyond Tenant's or Landlord's reasonable control.

(h) Right to Change Public Spaces. Landlord shall have the right at any time after the completion of the Building, without thereby creating an actual or constructive eviction or incurring any liability to Tenant therefor, to change the arrangement or location of such of the following as are not contained within the Premises or any part thereof: entrances, passageways, doors and doorways, corridors, stairs, toilets and other like public service portions of the Building. Nevertheless, in no event shall Landlord diminish any service, change the arrangement or location of the elevators serving the Premises, make any change which shall diminish the area of or prevent access to the Premises, or make any change which shall change the character of the Building from that of a first-class office building.

(i) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the state of Washington.

(j) Building Directory. Landlord shall maintain in the lobby of the Building **a** directory which shall include the name of Tenant and any other names reasonably requested by Tenant in proportion to the number of listings given to comparable tenants of the Building.

(k) Building Name. The Building will be known by such name as Landlord may designate from time to time.

(l) Environmental. Landlord has received no notice that the Building does not meet current federal environmental guidelines with respect to environmental or ADA Requirements. Landlord will use reasonable efforts to ensure that the Common Areas of the Building will meet the Americans With Disabilities Act requirements. Expenses associated with making corrections to the Building so that the Building is in compliance with applicable ADA requirements on the Commencement Date shall be Landlord's expenses and not part of the Pass Through Expenses.

(m) As further security for Tenant's performance under this Lease, to the extent not expressly prohibited by applicable Law, Tenant hereby grants Landlord a lien in all existing and after-acquired personal property of Tenant placed in or relating to Tenant's business at the Premises, including but not limited to, fixtures, equipment, inventory, and furnishings. Notwithstanding the foregoing, Tenant may freely use, replace and dispose of such property (provided Tenant immediately replaces the same with similar property of comparable or better quality), and receive such rents and consideration, in the ordinary course of Tenant's business, until such time as Tenant shall commit a Default; upon such Default, Tenant's right to remove or use such property shall terminate, and all other parties shall be entitled to rely on written notification thereof given by Landlord without requiring any proof of such Default or any other matter. Landlord shall be entitled hereunder to any landlord's lien and rights provided by applicable Law. Upon written request of Tenant Landlord shall execute a Subordination of Lien with respect to Tenant's fixtures, equipment, inventory, and furnishings, in the form attached hereto and made a part hereof as Exhibit D, in favor of a company which is loaning funds to Tenant for use by Tenant solely in the operation of its business at the Premises.

36. RIGHT OF FIRST OFFER.

(a) After the first day of the ninth full calendar month after full execution of this Lease, Landlord agrees that if any office space becomes available in the Building (the "Expansion Space"), Landlord shall notify of its exact location, when such space shall become available, the creditworthiness of the proposed tenant entity, the agreed upon rent and all charges, required tenant improvements, and any agreed upon tenant improvements (collectively, the "Acceptable Terms"). Tenant shall thereafter have five (5) business days to provide a written response as to its intent to lease the Expansion Space according to all of the Acceptable Terms originally being offered by Landlord by such proposed tenant. If after five (5) business days Landlord has not received written response from Tenant of its acceptance of all of the Acceptable Terms, then Landlord shall be free to lease the Expansion Space to any party and Tenant shall be deemed to have rejected the Expansion Space and Tenant shall have no further rights under this Article 36 as to that particular offered Expansion Space. As further Expansion Space becomes available during the initial Term, but not during any renewal options or he Renewal Term, Landlord agrees to offer it to Tenant upon the above described terms and conditions.

(b) Commencing upon the date when Landlord delivers possession of the Expansion Space (the "Possession Date"), the Expansion Space shall become part of the Premises, subject to the same terms and conditions as are contained in this Lease, except as hereinafter provided:

i. The annual Rent and terms for the Expansion Space shall be the Acceptable Terms;

ii. The term of the Lease for the Expansion Space shall be coterminous with the term of this Lease; and

iii. Landlord shall not have to offer the Expansion Space to Tenant hereunder during the last 24 months of the term of the Lease unless Tenant's is still viable, Tenant is not then in default and Tenant provides Landlord with an early exercise of its option to renew.

37. COMPETING BUSINESSES. During the Term and the Renewal Term, Landlord shall not lease any space in the Building or any areas outside the Building (e.g., kiosks) to any party for the operation of a cafe whose primary identification with the general public is as a purveyor of coffee (other than a subsidiary of or duly licensed franchisee of Tenant).

In addition, from and after the date hereof, Landlord shall not enter into any agreement, with respect to the Westlake side of the Building only, during the Term and the Renewal Term, wherein Landlord leases any space in the Building or any areas outside the Building (e.g., kiosks) to any party for the operation of a café or similar retail store for the sale of branded coffee or whose primary identification with the general public is as a purveyor of coffee (other than a subsidiary of or duly licensed franchisee of Tenant where either (a) such entity's gross sales' from that premises from such coffee would exceed 10% of their gross sales in general from that premises, or (b) allow identification signage in the window of such Westlake side of the Building.

Any entity violating either of the above two paragraphs shall be defined as a "Competing Business" and if a Competing Business continues to operate after 30 days written notice from Tenant to Landlord, then, unless the Competing Business is operating without Landlord's consent, Tenant, as Tenant's sole remedy on account thereof and so long as the Competing Business thereafter continues to operate, shall be afforded Rent decrease to 50% of the amount that is otherwise payable hereunder.

A Competing Business shall be considered to be operating without Landlord's consent only if the Competing Business has been permitted to assume a lease or operate its business based upon or as a result of an action or order by a court without regard to the provisions hereof. Landlord agrees to provide Tenant with written notice of the commencement of any action or proceeding of court which involves the violation by Landlord of this Article 37 within 10 business days of Landlord's receipt of written notice of such commencement.

Notwithstanding anything herein to the contrary, Tenant shall not be entitled to the remedy set forth in his provision to the extent and while, during the Term:

(i) Tenant shall have ceased operation in the Building of a cafe whose primary identification with the general public is as a purveyor of coffee; or

(ii) With respect to the Westlake side of the Building only, Tenant ceases operating any space in the Building or any areas outside the Building (e.g., kiosks) to any party for the operation of a café or similar retail store for the sale of branded coffee or whose primary identification with the general public is as a purveyor of coffee; or

(iii) Tenant is in Default under this Lease.

The remedies set forth in this provision shall be Tenant's sole and exclusive remedies on account of the operation of a Competing Business.

IN WITNESS WHEREOF this Lease has been executed as of the day and year first above set forth.

LANDLORD:

PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company

BY: **RGHK SEATTLE L.L.C.,** a Washington limited liability company, Manager

By: /s/ Matthew Griffin

Its Managing Partner

TENANT:

SEATTLE COFFEE COMPANY, a Georgia corporation

By: /s/ Steve Schickler

Steve Schickler
Its President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that on this 9th day of July 2001, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Matt Griffin, to me known to be the managing partner of RGHK SEATTLE L.L.C., a Washington limited liability company, Manager of **Pine Street Development L.L.C.,** the Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said/limited liability company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

[GRAPHIC]

Ronalyn Huenergard
Printed Name: Ronalyn Huenergard
Notary public in and for the state of Washington,
residing at Belfair
My appointment expires: 1/04/2002
Name:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that on this 3 day of July, 2001, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Steve Schickler, to me known to be the President of **SEATTLE COFFEE COMPANY**, a Georgia corporation, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year in this certificate first above written.

Printed Name: Therese A. McDonnell
Notary public in and for the state of Washington,
residing at Kirkland
My appointment expires: 08.06.02
Name: Therese A. McDonnell

EXHIBIT A

Floor Plan of Premises

[See attached]

Exhibit A

Fifth & Pine Building
Seattle Coffee Company Space – 5th Floor

[FIFTH FLOOR PLAN]

Exhibit A

Fifth & Pine Building
Seattle Coffee Company Space – 4th Floor

[FOURTH FLOOR PLAN]

Exhibit A

EXHIBIT A-1

Legal Description of Land

GOW PARCEL

LOTS 2 AND 3 IN BLOCK 19 OF ADDITION TO THE TOWN OF SEATTLE AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S 3RD ADDITION TO THE CITY OF SEATTLE), AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 33, RECORDS OF KING COUNTY;

EXCEPT THE NORTHWESTERLY 7 FEET OF SAID LOT 2 CONDEMNED FOR STREET PURPOSES IN KING COUNTY SUPERIOR COURT CAUSE NO. 57057 AS PROVIDED BY ORDINANCE NO. 14500 OF THE CITY OF SEATTLE;

AND EXCEPT THAT PORTION OF SAID LOT 2 CONDEMNED FOR WESTLAKE AVENUE IN KING COUNTY SUPERIOR COURT CAUSE NO. 36118 AS PROVIDED BY ORDINANCE NO. 7733 OF THE CITY OF SEATTLE;

TOGETHER WITH THAT PORTION OF ALLEY IN SAID BLOCK 19 ADJOINING SAID PREMISES VACATED BY ORDINANCE NO. 17294 OF THE CITY OF SEATTLE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THE ALLEY IN SAID BLOCK 19 WHERE IT IS INTERSECTED BY THE LINE BETWEEN LOTS 3 AND 6 OF SAID BLOCK; THENCE NORTHWESTERLY ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 50 FEET THROUGH AN ARC OF 25 DEGREES 50 MINUTES 20 SECONDS A DISTANCE OF 22.60 FEET TO A POINT OF COMPOUND CURVE; THENCE NORTHWESTERLY ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.992 FEET THROUGH AN ARC OF 2 6 DEGREES 54 MINUETS 00 SECONDS A DISTANCE OF 9.85 FEET TO A POINT OF REVERSE CURVE; THENCE NORTHERLY ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 6.33 FEET THROUGH AN ARC OF 76 DEGREES 36 MINUTES 00 SECONDS A DISTANCE OF 7.93 FEET TO A POINT ON THE EAST LINE OF WESTLAKE AVENUE AS ESTABLISHED BY SAID ORDINANCE; THENCE NORTHERLY ALONG THE SAID EAST LINE OF WESTLAKE AVENUE 32.833 FEET TO THE EAST LINE OF SAID ALLEY; THENCE SOUTHERLY ALONG SAID EAST LINE OF SAID ALLEY 66.485 FEET MORE OR LESS TO THE POINT OF BEGINNING;

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.

GOTTSTEIN PARCEL

A LEASEHOLD ESTATE ARISING OUT OF A LEASE BETWEEN KASSEL AND REBECCA GOTTSTEIN CO., A CORPORATION, SEATTLE-FIRST NATIONAL BANK, TRUSTEE U/W OF F.V. FISHER AND THE JACOB L. GOTTSTEIN TRUST, AS LESSOR AND IVAN L. BEST AND DOROTHY C. BEST, HUSBAND AND WIFE, AS LESSEE, DATED OCTOBER 10, 1950, RECORDED UNDER RECORDING NO. 4068658, SAID LEASE BEING AMENDED BY AMENDMENTS TO LEASE DATED AUGUST 7, 1957, RECORDED

UNDER RECORDING NO. 5495492, APRIL 20, 1964, RECORDED UNDER RECORDING NO. 5727093, SEPTEMBER 3, 1971, DECEMBER 5, 1979 AND DECEMBER 11, 1984, THE LESSORS INTEREST BEING ASSIGNED BY SUCCESSIVE ASSIGNMENTS TO KASSEL AND REBECCA GOTTSTEIN CO., INC., A CORPORATION AND LAURIE A FRIEDMAN, AS HER SEPARATE ESTATE, THE LESSEES INTEREST BEING ASSIGNED BY SUCCESSIVE ASSIGNMENTS TO NORDSTROM'S INC., A WASHINGTON CORPORATION, AND FURTHER ASSIGNED TO (TO BE DETERMINED) BY ASSIGNMENT DATED TO BE DETERMINED AND RECORDED UNDER RECORDING NO. TO BE DETERMINED; ON THE FOLLOWING DESCRIBED PROPERTY;

LOTS 6 AND 7 IN BLOCK 19 IN AN ADDITION TO THE TOWN OF SEATTLE AS LAID OFF BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S 3RD ADDITION TO THE CITY OF SEATTLE), AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 33, RECORDS OF KING COUNTY;

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT A-2

Rent Schedule for the Fifth Floor of the 5th and Pine Building

January 1, 2002 to December 31, 2002:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983
January 1, 2003 to December 31, 2003:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983
January 1, 2004 to December 31, 2004:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983
January 1, 2005 to December 31, 2005:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983
January 1, 2006 to December 31, 2006:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983
January 1, 2007 to December 31, 2007:	
Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983

January 1, 2008 to December 31, 2008:

Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983

The Gow and Gottstein Buildings are outlined on the enclosed plans.

January 1, 2009 to December 31, 2009:

Gow Building Penthouse	10,387
Gottstein Building	15,153
Gow storage	443
	25,983

The Gow and Gottstein Buildings are outlined on the enclosed plans.

Exhibit B

SEATTLE COFFEE COMPANY
FIFTH AND PINE BUILDING
TENANT IMPROVEMENTS

I. EXISTING IMPROVEMENTS PROVIDED BY LANDLORD. The following improvements exist at the Premises:

A. Completed Public and/or Core Areas including:

(1) Plumbing: Men's restrooms, women's restrooms, and drinking fountains installed in accordance with the plans and specifications for the Building.

(2) Electrical: Total electrical service for each floor shall include two (2) panels per floor with forty-two (42), single pull circuit breakers, at twenty (20) ampere each, located in an electrical closet. Tenant's total number of breakers for Tenant shall determine the Premises' prorated share of rentable area of the floor. The previous tenant may have made certain modifications to the electrical service and Tenant accepts the same in "AS IS, WHERE LOCATED" condition.

In addition to the existing improvements as described above, Landlord may, at Landlord's option, but shall not be required to, design, construct and install an entrance to the Server Room (the "Entrance") from the stairwell located in the center of the Building. Construction of the Entrance shall be at Landlord's cost and expense and, upon Landlords request, Tenant will cooperate with Landlord in the design and construction of the Entrance. If and when the Entrance is constructed it shall become Tenant's primary access to the Server Room. Tenant will have additional access to the Server Room through the fourth floor elevator lobby, but will observe rules and regulations promulgated by Landlord from time to time that, among other things, insure the security of the fourth floor tenant, but will not prevent Tenant's access to and from the Premises.

B. The Premises shall be completed as follows:

(1) Walls: Core walls (equipment rooms, elevator shafts, restrooms, mechanical shafts, stairs) to be sheetrocked and fire taped. Perimeter walls will be accepted by Tenant in "AS IS, WHERE LOCATED" condition.

(2) Floor: The Building floor consists of an existing concrete slab. Floor loading capacities: fifty (50) pounds per square foot live load; twenty (20) pounds per square foot partition load. In addition, the Premises contain a raised SMED floor which Tenant accepts in "AS IS, WHERE LOCATED" condition.

(3) Mechanical: The Building Standard mechanical system is designed to accommodate cooling loads generated by lights and equipment up to **6.2 VA** per square foot. If Tenant's design or use of the Premises results in concentrated loads in excess of **6.2 VA** per square foot (e.g., data processing areas, conference rooms, and machine rooms), then any additional engineering design and installation of mechanical and/or electrical equipment

and/or controls required to accommodate such excess shall be provided by Tenant at Tenant's cost pursuant to this Exhibit B.

(4) Fire Sprinklers: Existing fire protection grid accepted by Tenant in "AS IS, WHERE LOCATED" condition.

(5) Fire Alarm Systems: Existing system accepted by Tenant in "AS IS, WHERE LOCATED" condition.

(6) Columns: Accepted by Tenant in "AS IS, WHERE LOCATED" condition.

(7) Electrical: The Building is designed for a total of 12.2 VA per square foot. It is broken down for the following: 1.2 VA /sf lighting, 2.5 VA /sf for Non PC load, 2.5 VA /sf for PC load, and 6.0 VA /sf heat load. If Tenant's design or use of the Premises results in concentrated loads in excess of 6.2 VA per square foot (e.g., data processing areas, conference rooms, and machine rooms), then any additional engineering design and installation of mechanical and/or electrical equipment and/or controls required to accommodate such excess shall be provided by Tenant at Tenant's sole cost and expense pursuant to this Exhibit B.

(8) Telephone: US West is providing one hundred, sixty-five (165) pair.

(9) Ceiling: Accepted by Tenant in "AS IS, WHERE LOCATED" condition.

(10) Entry Access Card System: The Building has a card key access system. The suite uses a key fob that is compatible with the Building system. The card key access system currently in the Premises (accepted by Tenant in "AS IS, WHERE LOCATED" condition) shall remain at no additional cost to Tenant.

(11) Signage: Building Standard directory signage at building exterior and building lobby. In addition, Tenant shall follow the signage criteria set forth on Exhibit E attached to the Lease.

(12) Window Coverings: Accepted by Tenant in "AS IS, WHERE LOCATED" condition.

II. IMPROVEMENTS TO PREMISES. Design and construction of all improvements and alterations in the Premises beyond those listed in Section I of this Exhibit B (the "Tenant Improvements") shall be provided by Tenant at Tenant's sole cost and expense.

III. BUILDING STANDARD IMPROVEMENTS. Tenant shall use the following Building Standard items: exterior window blinds (required by Landlord); door and frames; hardware; lighting fixtures; and heating, ventilating, and air conditioning, VAV boxes, electric heat distribution and controls, ceiling tile and grid.

IV. DESIGN OF TENANT IMPROVEMENTS. Tenant shall retain the services of a qualified "Office Planner" licensed to practice architecture in the state of Washington, approved by Landlord, to prepare the necessary drawings for Schematic Plans and Final

Construction Documents. Tenant shall use Landlord's mechanical, electrical, and structural engineers or engineers approved by Landlord pursuant to this Exhibit B *for construction of the mechanical, electrical and structural portions of the* Tenant Improvements. If Tenant does not use Landlord's engineers *as required in the previous sentence,* then Tenant shall pay Landlord's reasonable costs to have Landlord's engineers review Tenant's engineering drawings. All Tenant's Plans shall be subject to approval of Landlord in accordance with this Exhibit B.

Tenant's Office Planner shall ensure that the work shown on Tenant's Plans is compatible with the Building Shell & Core Plans, Building Code, laws and that necessary Shell & Core Building modifications are included in Tenant's Plans. Such modifications shall be subject to the Landlord's approval.

A. At Tenant's sole cost and expense, Tenant shall supply to Landlord for review and approval two (2) reproducible copies and three (3) black line prints of the following Tenant Plans.

The Schematic Plans shall be approved and signed by Tenant and comply with the following paragraph.

Tenant's Office Planner shall deliver to Landlord for review fully dimensioned CAD architectural floor plans showing partition layout, identifying each room with a number and each door with a number, for construction estimating. The Schematic Plans must clearly identify and locate (i) equipment requiring plumbing or other special or supplementary mechanical or electrical systems, (ii) area(s) subject to above-normal floor loads, (iii) special openings in the floor, (iv) and other major or special features. The specific CAD system to be used shall be approved by Landlord for compatibility with the other Building drawings.

The Tenant's Office Planner shall indicate on the drawings or in a Workletter, the scope of work, description of non-Standard Building finishes, quantity of telephone and power outlets, quantity of HVAC zones required, and quantity and type of light fixtures.

B. At Tenant's expense, Tenant shall supply Landlord with two (2) reproducible copies and three (3) black line prints of the following Tenant Plans.

Tenant's office planner shall deliver to Landlord for review and approval Tenant approved Construction Documents which will incorporate the Schematic Plans referenced in Section V (A) above, plus the following additional information:

(1) Electrical and Telephone Outlets: Locate all power and telephone requirements. Dimension each outlet from a corner and give height above concrete slab for all critically located outlets. Identify all dedicated circuits and identify all power outlets greater than 120 volts. For the equipment used in these outlets which require dedicated circuits and/or which require greater than one hundred, twenty (120) volts, identify the type of equipment, the manufacturer's name and the manufacturer's model number, and submit product literature for each piece of equipment. Also identify the manufacturer's name of the Tenant's phone system and the power requirements, size, and location of its processing equipment. Provide cut sheet on any special equipment requiring plumbing.

(2) Reflected Ceiling Plan: Lighting layout showing location and type of all Building Standard and non-Building Standard lighting fixtures.

(3) Furniture Layout: Layout showing furniture location so that Landlord's electrical engineer can review the location of all light fixtures and plan for furniture power/cabling connection points. Also provide furniture cut sheets and produce information to describe electrical coordination needs.

(4) Engineering Construction Documents showing Tenant's modifications to plumbing, structural, electrical, and mechanical needs.

(5) Any Non-Standard Building Finishes: Provide cut sheets and material samples for Landlord review and approval.

(6) Millwork Details: These drawings shall include, but not be limited to, construction details of all cabinets, paneling, trim, bookcases, and door and jamb details for non-Building Standard doors and jambs.

(7) Keying Schedules and Hardware Information: This information shall be in final form and include, but not be limited to, a Keying Schedule indicating which doors are locked and which key(s) open each lock, plus an "X" on the side of the door where the key will be inserted if a keyed door. Complete specifications for all non-Building Standard hardware will also be provided.

(8) Room Finish and Color Schedule: This information shall be in final form and include locations and specifications for all wall finishes, floor covering and base for each room. If any revised finishes are determined, then new specifications and samples shall be provided.

(9) Construction Notes and Specifications: Complete specifications for every item included except those specified by the Landlord.

Construction Documents are to be approved and signed by Tenant and delivered to Landlord by the Construction Documents Delivery Date. Landlord shall return one (1) signed set to Tenant for Tenant's records.

Tenant shall be responsible for delays and additional costs in completion of the Tenant Improvements incurred as a result of changes made to any of Tenant's Plans after the specified Plan Delivery Date, delays caused by Tenant's failure to comply with the Plan Delivery Dates, delays caused by Tenant's failure to provide adequate specifications or information for the completion of Tenant's Plans, or by delays caused by Tenant's specification of special materials.

V. <u>IMPROVEMENTS CONSTRUCTED BY TENANT.</u> The terms "Tenant's Work" or "Work" shall mean any work performed by Tenant, whether Tenant's initial Work or Work subsequent thereto. **If any Work is to be performed in connection with Tenant Improvements on the Premises by Tenant or Tenant's contractor:**

(a) Such Work shall proceed upon Landlord's written approval of (i) Tenant's contractor, (ii) insurance and additional insureds satisfactory to Landlord carried by Tenant's contractor, (iii) Construction Documents for such Work, and (iv) amount of general conditions to be paid by Tenant to Landlord for the services, if any, to be provided by Landlord's contractor for Tenant's contractor; and

(b) All Work performed by Tenant or Tenant's contractor shall be scheduled with Landlord and Landlord's Shell & Core contractor as needed for jobsite coordination of activities. Tenant shall supply Landlord with a written schedule describing the timing of its work activities; and

(c) Tenant or Tenant's contractor shall arrange for necessary utility, hoisting, and elevator service with Landlord's contractor and shall pay such reasonable charges for such services as may be charged by Landlord's contractor; and

(d) Tenant shall promptly reimburse Landlord for costs incurred by Tenant due to faulty Work done by Tenant or its contractors, or by reason of any delays caused by such Work, or by reason of inadequate clean-up; provided that Tenant shall first have an opportunity to cure such faulty Work; and

(e) Prior to commencement of any Work on the Premises by Tenant or Tenant's contractor, Tenant or Tenant's contractor shall enter into an indemnity agreement and a lien priority agreement satisfactory to Landlord and Landlord's lender(s) indemnifying and holding harmless Landlord and Landlord's contractors for any liability, losses or damages directly or indirectly from lien claims affecting the land, the Building or the Premises arising out of Tenant's or Tenant's contractor's Work or that of subcontractors or suppliers, and subordinating any such liens to the liens of construction and permanent financing for the Building; and

(f) Landlord shall have the right to post a notice or notices in conspicuous places in or about the Premises announcing its non-responsibility for the Work being performed therein; and

(g) Tenant to maintain good labor relations and all Work by Tenant shall be done with union labor recognized by the AFL-CIO in accordance with all union labor agreements applicable to the trades being employed.

A. Tenant's Entry to Premises: Tenant's entry to the Premises for purpose of Tenant planning for Construction by Tenant's agents, or other purpose, prior to the Commencement Date as specified in Section 3(a) of the Lease shall be scheduled in advance with Landlord and shall be subject to all the terms and conditions of the Lease, except the payment of Rent. Tenant's entry shall mean entry by Tenant, its officers, contractors, Office Planner, licensees, agents, servants, employees, guests, invitees, or visitors.

B. Commencement of Construction: Tenant may not commence any Work until this Lease has been fully executed, Landlord has approved Tenant's Construction Documents, all required insurance certificates have been furnished to Landlord, all building permits have been obtained, and Tenant has complied with all other requirements herein and elsewhere in this Lease.

(1) A representative of Tenant and Tenant's contractor(s) shall meet with Landlord at the Landlord's office prior to start of construction to discuss construction- related items. Tenant's representative shall contact the Landlord's Tenant Coordinator in advance to schedule said meeting at a mutually satisfactory time.

(2) Without limitation to any provision of this Lease, prior to commencement of any Work at the Premises Tenant shall furnish Landlord the following:

(a) The names, addresses, representatives and telephone numbers of the General Contractor and all subcontractors ("Tenant's Contractors"); and

(b) Certificates of Insurance evidencing the insurance required of Tenant and Tenant's General Contractor(s) as provided in this Lease, including this Exhibit B; and

(c) A detailed construction schedule; and

(d) "Construction Deposit": Tenant shall pay Landlord the sum of Ten Thousand Dollars ($10,000.00) in cash upon execution of this Lease as security to Landlord for Landlord's construction costs incurred in preparing the Premises for Tenant's occupancy. If Tenant defaults under this Lease, Landlord may apply these funds to offset Landlord's construction costs.

The Construction Deposit shall be returned to Tenant upon completion of all Tenant's Work in accordance with the approved Construction Documents, provided Tenant owes no amounts to Landlord in connection with the construction. If during construction, amounts are withdrawn from the construction deposit for reasons described above, the Tenant shall promptly replenish the deposit.

C. <u>Construction Requirements:</u>

(1) A copy of the executed contract between Tenant and Tenant's General Contractor covering all of Tenant's obligations under (his Exhibit B; such contract shall be in form satisfactory to Landlord.

(2) Tenant's General Contractor's acknowledgment of receipt of the Landlord's Tenant Contractor Manual.

(3) Proof that Tenant's General Contractor is licensed to work in the State of Washington.

(4) A specific job-site safety program, as required by the State of Washington.

(5) All Tenant's Contractors shall be union, bondable, licensed contractors, having good labor relations, capable of working in harmony with Landlord's General Contractor and other contractors in the Building.

(6) Tenant shall coordinate Tenant's Work with other construction work at the Building, if any. Landlord specifically reserves the right to approve Tenant's Contractor(s). If Landlord does not give Tenant such approval with respect to any Contractor(s), Tenant shall contract with another General Contractor and/or subcontractor(s), as the case may be, for the completion of Tenant's Work. Tenant shall use Landlord's fire and life safety contractor to make modifications to the sprinkler and all other fire and life safety systems installed in the Premises.

(7) In addition to the items in paragraph C of this Exhibit B, Landlord requires the following:

(a) Intentionally Omitted.

(b) Tenant's Work shall be subject to the inspection of Landlord's representative when the Work is being performed; and

(c) Tenant's General Contractor shall maintain at the Premises during construction a complete set of approved Construction Documents bearing Landlord's approval stamp, a complete set of the City of Seattle's approved permit drawings, original copies of necessary building permits, Landlord's construction criteria, a copy of Landlord's Design Criteria, and an updated project schedule.

(8) If any Work being performed by Tenant requires access through the premises of any other Tenant (vacant or occupied) or otherwise will affect any other premises or Common Area and Landlord has approved Tenant's drawings illustrating such Work, Tenant shall be responsible for coordinating such Work with such other Tenant and Landlord, restoring the Tenant's premises to its original condition (or condition mutually agreed to between Landlord and Tenant if adjacent Tenant premises is not yet occupied or adjacent premises is a building Common Area) following the Work, and compensating said other Tenant or Landlord for any costs incurred by them on account of such Work, including loss of rent or income.

(9) If Tenant makes modifications to the Construction Documents subsequent to Landlord approval of the Construction Documents, then Tenant shall promptly notify Landlord and shall not commence with or continue any work on the modifications until the same have received Landlord's written approval.

D. Temporary Facilities: The cost of any work performed by Landlord on behalf of Tenant under this Exhibit, including any temporary facilities provided, shall become due and payable in full within ten (10) days after Tenant has been invoiced for same by Landlord.

(1) If not already available in the Premises, Tenant shall provide temporary heat, air-conditioning, humidity control and ventilation for the Premises during construction if Tenant desires the same.

(2) Tenant shall make the necessary temporary electrical connections at a source designated by Landlord prior to beginning its Work at the Premises so that it shall have electricity during its construction period. Tenant shall pay for said electricity as billed by the electrical company or by Landlord (as Landlord reasonably determines), as is applicable.

(3) If Tenant requires water service during construction and Landlord is able to provide it, Landlord shall do so at a designated location and bill Tenant as Landlord reasonably determines.

(4) Tenant shall place all trash in trash containers at a pick-up area or areas designated by Landlord. Tenant shall be responsible for breaking down boxes as may be required. At Landlord's option, Tenant shall contract with Landlord's contractor to furnish its own trash containers at Tenant's cost or share a portion of the Landlord's dumpster facilities at Tenant's cost or shall provide Tenant's own dumpsters.

(5) Tenant shall be solely responsible for removal from Premises and legal disposal of any containers or material as part of Tenant's Work considered as hazardous waste by the local sanitation authority, and Tenant shall take all precautions to assure that such containers are not placed in Landlord's disposal containers.

(6) Landlord may utilize a recycle bin refuse program and, if made available to Tenant, Tenant shall take necessary precautions to sort refuse and to prevent cross contamination of recycle containers.

(7) Tenant shall not permit trash to accumulate within the Premises or in areas adjacent to the Premises, within Landlord's building, or adjacent to Landlord's building. Should Landlord remove Tenant's trash from these areas after providing twenty-four (24) hours advance notice to Tenant's contractor, this work shall be performed at Tenant's expense.

(8) Tenant shall provide temporary sanitary facilities for Tenant's use at Tenant's expense.

(9) Tenant shall take all necessary precautions to contain construction "wash-up" liquids (such as grout wash, paint wash, etc.) and prevent entry of such liquids into Landlord's sanitary or storm waste system. Tenant's contractor shall prepare a construction "wash-up" program for approval by Landlord. All construction wash-up shall be conducted at a location designated by Landlord.

(10) In the event any of Tenant's direct hired utilize Landlord provided conveyance systems, Tenant shall schedule usage of the operated material hoist or elevators for conveyance of Tenant's materials and pay for the cost thereof as determined by Landlord or Landlord's contractor. Hours of usage shall be solely at the discretion of Landlord and all scheduling shall be conducted directly with Landlord. Tenant shall coordinate all hoisting through Landlord's designated representative for such purpose.

(11) Tenant shall make prior written request to Landlord's designated representative for any overtime scheduling for freight hoisting. Provided Landlord determines, at its sole discretion, that same is available, Tenant shall pay for all overtime incurred during such special hoisting period(s) in addition to the charge determined as set forth above.

(12) Tenant shall not perform any Work at the Premises without temporary construction barricades to isolate the Premises from adjacent Premises without protecting common areas. The barricade shall be constructed in such a manner so as not to interfere with Landlord's construction and shall be installed in accordance with Landlord's requirements. No signs shall be allowed on any barricades or areas exposed to view outside the building Premises except those, if any, provided by Landlord. Landlord shall have the right to remove any nonpermitted signs without liability or prior notice.

(13) Upon completion of Tenant's initial Work, Tenant shall notify the Landlord's Tenant Coordinator. Upon said notification, Landlord's designated representative shall inspect the Premises and, if the Premises are constructed in accordance with the approved Drawings, said representative shall issue a Letter of Acceptance for the Premises. If Landlord believes the Premises have not been constructed in accordance with the approved Drawing, Landlord shall so notify Tenant or Tenant's Contractor. Tenant shall not occupy the space prior

to Landlord's issuance of a Letter of Acceptance. Tenant shall furnish Landlord a copy of a Certificate of Occupancy for the Premises before Tenant opens for business.

(14) All Work performed by Tenant during its construction period, or otherwise during the Term, shall be performed so as to cause the least possible interference with other tenants, Landlord's Shell & Core contractor, and the operation of the building or adjacent buildings, and Landlord shall have the right to impose reasonable requirements with respect to timing and performance of the Work in order to minimize such interference. When adjacent Tenant's Premises have opened for business, work causing noise, odor or vibration outside the Premises shall be performed only during hours the adjacent tenants at the Building are not open. Tenant shall take all precautionary steps to protect its facilities and the facilities of others affected by the Work (including Landlord's finishes in Common Areas) and shall police same properly. Construction equipment and materials are to be located in confined areas, and truck traffic is to be routed to and from the site as directed by Landlord so as not to burden the construction or operation of the building or surrounding areas. All Work shall be confined to the Premises. Tenant's direct hire Contractors (if any) shall coordinate with Landlord's on-site representative for the delivery and removal of its equipment and materials. Landlord shall have the right to order Tenant, Tenant's General Contractor, or any of Tenant's subcontractor(s) who willfully violate the above requirements to cease work and to remove its/their equipment and employees from the building immediately.

(15) Tenant and/or Tenant's contractor shall take precautions to protect adjacent tenants and tenants on common air distribution systems from airborne dust, dirt and contaminants, VOC's (volatile organic compounds such as paint thinner or varnish vapors) including, if necessary, isolating or otherwise protecting Landlord's central air distribution and return air systems (including return air plenum) from entry of these potential contaminants.

(16) It is understood and agreed that Tenant's contractor(s) shall perform said Work in a manner and at times that do not impede or delay Landlord's Construction Manager/General Contractor in the completion of the Premises as provided in the Lease, and that Tenant and its contractor(s) shall not in the performance of Tenant's Work do anything that tends to jeopardize the labor relations of others in the Building. Any delays in the completion of the Premises or the commencement of the Lease term and any damage to any work caused by Tenant's contractor shall be at the cost and expense of Tenant.

E. Contractor Insurance: Tenant shall cause its General Contractor and all subcontractors to maintain during the construction period the following insurance:

(a) Commercial general liability insurance, with limits of not less than six million dollars ($6,000,000.00) per occurrence (the portion of such coverage over two million dollars ($2,000,000.00) may be provided under an umbrella or excess liability policy), for personal injury, bodily injury or death or property damage or destruction, arising out of or relating to the contractor's work at or in connection with the Premises and completed operations for one (1) year following job completion and shall provide for a waiver of subrogation by the insurance company; and

(b) Workers' compensation insurance with respect to each contractor's workers at the site or involved in the Tenant's Work, in the amount required by statute; and

(c) Employer's liability insurance in the amount of at least one million dollars ($1,000,000.00) per accident and at least one million dollars ($1,000,000.00) for disease for each employee; and

(d) Comprehensive automobile liability insurance covering all owned, hired or non-owned vehicles, including the loading and unloading thereof, with limits of not less than two million dollars ($2,000,000.00) per occurrence (the portion of such coverage over one million dollars [$1,000,000.00] may be provided under an umbrella or excess liability policy); and

(e) Builder's risk property insurance upon the entire Tenant's Work to the full replacement cost value thereof.

(1) Landlord, Landlord's managing agent, and such other parties as designated by Landlord, shall be additional insureds, naming Owner/Landlord, Tenant, Landlord's General Contractor, and all subcontractors.

(2) All insurance required hereunder shall be provided by responsible insurers rated at least A and X in the then current edition of Best's Key Rating Insurance Guide and shall be licensed in the State of Washington. Tenant shall provide, or cause its contractors to provide, such certificates prior to any Tenant's Work being performed at the Premises. Such certificates shall state that the coverage may not be changed or canceled without at least thirty (30) day's prior written notice to Landlord.

(F) Intentionally Omitted.

Exhibit C

GUARANTY

THIS GUARANTY is given by **AFC ENTERPRISES, INC.** a Minnesota corporation, whose address is 1321 Second Avenue, Seattle, Washington 98101 ("Guarantor") and is of a certain Lease dated as of June , 2001 (the "Lease") between **PINE STREET DEVELOPMENT L.L.C.,** a Washington limited liability company ("Landlord"), and **Seattle Coffee Company,** a Georgia corporation, a wholly owned subsidiary of AFC.

WITNESSETH:

WHEREAS, at the instance and request of the Guarantor, Tenant is entering into a Lease with Landlord for approximately 25,983 contiguous rentable square feet of space on Floor 5 and the entire Server Room located on Floor 4 of the Building commonly known as the Fifth and Pine Building located on the real property described on Exhibit A-l hereto, with an address of 413 Pine Street, Seattle, Washington, as outlined on the floor plan attached to the Lease as Exhibit A.

WHEREAS, part of the consideration for the letting of said Premises by Landlord to Tenant is Guarantor's covenant to guarantee the payment of Rent and other charges provided for in said Lease and the performance of all the other provisions of the Lease through the full Term of the Lease;

WHEREAS, part of the consideration for the leasing of the Premises by Landlord to Tenant is Guarantor's covenant to guarantee the timely completion of construction of Tenant's Initial Work, as described in the Lease, and the payment of all charges for same; and

WHEREAS, Guarantor will directly or indirectly benefit from the relative success of Tenant and will therefore personally stand to benefit from the opportunity provided to Tenant by such Lease.

NOW, THEREFORE, in consideration of the foregoing and of the letting of the Premises to Tenant, and of the sum of TEN AND NO/100 DOLLARS ($10.00) to Guarantor in hand paid by Landlord, the receipt and sufficiency of which being hereby acknowledged, Guarantor hereby guarantees to Landlord, their successors or assigns the prompt payment by Tenant of the Rents reserved in the Lease and the charges thereunder and the performance by Tenant of all provisions and covenants contained in said Lease through the full Term of the Lease and the timely completion of construction of Tenant's Initial Work, as described in the Lease, and the prompt payment by Tenant of all charges, costs and expenses with respect thereto so as to keep the Premises and the Building free from any lien, charge or encumbrance being placed thereon or attached thereto. Guarantor further guarantees to Landlord the performance by Tenant of all provisions and covenants contained in said Lease with respect to the foregoing, including, but not necessarily limited to Article 6 of the Lease. If any Default shall be made by Tenant, then Guarantor shall pay and hereby agrees to pay to Landlord, their successors or assigns such sum or sums of money as will be sufficient to make up any such deficiency, and shall satisfy the provisions and covenants to be performed by Tenant under the Lease.

Guarantor does further covenant and agree to pay all of the expenses of Landlord, their successors or assigns, including attorneys' fees, incurred in enforcing this Guaranty.

Landlord shall not be required to institute action or otherwise seek recovery from Tenant as a condition precedent to the performance by Guarantor of its obligations under this Guaranty.

Guarantor does further covenant and agree that the Landlord may, from time to time, during the Term of this Lease, modify, change or alter any of the terms of the Lease by

agreement with Tenant, any subsidiary, affiliate or other corporation to which Tenant may assign Tenant's interest in the Lease, in accordance with the terms thereof, without notice to Guarantor and that Guarantor shall not be relieved of its liabilities hereunder as a result of such action, it being expressly agreed and understood that Guarantor will recognize and be bound by any such modification, change or alteration as though it had been part of the Lease as originally drawn.

In the event that this Guaranty shall be executed by more than one party, the liability hereunder shall be joint and several.

This Guaranty is submitted to Landlord at its principal place of business in the City of Seattle, State of Washington, and shall be deemed to have been made thereat. This Guaranty shall be governed and controlled as to interpretation, enforcement validity, construction, effect and in all other respects by the Laws, statutes and decisions of the state of Washington, without regard to the conflict of laws principles thereof. Guarantor, in order to induce Landlord to accept this Guaranty, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Guaranty shall be litigated, at Landlord's sole discretion and election, only in courts having a situs within the county of King, state of Washington. The undersigned hereby consents and submits to the jurisdiction of any local, state or federal court located within said county and state. The undersigned hereby waives any right it may have to transfer or change the venue of any litigation brought against it by Landlord on this Guaranty in accordance with this section. Guarantor hereby knowingly, voluntarily and intentionally waives the right it may have to a trial by jury in any litigation based on or arising out of, under or in connection with this Guaranty and any agreement contemplated to be executed in conjunction herewith. This provision is a material inducement to Landlord to enter into the Lease. Tenant's obligations under this Guaranty shall be performable in Seattle, Washington (unless Landlord designates another place for such performance).

Notwithstanding anything to the contrary which may be contained herein and notwithstanding any payment or performance by Guarantor pursuant to this Guaranty during the Term of the Lease and until such time as Tenant no longer has any liability thereunder to Landlord (the "Waiver Period"), Guarantor hereby unconditionally and irrevocably agrees that it (a) will not at any time assert against Tenant any right or claim, at Law or in equity, to indemnification, reimbursement, contribution, restitution or payment for or with respect to any and all amounts Guarantor may pay or be obligated to pay to Landlord, and any and all other obligations which Guarantor may perform, satisfy or discharge, under or with respect to this Guaranty, (b) waives and releases all such rights and claims, at Law or in equity, to indemnification, reimbursement, contribution, restitution or payment which Guarantor may have now or at any time against Tenant, and (c) will not assign or otherwise transfer any such right or claim to any other person. During the Waiver Period, Guarantor further unconditionally and irrevocably agrees that it shall not be entitled to be subrogated to any rights of Landlord against Tenant or any other Guarantor of any amounts being guaranteed and shall have no right of subrogation whatsoever, and waives any right to enforce any remedy which Landlord now has or hereafter may have against Tenant and waives any defense based upon an election of remedies by Landlord, which destroys or otherwise impairs any subrogation rights of Guarantor and/or the right of Guarantor to proceed against Tenant for reimbursement. This waiver shall cease and be of no further force and effect on the date which is three hundred sixty-six (366) days after the date of the last payment made by Tenant to Landlord under the Lease.

Guarantor hereby agrees that upon the filing of a petition under any section or chapter of Title 11 of the United States Code or under any similar federal or state bankruptcy law or statute by or against Guarantor (said included bankruptcy filing as aforesaid is hereinafter referred to as the "Bankruptcy Filing"), any automatic stay or other injunction against Landlord resulting from the Bankruptcy Filing shall be immediately and automatically modified and terminated with respect to Landlord, without further notice, hearing or order of court, so that Landlord may proceed to exercise its rights and remedies against any property pledged to Landlord to secure the Lease in accordance with applicable Law as if no such filing had taken place. Guarantor further agrees that it will not contest (a) any motion or application of Landlord made in any court of competent jurisdiction seeking enforcement of this Paragraph or otherwise seeking

modification or termination of such automatic stay or other injunction in a manner consistent herewith or (b) any motion or application of Landlord made in any court of competent jurisdiction seeking the appointment of a receiver after the Bankruptcy Filing. Guarantor acknowledges and agrees that Landlord is specifically relying upon the covenants and agreements of Guarantor contained in this Paragraph and that such covenants and agreements constitute a material inducement to Landlord's entering into the Lease.

IN WITNESS WHEREOF, Guarantor has this _____ day of June, 2001, caused these presents to be signed in his behalf.

WITNESS:

GUARANTOR:

AFC ENTERPRISES, INC., a Minnesota corporation

By: _____

By: _____

Name Printed: _____

Name Printed: _____

Title: _____

Title: _____

STATE OF _____)
) SS
COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ President of AFC ENTERPRISES, INC. a Minnesota corporation, and _____, personally known to me to be the _____ Secretary of said corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as _____ President and _____ Secretary of said corporation, and caused the Corporate Seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of June, 2001.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT D

FORM OF LANDLORD'S
SUBORDINATION OF LIEN

SECURED PARTY: _____

_____

PROPERTY: Seattle, Washington
TENANT: _____, d/b/a "_____"

LANDLORD: _____

LEASE DATE: _____

PREMISES: Space _____

DATE: _____

RECITALS

A. Landlord currently leases to Tenant the above-referenced Premises at the above-referenced Property.

B. Tenant desires to borrow from Secured Party certain funds, and/or desires to lease or purchase on an installment basis from Secured Party certain fixtures or equipment in order to fixture, improve, equip and/or operate the Premises.

C. In order to secure the aforementioned borrowed funds, equipment lease or installment sale, Tenant desires to grant a security interest in certain fixtures, inventory or equipment located, or to be located, in the Premises to Secured Party, and has requested that Landlord subordinate any lien rights Landlord may have to such security interest.

D. In consideration of the foregoing, Landlord is willing to so subordinate any lien rights it may have to such fixtures, inventory and equipment on the terms and conditions hereinafter set forth.

AGREEMENT

1. Landlord hereby subordinates any lien rights it may have to any security interest Secured Party may have with respect to those items of equipment and fixtures described and listed on Exhibit A attached hereto and incorporated herein (the "Secured Property") subject to the conditions and limitations hereinafter further set forth.

2. Notwithstanding anything to the contrary herein contained or contained in Exhibit A hereto, under no circumstances shall the foregoing subordination apply to any equipment, fixtures or leasehold improvements which belong to, inure to the benefit of, or will belong to Landlord after the expiration or earlier termination of the Lease, including without limitation plumbing and electrical fixtures or equipment, heating, ventilation and air-conditioning equipment, wall and floor coverings, walls or ceilings and other fixtures or machinery attached to the Premises and not constituting trade fixtures, all of which shall be deemed to constitute a part of the freehold or leasehold interest of Landlord.

3. The foregoing subordination shall not apply with respect to any future advances by Secured Party to Tenant more than one hundred eighty (180) days after the date of this Agreement.

4. In the event the Premises are abandoned, or Landlord recovers possession thereof by any means, the Secured Party shall remove the Secured Property from the Premises within fifteen (15) days after written notice by Landlord. After said period, all property remaining on the Premises shall be deemed abandoned and Landlord shall be entitled to use, sell or otherwise dispose of the same as Landlord determines in Landlord's sole discretion.

5. In connection with any foreclosing of its security interest in the Secured Property, Secured Party shall provide Landlord with reasonable advance written notice of all hearings and sale proceedings in connection therewith and otherwise as required by Law.

6. In the event that Secured Party removes any or all of the Secured Property from the Premises, Secured Party shall indemnify the Landlord against and hold harmless from all loss or damage resulting from entry into the Premises and removal of the Secured Property, and shall repair any damage resulting from the removal of any such property. If Secured Party shall fail to repair any such damage within five (5) days after such removal, Landlord may then do so and Secured Party shall reimburse all of Landlord's costs in connection therewith.

7. Under no circumstances shall any of the Secured Property be sold, offered for sale, or auctioned from or on the Premises.

8. This Agreement shall be of no force or effect unless and until fully executed copies have been delivered by all parties. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. This Agreement represents the whole agreement between the parties relating to the matters set forth herein, and may be amended only in writing signed by all parties.

9. Notices hereunder shall be effective when mailed to the parties at the addresses set forth below the signature lines in this Agreement (or such other addresses specified in accordance with this paragraph), by certified mail, return receipt requested, with sufficient postage prepaid, via overnight delivery or courier service.

10. Secured Party shall advise Landlord in writing promptly after the obligations secured by the Secured Property have been satisfied, discharged or released. In the absence of notice to the contrary within three (3) years after the date of this Agreement, Landlord shall be entitled to presume conclusively, as between Landlord and Secured Party, that such obligations have been so satisfied, discharged or released.

LANDLORD:

_____

By: _____

Its: _____

Address: _____

SECURED PARTY:

_____

By: _____

Its: _____

Address: _____

EXHIBIT E

SIGN CRITERIA EXHIBIT

A. General

1. The furnishing and installation of a sign and the costs so incurred shall be the responsibility of Tenant. Sign construction is to be completed in compliance with the criteria contained in this Exhibit E. As used in this Lease, the term "Sign" shall refer to all graphics.
2. Landlord encourages Tenant to raise with Landlord any questions Tenant may have regarding the intent of this Exhibit E prior to commencing preliminary design of the Sign.
3. Tenant's Sign drawings and specifications must be submitted with the working drawings for Tenant's Premises. All Signs are subject to approval by Landlord. Landlord will review proposed Sign drawings and specifications for sophistication in design and detail; use and quality of materials; excellence in fabrication techniques; and compatibility of the proposed design with existing storefronts in the Center.
4. The Tenant shall acquire any municipal required sign permits.

B. General Sign Criteria

1. The Signs shall be limited to the Tenant name only, and the name shall not include any items sold by Tenant. *Notwithstanding anything to the contrary contained herein, Tenant may place a back-lighted sign in a location mutually approved by Landlord and Tenant. Such sign will contain the logos for Tenant and its two subsidiaries, Torrefazione Italia and Seattle's Best Coffee, as mutually approved by Landlord and Tenant, and in conformance with all requirements of the City of Seattle and all applicable laws, rules, and regulations. The sign will be located facing north towards 4th Avenue, shall be designed, installed and maintained at Tenant's sole cost and expense.*
2. The use of corporate shields, crests, logos or insignia will be permitted, subject to Landlord's approval, and provided that they meet all other design criteria set forth in this Exhibit E.

C. Prohibited Types of Signs or Sign Components

1. Moving or rotating signs.
2. Signs employing moving or flashing lights.
3. Signs employing exposed raceways, conduit, ballast boxes or transformers.
4. Exposed (as opposed to channeled) neon tubing.
5. Signs exhibiting the names, stamps or decals of the Sign manufacturer or installer, except as required by applicable codes.
6. Signs employing luminous vacuum-formed type plastic letter.
7. Showcard signs, cloth, paper, cardboard and similar stickers, die-cut vinyl letters or decals around or on exterior surfaces (including interior and exterior surfaces of doors and/or windows) of the Premises.

8. Temporary signs without Landlord's prior written approval.
9. Signs employing noise making devices and components.
10. Free-standing signs outside the Tenant's Premises.
11. Cabinet or boxed type signs.
12. Odor producing signs.
13. Rooftop signs.

D. Procedure for Sign Drawings

1. Plans and specifications for Signs must be submitted with the working drawings for Tenant's Premises. Tenant shall submit drawings and specifications, in quadruplicate, including samples of materials and colors, for all its proposed Sign work. The drawings shall clearly show the location of Sign on storefront elevation drawing, graphics, color, construction and attachment details.
2. As soon as reasonably possible after receipt of the Sign drawings, the Landlord shall return to Tenant one (1) set of the Sign drawings with its suggested modifications and/or approval. Upon receipt of approved Sign drawings bearing the Landlord's comments, and if Tenant wishes to take exception to those comments, Tenant may do so in writing, by certified or registered mail, return receipt requested, addressed to the Landlord within ten (10) days from the date of receipt of the Sign drawings. Any exception shall be reviewed by the Landlord, which shall notify Tenant of its decision by certified or registered mail, return receipt requested. This decision on review shall be final and binding on all parties. Unless Tenant takes exception to the Landlord's comments as provided above, all comments made by the Landlord on the Sign drawings shall be deemed to be acceptable to and approved by Tenant.

[PHOTO OF EXTERIOR]

EXHIBIT F

FIFTH AND PINE BUILDING
Seattle, Washington

BUILDING STANDARD CLEANING SPECIFICATIONS

Service Description

A. Office Areas

Nightly

1. Sweep all resilient flooring using specially treated cloths to insure dust free floor. Damp mop composition flooring. Vacuum and spot clean carpeted areas and rugs. Rake shag carpeting, moving light furniture other than desks, file cabinets, etc. Damp mop and touch up flooring in traffic areas and pivot points.
2. Empty and damp clean wastepaper baskets, ashtrays, receptacles, etc., and insert protective plastic liners if provided or required.
3. Clean cigarette urns and replace sand.
4. Remove wastepaper and waste materials using special janitorial carriages to designated containers.
5. Dust and wipe clean all furniture, fixtures, desks, filing cases, bookshelves, equipment, displays, and window sills with specially treated cloths; damp wipe telephones. Do not move tenant's materials.
6. Dust baseboards, chair rails, trim, louvers, pictures, charts, etc., within reach.
7. Wash and sanitize drinking fountain and coolers.
8. Wash sinks, toilets, and related plumbing fixtures.
9. Clean mirrors and metalwork.
10. Spot clean walls, switches, doors, ceilings, lights, etc.
11. Dust and clean all window heating and cooling units.
12. Check all doors and door frames for general cleanliness and remove scuffs and finger marks.

As Necessary

1. Clean interior glass partitions and doors.
2. Machine-scrub flooring.
3. Wash wastebaskets and ashtrays.
4. Buff traffic areas and pivot points.
5. Clean blinds, including tapes and cords.

Weekly

1. Dust wood paneling.
2. Sanitize telephones.
3. Remove dust and cobwebs from ceilings.

Quarterly

1. Damp wipe all ceiling grills and air intakes.
2. Wash and apply one coat of approved floor finish to composition flooring.
3. Vacuum upholstered furniture and drapes.

4. High dust walls, partitions, pictures, wall hangings, lighting fixtures, window frames, blinds and visible overhead pipes.

Annually

1. Clean blinds thoroughly.
2. Clean light fixtures thoroughly.
3. Clean walls and ceilings thoroughly.
4. Wash exterior windows with approved methods and materials.

B. Entrance Lobbies:

Nightly

1. Clean entryway glass and metalwork.
2. Sweep and wash all flooring, vacuum and spot clean carpeting.
3. Clean cigarette urns or cigarette disposal units and trash containers.
4. Clean walls.
5. Clean doorknobs, kick plates, directional signs and door saddles.
6. Clean telephones, telephone booth areas and mailbox areas.
7. Clean directory.
8. Vacuum foul weather carpet strips. Spot clean when necessary.

As Necessary

1. Steam clean foul weather carpet, carpet strips and other carpeting.
2. Machine scrub flooring; rinse with clear water.
3. Clean lights, globes and fixtures.
4. Dust down all metal.
5. Rub down all metal.
6. Add sand to cigarette disposal units.

C. Lavatories

Nightly

1. Sweep and wash flooring with approved germicidal detergent solution.
2. Wash and polish mirrors, powder shelves, dispensers, hand dryers, bright work, etc., including flushometers, piping, and toilet seat hinges.
3. Wash both sides of toilet seats, wash basins, bowls and urinals with approved germicidal detergent solution.
4. Hand dust and spot wash all partitions, including top ledges and tile walls, dispensers, ceilings, light fixtures, switches and receptacles.
5. Empty, clean and sanitize wastepaper and sanitary disposal receptacles.
6. Clean and fill soap dispensers, sanitary napkins, toilet tissue, and paper towel dispensers.
7. Remove wastepaper and refuse to designated trash area using special janitorial carriages.
8. Insert plastic liners in waste receptacles.

Weekly

1. Machine scrub floors, hand brush corners, and hand brush toilet edges with approved germicidal detergent solution.

Monthly

1. Wash partitions, tile walls, enamel surfaces with approved germicidal detergent solution.
2. Dust light fixtures exteriors and all other surfaces not reached in nightly cleaning.

3. Clean all ceiling vents and grills.

D. Public Corridors, Stairwells, Service Areas and Concourse

Nightly

1. Vacuum and spot clean carpeting.
2. Damp mop and spray buff terrazzo and tile floors.
3. Sweep and damp mop concrete floors.
4. Seep and damp mop stairwells and landings, washing walls when necessary.
5. Clean baseboards of marks and wax buildup.
6. Empty and clean ashtrays and sand urns; replace sand.
7. Clean directories.
8. Clean corridor glass and metalwork. Clean entryway glass and metalwork in Concourse.
9. Spot clean walls, ceiling, lights, etc.
10. Remove trash and debris.
11. Clean and sanitize telephones and booth areas.
12. Keep slop sink and closets clean and orderly.
13. Keep electrical and telephone closets clean and free of storage.
14. Clean and sanitize drinking fountains.
15. Dust window ledges and blinds.

Weekly

1. Clean all door vents.

Quarterly

1. Seal terrazzo floors.
2. Damp wipe all ceiling grills and air intakes.
3. Wash light fixtures.
4. Wash walls and ceiling in stairwells.

Semi-Annually

1. Strip and wax stairs.
2. Polish all metal, kick plates, etc., on all office, lavatory and closet doors.

Annually

1. Seal stairwell stairs.

E. Elevators

Nightly

1. Clean floors.
2. Clean walls, rails, and buttons.
3. Clean and remove debris from ceiling.
4. Wash doors on both sides.

Monthly

1. Deep clean floors.
2. Wash ceiling.

F. Storerooms, Trash rooms and Docks

1. Keep floors clean; wash and mop as necessary.
2. Place trash in designated containers.
3. Keep trash containers clean.
4. Keep doors and fixtures clean.
5. Keep janitorial supplies and equipment in designated areas.

EXHIBIT G
FORM OF SNDA FROM
RIGGS NATIONAL BANK

FILE FOR RECORD AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

MCNAUL EBEL NAWROT HELGREN & VANCE P.L.L.C.
600 University Street, 27th Floor
Seattle, WA 98101-3143
Attention: Louis F. Nawrot, Jr.

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

GRANTOR:

GRANTEE: RIGGS & COMPANY, a division of Riggs Bank N.A., as Trustee of the Multi-Employer Property Trust, a trust organized under 12 C.F.R. Section 9.18

ABBREVIATED LEGAL DESCRIPTION: Portion of Block 19, A.A. Denny's 3rd Addition, Volume 1, Page 33. The complete legal description is on Exhibit A hereto.

ASSESSOR TAX ACCOUNT PARCEL NOS: 197570-0180-06; 197570-0200-02.

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is made and executed as of the _____, by and between RIGGS & COMPANY, a division of Riggs Bank N.A., as Trustee of the Multi-Employer Property Trust, a trust organized under 12 C.F.R. Section 9.18 ("Lender"), PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company ("Landlord"), and _____ ("Tenant").

RECITALS

A. Tenant and Landlord have entered into a Lease Agreement dated _____ (the "Lease") whereby Tenant has agreed to lease the real property described in the Lease, together with the improvements now or hereafter located thereon (collectively herein, the "Premises"), which Premises constitutes all or a part of the real property described in Exhibit A attached hereto (the "Property").

B. On the condition that the Lease and all of Tenant's rights in the Premises and the Property (the "Lease Rights") be subordinated as provided below, and that Tenant enter into this Agreement, Lender has agreed to make a loan, including all renewals, modifications, and amendments (the "Loan") to Landlord, in the principal amount of Twenty-Five Million Dollars ($25,000,000:00) to provide financing for Landlord. In connection with the Loan, Landlord has or will be executing a Loan Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") to secure Landlord's obligations under the Loan.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement, Tenant and Lender agree as follows:

1. **Subordination.** The Lease, and all Lease Rights, including but not limited to any claim to condemnation awards by Tenant, are hereby subjected and subordinated and shall remain in all respects and for all purposes subject, subordinate and junior to the lien of the Deed of Trust, and to the rights and interests of the holder(s) from time to time of the Deed of Trust, as fully and with the same effect as if the Deed of Trust had been duly executed, acknowledged and recorded, and the indebtedness secured thereby had been fully disbursed prior to the execution of the Lease and the possession of the Premises by Tenant, or its predecessors in interest.

2. **Reliance By Lender.** The parties are executing this instrument in order to induce Lender to disburse the Loan proceeds, and the parties further agree that the disbursement by Lender of all or any part of the Loan proceeds shall constitute reliance by Lender upon this instrument and the provisions hereof and the subordination effected hereby.

3. **Tenant Not To Be Disturbed.** So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants, or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises shall not be disturbed by Lender in any foreclosure action, sale or other action or proceeding instituted under or in connection with the Deed of Trust during the term of the Lease or any extensions or renewals thereof.

4. **Tenant Not To Be Joined In Foreclosure.** So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants, or conditions of the Lease on Tenant's part to be performed, Lender will not join Tenant as a party defendant in any action or proceeding foreclosing any of the Deed of Trust unless such joinder is necessary to foreclose such Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.

5. **Lease To Be Assigned to Lender.** Tenant recognizes and acknowledges that the Lease will be assigned to Lender as collateral security for the Loan, which assignment among other things will prohibit Landlord from thereafter modifying, terminating or accepting surrender of the Lease or reducing, abating or accepting prepayment of any rent under the Lease more than one calendar month in advance of its due date (without first obtaining the consent of Lender), and Tenant agrees to be bound by these restrictions.

6. **Tenant To Attorn To Lender.** If the interests of Landlord shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought in lieu of or pursuant to a foreclosure, or by any other manner, and Lender succeeds to the interest of Landlord under the Lease, Tenant shall be bound to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the landlord under the Lease; and Tenant does hereby agree to attorn to Lender, as its landlord, said attornment to be effective and self-operative immediately upon Lender succeeding to the interest of Landlord under the Lease without the execution of any further instruments on the part of any of the parties hereto. Except as required under any Deed of Trust or assignment of leases or cash collateral, Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interest of Landlord under the Lease or upon Lender's written notice to Tenant that Landlord is in default of the Loan. Upon the receipt by Tenant of such written notice, Tenant shall pay all amounts coming due thereafter under the Lease to Lender. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any extensions and renewals thereof, shall be and are the same as now set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein.

7. **Lender Not Bound By Certain Acts Of Landlord.** If Lender shall succeed to the interest of Landlord under the Lease, Lender (a) shall not be liable for any act or omission of Landlord; (b) nor be subject to any offsets or defenses which Tenant might have against Landlord; (c) nor be bound by any rent or additional rent which Tenant might have paid for more than the then current installment; (d) nor be obligated for repayment of any security deposit which has not been previously paid to Lender; (e) nor be bound by any amendment or modification of the Lease made without Lender's consent. Nothing contained herein shall obligate Lender to perform Landlord's obligations until such time as Lender shall become the owner of the Premises.

8. **Purchase Options.** Any options or rights contained in the Lease to acquire title to the Premises are hereby made subject and subordinate to the rights of Lender under the Deed of Trust and any acquisition of title to the Premises made by Tenant during the terms of the Deed of Trust shall be made subordinate and subject to the Deed of Trust.

9. **Successors and Assigns.** This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their heirs, administrators, representatives, successors and assigns, including without limitation each and every holder from time to time of the Lease or any other person having an interest therein and shall inure to the benefit of Lender and its successors and assigns. Without limiting the foregoing, any party who purchases the Property in connection with a foreclosure of the Deed of Trust and any party who purchases the Property from Lender shall be entitled to the benefits granted Lender hereunder.

10. **Applicable Law.** This Agreement is made and executed under and in all respects is to be governed and construed by the laws of the State of Washington.

11. **Captions and Headings.** The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

12. **Notices.** All notices, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when (i) delivered by hand, (ii) when received by the addressee, if sent by Federal Express or other nationally recognized private courier service, in each case to the appropriate addresses described below (or to such other address as a party may designate as to itself by notice to the other party):

Lender:

Riggs & Company, a Division of Riggs Bank N.A.,

as Trustee of the Multi-Employer Property Trust
808 17th Street, N.W.
Washington, DC 20006
Attention: Patrick O. Mayberry

With copies to:

Kennedy Associates Real Estate Counsel, Inc.
1215 Fourth Avenue, Suite 2400
Seattle, Washington 98161
Attention: John Parker

And to:

McNaul Ebel Nawrot Helgren & Vance P.L.L.C.
27th Floor, One Union Square
600 University Street
Seattle, Washington 98101-3143
Attention: Louis F. Nawrot, Jr.

Landlord:

Pine Street Development L.L.C.
520 Pike Street, Suite 2200
Seattle, Washington 98101
Attention: Matt Griffin

With copies to:

Riggs & Company, a Division of Riggs Bank N.A.,
as Trustee of the Multi-Employer Property Trust
808 17th Street, N.W.
Washington, DC 20006
Attention: Patrick O. Mayberry

And to:

Kennedy Associates Real Estate Counsel, Inc.
1215 Fourth Avenue, Suite 2400
Seattle, Washington 98161
Attention: John Parker

And to:

McNaul Ebel Nawrot Helgren & Vance P.L.L.C.
27th Floor, One Union Square
600 University Street
Seattle, Washington 98101-3143
Attention: Louis F. Nawrot, Jr.

Tenant:

_____

_____

_____

_____

With a copy to:

_____

_____

_____

_____

Lender, upon succeeding to the interest of Landlord under the Lease, shall not be bound by any notice given by Tenant to Landlord unless a copy of the notice was sent to Lender.

13. **Cure Periods; Notice to Lender**. Notwithstanding anything herein or in the Lease to the contrary and so long as Lender has any interest in the Premises, Landlord shall not be in default under any provision of the Lease unless written notice specifying such default is mailed to Landlord and to Lender. Tenant agrees that Lender shall have the right to cure such default on behalf of Landlord within thirty (30) calendar days after receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease, including, but not limited to, termination or abatement of rent, until said thirty (30) days have elapsed, or during any period that Lender is proceeding to cure such default with due diligence or proceeding to obtain the legal right to enter the leased Premises and cure the default.

14. **Certification of Tenant**. Tenant certifies to Lender that it has accepted or will accept delivery of the Premises and has entered into or will enter into occupancy and possession thereof; that the Lease represents the entire agreement between the parties as to the leasing, is in full force and effect, and has not been assigned, modified, supplemented or amended in any way except as indicated above; that rent has not been paid and will not be paid for more than one installment in advance; that as of this date Landlord is not in default under any of the terms, conditions, provisions, or agreements of the Lease; and that Tenant has no offsets, claims, liens, charges, or defenses against Landlord or the rents due under the Lease.

15. **Attorneys' Fees**. Upon the occurrence of a default under this Agreement, the prevailing party shall be entitled to collect from defaulting party its reasonable attorneys fees and costs.

16. **Exculpatory Provision**. The Lender has executed this Agreement by its trustee signing in a representative capacity and not personally. Anything contained in this Agreement to the contrary notwithstanding, the Landlord and Tenant confirm that each and all of the covenants, undertakings, and agreements of the Lender are made and intended, not as personal covenants,

undertakings, and agreements of the trustee, or for the purpose of binding the trustee personally, but solely in the exercise of the powers conferred upon the trustee by its principal and in a representative capacity. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforced against the trustee of the Lender, or any beneficiary of the Lender, or any consultant to such trustee, on account of any covenant, undertaking, or agreement contained in or claim made under this Agreement or otherwise on account of the entry or performance of this Agreement. Liability with respect to the entry and performance of this Agreement by or on behalf of Lender, however it may arise, shall be asserted and enforced only against the corpus of the trust which is designated as the Lender. Any and all personal liability, if any, beyond that which may be asserted under this paragraph, is expressly waived and released by the Landlord and Tenant and by all persons claiming by, through or under the Landlord or Tenant.

LANDLORD:

PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company

By: RGHK Seattle, L.L.C., a Washington limited liability company, its manager

By: _____

Name: Matt Griffin
Its: Manager

LENDER:

RIGGS & COMPANY, a division of Riggs Bank N.A., as Trustee of the Multi-Employer Property Trust, a trust organized under 12 C.F.R. Section 9.18

By: _____

Name: Patrick O. Mayberry
Its: Executive Director

TENANT:

By: _____

Name:
Its:

LANDLORD:

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of July, 2001, before me personally appeared Matt Griffin, to me known to be the manager of RGHK Seattle, L.L.C, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company as the manager of Pine Street Development L.L.C, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Notary Public for the State of Washington

My Commission Expires_____

(NOTARY SEAL)

LENDER:

)
DISTRICT OF COLUMBIA) ss.
)

On this ____ day of _____, 2001, before me personally appeared Patrick O. Mayberry, to me known to be the Executive Director of Riggs & Company, a division of Riggs Bank N.A., as Trustee of the Multi-Ernployer Properly Trust, a trust organized under 12 C.F.R. Section 9.18, that executed the within and foregoing instrument as Trustee, and acknowledged said instrument to be the free and voluntary act and deed of said national banking association as trustee, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Printed Name: _____
NOTARY PUBLIC in and for the District of Columbia
residing at _____
My commission expires: _____

(NOTARY SEAL)

TENANT:

)
) ss.
)

On this ____ day of _____, 2001, before me personally appeared _____, to me known to be the _____ that executed the within and foregoing instrument as _____, and acknowledged said instrument, to be the free and voluntary act and deed of said _____, for the uses and purposes therein mentioned, and on oath stated that _____ (he or she) was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Printed Name:_____
NOTARY PUBLIC in and for the
residing at _____
My commission expires: _____

(NOTARY SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL A:

Lots 2 and 3 in Block 19 of Addition to the Town of Seattle as laid out by A. A. Denny (commonly known as A.A. Denny's 3rd Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, Page 33, Records of King County;

EXCEPT the Northwesterly 7 feet of said Lot 2 condemned for street purposes in King County Superior Court Cause No. 57057 as provided by Ordinance No. 14500 of the City of Seattle;

AND EXCEPT that portion of said Lot 2 condemned for Westlake Avenue in King County Superior Court Cause No. 36118 as provided by Ordinance No. 7733 of the City of Seattle;

TOGETHER WITH that portion of alley in said Block 19 adjoining said premises vacated by Ordinance No. 17294 of the City of Seattle and more particularly described as follows:

Beginning at a point on the Easterly line of the alley in said Block 19 where it is intersected by the line between Lots 3 and 6 of said block;

Thence Northwesterly on the arc of a curve to the left having a radius of 50 feet through an arc of 25 degrees 50 minutes 20 seconds a distance of 22.60 feet to a point of compound curve;

Thence Northwesterly on the arc of a curve to the left having a radius of 20.992 feet through an arc of 26 degrees 54 minutes 00 seconds a distance of 9.85 feet to a point of reverse curve;

Thence Northerly on the arc of a curve to the right having a radius of 6.33 feet through an arc of 76 degrees 36 minutes 00 seconds a distance of 7.93 feet to a point on the East line of Westlake Avenue as established by said ordinance;

Thence Northerly along the said East line of Westlake Avenue 32.833 feet to the East line of said alley;

Thence Southerly along said East line of said alley 66.485 feet more or less to the point of beginning; Situate in the City of Seattle, County of King, State of Washington.

PARCEL B:

A leasehold estate arising out of that certain Lease, executed April 1, 1996, as amended by a First Amendment to Lease, dated January 14,1999, a memorandum of which is recorded under King County Recording No. 9902102006, between Kassel and Rebecca Gottstein Co., Inc., a Washington corporation, and Laurie A. Friedman, collectively as landlord, and Pine Street Development L.L.C., as tenant, for the lease of Lots 6 and 7 in Block 19 in an addition to the Town of Seattle as laid off by A.A. Denny (commonly known as A.A. Denny's 3rd Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, Page 33, Records of King County; Situate in the City of Seattle, County of King, State of Washington.

Exhibit 10.13

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of February 4, 2004, by and between Marchex, Inc., a Delaware corporation (the "Company"), and Russell C. Horowitz (the "Indemnitee").

WHEREAS, Indemnitee performs a valuable service for the Company; and

WHEREAS, the Company's Certificate of Incorporation, as amended to date (the "Certificate of Incorporation") provides for the indemnification of officers and directors of the Company to the maximum extent authorized by Section 145 of the Delaware General Corporation Law, as amended ("Law"); and

WHEREAS, the Certificate of Incorporation and the Law, by their nonexclusive nature, permit contracts between the Company and the officers or directors of the Company with respect to indemnification of such officers or directors; and

WHEREAS, in accordance with the authorization as provided by the Law, the Company may purchase and maintain a policy or policies of directors' and officers' liability insurance ("D & O Insurance"), covering certain liabilities which may be incurred by its officers or directors in the performance of their obligations to the Company; and

WHEREAS, increased corporate litigation has subjected directors and officers to litigation risks and expenses, and the limitations on the availability of D & O Insurance may make it increasingly difficult for the Company to attract and retain such persons; and

WHEREAS, the Company desires to provide Indemnitee with specific contractual assurance of Indemnitee's rights to full indemnification against litigation risks and expenses (regardless, among other things, of any amendment to or revocation of the Certificate of Incorporation or By-laws or any change in the ownership of the Company or the composition of its Board of Directors); and

WHEREAS, the Company intends that this Agreement provide Indemnitee with greater protection than that which is provided by the Company's Certificate of Incorporation and By-laws; and

WHEREAS, in order to induce Indemnitee to continue to serve as an officer or director of the Company, the Company has determined and agreed to enter into this contract with Indemnitee.

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company and Indemnitee hereby agree as follows:

1. Indemnification.

(a) Third Party Proceedings. The Company shall indemnify Indemnitee if Indemnitee is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred by Indemnitee in connection with such action, suit or proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee if Indemnitee was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) and, to the fullest extent permitted by law, amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld), in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such action or suit if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and its stockholders, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company in the performance of Indemnitee's duty to the Company and its stockholders unless

and only to the extent that the court in which such action or proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) Mandatory Payment of Expenses. To the extent that Indemnitee has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1(a) or Section 1(b) or the defense of any claim, issue or matter therein, Indemnitee shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by Indemnitee in connection therewith.

2. No Employment Rights. Nothing contained in this Agreement is intended to create in Indemnitee any right to continued employment.

3. Expenses, Indemnification Procedure.

(a) Advancement of Expenses. The Company shall advance all expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or criminal action, suit or proceeding referred to in Section l(a) or Section 1(b) hereof (including amounts actually paid in settlement of any such action, suit or proceeding). Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company as authorized hereby.

(b) Notice/Cooperation by Indemnitee. Indemnitee shall, as a condition precedent to his or her right to be indemnified under this Agreement, give the Company notice in writing as soon as practicable of any claim made against Indemnitee for which indemnification will or could be sought under this Agreement. Notice to the Company shall be directed to the Chief Executive Officer of the Company and shall be given in accordance with the provisions of Section 12(d) below. In addition, Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

(c) Procedure. Any indemnification and advances provided for in Section 1 and this Section 3 shall be made no later than thirty (30) days after receipt of the written request of Indemnitee. If a claim under this Agreement, under any statute, or under any provision of the Company's Certificate of Incorporation or Bylaws providing for indemnification, is not paid in full by the Company within thirty (30) days after a written request for payment thereof has first been received by the Company, Indemnitee may, but need not, at any time thereafter bring an action against the Company to recover the unpaid amount of the claim and, subject to Section 11 of this Agreement, Indemnitee shall also be entitled to be paid for the expenses (including attorneys' fees) of bringing such action. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in connection with any action, suit or proceeding in advance of its final disposition) that Indemnitee has not met the standards of conduct which make it permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed, but the burden of proving such defense shall be on the Company and Indemnitee shall be entitled to receive interim payments of expenses pursuant to Section 3(a) unless and until such defense may be finally adjudicated by court order or judgment

from which no further right of appeal exists. It is the parties' intention that if the Company contests Indemnitee's right to indemnification, the question of Indemnitee's right to indemnification shall be for the court to decide, and neither the failure of the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct required by applicable law, nor an actual determination by the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) that Indemnitee has not met such applicable standard of conduct, shall create a presumption that Indemnitee has or has not met the applicable standard of conduct.

(d) Notice to Insurers. If, at the time of the receipt of a notice of a claim pursuant to Section 3(b) hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(e) Selection of Counsel. In the event the Company shall be obligated under Section 3(a) hereof to pay the expenses of any proceeding against Indemnitee, the Company, if appropriate, shall be entitled to assume the defense of such proceeding, with counsel approved by Indemnitee, upon the delivery to Indemnitee of written notice of its election so to do. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees of counsel subsequently incurred by Indemnitee with respect to the same proceeding, provided that (i) Indemnitee shall have the right to employ counsel in any such proceeding at Indemnitee's expense; and (ii) if (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense or (C) the Company shall not, in fact, have employed counsel to assume the defense of such proceeding, then the fees and expenses of Indemnitee's counsel shall be at the expense of the Company.

4. Additional Indemnification Rights; Nonexclusivity.

(a) Scope. Notwithstanding any other provision of this Agreement, the Company hereby agrees to indemnify the Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Certificate of Incorporation, the Company's Bylaws or by statute. In the event of any change, after the date of this Agreement, in any applicable law, statute, or rule which expands the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes shall be deemed to be within the purview of Indemnitee's rights and the Company's obligations under this Agreement. In the event of any change in any applicable law, statute or rule which narrows the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes, to the extent not

otherwise required by such law, statute or rule to be applied to this Agreement shall have no effect on this Agreement or the parties' rights and obligations hereunder.

(b) Nonexclusively. The indemnification provided by this Agreement shall not be deemed exclusive of any rights to which Indemnitee may be entitled under the Company's Certificate of Incorporation, its Bylaws, any agreement, any vote of stockholders or disinterested members of the Company's Board of Directors, the General Corporation Law of the State of Delaware, or otherwise, both as to action in Indemnitee's official capacity and as to action in another capacity while holding such office. The indemnification provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though he or she may have ceased to serve in any such capacity at the time of any action, suit or other covered proceeding.

5. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the expenses, judgments, fines or penalties actually or reasonably incurred in the investigation, defense, appeal or settlement of any civil or criminal action, suit or proceeding, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such expenses, judgments, fines or penalties to which Indemnitee is entitled.

6. Mutual Acknowledgment. Both the Company and Indemnitee acknowledge that in certain instances, Federal law or public policy may override applicable state law and prohibit the Company from indemnifying its directors and officers under this Agreement or otherwise. For example, the Company and Indemnitee acknowledge that the Securities and Exchange Commission (the "SEC") has taken the position that indemnification is not permissible for liabilities arising under certain federal securities laws, and federal legislation prohibits indemnification for certain ERISA violations. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the SEC to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

7. Director and Officer Liability Insurance. The Company shall, from time to time, make the good faith determination whether or not it is practicable for the Company to obtain and maintain a policy or policies of insurance with a reputable insurance company providing the Indemnitee with coverage for losses from wrongful acts, and to ensure the Company's performance of its indemnification obligations under this Agreement. In all policies of director and officer liability insurance, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are accorded to the most favorably insured of the Company's officers and directors. Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain such insurance if the Company determines in good faith that such insurance is not reasonably available, if the premium costs for such insurance are disproportionate to the amount of coverage provided, if the coverage provided by such insurance is limited by exclusions so as to provide an insufficient benefit, or if Indemnitee is covered by similar insurance maintained by a parent or subsidiary of the Company. The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable

hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

8. Severability. Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable as provided in this Section 8. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

9. Exceptions. Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) Claims Initiated by Indemnitee. To indemnify or advance expenses to Indemnitee with respect to proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to proceedings brought to establish or enforce a right to indemnification under this Agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law, but such indemnification or advancement of expenses may be provided by the Company in specific cases if the Board of Directors finds it to be appropriate;

(b) Lack of Good Faith. To indemnify Indemnitee for any expenses incurred by Indemnitee with respect to any proceeding instituted by Indemnitee to enforce or interpret this Agreement, if a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous;

(c) Insured Claims. To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) to the extent such expenses or liabilities have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors' liability insurance maintained by the Company; or

(d) Claims Under Section 16(b). To indemnify Indemnitee for expenses or the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

10. Construction of Certain Phrases.

(a) For purposes of this Agreement, references to the "Company" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers,

and employees or agents, so that if Indemnitee is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(b) For purposes of this Agreement, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants, or beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

11. Attorneys' Fees. In the event that any action is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, Indemnitee shall be entitled to be paid all court costs and expenses, including reasonable attorneys' fees, incurred by Indemnitee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such action were not made in good faith or were frivolous. In the event of an action instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be paid all court costs and expenses, including attorneys' fees, incurred by Indemnitee in defense of such action (including with respect to Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

12. Miscellaneous.

(a) Governing Law. This Agreement shall be construed under and enforced in accordance with the internal substantive laws of the State of Delaware. Any litigation arising out of or incidental to this Agreement shall be initiated only in a court of competent jurisdiction located within the State of Delaware. Each party hereby consents to the personal jurisdiction of the State of Delaware, acknowledges that venue is proper in any state or Federal court in the State of Delaware, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Delaware and waives any objection that may exist, now or in the future, with respect to any of the foregoing.

(b) Entire Agreement; Enforcement of Rights. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by

the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) Construction. This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(d) Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of personal delivery; or on the date of electronic confirmation of receipt, if sent by telecopier; or three (3) days after deposit in the United States mail, if mailed by certified or registered mail, return receipt requested (postage prepaid); or one (1) day after delivery by a reputable overnight courier (delivery charges prepaid), as follows:

(i) If to Indemnitee, to the address set forth below Indemnitee's signature hereto.

(ii) If to the Company, to:

Marchex, Inc.
2101 Fourth Avenue, Suite 1980
Seattle, WA 98121
Tel Number: (206) 774-5000
Fax Number: (206) 774-5049
Attention: General Counsel

with a copy sent at the same time and by the same means to:

Nixon Peabody LLP
101 Federal Street
Boston, MA 02110
Tel Number: (617) 345-6107
Fax Number: (866) 369-4739
Attention: Francis J. Feeney, Esq.

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

(e) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) Successors and Assigns. This Agreement shall be binding upon the Company and its successors and assigns, and inure to the benefit of Indemnitee and Indemnitee's heirs, legal representatives and assigns.

(g) Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

(h) Subrogation. In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company to effectively bring suit to enforce such rights.

[Remainder of Page Intentionally Left Blank.]

The parties hereto have executed this Agreement as an instrument under seal as of the day and year set forth on the first page of this Agreement.

COMPANY

Marchex, Inc.

By: /s/ JOHN KEISTER

Name: John Keister
Title: President and Chief Operating Officer

Address: 2101 Fourth Avenue, Suite 1980
Seattle, WA 98121

INDEMNITEE

/s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz
Address

Exhibit 23.1

Independent Auditors' Consent

The Board of Directors
Marchex, Inc.:

We consent to the use of our reports included herein and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Seattle, Washington
March 18, 2004