Table of Contents

As filed with the Securities and Exchange Commission on December 11, 2003

Registration Number 333-

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

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:

Francis J. Feeney, Jr., Esq.
Nixon Peabody LLP
101 Federal Street
Boston, MA 02110
(617) 345-1000

Michael Jay Brown, Esq.
Dorsey & Whitney LLP
1420 Fifth Avenue
Suite 3400
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, please check the following box: ☐

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	**Proposed Maximum Aggregate Offering Price (1)**	**Amount of Registration Fee**
Class B common stock, $0.01 par value per share	$ 35,000,000	$ 2,832

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

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.

Table of Contents

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 December 11, 2003

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 between $ and $ 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 intend to list our Class B common stock on the NASDAQ National Market under the 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 5.

	Per Share	Total
Public offering price	$	$
Underwriting discounts and commissions	$	$
Proceeds, before expenses, to us	$	$

As additional compensation to the underwriters, we have granted the representative 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 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 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 $ and our total proceeds, before expenses, will be $.

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. National Securities, on behalf of the underwriters, expects to deliver the shares on or about , 2004.

Our directors, officers and employees will purchase up to 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.

National Securities Corporation

The date of this prospectus is December , 2003.

[INSIDE FRONT COVER]

Table of Contents

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.

TABLE OF CONTENTS

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 applying return-on-invested-capital requirements to 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, 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 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: (1) performance-based advertising, including pay-per-click listings, primarily through Enhance Interactive; and (2) search marketing, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization, primarily through TrafficLeader. Collectively, our operating businesses distribute advertisements and paid listings through hundreds of distribution partners, which include 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.

The results for the 2003 period, including Enhance Interactive, were $15.5 million in revenue and $2.1 million in operating cash flow (see page 24 for a description of the basis of presentation of the 2003 period and other Financial Reporting Periods). For the quarter ended September 30, 2003, we delivered services to more than 9,800 merchants. The results of operations of TrafficLeader have not been included in the 2003 period, since the acquisition occurred subsequent to September 30, 2003.

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 access devices coupled with corresponding performance gains; 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. These characterizations are supported by the following industry estimates:

- **Large Number of Small Businesses Operating Online and Growth in Certain Businesses that Support Online Merchants**. 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. *IDC* also estimates that 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.
- **Growth of Electronic Commerce**. *Forrester Research* believes that electronic commerce activity in the United States 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 in 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 less than $1.4 billion in 2002 to more than $7 billion in 2007.

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 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 executives' 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 8, 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 % of all of our outstanding common stock, which will represent % of our outstanding shares and % of the combined voting power of all of our outstanding stock.

Company Information

We were incorporated in Delaware in January 2003. 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	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)	shares
Total	shares
NASDAQ National Market symbol *	MCHX
Use of proceeds	We may use the net proceeds of the offering for general corporate purposes, including, but not limited to, working capital and potential acquisitions. Pending such use, we plan to invest the net proceeds in short-term, investment grade, interest bearing securities.

* We intend to list our Class B common stock on the NASDAQ National Market.

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 shares of Class B common stock in the offering;
- we have *not* given effect to the exercise by the representative of the warrant to be issued as compensation under the underwriting agreement; and
- we have assumed the filing of a certificate of amendment to our 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 December 8, 2003. 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 convertible preferred stock upon the completion of this offering;

- excludes 4,000,000 shares of Class B common stock that we have reserved for issuance under our 2003 stock incentive plan. As of December 8, 2003, 2,882,550 shares were subject to outstanding options, of which 2,421,500 options have a weighted average exercise price of $1.67 per share and 461,050 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.

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. Our failure to address these risks and difficulties successfully could seriously harm us.

We may need additional funding to support our operations and capital expenditures, which may not be available to us.

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.

In addition, we may be obligated to make performance-based 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, and to the original shareholders of TrafficLeader, which we acquired in October 2003. If we are unable to raise sufficient funds in this offering or any subsequent offerings, we may not be able to meet our potential payment obligations under our acquisition agreements for Enhance Interactive and TrafficLeader, if they should arise. These payment obligations are conditional and are subject to the achievement of performance metrics for the calendar years 2003 and 2004. We may or may not be required to fund this obligation in whole or in part. At this time, we cannot predict with any certainty the amount that will be payable under these agreements. These total amounts may range from a low of zero dollars, if none of the target metrics are attained, to a maximum of $14.5 million if all of the target metrics are attained under both agreements. 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 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 75% of the original shareholders. Our failure to meet any of these obligations could have a material adverse effect upon our financial condition.

We have incurred losses since our inception and we may incur future losses.

To date, we have incurred net losses and had an accumulated deficit of $2.3 million for the period from January 17, 2003 (inception) to September 30, 2003 and as of September 30, 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, be difficult to integrate and adversely affect our financial results.

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, our founding officers together control ninety-eight percent (98%) of the voting power of our issued and outstanding capital stock and after the offering will control percent (%). 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 Company and its business, financial condition and operating results.

We may have difficulty attracting and retaining qualified, experienced, highly skilled personnel.

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 materially and adversely affect our business, financial condition and operating results.

Stock-based compensation charges will 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 conditioned upon employment, and 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 market 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 market 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.

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 officers and directors.

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, 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.

We may not be able to adequately insure our business, property and officers and directors.

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, which would have a material adverse effect on the operations of our Company.

Risks Relating to Our Business

We are dependent on our distribution partners for a significant portion of our total revenue.

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%).

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 business, financial condition and results of operations.

In order for our performance-based advertising and search marketing businesses to be successful, we must continue to maintain and grow our network of merchant advertisers and distribution partners.

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. Therefore, any decline in the number of merchant advertisers and distribution partners could adversely affect the value of our services generally and could seriously harm our revenue, business and financial condition.

Our ability to increase the volume of transactions on our services is dependent upon building and maintaining a substantial base of merchant advertisers. We may not successfully develop or market technologies, products or services that are competitive or accepted by merchant advertisers. Merchant advertiser attrition or a reduction in merchant advertiser spending with us could have a material adverse effect on our business. Failure to achieve and maintain a large and active base of merchant advertisers could have a material adverse effect on our business, operating results and financial condition.

Our success depends on our ability to operate without infringing or misappropriating the intellectual property rights of others.

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 may 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 may 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.

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.

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 from January 17 (inception) to September 30, 2003, none of these partners represented more than 10% of our total revenue. For example, Yahoo!, through its subsidiaries, such as Inktomi and Overture, is a significant traffic partner of our paid inclusion services, and they represent less than 10% of our total revenue for the period from January 17 (inception) to September 30, 2003. Existing agreements with Yahoo! subsidiaries are year-to-year with mutual termination clauses. We intend to continue devoting resources to 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.

We have grown quickly and if we fail to manage our growth, our business will 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, financial condition and results of operations would be affected adversely.

Risks Relating to Our Industry

The performance-based advertising and search marketing industries are highly competitive, and we may not be able to compete effectively.

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 companies may terminate their relationships with us. 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, reduce total revenue and thereby have a material adverse effect on our business, operating results and financial condition. Increased competition is likely to result in a loss of market share, which could seriously harm our revenue and results of operations. We expect competition to intensify in the future because current and new competitors can enter our market with little difficulty.

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 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 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,

reduce the demand for any of our services and could have a material adverse effect on our business, operating results and financial condition.

If we are not able to respond to the rapid technological change characteristic of our industry, we may fail to maintain market share and our business may suffer.

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;
- 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 will likely suffer.

We rely on third party technology, server and hardware providers.

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, prospects, financial condition and results of operations.

We may not be able to protect our intellectual property rights upon which our business relies.

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 in which we may plan to 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. Any such failure could have a material adverse effect on our business.

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.

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. This seasonal effect is difficult to predict and may adversely affect our growth rate and results and in turn the market price of our Class B common stock.

Susceptibility to general economic conditions.

Our business, financial condition and operating results will be subject to fluctuations based on general economic conditions. If there were to be a general economic downturn or a recession, however slight, then we expect that business entities, including our advertisers and potential advertisers, could substantially and immediately reduce their advertising and marketing budgets. These factors could cause a material adverse effect on our business, financial condition and operating results.

We depend on the growth of the Internet and Internet infrastructure for our future growth.

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, operating results and financial condition.

We are exposed to risks associated with credit card fraud and credit payment.

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 our net revenue and gross margin. In addition, under limited circumstances, we extend credit to merchant advertisers who may default on their accounts payable to us. If a significant merchant advertiser to whom we extend credit is unable to pay our service fees, our business could be adversely affected.

Government regulation of the Internet may adversely affect our business.

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 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.

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

- 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; and
- 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.

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. Such legislation could negatively affect our business.

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. Any such prosecution or costs incurred in addressing foreign laws could negatively affect our business.

The restrictions imposed by, and costs of complying with, current and possible future laws and regulations related to our business could harm our operating results and financial condition.

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, which could adversely affect our business.

State and local governments may in the future be permitted to levy additional taxes on Internet access and electronic commerce transactions, which could adversely affect our business.

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 and reduce our revenue.

We may incur liabilities for the activities of users of our service.

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. 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. Any costs incurred as a result of such liability or asserted liability could have a material adverse effect on our business, operating results and financial condition.

Risks Relating To This Offering

The market price of our Class B common stock is likely to be highly volatile.

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 judgment is entered against us, could result in substantial costs and potentially economic loss, and a diversion of our management’s attention and resources, any of which could seriously harm our financial condition.

There may not be an active, liquid trading market for our Class B common stock.

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 % of the voting power of all issued and outstanding shares of our 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.

You are not likely to receive dividends.

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 Class B Common Stock you purchase.

The initial public offering price is substantially higher than the price paid for our Class B common stock in the past. This is referred to as dilution. Accordingly, if you purchase Class B common stock in the offering, you will incur immediate dilution of approximately $[ ] per share in the book value per share of our Class B common stock from the price you pay for our Class B common stock. 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.

The net proceeds from this offering will be used for general corporate purposes and may be used to fund performance-based payment obligations associated with our acquisitions of eFamily and its direct wholly-owned subsidiary, Enhance Interactive, and TrafficLeader. We have not reserved or allocated the net proceeds for any specific transaction or purpose, and we cannot specify with certainty how we will use the net proceeds. Accordingly, 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 corporate 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,” “will,” “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. We have not independently verified the data obtained from these sources and we cannot assure you of the accuracy or completeness of the data. 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 $ million, assuming an initial public offering price of $, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds will be approximately $ million.

We currently intend to use the net proceeds of this offering for general corporate purposes, including, but not limited to, working capital and potential acquisitions.

Although we have no current plans, agreements or commitments with respect to any acquisition, we may, if the opportunity arises, use an unspecified portion of the net proceeds to acquire or invest in products, technologies or companies.

In addition, we may be required to make payments for earn-out obligations relating to our acquisitions of Enhance Interactive and TrafficLeader. At this time we cannot predict with any certainty the amounts that may be payable under these obligations. These total amounts may range from a low of zero dollars, if none of the target metrics are attained, to a maximum of $14.5 million, if all of the target metrics are attained under both obligations.

Overall, we will retain broad discretion over the use of our net proceeds from the sale of the Class B common stock in this offering. Allocation of the net proceeds will be subject to economic conditions, our financial condition, changes in our business plan and strategy and our response to competitive pressures. Our management may spend the proceeds from this offering in ways the stockholders may not deem desirable. The timing and amount of our actual expenditures will be based on many factors, including cash flows from operations and the growth of our business.

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 public offering price for the shares of our Class B common stock has been determined by negotiation between our Company and the representative of the underwriters. Among the factors considered in determining the 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.

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 Class B common stock from the initial public offering price. In our calculations, we have assumed an initial public offering price of $ per share of Class B common stock, which represents the middle of the filing range as of .

Pro forma net tangible book value per share is determined by dividing net tangible book value (total tangible assets less total liabilities) by the pro forma number of shares of common stock outstanding as of September 30, 2003. These pro forma amounts also assume the conversion of all outstanding shares of convertible preferred stock into 6,724,063 shares of Class B common stock.

As of September 30, 2003, our pro forma net tangible book value of our common stock was approximately $5.2 million, or approximately $0.26 per share of our Class B common stock.

As of September 30, 2003, after giving effect to the sale of shares of Class B common stock offered by this prospectus (after deduction of the underwriting discounts and estimated offering expenses), our adjusted net tangible book value would have been approximately $ million, or $ per share of Class B common stock.

The offering, therefore, will result in an immediate increase in net tangible book value of $ per share to existing stockholders and an immediate dilution in net tangible book value of $ 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		$
Pro forma net tangible book value per share as of September 30, 2003	$ 0.26	
Increase in net tangible book value per share attributable to this offering	$	
As adjusted net tangible book value per share after offering	$	
Dilution per share to new investors in this offering		$

The following table summarizes, on a pro forma basis as of December 8, 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 Class B common stock purchased from us, the total 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 Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders	20,279,063	%	$ 20,304,701	%	$ 1.00
New investors					
Total		100%	$	100%	$

The above discussion and table are based on pro forma shares outstanding as of December 8, 2003 and exclude:

- 4,000,000 shares of Class B common stock reserved for issuance under our stock incentive plan;
- shares of Class B common stock issuable upon the exercise of the underwriter's over-allotment option; and
- shares of Class B common stock issuable upon the exercise of the underwriter's warrants.

To the extent that any of these shares of Class B common stock are issued, your investment will be further diluted. As of December 8, 2003, 2,882,550 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 461,050 options will have an exercise price equal to the initial public offering price. As of this date, 292,017 options were exercisable at a weighted average exercise price of $0.75 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 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: (1) performance-based advertising, including pay-per-click listings, primarily through Enhance Interactive; and (2) search marketing, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization, primarily through TrafficLeader.

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 organized and incorporated in Delaware in January 2003. In February 2003, we acquired eFamily, together with its direct, wholly-owned subsidiary Enhance Interactive. eFamily was originally organized and incorporated in Utah in November 1999, under the name FocusFilter.com, Inc. In October 2003, we acquired TrafficLeader which was originally organized and incorporated in Oregon in January 2000, under the name Sitewise Marketing, Inc. We currently have offices in Seattle, Washington, in Provo, Utah and in Eugene, Oregon.

Acquisitions

In February 2003, we acquired eFamily together with its wholly-owned subsidiary Enhance Interactive, a Provo, Utah-based company, for $13.3 million in net cash and acquisition costs, as well as a contingent performance-based cash incentive payment of up to $13.5 million over two years. The first component of the contingent payment is based on the formula of 69.44% of Enhance Interactive's income before taxes for calendar years 2003 and 2004, up to a maximum payout cap of $12.5 million in aggregate. In the event income 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. In addition, if the $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 a maximum of $1 million in aggregate will be paid to certain current employees of Enhance Interactive.

These amounts will be accounted for as compensation. The threshold determination is calculated separately for each of calendar years 2003 and 2004.

In connection with the acquisition and conditioned upon employment, we also agreed to issue nonqualified stock options to purchase up to 1,250,000 shares of our Class B common stock with an exercise price per share of $0.75 to certain employees of Enhance Interactive. The Enhance Interactive operations were consolidated in our results from the acquisition date and have had a substantial impact on our results.

Enhance Interactive was acquired by MyFamily.com, Inc. (“MyFamily”) on December 22, 2000, and held as a wholly-owned subsidiary until June 1, 2001. Prior to being acquired by MyFamily, Enhance Interactive was owned primarily by a group of employee shareholders. On June 1, 2001, approximately 80% of Enhance Interactive’s ownership was reacquired from MyFamily by such employee shareholder group. MyFamily’s investment in Enhance Interactive has been reflected in Enhance Interactive’s financial statements and Enhance Interactive’s assets and liabilities were adjusted to their fair values as of December 22, 2000. The consolidated financial statements for the year ended December 31, 2001 include the estimated costs of doing business, including expenses incurred by MyFamily on behalf of Enhance Interactive during the period which MyFamily owned Enhance Interactive. Expenses incurred by MyFamily that were not practicable to specifically identify as Enhance Interactive costs, including certain expenses such as facility costs, legal services, information system and technology department costs, certain finance and administrative costs, audit and tax services, general accounting, human resources, insurance, and employee benefits, have been allocated by the Company primarily based on percentage estimates of time or departmental effort devoted to working on Enhance Interactive-related matters in relation to overall MyFamily corporate-wide matters. These estimates were primarily based on the proportion of Enhance Interactive payroll expenditures to the overall MyFamily corporate-wide payroll. We believe that the method used to allocate the costs and expenses is reasonable. However, such allocated amounts may or may not necessarily be indicative of what actual expenses would have been incurred had Enhance Interactive operated independently of MyFamily. Allocated costs recorded as an increase in operating expenses and as a capital contribution totaled approximately $458,000 for the year ended December 31, 2001. There were no allocated costs for other periods presented. The $458,000 of allocated costs were apportioned as follows: $144,000 are included in service costs; $58,000 in sales and marketing expenses; $15,000 in product development expenses; and $241,000 in general and administrative expenses. The discussion of the 2001 results of operations is inclusive of these amounts.

Our consolidated statements of operations, stockholders’ deficit, and cash flows have been presented for the period from January 17, 2003 (inception) through September 30, 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 which equated to the carrying value of the assets. The assets, liabilities and operations of Enhance Interactive are included in our consolidated financial statements since the date of acquisition in February 2003. All significant inter-company transactions and balances have been eliminated in consolidation. Our purchase accounting resulted in all assets and liabilities from our acquisition of Enhance Interactive being recorded at their estimated fair values on the acquisition date. For the period from February 28, 2003 through September 30, 2003, all goodwill, intangible assets and liabilities resulting from the Enhance Interactive acquisition have been recorded in our financial statements. Accordingly, 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. The consolidated statements of operations, stockholders’ equity, and cash flows reflecting Enhance Interactive’s historical results have been presented for the years ended December 31, 2001 and 2002, the period from January 1, 2003 through February 28, 2003, and on an unaudited basis the nine-month period ended September 30, 2002.

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 years ended December 31, 2001 and 2002, the period from January 1, 2003 to February 28, 2003, and the unaudited nine-month period ended September 30, 2002.

In October 2003, we acquired TrafficLeader, a Eugene, Oregon-based company, for: (i) $3.2 million in net cash and acquisition costs; (ii) 425,000 shares of Class B common stock with a redemption right that requires us to purchase the 425,000 shares for $8 per share 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; and (iii) 137,500 shares of restricted Class B common stock which will vest 16.67% after each six month period over three years. The total value of the shares and the redemption right was recorded at $3.9 million. Of the 137,500 restricted shares, 108,432 were issued to employees of TrafficLeader valued at $732,000 which will be recorded as compensation expense over the associated employment period in which these shares vest. The purchase price excludes performance-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, we will pay 10% in the form of a performance-based payment to the former shareholders up to a maximum of $1 million. Any amounts paid will be accounted for as goodwill.

Presentation of Financial Reporting Periods

For purposes of our discussion, we have included the results of operations of Enhance Interactive. The results of operations of TrafficLeader have not been included since the acquisition occurred subsequent to September 30, 2003. The comparative periods presented are the results of Enhance Interactive for the year ended December 31, 2001, compared to the year ended December 31, 2002. Additionally, the comparison of Enhance Interactive's results for the unaudited nine month period ended September 30, 2002 (2002 period), to the combined periods of our results from January 17 (inception) to September 30, 2003, and Enhance Interactive's results from January 1, 2003 to February 28, 2003 (2003 period) are presented. Included in the 2003 period is overlapping operating activities of Enhance Interactive and our operating activities for the period from January 17 (inception) through February 28, 2003. During January 17 (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.

Revenue

We currently generate revenue through our operating businesses. The primary revenue sources of our current operating businesses are performance-based advertising and search marketing services, which include pay-per-click listings and paid inclusion. The secondary sources of revenue include other search marketing services, including advertising campaign management, conversion tracking and analysis and search engine optimization.

In providing pay-per-click advertising services primarily via Enhance Interactive, we generate revenue when we deliver qualified click-throughs to our merchant advertisers. These merchant advertisers pay us a designated transaction fee when an online user clicks on their advertisement listings, which are, in turn, included 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, which represents a completed transaction.

In our paid inclusion services delivered primarily via TrafficLeader since its acquisition, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and included within search engine and product shopping engine results. 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 within search engine and product shopping engine results. 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 supplementary search marketing services and tools, primarily delivered by TrafficLeader. Merchant advertisers pay us additional fees for such products as advertising campaign management, conversion tracking and analysis, and search engine optimization. Merchant advertisers generally pay us on a per click basis, although in certain cases we receive a fixed fee for delivery of these services and products. 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. Revenue from these collective services accounted for less than 9% of total revenue in all periods presented.

Revenue is generated primarily through performance-based services, that is, revenue is generated when a user clicks on a merchant advertiser's listings after it has been placed by the Company or by our distribution partners. Revenue associated with click-through activity, inclusion fees and banner advertising is recognized once persuasive evidence of an arrangement is obtained, and services are performed, provided the fee is fixed and determinable and collection is reasonably assured. We have no barter transactions.

Banner advertising revenue (generated by Enhance Interactive), is primarily based on a fixed fee per click and recognized on click-through activity. In limited cases, banner payment terms are volume-based with revenue recognized when impressions (volume-usage) 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 between twelve months to in excess of 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' index of listings. Other inclusion fees are recognized ratably over the service period.

Merchant advertisers generally pay for the search marketing services offered by TrafficLeader on a fixed amount per click-through basis, although in limited cases a flat service fee is received.

We enter into agreements with various distribution partners to provide merchant advertisers' listings. We generally pay distribution partners based on a percentage of revenue or a fixed amount per click-through on these listings. We 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 the Emerging Issues Task Force Issue No. 99-19, "Reporting Revenue Gross as a Principal Versus Net as an Agent," the revenues derived from merchant advertisers are reported gross based upon the amounts received from the merchant advertisers.

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 designated 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 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. Although seasonality is difficult to

predict, we expect, as is typical in our industry, the second and third quarters of the calendar year to generally experience lower Internet usage than the first and fourth quarters.

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 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, 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 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.

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 metric 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 expense consists 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 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 are 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' 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.

Stock-Based Compensation

We account for our stock incentive plan under the recognition and measurement principles of 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 our employee stock options. Under this method, employee compensation expense is recorded on the date of grant for those options we have granted for which the fair market value of the underlying stock exceeded the exercise price. Statement of Financial Accounting Standards (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 FASB 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 Emerging Issues Task Force (EITF) No. 96-18.

We use variable plan accounting to account for the options to purchase 125,000 shares of our Class B common stock that are issued under our Stock Incentive Plan and held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement and will continue to do so until the expiration of the escrow period on February 28, 2004. These options are subject to forfeiture, and, accordingly, we may be required to record a compensation charge on a quarterly basis, which may lower our earnings. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair market 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 market 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.

In connection with the acquisition of TrafficLeader in October 2003, we issued 108,432 restricted shares of Class B common stock to employees of TrafficLeader valued at $732,000, which will be recorded as compensation expense over the three-year employment period in which these shares vest.

Goodwill Amortization

Goodwill amortization relates to goodwill recorded in connection with the purchase of eFamily and its wholly-owned subsidiary, Enhance Interactive by MyFamily in 2000. The acquisition was accounted for using the purchase method and MyFamily's investment in Enhance Interactive was recorded in the Enhance Interactive financial statements. Goodwill represents the excess of the MyFamily purchase price over the fair value of identifiable assets acquired and liabilities assumed. We recognized goodwill related to our purchase of Enhance Interactive in 2003. After the adoption of SFAS, No. 142, goodwill is no longer amortizable and therefore no goodwill amortization is recorded after January 1, 2002.

Impairment of Goodwill

Goodwill impairment results from an evaluation of goodwill and a determination that the carrying value of the asset is in excess of its fair value as of the date tested. In the event of an impairment charge, goodwill is reduced by the difference between its carrying value and the estimated fair value.

Amortization of Intangibles

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

In conjunction with the October 2003 acquisition of TrafficLeader, intangible assets were acquired and valued at the date of acquisition at $1.3 million. These intangibles have been identified as trade and domain names, distributor relationships, merchant advertising customer base relationships and acquired technology. These assets will be amortized over their useful lives ranging from 12 to 36 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 September 30, 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 nine month period ended September 30, 2002 (2002 period), to the combined periods of January 17 (inception) to September 30, 2003, and from January 1 to February 28, 2003 (2003 period).

Revenue. Revenue increased 141%, from $6.4 million in the 2002 period to $15.5 million in the 2003 period. This increase was due primarily to an increase in the number of distribution partners, merchant advertisers and

overall traffic volume. Our distribution partners increased from approximately 240 in the 2002 period to approximately 390 in the 2003 period and the number of merchant advertisers increased from more than 6,900 to more than 9,800. 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. We believe the above factors, combined with our sales efforts and improved operational controls, have contributed to an increase in the number of merchant advertisers.

Our growth rate will depend, in part on our ability to increase the number of searches and resulting 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 105% from $4.2 million in the 2002 period to $8.5 million in the 2003 period. The net increase in costs was mainly attributable to an increase in payments to distribution partners of $4.1 million, an increase in credit card processing fees of $277,000, an increase in personnel costs of $93,000, a decrease in technology licensing costs of $186,000, and an increase in facility and other costs of $47,000. These increases related to a greater number of searches, an escalation 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 65% of revenue in the 2002 period and 55% 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 not increasing at a higher rate than revenue and economies of scale in our support and network infrastructure proportionate with revenue increases. We expect that service costs will continue to increase in absolute dollars as we expand our operations.

Sales and Marketing. Sales and marketing expense increased 72% from $1.1 million in the 2002 period to $2.0 million in the 2003 period. As a percentage of revenue, sales and marketing expenses were 18% in the 2002 period and 13% in the 2003 period. The increase in dollars was primarily related to an increase in payroll costs of $560,000, primarily due to an increase in the number of employees The remaining increase is related to increased outside marketing activities, rent, travel and other operating costs arising from operations in multiple jurisdictions. We expect that sales and marketing expenses will increase proportionately in absolute dollars to the extent revenue increases, as we expand our sales force, and as we increase our marketing activities.

Product Development. Product development expenses increased 102% from $489,000 in the 2002 period to $989,000 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 $390,000 and rent and other operating expenses of $110,000 arising from operations in multiple jurisdictions. We expect that product development expenses will increase in absolute dollars as we increase the number of personnel and consultants to enhance our service offerings.

General and Administrative. General and administrative expenses increased 231% from $619,000 in the 2002 period to $2.1 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 primarily due to an increase in personnel costs of $429,000, an increase in professional fees of $500,000, an increase in travel of $231,000, an

increase in insurance of $52,000, an increase in bad debt expense of $59,000, and an increase in facility and other operating expenses of $213,000. Many of these costs and increases in cost as a percentage of revenue in the 2003 period result from operating in multiple jurisdictions commencing in 2003 and increased operating activity. 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.

Stock-Based Compensation. The amortization of stock-based compensation increased 349% from $362,000 in the 2002 period to $1.6 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 $148,000, product development of $57,000 and general and administrative of $155,000. 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 market value. During the 2003 period, the components of stock-based compensation were service costs of $39,000, sales and marketing of $317,000, product development of $202,000 and general and administrative of $1.1 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 market value at the date of grant. The 2003 period also includes $603,000 of stock-based compensation for 125,000 options issued that are held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options are subject to forfeiture, until the expiration of the escrow period which is February 28, 2004, and accordingly, are accounted for as variable awards. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair market 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 market 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 Intangibles. Intangible amortization expense increased from zero in the 2002 period to $2.0 million in the 2003 period as a result of amortizing identifiable intangibles associated with the purchase of Enhance Interactive. During the 2003 period, the components of amortization of intangibles were service costs of $1.5 million, sales and marketing of $204,000 and general and administrative of $321,000. Our purchase accounting resulted in all assets and liabilities from our acquisition of Enhance Interactive being recorded at their estimated fair values on the acquisition date of February 28, 2003. For the period from February 28, 2003, through September 30, 2003, all goodwill, identifiable intangible assets and liabilities resulting from the Enhance Interactive acquisition have been recorded in our financial statements. The identified intangibles amounted to $8.4 million and are being amortized over a range of useful lives of 24 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. As part of the TrafficLeader transaction, we acquired identifiable intangibles totaling $1.3 million that will be amortized over a range of useful lives of 12 to 36 months. 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.

Interest Income. Interest income includes interest on cash balances. Interest income increased from $3,000 in the 2002 period to $35,000 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.

Income Taxes. The income tax benefit increased from $191,000 in the 2002 period to $559,000 in the 2003 period. The 2002 period effective tax rate benefit of 56% 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

34% in the 2003 period. This equaled the expected rate but was impacted by state income taxes in addition to non-deductible stock compensation amounts. The 2003 period was also impacted by the following factors:

- On February 28, 2003, in connection with the purchase accounting for the acquisition of Enhance Interactive, we recorded a net deferred tax liability in the amount of approximately $3 million relating to the difference in the book basis and tax basis of its assets and liabilities.
- Approximately $3.1 million of this deferred tax liability related to the book basis versus tax basis of the identifiable intangible assets in the acquisition totaling approximately $8.4 million.

During the period from 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 $912,000 in the 2003 period. The accretion to the redemption value recorded during the period is based upon 6,724,063 Series A Preferred shares outstanding as of September 30, 2003 with a dividend rate of 8% per annum.

Comparison of the year ended December 31, 2001 to the year ended December 31, 2002

Revenue. Revenue increased 246% from $2.9 million in 2001 to $10.1 million in 2002. This increase was due primarily to an increase in the number of distribution partners, merchant advertisers and overall traffic volume. Our distribution partners increased from approximately 200 in 2001 to approximately 290 in 2002, and the number of merchant advertisers increased from more than 5,300 in 2001 to more than 7,700 in 2002.

Expenses

Service Costs. Service costs increased 204% from $2.1 million in 2001 to $6.3 million in 2002. The net increase in dollars was mainly attributable to an increase in payments to distribution partners of $3.5 million, increased credit card processing fees of $250,000, increased personnel costs of $288,000, increased technology costs of $60,000, and increased facility and other costs of $111,000. These increases were primarily related to a greater number of searches, an escalation 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 72% of revenue in 2001 and 63% of revenue in 2002. As a percentage of revenue, the decrease in service costs in 2002 compared to 2001 was primarily a result of certain network operations and customer service costs being fixed and not increasing proportionately with revenue increases.

Sales and Marketing. Sales and marketing expense increased 98% from $922,000 in 2001 to $1.8 million in 2002. The increase in dollars was primarily due to the increase in personnel costs of $663,000, related to an increase in the number of employees and average wages. The remaining increase is primarily related to an increase in marketing campaigns and office rent. As a percentage of revenue, marketing expenses decreased from 32% in 2001 to 18% in 2002 because revenue increased at a higher rate than sales and marketing expenses.

Product Development. Product development expenses increased 118% from $372,000 in 2001 to $812,000 in 2002. The increase in dollars was primarily due to the increase in personnel costs of $385,000, related to an increase in the number of employees and average wages. As a percentage of revenue, product development expenses decreased from 13% in 2001 to 8% in 2002 because revenue increased at a higher rate than product development expenses.

General and Administrative. General and administrative expenses increased 38% from $708,000 in 2001 to $977,000 in 2002. The increase in aggregate expense is primarily due to an increase in payroll-related costs of

$489,000 for an increase in the number of employees and average wages, which was offset by a decrease in bad debt expense of $112,000 and reduced facility and other operating expenses during 2002. As a percentage of revenue, general and administrative expenses were 24% in 2001 and decreased to 10% in 2002 due primarily to revenue increasing at a higher rate than general and administrative expenses because of the fixed nature of many of the general and administrative expenses, as well as the decrease in bad debt expense.

Stock-Based Compensation. Stock-based compensation increased from $860 in 2001 to $365,000 in 2002. The increase was due 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 such share issuance based on the difference between the cash consideration and the estimated fair market value.

Amortization of Goodwill. Goodwill amortization expense decreased from $66,000 in 2001 to zero in 2002 as subsequent to June, 2001 there was no remaining goodwill balance. Enhance Interactive adopted the provisions of SFAS 141 on January 1, 2002. The adoption of SFAS 141 requires that goodwill not be amortized. Prior to the adoption of SFAS 141, Enhance Interactive amortized goodwill on a straight-line basis over the expected periods to be benefited and assessed goodwill for recoverability by determining whether the amortization of the goodwill balance over its remaining life could be recovered through future operating cash flows.

Impairment of Goodwill. The charge for goodwill impairment decreased from $101,000 in 2001 to zero in 2002. In June 2001, based on the change in ownership of Enhance Interactive and the implied valuation of the consideration in share exchange, Enhance Interactive performed a review of the recoverability of its goodwill balance. This analysis resulted in an approximate $101,000 impairment charge to write off the remaining goodwill.

Interest Income. Interest income includes interest on cash balances. Interest income increased from $360 in 2001 to $5,000 in 2002 due to an increase in the average cash balance for the period.

Income Taxes. The provision for income taxes went from zero in 2001 to a benefit of $143,000 in 2002. The 2002 effective rate of 61% differed from the expected effective rate of 34% primarily due to reversing $208,000 of the valuation allowance on Enhance Interactive's deferred tax assets and the effective rate impact of $133,000 of non-deductible stock compensation.

At December 31, 2002, Enhance Interactive had net operating loss carryforwards of $1.8 million 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. It is believed that such a change has occurred, and that the utilization of the approximately $1.8 million in carryforwards is limited such that substantially all of these NOL carryforwards will never be utilized.

As of January 1, 2002, due to Enhance Interactive's history of net operating losses, and the restrictions on the ability to utilize its NOL carryforwards due to ownership changes, Enhance Interactive had established a valuation allowance equal to its net deferred tax assets. During 2002, Enhance Interactive reversed the valuation allowance on its net deferred tax assets, other than on $1.8 million of its restricted NOL carryforwards.

In determining that it was more likely than not that Enhance Interactive would realize all of the available net deferred tax assets other than the net operating losses noted above, the factors considered were: improved operating performance; historical trends relating to merchant advertiser usage rates and click-throughs; projected revenue and expenses and net operating loss carryforwards as of December 31, 2002.

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 amounted to $13.3 million in net cash consideration and the acquisition of TrafficLeader amounted to $3.2 million in net cash consideration. As of October 31, 2003, and September 30, 2003, we had cash and cash equivalents of $5.6 million and $8.2 million respectively. As of September 30, 2003, we had commitments totaling $818,000 for rent under our facility leases and we had $21.0 million outstanding of Series A redeemable convertible preferred stock which are not included as components of stockholders' equity because they are redeemable 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 the Company's Series A redeemable convertible preferred stock will automatically convert into one share of Class B common stock upon closing.

Net cash flow provided by (used in) operating activities was ($314,000) in 2001, $1.5 million in 2002, $1.1 million for the 2002 period and $2.1 million for the 2003 period. Uses of cash were primarily to fund net losses and changes in working capital while cash was provided primarily from net income (losses) offset by non-cash amounts including depreciation and amortization of identifiable intangibles and stock-based compensation.

Net cash flow used in investing activities was $304,000 in 2001, $334,000 in 2002, $183,000 for the 2002 period and $13.9 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.

Net cash flow provided by financing activities was $882,000 in 2001, $24,000 in 2002, $24,000 for the 2002 period and $20.3 million for the 2003 period. Cash flows from financing activities for the year ended December 31, 2001 relate primarily to capital contributions by MyFamily. Cash flows from financing activities for 2002 and 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.

The following table summarizes our contractual obligations as of September 30, 2003, and the effect these obligations are expected to have on our liquidity and cash flows in future periods:

	Payments Due by Period				
	Total	Less than 1 year	1-3 years	4-5 years	After 5 years
Contractual Obligations:					
Operating leases	$ 817,862	$ 464,072	$ 353,790	$ 0	$ 0
Other contractual obligations	$ 288,788	$ 288,788	$ 0	$ 0	$ 0
Series A redeemable convertible preferred stock (A)	$ 21,083,000	$ 0	$ 0	$ 0	$ 21,083,000
Earn-out obligation associated with acquisition of Enhance Interactive (B)	Up to $ 13,500,000	Up to $ 13,500,000	Up to $ 13,500,000	$ 0	$ 0
Total contractual obligations	Up to $ 35,689,650	Up to $ 14,252,860	Up to $ 13,853,790	$ 0	$ 21,083,000

(A) The Series A redeemable convertible preferred stock has redemption rights that will be eliminated upon the automatic conversion of the preferred stock into Series B common stock upon completion of the offering. Holders of Series A redeemable convertible preferred stock are entitled to receive noncumulative 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 $910,000 or $0.14 per share at September 30, 2003. The board of directors has not declared any dividends as of September 30, 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 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 common stock. 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 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 $21,083,000 at September 30, 2003.

(B) A contingent, performance-based earn-out payment may be owed to the former shareholders of Enhance Interactive. The break-out of the contingent payment is two-fold. The first is based on the formula of 69.44% of 2003 and 2004 of Enhance Interactive's income before taxes up to an aggregate maximum payout cap of $12.5 million. In the event income 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.

In addition, if the individual $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 current employees of Enhance Interactive (management retention amounts). These amounts will be accounted for as compensation. The threshold determination is calculated separately for each of calendar years 2003 and 2004.

The following table summarizes additional contractual obligations resulting from our acquisition of TrafficLeader in October 2003, and the effect these obligations are expected to have on our liquidity and cash flows in future periods:

	Payments Due by Period				
	Total	Less than 1 year	1-3 years	4-5 years	After 5 years
Contractual Obligations:					
Class B common stock subject to put redemption right (A)	$ 3,400,000	$ 0	$ 3,400,000	$ 0	$ 0
Earn-out obligation associated with acquisition of Traffic Leader (B)	Up to $ 1,000,000	Up to $ 1,000,000	Up to $ 1,000,000	$ 0	$ 0
Total contractual obligations	Up to $ 4,400,000	Up to $ 1,000,000	Up to $ 4,400,000	$ 0	$ 0

(A) 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 shareholders of TrafficLeader can redeem 425,000 for $8 per share (an aggregate redemption of $3.4 million) upon the affirmative vote of 75% of the holders. These shares were valued at $6.75 per share and the associate redemption right was recorded at a value of $80,750 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.

(B) A contingent, performance-based earn-out payment may be owed dependent on TrafficLeader's achievement of specified revenue thresholds. In the event that TrafficLeader's revenue in calendar 2004 is in excess of $15 million, a performance payment of 10% of the amount of revenue over $15 million is payable up to a maximum of $1 million.

In the event on or prior to December 31, 2004, there is a change of control of us or TrafficLeader, or TrafficLeader's CEO and CTO both 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, we will be obligated to pay the full amount of the $1 million performance-based contingent payment.

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 long-term obligations and 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 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 when generated upon a user's click-through of a merchant advertiser listing within our network.

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 on which we include 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.

On June 1, 2002, based on the change in ownership and the implied valuation of the shares exchanged, Enhance Interactive performed a review of the recoverability of its goodwill balance, which resulted in an impairment charge to write-off the then-recorded goodwill of approximately $101,000.

Enhance Interactive adopted the provisions of SFAS 142 on January 1, 2002. Prior to the adoption of SFAS 142, Enhance Interactive amortized goodwill on a straight-line basis over the expected periods to be benefited, and assessed goodwill for recoverability by determining whether the amortization of the goodwill balance over its remaining life could be recovered through future operating cash flows. The adoption of SFAS 142 had no effect on the consolidated financial statements of Enhance Interactive because no goodwill was recorded when SFAS 142 was adopted.

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.

Prior to the adoption of SFAS 144 on January 1, 2002, Enhance Interactive accounted for long-lived assets in accordance with SFAS No. 121, "Accounting for Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of" (SFAS 121).

SFAS 121 required that long-lived assets and certain identifiable intangibles be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used was measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets were considered to be impaired, the impairment to be recognized was measured by the amount by which the carrying amount of the assets exceeded the fair value of the assets. Assets to be disposed of were reported at the lower of the carrying amount or fair value less costs to sell.

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 market 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 are held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options are subject to forfeiture, until the expiration of the escrow period which is February 28, 2004, and, 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 market 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 market 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.

We determine the fair value of our 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 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.

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 applying return-on-invested-capital requirements to 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, 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 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: (1) performance-based advertising, including pay-per-click listings, primarily through Enhance Interactive; and (2) search marketing, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization, primarily through TrafficLeader, which we acquired in October 2003.

Enhance Interactive. 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 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 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.

The results for the 2003 period, including Enhance Interactive, were $15.5 million in revenue and $2.1 million in operating cash flow (see page 24 for a description and basis of presentation of the 2003 period and the other Financial Reporting Periods). For the quarter ended September 30, 2003, we delivered services to more than

9,800 merchants. The results of operations of TrafficLeader have not been included in the 2003 period, as the acquisition occurred subsequent to September 30, 2003.

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

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 access devices coupled with corresponding performance gains; 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 *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 executives' 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.
- ***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 large numbers of 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 listings, primarily through Enhance Interactive; and (2) search marketing, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization, primarily through TrafficLeader.

- ***Performance-Based Advertising.*** The primary performance-based advertising business models are pay-per-click listings and paid inclusion. Each of these models enables merchants to reach their target audience through search and directory results. The key difference between the models is whether payment by a merchant advertiser influences the rank of its listing within the applicable search or directory results.
  - *Pay-Per-Click Listings.* In the pay-per-click model, 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.* In the paid inclusion model, 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 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.*** Search marketing services are 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 September 30, 2003, Enhance Interactive processed and served results for more than 3.5 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 in the Enhance Interactive service are prioritized for users by the amount the merchant advertiser is willing to pay for clicks on their 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 December 8, 2003, Enhance Interactive had arrangements for inclusion of its pay-per-click results on four of the top 25 most visited Internet properties according to the September 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, Direct Search Inclusion (DSI), delivers targeted advertiser listings into some of the Internet's most-visited search engines. DSI 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, which TrafficLeader refers to as Extended Reach listings, are generally included as part of TrafficLeader's DSI 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 efforts, 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.

As of December 8, 2003, TrafficLeader's paid inclusion results appeared on a majority of the top 10 most visited Internet properties according to the September 2003 report of comScore MediaMetrix.

Sales, Business Development, Marketing, Advertising and Promotion

As of December 8, 2003, we had 36 full-time employee equivalents in our sales departments, including 31 at Enhance Interactive, and five at TrafficLeader; 11 full-time employee equivalents in our business development departments, including seven at Enhance Interactive and three at TrafficLeader; and six full-time employee equivalents in our marketing departments, including five 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.

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.

We have filed two patent applications for various aspects of our transaction technologies and services. Our policy is to apply for patents or for other appropriate statutory protection when we develop valuable new or improved technology. 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 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 of 1998 requires online services providers to report evidence of violations of federal child pornography laws under certain circumstances. Such legislation may impose significant additional costs on our business or subject us to additional liabilities.

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 December 8, 2003, we employed a total of 166 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. We believe our current space is suitable for our current operations.

Our information technology systems are housed in leased third-party facilities in Seattle, Washington, in Provo, Utah, and in Eugene, Oregon.

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	31	Chief Strategy Officer
John Keister	37	President, Chief Operating Officer and Director
Walter Korman	30	Senior Vice President of Engineering
Victor Oquendo	30	Senior Vice President of Technology Operations
Dennis Cline (1)	43	Director
Jonathan Fram (1)	46	Director
Rick Thompson (1)	44	Director

(1) Member of the Audit Committee.

Russell C. Horowitz. Mr. Horowitz is a founding officer and has served as our Chairman of the board of directors, Chief Executive Officer and Treasurer since our inception in January 2003. From January 2001 to January 2003, Mr. Horowitz and our founding officers jointly reviewed new business initiatives, which led to the formation of Marchex. Mr. Horowitz was previously a founder of Go2Net and served as its Chairman and Chief Executive Officer from its inception in February 1996 until its merger into InfoSpace 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 Capital 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 January 2003, Mr. Caldwell and our founding officers jointly reviewed new business initiatives, which led to the formation of Marchex. 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 January 2003, Mr. Christothoulou and our founding officers jointly reviewed new business initiatives, which led to the formation of Marchex. Mr. Christothoulou was previously the Senior Vice President of Strategic Initiatives for Go2Net 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 held various positions at the Technology Investment Banking Group of U.S. Bancorp Piper Jaffray since 1996, most recently as Vice President. 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 January 2003, Mr. Keister and our founding officers jointly reviewed new business initiatives, which led to the formation of Marchex. 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. 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 and our founding officers jointly reviewed new business initiatives, which led to the formation of Marchex. 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 director 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. Prior to DirectWeb Mr. Cline was a senior executive at Network Associates. 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 director since May 2003. Mr. Fram has been the CEO for Envivio since May 2002. 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 until its sale to TimeWarner in July 2001. Prior to eVoice from July 1999 to August 2000, Mr. Fram was the President of Net2Phone 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 director since May 2003. Mr. Thompson has served as Vice President for the Extended Windows Platform Group at Microsoft since December 2002. From February 2001 to November 2002, Mr. Thompson worked as a consultant to various companies. Mr. Thompson was the CFO and EVP for Product Development for Go2Net from May 2000 through January 2001. 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. 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.

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. 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. For a more detailed description of our stock incentive plan, please see "Benefit Plans."

Nominating and Governance Committee

Prior to the consummation of the offering, our board of directors shall establish a nominating and governance committee comprised of at least two persons among Messrs. Cline, Fram and Thompson, each of whom is an independent director. At such time, the nominating and governance committee shall be authorized to identify 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.

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

Code of Ethics

We intend to adopt a code of ethics applicable to each of our officers, directors and employees as contemplated by Section 406 of the Sarbanes-Oxley Act of 2002 and to include it on our Web site at *www.marchex.com*. We will disclose any amendments to, or waivers from, any provisions of our code of ethics on a Form 8-KSB filed with the Securities and Exchange Commission and on our Web site by posting such information within five days after such amendment or waiver.

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 for services rendered in all capacities during the period from our inception, January 17, 2003, to September 30, 2003. No other executive officer's total annual salary and bonus for 2003 exceeds $100,000. We refer to this executive as our "named executive officer" 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)	$25,288	0	*	0

* 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 officer during the period from our inception January 17, 2003, to September 30, 2003.

Option Grants

					Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Option Terms (1)	
Name	Number of Securities underlying options granted	Percentage of Total Options Granted to Employees	Exercise Price Per Share	Expiration Date	5%	10%
Russell C. Horowitz	0	0%	N/A	N/A	N/A	N/A

1. The potential realizable value at assumed annual rates of stock price appreciation for the option term represents hypothetical gains that could be achieved for the respective options if exercised at the end of the option terms. These gains are based on assumed rates of stock appreciation of 5% and 10% compounded annually from the date the options were granted to their expiration date based on the initial public offering price. These assumptions are not intended to forecast future appreciation of our stock price. The potential realizable value computation does not take into account federal or state income tax consequences of option exercises or sales of appreciated stock.

The following table sets forth information regarding unexercised options held as of September 30, 2003, by our named executive officer. There was no public trading market for our common stock as of September 30, 2003. Accordingly, these values have been calculated on the basis of the initial public offering price of $, 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.

Aggregated Option Exercises Option Values

	Number of Shares Acquired on Exercise		Number of Securities Underlying Unexercised Options At September 30, 2003		Value of Unexercised In-the-Money Options At September 30, 2003	
Name	Exercised	Value Realized	Exercisable	Unexercisable	Exercisable	Unexercisable
Russell C. Horowitz	N/A	N/A	N/A	N/A	N/A	N/A

Employment Contract with Named Executive Officer

We have entered into an Executive Employment Agreement with Russell C. Horowitz, our Chief Executive Officer, effective January 17, 2003. The agreement with Mr. Horowitz provides for an at-will employment term and an agreed-upon 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.

We have also entered into executive employment agreements on substantially the same terms with each of our other executive officers.

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 4,000,000 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 preferred 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 September 30, 2003, options to purchase 2,694,850 shares of Class B common stock were outstanding. As of September 30, 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 market 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.

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 intend to enter into indemnification agreements with each of our directors prior to the consummation of the offering.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of our common stock as of December 8, 2003 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 own 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 December 8, 2003 (assuming the conversion of the outstanding convertible preferred stock), and 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 December 8, 2003, 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, 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%	
John Keister (2)	2,695,160	13.3%	
Rainwater River Authority, LLC (3)	1,270,000	6.3%	
Dennis Cline (4)	100,000	*	
Jonathan Fram	0	0%	
Rick Thompson (5)	1,158,333	5.7%	
All directors and executive officers as a group (10 persons) (6)	15,762,492	77.5%	

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) 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.

(3) The David M. Horowitz Trust II is the sole member of Rainwater River Authority, LLC. The beneficiary of such trust is Mr. David M. Horowitz.
(4) Consists of 100,000 shares held by DMC Investments, LLC, a limited liability company of which Mr. Cline is the managing member.
(5) Consists of 1,158,333 shares of our Class B common stock.
(6) 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; and (iii) 58,333 shares of our Class B common stock issuable upon exercise of options, none of which options 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. 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.

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:

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 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 certificate of amendment to the 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 December 8, 2003, 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 142 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 137 stockholders of record.

As of December 8, 2003, we had options outstanding for the purchase an aggregate of 2,882,550 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 461,050 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 will be outstanding (shares if the underwriters' over-allotment option is exercised in full). The representative of the underwriters may also exercise a warrant for the purchase of up to 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.

Representative's Warrant

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

The representative of the underwriters may exercise a warrant for the purchase of up to 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 warrant. The holder of the warrant will not possess any rights as a stockholder unless the warrant is exercised. The representative's warrant grants to the holder 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 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 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 managing underwriter 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 managing underwriter 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.

The representative will have certain registration rights with respect to the shares of Class B common stock underlying such representative's warrant.

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 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.

Anti-Takeover Provisions Affecting Stockholders

Following this offering, our founding officers will control percent (%) 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 intend to enter into indemnification agreements with each of our directors prior to the consummation of the offering.

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, 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 intend to list our Class B common stock on the NASDAQ National Market under the symbol "MCHX."

Transfer Agent and Registrar

The transfer agent and registrar for our Class B common stock is .

MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

General

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

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

We have reserved 4,000,000 shares of Class B common stock for issuance upon exercise of options granted or to be granted under our 2003 stock incentive plan. As of December 8, 2003, we had options outstanding for the purchase an aggregate of 2,882,550 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 461,050 options will have an exercise price equal to the initial public offering price. As of this date, 292,017 options were exercisable at a weighted average exercise price of $0.75 per share. We have also reserved shares of Class B common stock for issuance upon the exercise of outstanding warrants held by the underwriters.

All of the shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, unless purchased by our "affiliates" as that term is defined in Rule 144 described below. All 20,279,063 of the outstanding shares not included in this offering if requested by us and the managing underwriter are subject to 180-day lock-up agreements and all of these shares will be eligible for sale 180 days after the commencement of this offering, subject to volume limitations of Rule 144.

As of December 8, 2003, 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 142 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 137 stockholders of record.

Except for shares purchased in this offering, each of our officers, directors and stockholders have agreed to certain restrictions on their ability to sell, offer, contract or grant any option to sell, pledge, transfer or otherwise dispose of shares of our Class B common stock if requested by us and the managing underwriter 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 90 days after the consummation of this offering. The representative, may, in its 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 representative will consider the possible impact of the release of the shares on the trading price of the stock sold in the offering. The representative does 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.

The remaining 8,291,563 shares of Class B common stock outstanding upon closing of the offering and all of the shares of Class A common stock will continue to be deemed "restricted securities" as that term is defined in Rule 144. Restricted securities may be sold in the public market only if registered or if qualified for an exemption from registration under Rules 144 or 701 promulgated under the Securities Act, which rules are summarized below.

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 shares immediately after the completion of this offering (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.

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of Class B common stock subject to outstanding stock options and Class B common stock issuable under our 2003 Stock Incentive Plan that do not qualify for an exemption under Rule 701 from the registration requirements of the Securities Act. We expect to file these registration statements approximately 180 days after the date of this prospectus, and such registration statements are expected to become effective upon filing. Shares covered by these registration statements will thereupon be eligible for sale in the public markets.

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."

PLAN OF DISTRIBUTION

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 holds 30,000 shares of Class B common stock.

EXPERTS

The consolidated financial statements of the Predecessor to Marchex, Inc. as of December 31, 2001 and 2002 and February 28, 2003 and of Marchex, Inc. and subsidiaries as of September 30, 2003, and for the years ended December 31, 2001 and 2002, the period from January 1, 2003 through February 28, 2003, and the period from January 17, 2003 (inception) through September 30, 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 OF 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 http://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, 2001 and 2002 and February 28, 2003 and of Marchex, Inc. and subsidiaries as of September 30, 2003 and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for the years ended December 31, 2001 and 2002, the period from January 1, 2003 through February 28, 2003 (Predecessor periods), and the period from January 17, 2003 (inception) through September 30, 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, 2001 and 2002, February 28, 2003 and September 30, 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
December 1, 2003

Table of Contents

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

	Predecessor Periods			Successor Period	
	December 31, 2001	December 31, 2002	February 28, 2003	September 30, 2003	September 30, 2003 Pro Forma (unaudited)
Assets					
Current assets:					
Cash and cash equivalents	$ 264,828	1,494,300	1,820,763	8,168,341	
Accounts receivable, net	283,238	489,664	538,213	768,232	
Other receivables	7,223	—	1,137	4,617	
Prepaid expenses	—	30,014	49,615	88,781	
Income tax receivable	—	—	—	385,329	
Deferred tax assets	—	89,920	117,645	119,573	
Other current assets	25,833	39,211	46,159	38,870	
Total current assets	581,122	2,143,109	2,573,532	9,573,743	
Property and equipment, net	338,499	473,793	494,087	672,533	
Deferred tax assets	—	52,956	32,187	—	
Other assets	25,000	9,435	9,435	158,868	
Goodwill	—	—	—	8,736,783	
Identifiable intangible assets, net	—	—	—	6,371,756	
Total assets	$ 944,621	2,679,293	3,109,241	25,513,683	
Liabilities and Stockholders' Equity (Deficit)					
Current liabilities:					
Accounts payable	$ 378,689	1,294,877	891,124	1,788,074	
Accrued payroll and benefits	78,174	128,301	257,000	157,129	
Accrued expenses and other current liabilities	95,572	118,581	107,015	579,277	
Deferred revenue	302,607	736,594	812,385	763,856	
Total current liabilities	855,042	2,278,353	2,067,524	3,288,336	
Deferred tax liabilities	—	—	—	1,775,855	
Deferred revenue	18,179	27,682	27,541	31,541	
Other non-current liabilities	—	2,993	4,085	3,616	
Total liabilities	873,221	2,309,028	2,099,150	5,099,348	
Series A redeemable convertible preferred stock, $0.01 par value. Authorized 8,500,000; ($21,082,635 aggregate liquidation preference and redemption value at September 30, 2003) issued and outstanding 6,724,063 shares at September 30, 2003; (no shares issued and outstanding on pro forma basis)	—	—	—	21,033,137	—
Commitments, contingencies, and subsequents events					
Stockholders' equity (deficit):					
Predecessor Periods:					
Common stock, no par value. Authorized 35,000,000 shares;					
Class A: 30,496,112 authorized through February 28, 2003; 18,564,400, 23,355,421 and 24,894,319 issued and outstanding at December 31, 2001, December 31, 2002 and February 28, 2003, respectively	10,315	398,774	696,815	—	—
Class B: 4,503,888 authorized through February 28, 2003 4,503,888 issued and outstanding at December 31,	1,419,986	1,419,986	1,419,986	—	—

2001 December 31, 2002 and February 28, 2003					
Successor Period:					
Common stock, $.01 par value. Authorized 46,500,000 shares;					
Class A: 12,250,000 authorized; issued and outstanding 12,250,000 at September 30, 2003	—	—	—	122,500	122,500
Class B: 34,000,000 authorized; issued and outstanding 1,005,000 at September 30, 2003; (7,729,063 issued and outstanding on pro forma basis)	—	—	—	10,050	77,291
Additional paid-in capital	—	—	—	2,746,734	23,712,630
Deferred stock-based compensation	(9,455)	(9,266)	—	(1,159,308)	(1,159,308)
Accumulated deficit	(1,349,446)	(1,439,229)	(1,106,710)	(2,338,778)	(2,338,778)
Total stockholders' equity (deficit)	71,400	370,265	1,010,091	(618,802)	20,414,335
Total liabilities and stockholders' equity (deficit)	$ 944,621	2,679,293	3,109,241	25,513,683	25,513,683

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Operations

	Predecessor Periods				Successor Period
	Year ended December 31, 2001	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Revenue	$ 2,909,911	10,070,507	3,071,055	6,427,579	12,431,493
Expenses:					
Service costs (*)	2,081,480	6,334,173	1,732,813	4,163,694	6,806,021
Sales and marketing (*)	921,808	1,821,237	365,043	1,136,384	1,592,722
Product development (*)	372,464	811,673	144,479	489,130	844,399
General and administrative (*)	708,275	976,881	234,667	619,044	1,816,522
Stock-based compensation (**)	860	364,693	38,981	362,272	1,587,476
Amortization of intangible assets (***)	—	—	—	—	2,028,244
Goodwill amortization	65,653	—	—	—	—
Impairment of goodwill	101,077	—	—	—	—
Total operating expenses	4,251,617	10,308,657	2,515,983	6,770,524	14,675,384
Income (loss) from operations	(1,341,706)	(238,150)	555,072	(342,945)	(2,243,891)
Other income:					
Interest income	360	5,491	1,529	2,524	33,502
Income (loss) before provision for income taxes	(1,341,346)	(232,659)	556,601	(340,421)	(2,210,389)
Income tax expense (benefit)	—	(142,876)	224,082	(190,717)	(783,231)
Net income (loss)	(1,341,346)	(89,783)	332,519	(149,704)	(1,427,158)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	—	911,620
Net income (loss) applicable to common stockholders	$ (1,341,346)	(89,783)	332,519	(149,704)	(2,338,778)
Basic and diluted net loss per share applicable to common stockholders					(0.18)
Shares used to calculate basic and diluted net loss per share					13,203,398
Pro forma basic and diluted net loss per share applicable to common stockholders (unaudited)					(0.13)
Shares used to calculate pro forma basic and diluted net loss per share (unaudited)					18,605,173
(*) Excludes stock-based compensation and amortization of intangible assets					
(**) Components of stock-based compensation:					
Service costs	$ 102	3,161	190	2,876	39,158
Sales and marketing	409	148,669	715	147,596	316,574
Product development	—	57,078	37,710	56,763	164,070
General and administrative	349	155,785	366	155,037	1,067,674
(***) Components of amortization of intangible assets:					
Service costs	$ —	—	—	—	1,503,244
Sales and marketing	—	—	—	—	204,167
Product development	—	—	—	—	—
General and administrative	—	—	—	—	320,833

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Stockholders' Equity (Deficit)

	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, 2000	18,015,552	—	4,503,888	$ 38,264	—	(8,100)	30,164
Issuance of options by Parent as earn-out consideration	—	—	—	22,904	—	—	22,904
Parent company (MyFamily) contribution—allocated expenses	—	—	—	457,849	—	—	457,849
Capital contributions by Parent	—	—	—	900,969	—	—	900,969
Additional shares issued in connection with the re-aquisition by Predecessor shareholders	548,848	—	—	—	—	—	—
Stock compensation from options	—	10,315	—	—	(9,455)	—	860
Net loss	—	—	—	—	—	(1,341,346)	(1,341,346)
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' Deficit
	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
Stock compensation from options	—	—	—	—	2,743,034	(1,159,308)	—	1,583,726
Net loss	—	—	—	—	—	—	(2,338,778)	(2,338,778)
Balances at September 30, 2003	12,250,000	$ 122,500	1,005,000	$ 10,050	$ 2,746,734	$ (1,159,308)	$ (2,338,778)	$ (618,802)

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

	Predecessor Periods				Successor Period
	Year ended December 31, 2001	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month Period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Cash flows from operating activities:					
Net income (loss)	$ (1,341,346)	(89,783)	332,519	(149,704)	(1,427,158)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:					
Amortization and depreciation	169,109	214,562	43,584	155,242	2,228,183
Allowance for doubtful accounts and merchant advertiser credits	370,389	256,817	86,908	193,070	282,848
Parent company allocated expenses	457,849	—	—	—	—
Impairment of goodwill	101,077	—	—	—	—
Stock-based compensation	860	364,693	38,981	362,272	1,587,476
Deferred income taxes	—	(142,876)	(6,956)	(190,717)	(1,332,902)
Income tax benefit related to stock options	—	—	231,038	—	—
Change in certain assets and liabilities, net of acquisition:					
Accounts receivable, net	(520,314)	(463,243)	(135,457)	(285,783)	(512,866)
Other receivables	(4,814)	7,223	(1,137)	5,841	(3,480)
Income tax receivable	—	—	—	—	(385,329)
Prepaid expenses and other current assets	(25,833)	(43,392)	(26,549)	9,372	(31,878)
Accounts payable	152,267	916,188	(403,753)	560,585	896,950
Accrued expenses, payroll, benefits and other current liabilities	14,438	73,136	117,133	144,839	372,392
Deferred revenue	312,493	443,490	75,650	321,944	64,306
Other non-current liabilities	—	2,993	1,092	1,694	(469)
Net cash provided by (used in) operating activities	(313,825)	1,539,808	353,053	1,128,655	1,738,073
Cash flows from investing activities:					
Purchases of property and equipment	(278,537)	(349,856)	(63,878)	(203,187)	(378,385)
Cash paid for acquisition, net of cash acquired	—	—	—	—	(13,295,931)
Decrease (increase) in other non-current assets	(25,000)	15,565	—	20,628	(149,433)
Net cash used in investing activities	(303,537)	(334,291)	(63,878)	(182,559)	(13,823,749)
Cash flows from financing activities:					
Bank overdraft	(18,778)	—	—	—	—
Parent company investment	900,969	—	—	—	—
Proceeds from exercises of stock options	—	13,797	37,288	13,465	—
Proceeds from sale of stock	—	10,158	—	10,158	132,500
Proceeds from sale of redeemable convertible preferred stock	—	—	—	—	20,121,517
Net cash provided by financing activities	882,191	23,955	37,288	23,623	20,254,017
Net increase in cash and cash equivalents	264,829	1,229,472	326,463	969,719	8,168,341
Cash and cash equivalents at beginning of period	—	264,829	1,494,301	264,829	—
Cash and cash equivalents at end of period	$ 264,829	1,494,301	1,820,764	1,234,548	8,168,341
Supplemental disclosure of cash flow information—cash paid during the period for income taxes	$ —	—	—	—	935,000
Supplemental disclosure of non-cash investing and financing activities:					
Issuance of options by Parent as earn-out consideration	$ 22,904	—	—	—	—
Accretion to redemption value of redeemable convertible preferred stock	$ —	—	—	—	911,620

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 ah-ha.com, Inc. ah-ha.com, Inc., based in Provo, Utah, 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 minimum income before tax thresholds in calendar years 2003 and 2004. Additional details regarding this acquisition are in Note 12 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 product or service, 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' deficit, and cash flows have been presented for the period from January 17, 2003 (inception) through September 30, 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 intercompany 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 years ended December 31, 2001 and 2002, the period from January 1 to February 28, 2003 and the unaudited nine month period ended September 30, 2002. The Company, including the results of Enhance Interactive since the date of acquisition, is referred to as the "Successor" in the accompanying consolidated financial statements.

The Predecessor was acquired by MyFamily.com, Inc. ("MyFamily") on December 22, 2000 and held as a wholly-owned subsidiary until June 1, 2001. Prior to being acquired by MyFamily, the Predecessor was owned primarily by a group of employee shareholders ("Predecessor Shareholders"). On June 1, 2001 approximately 80% of the Predecessor's ownership was reacquired from MyFamily by the Predecessor Shareholders. MyFamily's investment in the Predecessor has been pushed down to the Predecessor financial statements and the Predecessor's assets and liabilities were adjusted to their fair values as of December 22, 2000. The consolidated financial statements for the year ended December 31, 2001 include the estimated costs of doing business, including expenses incurred by MyFamily on behalf of the Predecessor during the period which MyFamily owned the Predecessor. Expenses incurred by MyFamily that were not practicable to specifically identify as Predecessor costs, including certain expenses such as facility costs, legal services, information system and technology department costs, certain finance and administrative costs, audit and tax services, general accounting, human

resources, insurance, and employee benefits have been allocated by management primarily based on percentage estimates of time or departmental effort devoted to working on Predecessor related matters in relation to overall MyFamily corporate wide matters. These estimates were primarily based on the proportion of Predecessor payroll expenditures to the overall MyFamily corporate wide payroll. Management believes that the method used to allocate the costs and expenses is reasonable. However, such allocated amounts may or may not necessarily be indicative of what actual expenses would have been had the Predecessor operated independently of MyFamily. Allocated costs recorded as an increase in operating expenses and as a capital contribution totaled approximately $458,000 for the year ended December 31, 2001. There were no allocated costs for other periods presented.

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 intercompany transactions and balances have been eliminated in consolidation.

In the opinion of the Predecessor's management, the September 30, 2002, unaudited interim financial information includes all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation.

(b) Cash and Cash Equivalents

The Company and the Predecessor consider all highly liquid investments with an original maturity at date of purchase of three months or less to be cash equivalents. Cash equivalents as of the periods presented consist primarily of money market funds. Cash equivalents balances totaled approximately $62,000, $623,000, $1,089,000, and $7,292,000 at December 31, 2001 and 2002, February 28, 2003, and September 30, 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, and Series A redeemable convertible preferred stock. The carrying value of cash and cash equivalents, accounts receivable, 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 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 $40,000,000 at September 30, 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

	Balance at Beginning of Period	February 28, 2003 Acquisition Date	Charged to Costs and Expenses	Write-offs	Balance at End of Period
Allowance for doubtful accounts:					
Predecessor Periods:					
December 31, 2001	$ 29,953	—	188,288	58,982	159,259
December 31, 2002	159,259	—	75,798	226,112	8,945
February 28, 2003	8,945	—	35,540	8,842	35,643
Successor Period:					
September 30, 2003	$ —	35,643	87,628	99,028	24,243

There were no merchant advertisers who represented 10% or greater of total revenue for the periods presented. Merchant advertisers who had an account receivable balance of 10% or greater of total accounts receivable were as follows: six merchant advertisers represented 82% of outstanding balances at December 31, 2001, one merchant advertiser represented 22% at December 31, 2002, three merchant advertisers represented 44% at February 28, 2003, and two merchant advertisers represented 46% at September 30, 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.

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

	Balance at Beginning of Period	February 28, 2003 Acquisition date	Additions Charged against Revenue	Credits Processed	Balance at End of Period
Allowance for merchant advertiser credits:					
Predecessor Periods:					
December 31, 2001	$ —	—	182,101	159,278	22,823
December 31, 2002	22,823	—	181,019	163,852	39,990
February 28, 2003	39,990	—	51,368	36,653	54,705
Successor Period:					
September 30, 2003	$ —	54,705	195,220	202,617	47,308

(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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(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.

The Predecessor adopted the provisions of SFAS 142 on January 1, 2002. Prior to the adoption of SFAS 142, the Predecessor amortized goodwill on a straight-line basis over the expected periods to be benefited and assessed goodwill for recoverability by determining whether the amortization of the goodwill balance over its remaining life could be recovered through future operating cash flows. The adoption of SFAS 142 had no effect on the Predecessor's consolidated financial statements because no goodwill was recorded when SFAS 142 was adopted.

(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.

Prior to the adoption of SFAS 144 on January 1, 2002, the Predecessor accounted for long-lived assets in accordance with SFAS No. 121, *Accounting for Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of* (SFAS 121).

SFAS 121 required that long-lived assets and certain identifiable intangibles be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used was measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets were considered to be impaired, the impairment to be recognized is the amount by which the carrying amount of the assets exceeded the fair value of the assets. Assets to be disposed of were reported at the lower of the carrying amount or fair value less costs to sell.

(h) Revenue Recognition

Revenue is generated primarily through pay-for-performance services, that is, revenue 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

Revenue also consists of inclusion fees, banner advertising and account set-up fees, which together constituted less than 8%, 9%, 6%, 9% and 6% of revenue for the years ended December 31, 2001 and 2002, the period from January 1 to February 28, 2003, the nine month period ended September 30, 2002 and the period from January 17 (inception) to September 30, 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). This pronouncement summarizes 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. Revenue associated with click-through activity, inclusion fees and banner advertising 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 account set-up fees paid by a merchant advertiser are recognized ratably over the longer of the term of the contract or the average expected merchant advertiser relationship period, which currently is estimated to be two years.

Revenue earned from merchant advertisers based on click-through activity is recognized as clicks are delivered.

Inclusion fees are generally 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. Inclusion fees are recognized ratably over the service period, typically one year.

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

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 specified 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 revenues 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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 delivered.

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.

(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 $19,000, $84,000, $11,000, $57,000 and $84,000 for the years ended December 31, 2001 and 2002, the period from January 1 to February 28, 2003, the nine month period ended September 30, 2002 and the period from January 17 (inception) to September 30, 2003, respectively.

(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, the Company recorded a net deferred tax liability in the amount of approximately $3.0 million relating to the difference in the book basis and tax basis of its assets and liabilities.

The results of the Predecessor's operations from December 22, 2000 through June 1, 2001 were included in the consolidated federal income tax return of MyFamily. The Predecessor's income tax provision is prepared on a stand-alone basis for 2001. Under the tax sharing agreement of the Predecessor with MyFamily, tax benefits from operating losses would have been recognized to the extent they were expected to be utilizable by MyFamily in the consolidated Federal income tax return. No tax benefits were recognized during the period under MyFamily's ownership.

(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. 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.

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*.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Net income (loss) applicable to common stockholders As reported	$ (1,341,346)	(89,783)	322,519	(149,704)	(2,338,778)
Add: stock-based employee expense included in reported net income (loss), net of related tax effect	860	361,843	38,428	360,450	1,020,889
Deduct: stock-based employee compensation expense determined under fair-value-based method for all awards, net of related tax effect (1)	(6,762)	(380,907)	(42,375)	(373,594)	(1,449,094)
Pro forma	$ (1,347,248)	(108,847)	318,572	(162,848)	(2,766,983)
Net loss per share applicable to common stockholders:					
As reported (basic and diluted)					$ (0.18)
Pro forma					$ (0.21)

(1) See Note 7(b) and 8(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 the Company's and the Predecessor's common 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month Period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Distribution Partner A	6%	11%	12%	10%	8%

(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, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month Period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
United States	91%	92%	90%	94%	90%
Canada	5%	5%	5%	3%	5%
Other countries	4%	3%	5%	3%	5%
	100%	100%	100%	100%	100%

(q) Net Income (Loss) Per Share

The Company's basic and diluted net income (loss) per share is presented for the period from January 17 (inception) to September 30, 2003. Basic net income (loss) per share is computed by dividing net income (loss) applicable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net income (loss) per share is computed by dividing net income

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(loss) applicable to common stockholders by the weighted average number of common and dilutive common equivalent shares outstanding during the period. Net income (loss) applicable to common stockholders consists of net income (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 (inception) to September 30, 2003 basic and diluted net loss per share are the same.

The following table reconciles the Company's reported net income (loss) to net (loss) applicable to common stockholders used to compute basic and diluted net income (loss) per share for the period from January 17 (inception) to September 30, 2003:

	Successor Period
	Period from January 17 (inception) to September 30, 2003
Net loss	$ (1,427,158)
Accretion to redemption value of Series A redeemable convertible preferred stock	911,620
Net loss applicable to common stockholders	$ (2,338,778)
Basic and diluted net loss per share applicable to common stockholders	$ (0.18)
Weighted average number of shares outstanding used to calculate basic and diluted net loss per share	13,203,398

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 September 30, 2003 to acquire 2,421,500 shares of Class B common stock with a weighted average exercise price of $1.67 per share and 273,350 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.

(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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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 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 1 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. 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 September 30, 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.

(2) MyFamily Acquisition of the Predecessor

The Predecessor was acquired by MyFamily on December 22, 2000 and held as a wholly-owned subsidiary until June 1, 2001. Prior to being acquired by MyFamily, the Predecessor was owned primarily by a group

of employee shareholders ("Predecessor Shareholders"). On June 1, 2001 approximately 80% of the Predecessor's ownership was reacquired from MyFamily by the Predecessor Shareholders in exchange for the return of 454,437 shares of MyFamily common stock. The original acquisition was accounted for using the purchase method. MyFamily's investment in the Predecessor from the December 22, 2000 acquisition has been pushed down to the Predecessor financial statements. Goodwill arising from the MyFamily acquisition at December 22, 2000, was approximately $144,000. The MyFamily purchase price was subject to certain performance-based provisions relating to revenue and operating cash flow. In 2001, additional goodwill of approximately $23,000 was recorded in connection with MyFamily's issuance of an additional 40,038 stock options with an exercise price of $0.12 per share of MyFamily stock and 190,866 shares as consideration for the performance-based provisions. On June 1, 2001, based on the change in ownership and the implied valuation of the shares exchanged, the Predecessor performed a review of the recoverability of its goodwill balance. This analysis resulted in an approximate $101,000 impairment charge to write-off the remaining goodwill.

Had the Predecessor ceased amortization of goodwill under the provisions of SFAS No. 142, beginning January 1, 2001, the impairment charge would have been $144,000, resulting in no change to reported net loss in 2001.

On February 28, 2003, the Company acquired 100% of the outstanding stock of the Predecessor, including MyFamily's stockholder interest.

(3) Related Party Transactions

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, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month Period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Revenue earned from MyFamily	$ 24,508	18,606	2,559	15,425	6,094
General and Administrative expenses paid to MyFamily:					
Rental expense	$ 150,000	158,105	36,717	114,194	126,062
Supplies and other purchases	3,400	5,101	600	4,501	2,100

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

	Predecessor Periods			Successor Period
	December 31, 2001	December 31, 2002	February 28, 2003	September 30, 2003
Due from MyFamily	$ 25,162	24,580	17,855	687

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(4) Property and Equipment

Property and equipment consisted of the following:

	Predecessor Periods			Successor Period
	December 31, 2001	December 31, 2002	February 28, 2003	September 30, 2003
Computer and other related equipment	$ 359,214	653,652	703,113	652,727
Purchased and internally developed software	159,432	214,852	229,269	176,842
Furniture and fixtures	4,000	4,000	4,000	32,059
Leasehold improvements	—	—	—	10,844
	522,646	872,504	936,382	872,472
Less accumulated depreciation and amortization	(184,147)	(398,711)	(442,295)	(199,939)
Property and equipment, net	$ 338,499	473,793	494,087	672,533

Depreciation and amortization expense incurred by the Company and the Predecessor was approximately $169,000, $215,000, $44,000, $155,000 and $200,000 for the years ended December 31, 2001 and 2002, the period from January 1 to February 28, 2003, the nine month period ended September 30, 2002 and the period from January 17 (inception) to September 30, 2003, respectively.

(5) 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
Through end of 2003	$ 124,331	93,647	217,978
2004	427,477	195,141	622,618
2005	203,415	—	203,415
2006	62,639	—	62,639
2007 and thereafter	—	—	—
Total minimum payments	$ 817,862	288,788	1,106,650

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 $150,000, $158,100, $36,700, $114,200 and $240,900 for the years ended December 31, 2001 and 2002, the period from January 1 to February 28, 2003, the nine month period ended September 30, 2002 and the period from January 17 (inception) to September 30, 2003, respectively.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(6) Income Taxes

The Predecessor was included in the federal consolidated return of MyFamily during the period from January 1, 2001 through May 31, 2001. The Predecessor's income tax provision is prepared on a stand-alone basis. In 2001, the Predecessor had a 100% valuation allowance offsetting its deferred tax assets. The provision for income taxes for the Company and the Predecessor periods consists of the following:

	Predecessor Periods				Successor Period
	Year Ended December 31, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Current provision					
Federal	$ —	—	—	—	506,870
State	—	—	—	—	42,801
Deferred provision					
Federal	—	(130,236)	(25,417)	(173,844)	(1,315,721)
State	—	(12,640)	(2,467)	(16,873)	(111,100)
Utilization of net operating loss carryforwards	—	—	115,940	—	93,919
Tax expense of equity adjustment for stock option exercise	—	—	136,026	—	—
Total income tax provision (benefit):	$ —	(142,876)	224,082	(190,717)	(783,231)

The effective tax rates for the interim periods from January 17 (inception) to September 30, 2003 and the nine month period ended September 30, 2002 were determined based on the projected rates for the entire fiscal periods.

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, 2001	Year Ended December 31, 2002	Period from January 1 to February 28, 2003	Nine month period ended September 30, 2002 (unaudited)	Period from January 17 (inception) to September 30, 2003
Income tax expense (benefit) at U.S. statutory rate of 34%	$ (456,057)	(79,104)	189,244	(115,743)	(751,532)
State tax, net of federal benefit	(44,264)	(7,678)	18,368	(11,233)	(63,460)
Non-deductible goodwill	62,190	—	—	—	—
Non-deductible parent co. allocated expenses	170,778	—	—	—	—
Non-deductible stock compensation	—	133,180	13,988	133,180	18,740
Other non-deductible expenses	2,796	18,942	2,482	11,295	13,021
Change in valuation allowance	264,557	(208,216)	—	(208,216)	—
Total income tax provision (benefit):	$ —	(142,876)	224,082	(190,717)	(783,231)

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, 2001	December 31, 2002	February 28, 2003	September 30, 2003
Deferred tax assets:				
Net operating loss carryforwards	$ 113,277	115,840	95,012	—
Accrued liabilities not currently deductible	79,921	51,768	78,572	104,186
Stock compensation	321	3,171	—	565,196
Deferred revenue	18,167	39,268	40,596	28,350
Start-up costs not currently deductible	—	—	—	51,703
Total deferred tax assets	211,686	210,047	214,180	749,435
Valuation allowance	(208,216)	—	—	—
	3,470	210,047	214,180	749,435
Deferred tax liabilities:				
Intangible assets-amortization not deductible for tax	—	—	—	2,349,330
Excess of tax over financial statement depreciation	3,470	67,271	64,348	56,387
	3,470	67,271	64,348	2,405,717
Net deferred tax assets (liabilities)	$ —	142,776	149,832	(1,656,282)

At September 30, 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 increased approximately $192,000 during the year ended December 31, 2001 and 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 September, 30, 2003.

On February 28, 2003, in connection with the purchase accounting for the acquisition of the Predecessor, the Company recorded a net deferred tax liability in the amount of approximately $3.0 million relating to the difference in the book basis and tax basis of its assets and liabilities. Approximately $3.1 million 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.

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.

(7) Stockholders' Equity – Predecessor Periods

(a) Common Stock and Authorized Capital

The Predecessor was acquired by MyFamily on December 22, 2000 and held as a wholly-owned subsidiary until June 1, 2001. Prior to being acquired by MyFamily, the Predecessor was owned by a group of employee shareholders ("Predecessor Shareholders"). On June 1, 2001, approximately 80% of the Predecessor's ownership was reacquired from MyFamily by the Predecessor Shareholders in exchange for 454,437 shares of MyFamily common stock. The Predecessor's articles of incorporation for the period from December 22, 2000 to May 31, 2001 provided for 1,000 shares of common stock authorized and issued, no par value.

Immediately prior to the MyFamily share exchange on June 1, 2001, the articles of incorporation were amended to increase the authorized number of common shares to 35,000,000 and to designate 30,496,112 shares as Class A common stock and 4,503,888 shares as Class B common stock. The 1,000 shares previously issued and outstanding were converted into 18,015,552 shares of Class A common stock and 4,503,888 shares of Class B common stock, through a stock split of 18,015.552 Class A shares and 4,503.888 Class B shares for each outstanding share. An additional 548,848 Class A common shares were issued to Predecessor Shareholders in connection with the re-acquisition. The effect of the stock split has been retroactively reflected as of the beginning of the period. MyFamily retained 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

During 2001 and 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. The Predecessor 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 $1,000, $8,000, $1,000, and $5,000 was recognized as stock compensation expense related to these options during the years ending December 31, 2001 and 2002, the period from January 1 to February 28, 2003, and the nine month period ended September 30, 2002, respectively.

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

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 years ended December 31, 2001 and 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 ranging from 1.5 to 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
Plan adoption (June 2001)	8,000,000	—		
Granted below fair value	(105,000)	105,000	$ 0.005	$ 0.101
Granted equal or above fair value	(4,222,048)	4,222,048	0.005	0.002
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 or 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.

(8) 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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. 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.

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 $21,083,000 at September 30, 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 $910,000 or $0.14 per share at September 30, 2003. The board of directors has not declared any dividends as of September 30, 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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 increases, up to a maximum of 8,000,000 shares as follows: an annual increase 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 preferred stock of the Company). Generally, stock options have 10-year terms and vest 25% at the end of each year over a 4 year period.

In connection with the purchase of eFamily.com, Inc., 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 eFamily.com. 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 September 30, 2003 for these 125,000 options were approximately $603,000.

During the period from January 17, 2003 (inception) to September 30, 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 $944,000 was recognized as stock compensation expense during the period January 17, 2003 (inception) to September 30, 2003 and approximately $1,159,000 remained as deferred compensation at September 30, 2003, which will continue to be amortized over the vesting period of the options.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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 September 30, 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 weighted-average fair value of stock options granted during the period from January 17, 2003 (inception) to September 30, 2003 was $2.14 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 of 111%, for employee and director grants, an expected life of 4 years for employees, and for consultants, an expected life of 10 years. At September 30, 2003, there were 1,305,150 additional shares available for grant under the Plan.

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	(273,350)	273,350	IPO price	3.27
Balance at September 30, 2003	1,305,150	2,694,850	$ 1.67 – IPO price	2.14

The Company granted 273,350 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 September 30, 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	9.41	291,667	$ 0.75
$3.00	987,500	9.58	—	—
IPO price	273,350	9.76	—	—
$ 1.67 –IPO price	2,694,850	9.51	291,667	0.75

A total of 416,667 of the outstanding options were vested at September 30, 2003 of which 125,000 were held in escrow as security for the indemnification obligations under the merger agreement and were are not exercisable.

(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 September 30, 2003.

(9) 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.

(10) 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.

(11) 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.

(12) 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 performance-based contingent payments that depend on the achievement of minimum income before tax thresholds in calendar year 2003 and 2004 of the business acquired from the Predecessor. The payment of the performance amounts is based on the formula of 69.44% of the acquired businesses' 2003 and 2004 income before taxes up to an aggregate maximum payout cap of $12,500,000. In the event income before taxes does not exceed $3,500,000 for 2003 or 2004, then no amount shall be payable for the related period. The contingent payments, if made, will be accounted for as additional goodwill.

In addition, if the minimum $3,500,000 thresholds above are achieved, a payment of 5.56% of the acquired businesses income 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 (management retention amounts). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of calendar years 2003 and 2004. At September 30, 2003, in consideration of

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

the assessed probability of payment, no amounts were accrued for the management retention on contingent purchase price amounts.

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 $8,400,000 of acquired intangible assets has 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 $8,736,783 of goodwill is not deductible for tax purposes.

The results of Predecessor's operations are included in the pro forma information presented in Note 15.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(13) Acquired Identifiable Intangible Assets

Intangible assets at September 30, 2003 consist of the following:

Merchant advertiser customer base	$ 700,000
Distribution partner base	900,000
Non-compete agreements	1,100,000
Trademarks/domains	400,000
Acquired technology	5,300,000
	8,400,000
Less accumulated amortization	(2,028,244)
Total	$ 6,371,756

Aggregate amortization expense for the period from January 17 (inception) to September 30, 2003 was approximately $2,028,000. Estimated amortization expense for the next three years is approximately: $869,000 throughout the remainder of 2003, $3,477,000 in 2004, $1,943,000 in 2005 and $83,000 in 2006.

(14) Subsequent Events

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 75% of the holders. These shares were valued at $6.75 per share and the associated redemption right was recorded at an estimated fair value of $80,750, which will be reflected as a liability at fair value, until such time as the redemption right expires or the shares are redeemed. 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.

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 two and a half years. 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

The purchase price excludes performance-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 performance 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 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 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.

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	5,303,097
Total assets acquired	8,053,774
Current liabilities	826,095
Non-current deferred tax liabilities	511,968
Total liabilities assumed	1,338,063
Net assets acquired	$ 6,715,711

The $1,300,000 of acquired intangible assets has a weighted average useful life of approximately 2.4 years. The identifiable intangible assets 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 $5,303,097 of goodwill is 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.

(15) 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 occurred as of the beginning of each of the periods presented. The following pro forma results of operations are based upon historical results of operations of the Predecessor only for the year-ended December 31, 2002 and in 2003, the historical results of operations of the Predecessor for the period January 1 to February 28, 2003 and the historical results of operations of the Company for the period from January 17 (inception) to September 30, 2003.

	Year ended December 31, 2002	January 2003 to September 30, 2003
Revenue	$ 10,070,507	15,502,548
Net loss	$ (3,105,883)	(1,535,098)
Net loss applicable to common stockholders	$ (3,105,883)	(2,446,718)
Net loss per share applicable to common stockholders		
Basic and diluted loss per share	$	(0.19)

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 (inception) to September 30, 2003, the Predecessor for the two months ended February 28, 2003, and TrafficLeader for the nine-month period ended September 30, 2003.

	Year ended December 31, 2002	January 2003 to September 30, 2003
Revenue	$ 14,075,109	19,488,704
Net loss	$ (3,879,332)	(2,133,743)
Net loss applicable to common stockholders	$ (3,879,332)	(3,045,363)
Net loss per share applicable to common stockholders		
Basic and diluted loss per share	$	(0.22)

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.

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 ("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, and directories.

(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.

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 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

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.

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

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.

(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

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

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.

(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.

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

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. 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 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

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

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.

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 delivered

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.

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

(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. 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.

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

(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.

(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.

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 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	

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 75% of the holders.

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 performance-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 performance 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. In the event income 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.

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 (as management retention amounts). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of calendar years 2003 and 2004. 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 September 30, 2003, all goodwill, identifiable intangible assets and liabilities resulting, exclusive of 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 year ended December 31, 2002 and 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 75% of the holders. 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 performance-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 performance-based payment to the former shareholders up to a maximum $1 million. These contingent payments, if made, will be accounted for as additional goodwill. 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 balance sheet as of September 30, 2003 gives effect to the acquisition of TrafficLeader as if it had occurred on September 30, 2003. The unaudited pro forma condensed consolidated balance sheet is based on historical balances of the Company and TrafficLeader as of September 30, 2003. The following unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2002 and the nine months ended September 30, 2003 give effect to the Company's acquisition of the Predecessor, and the acquisition of TrafficLeader as if they had occurred on January 1, 2002.

The unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2002 are based upon the historical results of the Predecessor and TrafficLeader for the year ended December 31, 2002. The unaudited pro forma condensed consolidated statements of operations for the nine month period ended September 30, 2003 are based upon the historical results of operations of the Company for the period from January 17 (inception) through September 30, 2003, the Predecessor for the period from January 1 through February 28, 2003 and TrafficLeader for the nine month period ended September 30, 2003. The unaudited pro forma condensed consolidated financial statements 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, 2002, nor is it necessarily indicative of results that may occur in the future.

Marchex, Inc.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED BALANCE SHEET
As of September 30, 2003

	Marchex, Inc.	TrafficLeader, Inc.	Pro Forma Adjustments	Pro Forma Combined
Assets				
Current assets:				
Cash and cash equivalents	$ 8,168,341	$ 473,210	$ (2,972,199)(a)	$ 5,232,676
			(427,801)(a)	
			91,125(a)	
			(100,000)(a)	
Trade accounts receivable, net	768,232	639,289	—	1,407,521
Other receivables	4,617	—	—	4,617
Prepaid expenses	88,781	8,646	—	97,427
Income tax receivable	385,329	—	—	385,329
Deferred tax assets	119,573	—	26,546(a)	146,119
Other current receivables	38,870	—	—	38,870
Total current assets	9,573,743	1,121,145	(3,382,329)	7,312,559
Property and equipment, net	672,533	279,291	—	951,824
Other assets	158,868	4,077	(119,431)(a)	43,514
Goodwill	8,736,783	—	5,297,740(a)	14,034,523
Other intangible assets, net	6,371,756	—	1,300,000(a)	7,671,756
	15,939,940	283,368	6,478,309	22,701,617
Total assets	$ 25,513,683	$ 1,404,513	$ 3,095,980	$ 30,014,176
Liabilities and Stockholders' Equity (Deficit)				
Current Liabilities:				
Accounts payable	$ 1,788,074	$ 503,935	$ —	$ 2,292,009
Accrued payroll and benefits	157,129	163,938	—	321,067
Accrued expenses and other current liabilities	579,277	97,677	50,569(a)	727,523
Deferred revenue	763,856	39,601	(12,904)(a)	790,553
Total current liabilities	3,288,336	805,151	37,665	4,131,152
Deferred tax liabilities	1,775,855	—	511,968(a)	2,287,823
Deferred revenue	31,541	—	—	31,541
Other non-current liabilities	3,616	—	—	3,616
Fair value of redemption obligation	—	—	80,750(a)	80,750
Series A redeemable convertible preferred stock	21,033,137	—	—	21,033,137
Total liabilities	26,132,485	805,151	630,383	27,568,019
Stockholders' equity (deficit):				
Common stock	—	301,700	(301,700)(b)	—
Common stock—Class A	122,500	—	—	122,500
Common stock—Class B	10,050	—	4,250(a)	14,300
Restricted stock—Class B	—	—	291(a)	1,375
			1,084(c)	
Additional paid-in capital	2,746,734	387,847	(387,847)(b)	6,537,984
			3,060,418(a)	
			730,832(c)	
Deferred stock-based compensation	(1,159,308)	(8,490)	8,490(b)	(1,891,224)
			(731,916)(c)	
Accumulated deficit	(2,338,778)	(81,695)	81,695(b)	(2,338,778)
	(618,802)	599,362	2,465,597	2,446,157
Total liabilities and stockholders' equity (deficit)	$ 25,513,683	$ 1,404,513	$ 3,095,980	$ 30,014,176

See notes to unaudited pro forma condensed consolidated financial statements

Marchex, Inc.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
For the nine month period ended September 30, 2003

	Predecessor	Successor			
	Period from January 1 to February 28, 2003	Period from January 17, 2003 (inception) to September 30, 2003	TrafficLeader, Inc.	Pro Forma Adjustments	Pro Forma Combined
Revenue	$ 3,071,055	$ 12,431,493	$ 3,986,156	$ —	$ 19,488,704
Expenses:					
Service Costs (*)	1,732,813	6,806,021	3,045,991		11,584,825
Sales and marketing (*)	365,043	1,592,722	339,150		2,296,915
Product development (*)	144,479	844,399	125,292		1,114,170
General and administrative (*)	234,667	1,816,522	311,443		2,362,632
Stock-based compensation (**)	38,981	1,587,476	9,139	153,499 (h)	1,011,317
				(777,778) (j)	
Amortization of intangible assets (***)	—	2,028,244	—	579,500 (d)	2,872,749
				265,005 (f)	
Total operating expenses	2,515,983	14,675,384	3,831,015	220,226	21,242,608
Income (loss) from operations	555,072	(2,243,891)	155,141	(220,226)	(1,753,904)
Other income (expense)					
Interest income	1,529	33,502	416	—	35,447
Other income (expense)	—	—	(793)	—	(793)
Income (loss) before provision for income taxes	556,601	(2,210,389)	154,764	(220,226)	(1,719,250)
Income tax expense (benefit)	224,082	(783,231)	—	(216,200) (e)	(526,197)
				(101,613) (g)	
				63,998 (i)	
				286,767 (k)	
Net income (loss)	332,519	(1,427,158)	154,764	(253,178)	(1,193,053)
Accretion of redemption value of redeemable convertible preferred stock	—	911,620	—	—	911,620
Net Income (loss) applicable to common stockholders	$ 332,519	$ (2,338,778)	$ 154,764	$ (253,178)	$ (2,104,673)
Basic and diluted net loss per share applicable to common stockholders		$ (0.18)			$ (0.15)
Shares used to calculate basic and diluted net loss per share		13,203,398		496,236 (l)	13,699,634
Adjusted pro forma basic and diluted net loss per share applicable to common stockholders		$ (0.13)			$ (0.11)
Shares used to calculate adjusted pro forma basic and diluted net loss per share		18,605,173		496,236 (l)	19,101,409
(*) Excludes stock-based compensation and amortization of intangible assets					
(**) Components of stock-based compensation:					
Service costs	190	39,158	2,954	(21,000)	21,302
Sales and marketing	715	316,574	2,891	(138,445)	181,735
Product development	37,710	164,070	2,901	(52,111)	152,570
General and administrative	366	1,067,674	393	(412,723)	655,710
(***) Components of amortization of intangible assets:					
Service costs	—	1,503,244	—	694,505	2,197,749
Sales and marketing	—	204,167	—	58,300	262,467
Product development	—	—	—	—	—
General and administrative	—	320,833	—	91,700	412,533

See notes to unaudited pro forma condensed consolidated financial statements

Marchex, Inc.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
For the year ended December 31, 2002

	Predecessor	TrafficLeader, Inc.	Pro Forma Adjustments	Pro Forma Combined
Revenue	$ 10,070,507	$ 4,004,602	$ —	$ 14,075,109
Expenses:				
Service Costs (*)	6,334,173	2,986,685	—	9,320,858
Sales and marketing (*)	1,821,237	322,106	—	2,143,343
Product development (*)	811,673	102,358	—	914,031
General and administrative (*)	976,881	380,408	—	1,357,289
Stock-based compensation (**)	364,693	24,474	475,745(h)	2,198,245
			1,333,333(j)	
Amortization of intangible assets (***)	—	—	3,477,000(d)	4,130,300
	—	—	653,300(f)	
Total operating expenses	10,308,657	3,816,031	5,939,378	20,064,066
Income (loss) from operations	(238,150)	188,571	(5,939,378)	(5,988,957)
Other income (expense)				
Interest income	5,491	—	—	5,491
Other income (expense)	—	(1,785)	—	(1,785)
Income (loss) before provision for income taxes	(232,659)	186,786	(5,939,378)	(5,985,251)
Income tax expense (benefit)	(142,876)	—	(1,296,900)(e)	(2,105,919)
			(250,600)(g)	
			81,790(i)	
	—	—	(497,333)(k)	—
Net income (loss)	(89,783)	186,786	(3,976,335)	(3,879,332)
Accretion of redemption value of redeemable convertible preferred stock	—	—	—	—
Net Income (loss) applicable to common stockholders	$ (89,783)	$ 186,786	$ (3,976,335)	$ (3,879,332)

(*) Excludes stock-based compensation and amortization of intangible assets

(**) Components of stock-based compensation				
Service costs	3,161	12,412	36,000	51,573
Sales and marketing	148,669	4,209	237,333	390,211
Product development	57,078	6,823	89,333	153,234
General and administrative	155,785	1,030	1,446,412	1,603,227
(***) Components of amortization of intangible assets				
Service costs	—	—	2,930,300	2,930,300
Sales and marketing	—	—	650,000	650,000
Product development	—	—	—	—
General and administrative	—	—	550,000	550,000

See notes to unaudited pro forma condensed consolidated financial statements

Marchex, Inc.

Notes To Unaudited Pro Forma Condensed Consolidated Financial Statements

Pro Forma Adjustments.

The following adjustments were applied to the historical financial statements of the Company, the Predecessor and TrafficLeader to arrive at the unaudited pro forma condensed consolidated financial information:

(a) The purchase price adjustments reflect cash and direct acquisition costs of approximately $3.6 million to acquire TrafficLeader. Additionally, the Company issued 425,000 shares of Class B common stock subject a redemption right. The shares were valued at $6.75 per share and the associated redemption right was recorded at an estimated fair value of $80,750. In the event that the Company 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 (aggregate redemption amount of $3.4 million) upon the affirmative vote of 75% of the holders. The Company will reflect for the redemption right as a liability until such time as the right is exercised or expires.

For purposes of the pro forma financial information a summary of the purchase price consideration for the acquisition is as follows:

Cash	$ 2,972,199
Stock issued, including restricted shares valued at $196,209	3,064,959
Direct acquisition costs ($119,431 incurred prior to closing, $427,801 paid at closing and $50,569 accrued at closing)	597,801
Fair value of redemption obligation	80,750
Total	$ 6,715,709

The following represents the allocation of the purchase price to the acquired assets of TrafficLeader. The allocation is based upon TrafficLeader's assets and liabilities as of September 30, 2003.

Cash acquired	$ 464,335
Other current assets	674,481
Property and equipment	279,291
Other non-current assets	4,077
Goodwill	5,297,740
Identifiable intangible assets	1,300,000
Liabilities assumed	(1,304,215)
Total	$ 6,715,709

The net assets of $599,362, recorded on the TrafficLeader historical financial statements at September 30, 2003, were primarily adjusted and increased for the reduction in deferred revenue of $12,904, current deferred tax assets of $26,546, and $91,125 in proceeds for the exercise of stock options that occurred in contemplation of the acquisition; and decreased by a $100,000 dividend paid to the TrafficLeader stockholders in the contemplation of the acquisition, and by $511,968 in non-current deferred tax liabilities.

Goodwill represents the excess of the purchase price over the fair value of tangible and identifiable intangible assets. The unaudited pro forma condensed consolidated statements of operations do not reflect the amortization of goodwill acquired consistent with the guidance in the Financial Accounting Standards Board (FASB), Statement No. 142, Goodwill and Other Intangible Assets.

Marchex, Inc.

Notes to Unaudited Pro Forma Condensed Consolidated Financial Statements—(Continued)

The Company and TrafficLeader have not given effect in the pro forma statements of operations to deferred revenue adjustments on revenue because the effect is non-recurring.

(b) Represents the elimination of the historical stockholders' equity accounts of TrafficLeader.

(c) To record the issuance of restricted stock to certain TrafficLeader employees.

(d) 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 and $6.1 million in the first twelve months and twenty-one months, respectively, following the acquisition.

(e) Represents the deferred income tax benefit associated with the amortization of intangibles in connection with the Company's acquisition of the Predecessor.

(f) 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 and $918,000 in the first twelve months and twenty-one months, respectively, following the acquisition.

(g) Represents the deferred income tax benefit associated with the amortization of intangibles in connection with the acquisition of TrafficLeader.

(h) 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 and $629,000 in amortization in the first twelve months and twenty-one months, respectively, following the acquisition.

(i) 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.

(j) 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 and $983,333 in amortization for the first twelve months and twenty-one months, respectively. The Company, for the period from January 17 (inception) to September 30, 2003, recorded approximately $1,028,000 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 indemnication 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 Financial Statements—(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 September 30, 2003 for these 125,000 options were approximately $602,000. Of the $602,000, 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.

(k) Represents the deferred income tax expense (benefit) associated with the recognition of stock-based compensation adjustments for options issued to employees of Enhance Interactive.

(l) 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 nine month period ended September 30, 2003 follows. Potentially dilutive securities were not included in the computations because their effects would be anti-dilutive.

	Historical basic and diluted	Adjusted Pro Forma basic and diluted
Shares used to calculate net loss per share	13,203,398	18,605,173
Shares issued in TrafficLeader acquisition subject to redemption right	425,000	425,000
Restricted shares issued in TrafficLeader acquisition	29,068	29,068
Weighted average restricted shares issued in TrafficLeader acquisition for services expected to vest during the period	42,168	42,168
Shares used to calculate adjusted pro forma basic and diluted net loss per share	13,699,634	19,101,409

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.

The adjustment resulted in an additional 5,401,775 shares used to calculate pro forma basic and diluted net loss per share.

Marchex, Inc.

Notes to Unaudited Pro Forma Condensed Consolidated Financial Statements—(Continued)

(m) 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 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.

(n) Other information.

The purchase price for Enhance Interactive ("Predecessor") excludes performance-based contingent payments that depend on Enhance Interactive's achievement of minimum income before tax thresholds in calendar year 2003 and 2004. The payment of the performance amounts is based on the formula of 69.44% of the Enhance Interactive's 2003 and 2004 income before taxes up to an aggregate maximum payout cap of $12.5 million. In the event income 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.

In addition, if the individual $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 current employees of Enhance Interactive (management retention amounts). These amounts will be accounted for as compensation. The threshold determination is calculated separately for each of calendar years 2003 and 2004.

Estimated amortization relating to intangible assets acquired as part of the acquisition of Enhance Interactive for the next five years is: $869,000 in 2003, $3.5 million in 2004, $1.9 million in 2005 and $83,000 in 2006.

The purchase price for TrafficLeader excludes performance-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, 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 paid under this provision will be accounted for as additional goodwill.

In the event there is a change in control of the Company or TrafficLeader, or the termination without cause or resignation for good reason of both 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.

Estimated amortization relating to intangible assets acquired as part of the acquisition of TrafficLeader for the next five years is: $123,000 in 2003, $597,000 in 2004, $353,000 in 2005 and $227,000 in 2006.

Table of Contents

[BACK COVER]

Dealer Prospectus Delivery Obligation

Until , 2004, 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 intend to enter into indemnification agreements with each of our directors prior to the consummation of the offering.

Item 25. ***Other Expenses of Issuance and Distribution***

The following table sets forth the estimated 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.:

	Amount to be Paid
SEC registration fee	$
NASD filing fee	
NASDAQ National Market listing fee	
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue sky fees and expenses	*
Transfer agent and registrar fees and expenses	*
[Director & Officer liability insurance premium]	*
Miscellaneous fees and expenses	*
Total	$ *

* To be completed by amendment.

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, 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) 461,050 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	Form of Underwriting Agreement.
@2.1	Agreement and Plan of Merger 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, dated as of February 19, 2003.
@2.2	Agreement and Plan of Merger by and among Registrant, Sitewise Acquisition Corporation, TrafficLeader, Inc., the Shareholders of TrafficLeader, Inc. and Gerald Wiant, as Shareholder Representative, dated as of October 1, 2003.
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	Certificate of Amendment to the Certificate of Incorporation of the Registrant.
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.
*5.1	Opinion of Nixon Peabody LLP.
10.1	2003 Stock Incentive Plan.
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.
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.

Number	Description
10.7	Executive Employment Agreement by and between Russell C. Horowitz and the Registrant, dated as of January 17, 2003.
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 (see Page II-5).

* To be filed by amendment

@ Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-B. The Registrant hereby undertakes to furnish supplementally copies of any of the omitted schedules and exhibits upon request by the Securities and Exchange Commission.

(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 registration statement to be signed on its behalf by the undersigned, in the City of Seattle, State of Washington on December 11, 2003.

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Chairman and Chief Executive Officer

POWER OF ATTORNEY

We, the undersigned officers and directors of Marchex, Inc., hereby severally constitute and appoint Russell C. Horowitz and Michael A. Arends, and each of them singly, our true and lawful attorneys, with full power to them and each of them to sign for us in our names in the capacities indicated below, all pre-effective and post-effective amendments to this registration statement and any related subsequent registration statement pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and generally to do all things in our names and on our behalf in such capacities to enable Marchex, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission.

In accordance with the requirements of the Securities Act of 1933, this registration statement was signed by the following persons in the capacities and on the dates indicated:

Signature	Date
/s/ RUSSELL C. HOROWITZ **Russell C. Horowitz** **Chairman and Chief Executive Officer**	December 11, 2003
/s/ MICHAEL A. ARENDS **Michael A. Arends** **Chief Financial Officer**	December 11, 2003
/s/ JOHN KEISTER **John Keister** **President, Chief Operating Officer and Director**	December 11, 2003
/s/ DENNIS CLINE **Dennis Cline** **Director**	December 11, 2003
/s/ JONATHAN FRAM **Jonathan Fram** **Director**	December 11, 2003
/s/ RICK THOMPSON **Rick Thompson** **Director**	December 11, 2003

Table of Contents

EXHIBIT INDEX

Number	Description
*1.1	Form of Underwriting Agreement.
@2.1	Agreement and Plan of Merger 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, dated as of February 19, 2003.
@2.2	Agreement and Plan of Merger by and among Registrant, Sitewise Acquisition Corporation, TrafficLeader, Inc., the Shareholders of TrafficLeader, Inc. and Gerald Wiant, as Shareholder Representative, dated as of October 1, 2003.
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	Certificate of Amendment to the Certificate of Incorporation of the Registrant.
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.
*5.1	Opinion of Nixon Peabody LLP.
10.1	2003 Stock Incentive Plan.
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.
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 by and between Russell C. Horowitz and the Registrant, dated as of January 17, 2003.
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 (see Page II-5).

* To be filed by amendment

@ Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-B. The Registrant hereby undertakes to furnish supplementally copies of any of the omitted schedules and exhibits upon request by the Securities and Exchange Commission.

Exhibit 2.1

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER
BY AND AMONG
MARCHEX, INC.
MARCHEX ACQUISITION CORPORATION
EFAMILY.COM, INC., AH-HA.COM, INC.
THE PRINCIPAL STOCKHOLDERS OF EFAMILY.COM, INC.
AND WITH RESPECT TO ARTICLES II AND XII ONLY
PAUL J. BROCKBANK, AS STOCKHOLDER REPRESENTATIVE
DATED FEBRUARY 19, 2003

TABLE OF CONTENTS

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (the "Agreement") dated as of February 19, 2003 by and among Marchex, Inc., a corporation organized under the laws of the State of Delaware (the "Parent"), Marchex Acquisition Corporation, a corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of the Parent (the "Acquisition Corp."), eFamily.com, Inc., a corporation organized under the laws of the State of Utah (the "Company"), ah-ha.com, Inc., a corporation organized under the laws of the State of Utah and a wholly-owned subsidiary of the Company (the "Company's Subsidiary"), and Paul J. Brockbank, Christopher P. Stevens and Jay R. Bean (the "Principal Stockholders") and with respect to Article II and Article XII hereof, Paul J. Brockbank (the "Stockholder Representative"), each of whom are identified on the signature pages hereto.

WHEREAS, the respective Boards of Directors of the Parent, Acquisition Corp., the Company and the Company's Subsidiary have approved the merger of Acquisition Corp. with and into the Company (the "Merger"), pursuant to which the Company will be the surviving corporation and the holders of all shares of capital stock of the Company (the "Stockholders" and the Stockholders shall include the Principal Stockholders except as otherwise provided herein) immediately prior to the Merger will be entitled to receive the consideration provided for in this Agreement, all upon the terms and subject to the conditions set forth herein; and

WHEREAS, as a condition and inducement to Parent's willingness to enter into this Agreement, the Principal Stockholders have signed this Agreement and have signed and delivered herewith to Parent irrevocable proxies or written consents adopting and approving this Agreement, the Merger and the other transactions contemplated hereby.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements set forth herein, and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I

THE MERGER

1.1 The Merger. (a) At the Effective Time (as defined in Section 1.2), and subject to and upon the terms and conditions of this Agreement, the Utah Revised Business Corporation Act (the "URBCA") and the Delaware General Corporation Law (the "DGCL"), Acquisition Corp. shall be merged with and into the Company, the separate existence of Acquisition Corp. shall cease, and the Company shall continue as the surviving corporation. The Company as the surviving corporation after the Merger is hereinafter sometimes referred to as the "Surviving Corporation."

(b) Closing. Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned pursuant to Article XI and subject to the satisfaction or waiver of the conditions set forth in Articles IX and X, the consummation of the Merger (the "Closing") will take place as promptly as practicable (and in any event within

two (2) business days) after satisfaction or waiver of the conditions set forth in Articles IX and X, at the offices of Nixon Peabody LLP, 101 Federal Street, Boston, Massachusetts, unless another date, time or place is agreed to in writing by the Company and the Parent. The date of such Closing is referred to herein as the "Closing Date."

1.2 Effective Time. As promptly as practicable after the satisfaction or waiver of the conditions set forth in Articles IX and X, the parties hereto shall cause the Merger to be consummated by filing articles or certificates of merger as contemplated by the URBCA and DGCL in the forms of Exhibit A-l and A-2 attached hereto (the "Certificates of Merger"), together with any required related certificates, with the Department of Commerce, Division of Corporations and Commercial Code of the State of Utah (the "Division") and the Secretary of State of the State of Delaware, in such form as required by, and executed in accordance with the relevant provisions of, the URBCA and the DGCL (the time of such filing being the "Effective Time").

1.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement, the Certificates of Merger and the applicable provisions of the URBCA and the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all the property, rights, privileges, powers and franchises of the Company and Acquisition Corp. shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Acquisition Corp. shall become the debts, liabilities and duties of the Surviving Corporation.

1.4 Articles of Incorporation; By-Laws.

(a) Articles of Incorporation. Unless otherwise determined by the Parent prior to the Effective Time, at the Effective Time, the Articles of Incorporation of the Company, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended in accordance with the URBCA and such Articles of Incorporation.

(b) By-Laws. Unless otherwise determined by the Parent prior to the Effective Time, the By-Laws of the Company, as in effect immediately prior to the Effective Time, shall be the By-Laws of the Surviving Corporation until thereafter amended in accordance with the URBCA, the Articles of Incorporation of the Surviving Corporation and such By-Laws.

1.5 Directors and Officers. The directors of Acquisition Corp. immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and By-Laws of the Surviving Corporation, and the officers of the Acquisition Corp. immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed and qualified.

1.6 Additional Actions. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other acts or things are necessary or desirable to vest, perfect or confirm, of record or

otherwise, in the Surviving Corporation, its right, title or interest in or to any of the rights, properties or assets of Acquisition Corp., the Company or the Company's Subsidiary acquired or to be acquired by reason of, or as a result of, the Merger, or otherwise to carry out the purposes of this Agreement, the Surviving Corporation and its proper officers and directors shall be authorized to execute and deliver, in the name and on behalf of Acquisition Corp., the Company or the Company's Subsidiary, all such deeds, bills of sale, assignments and assurances and to do, in the name and on behalf of Acquisition Corp., the Company or the Company's Subsidiary, all such other acts and things necessary or desirable to vest, perfect or confirm any and all right, title or interest in, to or under such rights, properties or assets in the Surviving Corporation or otherwise to carry out the purposes of this Agreement.

1.7 Withholding. Parent, the Surviving Corporation or the Company shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any holder or former holder of Company Capital Stock (as defined herein) pursuant to this Agreement and from any holder or former holder of Company Stock Options (as hereinafter defined) with respect to the exercise or termination of such Company Stock Options, including any Company Stock Options that have already been exercised, such amounts as Parent, the Surviving Corporation or the Company may be required to deduct or withhold therefrom under the Internal Revenue Code of 1986, as amended (the "Code") or under any provision of state, local or foreign tax law. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid.

ARTICLE II

CONSIDERATION; CONVERSION OF SHARES

2.1 Merger Consideration. Except as set forth in Section 2.2(e) hereof, the consideration payable in the Merger to the holders of shares of the Company's Class A Common Stock, no par value per share (the "Class A Common Stock"), and the Company's Class B Common Stock, no par value per share (the "Class B Common Stock" and, collectively with the Class A Common Stock, the "Company Capital Stock"), shall consist of cash which such cash is to be issuable at the Closing and from time to time thereafter pursuant to Section 2.2(a)(ii) in accordance with the terms of this Agreement. Such cash which shall be payable at the Closing as provided herein shall in the aggregate be referred to as the "Initial Merger Consideration". The calculation of the Initial Merger Consideration assumes that as of the Closing Date, each of the Company and the Company's Subsidiary shall be debt-free enterprises (other than trade payables incurred in the ordinary course of business). The amount of Initial Merger Consideration shall be reduced at the Closing, dollar for dollar, to the extent of any debt (other than trade payables incurred in the ordinary course of business) or negative working capital of the Company or the Company's Subsidiary (in accordance with standard accounting principles or generally accepted accounting principles) as of the Closing Date. For the purposes of this Agreement, generally accepted accounting principles shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting

Standards Board and rules promulgated by the United States Securities and Exchange Commission and its related interpretations or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination ("GAAP").

2.2 Conversion of Shares.

(a) Conversion of Shares. (i) Each share of Company Capital Stock issued and outstanding as of the Effective Time (other than shares owned by holders who have properly exercised their rights of appraisal within the meaning of Part 13 of the URBCA ("Dissenting Shares")) shall, by virtue of the Merger and without any action on the part of the holder thereof, automatically be converted into (A) an amount in cash equal to the quotient obtained by dividing (x) $15,000,000 by (y) the total number of Fully Diluted Shares (as herein defined) as of the Effective Time. Such resulting quotient is referred to herein as the "Exchange Ratio." "Fully Diluted Shares" shall be equal to the total number of outstanding shares of Company Capital Stock, immediately prior to the Closing Date, calculated on a fully diluted, fully converted basis as though all convertible debt and equity securities and options (whether vested or unvested) and warrants had been converted or exercised. Schedule 2.2 attached hereto sets forth, with respect to the Initial Merger Consideration, (i) the Exchange Ratio and (ii) the aggregate cash payment to be paid in connection with the Merger, with the allocation among the Stockholders.

(ii) The Initial Merger Consideration will be increased as more specifically described in Schedule 2.2 by payment of the cash earnout consideration (the "Cash Earnout Consideration") and the management retention consideration (the "Management Retention Consideration"), as the case may be, in the event that in each of calendar year 2003 and calendar year 2004 (each, a "Fiscal Period") described in Schedule 2.2 the Surviving Corporation achieves the specified amounts of Earnings Before Taxes (as defined herein) for each such Fiscal Period. The Earnings Before Taxes (as defined herein) will be computed by Parent, in accordance with standard accounting principles or GAAP within sixty (60) days of the end of each such Fiscal Period. Providing no objections are made pursuant to this Section 2.2, such additional consideration shall be paid within fifteen (15) days after the earlier of the (i) expiration of the objection period provided below or (ii) receipt of written notice from the Stockholder Representative that no objection will be made, otherwise such payment shall be made upon resolution of any such objection. The additional consideration will be allocated in accordance with Schedule 2.2. For purposes of this Section 2, the term "Earnings Before Taxes" shall mean earnings of the Company (or the Surviving Corporation, as the case may be, as applicable through the remainder of this paragraph) before provision for income taxes or any Cash Earnout Consideration or Management Retention Consideration, as the case may be, which shall include, the deduction of any base salary, any deferred salary, any bonuses, and any severance payments (as such terms are defined in the Employment Agreement as defined herein) and paid to the Key Employee (as defined herein) and in accordance with the terms and conditions of the Employment Agreement or paid pursuant to any future employment agreements with other key employees. Parent shall in good faith reasonably allocate costs and expenses to the Company which shall be deducted from the earnings of the Company in the calculation of Earnings Before Taxes commensurate with products, services, and/or benefits provided to, or on

behalf of, the Company. Notwithstanding the foregoing, Parent agrees not to allocate to the Company any salaries or benefits of Russell C. Horowitz, John Keister, Victor Oquendo, Peter Christothoulou or Ethan Caldwell or any rent or utilities for office space of Parent.

At such time as the Surviving Corporation's Earnings Before Taxes are determined for each such Fiscal Period described above in this Section 2.2(a)(ii) (and, in any event, within sixty (60) days of the end of such Fiscal Period), Parent shall provide the Stockholder Representative with a written statement setting forth the calculation of such Earnings Before Taxes for each such Fiscal Period. In the event that the Stockholder Representative does not object to the determination by Parent of such Earnings Before Taxes by written notice of objection (the "Notice of Objection") delivered to Parent within thirty (30) days after the Stockholder Representative's receipt of such determination, such Notice of Objection to describe in reasonable detail the Stockholder Representative's proposed adjustments to the proposed Earnings Before Taxes determination, the proposed Earnings Before Taxes for each such Fiscal Period shall be deemed final and binding.

If the Stockholder Representative does deliver a Notice of Objection to Parent, then the dispute shall be resolved as follows:

(V) The Stockholder Representative and Parent shall promptly endeavor to agree upon the calculation of Earnings Before Taxes for such Fiscal Period. In the event that a written agreement determining the amount of Earnings Before Taxes has not been reached within twenty (20) days after the date of receipt by Parent from the Stockholder Representative of the Notice of Objection thereto, then Parent's determination of Earnings Before Taxes and the Notice of Objection shall be submitted to a nationally recognized firm of certified public accountants mutually acceptable to Parent and the Stockholder Representative (the "Arbitrator").

(W) Within thirty (30) days of the submission of any dispute concerning the determination of Earnings Before Taxes to the Arbitrator, the Arbitrator shall render a decision in accordance with this Section 2.2(a)(ii) along with a statement of reasons therefor. The decision of the Arbitrator shall be final and binding upon the parties hereto.

(X) The fees and expenses of the Arbitrator for any determination under this Section 2.2(a)(ii) shall be borne equally by Parent, on the one hand, and all the Stockholders on the other hand, such fees attributable to the Stockholders to be deducted from any amounts to be paid to the Stockholders pursuant to this Section 2.2(a)(ii).

(Y) In determining Earnings Before Taxes, Parent shall provide the Stockholder Representative and his, her or its representatives reasonable access to the books and records of the Surviving Corporation and Parent, and Parent shall (and shall cause the Surviving Corporation to) cooperate with the Stockholder Representative and

his, her or its representatives in their analysis and determination of Earnings Before Taxes.

(Z) Parent shall, and shall cause the Surviving Corporation to, maintain the Surviving Corporation as a separate entity with separate internal financial reporting until December 31, 2004.

(b) Treasury Shares. Each share of Company Capital Stock held in the Company's treasury as of the Effective Time, if any, shall, by virtue of the Merger, be canceled without payment of any consideration therefor.

(c) Stock Options. Each outstanding option to purchase shares of Company Capital Stock (each a "Company Stock Option"), which has already vested, shall have been exercised prior to the Effective Time. In connection with the exercise of any such Company Stock Option, the Company shall withhold the requisite amount for tax purposes as provided in Section 1.7 hereof. Each outstanding Company Stock Option, not already vested and outstanding immediately prior to the Effective Time, shall be cancelled at the Effective Time without the payment of any consideration therefor, and shall be of no further force and effect, without any assumption thereof.

(d) Acquisition Corp. Shares. Each share of common stock, par value $0.01 per share, of Acquisition Corp. issued and outstanding as of the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, automatically be converted into one fully paid and nonassessable share of common stock of the Surviving Corporation, as such shares of common stock are constituted immediately following the Effective Time.

(e) Dissenting Shares. Any Dissenting Shares shall be converted into the right to receive such consideration as may be determined to be due with respect to each such Dissenting Share pursuant to Part 13 of the URBCA; provided, however, that Dissenting Shares held by a holder who shall, after the Effective Time of the Merger, withdraw his demand for appraisal or lose his right of appraisal as provided in Part 13 of the URBCA, shall be deemed to be converted, as of the Effective Time of the Merger, into the right to receive such holder's pro rata portion of the Initial Merger Consideration in accordance with the procedures specified in Section 2.3. The Company shall give Parent (i) prompt notice of any written demands for appraisal, withdrawals of demands for appraisal and any other instruments served pursuant to Part 13 of the URBCA received by the Company and (ii) the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under Part 13 of the URBCA. The Company will not voluntarily make any payment with respect to any demands for appraisal and will not, except with the prior written consent of Parent, settle or offer to settle any such demands.

2.3 Exchange of Certificates.

(a) At the Effective Time or as soon as practicable thereafter and in any event within seven (7) days of the Closing, certificates (the "Certificates") representing all of the

issued and outstanding shares of Company Capital Stock shall be surrendered for cancellation and termination in the Merger. At the Effective Time, each Certificate shall be canceled in exchange for the amount of cash consideration allocated to each Stockholder pursuant to Section 2.2(a). The Initial Merger Consideration shall, to the extent Certificates have been surrendered, at Closing (or thereafter upon surrender of Certificates), be wired to an account designated by the Stockholder Representative (as such term is defined in, the Escrow Agreement) for further distribution by the Stockholder Representative pro rata to the Stockholders in the amounts set forth on Schedule 2.2 attached hereto, less ten percent (10.0%) thereof which shall be placed in escrow to satisfy the obligations pursuant to Article XII hereof and less any fees and expenses pursuant to Section 7.5. The surrender of Certificates shall be accompanied by duly completed and executed Letters of Transmittal in the form of Exhibit B attached hereto. Until surrendered with an executed Letter of Transmittal, each outstanding Certificate which immediately prior to the Effective Time represented shares of Company Capital Stock shall be deemed for all corporate purposes to evidence ownership of the amount of cash issuable upon conversion of such shares of Company Capital Stock, but shall, subject to applicable appraisal rights under the URBCA and Section 2.2(e), have no other rights. Subject to appraisal rights under the URBCA and Section 2.2(e), from and after the Effective Time, the holders of shares of Company Capital Stock shall cease to have any rights in respect of such shares and their rights shall be solely in respect of the amount of cash into which such shares of Company Capital Stock have been converted.

(b) If any cash is to be paid in the name of a person other than the person in whose name the Certificate(s) surrendered in exchange therefor is registered, it shall be a condition to the payment of such cash that (i) the Certificate(s) so surrendered shall be transferable, and shall be properly assigned, endorsed or accompanied by appropriate stock powers, (ii) such transfer shall otherwise be proper and (iii) the person requesting such transfer shall pay Parent, or its exchange agent, any transfer or other taxes payable by reason of the foregoing or establish to the reasonable satisfaction of Parent that such taxes have been paid or are not required to be paid. Notwithstanding the foregoing, neither Parent nor the Company shall be liable to a holder of shares of Company Capital Stock for cash paid to such holder pursuant to the provisions of Section 2.2(a) of this Agreement that are delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

(c) In the event any Certificate shall have been lost, stolen or destroyed, upon the making and delivery to Parent of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed, Parent shall issue in exchange for such lost, stolen or destroyed Certificate the cash issuable in exchange therefor pursuant to the provisions of Section 2.2(a) of this Agreement. Parent shall and as a condition precedent to the issuance thereof, require the owner of such lost; stolen or destroyed Certificate to provide to Parent an indemnity agreement against any claim that may be made against Parent with respect to the Certificate alleged to have been lost, stolen or destroyed. The delivery by a Stockholder to Parent of such affidavit and indemnity agreement, if any, shall be deemed for all purposes under this Agreement to be delivery of a Certificate representing all issued and outstanding shares of Company Capital Stock owned or held by such Stockholder.

2.4 Stock Transfer Books. At the Effective Time, the stock transfer books of the Company shall be closed, and there shall be no further registration of transfers of Company Capital Stock thereafter on the records of the Company.

2.5 No Further Ownership Rights in Company Stock. The amount of cash delivered upon the surrender for exchange of shares of Company Capital Stock in accordance with the terms hereof and the payment of any additional amounts pursuant to Section 2.2(a)(ii) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares, and there shall be no further registration of transfers on the records of the Surviving Corporation of shares of Company Capital Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Article II.

2.6 Escrow. As soon as practicable after the Closing and in any event within ten (10) days after the Closing, Parent will deposit in escrow on behalf of the Stockholders an amount of cash which represents ten percent (10%) of the Initial Merger Consideration (which shall reduce the amount of cash otherwise issuable to the Stockholders (pro rata as to each such holder) under Section 2.2(a)) allocated among the Stockholders based on the number of shares of Company Capital Stock held immediately prior to the Effective Time and option agreements representing vested Management Options (as hereinafter defined) to purchase an aggregate of 125,000 shares of Parent Class B Common Stock (as hereinafter defined) (which shall reduce the Management Options otherwise issuable to certain key managers (pro rata as to each such optionee) of the Company's Subsidiary) (collectively, the "Escrow Deposit"). The Escrow Deposit shall be held by and registered in the name of U.S. Bank National Association, as Escrow Agent, as security for the indemnification obligations under Article XII pursuant to the provisions of an Escrow Agreement (the "Escrow Agreement") in the form of Exhibit C attached hereto.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY, THE COMPANY'S SUBSIDIARY AND THE PRINCIPAL STOCKHOLDERS

The Company, the Company's Subsidiary and the Principal Stockholders jointly and severally represent and warrant to the Parent and Acquisition Corp. as set forth below, subject to the exceptions set forth in the disclosure schedules hereto (the "Company and the Company's Subsidiary Disclosure Schedules"), the section numbers and letters of which correspond to the section and subsection numbers and letters of this Agreement.

3.1 Corporate Organization. The Company and the Company's Subsidiary are each corporations duly organized, validly existing and in good standing under the laws of the State of Utah. The Company and the Company's Subsidiary have all requisite corporate power and authority to own, operate and lease the properties and assets each now owns, operates and leases and to carry on their respective businesses as presently conducted. The Company and the

Company's Subsidiary are each duly qualified to transact business as a foreign corporation and are in good standing in the jurisdictions set forth in Schedule 3.1 hereto, which are the only jurisdictions where such qualification is required by reason of the nature of the properties and assets currently owned, operated or leased by each or the business currently conducted by either. The Company and the Company's Subsidiary have previously delivered to the Parent complete and correct copies of the Articles of Incorporation of each of the Company and the Company's Subsidiary (each certified by the Division as of a recent date) and the By-Laws of each of the Company and the Company's Subsidiary (each certified by the Secretary of the Company as of a recent date). Neither the Articles of Incorporation nor the By-Laws of each of the Company and the Company's Subsidiary have been amended since the date of certification thereof, nor has any action been taken for the purpose of effecting any amendment of such instrument.

3.2 Authorization. The Company and the Company's Subsidiary each have full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly adopted by the Board of Directors of the Company and the Company's Subsidiary, and no other proceeding on the part of the Company or the Company's Subsidiary (other than the approval of this Agreement by the Stockholders holding the requisite percentage of the Company Capital Stock) is necessary to approve and authorize the execution and delivery of this Agreement or (subject to the filing of the Certificates of Merger pursuant to the URBCA and the DGCL) the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and the Company's Subsidiary and constitutes the valid and binding agreement of the Company and the Company's Subsidiary, enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in law or in equity.

3.3 Consents and Approvals; No Violations. Subject to (a) the filing of the Certificates of Merger with the Secretary of State of the State of Delaware and the Division, (b) compliance with applicable federal and state securities laws, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not: (i) violate or conflict with any provision of the Articles of Incorporation or By-Laws of each of the Company or the Company's Subsidiary, (ii) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under, or require any consent or the giving of any notice under, any note, bond, indenture, mortgage, security agreement, lease, license, franchise, permit, or other material agreement, instrument or obligation to which the Company or the Company's Subsidiary is a party, or by which the Company or the Company's Subsidiary or any of their respective properties or assets may be bound, or result in the creation of any lien, claim or encumbrance or other right of any third party of any kind whatsoever upon the properties or assets of the Company or the Company's Subsidiary pursuant to the terms of any such instrument or obligation, other than any breach, violation, default, termination, cancellation, modification or acceleration which would not have a

Company Material Adverse Effect or Subsidiary Material Adverse Effect (as defined below), as the case may be, (iii) violate or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction, decree or other instrument of any federal, state, local or foreign court or governmental or regulatory body, agency or authority applicable to the Company or the Company's Subsidiary or by which their respective properties or assets may be bound except for such violations or conflicts which would not have a Company Material Adverse Effect or Subsidiary Material Adverse Effect, as the case may be, or (iv) require, on the part of the Company or the Company's Subsidiary, any filing or registration with, or permit, license, exemption, consent, authorization or approval of, or the giving of any notice to, any governmental or regulatory body, agency or authority other than any filing, registration, permit, license, exemption, consent, authorization, approval or notice which if not obtained or made would not have a Company Material Adverse Effect or Subsidiary Material Adverse Effect, as the case may be.

3.4 Capitalization.

(a) As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 35,000,000 shares of Common Stock, no par value per share, 30,496,112 of which are designated Class A Common Stock, and 4,503,888 of which are designated Class B Common Stock, of which 24,894,318 shares of Class A Common Stock and 4,503,888 shares of Class B Common Stock are issued and outstanding and owned of record and beneficially by the holders set forth on Schedule 3.4 hereto. All outstanding shares of Company Capital Stock (i) are duly authorized, validly issued, fully paid and nonassessable (ii) were not issued in violation of any pre-emptive rights or federal or state securities laws and (iii) are not subject to preemptive rights created by statute, the Articles of Incorporation or Bylaws of Company or any agreement or document to which Company is a party or by which it is bound.

As of the date of this Agreement, 8,000,000 shares of Company Capital Stock were reserved for issuance upon the exercise of options to purchase Company Capital Stock granted pursuant to the Company's 2001 Stock Incentive Plan (the "Company Option Plan") under which options are outstanding for an aggregate of 538,466 shares and under which 3,398,702 are available for grant. All shares of Company Capital Stock subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, would be duly authorized, validly issued, fully paid and nonassessable.

Except as set forth above, as of the date of this Agreement no shares of Company Capital Stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company or any securities exchangeable or convertible into or exercisable for such capital stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company, were issued, reserved for issuance or outstanding. There are no outstanding stock appreciation rights with respect to shares of Company Capital Stock. There are no bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company may vote. Except as set forth above, there are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights

(including pre-emptive rights) or commitments, understandings, arrangements, agreements or contracts (either written or oral) of any kind to which the Company is a party, or by which the Company is bound, obligating the Company to issue, deliver or sell, or cause to be issued, delivered or sold, any shares of capital stock or other securities of the Company or obligating the Company to issue, grant, extend, accelerate the vesting of or enter into any such security, partnership interest or similar ownership interest, option, warrant, call, right, commitment, understanding, arrangement, agreement or contract (either written or oral).

There are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitment, understanding, arrangement, agreement or contract (either written or oral) of any kind to which the Company is a party, or by which the Company is bound, obligating the Company to repurchase, redeem or otherwise acquire, or cause the repurchase, redemption or acquisition of, any shares of Company Capital Stock or other securities of the Company. The Company has never repurchased, redeemed or otherwise acquired or caused the repurchase, redemption or acquisition of any shares of Company Capital Stock or other securities of the Company, and there are no amounts owed or which may be owed to any person by the Company as a result of any repurchase, redemption or acquisition of any shares of Company Capital Stock or other securities of the Company.

There are no registration rights, and, to the knowledge of the Company and the Principal Stockholders, there are no voting trusts, proxies or agreements or understandings with respect to any equity security of any class of Company Capital Stock.

All outstanding options to purchase Company Capital Stock were issued pursuant to the Company Option Plan. Schedule 3.4 hereto sets forth a true and complete list of the holders of outstanding Company Stock Options and lists for each outstanding Company Stock Option, as of the date of this Agreement, (i) the number of shares of Company Capital Stock subject to such outstanding Company Stock Option, (ii) the exercise price of such option, (iii) the number of shares as to which such option will have vested, (iv) the vesting schedule for such option and whether the exercisability of such option will be accelerated in any way by the transactions contemplated by this Agreement or for any other reason, and (v) indicates the extent of acceleration, if any. Schedule 3.4 hereto sets forth a true and complete list, as of the date of this Agreement, of (A) the identity of each holder of shares of Company Capital Stock and (B) the number of shares of each class of Company Capital Stock owned of record by such holder.

(b) As of the date of this Agreement, the authorized capital stock of the Company's Subsidiary consists of (i) 30,000,000 shares of Common Stock, no par value per share (the "Subsidiary Common Stock"), of which 1,000 shares of Common Stock are issued and outstanding and owned of record and beneficially by the Company and (ii) 10,000,000 shares of Preferred Stock, no par value per share (the "Subsidiary Preferred Stock"), none of which are issued and outstanding (the Subsidiary Common Stock and the Subsidiary Preferred Stock collectively referred to herein as the "Subsidiary Capital Stock"). All outstanding shares of Subsidiary Capital Stock (i) are duly authorized, validly issued, fully paid and nonassessable (ii) were not issued in violation of any pre-emptive rights or federal or state securities laws and

(iii) are not subject to preemptive rights created by statute, the Articles of Incorporation or Bylaws of Company's Subsidiary or any agreement or document to which Company's Subsidiary is a party or by which it is bound.

Except as set forth above, as of the date of this Agreement no shares of Subsidiary Capital Stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company's Subsidiary or any securities exchangeable or convertible into or exercisable for such capital stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company's Subsidiary, were issued, reserved for issuance or outstanding. There are no outstanding stock appreciation rights with respect to shares of Subsidiary Capital Stock. There are no bonds, debentures, notes or other indebtedness of the Company's Subsidiary having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company's Subsidiary may vote. Except as set forth on Schedule 3.4, there are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitments, understandings, arrangements, agreements or contracts (either written or oral) of any kind to which the Company's Subsidiary is a party, or by which the Company's Subsidiary is bound, obligating the Company's Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, any shares of capital stock or other securities of the Company's Subsidiary or obligating the Company's Subsidiary to issue, grant, extend, accelerate the vesting of or enter into any such security, partnership interest or similar ownership interest, option, warrant, call, right, commitment, understanding, arrangement, agreement or contract (either written or oral).

There are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitment, understanding, arrangement, agreement or contract (either written or oral) of any kind to which the Company's Subsidiary is a party, or by which the Company's Subsidiary is bound, obligating the Company's Subsidiary to repurchase, redeem or otherwise acquire, or cause the repurchase, redemption or acquisition of, any shares of Subsidiary Capital Stock or other securities of the Company's Subsidiary. The Company's Subsidiary has never repurchased, redeemed or otherwise acquired or caused the repurchase, redemption or acquisition of any shares of Subsidiary Capital Stock or other securities of the Company's Subsidiary, and there are no amounts owed or which may be owed to any person by the Company's Subsidiary as a result of any repurchase, redemption or acquisition of any shares of Subsidiary Capital Stock or other securities of the Company's Subsidiary.

There are no registration rights, and, to the knowledge of the Company's Subsidiary, there are no voting trusts, proxies or agreements or understandings with respect to any equity security of any class of Subsidiary Capital Stock.

(c) With the exception of the Company's Subsidiary, the Company does not own, directly or indirectly, any equity securities, or options, warrants or other rights to acquire equity securities, or securities convertible into or exchangeable for equity securities, of any other

corporation, or any partnership interest in any general or limited partnership or unincorporated joint venture.

3.5 Financial Statements; Business Information. (a) Attached hereto as Schedule 3.5(a) are the unaudited balance sheet of the Company and the Company's Subsidiary as of December 31, 2002 and the statements of income and cash flow for the fiscal period then ended (the "Financial Statements"). The Financial Statements (i) have been prepared from the books and records of the Company and the Company's Subsidiary, (ii) have been prepared in accordance with GAAP consistently applied during the periods covered thereby, and (iii) present fairly in all material respects the financial condition and results of operations of the Company and the Company's Subsidiary as at the dates, and for the periods, stated therein, except that such Financial Statements are subject to normal audit adjustments and such interim Financial Statements are subject to normal year-end adjustments, all such adjustments which will not be individually or in the aggregate material in amount or effect.

(b) As of the Closing Date, the Company and the Company's Subsidiary shall have no outstanding indebtedness other than accounts payable incurred in the ordinary course of business.

3.6 Absence of Undisclosed Liabilities. Except (i) as set forth or reserved against in the balance sheet of the Company and the Company's Subsidiary dated as of December 31, 2002, included in the Financial Statements (the "Balance Sheet") and (ii) for obligations and liabilities incurred since December 31, 2002 in the ordinary course of business, which do not individually or in the aggregate exceed $15,000, the Company and the Company's Subsidiary do not have any liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise.

3.7 Absence of Certain Changes or Events. Since December 31, 2002, the Company and the Company's Subsidiary have each carried on their respective businesses in all material respects in the ordinary course and consistent with past practice. Since December 31, 2002, the Company and the Company's Subsidiary have not: (i) incurred any obligation or liability (whether absolute, accrued, contingent or otherwise) except in the ordinary course of business and consistent with past practice; (ii) experienced any Company Material Adverse Effect or Subsidiary Material Adverse Effect, as the case may be, (as defined below); (iii) made any change in accounting principle or practice or in their respective method of applying any such principle or practice, (iv) suffered any damage, destruction or loss, whether or not covered by insurance, affecting its respective properties, assets or business; (v) mortgaged, pledged or subjected to any lien, charge or other encumbrance, or granted to third parties any rights in, any of its assets, tangible or intangible; (vi) sold or transferred any of their respective assets, except in the ordinary course of business and consistent with past practice, or canceled or compromised any debts or waived any claims or rights of a material nature; (vii) issued any additional Company Capital Stock (except pursuant to the exercise of Company Stock Options) or Subsidiary Capital Stock, other equity securities, partnership interests or similar equity interests, or any rights, options or warrants to purchase, or securities convertible into or exchangeable for, Company Capital Stock or Subsidiary Capital Stock; (viii) declared or paid any dividends on or

made any distributions (however characterized) in respect of Company Capital Stock or Subsidiary Capital Stock; (ix) repurchased or redeemed any Company Capital Stock or Subsidiary Capital Stock; (x) granted any general or specific increase in the compensation payable or to become payable to any of its Employees (as that term is hereinafter defined) or any bonus or service award or other like benefit, or instituted, increased, augmented or improved any Benefit Plan (as that term is hereinafter defined); or (xi) entered into any agreement to do any of the foregoing. The term "Company Material Adverse Effect" means, for purposes of this Agreement, any change, event or effect that is, or that would be, materially adverse to the business, operations, assets, liabilities, financial condition, results of operations or prospects of the Company and the term "Subsidiary Material Adverse Effect" means, for purposes of this Agreement, any change, event or effect that is, or that would be, materially adverse to the business, operations, assets, liabilities, financial condition, results of operations or prospects of the Company's Subsidiary.

3.8 Legal Proceedings, etc. There are no suits, actions, claims, proceedings (including, without limitation, arbitral or administrative proceedings) or investigations pending or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, threatened against the Company, the Company's Subsidiary or their respective properties, assets or business or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, pending or threatened against any of the officers, directors, employees, agents or consultants of the Company or the Company's Subsidiary in connection with the business of the Company or the Company's Subsidiary. There is no basis for any such suits, actions, claims, proceedings or investigations known to the Company, the Company's Subsidiary or the Principal Stockholders. There are no such suits, actions, claims, proceedings or investigations pending against the Company or the Company's Subsidiary, or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, threatened against the Company or the Company's Subsidiary challenging the validity or propriety of the transactions contemplated by this Agreement. There is no judgment, order, injunction, decree or award (whether issued by a court, an arbitrator or an administrative agency) to which the Company or the Company's Subsidiary is a party, or involving the properties, assets or business of the Company or the Company's Subsidiary, which is unsatisfied or which requires continuing compliance therewith by the Company or the Company's Subsidiary. Schedule 3.8 hereto sets forth all settlements, judgements, orders, injunctions, decrees and awards entered into or imposed, which the Company or the Company's Subsidiary is a party to or by which the Company or the Company's Subsidiary is bound, and the Company and the Company's Subsidiary are and have been at all times in compliance with the terms of such settlements, judgements, orders, injunctions, decrees and awards. Schedule 3.8 hereto sets forth all suits, actions, claims, proceedings or investigations regarding any equity security of the Company or the Company's Subsidiary which the Company, the Company's Subsidiary or any of the Principal Stockholders has ever been involved in or received notice of.

3.9 Taxes.

(a) The Company and the Company's Subsidiary have each duly and timely filed all Tax Returns and other filings in respect of Taxes (as that term is hereinafter defined)

required to be filed by it on or prior to the date hereof, and has in a timely manner paid all Taxes which are (or will be) due for all periods ending on or before the date hereof, whether or not shown on such Tax Returns, except to the extent the Company or the Company's Subsidiary has established adequate reserves in accordance with GAAP (other than reserves for deferred Taxes established to reflect timing differences between book and Tax income) on the Balance Sheet for such Taxes and disclosed the dollar amount and the components of such reserves on Schedule 3.9(a) hereof. The Company will establish, in the ordinary course of business and consistent with its past practices, reserves (other than reserves for deferred Taxes established to reflect timing differences between book and Tax income) adequate for the payment of all Taxes for the period from date of the Balance Sheet through the Closing Date, and the Company will disclose the dollar amount of such reserves to Parent on or prior to the Closing Date. Since the date of the Balance Sheet, neither the Company nor the Company's Subsidiary has incurred any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP, outside the ordinary course of Business consistent with past custom and practice. All such Tax Returns have been accurately and completely prepared in all material respects in compliance with all laws, rules and regulations.

(b) There are no actions or proceedings currently pending or, to the knowledge of the Company, the Company's Subsidiary or its Principal Stockholders, threatened against the Company or the Company's Subsidiary by any governmental authority for the assessment or collection of Taxes, no claim for the assessment or collection of Taxes has been asserted against the Company or the Company's Subsidiary, and there are no matters under discussion by the Company or the Company's Subsidiary with any governmental authority regarding claims for the assessment or collection of Taxes. Any Taxes that have been claimed or imposed as a result of any examinations of any Tax Return of the Company or the Company's Subsidiary by any governmental authority are being contested in good faith and have been disclosed in writing to the Parent. There are no agreements or applications by the Company or the Company's Subsidiary for an extension of time for the assessment or payment of any Taxes nor any waiver of the statute of limitations in respect of Taxes. There are no Tax liens on any of the assets of the Company or the Company's Subsidiary, except for liens for Taxes not yet due or payable. No written claim has been received from any taxing authority in a jurisdiction in which the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction.

(c) For the purposes of the Agreement, "Tax" or "Taxes" means all federal, state and local, territorial and foreign taxes, levies, deficiencies or other assessments and other charges of whatever nature (including income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, backup withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, real property gains, registration, value added, alternative or add-on minimum, and estimated taxes and workers' compensation premiums and other governmental charges, and other obligations of the same nature as or of a nature similar to any of the foregoing) imposed by any taxing authority, as well as any obligation to contribute to the payment of Taxes determined on a consolidated, combined or unitary basis with respect to the Company or any affiliate, and including any

transferee liability in respect of any tax (whether imposed by law, contractual agreement or otherwise) and any liability in respect of any tax as a result of being a member of any affiliated, consolidated, combined unitary or similar group including any liability pursuant to Treasury Regulation Section 1.1502-6, including any interest, penalty (civil or criminal), or addition thereto, whether disputed or not, as well as any expenses incurred in connection with the determination, settlement or litigation of any liability.

For purposes of this Agreement, the term "Tax Return" means any federal, state, local and foreign return, declaration, report, claim for refund, amended return, declarations of estimated Tax or information return or statement relating to Taxes, and any schedule or attachment thereto, filed or maintained, or required to be filed or maintained in connection with the calculation, determination, assessment or collection of any Tax, and including any amendment thereof, as well as, where permitted or required, combined or consolidated returns for any group of entities that include the Company or any affiliate; and reports with respect to backup withholding and other payments to third parties.

(d) The Company and the Company's Subsidiary have each been taxable as a C corporation for state, federal and local income tax purposes at all times since their respective dates of incorporation.

(e) The Company and the Company's Subsidiary are not and have not been a party to or bound by any tax indemnity agreement, tax sharing agreement, tax allocation agreement or similar agreement or arrangement and the Company and the Company's Subsidiary do not have any liability for Taxes of any person (other than the Company or the Company's Subsidiary) and any liability in respect of any tax as a result of being a member of any affiliated, consolidated, combined unitary or similar group under Treasury Regulation 1.1502-6 (or any similar provision of state, local or foreign law) or a transferee, successor or guarantor or by contract, indemnification or otherwise.

(f) The Company and the Company's Subsidiary have each withheld all amounts from their respective employees and other persons required to be withheld under the tax, social security, unemployment and other withholding provisions of all federal, state, local and foreign laws, including, but not limited to, with respect to the exercise, cancellation or disposition of any Company Stock Option, and have complied with all information reporting and back-up withholding requirements, including maintenance of required records with respect thereto, in connection with amounts paid or owing to any employee, creditor, independent contractor, or other third party.

(g) Neither the assets of the Company or the Company's Subsidiary nor any interests in the Company or the Company's Subsidiary constitute a "United States real property interest" within the meaning of Section 897(c) of the Code.

(h) All of the Stockholders are U.S. residents for federal income tax purposes.

(i) There are no accounting method changes or proposed or threatened accounting method changes of the Company or the Company's Subsidiary, nor any other item,

that could give rise to an adjustment under Section 481 of the Code for periods after the Closing Date, and the Company and the Company's Subsidiary will not be required to make any such Section 481 adjustment as a result of the transaction contemplated by this Agreement.

(j) No power of attorney has been granted by the Company or the Company's Subsidiary and is currently in force with respect to any matter relating to Taxes.

(k) The Company and the Company's Subsidiary have not filed a consent under Section 341(f) of the Code concerning collapsible corporations, or agreed to have Section 341(f)(2) of the Code applied to any disposition of an asset owned by the Company or the Company's Subsidiary.

(l) The Company and the Company's Subsidiary are not parties to any joint venture, partnership or other arrangement that is treated as a partnership for Federal income tax purposes.

(m) There is no limitation on the utilization of net operating losses, built-in losses, tax credits or other similar items of the Company or the Company's Subsidiary under Section 382, 383 or 3'84 of the Code or the Treasury Regulations issued thereunder, other than the limitation arising as a result of the Merger.

(n) Neither the Company nor the Company's Subsidiary will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: (A) change in method of accounting for a taxable period ending on or prior to the Closing Date; (B) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date; (C) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law); (D) installment sale or open transaction disposition made on or prior to the Closing Date; or (E) prepaid amount received on or prior to the Closing Date.

(o) Neither the Company nor the Company's Subsidiary has received any written ruling of a taxing authority relating to Taxes or entered in any written and legally binding agreement with a taxing authority relating to taxes, including any closing agreements under Section 7121 of the Code.

(p) Neither the Company nor the Company's Subsidiary has constituted either a "distributing corporation" or a "controlled corporation" in a distribution of stock qualifying for a tax-free treatment under Section 355 of the Code (i) in the two (2) years prior to the date of this Agreement or (ii) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Merger.

(q) No claim has ever been made by any authority in a jurisdiction where the Company or the Company's Subsidiary does not file Tax Returns that it is or may be subject to taxation by that jurisdiction, and neither the Company nor the Company's. Subsidiary does business in or derive income from within or allocable to any state, local, territorial or foreign taxing jurisdiction other than those for which all Tax Returns have been furnished to the Parent.

(r) Neither the Company nor the Company's Subsidiary has waived any statute of limitations with respect to Taxes nor agreed to any extension of time with respect to any Tax assessment or deficiency, or the collection of any Tax, which remains outstanding; and the Company has made available to the Parent for inspection true and complete copies of (i) relevant portions of income Tax audit reports, statements of deficiencies, closing or other agreements received by the Company or on behalf of the Company relating to Taxes, and (ii) all federal and state income or franchise Tax Returns for the Company for all periods for which the statute of limitations has not run.

(s) No tax is required to be withheld pursuant to Section 1445 of the Code as a result of the transactions contemplated by this Agreement.

(t) Neither the Company nor the Company's Subsidiary has made any payments, is not obligated to make any payment, and is not a party to any agreement that under any circumstances could obligate it to make any payment that will not be deductible under Section 280G of the Code, or that would be subject to an excise Tax under Section 4999 of the Code.

(u) Neither the Company nor the Company's Subsidiary has engaged in a "listed transaction" within the meaning of Treas. Reg. §1.6011-4T(b).

3.10 Title to Properties and Related Matters. (a) The Company and the Company's Subsidiary each have good and valid title to all personal property, tangible or intangible, which the Company or the Company's Subsidiary each purport to own, including the properties reflected on the Balance Sheet or acquired after the date thereof (other than properties and assets sold or otherwise disposed of in the ordinary course of business and consistent with past practice since December 31, 2002), free and clear of any claims, liens, pledges, security interests or encumbrances of any kind whatsoever (other than (i) purchase money security interests and common law vendor's liens, in each case for goods purchased on open account in the ordinary course of business and having a fair market value of less than $10,000 in each individual case), (ii) liens for Taxes not yet due and payable and (iii) such imperfections of title and encumbrances, if any, that are not material in character, amount or extent and that do not materially detract from the value, or materially interfere with the use of, the property subject thereto or affected thereby. Collectively, such property and the Intellectual Property (as hereinafter defined) rights disclosed on Schedule 3.11 hereto constitute all property, tangible or intangible, necessary to conduct the business of the Company or the Company's Subsidiary as presently conducted.

(b) The Company and the Company's Subsidiary do not own any real property or any interest in real property.

(c) Schedule 3.10(c) hereto sets forth a list, which is correct and complete in all material respects, of all equipment, machinery, instruments, vehicles, furniture, fixtures and other items of personal property currently owned or leased by the Company or the Company's Subsidiary with a book value as of December 31, 2002, in each case of $10,000 or more. All such personal property is in suitable operating condition and is physically located in or about one of the places of business of the Company or the Company's Subsidiary and is owned by the Company or the Company's Subsidiary or is leased by the Company or the Company's Subsidiary under one of the leases set forth in Schedule 3.10(d) hereto. None of such personal property is subject to any agreement or commitment for its use by any person other than the Company or the Company's Subsidiary. The maintenance and operation of such personal property has been in conformance with all applicable laws and regulations. There are no assets leased by the Company or the Company's Subsidiary or used in the operation of the Company or the Company's Subsidiary that are owned, directly or indirectly, by any Related Person (as that term is hereinafter defined in Section 3.22).

(d) Schedule 3.10(d) sets forth a complete and correct list of all real property and personal property leases to which the Company or the Company's Subsidiary are a party. The Company and the Company's Subsidiary have previously delivered to the Parent complete and correct copies of each lease (and any amendments or supplements thereto) listed in Schedule3.10(d) hereto. (i) Each such lease is valid and binding, and in full force and effect; except to the extent that applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights may affect such validity or enforceability, (ii) neither the Company, the Company's Subsidiary nor (to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders) any other party is in default under any such lease, and no event has occurred which constitutes, or with the lapse of time or the giving of notice or both would constitute, a default by the Company or the Company's Subsidiary or (to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders) a default by any other party under such lease; (iii) to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, there are no disputes or disagreements between the Company, the Company's Subsidiary and any other party with respect to any such lease; and (iv) there is no requirement under any such lease that the Company or the Company's Subsidiary either obtain the lessor's consent to, or notify the lessor of, the consummation of the transactions contemplated by this Agreement.

3.11 Intellectual Property; Proprietary Rights; Employee Restrictions. For the purposes of this Agreement, the following terms have the following definitions:

"Intellectual Property" shall mean any or all of the following and all rights in, arising out of, or associated therewith: (i) all United States, international and foreign patents and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof, (ii) all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know how, technology,

technical data and customer lists, vendor lists, distributor lists, computer programs and other computer software, user interfaces, processes and formulae, source code, object code, algorithms, architecture, structure, display screens, layouts, development tools, instructions, templates and marketing materials, designs and all documentation relating to any of the foregoing; (iii) all copyrights, copyrights registrations and applications therefor, and all other rights corresponding thereto throughout the world; (iv) all industrial designs and any registrations and applications therefor throughout the world; (v) all trade names, logos, common law trademarks and service marks, trademark and service mark registrations, intent-to-use applications and other registrations and applications therefor throughout the world; (vi) all databases and data collections and all rights therein throughout the world; (vii) all domain names; (viii) all moral and economic rights of authors and inventors, however denominated, throughout the world, and (ix) any similar or equivalent rights to any of the foregoing anywhere in the world.

"Company Intellectual Property" shall mean any Intellectual Property that is owned by, or exclusively licensed to, the Company.

"Subsidiary Intellectual Property" shall mean any Intellectual Property that is owned by, or exclusively licensed to, the Company's Subsidiary.

(a) No Company Intellectual Property or Subsidiary Intellectual Property or product or service of the Company or Company's Subsidiary is subject to any proceeding or outstanding decree, order, judgment, contract, license, agreement, or stipulation restricting in any manner the use, transfer, or licensing thereof by Company or the Company's Subsidiary, or which would be reasonably expected to affect the validity, use or enforceability of such Company Intellectual Property or Subsidiary Intellectual Property.

(b) Set forth on Schedule 3.11 hereto is a list of all Company Intellectual Property and Subsidiary Intellectual Property or other Intellectual Property used by the Company or Company's Subsidiary (other than generally available software such as Microsoft Word and the like). True and correct copies of all licenses, assignments and releases relating to such Intellectual Property have been provided to Parent prior to the date hereof, all of which are valid and binding agreements of the parties thereto, enforceable in accordance with their terms. The Company and the Company's Subsidiary own and have good and exclusive right, title and interest to, or (i) has exclusive license to, each item of Company Intellectual Property and Subsidiary Intellectual Property and (ii) has non-exclusive license to other Intellectual Property used by Company and the Company's Subsidiary (including all non-exclusive licenses with respect to generally available software such as Microsoft Word and the like), in each case, free and clear of any lien or encumbrance; and all such Intellectual Property rights are in full force and effect. The Company and the Company's Subsidiary are the exclusive owner of all trademarks and trade names used in connection with the operation or conduct of the business of Company or the Company's Subsidiary, including the sale of any products or the provision of any services by Company. The Company or the Company's Subsidiary own exclusively, and have good title to, all copyrighted works that are Company or Company's Subsidiary products or which Company or the Company's Subsidiary otherwise expressly purport to own. No

university, government agency (whether federal or state) or other organization has sponsored research and development conducted by the Company or the Company's Subsidiary or has any claim of right to or ownership of or other encumbrance upon the Intellectual Property rights of the Company or the Company's Subsidiary.

(c) All patents, patent applications, trademarks, service marks, copyrights, mask work rights and domain names of the Company or the Company's Subsidiary have been duly registered and/or filed with or issued by each appropriate governmental entity in the jurisdictions indicated on Schedule 3.11 hereto, all necessary affidavits of continuing use have been filed, and all necessary maintenance fees have been paid to continue all such rights in effect.

(d) To the extent that any Intellectual Property (including without limitation software, hardware, copyrightable works and the like) has been developed, created, modified or improved by a third party for the Company or the Company's Subsidiary, the Company or the Company's Subsidiary have a written agreement with such third party that assigns to the Company or the Company's Subsidiary ownership of such Intellectual Property, each of which is a valid and binding agreement of the parties thereto, enforceable in accordance with its terms; and the Company or the Company's Subsidiary thereby have obtained ownership of, and are the exclusive owner of such work, material or invention by operation of law or by valid assignment, to the fullest extent it is legally possible to do so. The Company or the Company's Subsidiary each have the right to use all trade secrets, data, customer lists, log files, hardware designs, programming processes, software and other information required for or incident to their respective products or their respective business (including, without limitation, the operation of their respective Web sites) as presently conducted and has no reason to believe that any of such information that is provided to the Company or the Company's Subsidiary by third parties will not continue to be provided to the Company or the Company's Subsidiary on the same terms and conditions as currently exist.

(e) Company and the Company's Subsidiary have not transferred ownership of, or granted any exclusive license with respect to, any Intellectual Property that is or was Company Intellectual Property or Subsidiary Intellectual Property, to any third party.

(f) The operation of the business of Company or the Company's Subsidiary as such business currently is conducted, including Company's or the Company's Subsidiary's design, development, manufacture, marketing and sale of the products or services of Company or the Company's Subsidiary (including products currently under development) has not, does not and, to the knowledge of the Company and the Company's Subsidiary, will not infringe or misappropriate the Intellectual Property of any third party or, to its knowledge, constitute unfair competition or trade practices under the laws of any jurisdiction.

(g) The Company and the Company's Subsidiary have not received any notice or other claim from any third party that the operation of the business of the Company or the Company's Subsidiary or any act, product or service of the Company or Company's Subsidiary

infringes, may infringe or misappropriates the Intellectual Property of any third party or constitutes unfair competition or trade practices under the laws of any jurisdiction.

(h) To the knowledge of Company, the Company's Subsidiary or any Principal Stockholder, no person has or is infringing or misappropriating any Company Intellectual Property or Subsidiary Intellectual Property or other Intellectual Property Rights in any of its products, technology or services, or has or is violating the confidentiality of any of its proprietary information.

(i) The Company and the Company's Subsidiary have each taken reasonable steps to protect the Company's or the Company's Subsidiary's rights in the Company's or the Company's Subsidiary's proprietary and/or confidential information and trade secrets or any trade secrets or confidential information of third parties provided to Company or the Company's Subsidiary, and, without limiting the foregoing, Company and the Company's Subsidiary have and enforce a policy requiring each employee and contractor to execute a proprietary information/confidentiality agreement substantially in the form provided to Parent, and all current and former employees and contractors of Company and the Company's Subsidiary have executed such an agreement. To the knowledge of the Company, the Company's Subsidiary and the Principal Stockholders, all trade secrets and other confidential information of the Company or the Company's Subsidiary are not part of the public domain or knowledge, nor, to the knowledge of the Company, the Company's Subsidiary and the Principal Stockholders, have they been misappropriated by any person having an obligation to maintain such trade secrets or other confidential information in confidence for the Company or the Company's Subsidiary. To the knowledge of the Company, the Company's Subsidiary and the Principal Stockholders, no employee or consultant of the Company or the Company's Subsidiary has used any trade secrets or other confidential information of any other person in the course of their work for the Company or the Company's Subsidiary. To the knowledge of the Company, the Company's Subsidiary and the Principal Stockholders, the Company and the Company's Subsidiary are not making unlawful use of any confidential information or trade secrets of any past or present employees of the Company or the Company's Subsidiary.

All Intellectual Property rights purported to be owned by the Company or the Company's Subsidiary which were developed, worked on or otherwise held by any employee, officer or consultant are owned free and clear by the Company or the Company's Subsidiary by operation of law or have been validly assigned to the Company or the Company's Subsidiary, and such assignments have been provided to Parent and are valid binding agreements of the parties thereto, enforceable in accordance with their terms. Neither the Company, the Principal Stockholders, nor, to the knowledge of the Company, the Company's Subsidiary and the Principal Stockholders, any of the employees of the Company or the Company's Subsidiary, have any agreements or arrangements with current or former employers relating to (i) confidential information or trade secrets of such employers, or (ii) the assignment of rights to any inventions, know-how or intellectual property of any kind. No such persons are bound by any consulting agreement relating to confidential information or trade secrets of another entity that are being violated by such persons. The activities of the employees and consultants of the Company and the Company's Subsidiary on behalf of the Company and the Company's

Subsidiary do not violate in any material respects any agreements or arrangements known to the Company, the Company's Subsidiary or any of the Principal Stockholders which any such employees or consultants have with former employers or any other entity to whom such employees or consultants may have rendered consulting services.

(j) All information and content of the World Wide Web sites of the Company or Company's Subsidiary (other than information provided by users, customers and advertisers) is accurate and complete in all material respects.

3.12 Contracts. (a) The Company and Company's Subsidiary are not parties to, or subject to:

(i) any contract, arrangement or understanding, or series of related contracts, arrangements or understandings, which involves annual expenditures or receipts by the Company or Company's Subsidiary of more than $10,000;

(ii) any note, indenture, credit facility, mortgage, security agreement or other contract, arrangement or understanding relating to or evidencing indebtedness for money borrowed or a security interest or mortgage in the assets of the Company or the Company's Subsidiary;

(iii) any guaranty issued by the Company or the Company's Subsidiary;

(iv) any contract, arrangement or understanding relating to the acquisition, issuance or transfer of any securities, including, without limitation, convertible securities;

(v) any contract, arrangement or understanding relating to the acquisition, transfer, distribution, use, development, sharing or license of any technology or Intellectual Property rights, other than licenses granted in the ordinary course of business with a term of less than one (1) year;

(vi) any contract, arrangement or understanding granting to any person the right to use any property or property right of the Company or Company's Subsidiary other than licenses granted in the ordinary course of business with a term of less than one (1) year;

(vii) any contract, arrangement or understanding restricting the right of the Company or Company's Subsidiary to (A) engage in any business activity or compete with any business, or (B) develop or distribute any technology;

(viii) any contract, arrangement or understanding relating to the employment of, or the performance of services of, any employee, consultant or independent contractor and pursuant to which the Company or Company's Subsidiary is required to pay more than $10,000 per year;

(ix) any contract, arrangement or understanding with a Related Person (as that term is hereinafter defined); or

(x) any outstanding offer, commitment or obligation to enter into any contract or arrangement of the nature described in subsections (i) through (ix) of this subsection 3.12(a).

(b) The Company and Company's Subsidiary have each previously provided to the Parent complete and correct copies (or, in the case of oral contracts, a complete and correct description) of any contract (and any amendments or supplements thereto) listed on Schedule 3.12(a) hereto. (i) Each contract listed in Schedule 3.12(a) hereto is in full force and effect; (ii) neither the Company, Company's Subsidiary nor (to the knowledge of the Company, Company's Subsidiary or the Principal Stockholders) any other party is in default under any contract listed in Schedule 3.12 (a) hereto, and no event has occurred which constitutes, or with the lapse of time or the giving of notice or both would constitute, a default by the Company or Company's Subsidiary or (to the knowledge of the Company, Company's Subsidiary or the Principal Stockholders) a default by any other party under such contract; (iii) to the knowledge of the Company, Company's Subsidiary or the Principal Stockholders, there are no disputes or disagreements between the Company or Company's Subsidiary and any other party with respect to any contract listed in Schedule 3.12 (a) hereto; and (iv) each other party to each such material contract has consented or been given notice (or prior to the Closing shall have consented or been given notice), where such consent or the giving of such notice is necessary, sufficient that such contract shall remain in full force and effect following the consummation of the transactions contemplated by this Agreement without modification in the rights or obligations of the Company or Company's Subsidiary thereunder.

(c) The Company or Company's Subsidiary have not issued any warranty or any agreement or commitment to indemnify any person other than in the ordinary course of business.

3.13 Employees; Employee Benefits.

(a) Schedule 3.13(a) hereto sets forth the names of all current employees of the Company or Company's Subsidiary (the "Employees") and such Employee's job title, the location of employment of such Employee, such Employee's current salary, the amount of any bonuses or other compensation paid since December 31, 2002 to such Employee, the date of employment of such Employee and the accrued vacation time of such Employee. Schedule 3.13 (a) hereto sets forth a true and correct statement of the liability, if any, of the Company or Company's Subsidiary for accrued but unused sick pay. There are no outstanding loans from the Company or the Company's Subsidiary to any officer, director, employee, agent or consultant of the Company or the Company's Subsidiary, or to any other Related Person. Schedule 3.13(a) hereto sets forth a complete and correct description of all severance policies of the Company or the Company's Subsidiary. Complete and correct copies of all written agreements (or, in the case of oral agreements, a complete and correct description) with Employees and all employment policies, and all amendments and supplements thereto, have previously been delivered to the

Parent, and a list of all such agreements and policies is set forth on Schedule 3.13(a). None of the Employees has, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, indicated a desire to terminate his or her employment, or any intention to terminate his or her employment upon a sale of, or business combination relating to, the Company or the Company's Subsidiary or in connection with the transactions contemplated by this Agreement. Since December 31, 2002, the Company or the Company's Subsidiary have not (i) increased the salary or other compensation payable or to become payable to or for the benefit of any of the Employees, (ii) increased the term or tenure of employment for any Employee, except in the ordinary course of business consistent with past practice, (iii) increased the amounts payable to any of the Employees upon the termination of any such person's employment or (iv) adopted, increased, augmented or improved benefits granted to or for the benefit of any of the Employees under any Benefit Plan.

(b) The Company and the Company's Subsidiary have complied in all material respects with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, as amended, the Fair Labor Standards Act, as amended, the Immigration Reform and Control Act of 1986, and all applicable laws, rules and regulations governing payment of minimum wages and overtime rates, the withholding and payment of taxes from compensation, discriminatory practices with respect to employment and discharge, or otherwise relating to the conduct of employers with respect to Employees or potential employees, and there have been no claims made or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, threatened thereunder against the Company or the Company's Subsidiary arising out of, relating to or alleging any violation of any of the foregoing. There are no material controversies, strikes, work stoppages, picketing or disputes pending or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, threatened between the Company or the Company's Subsidiary and any of the Employees or former employees; no labor union or other collective bargaining unit represents or has ever represented any of the Employees, including any "leased employees" (within the meaning of Section 414(n) of the Code); no organizational effort by any labor union or other collective bargaining unit currently is under way or, to the knowledge of the Company, the Company's Subsidiary or the Principal Stockholders, threatened with respect to any Employees; and the consent of no labor union or other collective bargaining unit is required to consummate the transactions contemplated by this Agreement.

(c) Schedule 3.13(c) hereto sets forth a list of each defined benefit and defined contribution plan, stock ownership plan, employment or consulting agreement, executive compensation plan, bonus plan, incentive compensation plan or arrangement, deferred compensation agreement or arrangement, agreement with respect to temporary employees or "leased employees" (within the meaning of Section 414(n) of the Code), vacation pay, sickness, disability or death benefit plan (whether provided through insurance, on a funded or unfunded basis or otherwise), employee stock option, stock appreciation rights or stock purchase plan, severance pay plan, cafeteria plan, arrangement or practice, employee relations policy, practice or arrangement, and each other employee benefit plan, program or arrangement, including, without limitation, each "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which has been

maintained by the Company or the Company's Subsidiary for the benefit of or relating to any of the Employees or to any former employees or their dependents, survivors or beneficiaries, whether or not legally binding, whether written or oral or whether express or implied, or for which the Company or the Company's Subsidiary or any entity that would be deemed a "single employer" with the Company or the Company's Subsidiary under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA has any liability or contingent liability, all of which are hereinafter referred to as the "Benefit Plans."

(d) Each Benefit Plan which is an "employee pension benefit plan" (as defined in Section 3(2) of ERISA) or other form of retirement plan intended to meet the requirements of Section 401 (a) of the Code meets such requirements in all material respects; the trust, if any, forming part of such plan is exempt from U.S. federal income tax under Section 501 (a) of the Code; a favorable determination letter has been issued by the Internal Revenue Service (the "IRS") with respect to each plan and trust' and each amendment thereto; and nothing of a material nature has occurred since the date of such determination letter that would adversely affect the qualification of such plan. No Benefit Plan is an "employee welfare benefit plan" (as defined in Section 3(l) of ERISA) that at any time prior to the Closing was not exempt from the annual reporting requirement set forth in Section 104(a) of ERISA. No Benefit Plan is a "voluntary employees beneficiary association" (within the meaning of section 501(c)(9) of the Code) and there have been no other "welfare benefit funds" (within the meaning of Section 419 of the Code) relating to Employees or former employees. No event or condition exists with respect to any Benefit Plan that could subject the Company or the Company's Subsidiary to any material Tax under Section 4980B of the Code, or other applicable law. With respect to each Benefit Plan, the Company or the Company's Subsidiary have each heretofore delivered to the Parent complete and correct copies of the following documents, where applicable and to the extent available: (i) the most recent annual report (Form 5500 series), together with schedules, as required, filed with the IRS, and any financial statements and opinion required by Section 103(a)(3) of ERISA, (ii) the most recent determination letter issued by the IRS, (iii) the most recent summary plan description and all modifications, as well as all other descriptions distributed to Employees or set forth in any manuals or other documents, (iv) the text of the Benefit Plan and of any trust, insurance or annuity contracts maintained in connection therewith and (v) the most recent actuarial report, if any, relating to the Benefit Plan. None of the Benefit Plans is subject to Title IV of ERISA or the minimum funding requirements of Section 412 of the Code; and none of the Benefit Plans of the Company or the Company's Subsidiary is, or has been, the subject of any investigation, audit or action by the IRS, the Department of Labor or the Pension Benefit Guaranty Corporation as to which the Company or the Company's Subsidiary has received written notice.

(e) No Benefit Plan provides benefits, including, without limitation, death, medical or severance benefits, with respect to current or former employees or directors (or their beneficiaries) beyond their retirement or other termination of service other than (i) coverage for benefits mandated by applicable law, (ii) deferred compensation benefits properly accrued as liabilities on the Financial Statements, or (iii) benefits the full cost of which is borne by the current or former employee or director or his beneficiaries.

(f) There is no agreement, plan or arrangement covering any employee or independent contractor or former employee or independent contractor of the Company or the Company's Subsidiary that considered individually or considered collectively with any other such agreement, plan or arrangement, will, or could reasonably be expected to, give rise directly or indirectly to the payment of any amount as a result of the Merger that would not be deductible pursuant to Section 280G of the Code or that would be subject to an excise tax under Section 4999 of the Code.

3.14 Compliance with Applicable Law. The Company and the Company's Subsidiary are not in violation in any respect of any applicable safety, health, environmental or other law, statute, ordinance, code, rule, regulation, judgment, order, injunction, writ or decree of any federal, state, local or foreign court or governmental or regulatory body, agency or authority having, asserting or claiming jurisdiction over it or over any part of its business, operations, properties or assets, except for any violation that would not result in a fine or penalty in excess of $10,000 individually or in the aggregate. The Company and the Company's Subsidiary have not received any notice alleging any such violation, nor to the knowledge of the Company, the Company's Subsidiary or any Principal Stockholders, is there any inquiry, investigation or proceedings relating thereto.

3.15 Ability to Conduct the Business. There is no agreement, arrangement or understanding, nor any judgment, order, writ, injunction or decree of any court or governmental or regulatory body, agency or authority applicable to the Company or the Company's Subsidiary or to which the Company or the Company's Subsidiary is a party or by which either (or any of their respective properties or assets) is bound, that will prevent the use by the Surviving Corporation, after the Effective Time, of the properties and assets owned by, the business conducted by or the services rendered by the Company or the Company's Subsidiary on the date hereof, in each case on substantially the same basis as the same are used, owned, conducted or rendered on the date hereof. The Company and the Company's Subsidiary have in force, and are in compliance with, in all material respects, all governmental permits, licenses, exemptions, consents, authorizations and approvals used in or required for the conduct of their business as presently conducted, all of which shall continue in full force and effect, without requirement of any filing or the giving of any notice and without modification thereof, following the consummation of the transactions contemplated hereby. The Company and the Company's Subsidiary have not received any notice of, and to the knowledge of the Company, the Company's Subsidiary or any Principal Stockholder, there are no inquiries, proceedings or investigations relating to or which could result in the revocation or modification of any such permit, license, exemption, consent, authorization or approval.

3.16 Major Customers, Advertisers and Distributors. Schedule 3.16 hereto sets forth a complete and correct list of the ten (10) largest customers, advertisers and distributors of the Company and the Company's Subsidiary, in terms of revenue recognized in respect of such customers, advertisers and distributors during the twelve (12) months ended December 31, 2002 and during the three (3) months ended January 31, 2003, showing the amount of revenue recognized for each such customer, advertiser or distributor, as the case may be, during each such period. To the knowledge of the Company, the Company's Subsidiary and the Principal

Stockholders, the Company and the Company's Subsidiary have not received any notice or other communication (written or oral) from any of the customers, advertisers or distributors listed in Schedule 3.16 hereto terminating or reducing in any material respect, or setting forth an intention to terminate or reduce in the future, or otherwise reflecting a material adverse change in, the business relationship between such customer, advertiser or distributor and the Company or the Company's Subsidiary.

3.17 Consultants, Sales Representatives and Other Agents. Schedule 3.17 hereto sets forth a complete and correct list of the names and addresses of each consultant, sales representative or other agent (other than any such person performing solely clerical functions and other than the legal counsel and accountants for the Company and the Company's Subsidiary) currently engaged by the Company or the Company's Subsidiary who is not an employee of the Company or the Company's Subsidiary, the commission rates or other compensation applicable with respect to each such person and the amount of commissions or other compensation earned by each such person for the twelve (12) months ended December 31, 2002. Complete and correct copies of all current agreements between the Company or the Company's Subsidiary and any such person have previously been delivered by the Company or the Company's Subsidiary to the Parent.

3.18 Accounts Receivable. All accounts receivable of the Company or the Company's Subsidiary reflected on the Balance Sheet (i) arose from bona fide transactions in the ordinary course of business and consistent with past practice, and (ii) are owned by the Company or the Company's Subsidiary free and clear of any security interest, lien, encumbrance, or claims, and (iii) are accurately and fairly reflected on the Balance Sheet, or, with respect to accounts receivable of the Company or the Company's Subsidiary created after December 31, 2002, are accurately and fairly reflected in the books and records of the Company or the Company's Subsidiary. Any reserves for bad debts reflected on the Balance Sheet were calculated in accordance with GAAP consistent with past practice and are adequate. The Company and the Company's Subsidiary reasonably believe that all such accounts receivable are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserves for bad debts reflected on the Balance Sheet, and since December 31, 2002, there have not been any write-offs as uncollectible of any accounts receivable of the Company or the Company's Subsidiary.

3.19 Insurance. Schedule 3.19 hereto sets forth a true and complete list of all insurance policies carried by the Company or the Company's Subsidiary with respect to their respective businesses, together with, in respect of each such policy, the name of the insurer, the number of the policy, the annual policy premium payable therefor, the limits of coverage, the deductible amount (if any), the expiration date thereof and each pending claim thereunder. Complete and correct copies of each certificate of insurance have previously been delivered by the Company or the Company's Subsidiary to the Parent. All such policies are in full force and effect. All premiums due thereon have been paid in a timely manner.

3.20 Bank Accounts; Powers of Attorney. Schedule 3.20 hereto sets forth a complete and correct list showing:

(i) all bank accounts of the Company or the Company's Subsidiary, together with, with respect to each such account, the account number, the names of all signatories thereof, the authorized powers of each such signatory and the approximate balance thereof on the date of this Agreement; and

(ii) the names of all persons holding powers of attorney from the Company or the Company's Subsidiary and a summary statement of the terms thereof.

3.21 Minute Books, etc. The minute books, records of the Company Capital Stock and the Subsidiary Capital Stock and other corporate records of the Company and the Company's Subsidiary are complete and correct in all material respects, and complete and correct copies thereof have been delivered by the Company and the Company's Subsidiary to the Parent. The minute books of the Company and the Company's Subsidiary contain accurate and complete records in all material respects of all meetings or written consents to action of the Stockholders of the Company and stockholders of the Company's Subsidiary and accurately reflect all corporate actions of the Company and the Company's Subsidiary which are required by law to be passed upon by the Stockholders of the Company and the stockholders of the Company's Subsidiary.

3.22 Related Person Indebtedness and Contracts. Schedule 3.22 hereto sets forth a complete and correct summary of all contracts, commitments, arrangements and understandings not described elsewhere in this Agreement between the Company or the Company's Subsidiary and any of the following (collectively, "Related Persons"): (i) the Stockholders and stockholders of the Company's Subsidiary; (ii) the spouses and children of any of the Stockholders and stockholders of the Company's Subsidiary (collectively, "near relatives"); (iii) any trust for the benefit of any of the Stockholders and stockholders of the Company's Subsidiary or any of their respective near relatives; or (iv) any corporation, partnership, joint venture or other entity or enterprise owned or controlled by any of the Stockholders and stockholders of the Company's Subsidiary or by any of their respective near relatives. All amounts contributed by the Stockholders to the Company or stockholders of the Company's Subsidiary, as the case may be, have been treated as contributions to equity of the Company or the Company's Subsidiary, as the case may be, and have not been treated as, nor do they constitute, indebtedness of the Company to the Stockholders or indebtedness of the Company's Subsidiary to the stockholders.

3.23 Brokers; Payments. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company, the Company's Subsidiary or the Principal Stockholders. The Company and the Company's Subsidiary have suspended or terminated, and have the legal right to terminate or suspend, all negotiations and discussions of Acquisition Transactions (as defined in Section 6.3) with parties other than Parent. No valid claim exists against the Company or the Company's Subsidiary or, based on any action by the Company or the Company's Subsidiary, against the Surviving Corporation or the Parent for payment of any "topping," "break-up" or "bust-up" fee or any similar compensation or payment arrangement as a result of the transactions contemplated hereby.

3.24 Consent Solicitation; Voting Requirements. Schedule 3.24 hereto sets forth a list of the Stockholders and the number of shares of each class of Company Capital Stock owned of record by each such Stockholder on the Record Date (as defined below). The affirmative vote or consent of at least a majority of the outstanding shares of Class A Common Stock and Class B Common Stock, voting together as a single class are the only votes or consents of the holders of any class or series of Company Capital Stock necessary to adopt this Agreement (the "Stockholder Approval"). The record date established in accordance with the URBCA and the Articles of Incorporation and the By-laws of the Company for purposes of determining the Stockholders entitled to give consents or vote with respect to the Stockholder Approval is the "Record Date." The Company has delivered to each Stockholder a copy of the Letter of Transmittal attached hereto as Exhibit B, together in the same package with the form of written consent to be executed and delivered by such person.

3.25 State Takeover Statutes. The Board of Directors of the Company has (i) determined that the Merger is fair and in the best interest of the Company and its Stockholders, (ii) approved and adopted the Merger and this Agreement and the other transactions contemplated by this Agreement and (iii) directed that this Agreement and the Merger be submitted to the Stockholders for their approval and resolved to recommend that the Stockholders vote in favor of this Agreement and the Merger, and such approval by the Stockholders is sufficient to render inapplicable to the Merger and this Agreement and the other transactions contemplated by this Agreement, any state takeover statute or similar law that would otherwise be applicable to the Merger and this Agreement and the other transactions contemplated by this Agreement.

3.26 Disclosure. The Company and the Company's Subsidiary have not failed to disclose to Parent any fact that is reasonably more likely than not to have a Company Material Adverse Effect or Subsidiary Material Adverse Effect or impede or impair the ability of the Company or the Company's Subsidiary to perform their respective obligations under this Agreement in any material respect. No representation or warranty by the Company or the Company's Subsidiary or the Principal Stockholders contained in this Agreement and no statement contained, when considered together as a whole, in any of the Company and the Company's Subsidiary Disclosure Schedules, and the certificates and other documents or instruments delivered or to be delivered pursuant to this Agreement by or on behalf of the Company, the Company's Subsidiary and/or the Principal Stockholders contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they are made, not misleading.

3.27 Information Supplied. None of the information supplied or to be supplied by the Company, the Company's Subsidiary and the Principal Stockholders specifically for and delivered or to be delivered in connection with the solicitation by the Company of the consents necessary for the Stockholder Approval contained any untrue statement of a material fact or omitted to state any material fact as of the date such information was given to the Stockholders required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were or are made, taken as a whole, not misleading.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES
OF THE PRINCIPAL STOCKHOLDERS

4.1 Authorization; etc. The Principal Stockholders jointly and severally represent and warrant to the Parent and Acquisition Corp. as follows:

(i) Each of the Principal Stockholders is the sole and exclusive record and beneficial owner of the Company Capital Stock set forth opposite his or her name in Schedule 3.4 hereto, free and clear of any claims, liens, pledges, options, rights of first refusal or other encumbrances or restrictions of any nature whatsoever (other than restrictions on transfer imposed under applicable securities laws), and there are no agreements, arrangements or understandings to which such Principal Stockholder is a party (other than this Agreement) involving the purchase, sale or other acquisition or disposition of the Company Capital Stock owned by such Principal Stockholder;

(ii) such Principal Stockholder shall (A) simultaneously with such Stockholder's execution and delivery of this Agreement, execute and deliver to Parent an irrevocable proxy or written consent in which such Principal Stockholder voted all Company Capital Stock owned by such Principal Stockholder in favor of the Merger and the adoption of this Agreement by the Company, (B) at the Effective Time, deliver or cause to be delivered to the Parent (x) certificates representing all Company Capital Stock owned by such Principal Stockholder, each such certificate to be duly endorsed for transfer and free and clear of any claims, liens, pledges, options, rights of first refusal or other encumbrances or restrictions of any nature whatsoever (other than restrictions imposed under applicable securities laws) and (y) a duly completed and executed Letter of Transmittal in the form of Exhibit B attached hereto;

(iii) such Principal Stockholder has all necessary legal capacity, right, power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, and this Agreement constitutes a valid and binding obligation of such Principal Stockholder enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors, rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in law or in equity;

(iv) the execution and delivery of this Agreement by such Principal Stockholder and the consummation of the transactions contemplated hereby will not (A) violate or conflict with any provision of any partnership agreement, operating agreement or other constitutional documents of any such Principal Stockholder that is constituted as a general or limited partnership or limited liability company, (B) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under or require any consent or the giving of any notice under, any note, bond,

indenture, mortgage, security agreement, lease, license, franchise, permit or other material agreement, instrument or obligation to which such Principal Stockholder is a party, or by which such Principal Stockholder or the Company Capital Stock held by such Principal Stockholder may be bound, or result in the creation of any lien, claim or encumbrance or other right of any third party of any kind whatsoever upon the properties or assets of such Principal Stockholder pursuant to the terms of any such instrument or obligation, which breach, violation or event of default would have a material adverse effect on such Principal Stockholder's ability to perform such Principal Stockholder's obligations hereunder, or (C) violate or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction, decree or other instrument of any court or governmental or regulatory body, agency or authority applicable to such Principal Stockholder or by which such Company Capital Stock held by such Principal Stockholder may be bound; and

(v) none of the information supplied or to be supplied by the Principal Stockholder specifically for and delivered or to be delivered in connection with the solicitation by the Company of the consents necessary for the Stockholder Approval and the transactions contemplated hereby contained or will contain any untrue statement of a material fact or omitted to state any material fact as of the date such information was given to the Principal Stockholders required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were or are made, taken as a whole, not misleading.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE PARENT AND ACQUISITION CORP.

The Parent and Acquisition Corp. jointly and severally represent and warrant to the Company as set forth below, subject to the exceptions set forth in the disclosure schedules hereto (the "Parent Disclosure Schedules"), the section numbers and letters of which correspond to the section and subsection numbers and letters of this Agreement.

5.1 Corporate Organization. Each of the Parent and Acquisition Corp. is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of the Parent and Acquisition Corp. has all requisite corporate power and authority to own, operate and lease the properties and assets it now owns, operates and leases and to carry on its business as presently conducted. The Parent and Acquisition Corp. are each duly qualified to transact business as a foreign corporation and are each in good standing in the jurisdictions where such qualification is required by reason of the nature of the properties and assets currently owned, operated or leased by the Parent or Acquisition Corp. or the business currently conducted by them, except for such jurisdictions where the failure to be so qualified would not have a Parent Material Adverse Effect (as defined below). Acquisition Corp. is a corporation newly formed by Parent and has not conducted any business other than as expressly set forth in or contemplated by this Agreement. The Parent has previously delivered to the Company complete and correct copies of (i) its Certificate of Incorporation and all amendments thereto as of the date hereof (certified by the Secretary of State of Delaware as of a recent date)

and its By-Laws (certified by the Secretary of the Parent as of a recent date) and (ii) the Certificate of Incorporation of Acquisition Corp. and all amendments thereto as of the date hereof (certified by the Secretary of State of the State of Delaware as of a recent date) and the By-Laws of Acquisition Corp. (certified by the Secretary of Acquisition Corp. as of a recent date). Neither the Certificate of Incorporation nor the By-Laws of the Parent or Acquisition Corp. have been amended since the respective dates of certification thereof, nor has any action been taken for the purpose of effecting any amendment of such instruments. The term "Parent Material Adverse Effect" means for purposes of this Agreement, any change, event or effect that is, or would be, materially adverse to the business, operation, assets, liabilities, financial condition or results of operations of the Parent and its subsidiaries (including Acquisition Corp.), taken as a whole.

5.2 Authorization. Each of the Parent and Acquisition Corp. has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly adopted by the Boards of Directors of the Parent and Acquisition Corp. and by the Parent as the sole stockholder of Acquisition Corp., and no other corporate proceedings on the part of the Parent or Acquisition Corp. are necessary to approve and authorize the execution and delivery of this Agreement or (subject to the filing of the Certificates of Merger pursuant to the URBCA and DGCL) the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Parent and Acquisition Corp. and constitutes the valid and binding agreement of the Parent and Acquisition Corp., enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or in law).

5.3 Consents and Approvals; No Violations. Subject to (a) the filing of Certificates of Merger pursuant to the URBCA and DGCL, and (b) compliance with applicable federal and state securities laws, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not: (i) violate or conflict with any provisions of the Certificate of Incorporation or By-Laws of the Parent or Acquisition Corp.; (ii) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under, or require any consent or the giving of any notice under, any note, bond, indenture, mortgage, security agreement, lease, license, franchise, permit, agreement or other instrument or obligation to which the Parent or Acquisition Corp. are parties, or by which any of them or any of their respective properties or assets may be bound, or result in the creation of any lien, claim or encumbrance of any kind whatsoever upon the properties or assets of the Parent or Acquisition Corp. pursuant to the terms of any such instrument or obligation, other than any breach, violation, default, termination, cancellation, modification or acceleration which would not have a Parent Material Adverse Effect; (iii) violate or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction or decree or other instrument of any federal, state, local or foreign court or

governmental or regulatory body, agency or authority applicable to the Parent or Acquisition Corp. or by which any of their respective properties or assets may be bound, except for such violations or conflicts which would not have a Parent Material Adverse Effect; or (iv) require, on the part of the Parent or Acquisition Corp., any filing or registration with, or permit, license, exemption, consent, authorization or approval of, or the giving of any notice to, any governmental or regulatory body, agency or authority other than any filing, registration, permit, license, exemption, consent, authorization, approval or notice which if not obtained or made would not have a Parent Material Adverse Effect.

5.4 Capitalization. (a) As of the date of this Agreement, the authorized capital stock of the Parent consists of 46,500,000 shares of Common Stock, $0.01 par value per share, of which 12,500,000 shares have been designated Class A Common Stock (the "Parent Class A Common Stock") and of which 12,250,000 shares are issued and outstanding; and 34,000,000 shares have been designated Class B Common Stock (the "Parent Class B Common Stock"), of which 1,000,000 shares are issued and outstanding; and 8,500,000 shares of Preferred Stock, $0.01 par value per share (the "Parent Preferred Stock") and none of which are issued and outstanding (the Parent Class A Common Stock, the Parent Class B Common Stock and the Parent Preferred Stock collectively shall be referred to herein as the "Parent Capital Stock"). All of the issued and outstanding shares of Parent Capital Stock are duly authorized, validly issued, fully paid and nonassessable. There are no outstanding options, warrants or other rights to purchase, or securities convertible into or exchangeable for, shares of the capital stock of the Parent, and (except as contemplated by this Agreement with respect to options issuable under Parent's 2003 Stock Incentive Plan (the "Parent Option Plan")) there are no agreements or commitments to which the Parent is a party or by which it is bound pursuant to which the Parent is or may become obligated to issue additional shares of its capital stock.

(b) As of the date of this Agreement, the authorized capital stock of Acquisition Corp. consists of 1,000 shares of common stock, par value $0.01 per share, of which 100 shares are issued and outstanding, all of which shares are owned beneficially and of record by the Parent. There are no outstanding options, warrants or other rights to purchase, or securities convertible into or exchangeable for, shares of the capital stock of Acquisition Corp., and there are no agreements or commitments to which Acquisition Corp. is a party or by which it is bound pursuant to which Acquisition Corp. is or may become obligated to issue additional shares of its capital stock.

5.5 Compliance with Applicable Law. Parent and Acquisition Corp. are not in violation in any respect of any applicable safety, health, environmental or other law, statute, ordinance, code, rule, regulation, judgment, order, injunction, writ or decree of any federal, state, local or foreign court or governmental or regulatory body, agency or authority having, asserting or claiming jurisdiction over it or over any part of its business, operations, properties or assets, except for any violation that would not result in a fine or penalty in excess of $10,000 individually or in the aggregate. Parent and Acquisition Corp. have not received any notice alleging any such violation, nor to the knowledge of Parent or Acquisition Corp., is there any inquiry, investigation or proceedings relating thereto.

5.6 Litigation. There are no suits, actions, claims, proceedings (including, without limitation, arbitral or administrative proceedings) or investigations pending or, to the knowledge of the Parent or Acquisition Corp., threatened against the Parent or Acquisition Corp. or their respective properties, assets or business or, to the knowledge of Parent or Acquisition Corp., pending or threatened against any of the officers, directors, employees, agents or consultants of the Parent or Acquisition Corp. in connection with the business of the Parent or Acquisition Corp. There is no basis for any such suits, actions, claims, proceedings or investigations known to the Parent or Acquisition Corp. There are no such suits, actions, claims, proceedings or investigations pending against the Parent or Acquisition Corp., or, to the knowledge of the Parent or Acquisition Corp., threatened against the Parent or Acquisition Corp. challenging the validity or propriety of the transactions contemplated by this Agreement. There is no judgment, order, injunction, decree or award (whether issued by a court; an arbitrator or an administrative agency) to which the Parent or Acquisition Corp. is a party, or involving the properties, assets or business of the Parent or Acquisition Corp., which is unsatisfied or which requires continuing compliance therewith by the Parent or Acquisition Corp.

5.7 Brokers; Payments. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Parent or Acquisition Corp.

5.8 Disclosure. The Parent and Acquisition Corp. have not failed to disclose to Company and Company's Subsidiary any fact that is reasonably more likely than not to have a Parent Material Adverse Effect or impede or impair the ability of the Parent or Acquisition Corp. to perform their respective obligations under this Agreement in any material respect. No representation or warranty by the Parent or Acquisition Corp. contained in this Agreement and no statement contained, when considered together as a whole, in any of the Parent Disclosure Schedules, and the certificates and other documents or instruments delivered or to be delivered pursuant to this Agreement by or on behalf of the Parent or Acquisition Corp. contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they are made, not misleading.

ARTICLE VI

CONDUCT OF BUSINESS PRIOR TO THE EFFECTIVE TIME

6.1 Conduct of Business of the Company. During the period commencing on the date hereof and continuing until the Effective Time, the Company and the Principal Stockholders agree that the Company and the Company's Subsidiary, except as otherwise expressly contemplated by this Agreement or agreed to in writing by the Parent:

(a) will carry on its business only in the ordinary course and consistent with past practice;

(b) will not declare or pay any dividend on or make any other distribution (however characterized) in respect of shares of its capital stock;

(c) will not, directly or indirectly, redeem or repurchase, or agree to redeem or repurchase, any shares of its capital stock;

(d) will not amend its Articles of Incorporation or By-Laws;

(e) will not issue, or agree to issue, any shares of its capital stock, or any options, warrants or other rights to acquire shares of its capital stock, or any securities convertible into or exchangeable for shares of its capital stock (except pursuant to the exercise of Company Stock Options);

(f) will not combine, split or otherwise reclassify any shares of its capital stock;

(g) will not form another subsidiary in addition to the Company's Subsidiary;

(h) will use its best efforts to preserve intact its present business organization, keep available the services of its officers and key employees and preserve its relationships with clients and others having business dealings with it to the end that its goodwill and ongoing business shall not be materially impaired at the Effective Time;

(i) will not (i) make any capital expenditures individually or in the aggregate in excess of $25,000, (ii) enter into any license, distribution, OEM, reseller, joint venture or other similar agreement, (iii) enter into or terminate any lease of, or purchase or sell, any real property, (iv) enter into any leases of personal property involving individually or in the aggregate in excess of $25,000 annually, (v) incur or guarantee any additional indebtedness for borrowed money, (vi) create or permit to become effective any security interest, mortgage, lien, charge or other encumbrance on its properties or assets, or (vii) enter into any agreement to do any of the foregoing;

(j) will not adopt or amend any Benefit Plan for the benefit of Employees, or increase the salary or other compensation (including, without limitation, bonuses or severance compensation) payable or to become payable to its Employees, or enter into employment agreements with any existing or new employee of the Company or the Company's Subsidiary, or accelerate, amend or change the period of exercisability or the vesting schedule of options or restricted stock granted under any stock option plan or agreements except as specifically required by the terms of such plans or agreements, or enter into any agreement to do any of the foregoing;

(k) will not accelerate receivables or delay payables;

(1) will promptly advise the Parent of the commencement of, or threat of (to the extent that such threat comes to the knowledge of the Company, the Company's Subsidiary or any Principal Stockholder) any claim, action, suit, proceeding or investigation against, relating to or involving the Company, the Company's Subsidiary or any of their respective officers,

employees, agents or consultants in connection with their businesses or the transactions contemplated hereby;

(m) will use its commercially reasonable efforts to maintain in full force and effect all insurance policies maintained by the Company or the Company's Subsidiary on the date hereof;

(n) will not enter into any agreement to dissolve, merge, consolidate or, except in the ordinary course, sell any material assets of the Company or the Company's Subsidiary, or acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial equity interest in or substantial portion of the assets of, or by any other manner, any business or any corporation, partnership or other business organization or division, or otherwise acquire or agree to acquire any assets in excess of $25,000 in the aggregate; and

(o) will not change the method of accounting of the Company or the Company's Subsidiary, make any Tax elections, enter any settlement or compromise of any Tax claim or liability with any taxing authority, or amend any Tax Return that would adversely affect Parent or its subsidiaries without the consent of Parent.

6.2 Conduct of Business of Acquisition Corp. During the period commencing on the date hereof and continuing until the Effective Time, Acquisition Corp. shall not engage in any activities of any nature except as provided in or contemplated by this Agreement.

6.3 Other Negotiations. Neither the Company, the Company's Subsidiary nor any of the Principal Stockholders will (nor will they permit any of their respective officers, directors, employees, agents, partners and affiliates on their behalf to) take any action to solicit, initiate, seek, encourage or support any inquiry, proposal or offer from, furnish any information to, or participate in any discussions or negotiations with, any corporation, partnership, person or other entity or group (other than Parent) regarding any acquisition of the Company or the Company's Subsidiary, any merger or consolidation with or involving the Company or the Company's Subsidiary, or any acquisition of any material portion of the stock or assets of the Company or the Company's Subsidiary, or any equity or debt financing of the Company or the Company's Subsidiary or any material license of Intellectual Property rights or any business combination, recapitalization, joint venture or other major transaction involving the business of the Company or the Company's Subsidiary (any of the foregoing being referred to in this Agreement as an "Acquisition Transaction") or enter into an agreement concerning any Acquisition Transaction with any party other than Parent. If between the date of this Agreement and the termination of this Agreement pursuant to Article XI, the Company or the Company's Subsidiary receives from a third party any offer to negotiate or consummate an Acquisition Transaction, the Company or Company's Subsidiary shall (i) notify Parent immediately (orally and in writing) of such offer, including the identity of such party and the terms of any proposal therein, and (ii) notify such third party of the obligations of the Company and the Company's Subsidiary under this Agreement.

ARTICLE VII

ADDITIONAL AGREEMENTS

7.1 Access to Properties and Records. The Company and the Company's Subsidiary will provide to Parent and Parent's accountants, counsel and other authorized advisors, with reasonable access, during business hours, to their respective premises and properties and their respective books and records (including, without limitation, contracts, leases, insurance policies, litigation files, minute books, accounts, working papers and Tax Returns filed and in preparation) and will cause their respective officers to furnish to Parent and Parent's authorized advisors such additional financial, tax and operating data and other information pertaining to their respective businesses as Parent shall from time to time reasonably request. All of such data and information shall be kept confidential by Parent and the Company unless and until the Merger is consummated.

7.2 Transfer of Interests. The Principal Stockholders agree that they (i) shall not dispose of or in any way encumber their Company Capital Stock prior to the consummation of the transactions contemplated hereby, (ii) shall use their best efforts to cause, and take no action inconsistent with, the approval and consummation of said transactions and (iii) at the Closing shall surrender the certificates representing all shares of Company Capital Stock owned by them, duly endorsed for transfer.

7.3 Reasonable Efforts; etc. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use his/its commercially reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including obtaining any consents, authorizations, exemptions and approvals from, and making all filings with, any governmental or regulatory authority, agency or body which are necessary in connection with the transactions contemplated by this Agreement. The Company and Parent shall obtain any consents, approvals or releases reasonably deemed necessary by Parent with respect to the Management Retention Consideration.

7.4 Material Events. At all times prior to the Effective Time, each party shall promptly notify the others in writing of the occurrence of any event which will or may result in the failure to satisfy any of the conditions specified in Article IX or Article X hereof.

7.5 Fees and Expenses. The Parent, the Company and the Company's Subsidiary shall bear and pay all of their own fees, costs and expenses relating to the transactions contemplated by this Agreement, including, without limitation, the fees and expenses of their respective counsel, accountants, brokers and financial advisors except that if the Merger is consummated, then the Stockholders shall be responsible for all such fees, costs and expenses incurred by the Company in connection with this Agreement and the transactions contemplated hereby in excess of $50,000.00 without the prior approval by Parent, and such fees, costs and expenses in excess of $50,000.00 without the prior approval by Parent shall be deemed expenses

of the Stockholders and which shall be paid by the Stockholders on a pro rata basis based on their percentage share of the Initial Merger Consideration.

7.6 Supplements to Disclosure Schedules. From time to time prior to the Effective Time, each party hereto shall supplement or amend its Disclosure Schedules with respect to any matter hereafter arising that, if existing or occurring at or prior to the date of this Agreement, would have been required to be set forth or described in its Disclosure Schedules or that is necessary to correct any information in its Disclosure Schedules or in its representations and warranties that have been rendered inaccurate thereby. The Disclosure Schedules delivered by a party hereto shall be deemed to include only that information contained therein on the date of this Agreement and shall be deemed to exclude any information contained in any subsequent supplement or amendment thereto.

7.7 Option Grants. Promptly after the Effective Time, Parent will grant nonqualified stock options to purchase shares of Parent Class B Common Stock to certain key managers of the Company's Subsidiary (the "Management Option Holders") as determined by the Parent in good faith consultation with the Stockholder Representative, provided, however, that the total aggregate number of options granted pursuant to this Section 7.7 shall not exceed 1,250,000 (the "Management Options") and shall be subject to the escrow provisions set forth in Section 2.6 and Article XII hereof. Such options will be granted with an exercise price equal to $0.75 per share. Such options will be issued in accordance with Parent's standard option terms, *provided, however,* that 1/3 of the options shall vest on the Closing Date and the remainder shall vest in equal amounts annually over three (3) years.

7.8 Stockholder Consent. The Company shall use its best efforts to obtain the requisite Stockholder Approval, whether by written consent or at a meeting duly called for the purpose thereof, in accordance with applicable law.

7.9 Tax Elections. Parent covenants, except upon prior written consent of the Stockholder Representative, which may not be unreasonably withheld, it will not and will not cause or permit the Company to (i) make any election or deemed election under Section 338 of the Code or (ii) make or change any Tax election or take any other corporate action which would result in a tax indemnification obligation of the Stockholders pursuant to Article XII of this Agreement.

ARTICLE VIII

COVENANTS OF CERTAIN PRINCIPAL STOCKHOLDERS

Each of the Principal Stockholders hereby severally and not jointly agrees that for a period of two (2) years after the date hereof, he, she or it will not, directly or indirectly, alone or as a partner, officer, director, employee, consultant, agent, independent contractor or stockholder of any company or business organization, engage in any business activity, or have a financial interest in any business activity (excepting only the ownership of not more than 1% of the outstanding securities of any class of any entity listed on an exchange or regularly traded in the over-the-counter market), which is directly or indirectly in competition with the products or

services contemplated or being developed, marketed, sold or otherwise provided by the Company or the Company's Subsidiary, or which is directly or indirectly detrimental to the business of the Company and the Company's Subsidiary, as the case may be, as of the Closing Date ("Competitive Activity"). Such person further agrees that, for a period of two (2) years from after the date hereof, he, she or it will not in any capacity, either separately, jointly or in association with others, directly or indirectly, solicit or contact in connection with, or in furtherance of, a Competitive Activity any of the employees, consultants, agents, suppliers, customers or prospects of the Company or the Company's Subsidiary that were such with respect to the Company or the Company's Subsidiary at any time during the one (1) year immediately preceding the date hereof or that become such with respect to the Company or the Company's Subsidiary at any time during the one (1) year immediately following the date hereof. Such person's obligations under this Article VIII shall survive the termination or cessation of his, her or its employment with the Company or the Company's Subsidiary and shall not be limited by Article XII hereof.

ARTICLE IX

CONDITIONS TO THE OBLIGATIONS OF THE PARENT AND ACQUISITION CORP.

The obligation of the Parent and Acquisition Corp. to consummate the transactions contemplated hereby shall be subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any of which may be waived in writing by the Parent and Acquisition Corp. in their sole discretion):

9.1 Representations and Warranties True. The representations and warranties of the Company, the Company's Subsidiary and the Principal Stockholders which are contained in this Agreement, or contained in any Schedule, certificate or instrument delivered or to be delivered pursuant to this Agreement, shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date (it being understood that, for the purposes of determining the accuracy of such representations and warranties, all "Material Adverse Effect" qualifications and other qualifications based on the word "material" or similar phrases contained in such representations and warranties shall be disregarded), and at the Closing the Company and the Company's Subsidiary shall each have delivered to the Parent and Acquisition Corp. a certificate (signed on behalf of the Company by the Chief Executive Officer of the Company and signed on behalf of the Company's Subsidiary by the Chief Executive Officer of the Company's Subsidiary) to that effect with respect to all such representations and warranties made by the Company or the Company's Subsidiary, as the case may be, and each of the Principal Stockholders shall have executed and delivered to the Parent and Acquisition Corp. a certificate to that effect with respect to all such representations and warranties made by the Principal Stockholders.

9.2 Performance. The Company, the Company's Subsidiary and the Principal Stockholders shall have performed and complied in all material respects with all of the obligations under this Agreement which are required to be performed or complied with by them

on or prior to the Closing Date, and at the Closing the Company and the Company's Subsidiary shall each have delivered to the Parent and Acquisition Corp. a certificate (duly executed on behalf of the Company by the Chief Executive Officer of the Company and duly executed on behalf of the Company's Subsidiary by the Chief Executive Officer and Chief Financial Officer of the Company's Subsidiary) to that effect with respect to all such obligations required to have been performed or complied with by the Company or the Company's Subsidiary, as the case may be, on or before the Closing Date, and each of the Principal Stockholders shall have executed and delivered to the Parent and Acquisition Corp. a certificate to that effect with respect to all such obligations required to have been performed or complied with by the Principal Stockholders on or before the Closing Date.

9.3 Absence of Litigation. No statute, rule or regulation shall have been enacted or promulgated, and no order, decree, writ or injunction shall have been issued and shall remain in effect, by any court or governmental or regulatory body, agency or authority which restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated hereby, and no action, suit or proceeding before any court or governmental or regulatory body, agency or authority shall have been instituted by any person (or instituted or threatened by any governmental or regulatory body, agency or authority), and no investigation by any governmental or regulatory body, agency or authority shall have been commenced with respect to the transactions contemplated hereby or with respect to the Company or the Company's Subsidiary which reasonably could have a material adverse effect on the transactions contemplated hereby or reasonably could result in a Company Material Adverse Effect or a Subsidiary Material Adverse Effect.

9.4 Consents. All approvals, consents, waivers and authorizations required to be obtained by the Company, the Company's Subsidiary or any Principal Stockholder in connection with the Merger and the other transactions contemplated by this Agreement (including those identified on Schedule 3.3) shall have been obtained and shall be in full force and effect.

9.5 Additional Agreements. The following agreements shall have been executed and delivered to Parent:

(i) Executive Employment Agreement, in a form attached hereto as Exhibit D, executed by Paul J. Brockbank (the "Key Employee");

(ii) Confidentiality, Assignment of Inventions and Employment-At-Will Agreements for Consultants and Employees, in a form satisfactory to Parent, executed by each of the employees of the Company;

(iii) the Escrow Agreement in the form attached hereto as Exhibit C, duly executed by the Stockholder Representative and the Escrow Agent;

(iv) the Letter of Transmittal in the form attached hereto as Exhibit B duly executed and delivered by holders of at least 51% of the outstanding shares of Company Capital Stock (the "Letter of Transmittal");

(v) each of the Stockholders shall deliver to Parent a Form W-9 on the Closing and prior to any payment of cash for the Initial Merger Consideration. Each Stockholder shall furnish Parent with an affidavit, stating, under penalty of perjury, the Stockholder's United States taxpayer identification number;

(vi) a FIRPTA Certificate, duly executed by the Company pursuant to section 1445(b)(2) of the Code;

(vii) any and all approvals and/or releases for such Management Retention Consideration, as are requested by the Parent;

(viii) resignations of certain officers and all directors of the Company and the Company's Subsidiary as of the Effective Time; and

(ix) Termination Agreements executed by each of the optionees holding Company Stock Options which such Company Stock Options are not already vested as of the Effective Time and which such Company Stock Options shall be cancelled at the Effective Time without the payment of any consideration therefor and which such Company Stock Options shall be of no further force and effect, without any assumption thereof.

9.6 Delivery of Certificates for Cancellation. The Certificates representing at least 51% of the shares of Company Capital Stock issued and outstanding immediately prior to the Effective Time, duly endorsed in blank, shall have been surrendered for cancellation at the Effective Time or as soon as practicable thereafter, and in any event within seven (7) days of the Closing.

9.7 Approval. The holders of at least 51% of the issued and outstanding shares of Company Capital Stock shall have voted in favor of the approval of the Merger, the adoption of this Agreement and the transactions contemplated hereby.

9.8 Certificate of Merger. The Company shall have executed and delivered to the Parent counterparts of the Certificates of Merger to be filed with the Secretary of State of the State of Delaware and the Division.

9.9 Payment of Indebtedness. At or prior to the Effective Time, each of the Company and the Company's Subsidiary shall have paid in full all outstanding indebtedness such that at the Closing each of the Company and the Company's Subsidiary shall not have any outstanding indebtedness other than accounts payable incurred in the ordinary course of business.

9.10 Cash. At the Effective Time, the Company's Subsidiary shall have cash or cash equivalents in an amount of at least $850,000.00 (net of any accounts payable and outstanding checks) and shall deliver evidence satisfactory to the Parent dated within one (1) day of the Closing Date evidencing such cash or cash equivalents, which shall include written confirmation from the bank as to such cash and cash equivalents and a certificate from the Chief Financial Officer of the Company's Subsidiary certifying as to the accounts payable (based on invoices received) of, and outstanding checks issued by, the Company as of the Closing Date.

9.11 Due Diligence. Parent shall have completed its investigation of the Company and the Company's Subsidiary and their respective businesses and all legal and other due diligence to its satisfaction, in its sole discretion.

9.12 Termination. The Company shall have terminated each of those agreements listed on Schedule 9.12 to this Agreement and each such agreement shall be of no further force or effect.

9.13 Material Adverse Effect. There shall not have occurred any event which is or reasonably could result in a Company Material Adverse Effect or a Subsidiary Material Adverse Effect.

9.14 Series A Preferred Stock Financing. As of the Closing Date, the Parent shall have closed on its Series A Preferred Stock round of financing in an amount of not less than $16 million in one or more closings.

9.15 Opinion of Stoel Rives LLP. The Company shall have delivered to Parent an opinion of Stoel Rives LLP, counsel to the Company, in substantially the form attached hereto as Exhibit E.

9.16 Supporting Documents. The Company and the Company's Subsidiary shall each have delivered to the Parent a certificate (a) of the Division dated as of the Closing Date, certifying as to the corporate legal existence of the Company and the Company's Subsidiary, as the case may be, and (b) of the Secretary of the Company and the Company's Subsidiary, as the case may be, dated the Closing Date, certifying on behalf of the Company and the Company's Subsidiary (i) that attached thereto is a true and complete copy of the Articles of Incorporation of such Company or the Company's Subsidiary, as the case may be, as in effect on the date of such certification, (ii) that attached thereto is a true and complete copy of the By-Laws of such Company or the Company's Subsidiary, as the case may be, as in effect on the date of such certification; (iii) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors and the Stockholders of such Company or the stockholders of such Company's Subsidiary, as the case may be, authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (iv) to the incumbency and specimen signature of each officer of the Company and the Company's Subsidiary, as the case may be, executing on behalf of such company this Agreement and the other agreements related hereto.

9.17 Tax Matters.

(a) Tax Periods Ending on or before the Closing Date. The Parent shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company for all periods ending on or prior to the Closing Date which are filed after the Closing Date. The Parent shall permit the Stockholder Representative to review and approve each such Tax Return described in the preceding sentence at least thirty (30) days prior to filing, which such approval shall not be unreasonably withheld or delayed.

(b) Cooperation on Tax Matters.

(i) Parent, the Company and the Stockholders shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns pursuant to this Section 9.17 and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Company and the Stockholders agree (A) to retain all books and records with respect to Tax matters pertinent to the Company relating to any Tax period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Parent or to the Stockholders, any extensions thereof) of the respective Tax periods, and to abide by all record retention agreements entered into with any taxing authority, and (B) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, the Company or the Stockholders, as the case may be, shall allow the other party to take possession of such books and records.

(ii) Parent and the Stockholders further agree, upon request, to use their best efforts to obtain any certificate or other document from any governmental authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

(c) Certain Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement (including any corporate-level gains Tax triggered by the sale of Company Capital Stock, and any applicable transfer taxes imposed in any state or subdivision) shall be paid by the Stockholders when due, and the Stockholders shall, at their own expense, file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use stamp, registration and other Taxes and fees, and, if required by applicable law, Parent will, and will cause its affiliates to, join in the execution of any such Tax Returns and other documentation.

ARTICLE X

CONDITIONS TO THE OBLIGATIONS OF THE
COMPANY, THE COMPANY'S SUBSIDIARY
AND THE PRINCIPAL STOCKHOLDERS

The obligation of the Company, the Company's Subsidiary and the Principal Stockholders to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, on or prior to the Closing Date of each of the following conditions (any of which may be waived in writing by the Company, the Company's Subsidiary and the Principal Stockholders in their sole discretion):

10.1 Representations and Warranties True. The representations and warranties of each of the Parent and Acquisition Corp. contained in this Agreement, or contained in any Schedule, certificate or other instrument or document delivered or to be delivered pursuant to this Agreement, shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date (it being understood that for the purposes of determining the accuracy of such representations and warranties, all "Material Adverse Effect" qualifications and other qualifications based on the word "material" or similar phrases contained in such representations and warranties shall be disregarded), and at the Closing each of the Parent and Acquisition Corp. shall have delivered to the Company, the Company's Subsidiary and the Principal Stockholders a certificate (signed on its behalf by its Chief Executive Officer or President, as the case may be) to that effect with respect to all such representations and warranties made by such entity.

10.2 Performance. Each of the Parent and Acquisition Corp. shall have performed and complied in all material respects with all of the obligations under this Agreement which are required to be performed or complied with by them on or prior to the Closing Date, and at the Closing each of the Parent and Acquisition Corp. shall have delivered to the Company, the Company's Subsidiary and the Principal Stockholders a certificate, signed on its behalf by its Chief Executive Officer or President, as the case may be, to that effect with respect to all such obligations required to have been performed or complied with by such entity on or before the Closing Date.

10.3 Absence of Litigation. No statute, rule or regulation shall have been enacted or promulgated, and no order, decree, writ or injunction shall have been issued and shall remain in effect, by any court or governmental or regulatory body, agency or authority which restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated hereby, and no action, suit or proceeding before any court or governmental or regulatory body, agency or authority shall have been instituted by any person (or instituted or threatened by any governmental or regulatory body, agency or authority) and no investigation by any governmental or regulatory body, agency or authority shall have been commenced with respect to the transactions contemplated hereby or with respect to the Parent or Acquisition Corp. which reasonably could have a material adverse effect on the transactions contemplated hereby or reasonably could result in a Parent Material Adverse Effect.

10.4 Consents. All approvals, consents, waivers and authorizations required to be obtained by Parent or Acquisition Corp. in connection with the Merger and the other transactions contemplated by this Agreement (including those identified on Schedule 5.3) shall have been obtained and shall be in full force and effect.

10.5 Additional Agreements. The Parent shall have executed and delivered (and shall have agreed to cause the Surviving Corporation to execute and deliver immediately following the Effective Time, as applicable) counterparts of the following agreements;

(i) the Executive Employment Agreement referred to in Section 9.5(i) hereof; and

(ii) the Escrow Agreement referred to in Section 9.5(iii) hereof, together with counterparts signed by the Escrow Agent.

10.6 Certificates of Merger. The Parent and Acquisition Corp. shall have executed and delivered to the Company, the Company's Subsidiary and the Principal Stockholders counterparts of the Certificates of Merger to be filed with the Secretary of the State of the State of Delaware and the Division in connection with the Merger.

10.7 Cash and Management Retention Options; Escrow Deposit.

(a) At the Closing the Parent shall deliver to the Stockholder Representative all of the requisite portion of the Initial Merger Consideration, less ten percent (10%) which shall be placed in escrow as provided in Sections 2.3(a) and 2.6 hereof.

(b) As soon as practicable after the Closing and in any event within ten (10) days after the Closing, Parent shall deliver to the Escrow Agent the amount of cash and Management Options which shall constitute the Escrow Deposit pursuant to Section 2.6.

10.8 Supporting Documents.

(a) The Parent shall have delivered to the Company, the Company's Subsidiary and the Principal Stockholders a certificate (i) of the Secretary of State of the State of Delaware dated as of the Closing Date, certifying as to the corporate legal existence of the Parent and (ii) of the Secretary of the Parent, dated the Closing Date, certifying on behalf of the Parent (aa) that attached thereto is a true and complete copy of the Certificate of Incorporation of Parent as in effect on the date of such certification, (bb) that attached thereto is a true and complete copy of the By-Laws of such Parent as in effect on the date of such certification; (cc) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors of such Parent authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (dd) to the incumbency and specimen signature of each officer of the Parent executing on behalf of such Parent this Agreement and the other agreements related hereto.

(b) Acquisition Corp. shall have delivered to the Company, the Company's Subsidiary and the Principal Stockholders a certificate (i) of the Secretary of State of the State of Delaware dated as of the Closing Date, certifying as to the corporate legal existence of Acquisition Corp. and (ii) of the Secretary of Acquisition Corp., dated the Closing Date, certifying on behalf of Acquisition Corp. (aa) that attached thereto is a true and complete copy of the Certificate of Incorporation of Acquisition Corp. as in effect on the date of such certification, (bb) that attached thereto is a true and complete copy of the By-Laws of such Acquisition Corp. as in effect on the date of such certification; (cc) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors and stockholders of such Acquisition Corp. authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (dd) to the incumbency and specimen signature of each officer of Acquisition Corp. executing on behalf of such Acquisition Corp. this Agreement and the other agreements related hereto.

ARTICLE XI

TERMINATION

11.1 Termination. This Agreement may be terminated at any time prior to the Effective Time:

(a) by the mutual written consent of the Company, the Company's Subsidiary and the Parent;

(b) by either the Company, the Company's Subsidiary or the Parent

(i) if any court or governmental or regulatory agency, authority or body shall have enacted, promulgated or issued any statute, rule, regulation, ruling, writ or injunction, or taken any other action, restraining, enjoining or otherwise prohibiting the transactions contemplated hereby and all appeals and means of appeal therefrom have been exhausted; or

(ii) if the Effective Time shall not have occurred on or before March 31, 2003 provided, however, that the right to terminate this Agreement pursuant to this Section 11.1(b)(ii) shall not be available to any party whose (or whose affiliate(s)') breach of any representation or warranty or failure to perform or comply with any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date; or

(iii) if there shall have been a material breach of any representation, warranty, covenant, condition or agreement on the part of the other party set forth in this Agreement which breach is incapable of cure, or if capable of cure, shall not have been cured within twenty (20) business days following receipt by the breaching party of notice of such breach.

(c) by the Parent if the Effective Time shall not have occurred on or before February 28, 2003 solely because the Company has failed to comply with any of the closing conditions set forth in Sections 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10 and 9.13.

11.2 Effect of Termination. In the event of termination of this Agreement, this Agreement shall forthwith become void and there shall be no liability on the part of any of the parties hereto (in the case of the Company, the Company's Subsidiary, the Parent and Acquisition Corp.) their respective officers or directors, except for Sections 7.5 and 13.5, and the last sentence of Section 7.1, which shall remain in full force and effect, and except that nothing herein shall relieve any party from liability for a breach of this Agreement prior to the termination hereof.

ARTICLE XII

INDEMNIFICATION; SURVIVAL OF
REPRESENTATIONS AND WARRANTIES

12.1 Indemnity Obligations. (a) Subject to Sections 12.3 and 12.4 hereof, each of the Stockholders and Management Option Holders by adoption of this Agreement and approval of the Merger hereby jointly and severally agree to indemnify and hold the Parent (including its representatives and affiliates) harmless from, and to reimburse the Parent for, any Losses (as that term is hereinafter defined) directly or indirectly arising out of, based upon or resulting from (i) any inaccuracy in or breach of any representation or warranty of the Company, the Company's Subsidiary and the Principal Stockholders set forth in Article III of this Agreement or any Schedule or certificate delivered by the Company or Company's Subsidiary pursuant hereto; provided, that, notwithstanding Section 12.3 and 12.4 hereof, with respect to the matter disclosed on Item 5(ii) of Schedule 3.11, Parent shall make a claim for indemnification on or before the one (1) year anniversary of the Closing Date and that the maximum liability of the Stockholders with respect thereto shall be the aggregate Initial Merger Consideration; (ii) any breach or nonfulfillment of, or any failure to perform, any of the covenants, agreements or undertakings of the Company, the Company's Subsidiary and the Principal Stockholders (which covenants, agreements or undertakings were to be performed or complied with on or prior to the consummation of the Merger) which are contained in this Agreement; (iii) any claims arising prior to the Closing involving personal injury, death or physical damage to the tangible or real property of the Company or the Company's Subsidiary or any other person which otherwise would have been covered by fire, property, casualty or liability insurance if the Company had such insurance in place for all periods prior to the Closing or (iv) any liability, claim, or deficiency for any Taxes payable by the Company or the Company's Subsidiary for any taxable period ending on or prior to the Closing Date or, to the extent such period includes, but does not end on the Closing Date, attributable to the portion of such period ending on the Closing Date; provided, that with respect to any matters disclosed on Schedule 3.9, Parent shall make a claim for indemnification only for Losses suffered (i) in excess of $100,000 in the aggregate, (ii) due to a prevailing claim for additional Taxes made by the Internal Revenue Service and not resulting from any audit of financial statements or a change in accounting practices of Parent or the Surviving Corporation, and (iii) netted against a reduction in Tax liability realized or to be realized by Parent or the Surviving Corporation in any past tax years, during the current tax year and during the two (2) following tax years, specifically due to the payment of any such claim for additional Taxes. The Escrow Deposit shall be available to compensate Parent for such Losses. However, the failure to make a claim against the Escrow Deposit will not constitute an election of remedies or limit the Parent in any manner in the enforcement of any other remedies that may be available to it pursuant to the terms hereof. For purposes of this Agreement, the term "Losses" shall mean any and all losses, damages, deficiencies, liabilities, obligations, actions, claims, suits, proceedings, demands, assessments, judgments, recoveries, fees, diminution in value, costs and expenses (including, without limitation, all reasonable out-of-pocket expenses, reasonable investigation expenses and reasonable fees and disbursements of accountants and counsel) of any nature whatsoever.

(b) Subject to Sections 12.3 and 12.4 hereof, each of the Stockholders by adoption of this Agreement and approval of the Merger hereby severally and not jointly agree to indemnify and hold the Parent harmless from, and to reimburse the Parent for, any Losses arising out of, based upon or resulting from (i) any inaccuracy in or breach of any representation or warranty of such Stockholder set forth in such Stockholder's Letter of Transmittal, or with respect to the Principal Stockholders of such Principal Stockholder set forth in Article IV of this Agreement, or any Schedule or certificate delivered by such Stockholder or Principal Stockholder pursuant hereto or thereto; or (ii) any breach or nonfulfillment of, or any failure to perform, any of the covenants, agreements or undertakings of such Stockholder (which covenants, agreements or undertakings were to be performed or complied with on or prior to the consummation of the Merger) which are contained in this Agreement, the Letter of Transmittal of such Stockholder, or with respect to the Principal Stockholders, of such Principal Stockholders contained in this Agreement or any Schedule or certificate delivered by such Stockholder or Principal Stockholder pursuant hereto or thereto.

12.2 Notification of Claims.

(a) Subject to the provisions of Section 12.3 below, in the event of the occurrence of an event pursuant to which the Parent shall seek indemnity pursuant to Section 12.1, the Parent shall provide the Stockholder Representative, and, if such indemnity is sought against a Stockholder pursuant to Section 12.1(b), the Stockholder against whom indemnification is sought, with prompt written notice (a "Claim Notice") of such event and shall otherwise promptly make available to the Stockholder Representative, and, if applicable, such Stockholder, all relevant information which is material to the claim and which is in the possession of the indemnified party. Parent's failure to give a timely Claims Notice or to promptly furnish the Stockholder Representative, and, if applicable, such Stockholder, with any relevant data and documents in connection with any Third-Party Claim (as that term is hereinafter defined) shall not constitute a defense (in part or in whole) to any claim for indemnification by such party, except and only to the extent that such failure shall result in any prejudice to the indemnified party.

(b) The Stockholder Representative and, if such indemnification is sought against a Stockholder pursuant to Section 12.1(b) the Stockholder against whom indemnification is sought, shall have the right to elect to join in, through counsel of its choosing reasonably acceptable to Parent, the defense, settlement, adjustment or compromise of any claim of any third party (a "Third Party Claim") for which indemnification will be sought by the Parent; provided; however, that Parent shall control such defense, settlement, adjustment or compromise. The expense of any such defense, settlement, adjustment or compromise, including Parent's counsel and any counsel chosen by the Stockholder Representative, or if applicable, the Stockholder, shall be borne by the Stockholders with respect to indemnification sought pursuant to Section 12.1 (a) and by the Stockholders against whom indemnification is sought with respect to indemnification sought pursuant to Section 12.1(b); provided, such expenses shall be paid from the Escrow Deposit for indemnification sought pursuant to Section 12.1 (a) and from the Pro Rata Portion (as defined below) of the Escrow Deposit attributable to the Stockholders against whom indemnification is sought pursuant to Section 12.1(b). Parent shall have the right

to settle any such Third Party Claim; provided, however, that Parent may not effect the settlement, adjustment or compromise of any such Third Party Claim without the written consent of the Stockholder Representative, or, if applicable, the Stockholder, which consent shall not be unreasonably withheld. In the event that the Stockholder Representative, or, if applicable, the Stockholder, has consented in writing to any such settlement, adjustment or compromise, the Stockholders shall have no power or authority to object to the amount of any claim by Parent against the Escrow Deposit for indemnification of Losses with respect to such settlement, adjustment or compromise.

12.3 Duration. All representations and warranties set forth in this Agreement, the Letters of Transmittal and any Schedules or certificates delivered pursuant hereto or thereto, and all covenants, agreements and undertakings of the parties contained in or made pursuant to this Agreement, the Letters of Transmittal and any Schedules or certificates delivered pursuant hereto or thereto, and the rights of the parties to seek indemnification with respect thereto, shall survive the Closing but, except in respect of any claims for indemnification as to which a Claim Notice shall have been duly given prior to the Escrow Release Date (as defined below), all representations, warranties, covenants, agreements and undertakings contained in this Agreement and the Letters of Transmittal or any certificate or Schedule delivered pursuant hereto or thereto shall expire on the first anniversary of the Closing Date (the "Escrow Release Date"). Notwithstanding the foregoing, obligations (i) provided in Article VIII, and (ii) arising from the breaches of the representations and warranties set forth in Sections 3.1, 3.2, 3.3, 3.4, and 3.24, Article IV and the Letters of Transmittal and (iii) arising from fraud shall each survive the Closing Date indefinitely (all such obligations in (i), (ii) and (iii), collectively, the "Indefinite Excluded Obligations") and (iv) arising from the breaches of the representations and warranties set forth in Sections 3.9, 3.11, 9.17 and 12.1(a)(iv) shall each survive the Closing Date for the applicable statute of limitations period (all such obligations in (iv), the "Limited in Time Excluded Obligations."

12.4 Escrow. As soon as practicable after the Effective Time, the Escrow Deposit shall be delivered by Parent to the Escrow Agent, to be held for a period ending on the Escrow Release Date, except the Escrow Deposit may be withheld after the Escrow Release Date to satisfy claims for indemnification which are the subject to a Claims Notice duly delivered prior to the Escrow Release Date. The Escrow Deposit shall be held and disbursed by the Escrow Agent in accordance with an Escrow Agreement in the form attached hereto as Exhibit C. Except with respect to claims based on the Indefinite Excluded Obligations, which are not limited in amount, if the Closing occurs, Parent and Acquisition Corp. agree that the Parent's right to indemnification pursuant to this Article XII shall constitute Parent's and Acquisition Corp.'s sole and exclusive remedy and recourse against the Stockholders and Management Option Holders for Losses attributable to any inaccuracy or breach of any representation or warranty, or any breach or nonfulfillment of any failure to perform the covenants, agreements or undertakings, of the Company, the Company's Subsidiary or the Stockholders which is contained in this Agreement or the Letters of Transmittal or any Schedule or certificate delivered pursuant hereto or thereto. Except with respect to the Indefinite Excluded Obligations and the Limited in Time Excluded Obligations, the maximum liability of any Stockholder or Management Option Holder shall be limited to such Pro Rata Portion (as defined below) with respect to each such

Stockholder or Management Holder of the Escrow Deposit; provided, however, that no Stockholder shall have any liability for indemnification pursuant to Section 12.1(b) on account of any other Stockholder. For purposes of this Agreement, a "Pro Rata Portion" of a Stockholder as to any Losses or as to the Escrow Deposit shall be equal to the percentage of the Initial Merger Consideration to which such Stockholder is entitled and a "Pro Rata Portion" of a Management Option Holder as to any Losses or as to the Escrow Deposit shall be equal to the percentage of the Management Options to which such Management Option Holder is entitled. With respect to the Limited in Time Excluded Obligations, the maximum liability of any Stockholder shall be limited to the aggregate amount of Initial Merger Consideration, Cash Earnout Consideration, and Management Retention Consideration (if applicable) received or receivable by such Stockholder and the maximum liability of any Management Option Holder shall be limited to the aggregate number of Management Options received or receivable by such Management Option Holder.

12.5 No Contribution. The Stockholders and Management Option Holders hereby waive, acknowledge and agree that the Stockholders and Management Option Holders shall not have and shall not exercise or assert (or attempt to exercise or assert), any right of contribution or right of indemnity against the Company, the Company's Subsidiary or the Surviving Corporation in connection with any indemnification payments which the Stockholders or Management Option Holders are required to make under this Article XII.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 Amendment. This Agreement may be amended by the parties hereto at any time prior to the Effective Time by execution of an instrument in writing signed on behalf of the party against whom enforcement is made. For the purposes of this Section 13.1, the Stockholders (including the Principal Stockholders) agree that any amendment of this Agreement signed by the Stockholder Representative shall be binding upon and effective against the Stockholders whether or not they have signed such amendment.

13.2 Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant or agreement contained herein may be waived only by a written notice from the party or parties entitled to the benefits thereof. No failure by any party hereto to exercise, and no delay in exercising, any right hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or future exercise of that right by that party.

13.3 Notices. All notices and other communications hereunder shall be deemed given if given in writing and delivered personally, by registered or certified mail, return receipt requested, postage prepaid, or by overnight courier to the party to receive the same at its respective address set forth below (or at such other address as may from time to time be designated by such party to the others in accordance with this Section 13.3):

(a) if to the Company or to the Company's Subsidiary, to:

ah-ha.com, Inc.
360 West 4800 North
Provo, Utah 84604
Attention: Paul J. Brockbank, Chief Executive Officer

with copies to:

Stoel Rives LLP
201 South Main Street
Suite 1100
Salt Lake City, UT 84111
Attention: Clint M. Hanni, Esq.

(b) if to the Parent or Acquisition Corp., to:

Marchex, Inc.
2101 Fourth Avenue, Suite 1980
Seattle, WA 98121
Attention: Ethan A. Caldwell, General Counsel

with copies to:

Nixon Peabody LLP
101 Federal Street
Boston, MA 02110
Attention: Francis J. Feeney, Jr., Esq.

(c) if to the Stockholder Representative to:

ah-ha.com, Inc.
360 West 4800 North
Provo, Utah 84604
Attention: Paul J. Brockbank

(d) if to the Principal Stockholders, to the addresses set forth in Schedule 13.3

All such notices and communications hereunder shall be deemed given when received, as evidenced by the signed acknowledgment of receipt of the person to whom such notice or communication shall have been personally delivered, the acknowledgment of receipt returned to the sender by the applicable postal authorities or the confirmation of delivery rendered by the applicable overnight courier service.

13.4 Binding Effect; Assignment. This Agreement, and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors (or, in the case of the Principal Stockholders, their respective heirs, administrators, executors and

personal representatives) and permitted assigns. Neither this Agreement nor any rights, duties or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other parties hereto, except by Parent to any successor to its business or to any affiliate as long as Parent remains ultimately liable for all of Parent's obligations hereunder.

13.5 No Third Party Beneficiaries. Neither this Agreement or any provision hereof nor any Schedule, certificate or other instrument delivered pursuant hereto, nor any agreement to be entered into pursuant hereto or any provision hereof, is intended to create any right, claim or remedy in favor of any person or entity, other than the parties hereto and their respective successors (or, in the case of the Principal Stockholders, their respective heirs, administrators, executors and personal representatives) and permitted assigns and any other parties indemnified under Article XII.

13.6 Public Announcements. None of the parties hereto shall, except as agreed by the Parent or except as may be required by law or applicable regulatory authority issue any reports, releases, announcements or other statements to the public relating to the transactions contemplated hereby. All inquiries of the public and/or the media shall be forwarded directly to the Parent.

13.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.8 Headings. The article and section headings contained in this Agreement are solely for convenience of reference, are not part of the agreement of the parties and shall not be used in construing this Agreement or in any way affect the meaning or interpretation of this Agreement.

13.9 Entire Agreement. This Agreement, and the Schedules, certificates and other instruments and documents delivered pursuant hereto, together with the other agreements referred to herein and to be entered into pursuant hereto, embody the entire agreement of the parties hereto in respect of, and there are no other agreements or understandings, written or oral, among the parties relating to the subject matter hereof, other than any confidentiality agreement entered into between an affiliate of the Parent and the Company's Subsidiary (the "Confidentiality Agreement"). This Agreement supersedes the letter of intent dated January 2, 2003 entered into between an affiliate of the Parent and the Company's Subsidiary (except for the confidentiality provisions contained therein) and all other prior agreements and understandings, written or oral, between the parties with respect to such subject matter, other than the Confidentiality Agreement.

13.10 Governing Law. The parties hereby agree that this Agreement, and the respective rights, duties and obligations of the parties hereunder, shall be governed by and construed in accordance with the General Corporation Law of the State of Delaware as to matters within the scope thereof and, as to all other matters, shall be governed by and construed with the laws of the State of Washington, without giving effect to principles of conflicts of law thereunder. Each of

the parties hereby (i) irrevocably consents and agrees that any legal or equitable action or proceeding arising under or in connection with this Agreement shall be brought exclusively in the federal or state courts sitting in Seattle, Washington and any court to which an appeal may be taken in any such litigation, and (ii) by execution and delivery of this Agreement, irrevocably submits to and accepts, with respect to any such action or proceeding, for itself and in respect of its properties and assets, generally and unconditionally, the jurisdiction of the aforesaid courts, and irrevocably waives any and all rights such party may now or hereafter have to object to such jurisdiction.

13.11 Severability. In the event that any clause or portion of this Agreement shall be held to be invalid, illegal, unenforceable, or in violation of any law or public policy, such a finding shall not affect the balance of the terms contained herein, and the parties shall be charged with the responsibility of continuing to carry out the terms and conditions of this Agreement in a manner consistent therewith. Moreover, if one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to scope, activity or subject or otherwise unreasonable so as to be unenforceable at law, such provision or provisions shall be construed by the appropriate judicial body by limiting and reducing it or them, so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

13.12 Specific Performance. In addition to any and all other remedies that may be available at law in the event of any breach of this Agreement, the parties hereto shall be entitled to specific performance of the agreements and obligations hereunder and to such other injunctive or other equitable relief as may be granted by a court of competent jurisdiction, without the necessity of posting a bond or proving actual damages.

13.13 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AND ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

[Remainder of Page Intentionally Left Blank]

MARCHEX, INC.
COUNTERPART SIGNATURE PAGE
TO AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, the Parent, Acquisition Corp., the Company, the Company's Subsidiary, the Company's Principal Stockholders and the Stockholder Representative named below have caused this Agreement to be duly executed and delivered as an instrument under seal as of the date first above written.

PARENT:

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz
Title: Chief Executive Officer

ACQUISITION CORP:

MARCHEX ACQUISITION CORPORATION

By: /s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz
Title: President

THE COMPANY:

E-FAMILY.COM, INC.

By: /s/ Paul J. Brockbank

Name: Paul J. Brockbank
Title: Chief Executive Officer

THE COMPANY'S SUBSIDIARY:

AH-HA.COM, INC.

By: /s/ Paul J. Brockbank

Name: Paul J. Brockbank
Title: Chief Executive Officer

MARCHEX, INC.
COUNTERPART SIGNATURE PAGE
TO AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, the Parent, Acquisition Corp., the Company, the Company's Subsidiary and the Company's Principal Stockholders and the Stockholder Representative named below have caused this Agreement to be duly executed and delivered as an instrument under seal as of the date first above written.

PRINCIPAL STOCKHOLDERS:

/s/ Paul J. Brockbank

Paul J. Brockbank

/s/ Christopher P. Stevens

Christopher P. Stevens

/s/ Jay R. Bean

Jay R. Bean

STOCKHOLDER REPRESENTATIVE:

/s/ Paul J. Brockbank

Name: Paul J. Brockbank

Exhibit 2.2

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER
BY AND AMONG
MARCHEX, INC.
SITEWISE ACQUISITION CORPORATION
SITEWISE MARKETING, INC.
THE SHAREHOLDERS OF SITEWISE MARKETING, INC.
AND WITH RESPECT TO ARTICLES II, VII AND XII ONLY
GERALD WIANT, AS SHAREHOLDER REPRESENTATIVE
DATED OCTOBER 1, 2003

TABLE OF CONTENTS

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (the "Agreement") dated as of October 1, 2003 by and among Marchex, Inc., a corporation organized under the laws of the State of Delaware (the "Parent"), Sitewise Acquisition Corporation, a corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of the Parent (the "Acquisition Corp."), Sitewise Marketing, Inc., a corporation organized under the laws of the State of Oregon (the "Company"), Gerald Wiant and Bruce Fabbri (the "Principal Shareholders") and those holders of shares of capital stock of the Company, each as identified on the signature pages hereto (the "Shareholders" and the term Shareholders shall include the Principal Shareholders except as otherwise provided herein and where applicable based on the context the term Shareholders shall also include all other holders of capital stock of the Company) and with respect to Article II, VII and Article XII hereof, Gerald Wiant (the "Shareholder Representative").

WHEREAS, the respective Boards of Directors of the Parent, Acquisition Corp. and the Company have approved the merger of the Company with and into the Acquisition Corp. (the "Merger"), pursuant to which the Acquisition Corp. will be the surviving corporation and the Shareholders immediately prior to such merger will be entitled to receive the consideration provided for in this Agreement, all upon the terms and subject to the conditions set forth herein;

WHEREAS, for federal income tax purposes, it is intended that the Merger shall qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder; and

WHEREAS, as a condition and inducement to Parent's willingness to enter into this Agreement, the Shareholders have signed this Agreement and have signed and delivered herewith to Parent written consents adopting and approving this Agreement, the Merger and the other transactions contemplated hereby;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements set forth herein, and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I

THE MERGER

1.1 The Merger. (a) At the Effective Time (as defined in Section 1.2), and subject to and upon the terms and conditions of this Agreement, the Oregon Revised Statutes (the "ORS") and the Delaware General Corporation Law (the "DGCL"), the Company shall be merged with and into the Acquisition Corp., the separate existence of the Company shall cease, and the Acquisition Corp. shall continue as the surviving corporation. The Acquisition Corp. as the surviving corporation after the Merger is hereinafter sometimes referred to as the "Surviving Corporation."

(b) Closing. Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned pursuant to Article XI and subject to the satisfaction or waiver of the conditions set forth in Articles IX and X, the consummation of the Merger (the "Closing") will take place as promptly as practicable (and in any event within two (2) business days) after satisfaction or waiver of the conditions set forth in Articles IX and X, at the offices of Marchex, Inc., 2101 4th Avenue, Suite 1980, Seattle, Washington, unless another date, time or place is agreed to in writing by the Company and the Parent. The date of such Closing is referred to herein as the "Closing Date."

1.2 Effective Time. On the Closing Date, the parties hereto shall cause the Merger to be consummated by filing articles or certificates of merger as contemplated by the ORS and DGCL in the forms of Exhibit A-l and A-2 attached hereto (the "Certificates of Merger"), together with any required related certificates, with the Secretary of State of the State of Oregon and the Secretary of State of the State of Delaware, in such form as required by, and executed in accordance with the relevant provisions of, the ORS and the DGCL (the time of acceptance of the filing by the Secretary of State of the State of Oregon and the Secretary of State of the State of Delaware shall be the "Effective Time").

1.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement, the Certificates of Merger and the applicable provisions of the ORS and the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all the property, rights, privileges, powers and franchises of the Company and Acquisition Corp. shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Acquisition Corp. shall become the debts, liabilities and duties of the Surviving Corporation.

1.4 Certificate of Incorporation; By-Laws.

(a) Certificate of Incorporation. The Certificate of Incorporation of the Acquisition Corp., as in effect immediately prior to the Effective Time in the form of Exhibit B-l attached hereto, shall be the Certificate of Incorporation of the Surviving Corporation until thereafter amended in accordance with the DGCL and such Certificate of Incorporation, except that the name of Acquisition Corp. shall be changed to Sitewise Marketing, Inc.

(b) By-Laws. The By-Laws of the Acquisition Corp., as in effect immediately prior to the Effective Time in the form of Exhibit B-2 attached hereto, shall be the By-Laws of the Surviving Corporation until thereafter amended in accordance with the DGCL, the Certificate of Incorporation of the Surviving Corporation and such By-Laws.

1.5 Directors and Officers. The directors of Acquisition Corp. immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and By-Laws of the Surviving Corporation, and the officers of the Acquisition Corp. immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly

elected or appointed and qualified. The directors and officers of the Surviving Corporation are set forth on Schedule 1.5 attached hereto.

1.6 Additional Actions. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other acts or things are necessary or desirable to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation, its right, title or interest in or to any of the rights, properties or assets of Acquisition Corp. or the Company acquired or to be acquired by reason of, or as a result of, the Merger, or otherwise to carry out the purposes of this Agreement, the Surviving Corporation and its proper officers and directors shall be authorized to execute and deliver, in the name and on behalf of Acquisition Corp. or the Company, all such deeds, bills of sale, assignments and assurances and to do, in the name and on behalf of Acquisition Corp. or the Company, all such other acts and things necessary or desirable to vest, perfect or confirm any and all right, title or interest in, to or under such rights, properties or assets in the Surviving Corporation or otherwise to carry out the purposes of this Agreement.

1.7 Withholding. Parent, the Surviving Corporation or the Company shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any holder or former holder of Company Common Stock (as hereinafter defined) pursuant to this Agreement and from any holder or former holder of Company Stock Options (as hereinafter defined) with respect to the exercise, cancellation, termination, or other disposition of such Company Stock Options, including any Company Stock Options that have already been exercised, such amounts as Parent, the Surviving Corporation or the Company may be required to deduct or withhold therefrom under the Code or under any provision of state, local or foreign tax law. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid.

ARTICLE II

CONSIDERATION; CONVERSION OF SHARES

2.1 Total Merger Consideration. Except as set forth in Section 2.2(e) hereof, the consideration payable in the Merger to the holders of shares of the Company's Common Stock, no par value per share (the "Company Common Stock"), shall consist of (a) an aggregate of 425,000 shares of Class B Common Stock, $0.01 par value per share, of the Parent (the "Parent Common Stock") (the "Equity Consideration"), (b) an aggregate of 137,500 shares of Parent Common Stock as provided in Section 7.8 hereof (the "Restricted Equity Consideration"), and (c) $3,500,000 which such cash is to be issuable at the Closing (the "Cash Consideration"). Such Equity Consideration, Restricted Equity Consideration and Cash Consideration which shall be issuable or payable at the Closing, as the case may be, as provided herein shall in the aggregate be referred to as the "Initial Merger Consideration". The calculation of the Initial Merger Consideration assumes that as of the Closing Date, the Company shall not have any of the following (collectively, "Debt") (i) indebtedness for borrowed money, (ii) any obligations evidenced by notes, bonds or similar instruments; (iii) indebtedness to any banking institution,

and (iv) indebtedness where repayment is due twelve (12) months or more from the Closing Date. The amount of Cash Consideration shall be reduced at the Closing, dollar for dollar, to the extent of any Debt, except as provided above, or negative working capital of the Company, determined in accordance with GAAP (as defined herein), as of the Closing Date. For the purposes of this Agreement, "GAAP" shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board and rules promulgated by the United States Securities and Exchange Commission and its related interpretations or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

2.2 Conversion of Shares.

(a) Conversion of Shares. (i) Each share of Company Common Stock issued and outstanding as of the Effective Time (other than shares owned by holders who have properly exercised their rights of appraisal within the meaning of Section 60.554 of the ORS ("Dissenting Shares")) shall, by virtue of the Merger and without any action on the part of the holder thereof, automatically be converted into (A) an amount in cash equal to the quotient obtained by dividing (x) the Cash Consideration by (y) the total number of Fully Diluted Shares (as herein defined) as of the Effective Time and (B) that number of shares of Parent Common Stock as shall be obtained by dividing (xx) the Equity Consideration and the Restricted Equity Consideration, respectively, by (yy) the total number of Fully Diluted Shares (as herein defined) as of the Effective Time. Such resulting quotients are referred to herein as the "Exchange Ratio." "Fully Diluted Shares" shall be equal to the total number of outstanding shares of Company Common Stock, immediately prior to the Closing Date, calculated on a fully diluted, fully converted basis as though all convertible debt and equity securities and options (to the extent vested and with all unvested options being cancelled at such time) and warrants had been converted or exercised. Schedule 2.2 attached hereto sets forth, with respect to the Initial Merger Consideration, (i) the Exchange Ratio, (ii) the aggregate cash payment to be paid in connection with the Merger, with the allocation among the Shareholders, (iii) the aggregate Equity Consideration and the Restricted Equity Consideration to be issued in connection with the Merger, with the allocation among the Shareholders, (iv) the percentage of any Cash Earnout Consideration allocated among the Shareholders, and (v) addresses for each of the Shareholders.

(ii) The Initial Merger Consideration will be increased by payment of the cash earnout consideration (the "Cash Earnout Consideration") which shall be an amount equal to ten percent (10.0%) of the Net Revenue (as hereinafter defined) of the Surviving Corporation for the calendar year 2004 (the "Fiscal Period"), in excess of $15,000,000 and up to $25,000,000. The maximum Cash Earnout Consideration shall equal $1,000,000. For the purposes hereof, "Net Revenue" shall be calculated in accordance with GAAP and shall be defined as gross revenue calculated by Parent less (i) amounts attributable to those costs associated with collection of revenue, including credit card charges, charge backs, bad debts, invoice and traffic adjustments and customer incentives, if applicable, and (ii) refunds the Company pays its customers. The Net Revenue will be determined by Parent within ninety (90) days of the end of the Fiscal Period.

Providing no objections are made pursuant to this Section 2.2, such additional consideration shall be paid within thirty (30) days of the determination by Parent of such Net Revenue, otherwise such payment shall be made upon resolution of any such objection. The Cash Earnout Consideration will be allocated in accordance with Schedule 2.2.

At such time as the Surviving Corporation's Net Revenue is determined for the Fiscal Period described above in this Section 2.2(a)(ii), Parent shall provide the Shareholder Representative with a written statement setting forth the calculation of such Net Revenue for the Fiscal Period. In the event that the Shareholder Representative does not object to the determination by Parent of such Net Revenue by written notice of objection (the "Notice of Objection") delivered to Parent within fifteen (15) days after the Shareholder Representative's receipt of such determination, such Notice of Objection to describe in reasonable detail the Shareholder Representative's proposed adjustments to the proposed Net Revenue determination, the proposed Net Revenue for the Fiscal Period shall be deemed final and binding.

If the Shareholder Representative does deliver a Notice of Objection to Parent, then the dispute shall be resolved as follows:

(X) The Shareholder Representative and Parent shall promptly endeavor to agree upon the calculation of Net Revenue for the Fiscal Period. In the event that a written agreement determining the amount of Net Revenue has not been reached within fifteen (15) days after the date of receipt by Parent from the Shareholder Representative of the Notice of Objection thereto, then Parent's determination of Net Revenue and the Notice of Objection shall be submitted to an internationally recognized firm of certified public accountants mutually acceptable to Parent and the Shareholder Representative (the "Arbitrator").

(Y) Within thirty (30) days of the submission of any dispute concerning the determination of Net Revenue to the Arbitrator, the Arbitrator shall render a decision in accordance with this Section 2.2(a)(ii) along with a statement of reasons therefor. The decision of the Arbitrator shall be final and binding upon the parties hereto.

(Z) In the event that an examination or audit shows that the calculation of Net Revenue for the Fiscal Period is under reported by more than fifteen percent (15%), the Parent shall bear the entire cost of the fees and expenses of the Arbitrator, otherwise, the Shareholders shall bear the entire cost of such fees and expenses, and such fees attributable to the Shareholders shall be deducted from any amounts to be paid to the Shareholders pursuant to this Section 2.2(a)(ii) and to the extent of any deficit, the Shareholders hereby agree to promptly reimburse Parent for any such amounts.

(iii) In the event that an Acceleration Event (as hereinafter defined) occurs on or before December 31, 2004, Parent shall pay the Shareholders as the Cash Earnout Consideration a cash payment of $1,000,000 within ninety (90) days of such event in accordance with Schedule 2.2. For the purposes hereof, Acceleration Event shall be defined as (w) a Change

of Control (as defined herein), (x) the termination of employment without cause (as defined in the respective employment agreement) of Gerald Wiant and Bruce Fabbri, (y) the resignation of Gerald Wiant and Bruce Fabbri for Good Reason (as defined in the respective employment agreement), or (z) if Parent takes, or causes the Surviving Corporation to take, any action relating to the business prior to the end of the Fiscal Period that makes it impractical to reconstruct or calculate the Cash Earnout Consideration. For the purposes hereof, "Change of Control" shall mean (x) except as a result of a Qualified IPO (as defined herein), an event when any "person", as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), except for an existing stockholder of Parent as of the date hereof, is or becomes the beneficial owner (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Parent or the Surviving Corporation representing more than fifty percent (50%) of the voting power of the Parent's or the Surviving Corporation's then outstanding securities, other than as a result of the purchase of equity securities directly from the Parent or Surviving Corporation in connection with a financing transaction; (y) the consummation of a merger or consolidation of the Parent or the Surviving Corporation with or into another entity or any other corporate reorganization, if more than fifty percent (50%) of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or other reorganization is owned by persons who were not stockholders of the Parent or the Surviving Corporation immediately prior to such merger, consolidation or other reorganization; or (z) the Parent or the Surviving Corporation sells, transfers or otherwise disposes of (in one transaction or a series of related transactions) all or substantially all of its respective assets or adopts any plan or proposal for its liquidation or dissolution. A Change of Control shall not occur if the person, surviving entity, or transferee is a wholly-owned (direct or indirect) subsidiary of Parent; provided, however, that an Acceleration Event shall occur upon a Change of Control of such wholly-owned subsidiary.

(b) [Intentionally Omitted].

(c) Stock Options. Each outstanding option to purchase shares of Company Common Stock (each a "Company Stock Option"), which has already vested prior to the Effective Time, shall be exercised on the Closing Date. In connection with the exercise of any such Company Stock Option, the Company shall withhold the requisite amount for tax purposes provided in Section 1.7 hereof. Each outstanding Company Stock Option, not already vested and outstanding immediately prior to the Effective Time, shall be cancelled at the Effective Time without the payment of any consideration therefor, and shall be of no further force and effect, without any assumption thereof.

(d) Acquisition Corp. Shares. Each share of common stock, par value $0.01 per share, of Acquisition Corp. issued and outstanding as of the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, automatically be converted into one fully paid and nonassessable share of common stock of the Surviving Corporation, as such shares of common stock are constituted immediately following the Effective Time.

(e) Dissenting Shares. Any Dissenting Shares shall be converted into the right to receive such consideration as may be determined to be due with respect to each such

Dissenting Share pursuant to Section 60.554 of the ORS; provided, however, that Dissenting Shares held by a holder who shall, after the Effective Time of the Merger, withdraw his demand for appraisal or lose his right of appraisal as provided in Section 60.554 of the ORS, shall be deemed to be converted, as of the Effective Time of the Merger, into the right to receive such holder's pro rata portion of the Initial Merger Consideration in accordance with the procedures specified in Section 2.3. The Company shall give Parent (i) prompt notice of any written demands for appraisal, withdrawals of demands for appraisal and any other instruments served pursuant to Section 60.554 of the ORS received by the Company and (ii) the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under Section 60.554 of the ORS. The Company will not voluntarily make any payment with respect to any demands for appraisal and will not, except with the prior written consent of Parent, settle or offer to settle any such demands.

2.3 Exchange of Certificates.

(a) At the Closing, certificates representing all of the issued and outstanding shares of Company Common Stock (the "Certificates") shall be surrendered for cancellation and termination in the Merger. At the Effective Time, each Certificate shall be canceled in exchange for the amount of Initial Merger Consideration allocated to each Shareholder pursuant to Section 2.2(a). The Initial Merger Consideration shall be distributed as follows to the extent Certificates have been surrendered, at Closing (or thereafter upon surrender of Certificates): (i) the Cash Consideration shall be wired to an account designated by the Shareholder Representative for further distribution by the Shareholder Representative to the Shareholders in the amounts set forth on Schedule 2.2, less $175,000 which shall be placed in escrow to satisfy the obligations pursuant to Article XII hereof (the "Cash Escrow") and also less any fees and expenses pursuant to Section 7.5, and (ii) the Equity Consideration and the Restricted Equity Consideration shall be distributed by the Shareholder Representative to the Shareholders in the amounts set forth on Schedule 2.2, less 100,000 shares of Parent Common Stock issued as part of the Equity Consideration which shall be placed in escrow to satisfy the obligations pursuant to Article XII hereof (the "Stock Escrow") and also less any fees and expenses pursuant to Section 7.5. The surrender of Certificates shall be accompanied by duly completed and executed Letters of Transmittal in the form of Exhibit C attached hereto. Until surrendered with an executed Letter of Transmittal, each outstanding Certificate which immediately prior to the Effective Time represented shares of Company Common Stock shall be deemed for all corporate purposes to evidence ownership of the amount of cash and shares of Parent Common Stock issuable upon conversion of such shares of Company Common Stock, but shall, subject to applicable appraisal rights under the ORS and Section 2.2(e), have no other rights. Subject to appraisal rights under the ORS and Section 2.2(e), from and after the Effective Time, the holders of shares of Company Common Stock shall cease to have any rights in respect of such shares and their rights shall be solely in respect of their proportionate amounts of the Initial Merger Consideration and the Cash Earnout Consideration.

(b) If any cash is to be paid or any shares of Parent Common Stock are to be issued in the name of a person other than the person in whose name the Certificate(s) surrendered in exchange therefor is registered, it shall be a condition to the payment of such cash or the

issuance of such shares that (i) the Certificate(s) so surrendered shall be transferable, and shall be properly assigned, endorsed or accompanied by appropriate stock powers, (ii) such transfer shall otherwise be proper and (iii) the person requesting such transfer shall pay Parent, or its exchange agent, any transfer or other taxes payable by reason of the foregoing or establish to the reasonable satisfaction of Parent that such taxes have been paid or are not required to be paid. Notwithstanding the foregoing, neither Parent nor the Company shall be liable to a holder of shares of Company Common Stock for cash paid to such holder pursuant to the provisions of Section 2.2(a) of this Agreement that are delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

(c) In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed, Parent shall issue in exchange for such lost, stolen or destroyed Certificate the cash or shares issuable in exchange therefor pursuant to the provisions of Section 2.2(a) of this Agreement. The Board of Directors of Parent may in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed Certificate to provide to Parent an indemnity agreement against any claim that may be made against Parent with respect to the Certificate alleged to have been lost, stolen or destroyed.

2.4 No Fractional Securities. No fractional shares of Parent Common Stock shall be issuable by the Parent upon the conversion of shares of Company Common Stock in the Merger pursuant to Section 2.2(a) hereof. In lieu of any such fractional shares, each holder of Company Common Stock who would otherwise have been entitled to receive a fraction of a share of Parent Common Stock shall be entitled to receive no additional consideration for any fraction of less than one half (1/2) a share and one (1) additional share for any fraction equal to or greater than one half (1/2) a share.

2.5 Stock Transfer Books. At the Effective Time, the stock transfer books of the Company shall be closed, and there shall be no further registration of transfers of Company Common Stock thereafter on the records of the Company.

2.6 No Further Ownership Rights in Company Stock. The amount of cash delivered and number of shares issued upon the surrender for exchange of shares of Company Common Stock in accordance with the terms hereof and the payment of any additional amounts pursuant to Section 2.2(a)(ii) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares, and there shall be no further registration of transfers on the records of the Surviving Corporation of shares of Company Common Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, certificates for shares of Company Common Stock are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Article II.

2.7 Escrow. Parent will deposit in escrow on behalf of the Shareholders the Cash Escrow at Closing by wire and the Stock Escrow as soon as practicable after the Closing and in any event within two (2) business days after the Closing (which shall reduce the amount of Cash Consideration and shares of Equity Consideration issuable to such holders of Company Common

Stock under Section 2.2(a)) allocated among the holders of Company Common Stock in the amounts set forth on Schedule 2.2 (collectively, the "Escrow Deposit"). The Escrow Deposit shall be held by and registered in the name of U.S. Bank National Association, as Escrow Agent, as security for the indemnification obligations under Article XII pursuant to the provisions of an Escrow Agreement (the "Escrow Agreement") in the form of Exhibit D attached hereto.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND THE SHAREHOLDERS

The Company and the Shareholders jointly and severally represent and warrant to the Parent and Acquisition Corp. as set forth below, subject to the exceptions set forth in the disclosure schedules hereto (the "Company Disclosure Schedules"), the section numbers and letters of which correspond to the section and subsection numbers and letters of this Agreement. For the purpose of the Company Disclosure Schedules, disclosure in any one schedule with respect to one section of this Agreement shall be deemed to be disclosure with respect to all applicable sections of this Agreement where such disclosure on its face would reasonably be deemed to apply so long as such information is disclosed or referenced in the section to which it is primarily applicable. References to the "knowledge" of the Company shall refer to the knowledge of the Principal Shareholders and the officers and directors of the Company after reasonable inquiry.

3.1 Corporate Organization. The Company is a corporation duly organized and validly existing under the laws of the State of Oregon. The Company has all requisite corporate power and authority to own, operate and lease the properties and assets it now owns, operates and leases and to carry on its business as presently conducted. The Company is duly qualified to transact business as a foreign corporation and is in good standing in the jurisdictions set forth in Schedule 3.1 hereto, which are the only jurisdictions where such qualification is required by reason of the nature of the properties and assets currently owned, operated or leased by it or the business currently conducted by it. The Company has previously delivered to the Parent complete and correct copies of the Articles of Incorporation of the Company (certified by the secretary of state of the jurisdiction in which it was formed as of a recent date) and the By-Laws of the Company (certified by the Secretary of the Company as of a recent date). Neither the Company's Articles of Incorporation nor its By-Laws have been amended since the date of certification thereof, nor has any action been taken for the purpose of effecting any amendment of such instrument.

3.2 Authorization. The Company has full corporate power and authority to enter into this Agreement and any other agreements attached hereto, or entered into in connection herewith, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly approved by the Board of Directors of the Company and no other proceeding on the part of the Company (other than the adoption of this Agreement by the Shareholders holding the requisite percentage of the Company Common Stock) is necessary to approve and authorize the execution and delivery of this Agreement or (subject to the filing of the Certificate of Merger pursuant to

the DGCL and Articles of Merger pursuant to ORS) the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and, assuming due authorization, execution and delivery of this Agreement by the Parent and Acquisition Corp., constitutes the valid and binding agreement of the Company enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in law or in equity.

3.3 Consents and Approvals; No Violations. Subject to (a) the filing of the Certificate of Mergers with the Secretary of State of the State of Delaware and the Secretary of State of the State of Oregon, (b) compliance with applicable federal and state securities laws, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not, except as set forth in Schedule 3.3: (i) violate or conflict with any provision of the Articles of Incorporation or By-Laws of the Company, (ii) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under, or require any consent or the giving of any notice under, any note, bond, indenture, mortgage, security agreement, lease, license, franchise, permit, agreement or other instrument or obligation to which the Company is a party, or by which the Company or any of its properties or assets may be bound, or result in the creation of any lien, claim or encumbrance or other right of any third party of any kind whatsoever upon the properties or assets of the Company pursuant to the terms of any such instrument or obligation, (iii) violate or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction, decree or other instrument of any federal, state, local or foreign court or governmental or regulatory body, agency or authority applicable to the Company or by which its properties or assets may be bound or (iv) require, on the part of the Company, any filing or registration with, or permit, license, exemption, consent, authorization or approval of, or the giving of any notice to, any governmental or regulatory body, agency or authority.

3.4 Capitalization.

(a) As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 20,000,000 shares of Company Common Stock, of which 10,008,500 shares are issued and outstanding and owned of record and beneficially by the holders set forth on Schedule 3.4 hereto. All outstanding shares of Company Common Stock (i) are duly authorized, validly issued, fully paid and nonassessable (ii) were not issued in violation of any pre-emptive rights or federal or state securities laws and (iii) are not subject to preemptive rights created by statute, the Articles of Incorporation or Bylaws of Company or any agreement or document to which Company is a party or by which it is bound.

As of the date of this Agreement, 1,000,000 shares of Company Common Stock were reserved for issuance upon the exercise of options to purchase Company Common Stock granted pursuant to the Company's 2000 Stock Incentive Plan (the "Company Option Plan") under which options are outstanding for an aggregate of 582,500 shares and under which 417,500 are

available for grant. All shares of Company Common Stock subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, would be duly authorized, validly issued, fully paid and nonassessable.

Except as set forth above, as of the date of this Agreement no shares of Company Common Stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company or any securities exchangeable or convertible into or exercisable for such capital stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Company, were issued, reserved for issuance or outstanding. There are no outstanding stock appreciation rights with respect to shares of Company Common Stock. There are no bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which Shareholders of the Company may vote. Except as set forth above, there are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitments, understandings, arrangements, agreements or contracts (either written or oral) of any kind to which the Company is a party, or by which the Company is bound, obligating the Company to issue, deliver, sell, repurchase or redeem or cause to be issued, delivered, sold, repurchased or redeemed, any shares of capital stock or other securities of the Company or obligating the Company to issue, grant, extend, accelerate the vesting of or enter into any such security, partnership interest or similar ownership interest, option, warrant, call, right, commitment, understanding, arrangement, agreement or contract (either written or oral).

There are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitment, understanding, arrangement, agreement or contract (either written or oral) of any kind to which the Company is a party, or by which the Company is bound, obligating the Company to repurchase, redeem or otherwise acquire, or cause the repurchase, redemption or acquisition of, any shares of Company Common Stock or other securities of the Company. The Company has never repurchased, redeemed or otherwise acquired or caused the repurchase, redemption or acquisition of any shares of Capital Stock or other securities of the Company, and there are no amounts owed or which may be owed to any person by the Company as a result of any repurchase, redemption or acquisition of any shares of Company Common Stock or other securities of the Company.

There are no registration rights, and, to the knowledge of the Company, there are no voting trusts, proxies or agreements or understandings with respect to any equity security of any class of Company Common Stock.

All outstanding options to purchase Company Common Stock were issued pursuant to the Company Option Plan. Schedule 3.4 hereto sets forth a true and complete list of the holders of outstanding Company Stock Options and lists for each outstanding Company Stock Option, as of the date of this Agreement, (i) the number of shares of Company Common Stock subject to such outstanding Company Stock Option, (ii) the exercise price of such option, (iii) the number of shares as to which such option will have vested, (iv) the vesting schedule for such option and whether the exercisability of such option will be accelerated in any way by the transactions

contemplated by this Agreement or for any other reason, and (v) indicates the extent of acceleration, if any. Schedule 3.4 hereto sets forth a true and complete list, as of the date of this Agreement, of (A) the identity of each holder of shares of Company Common Stock and (B) the number of shares of each class of Company Common Stock owned of record by such holder.

(b) Except as set forth on Schedule 3.4(b), the Company does not own, directly or indirectly, any equity securities, or options, warrants or other rights to acquire equity securities, or securities convertible into or exchangeable for equity securities, of any other corporation, or any partnership interest in any general or limited partnership or unincorporated joint venture.

3.5 Financial Statements; Business Information. (a) Attached hereto as Schedule 3.5(a) are (i) the unaudited balance sheets of the Company as of December 31, 2001 and December 31, 2002 and the statements of operations and cash flows for the fiscal periods then ended, and (ii) the balance sheet of the Company as of August 31, 2003 and the statements of operations and cash flows of the Company for the eight (8) months then ended (hereinafter collectively referred to as the "Financial Statements"). The Financial Statements (i) have been prepared from the books and records of the Company, (ii) have been prepared consistently during the periods covered thereby, and (iii) present fairly in all material respects the financial condition and results of operations of the Company as at the dates, and for the periods, stated therein, except that the interim Financial Statements are subject to normal year-end adjustments which will not be individually or in the aggregate material in amount or effect.

(b) Schedule 3.5(b) attached hereto sets forth certain average statistics for the months of July 2003 and August 2003 (including, clickthroughs, average cost-per-click, average fraudulent clicks calculated by (a) filtering clicks from IP addresses or subnets corresponding to spider, robot, crawler, or known bad traffic sources; (b) filtering more than one click on the same ad for the same keyword from the same user (identified by either IP address or unique cookie) within a short time frame; and (c) filtering clicks that are manually rolled back (no-counted) due to investigation and decision on the part of a human, and average number of advertisers defined as the number of clients invoiced) regarding the Company's business (the "Data") which are true and correct in all material respects as of the dates stated in the schedule. For this purpose, a negative variance of up to ten percent (10.0%) in the actual statistics for this period shall not be deemed material. Without limiting the materiality of any other representations, warranties and covenants of the Company and the Shareholders contained herein, the Company and the Shareholders specifically acknowledge that the accuracy of such Data is material to the Parent's decision to enter into the transactions contemplated by this Agreement and to issue the Initial Merger Consideration.

(c) As of the Closing Date, the Company shall have working capital of not less than $100,000 and no Debt.

3.6 Absence of Undisclosed Liabilities. Except (i) as set forth or reserved against in the balance sheet of the Company dated as of August 31, 2003, included in the Financial Statements (the "Balance Sheet") and (ii) for obligations and liabilities incurred since August 31, 2003 in the ordinary course of business, which do not individually or in the aggregate exceed

$10,000, the Company does not have any liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise.

3.7 Absence of Certain Changes or Events. Since August 31, 2003, the Company has carried on its business in all material respects in the ordinary course and consistent with past practice. Since August 31, 2003, except as set forth on Schedule 3.7, the Company has not: (i) incurred any obligation or liability (whether absolute, accrued, contingent or otherwise) except in the ordinary course of business and consistent with past practice; (ii) experienced any Company Material Adverse Effect, (as defined below); (iii) made any change in accounting principle or practice or in their respective method of applying any such principle or practice, (iv) suffered any damage, destruction or loss, whether or not covered by insurance, affecting its respective properties, assets or business; (v) mortgaged, pledged or subjected to any lien, charge or other encumbrance, or granted to third parties any rights in, any of its assets, tangible or intangible; (vi) sold or transferred any of its assets, except in the ordinary course of business and consistent with past practice, or canceled or compromised any debts or waived any claims or rights of a material nature, or acquired assets or any types of securities of any other business entity; (vii) issued any additional Company Common Stock, other equity securities, partnership interests or similar equity interests, or any rights, options or warrants to purchase, or securities convertible into or exchangeable for, Company Common Stock or other equity securities; (viii) declared or paid any dividends on or made any distributions (however characterized) in respect of Company Common Stock; (ix) repurchased or redeemed any Company Common Stock; (x) granted any general or specific increase in the compensation payable or to become payable to any of its Employees (as that term is hereinafter defined) or any bonus or service award or other like benefit, or instituted, increased, augmented or improved any Benefit Plan (as that term is hereinafter defined); or (xi) entered into any agreement to do any of the foregoing. The term "Company Material Adverse Effect" means, for purposes of this Agreement, any change, event or effect that is, or that would be, materially adverse to the business, properties, financial condition or results of operations of the Company.

3.8 Legal Proceedings, etc. There are no suits, actions, claims, proceedings (including, without limitation, arbitral or administrative proceedings) or investigations pending or, to the knowledge of the Company, threatened against the Company or its properties, assets or business or, to the knowledge of the Company, pending or threatened against any of the officers, directors, employees, agents or consultants of the Company in connection with the business of the Company. There is no basis for any such suits, actions, claims, proceedings or investigations known to the Company or the Shareholders. There are no such suits, actions, claims, proceedings or investigations pending against the Company or, to the knowledge of the Company, threatened against the Company challenging the validity or propriety of the transactions contemplated by this Agreement. There is no judgment, order, injunction, decree or award (whether issued by a court, an arbitrator or an administrative agency) to which the Company is a party, or involving the properties, assets or business of the Company, which is unsatisfied or which requires continuing compliance therewith by the Company. Schedule 3.8 hereto sets forth all settlements, judgments, orders, injunctions, decrees and awards entered into or imposed which the Company is a party to or by which the Company is bound, and the Company is and has been at all times in compliance with the terms of such settlements,

judgments, orders, injunctions, decrees and awards. Schedule 3.8 hereto sets forth all suits, actions, claims, proceedings or investigations regarding any equity security of the Company which the Company or any of the Shareholders has ever been involved in or received notice of.

3.9 Taxes.

Except as set forth on Schedule 3.9:

(a) The Company has duly and timely filed all Tax Returns (as hereinafter defined) and other filings in respect of Taxes (as hereinafter defined) required to be filed by it on or prior to the date hereof, and has in a timely manner paid all Taxes which are due for all periods ending on or before the date hereof, whether or not shown on such Tax Returns, except to the extent the Company has established adequate reserves in accordance with GAAP (other than reserves for deferred Taxes established to reflect timing differences between book and Tax income) on the Balance Sheet for such Taxes and disclosed the dollar amount and the components of such reserves on Schedule 3.9(a) hereof. The Company will establish, in the ordinary course of business and consistent with its past practices, reserves (other than reserves for deferred Taxes established to reflect timing differences between book and Tax income) adequate for the payment of all Taxes for the period from date of the Balance Sheet through the Closing Date, and the Company will disclose the dollar amount of such reserves to Parent on or prior to the Closing Date. Since the date of the Balance Sheet, the Company has not incurred any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP, outside the ordinary course of Business consistent with past custom and practice. All such Tax Returns have been accurately and completely prepared in all material respects in compliance with all laws, rules and regulations.

(b) There are no actions or proceedings currently pending or, to the knowledge of the Company, threatened against the Company by any governmental authority for the assessment or collection of Taxes, no claim for the assessment or collection of Taxes has been asserted against the Company and there are no matters under discussion by the Company with any governmental authority regarding claims for the assessment or collection of Taxes. Any Taxes that have been claimed or imposed as a result of any examinations of any Tax Return of the Company by any governmental authority are being contested in good faith and have been disclosed in writing to the Parent. There are no agreements or applications by the Company for an extension of time for the assessment or payment of any Taxes nor any waiver of the statute of limitations in respect of Taxes. There are no Tax liens on any of the assets of the Company, except for liens for Taxes not yet due or payable.

(c) For the purposes of the Agreement, "Tax" or "Taxes" means all federal, state and local, territorial and foreign taxes, levies, deficiencies or other assessments and other charges of whatever nature (including income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, backup withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, real property gains, registration, value added, alternative or add-on minimum, and estimated taxes and

workers' compensation premiums and other governmental charges, and other obligations of the same nature as or of a nature similar to any of the foregoing) imposed by any taxing authority, as well as any obligation to contribute to the payment of Taxes determined on a consolidated, combined or unitary basis with respect to the Company or any affiliate, and including any transferee liability in respect of any tax (whether imposed by law, contractual agreement or otherwise) and any liability in respect of any tax as a result of being a member of any affiliated, consolidated, combined unitary or similar group including any liability pursuant to Treasury Regulation Section 1.1502-6, including any interest, penalty (civil or criminal), or addition thereto, whether disputed or not, as well as any expenses incurred in connection with the determination, settlement or litigation of any liability.

For purposes of this Agreement, the term "Tax Return" means any federal, state, local and foreign return, declaration, report, claim for refund, amended return, declarations of estimated Tax or information return or statement relating to Taxes, and any schedule or attachment thereto, filed or maintained, or required to be filed or maintained in connection with the calculation, determination, assessment or collection of any Tax, and including any amendment thereof, as well as, where permitted or required, combined or consolidated returns for any group of entities that include the Company or any affiliate; and reports with respect to backup withholding and other payments to third parties.

(d) At all times since its incorporation, the Company (and any predecessor of the Company) has been a validly electing S corporation within the meaning of Sections 1361 and 1362 of the Code, as well as for any state or local income tax purposes, and the Company will be an S corporation up to and including the day of the Closing Date.

(e) The Company is not and has not been a party to or bound by any tax indemnity agreement, tax sharing agreement, tax allocation agreement or similar agreement or arrangement and the Company does not have any liability for Taxes of any person (other than the Company) and any liability in respect of any tax as a result of being a member of any affiliated, consolidated, combined unitary or similar group under Treasury Regulation 1.1502-6 (or any similar provision of state, local or foreign law) or a transferee, successor or guarantor or by contract, indemnification or otherwise.

(f) The Company has withheld all amounts from their respective employees and other persons required to be withheld under the tax, social security, unemployment and other withholding provisions of all federal, state, local and foreign laws, including, but not limited to, with respect to the exercise, cancellation or disposition of any Company Stock Option, and has complied with all information reporting and back-up withholding requirements, including maintenance of required records with respect thereto, in connection with amounts paid or owing to any employee, creditor, independent contractor, or other third party.

(g) The Company is not and has never been a United States Real Property Holding Corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(l)(A)(ii) of the Code.

(h) All of the Shareholders are U.S. residents for federal income tax purposes.

(i) There are no accounting method changes or proposed or threatened accounting method changes of the Company, nor any other item, that could give rise to an adjustment under Section 481 of the Code for periods after the Closing Date, and the Company will not be required to make any such Section 481 adjustment as a result of the transaction contemplated by this Agreement.

(j) No power of attorney has been granted by the Company or is currently in force with respect to any matter relating to Taxes.

(k) The Company is not a party to any joint venture, partnership or other arrangement that is treated as a partnership for Federal income tax purposes.

(1) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: (A) change in method of accounting for a taxable period ending on or prior to the Closing Date; (B) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date; (C) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law); (D) installment sale or open transaction disposition made on or prior to the Closing Date; or (E) prepaid amount received on or prior to the Closing Date.

(m) The Company has not received any written ruling of a taxing authority relating to Taxes or entered in any written and legally binding agreement with a taxing authority relating to taxes, including any closing agreements under Section 7121 of the Code.

(n) The Company has not constituted either a "distributing corporation" or a "controlled corporation" in a distribution of stock qualifying for a tax-free treatment under Section 355 of the Code (i) in the two (2) years prior to the date of this Agreement or (ii) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Merger.

(o) No claim has ever been made by any authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction, and the Company neither does business in nor derives income from within or allocable to any state, local, territorial or foreign taxing jurisdiction other than those for which all Tax Returns have been furnished to the Parent.

(p) The Company has not waived any statute of limitations with respect to Taxes or agreed to any extension of time with respect to any Tax assessment or deficiency, or the collection of any Tax, which remains outstanding; and the Company has made available to the Parent for inspection true and complete copies of (i) relevant portions of income Tax audit

reports, statements of deficiencies, closing or other agreements received by the Company or on behalf of the Company relating to Taxes, and (ii) all federal and state income or franchise Tax Returns for the Company for all periods for which the statute of limitations has not run.

(q) No tax is required to be withheld pursuant to Section 1445 of the Code as a result of the transactions contemplated by this Agreement.

(r) The Company has not made any payments, is not obligated to make any payment, and is not a party to any agreement that under any circumstances could obligate it to make any payment that will not be deductible under Section 280G of the Code, or that would be subject to an excise Tax under Section 4999 of the Code.

(s) The Company has not engaged in a "listed transaction" within the meaning of Treas. Reg. §1.601l-4T(b).

(t) Each of the subsidiaries of the Company has been since its respective date of incorporation, and will be through and including the Closing Date, a validly electing qualified subchapter S subsidiary within the meaning of Section 1361(b)(3)(B) of the Code.

(u) The Shareholders have timely reported their distributive share of the Company's income, gain, loss, deduction and other tax items on his, her or its Tax Returns and paid all taxes due with respect to all income, gain, loss, deduction and other tax items of the Company for periods ending on or before December 31,2002 and will do so with respect to all income, gain, loss, deduction and other tax items of the Company for the period ending on the Closing Date.

(v) The Company would not be liable for any Tax under Section 1374 if its assets were sold at their fair market value at the Closing Date, and the Company has not in the past ten (10) years (i) acquired assets from another corporation in a transaction in which the Company's Tax basis for the acquired assets was determined, in whole or in part, by reference to the Tax basis of the acquired assets (or any other property) in the hands of the transferor, or (ii) acquired the stock of any corporation which is a "qualified subchapter S subsidiary".

(w) The Company is not and has never been required to make a basis reduction pursuant to Treasury Regulation Section 1.1502-20(b) or Treasury Regulation Section 1.337(d)-2(b).

(x) The Company is not and has never been a passive foreign investment company within the meaning of Sections 1291 through 1297 of the Code. No foreign subsidiary of the Company owned directly or indirectly is, or at any time has been, a passive foreign investment company within the meaning of Section 1297 through 1297 of the Code, neither the Company nor any of its subsidiaries is a shareholder, directly or indirectly, in a passive foreign investment company, no foreign subsidiary of the Company is a foreign personal holding company within the meaning of Section 552 of the Code, and no foreign subsidiary of the Company that is not a United States person (x) is, or at any time has been, engaged in the

conduct of a trade or business within the United States or treated as or considered to be so engaged or (y) has, or at any time has had, an investment in "United States property" within the meaning of Section 956(c) of the Code; neither the Company nor any of its subsidiaries is, or at any time has been, subject to (A) the dual consolidated loss provisions of the Section 1503(d) of the Code, (B) the overall foreign loss provisions of Section 904(f) of the Code or (iii) the recharacterization provisions of Section 952(c)(2) of the Code.

(y) Neither the Company nor any of its subsidiaries has participated in or cooperated with an international boycott within the meaning of Section 999 of the Code. Each of the Company and its subsidiaries has proper receipts (which will be delivered to Buyer at the Closing), within the meaning of Treasury Regulation Section 1.905-2, for any foreign Tax that has been or in the future may be claimed as a foreign tax credit for United States federal income tax purposes.

(z) The Company has never incurred (or been allocated) an "overall foreign loss" as defined in Section 904(f)(2) of the Code which has not been previously recaptured in full as provided in Sections 904(f)(1) and/or 904(f)(3) of the Code.

(aa) The Company is not a party to any gain recognition agreement under Section 367 of the Code.

(bb) The Company has not taken any action or failed to take any action that would cause the Merger to fail to qualify as a "reorganization" within the meaning of Section 368 of the Code.

3.10 Title to Properties and Related Matters. (a) The Company has good and valid title to all personal property, tangible or intangible, which the Company purports to own, including the properties reflected on the Balance Sheet or acquired after the date thereof (other than properties and assets sold or otherwise disposed of in the ordinary course of business and consistent with past practice since August 31, 2003, free and clear of any claims, liens, pledges, security interests or encumbrances of any kind whatsoever (other than (i) as provided in Schedule 3.10(a); (ii) purchase money security interests and common law vendor's liens, in each case for goods purchased on open account in the ordinary course of business and having a fair market value of less than $10,000 in each individual case), (iii) liens for Taxes not yet due and payable and (iv) such imperfections of title and encumbrances, if any, that are not material in character, amount or extent and that do not materially detract from the value, or materially interfere with the use of, the property subject thereto or affected thereby. Collectively, such property and the Intellectual Property Rights disclosed on Schedule 3.11 hereto constitute all property, tangible or intangible, necessary to conduct the business of the Company as presently conducted.

(b) The Company does not own any real property or any interest in real property.

(c) Schedule 3.10(c) hereto sets forth a list, which is correct and complete in all material respects, of all equipment, machinery, instruments, vehicles, furniture, fixtures and other items of personal property currently owned or leased by the Company with a book value as of August 31, 2003, in each case of $10,000 or more. All such personal property is in suitable operating condition and is physically located in or about one of the places of business of the Company and is owned by the Company or is leased by the Company under one of the leases set forth in Schedule 3.10(d) hereto. None of such personal property is subject to any agreement or commitment for its use by any person other than the Company. The maintenance and operation of such personal property has been in conformance with all applicable laws and regulations. Except as set forth on Schedule 3.10(c), there are no assets leased by the Company or used in the operation of the Company that are owned, directly or indirectly, by any Related Person (as that term is hereinafter defined in Section 3.22).

(d) Schedule 3.10(d) sets forth a complete and correct list of all real property and personal property leases to which the Company is a party. The Company has previously delivered to the Parent complete and correct copies of each lease (and any amendments or supplements thereto) listed in Schedule 3.10(d) hereto. (i) Each such lease is valid and binding, and in full force and effect; except to the extent that applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights may affect such validity or enforceability, (ii) neither the Company nor (to the knowledge of the Company) any other party is in default under any such lease, and no event has occurred which constitutes, or with the lapse of time or the giving of notice or both would constitute, a default by the Company or (to the knowledge of the Company) a default by any other party under such lease; (iii) to the knowledge of the Company, there are no disputes or disagreements between the Company and any other party with respect to any such lease; and (iv) except as set forth on Schedule 3.3, no such lease requires the Company to obtain the lessor's consent to, or notify the lessor of, the consummation of the transactions contemplated by this Agreement.

3.11 Intellectual Property; Proprietary Rights; Employee Restrictions. For the purposes of this Agreement, the following terms have the following definitions:

"Intellectual Property" shall mean any or all of the following and all rights in, arising out of, or associated therewith: (i) all United States, international and foreign patents and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof; (ii) all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know how, technology, technical data and customer lists, computer programs and other computer software, user interfaces, processes and formulae, source code, object code, algorithms, architecture, structure, display screens, layouts, development tools, instructions, templates and marketing materials, designs and all documentation relating to any of the foregoing; (iii) all copyrights, copyrights registrations and applications therefor, and all other rights corresponding thereto throughout the world; (iv) all industrial designs and any registrations and applications therefor throughout the world; (v) all trade names, logos, common law trademarks and service marks, trademark and service mark registrations, intent-to-use applications and other registrations and applications therefor throughout the world; (vi) all databases and data collections and all rights therein

throughout the world; (vii) all domain names; (viii) all moral and economic rights of authors and inventors, however denominated, throughout the world, and (ix) any similar or equivalent rights to any of the foregoing anywhere in the world.

"Company Intellectual Property" shall mean any Intellectual Property that is owned by, or exclusively licensed to, the Company.

(a) No Company Intellectual Property or product or service of the Company is subject to any proceeding or outstanding decree, order, judgment, contract, license, agreement, or stipulation restricting in any manner the use, transfer, or licensing of Company Intellectual Property by Company or which may affect the validity, use or enforceability of such Company Intellectual Property.

(b) Set forth on Schedule 3.11(b) hereto is a list of all Company Intellectual Property or other Intellectual Property used by the Company (other than generally available software such as Microsoft Word and the like). True and correct copies of all licenses, assignments and releases relating to such Intellectual Property have been provided to the Parent prior to the date hereof, all of which are valid and binding agreements of the parties thereto, enforceable in accordance with their terms. The Company owns and has good and exclusive right, title and interest to, or (x) has exclusive license to, each item of Company Intellectual Property and (y) has non-exclusive license to other Intellectual Property used by Company, free and clear of any lien or encumbrance; and all such Intellectual Property rights are in full force and effect. The Company is the exclusive owner of all trademarks and trade names used in connection with the operation or conduct of the business of Company, including the sale of any products or the provision of any services by Company. The Company owns exclusively, and has good title to, all copyrighted works that are Company products or which Company otherwise expressly purports to own. No university, government agency (whether federal or state) or other organization has sponsored research and development conducted by the Company or has any claim of right to or ownership of or other encumbrance upon the Intellectual Property Rights of the Company.

(c) All patents, patent applications, trademarks, service marks, copyrights, mask work rights and domain names of the Company have been duly registered and/or filed with or issued by each appropriate governmental entity in the jurisdictions indicated on Schedule 3.11(c) hereto, all necessary affidavits of continuing use have been filed, and all necessary maintenance fees have been paid to continue all such rights in effect.

(d) To the extent that any Intellectual Property (including without limitation software, hardware, copyrightable works and the like) has been developed, created, modified or improved by a third party for the Company, the Company has a written agreement with such third party that assigns to the Company ownership of such Intellectual Property, each of which is a valid and binding agreement of the parties thereto, enforceable in accordance with its terms; and the Company thereby has obtained ownership of, and is the exclusive owner of such work, material or invention by operation of law or by valid assignment, to the fullest extent it is legally possible to do so. The Company has the right to use all trade secrets, data, customer lists, log

files, hardware designs, programming processes, software and other information required for or incident to its products or business (including, without limitation, the operation of their respective Web sites) as presently conducted and has no reason to believe that any of such information that is provided to the Company by third parties will not continue to be provided to the Company on the same terms and conditions as currently exist.

(e) The Company has not transferred ownership of, or granted any exclusive license with respect to, any Intellectual Property that is or was Company Intellectual Property to any third party.

(f) The operation of the business of Company as such business currently is conducted, including Company's design, development, manufacture, marketing and sale of the products or services of the Company (including products currently under development) has not, does not and will not infringe or misappropriate the Intellectual Property of any third party or, to the Company's knowledge, constitute unfair competition or trade practices under the laws of any jurisdiction.

(g) The Company has not received any notice or other claim from any third party that the operation of the business of the Company or any act, product or service of the Company infringes, may infringe or misappropriates the Intellectual Property of any third party or constitutes unfair competition or trade practices under the laws of any jurisdiction.

(h) Except as set forth on Schedule 3.11(h), to the knowledge of the Company, no person has or is infringing or misappropriating any Company Intellectual Property or other Intellectual Property Rights in any of its products, technology or services, or has or is violating the confidentiality of any of its proprietary information.

(i) The Company has taken reasonable steps to protect the Company's rights in the Company's proprietary and/or confidential information and trade secrets or any trade secrets or confidential information of third parties provided to the Company, and, without limiting the foregoing, the Company has enforced a policy requiring each employee and contractor to execute a proprietary information/confidentiality agreement substantially in the form provided to Parent, and all current and former employees and contractors of Company have executed such an agreement. To the knowledge of the Company, all trade secrets and other confidential information of the Company are not part of the public domain nor, have they been misappropriated by any person having an obligation to maintain such trade secrets or other confidential information in confidence for the Company. To the knowledge of the Company, no employee or consultant of the Company has used any trade secrets or other confidential information of any other person in the course of their work for the Company nor is the Company making unlawful use of any confidential information or trade secrets of any past or present employees of the Company.

All Intellectual Property Rights purported to be owned by the Company which were developed, worked on or otherwise held by any employee, officer or consultant are owned free and clear by the Company by operation of law or have been validly assigned to the

Company and such assignments have been provided to Parent and are valid binding agreements of the parties thereto, enforceable in accordance with their terms. Neither the Company, the Shareholders, nor, to the knowledge of the Company, any of the employees of the Company, have any agreements or arrangements with current or former employers relating to (i) confidential information or trade secrets of such employers, or (ii) the assignment of rights to any inventions, know-how or intellectual property of any kind nor are any such persons bound by any consulting agreement relating to confidential information or trade secrets of another entity that are being violated by such persons. The activities of the employees and consultants of the Company on behalf of the Company do not violate in any material respects any agreements or arrangements known to the Company, or any of the Shareholders which any such employees or consultants have with former employers or any other entity to whom such employees or consultants may have rendered consulting services.

(j) All information and content of the World Wide Web sites of the Company (other than information provided by users, customers and advertisers) is accurate and complete in all material respects.

3.12 Contracts. (a) Except as set forth on Schedule 3.12(a), the Company is not a party to, or subject to:

(i) any contract, arrangement or understanding, or series of related contracts, arrangements or understandings, which involves annual expenditures or receipts by the Company of more than $10,000;

(ii) any note, indenture, credit facility, mortgage, security agreement or other contract, arrangement or understanding relating to or evidencing indebtedness for money borrowed or a security interest or mortgage in the assets of the Company;

(iii) any agreement of indemnification or guaranty issued by the Company;

(iv) any contract, arrangement or understanding relating to the acquisition, issuance or transfer of any securities, including, without limitation, convertible securities;

(v) any contract, arrangement or understanding relating to the acquisition, transfer, distribution, use, development, sharing or license of any technology or Intellectual Property Rights, other than licenses granted in the ordinary course of business with a term of less than one (1) year;

(vi) any contract, arrangement or understanding granting to any person the right to use any property or property right of the Company other than licenses granted in the ordinary course of business with a term of less than one (1) year;

(vii) any contract, arrangement or understanding restricting the right of the Company to (A) engage in any business activity or compete with any business, or (B) develop or distribute any technology;

(viii) any contract, arrangement or understanding relating to the employment of, or the performance of services of, any employee, consultant or independent contractor and pursuant to which the Company is required to pay more than $10,000 per year;

(ix) any contract, arrangement or understanding with a Related Person (as that term is hereinafter defined);

(x) any bonus, deferred compensation, pension, profit sharing or retirement plans, or any employee benefit plans or arrangements;

(xi) any agreement, contract or commitment involving or related to joint research, design or development;

(xii) any other agreement, contract or commitment involving future payments by the Company of $10,000 or more and is not cancelable without penalty within ninety (90) days; or

(xiii) any outstanding offer, commitment or obligation to enter into any contract or arrangement of the nature described in subsections (i) through (xii) of this subsection 3.12(a).

(b) The Company has previously provided to the Parent complete and correct copies (or, in the case of oral contracts, a complete and correct description) of any contract (and any amendments or supplements thereto) listed on Schedule 3.12(a) hereto. (i) Each contract listed in Schedule 3.12(a) hereto is in full force and effect; (ii) neither the Company nor (to the knowledge of the Company) any other party is in default under any contract listed in Schedule 3.12 (a) hereto, and no event has occurred which constitutes, or with the lapse of time or the giving of notice or both would constitute, a default by the Company or (to the knowledge of the Company) a default by any other party under such contract; (iii) to the knowledge of the Company, there are no disputes or disagreements between the Company and any other party with respect to any contract listed in Schedule 3.12 (a) hereto; and (iv) each other party to each such material contract has consented or been given notice (or prior to the Closing shall have consented or been given notice), where such consent or the giving of such notice is necessary, sufficient that such contract shall remain in full force and effect following the consummation of the transactions contemplated by this Agreement without modification in the rights or obligations of the Company thereunder.

(c) The Company has not issued any warranty or any agreement or commitment to indemnify any person other than in the ordinary course of business.

3.13 Employees; Employee Benefits.

(a) Schedule 3.13 (a) hereto sets forth the names of all current employees of the Company (the "Employees") and such Employee's job title, the location of employment of such Employee, such Employee's current salary, the amount of any bonuses or other compensation paid since December 31, 2002 to such Employee, the date of employment of such Employee and the accrued vacation time of such Employee. Schedule 3.13(a) hereto sets forth a true and correct statement of the liability, if any, of the Company for accrued but unused sick pay. There are no outstanding loans from the Company to any officer, director, employee, agent or consultant of the Company, or to any other Related Person. Schedule 3.13(a) hereto sets forth a complete and correct description of all severance policies of the Company. Complete and correct copies of all written agreements (or, in the case of oral agreements, a complete and correct description) with Employees and all employment policies, and all amendments and supplements thereto, have previously been delivered to the Parent, and a list of all such agreements and policies is set forth on Schedule 3.13(a). None of the Employees has, to the knowledge of the Company, indicated a desire to terminate his or her employment, or any intention to terminate his or her employment upon a sale of, or business combination relating to, the Company or in connection with the transactions contemplated by this Agreement. Since December 31, 2002, the Company has not (i) increased the salary or other compensation payable or to become payable to or for the benefit of any of the Employees, (ii) increased the term or tenure of employment for any Employee, except in the ordinary course of business consistent with past practice, (iii) increased the amounts payable to any of the Employees upon the termination of any such person's employment or (iv) adopted, increased, augmented or improved benefits granted to or for the benefit of any of the Employees under any Benefit Plan.

(b) The Company has complied in all material respects with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, as amended, the Fair Labor Standards Act, as amended, the Immigration Reform and Control Act of 1986, the American with Disabilities Act, and all comparable state laws, and all applicable laws, rules and regulations governing payment of minimum wages and overtime rates, the withholding and payment of taxes from compensation, discriminatory practices with respect to employment and discharge, or otherwise relating to the conduct of employers with respect to Employees or potential employees, and there have been no claims made or, to the knowledge of the Company, threatened thereunder against the Company arising out of, relating to or alleging any violation of any of the foregoing. There are no material controversies, strikes, work stoppages, picketing or disputes pending or, to the knowledge of the Company, threatened between the Company and any of the Employees or former employees; no labor union or other collective bargaining unit represents or has ever represented any of the Employees, including any "leased employees" (within the meaning of Section 414(n) of the Code); no organizational effort by any labor union or other collective bargaining unit currently is under way or, to the knowledge of the Company, threatened with respect to any Employees; and the consent of no labor union or other collective bargaining unit is required to consummate the transactions contemplated by this Agreement.

(c) Schedule 3.13(c) hereto sets forth a list of each defined benefit and defined contribution plan, stock ownership plan, employment or consulting agreement, executive

compensation plan, bonus plan, incentive compensation plan or arrangement, deferred compensation agreement or arrangement, agreement with respect to temporary employees or "leased employees" (within the meaning of Section 414(n) of the Code), vacation pay, sickness, disability or death benefit plan (whether provided through insurance, on a funded or unfunded basis or otherwise), employee stock option, stock appreciation rights or stock purchase plan, severance pay plan, cafeteria plan, arrangement or practice, employee relations policy, practice or arrangement, and each other employee benefit plan, program or arrangement, including, without limitation, each "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which has been maintained by the Company for the benefit of or relating to any of the Employees or to any former employees or their dependents, survivors or beneficiaries, whether or not legally binding, whether written or oral or whether express or implied, or for which the Company or any entity that would be deemed a "single employer" with the Company under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA has any liability or contingent liability, all of which are hereinafter referred to as the "Benefit Plans."

(d) Each Benefit Plan which is an "employee pension benefit plan" (as defined in Section 3(2) of ERISA) or other form of retirement plan intended to meet the requirements of Section 401(a) of the Code meets such requirements; the trust, if any, forming part of such plan is exempt from U.S. federal income tax under Section 501(a) of the Code; a favorable determination letter has been issued by the Internal Revenue Service (the "IRS") with respect to each plan and trust and each amendment thereto (except with respect to amendments to which the remedial amendment period for adopting such plan amendments has not yet expired); and nothing has occurred since the date of such determination letter that would adversely affect the qualification of such plan. Each Benefit Plan that is an "employee welfare benefit plan" (as defined in Section 3(1) of ERISA) either has timely filed all reports required under Section 104(a) of ERISA or was exempt from such annual reporting requirements. No Benefit Plan is a "voluntary employees beneficiary association" (within the meaning of section 501(c)(9) of the Code) and there have been no other "welfare benefit funds" (within the meaning of Section 419 of the Code) relating to Employees or former employees. No event or condition exists with respect to any Benefit Plan that could subject the Company to any material Tax under Section 4980B of the Code, or other applicable law. With respect to each Benefit Plan, the Company has each heretofore delivered to the Parent complete and correct copies of the following documents, where applicable and to the extent available: (i) the most recent annual report (Form 5500 series), together with schedules, as required, filed with the IRS, and any financial statements and opinion required by Section 103(a)(3) of ERISA, (ii) the most recent determination letter issued by the IRS, (iii) the most recent summary plan description and all modifications, as well as all other descriptions distributed to Employees or set forth in any manuals or other documents, (iv) the text of the Benefit Plan and of any trust, insurance or annuity contracts maintained in connection therewith and (v) the most recent actuarial report, if any, relating to the Benefit Plan. None of the Benefit Plans is subject to Title IV of ERISA or the minimum funding requirements of Section 412 of the Code; and none of the Benefit Plans of the Company is, or has been, the subject of any investigation, audit or action by the IRS, the Department of Labor or the Pension Benefit Guaranty Corporation as to which the Company has received written notice.

(e) No Benefit Plan provides benefits, including, without limitation, death, medical or severance benefits, with respect to current or former employees or directors (or their beneficiaries) beyond their retirement or other termination of service other than (i) coverage for benefits mandated by applicable law, (ii) deferred compensation benefits properly accrued as liabilities on the Financial Statements, or (iii) benefits the full cost of which is borne by the current or former employee or director or his beneficiaries.

(f) There is no agreement, plan or arrangement covering any employee or independent contractor or former employee or independent contractor of the Company that considered individually or considered collectively with any other such agreement, plan or arrangement, will, or could reasonably be expected to, give rise directly or indirectly to the payment of any amount as a result of the Merger that would not be deductible pursuant to Section 280G of the Code or that would be subject to an excise tax under Section 4999 of the Code.

3.14 Compliance with Applicable Law. Except as set forth on Schedule 3.14, the Company is not in violation in any material respect of any applicable safety, health, environmental or other law, statute, ordinance, code, rule, regulation, judgment, order, injunction, writ or decree of any federal, state, local or foreign court or governmental or regulatory body, agency or authority having, asserting or claiming jurisdiction over it or over any part of its business, operations, properties or assets, except for any violation that would not result in a fine or penalty in excess of $10,000 individually or in the aggregate. The Company has not received any notice alleging any such violation, nor to the knowledge of the Company, is there any inquiry, investigation or proceedings relating thereto.

3.15 Ability to Conduct the Business. There is no agreement, arrangement or understanding, nor any judgment, order, writ, injunction or decree of any court or governmental or regulatory body, agency or authority applicable to the Company or to which the Company is a party or by which either (or any of its properties or assets) is bound, that will prevent the use by the Surviving Corporation, after the Effective Time, of the properties and assets owned by, the business conducted by or the services rendered by the Company on the date hereof, in each case on substantially the same basis as the same are used, owned, conducted or rendered on the date hereof. The Company has in force, and is in compliance with, in all material respects, all governmental permits, licenses, exemptions, consents, authorizations and approvals used in or required for the conduct of its business as presently conducted, all of which shall continue in full force and effect, without requirement of any filing or the giving of any notice and without modification thereof, following the consummation of the transactions contemplated hereby. The Company has not received any notice of, and to the knowledge of the Company, there are no inquiries, proceedings or investigations relating to or which could result in the revocation or modification of any such permit, license, exemption, consent, authorization or approval.

3.16 Major Customers, Advertisers and Distributors. Schedule 3.16 hereto sets forth a complete and correct list of the ten (10) largest customers, advertisers and distributors of the Company in terms of revenue recognized in respect of such customers, advertisers and distributors during the eight (8) months ended August 31, 2003 and during the twelve (12)

months ended December 31, 2002, showing the amount of revenue recognized for each such customer, advertiser or distributor, as the case may be, during such period. To the knowledge of the Company, the Company has not received any notice or other communication (written or oral) from any of the customers, advertisers or distributors listed in Schedule 3.16 hereto terminating, amending or reducing in any material respect, or setting forth an intention to terminate, amend or reduce in the future, or otherwise reflecting a material adverse change in, the business relationship between such customer, advertiser or distributor and the Company.

3.17 Consultants, Sales Representatives and Other Agents. Schedule 3.17 hereto sets forth a complete and correct list of the names and addresses of each consultant, sales representative or other agent (other than any such person performing solely clerical functions) currently engaged by the Company who is not an employee of the Company, the commission rates or other compensation applicable with respect to each such person and the amount of commissions or other compensation earned by each such person for the eight (8) months ended August 31, 2003 and for the twelve (12) months ended December 31, 2002. Complete and correct copies of all current agreements between the Company and any such person have previously been delivered by the Company to the Parent.

3.18 Accounts Receivable. All accounts receivable of the Company reflected on the Balance Sheet (i) arose from bona fide transactions in the ordinary course of business and consistent with past practice, and (ii) are owned by the Company free and clear of any security interest, lien, encumbrance, or claims, and (iii) are accurately and fairly reflected on the Balance Sheet, or, with respect to accounts receivable of the Company created after August 31, 2003, are accurately and fairly reflected in the books and records of the Company. The reserves for bad debts reflected on the Balance Sheet were calculated in accordance with generally accepted accounting principles consistent with past practice and are adequate. The Company reasonably believes that all such accounts receivable are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserves for bad debts reflected on the Balance Sheet, and since August 31, 2003, there have not been any write-offs as uncollectible of any accounts receivable of the Company.

3.19 Insurance. Schedule 3.19 hereto sets forth a true and complete list of all insurance policies carried by the Company with respect to its business, together with, in respect of each such policy, the name of the insurer, the number of the policy, the annual policy premium payable therefor, the limits of coverage, the deductible amount (if any), the expiration date thereof and each pending claim thereunder. All such policies are in full force and effect and such policies, or other policies covering the same risks, have been in full force and effect, without gaps, continuously for the past two (2) years. All premiums due thereon have been paid in a timely manner. Complete and correct copies of all current insurance policies of the Company have been made available to Parent for inspection. The Company is not in default under any of such policies, and the Company has not failed to give any notice or to present any claim under any such policy in a due and timely fashion. The Company is not aware of any facts concerning the Company or its business, operations, assets and liabilities, contingent or otherwise, upon which an insurer might be justified in reducing coverage or increasing premiums on existing policies and all such insurance policies can be maintained in full force and effect without

substantial increase in premium or reducing the coverage thereof following the Closing. There is no claim pending under any of such policies as to which coverage has been questioned, denied or disputed by the underwriters of such policy.

3.20 Bank Accounts; Powers of Attorney. Schedule 3.20 hereto sets forth a complete and correct list showing: (i) all bank accounts of the Company, together with, with respect to each such account, the account number, the names of all signatories thereof, the authorized powers of each such signatory and the approximate balance thereof on the date of this Agreement; and (ii) the names of all persons holding powers of attorney from the Company and a summary statement of the terms thereof.

3.21 Minute Books, etc. The minute books, records of the Company Common Stock and other corporate records of the Company are complete and correct in all respects, and complete and correct copies thereof have been delivered by the Company to the Parent. The minute books of the Company contain accurate and complete records of all meetings or written consents to action of the Shareholders of the Company and accurately reflect all corporate actions of the Company which are required by law to be passed upon by the Shareholders of the Company.

3.22 Related Person Indebtedness and Contracts. Schedule 3.22 hereto sets forth a complete and correct summary of all contracts, commitments, arrangements and understandings not described elsewhere in this Agreement between the Company and any of the following (collectively, "Related Persons"): (i) the Shareholders; (ii) the spouses and children of any of the Shareholders (collectively, "Near Relatives"); (iii) any trust for the benefit of any of the Shareholders or any of their respective Near Relatives; or (iv) any corporation, partnership, joint venture or other entity or enterprise owned or controlled by any of the Shareholders or by any of their respective Near Relatives. All amounts contributed by the Shareholders to the Company, as the case may be, have been treated as contributions to equity of the Company and have not been treated as, nor do they constitute, indebtedness of the Company to the Shareholders.

3.23 Brokers; Payments. Except as set forth on Schedule 3.23, no broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company or the Shareholders. The Company has suspended or terminated, and has the legal right to terminate or suspend, all negotiations and discussions of Acquisition Transactions (as defined in Section 6.3) with parties other than Parent. No valid claim exists against the Company or, based on any action by the Company, against the Surviving Corporation or the Parent for payment of any "topping," "break-up" or "bust-up" fee or any similar compensation or payment arrangement as a result of the transactions contemplated hereby.

3.24 Consent Solicitation; Voting Requirements. The affirmative vote or written consent of 100%, of the outstanding shares of Company Common Stock is necessary to adopt this Agreement (the "Shareholder Approval"). The record date established in accordance with the ORS and the Articles of Incorporation and the By-laws of the Company for purposes of

determining the Shareholders entitled to give consents or vote with respect to the Shareholder Approval is the "Record Date." The Company has delivered to each Shareholder listed in Schedule 3.4(a) a copy of the Letter of Transmittal attached as Exhibit C attached hereto, together with the form of written consent to be executed and delivered by such Shareholder.

3.25 State Takeover Statutes. The Board of Directors of the Company has (i) determined that the Merger is fair and in the best interest of the Company and its Shareholders, (ii) approved and adopted the Merger and this Agreement and the other transactions contemplated by this Agreement and (iii) directed that this Agreement and the Merger be submitted to the Shareholders for their approval and resolved to recommend that the Shareholders vote in favor of this Agreement and the Merger, and such approval is sufficient to render inapplicable to the Merger and this Agreement and the other transactions contemplated by this Agreement, any state takeover statute or similar law that would otherwise be applicable to the Merger and this Agreement and the other transactions contemplated by this Agreement.

3.26 Disclosure. The Company has not failed to disclose to Parent any fact that is reasonably more likely than not to have a Company Material Adverse Effect or impede or impair the ability of the Company to perform its obligations under this Agreement in any material respect. No representation or warranty by the Company or the Shareholders contained in this Agreement and no statement contained, when considered together as a whole, in any of the Company Disclosure Schedules, and the certificates and other documents or instruments delivered or to be delivered pursuant to this Agreement by or on behalf of the Company and/or the Shareholders contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they are made, not misleading.

3.27 Information Supplied. None of the information supplied or to be supplied by the Company and the Shareholders specifically for and delivered or to be delivered in connection with the solicitation by the Company of the consents necessary for the Shareholder Approval contained any untrue statement of a material fact or omitted to state any material fact as of the date such information was given to the Shareholders required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were or are made, taken as a whole, not misleading.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE SHAREHOLDERS

4.1 Authorization; etc. The Shareholders severally represent and warrant to the Parent and Acquisition Corp. as follows:

(i) Each of the Shareholders is the sole and exclusive record and beneficial owner of the Company Common Stock set forth opposite his or her name in Schedule 3.4 hereto, free and clear of any claims, liens, pledges, options, rights of first refusal or other

encumbrances or restrictions of any nature whatsoever (other than restrictions on transfer imposed under applicable securities laws), and there are no agreements, arrangements or understandings to which such Shareholder is a party (other than this Agreement) involving the purchase, sale or other acquisition or disposition of the Company Common Stock owned by such Shareholder;

(ii) such Shareholder shall (A) simultaneously with such Shareholder's execution and delivery of this Agreement, execute and deliver to Parent an irrevocable proxy or written consent in which such Shareholder voted all Company Common Stock owned by such Shareholder in favor of the Merger and the adoption of this Agreement by the Company, (B) at the Effective Time, deliver or cause to be delivered to the Parent (x) certificates representing all Company Common Stock owned by such Shareholder, each such certificate to be duly endorsed for transfer and free and clear of any claims, liens, pledges, options, rights of first refusal or other encumbrances or restrictions of any nature whatsoever (other than restrictions imposed under applicable securities laws) and (y) a duly completed and executed Letter of Transmittal in the form of Exhibit C attached hereto;

(iii) such Shareholder has all necessary legal capacity, right, power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, and this Agreement constitutes a valid and binding obligation of such Shareholder enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors, rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in law or in equity;

(iv) the execution and delivery of this Agreement by such Shareholder and the consummation of the transactions contemplated hereby will not (A) violate or conflict with any provision of any partnership agreement, operating agreement or other constitutional documents of any such Shareholder that is constituted as a general or limited partnership or limited liability company, (B) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under or require any consent or the giving of any notice under, any note, bond, indenture, mortgage, security agreement, lease, license, franchise, permit, agreement or other instrument or obligation to which such Shareholder is a party, or by which such Shareholder or the Company Common Stock held by such Shareholder may be bound, or result in the creation of any lien, claim or encumbrance or other right of any third party of any kind whatsoever upon the properties or assets of such Shareholder pursuant to the terms of any such instrument or obligation, which breach, violation or event of default would have a material adverse effect on such Shareholder's ability to perform such Shareholder's obligations hereunder, or (C) violate or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction, decree or other instrument of any court or governmental or regulatory body, agency or authority applicable to such Shareholder or by which such the Company Common Stock held by such Shareholder may be bound;

(v) such Shareholder has not taken any action or failed to take any action that would cause the Merger to fail to qualify as a "reorganization" within the meaning of Section 368 of the Code;

(vi) such Shareholder hereby voluntarily releases and discharges Parent and Acquisition Corp., their respective affiliates, subsidiaries, predecessors, successors and assigns, and each of them, and the current and former officers, directors, stockholders, employees, and agents of each of the foregoing (any and all of which are referred to as the "Releasees"), from all charges, complaints, claims, promises, agreements, causes of action, damages, and debts of any nature whatsoever, known or unknown, which such Shareholder has, claims to have, ever had, or ever claimed to have had against the Company, Parent, Acquisition Corp. or any other Releasees, whether arising under federal or state law and whether as a Shareholder or employee of the Company or in any other capacity; and

(vi) none of the information supplied or to be supplied by the Shareholder specifically for and delivered or to be delivered in connection with the solicitation by the Company of the consents necessary for the Shareholder Approval and the transactions contemplated hereby contained or will contain any untrue statement of a material fact or omitted to state any material fact as of the date such information was given to the Shareholders required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were or are made, taken as a whole, not misleading.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE PARENT AND ACQUISITION CORP.

The Parent and Acquisition Corp. jointly and severally represent and warrant to the Company as set forth below, subject to the exceptions set forth in the disclosure schedules hereto (the "Parent Disclosure Schedules"), the section numbers and letters of which correspond to the section and subsection numbers and letters of this Agreement.

5.1 Corporate Organization. Each of the Parent and Acquisition Corp. is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of the Parent and Acquisition Corp. has all requisite corporate power and authority to own, operate and lease the properties and assets it now owns, operates and leases and to carry on its business as presently conducted. The Parent and Acquisition Corp. are each duly qualified to transact business as a foreign corporation and are each in good standing in the jurisdictions where such qualification is required by reason of the nature of the properties and assets currently owned, operated or leased by the Parent or Acquisition Corp. or the business currently conducted by them, except for such jurisdictions where the failure to be so qualified would not have a Parent Material Adverse Effect (as defined below). Acquisition Corp. is a corporation newly formed by Parent and has not conducted any business other than as expressly set forth in or contemplated by this Agreement. The Parent has previously made available to the Company complete and correct copies of (i) its Certificate of Incorporation and all amendments

thereto as of the date hereof (certified by the Secretary of State of Delaware as of a recent date) and its By-Laws (certified by the Secretary of the Parent as of a recent date) and (ii) the Certificate of Incorporation of Acquisition Corp. and all amendments thereto as of the date hereof (certified by the Secretary of State of the State of Delaware as of a recent date) and the By-Laws of Acquisition Corp. (certified by the Secretary of Acquisition Corp. as of a recent date). Neither the Certificate of Incorporation nor the By-Laws of the Parent or Acquisition Corp. have been amended since the respective dates of certification thereof, nor has any action been taken for the purpose of effecting any amendment of such instruments. The term "Parent Material Adverse Effect" means for purposes of this Agreement, any change, event or effect that is, or would be, materially adverse to the business, properties, financial condition or results of operations of the Parent and its subsidiaries (including Acquisition Corp.), taken as a whole.

5.2 Authorization. Each of the Parent and Acquisition Corp. has full corporate power and authority to execute and deliver this Agreement and any other agreements attached hereto, or entered into in connection herewith, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly approved by the Boards of Directors of the Parent and Acquisition Corp. and by the Parent as the sole Shareholder of Acquisition Corp., and no other corporate proceedings on the part of the Parent or Acquisition Corp. are necessary to approve and authorize the execution and delivery of this Agreement or (subject to the filing of the Certificate of Merger pursuant to the DGCL and Articles of Merger pursuant to ORS) the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Parent and Acquisition Corp. and, assuming due authorization, execution and delivery of this Agreement by the Company, and constitutes the valid and binding agreement of the Parent and Acquisition Corp., enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or in law).

5.3 Consents and Approvals; No Violations. Subject to (a) the filing of Certificates of Merger pursuant to the ORS and DGCL, and (b) compliance with applicable federal and state securities laws, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not: (i) violate or conflict with any provisions of the Certificate of Incorporation or By-Laws of the Parent or Acquisition Corp.; (ii) breach, violate or constitute an event of default (or an event which with the lapse of time or the giving of notice or both would constitute an event of default) under, give rise to any right of termination, cancellation, modification or acceleration under, or require any consent or the giving of any notice under, any note, bond, indenture, mortgage, security agreement, lease, license, franchise, permit, agreement or other instrument or obligation to which the Parent or Acquisition Corp. are parties, or by which any of them or any of their respective properties or assets may be bound, or result in the creation of any lien, claim or encumbrance of any kind whatsoever upon the properties or assets of the Parent or Acquisition Corp. pursuant to the terms of any such instrument or obligation, other than any breach, violation, default, termination, cancellation, modification or acceleration which would not have a Parent Material Adverse Effect; (iii) violate

or conflict with any law, statute, ordinance, code, rule, regulation, judgment, order, writ, injunction or decree or other instrument of any federal, state, local or foreign court or governmental or regulatory body, agency or authority applicable to the Parent or Acquisition Corp. or by which any of their respective properties or assets may be bound, except for such violations or conflicts which would not have a Parent Material Adverse Effect; or (iv) require, on the part of the Parent or Acquisition Corp., any filing or registration with, or permit, license, exemption, consent, authorization or approval of, or the giving of any notice to, any governmental or regulatory body, agency or authority other than any filing, registration, permit, license, exemption, consent, authorization, approval or notice which if not obtained or made would not have a Parent Material Adverse Effect.

5.4 Capitalization. (a) As of the date of this Agreement, the authorized capital stock of the Parent consists of 46,500,000 shares of Common Stock, $0.01 par value per share, of which 12,500,000 shares have been designated Class A Common Stock (the "Parent Class A Common Stock") and of which 12,250,000 shares are outstanding and 34,000,000 shares have been designated Class B Common Stock (the "Parent Common Stock"), of which 1,005,000 shares are outstanding and 8,500,000 shares of Preferred Stock, $0.01 par value per share, of which all such shares shall be designated Series A Preferred Stock (the "Parent Preferred Stock") and of which 6,724,063 shares are outstanding (the Parent Class A Common Stock, the Parent Class B Common Stock and the Parent Preferred Stock collectively shall be referred to herein as the "Parent Capital Stock"). All outstanding shares of Parent Capital Stock are duly authorized, validly issued, fully paid and nonassessable.

As of the date of this Agreement, 4,000,000 shares of Parent Common Stock were reserved for issuance upon the exercise of options to purchase Parent Common Stock granted pursuant to Parent's 2003 Stock Incentive Plan (the "Parent Option Plan") under which options are outstanding for an aggregate of 2,694,500 shares and under which 1,305,500 are available for grant. All shares of Parent Common Stock subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, would be duly authorized, validly issued, fully paid and nonassessable.

Except as set forth above, as of the date of this Agreement no shares of Parent Capital Stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Parent or any securities exchangeable or convertible into or exercisable for such capital stock, other equity securities, partnership interests or similar ownership interests or other voting securities of the Parent, were issued, reserved for issuance or outstanding. There are no outstanding stock appreciation rights with respect to shares of Parent Capital Stock. There are no bonds, debentures, notes or other indebtedness of the Parent having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Parent may vote.

Except as set forth on Schedule 5.4 attached hereto, there are no securities, partnership interests or similar ownership interests, options, warrants, calls, rights (including pre-emptive rights) or commitment, understanding, arrangement, agreement or contract (either written or oral) of any kind to which the Parent is a party, or by which the Parent is bound, obligating the

Parent to issue, deliver, sell, repurchase or redeem or cause to be issued, delivered, sold, repurchased or redeemed, any shares of Parent Capital Stock or other securities of the Parent. The Parent has never repurchased, redeemed or otherwise acquired or caused the repurchase, redemption or acquisition of any shares of Parent Capital Stock or other securities of the Parent, and there are no amounts owed or which may be owed to any person by the Parent as a result of any repurchase, redemption or acquisition of any shares of Parent Capital Stock or other securities of the Parent.

Except as set forth on Schedule 5.4 attached hereto, there are no registration rights, and, to the knowledge of the Parent, there are no voting trusts, proxies or agreements or understandings with respect to any equity security of any class of Parent Capital Stock.

(b) Except as set forth on Schedule 5.4 attached hereto, Parent does not own, directly or indirectly, any equity securities, or options, warrants or other rights to acquire equity securities, or securities convertible into or exchangeable for equity securities, of any other corporation, or any partnership interest in any general or limited partnership or unincorporated joint venture.

(c) As of the date of this Agreement, the authorized capital stock of Acquisition Corp. consists of 1,000 shares of common stock, par value $0.01 per share, of which 100 shares are issued and outstanding, all of which shares are owned beneficially and of record by the Parent. There are no outstanding options, warrants or other rights to purchase, or securities convertible into or exchangeable for, shares of the capital stock of Acquisition Corp., and there are no agreements or commitments to which Acquisition Corp. is a party or by which it is bound pursuant to which Acquisition Corp. is or may become obligated to issue additional shares of its capital stock.

5.5 Compliance with Applicable Law. Parent and Acquisition Corp. are not in violation in any material respect of any applicable safety, health, environmental or other law, statute, ordinance, code, rule, regulation, judgment, order, injunction, writ or decree of any federal, state, local or foreign court or governmental or regulatory body, agency or authority having, asserting or claiming jurisdiction over it or over any part of its business, operations, properties or assets, except for any violation that would not result in a fine or penalty in excess of $10,000 individually or in the aggregate. Parent and Acquisition Corp. have not received any notice alleging any such violation, nor to the knowledge of Parent or Acquisition Corp., is there any inquiry, investigation or proceedings relating thereto.

5.6 Legal Proceedings, etc. Except as set forth on Schedule 5.6 attached hereto, there are no suits, actions, claims, proceedings (including, without limitation, arbitral or administrative proceedings) or investigations pending or, to the knowledge of the Parent or Acquisition Corp., threatened against the Parent or Acquisition Corp. or their respective properties, assets or business or, to the knowledge of Parent or Acquisition Corp., pending or threatened against any of the officers, directors, employees, agents or consultants of the Parent or Acquisition Corp. in connection with the business of the Parent or Acquisition Corp. There is no basis for any such suits, actions, claims, proceedings or investigations known to the Parent or Acquisition Corp.

There are no such suits, actions, claims, proceedings or investigations pending against the Parent or Acquisition Corp., or, to the knowledge of the Parent or Acquisition Corp., threatened against the Parent or Acquisition Corp. challenging the validity or propriety of the transactions contemplated by this Agreement. There is no judgment, order, injunction, decree or award (whether issued by a court, an arbitrator or an administrative agency) to which the Parent or Acquisition Corp. is a party, or involving the properties, assets or business of the Parent or Acquisition Corp., which is unsatisfied or which requires continuing compliance therewith by the Parent or Acquisition Corp.

5.7 Brokers; Payments. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Parent or Acquisition Corp.

5.8 Disclosure. Parent and Acquisition Corp. have not failed to disclose to Company any fact that is reasonably more likely than not to have a Parent Material Adverse Effect or impede or impair the ability of the Parent or Acquisition Corp. to perform their respective obligations under this Agreement in any material respect. No representation or warranty by the Parent or Acquisition Corp. contained in this Agreement and no statement contained, when considered together as a whole, in any of the Parent Disclosure Schedules, and the certificates and other documents or instruments delivered or to be delivered pursuant to this Agreement by or on behalf of the Parent or Acquisition Corp. contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they are made, not misleading.

ARTICLE VI

CONDUCT OF BUSINESS PRIOR TO THE EFFECTIVE TIME

6.1 Conduct of Business of the Company. During the period commencing on the date hereof and continuing until the Effective Time, the Company and the Shareholders agree that the Company, except as otherwise expressly contemplated by this Agreement or agreed to in writing by the Parent:

(a) will carry on its business only in the ordinary course and consistent with past practice;

(b) will not declare or pay any dividend on or make any other distribution (however characterized) in respect of shares of its capital stock, provided, however, the Company may distribute to the Shareholders up to the aggregate amount of $100,000, which distribution shall reduce dollar for dollar the Cash Consideration;

(c) will not, directly or indirectly, redeem or repurchase, or agree to redeem or repurchase, any shares of its capital stock;

(d) will not amend its Articles of Incorporation or By-Laws;

(e) will not issue, or agree to issue, any shares of its capital stock, or any options, warrants or other rights to acquire shares of its capital stock, or any securities convertible into or exchangeable for shares of its capital stock;

(f) will not combine, split or otherwise reclassify any shares of its capital stock;

(g) will not form any subsidiaries;

(h) will use its best efforts to preserve intact its present business organization, keep available the services of its officers and key employees and preserve its relationships with clients and others having business dealings with it to the end that its goodwill and ongoing business shall not be materially impaired at the Effective Time;

(i) will not (i) make any capital expenditures individually or in the aggregate in excess of $5,000, (ii) enter into any license, distribution, OEM, reseller, joint venture or other similar agreement, (iii) enter into or terminate any lease of, or purchase or sell, any real property, (iv) enter into any leases of personal property involving individually or in the aggregate in excess of $5,000 annually, (v) incur or guarantee any additional indebtedness for borrowed money, (vi) create or permit to become effective any security interest, mortgage, lien, charge or other encumbrance on its properties or assets, or (vii) enter into any agreement to do any of the foregoing;

(j) will not adopt or amend any Benefit Plan for the benefit of Employees, or increase the salary or other compensation (including, without limitation, bonuses or severance compensation) payable or to become payable to its Employees or accelerate, amend or change the period of exercisability or the vesting schedule of options or restricted stock granted under any stock option plan or agreements except as specifically required by the terms of such plans or agreements, or enter into any agreement to do any of the foregoing;

(k) will not accelerate receivables or delay payables;

(1) will promptly advise the Parent of the commencement of, or threat of (to the extent that such threat comes to the knowledge of the Company or any Shareholder) any claim, action, suit, proceeding or investigation against, relating to or involving the Company or any of its respective officers, employees, agents or consultants in connection with their businesses or the transactions contemplated hereby;

(m) will use its commercially reasonable efforts to maintain in full force and effect all insurance policies maintained by the Company on the date hereof;

(n) will not enter into any agreement to dissolve, merge, consolidate or, except in the ordinary course, sell any material assets of the Company or acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial equity interest in or substantial portion of the assets of, or by any other manner, any business or any corporation,

partnership or other business organization or division, or otherwise acquire or agree to acquire any assets in excess of $5,000 in the aggregate; and

(o) will not change the method of accounting of the Company and make any Tax elections, enter any settlement or compromise of any Tax claim or liability with any taxing authority, or amend any Tax Return that would adversely affect Parent or its subsidiaries without the consent of Parent; and

(p) will not make any payments to officers or directors other than in the ordinary course.

6.2 Conduct of Business of Acquisition Corp. During the period commencing on the date hereof and continuing until the Effective Time, Acquisition Corp. shall not engage in any activities of any nature except as provided in or contemplated by this Agreement.

6.3 Other Negotiations. Neither the Company nor any of the Shareholders will (nor will they permit any of their respective officers, directors, employees, agents, partners and affiliates on their behalf to) take any action to solicit, initiate, seek, encourage or support any inquiry, proposal or offer from, furnish any information to, or participate in any discussions or negotiations with, any corporation, partnership, person or other entity or group (other than Parent) regarding any acquisition of the Company any merger or consolidation with or involving the Company or any acquisition of any material portion of the stock or assets of the Company or any equity or debt financing of the Company or any material license of Intellectual Property Rights or any business combination, recapitalization, joint venture or other major transaction involving the business of the Company (any of the foregoing being referred to in this Agreement as an "Acquisition Transaction") or enter into an agreement concerning any Acquisition Transaction with any party other than Parent. If between the date of this Agreement and the termination of this Agreement pursuant to Article XI, the Company receives from a third party any offer to negotiate or consummate an Acquisition Transaction, the Company shall (i) notify Parent immediately (orally and in writing) of such offer, including the identity of such party and the terms of any proposal therein, and (ii) notify such third party of the obligations of the Company under this Agreement.

ARTICLE VII

ADDITIONAL AGREEMENTS

7.1 Access to Properties and Records. The Company will provide to Parent and Parent's accountants, counsel and other authorized advisors, with reasonable access, during business hours, to its premises and properties and its books and records (including, without limitation, contracts, leases, insurance policies, litigation files, minute books, accounts, working papers and tax returns filed and in preparation) and will cause its officers to furnish to Parent and Parent's authorized advisors such additional financial, tax and operating data and other information pertaining to its business as Parent shall from time to time reasonably request. All of such data and information shall be kept confidential by Parent and the Company unless and until the Merger is consummated.

7.2 Transfer of Interests. The Shareholders agree that they (i) shall not dispose of or in any way encumber their Company Common Stock prior to the consummation of the transactions contemplated hereby, (ii) shall use their best efforts to cause, and take no action inconsistent with, the approval and consummation of said transactions and (iii) at the Closing shall surrender the certificates representing all shares of Company Common Stock owned by them, duly endorsed for transfer.

7.3 Reasonable Efforts; etc. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use his/its commercially reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including obtaining any consents, authorizations, exemptions and approvals from, and making all filings with, any governmental or regulatory authority, agency or body which are necessary in connection with the transactions contemplated by this Agreement.

7.4 Material Events. At all times prior to the Effective Time, each party shall promptly notify the others in writing of the occurrence of any event which will or may result in the failure to satisfy any of the conditions specified in Article IX or Article X hereof.

7.5 Fees and Expenses. The Parent and the Company shall bear and pay all of their own fees, costs and expenses relating to the transactions contemplated by this Agreement, including, without limitation, the fees and expenses of their respective counsel, accountants, brokers and financial advisors except that if the Merger is consummated, then the Shareholders shall be responsible for all such fees, costs and expenses incurred by the Company in connection with this Agreement and the transactions contemplated hereby which shall be paid by the Shareholders on a pro rata basis based on their percentage share of the Initial Merger Consideration.

7.6 Supplements to Disclosure Schedules. From time to time prior to the Effective Time, each party hereto shall supplement or amend its Disclosure Schedules with respect to any matter hereafter arising that, if existing or occurring at or prior to the date of this Agreement, would have been required to be set forth or described in its Disclosure Schedules or that is necessary to correct any information in its Disclosure Schedules or in its representations and warranties that have been rendered inaccurate thereby. The Disclosure Schedules delivered by a party hereto shall be deemed to include only that information contained therein on the date of this Agreement and shall be deemed to exclude any information contained in any subsequent supplement or amendment thereto.

7.7 Shareholder Consent. The Company and the Shareholders shall use their respective best efforts to obtain the Shareholder Approval, whether by written consent or at a meeting duly called for the purpose thereof, in accordance with applicable law.

7.8 Restricted Stock Grants. At Closing, the Restricted Equity Consideration will be granted pursuant to the Parent’s form of Stock Transfer and Restriction Agreement (the

"Restricted Stock Agreement") attached hereto as Exhibit F and such Restricted Equity Consideration shall vest semi-annually in equal amounts during the three (3) year period following the Closing Date. The Restricted Equity Consideration shall become fully vested (i) in the event of an Acceleration Event with respect to the Principal Stockholders, and (ii) in the event of a Change of Control with respect to the other stockholders. With respect to the shares of Restricted Equity Consideration granted to the Principal Stockholders, such shares shall be subject to forfeiture upon the occurrence of certain events as set forth in Parent's Restricted Stock Agreement.

7.9 Redemption Right. In the event that the Parent has not effected the sale of shares of Parent Common Stock in a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $20,000,000 of gross proceeds to the Parent on or before the second anniversary of the Closing Date (a "Qualified IPO"), the holders of at least seventy-five percent (75%) of the outstanding shares of the Equity Consideration may require the Parent to redeem the Equity Consideration at the price of $8.00 per share (appropriately adjusted to take account any stock dividend, stock split, combination of shares, reclassification or other similar event with respect to the Parent Common Stock) by providing written notice to the Parent (the "Election Notice") within thirty (30) days following the second anniversary of the Closing Date. The date on which the Parent receives a timely Election Notice shall be the "Trigger Date." The Parent shall call for redemption, and shall redeem from electing holders the Equity Consideration not later than sixty (60) days after the Trigger Date (the "Redemption Date").

7.10. Tax Matters.

(a) S Corporation Status. Neither the Company nor the Shareholders shall revoke the election of the Company to be taxed as an S corporation within the meaning of Sections 1361 and 1362 of the Code on or prior to the Closing. The Company and the Shareholders shall not take or allow any action that would result in the termination of the Company's status as a validly electing S corporation within the meaning of Sections 1361 and 1362 of the Code on or prior to the Closing Date. Neither the Company nor the Shareholders shall take or allow any action that would result in the termination of the Company's subsidiaries' status taxed as a qualified subchapter S subsidiary within the meaning of Section 1361(b)(3)(B) of the Code on or prior to the Closing Date.

(b) Tax Periods Ending on or before the Closing Date. Parent shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company for all periods ending on or prior to the Closing Date which are filed after the Closing Date. Parent shall permit the Shareholders to review and comment on each such Tax Return described in the preceding sentence prior to filing and shall make such revisions to such Tax Returns as are reasonably requested by the Shareholder Representative, provided, however, that if such revisions are inconsistent with prior similar Tax Returns, Parent may disregard such revisions. To the extent permitted by applicable law, Shareholders shall include any income, gain, loss, deduction or other tax items for such periods, which periods shall include the Closing Date, on their Tax

Returns in a manner consistent with the Schedule K-l s furnished by Parent to the Shareholders for such periods.

(c) Cooperation on Tax Matters.

(i) Parent, the Company and the Shareholders shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns pursuant to this Section 7.10 and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Shareholders agree to turn over to the Company and the Company shall retain all books and records with respect to Tax matters pertinent to the Company relating to any Tax period beginning before the Closing Date.

(ii) Parent and the Shareholders further agree, upon request, to use their best efforts to obtain any certificate or other document from any governmental authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

(iii) Parent and the Shareholders intend that the Merger be treated as a "reorganization" within the meaning of Section 368 of the Code, Parent and the Company each hereby adopt this Agreement as a "plan of reorganization" within the meaning of Treasury Regulation Sections 1.368-2(g) and 1.368-3(a) promulgated under the Code and covenant that each will report the Merger accordingly and shall use their reasonable best efforts to take or permit no action to be taken that would be inconsistent with such position.

(iv) It is the intent of Parent that Surviving Corporation will continue at least one significant historic business line of the Company, or use at least a significant portion of Company's historic business assets in a business, in each case within the meaning of Treas. Reg. Sec. 1.368-l(d).

(d) Certain Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement (and any corporate-level gains Tax triggered by the Merger and any applicable transfer taxes imposed in any state or subdivision) shall be paid by the Shareholders when due, and the Shareholders shall, at their own expense, file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use stamp, registration and other Taxes and fees, and, if required by applicable law, Parent will, and will cause its affiliates to, join in the execution of any such Tax Returns and other documentation.

(e) Tax Audits.

(i) If any taxing authority asserts a claim, makes an assessment or otherwise disputes or affects any Tax for which the Shareholders are responsible hereunder, Parent shall,

promptly upon receipt by Parent or the Acquisition Co. of notice thereof, inform the Shareholders thereof in accordance with and subject to the provisions of Section 12.2(a) of the Agreement.

(ii) The Shareholder Representative shall have the sole right to represent the interests of the Company (and to employ counsel of its choice at its expense) in any Tax audit or administrative or court proceeding relating to taxable periods of the Company which end before the Closing Date to the extent the Tax audit or administrative or court proceeding solely relates to a Tax item for which the Shareholders are liable and the Parent is not liable. Parent shall cooperate fully with the Company and its counsel in the defense against or compromise of any claim in any said proceeding; provided that neither the Shareholder Representative nor any of its appointed representatives shall settle or prosecute any Tax claim in a manner that would have an adverse effect on Parent, the Surviving Corporation, or their Affiliates without the prior written consent of Parent.

(iii) Except as provided in Section 7.10(e)(ii) above, Shareholders and Parent jointly shall represent the interests of the Company in any Tax audit or administrative or court proceeding relating to any Taxable period of the Company which ends on or before, or includes, the Closing Date, provided Shareholders may bear whole or partial responsibility for resulting liability hereunder. Each of the parties shall be bound by the decision rendered pursuant to this Section 7.10(e)(ii). All costs, fees and expenses paid to third parties in the course of such proceeding shall be borne by the Shareholders and the Parent in the same ratio as the ratio in which, pursuant to the terms of this Agreement, they would share the responsibility for payment of the Taxes asserted by the taxing authority in such claim or assessment if such claim or assessment were sustained in its entirety. Each of the Shareholder Representative and the Parent shall consult with each other with respect to the resolution of any audit or proceeding under this 7.10(e)(iii), and shall not settle or resolve any such audit or proceeding without the consent of the other.

(iv) If Parent and the Shareholder Representative are unable to reach mutual agreement on any matter covered by this Section 7.10, within an appropriate period of time taking into account relevant due dates for Tax Returns and similar items, but in any event within ninety (90) days of such disagreement, such disagreement shall be submitted for resolution to such nationally recognized independent certified public accounting firm as is mutually agreed upon by Parent and the Shareholder Representative (a "Tax Referee"). If the parties can not agree on a Tax Referee, the Tax Referee shall be picked by two nationally recognized accounting firms, one picked by Parent and one picked by the Shareholder Representative; provided, however, that the Tax Referee so picked may not then be the accountant regularly employed by Parent or the Company. The decision of the Tax Referee shall be binding on the parties. The fees of the Tax Referee shall be shared equally by Parent and the Shareholders.

7.11. Accounting Treatment. Parent, the Company and the Shareholders intend that the Merger qualify as a tax-free reorganization within the meaning of Section 368 of the Code and, for Tax reporting purposes, will report the Merger as a tax-free reorganization. If, for any reason, prior to the earliest to occur of the events below, the IRS asserts, which in turn results in

a final non-appealable written IRS determination, that the Merger does not so qualify, Parent shall indemnify the Shareholders for any resulting costs and expenses, which such amounts shall be approved in advance by Parent prior to the incurrence of such costs and expenses, and for any interest and penalties due on any resulting Taxes. In the above event, Parent shall also lend each Shareholder, on ten (10) days prior written notice, the amount of any resulting Taxes. Each such loan will be evidenced by a promissory note and shall accrue interest per annum at the then applicable federal rate. Parent's indemnification obligation shall expire upon the earlier to occur of the following and each Shareholder shall have no obligation to pay principal and interest of the loan until ten (10) days after the earliest to occur of the following, at which time the outstanding balance shall be due and payable in full:

(a) the expiration of the redemption right or the date of the cash payout upon exercise of the redemption right as set forth in Section 7.9;

(b) in the event of a Qualified IPO, the later of the following:

(i) the expiration of the "lock-up" period on the Equity Consideration; or

(ii) twelve (12) months from the Closing;

(c) the sale of a majority of the Equity Consideration received by such Shareholder; or

(d) as to any Shareholder, with and upon receipt of the consideration such Shareholder receives on the consummation of a Change of Control in exchange for his or her shares of the Equity Consideration and the Restricted Equity Consideration.

7.12. Appointment of Shareholder Representative.

(a) The Shareholder Representative is hereby appointed as representative of the Shareholders for purposes of this Agreement and the Escrow Agreement. Shareholder approval of this Agreement shall include confirmation of the authority of the Shareholder Representative. Parent, Acquisition Corp., and the Company may rely upon the acts of the Shareholder Representative for all purposes permitted hereunder and under the Escrow Agreement.

(b) The Shareholder Representative shall have full power of substitution to act in the name, place and stead of the Shareholders in all matters in connection with this Agreement and the Escrow Agreement. The Shareholder Representative's power shall include the following powers, without limitation: the power to act for the Shareholders with regard to the calculation of the Cash Earnout Consideration and indemnification obligations hereunder; the power to compromise any claim on behalf of the Shareholders and to transact matters of litigation or arbitration in connection with this Agreement or the Escrow Agreement; the power to do or refrain from doing all such further acts and things on behalf of the Shareholders that the Shareholder Representative deems necessary or appropriate in his sole discretion, and to execute all such documents as the Shareholder Representative shall deem necessary or appropriate, in

connection therewith; and the power to receive service of process in connection with any claims under this Agreement.

(c) If the Shareholder Representative dies or otherwise becomes incapacitated and unable to serve as Shareholder Representative, his successor shall be appointed by a majority in interest of the Shareholders (such majority in interest to be determined in accordance with the pro rata amounts of the Equity Consideration as set forth on Schedule 2.2 hereto).

(d) The Shareholder Representative shall act for the Shareholders in the manner the Shareholder Representative believes to be in the best interest of the Shareholders and consistent with his obligations under this Agreement, but shall have no duties or obligations except as specifically set forth in this Agreement, In acting as representative of the Shareholders, the Shareholder Representative may rely upon, and shall be protected in acting or refraining from acting upon, an opinion or advice of counsel, certificate of auditors or other certificate, statement, instrument, opinion, report, notice, request, consent, order arbitrator's award, appraisal, bond or other paper or documents reasonably believed by him to be genuine and to have been signed or presented by the proper party or parties. The Shareholder Representative shall not be personally liable to the Shareholders for any action taken, suffered or omitted by him in good faith and reasonably believed by him to be authorized or within the discretion of the rights or powers conferred upon him by this Section 7.12. The Shareholder Representative may consult with counsel and any advice of such counsel shall be full and complete authorization and protection in respect to any action taken or suffered or omitted by him in such capacity in good faith and in accordance with such opinion of counsel. The Shareholder Representative may perform his duties as Shareholder Representative either directly or by or through his agents or attorneys, and the Shareholder Representative shall not be responsible to the Shareholders for any misconduct or negligence on the part of any agent or attorney appointed with due care by him under this Agreement. No bond shall be required of the Shareholder Representative, and the Shareholders jointly and severally shall indemnify the Shareholder Representative with respect to any and all decisions made or actions taken in the capacity as Shareholder Representative, other than for the Shareholder Representative's willful misconduct or gross negligence.

ARTICLE VIII

COVENANTS OF CERTAIN PRINCIPAL SHAREHOLDERS

Each of the Principal Shareholders hereby severally agrees that for a period of three (3) years following the Closing Date, he, she or it will not, directly or indirectly, alone or as a partner, officer, director, employee, consultant, agent, independent contractor or Shareholder of any company or business organization, engage in any business activity, or have a financial interest in any business activity (excepting only the ownership of not more than 5% of the outstanding securities of any class of any entity listed on an exchange or regularly traded in the over-the-counter market), which is directly or indirectly in competition with the products or services being developed, marketed, sold or otherwise provided by the Company, or which is directly or indirectly materially detrimental to the business of the Company as of the Closing Date ("Competitive Activity"). Such person further agrees that, for a period of three (3) years

following the Closing Date hereof, he, she or it will not in any capacity, either separately, jointly or in association with others, directly or indirectly, solicit or contact in connection with, or in furtherance of, a Competitive Activity any of the employees, consultants, agents, suppliers, customers or prospects of the Company that were such with respect to the Company at any time during the one (1) year immediately preceding the date hereof or that become such with respect to the Company at any time during the one (1) year immediately following the date hereof. Such person's obligations under this Article VIII shall survive the termination or cessation of his, her or its employment with the Company (if applicable) and shall not be limited by Article XII hereof.

ARTICLE IX

CONDITIONS TO THE OBLIGATIONS OF THE PARENT AND ACQUISITION CORP.

The obligation of the Parent and Acquisition Corp. to consummate the transactions contemplated hereby shall be subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any of which may be waived in writing by the Parent and Acquisition Corp. in their sole discretion):

9.1 Representations and Warranties True. The representations and warranties of the Company and the Shareholders which are contained in this Agreement, or contained in any Schedule, certificate or instrument delivered or to be delivered pursuant to this Agreement, shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date (it being understood that, for the purposes of determining the accuracy of such representations and warranties, all "Material Adverse Effect" qualifications and other qualifications based on the word "material" or similar phrases contained in such representations and warranties shall be disregarded), and at the Closing the Company shall have delivered to the Parent and Acquisition Corp. a certificate (signed on behalf of the Company by the President of the Company) to that effect with respect to all such representations and warranties made by the Company and the Shareholders shall have executed and delivered to the Parent and Acquisition Corp. a certificate to that effect with respect to all such representations and warranties made by the Shareholders.

9.2 Performance. The Company and the Shareholders shall have performed and complied in all material respects with all of the obligations under this Agreement which are required to be performed or complied with by them on or prior to the Closing Date, and at the Closing the Company shall have delivered to the Parent and Acquisition Corp. a certificate (duly executed on behalf of the Company by the President of the Company to that effect with respect to all such obligations required to have been performed or complied with by the Company on or before the Closing Date, and of the Shareholders shall have executed and delivered to the Parent and Acquisition Corp. a certificate to that effect with respect to all such obligations required to have been performed or complied with by the Shareholders on or before the Closing Date.

9.3 Absence of Litigation. No statute, rule or regulation shall have been enacted or promulgated, and no order, decree, writ or injunction shall have been issued and shall remain in effect, by any court or governmental or regulatory body, agency or authority which restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated hereby, and no action, suit or proceeding before any court or governmental or regulatory body, agency or authority shall have been instituted by any person (or instituted or threatened by any governmental or regulatory body, agency or authority), and no investigation by any governmental or regulatory body, agency or authority shall have been commenced with respect to the transactions contemplated hereby or with respect to the Company which reasonably could have a material adverse effect on the transactions contemplated hereby or reasonably could result in a Company Material Adverse Effect.

9.4 Consents. All approvals, consents, waivers and authorizations required to be obtained by the Company or any Shareholder in connection with the Merger and the other transactions contemplated by this Agreement as set forth on Schedule 9.4 shall have been obtained and shall be in full force and effect.

9.5 Additional Agreements. The following agreements shall have been executed and delivered to Parent and the same shall be in full force and effect:

(i) Executive Employment Agreements, in the form attached hereto as Exhibit E, executed by each of Gerald Wiant and Bruce Fabbri (the "Key Employees");

(ii) Confidentiality, Assignment of Inventions and Employment-at-Will Agreements for consultants and employees, in a form satisfactory to Parent, executed by each of the employees of the Company;

(iii) Restricted Stock Agreements in the form attached hereto as Exhibit F with respect to the Equity Consideration and the Restricted Equity Consideration, executed by each Shareholder and each Shareholder will timely file valid elections under Section 83(b) of the Code as soon as practicable after the Closing and in any event within thirty (30) days of the Closing;

(iv) the Escrow Agreement, duly executed by the Shareholder Representative and the Escrow Agent;

(v) the Letter of Transmittal in the form attached hereto as Exhibit C duly executed and delivered by holders of 100% of the outstanding shares of Company Common Stock, which shall include the holders of vested Company Stock Options, which such Company Stock Options shall be exercised on the Closing Date (the "Letter of Transmittal"); provided however, that this condition may be satisfied, in the alternative as to any such Shareholder by signing this Agreement.

(vi) the Company shall have delivered to the Parent and to the IRS notices that the Company Common Stock is not a "U.S. Real Property Interest" in accordance with the Treasury Regulations under Sections 897 and 1445 of the Code, or (ii) each of the Shareholders

shall have delivered to the Parent certifications that they are not foreign persons in accordance with the Treasury Regulations under Section 1445 of the Code;

(vii) each of the Shareholders shall deliver to Parent a Form W-9 on the Closing and prior to any payment of the Cash Consideration. Each Shareholder shall furnish Parent with an affidavit, stating, under penalty of perjury, the Shareholder's United States taxpayer identification number;

(viii) resignations of all officers and directors of the Company as of the Effective Time;

(ix) Termination Agreements executed by each of the optionees holding Company Stock Options which such Company Stock Options are not already vested as of the Effective Time and which such Company Stock Options shall be cancelled at the Effective Time without the payment of any consideration therefor and which such Company Stock Options shall be of no further force and effect, without any assumption thereof; and

(x) The Company's Confidentiality and Ethics Policy and Agreement executed by each of Bruce Fabbri, Gerald Wiant, Sean McMahon, Nick Doane, Chris Doig, Dennis Greenfield, Robert Reeves and Ethan Tarr, in each case dated as of their respective dates of hire.

9.6 Delivery of Certificates for Cancellation. The certificates (or a lost certificate indemnity agreement in a form reasonably acceptable to Parent) representing 100% of the shares of Company Common Stock issued and outstanding immediately prior to the Effective Time, duly endorsed in blank, shall have been surrendered for cancellation.

9.7 Certificate of Merger. The Company shall have executed and delivered to the Parent counterparts of the Certificates of Merger to be filed with the Secretary of State of the State of Delaware and the Secretary of State of the State of Oregon in connection with the Merger.

9.8 Termination. The Company shall have terminated each of those agreements listed on Schedule 9.8 to this Agreement and each such agreement shall be of no further force or effect.

9.9 Material Adverse Effect. There shall not have occurred any event which is or reasonably could result in a Company Material Adverse Effect.

9.10 Opinion of Tonkon Torp LLP. The Company shall have delivered to Parent an opinion of Tonkon Torp LLP, counsel to the Company, in substantially the form attached hereto as Exhibit G.

9.11 Supporting Documents. The Company shall have delivered to the Parent a certificate (a) of the Secretary of State of the State of Oregon dated as of the Closing Date, certifying as to the corporate legal existence of the Company, and (b) of the Secretary of the Company, dated the Closing Date, certifying on behalf of the Company (i) that attached thereto

is a true and complete copy of the By-Laws of such Company as in effect on the date of such certification; (ii) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors and the holders of 100% of the outstanding shares of Company Common Stock authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (iii) to the incumbency and specimen signature of each officer of the Company executing on behalf of such company this Agreement and the other agreements related hereto.

9.12. Consents The Company shall have delivered to Parent the outstanding written board and shareholder consents, including, but not limited to, authorization of option grants I-014 through I-030 and NSO-001 and authorization of each of the Company's bonus plans, prior to the Effective Time.

ARTICLE X

CONDITIONS TO THE OBLIGATIONS OF THE COMPANY AND THE SHAREHOLDERS

The obligation of the Company and the Shareholders to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, on or prior to the Closing Date of each of the following conditions (any of which may be waived in writing by the Company and the Shareholders in their sole discretion):

10.1 Representations and Warranties True. The representations and warranties of each of the Parent and Acquisition Corp. contained in this Agreement, or contained in any Schedule, certificate or other instrument or document delivered or to be delivered pursuant to this Agreement, shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date (it being understood that for the purposes of determining the accuracy of such representations and warranties, all "Material Adverse Effect" qualifications and other qualifications based on the word "material" or similar phrases contained in such representations and warranties shall be disregarded), and at the Closing each of the Parent and Acquisition Corp. shall have delivered to the Company and the Shareholders a certificate (signed on its behalf by its Chief Executive Officer or President, as the case may be) to that effect with respect to all such representations and warranties made by such entity.

10.2 Performance. Each of the Parent and Acquisition Corp. shall have performed and complied in all material respects with all of the obligations under this Agreement which are required to be performed or complied with by them on or prior to the Closing Date, and at the Closing each of the Parent and Acquisition Corp. shall have delivered to the Company and the Shareholders a certificate, signed on its behalf by its Chief Executive Officer or President, as the case may be, to that effect with respect to all such obligations required to have been performed or complied with by such entity on or before the Closing Date.

10.3 Absence of Litigation. No statute, rule or regulation shall have been enacted or promulgated, and no order, decree, writ or injunction shall have been issued and shall remain in

effect, by any court or governmental or regulatory body, agency or authority which restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated hereby, and no action, suit or proceeding before any court or governmental or regulatory body, agency or authority shall have been instituted by any person (or instituted or threatened by any governmental or regulatory body, agency or authority) and no investigation by any governmental or regulatory body, agency or authority shall have been commenced with respect to the transactions contemplated hereby or with respect to the Parent or Acquisition Corp. which would have a material adverse effect on the transactions contemplated hereby.

10.4 Consents. All approvals, consents, waivers and authorizations required to be obtained by Parent or Acquisition Corp. in connection with the Merger and the other transactions contemplated by this Agreement (including those identified on Schedule 5.3) shall have been obtained and shall be in full force and effect.

10.5 Additional Agreements. The Parent shall have executed and delivered (and shall have agreed to cause the Surviving Corporation to execute and deliver, as applicable) counterparts of the following agreements, and the same shall be in full force and effect;

(i) the Executive Employment Agreements referred to in Section 9.5(i) hereof;

(ii) the Restricted Stock Agreements referred to in Section 9.5(iii) hereof; and

(iii) the Escrow Agreement referred to in Section 9.5(iv) hereof, together with counterparts signed by the Escrow Agent.

10.6 Certificates of Merger. The Parent and Acquisition Corp. shall have executed and delivered to the Company and the Shareholders counterparts of the Certificates of Merger to be filed with the Secretary of the State of the State of Delaware and the Secretary of State of the State of Oregon in connection with the Merger.

10.7 Cash Consideration, Equity Consideration and Restricted Stock Consideration; Escrow Deposit.

(a) At the Closing the Parent shall deliver to the Shareholders (i) all of the requisite portion of the Initial Merger Consideration, less the Cash Escrow and the Stock Escrow which shall be placed in escrow as provided in Sections 2.3(a) and 2.6 hereof; and

(b) Parent shall deliver to the Escrow Agent (i) the Cash Escrow at Closing by wire, and (ii) the Stock Escrow as soon as practicable after the Closing and in any event within two (2) business days after the Closing, the Cash Escrow and the Stock Escrow together shall constitute the Escrow Deposit pursuant to Section 2.6.

10.8 Supporting Documents.

(a) The Parent shall have delivered to the Company and the Shareholders a certificate of the Secretary of the Parent, dated the Closing Date, certifying on behalf of the Parent (i) that attached thereto is a true and complete copy of the By-Laws of such Parent as in effect on the date of such certification; (ii) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors of such Parent authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (iii) to the incumbency and specimen signature of each officer of the Parent executing on behalf of such Parent this Agreement and the other agreements related hereto.

(b) Acquisition Corp. shall have delivered to the Company and the Shareholders a certificate of the Secretary of Acquisition Corp., dated the Closing Date, certifying on behalf of Acquisition Corp. (i) that attached thereto is a true and complete copy of the By-Laws of such Acquisition Corp. as in effect on the date of such certification; (ii) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors and Shareholders of such Acquisition Corp. authorizing the execution, delivery and performance of this Agreement and the consummation of the Merger; and (iii) to the incumbency and specimen signature of each officer of Acquisition Corp. executing on behalf of such Acquisition Corp. this Agreement and the other agreements related hereto.

10.9 Material Adverse Effect. There shall not have occurred any event which is or reasonably could result in a Parent Material Adverse Effect.

10.10 Opinion of Nixon Peabody LLP. The Parent and Acquisition Corp. shall have delivered to the Company and the Shareholders an opinion of Nixon Peabody LLP, counsel to Parent and Acquisition Corp., in substantially the form attached hereto as Exhibit H.

ARTICLE XI

TERMINATION

11.1 Termination. This Agreement may be terminated at any time prior to the Effective Time:

(a) by the written consent of the Company and the Parent;

(b) by either the Company or the Parent

(i) if any court or governmental or regulatory agency, authority or body shall have enacted, promulgated or issued any statute, rule, regulation, ruling, writ or injunction, or taken any other action, restraining, enjoining or otherwise prohibiting the transactions contemplated hereby and all appeals and means of appeal therefrom have been exhausted; or

(ii) if the Effective Time shall not have occurred on or before November 30, 2003 provided, however, that the right to terminate this Agreement pursuant to this Section 1l.l(b)(ii) shall not be available to any party whose (or whose affiliate(s)') breach of

any representation or warranty or failure to perform or comply with any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date; or

(iii) if there shall have been a material breach of any representation, warranty, covenant, condition or agreement on the part of the other party set forth in this Agreement which breach is incapable of cure, or if capable of cure, shall not have been cured within twenty (20) business days following receipt by the breaching party of notice of such breach.

11.2 Effect of Termination. In the event of termination of this Agreement, this Agreement shall forthwith become void and there shall be no liability on the part of any of the parties hereto or (in the case of the Company, the Parent and Acquisition Corp.) their respective officers or directors, except for Sections 7.5 and 13.6, and the last sentence of Section 7.1, which shall remain in full force and effect, and except that nothing herein shall relieve any party from liability for a breach of this Agreement prior to the termination hereof.

ARTICLE XII

INDEMNIFICATION; SURVIVAL OF REPRESENTATIONS AND WARRANTIES

12.1 Indemnity Obligations. (a) Subject to Sections 12.3 and 12.4 hereof, each of the Shareholders by adoption of this Agreement and approval of the Merger hereby jointly and severally agree to indemnify and hold the Parent (including its representatives and affiliates) harmless from, and to reimburse the Parent for, any Losses (as defined below) directly or indirectly arising out of, based upon or resulting from (i) any inaccuracy in or breach of any representation or warranty of the Company and the Shareholders set forth in Article III of this Agreement or any Schedule or certificate delivered by the Company pursuant hereto; (ii) any breach or nonfulfillment of, or any failure to perform, any of the covenants, agreements or undertakings of the Company and the Principal Shareholders (which covenants, agreements or undertakings were to be performed or complied with on or prior to the consummation of the Merger) which are contained in this Agreement; (iii) any claims arising prior to the Closing involving personal injury, death or physical damage to the tangible or real property of the Company or any other person which otherwise would have been covered by fire, property, casualty or liability insurance if the Company had such insurance in place for all periods prior to the Closing; and (iv) all Taxes of the Company for all taxable periods ending on or before the Closing Date to the extent the payments exceed the amount of reserves for Taxes reflected on the Balance Sheet other than reserves for deferred Taxes established to reflect timing differences between book and Tax income and other than any reserves for any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP and the portion through the end of the Closing Date for a taxable period that includes (but does not end) on the Closing Date. For this purpose, Taxes attributable to a taxable period beginning before and ending after the Closing Date shall be allocable to the portion of such period ending on the Closing Date to the extent (i) in the case of Taxes that (x) are based upon or related to income or receipts or (y)

imposed in connection with any sale or other transfer or assignment of property, the amount of such Taxes that would be payable if the taxable year ended with the Closing Date, and (ii) in the case of other Taxes imposed on a periodic basis (including property Taxes), the amount of such Taxes for the entire tax period multiplied by a fraction, the numerator of which is the number of calendar days in the period ending with the Closing Date and the denominator of which is the number of calendar days in the entire period. The Escrow Deposit shall be available to compensate Parent for such Losses. However, the failure to make a claim against the Escrow Deposit will not constitute an election of remedies or limit the Parent in any manner in the enforcement of any other remedies that may be available to it pursuant to the terms hereof. For purposes of this Agreement, the term "Losses" shall mean any and all losses, damages, deficiencies, liabilities, obligations, actions, claims, suits, proceedings, demands, assessments, judgments, recoveries, fees, diminution in value, costs and expenses (including, without limitation, all out-of-pocket expenses, reasonable investigation expenses and reasonable fees and disbursements of accountants and counsel) of any nature whatsoever. All indemnification payments under this Article XII shall be deemed adjustments to the Initial Merger Consideration.

(b) Subject to Sections 12.3 and 12.4 hereof, each of the Shareholders by adoption of this Agreement and approval of the Merger hereby severally and not jointly agree to indemnify and hold the Parent harmless from, and to reimburse the Parent for, any Losses arising out of, based upon or resulting from (i) any inaccuracy in or breach of any representation or warranty of such Shareholder set forth in Article IV of this Agreement or such Shareholder's Letter of Transmittal, or any Schedule or certificate delivered by such Shareholder pursuant hereto or thereto; or (ii) any breach or nonfulfillment of, or any failure to perform, any of the covenants, agreements or undertakings of such Shareholder which are contained in this Agreement and/or the Letter of Transmittal of such Shareholder, (and, with respect to the Principal Shareholders only, also the covenants of each Principal Shareholder set forth in Article VIII of this Agreement), or any Schedule or certificate delivered by such Shareholder (or Principal Shareholder) pursuant hereto or thereto. The Escrow Deposit shall be available to compensate Parent for such Losses under this Section 12.1(b) up to the Shareholder's Pro Rata Portion (as defined below) of the Escrow Deposit.

12.2 Notification of Claims.

(a) Subject to the provisions of Section 12.3 below, in the event of the occurrence of an event pursuant to which the Parent shall seek indemnity pursuant to Section 12.1, the Parent shall provide the Shareholder Representative, and, if such indemnity is sought against a Shareholder pursuant to Section 12.1(b), the Shareholder against whom indemnification is sought, with prompt written notice (a "Claim Notice") of such event and shall otherwise promptly make available to the Shareholder Representative, and, if applicable, such Shareholder, all relevant information which is material to the claim and which is in the possession of the indemnified party. Parent's failure to give a timely Claims Notice or to promptly furnish the Shareholder Representative, and, if applicable, such Shareholder, with any relevant data and documents in connection with any Third-Party Claim (as that term is hereinafter defined) shall not constitute a defense (in part or in whole) to any claim for indemnification by such party,

except and only to the extent that such failure shall result in any prejudice to the indemnified party.

(b) The Shareholder Representative and, if such indemnification is sought against a Shareholder pursuant to Section 12.1(b) the Shareholder against whom indemnification is sought, shall have the right to elect to join in, through counsel of its choosing reasonably acceptable to Parent, the defense, settlement, adjustment or compromise of any claim of any third party (a "Third Party Claim") for which indemnification will be sought by the Parent; provided; however, that Parent shall control such defense, settlement, adjustment or compromise. The expense of any such defense, settlement, adjustment or compromise, including Parent's counsel and any counsel chosen by the Shareholder Representative, or if applicable, the Shareholder, shall be borne by the Shareholders with respect to indemnification sought pursuant to Section 12.1 (a) and by the Shareholders against whom indemnification is sought with respect to indemnification sought pursuant to Section 12.1(b); provided, such expenses shall be paid from the Escrow Deposit for indemnification sought pursuant to Section 12.1 (a) and from the Pro Rata Portion (as defined below) of the Escrow Deposit attributable to the Shareholders against whom indemnification is sought pursuant to Section 12.1(b). Parent shall have the right to settle any such Third Party Claim; provided, however, that Parent may not effect the settlement, adjustment or compromise of any such Third Party Claim without the written consent of the Shareholder Representative, or, if applicable, the Shareholder, which consent shall not be unreasonably withheld. In the event that the Shareholder Representative, or, if applicable, the Shareholder, has consented in writing to any such settlement, adjustment or compromise, the Shareholders shall have no power or authority to object to the amount of any claim by Parent against the Escrow Deposit for indemnification of Losses with respect to such settlement, adjustment or compromise.

12.3 Duration. All representations and warranties set forth in this Agreement, the Letters of Transmittal and any Schedules or certificates delivered pursuant hereto or thereto, and all covenants, agreements and undertakings of the parties contained in or made pursuant to this Agreement, the Letters of Transmittal and any Schedules or certificates delivered pursuant hereto or thereto, and the rights of the parties to seek indemnification with respect thereto, shall survive the Closing but, except in respect of any claims for indemnification as to which a Claim Notice shall have been duly given prior to the Escrow Release Date (as defined below), all representations, warranties, covenants, agreements and undertakings contained in this Agreement and the Letters of Transmittal or any certificate or Schedule delivered pursuant hereto or thereto shall expire on the first anniversary of the Closing Date (the "Escrow Release Date"). Notwithstanding the foregoing, obligations (a) arising from breaches of the representations, warranties and covenants set forth in Section 3.11 and Article VIII shall survive the Closing Date for a period of three (3) years and (b) (i) arising from breaches of the representations, warranties and covenants set forth in Sections 3.2, 3.4, 3.9, Article IV, Article VII, 12.1(a)(iii) and 12.1(a)(iv), and the Letters of Transmittal and (ii) arising from fraud shall each survive the Closing Date until expiration of the applicable statute of limitations (all such obligations in (a) and (b), collectively, the "Excluded Obligations").

12.4 Escrow. The Cash Escrow shall be delivered by Parent to the Escrow Agent at Closing by wire and the Stock Escrow shall be delivered by the Parent as soon as practicable after the Closing and in any event within two (2) business days after the Closing, which such Cash Escrow and Stock Escrow is to be held for a period ending on the Escrow Release Date, except the Escrow Deposit may be withheld after the Escrow Release Date to satisfy claims for indemnification which are the subject to a Claims Notice delivered prior to the Escrow Release Date pursuant to the terms of the Escrow Agreement. Any indemnification claim for any Losses under this Article XII shall be paid first from the Escrow Deposit. Notwithstanding the foregoing, provided no claim for indemnification has been made hereunder the Escrow Release Date for the Cash Escrow portion of the Escrow Deposit shall be the nine (9) month anniversary of the Closing Date. The Escrow Deposit shall be held and disbursed by the Escrow Agent in accordance with the Escrow Agreement. Except with respect to claims based on the Excluded Obligations, if the Closing occurs, Parent and Acquisition Corp. agree that the Parent's right to indemnification pursuant to this Article XII shall constitute Parent's and Acquisition Corp.'s sole and exclusive remedy and recourse against the Shareholders for Losses attributable to any inaccuracy or breach of any representation or warranty, or any breach or nonfulfillment of any failure to perform the covenants, agreements or undertakings, of the Company, the Principal Shareholders or the Shareholders which is contained in this Agreement or the Letters of Transmittal or any Schedule or certificate delivered pursuant hereto or thereto. Except with respect to the Excluded Obligations, the maximum liability of any Shareholder shall be limited to such Shareholder's Pro Rata Portion (as defined below) of the Escrow Deposit and the maximum liability of any Shareholder for the Excluded Obligations shall be limited to such Shareholder's Pro Rata Portion (as defined below) of the Losses up to the aggregate amount of the Initial Merger Consideration and Cash Earnout Consideration to which such Shareholder is entitled (less any amount previously recovered under this Article XII from such Shareholder's Pro Rata portion of the Escrow Deposit); provided, however, that no Shareholder shall have any liability for indemnification pursuant to Section 12.1(b) on account of any other Shareholder. For purposes of this Agreement, a "Pro Rata Portion" of a Shareholder as to any Losses or as to the Escrow Deposit shall be equal to the percentage of the Merger Consideration to which such Shareholder is entitled.

12.5 No Contribution. The Shareholders hereby waive, acknowledge and agree that the Shareholders shall not have and shall not exercise or assert (or attempt to exercise or assert), any right of contribution or right of indemnity against the Company or the Surviving Corporation in connection with any indemnification payments which the Shareholders are required to make under this Article XII. Nothing in this Article XII shall limit a Shareholder's right of contribution or right of indemnity from another Shareholder.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 Amendment. This Agreement may be amended by the parties hereto at any time prior to the Effective Time by execution of an instrument in writing signed on behalf of the party against whom enforcement is made.

13.2 Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant or agreement contained herein may be waived only by a written notice from the party or parties entitled to the benefits thereof. No failure by any party hereto to exercise, and no delay in exercising, any right hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or future exercise of that right by that party.

13.3 Notices. All notices and other communications hereunder shall be deemed given if given in writing and delivered personally, by registered or certified mail, return receipt requested, postage prepaid, or by overnight courier to the party to receive the same at its respective address set forth below (or at such other address as may from time to time be designated by such party to the others in accordance with this Section 13.3):

(a) if to the Company, the Shareholders or the Shareholder Representative, to:

SiteWise Marketing, Inc.
2896 Crescent Avenue, Suite 101
Eugene, OR 97408
Attention: Gerald S. Wiant

with copies to:

Tonkon Torp LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204
Attention: David Copley Forman, Esq.

(b) if to the Parent or Acquisition Corp., to:

Marchex, Inc.
2101 Fourth Avenue, Suite 1980
Seattle, WA 98121
Attention: Ethan A. Caldwell, General Counsel

with copies to:

Nixon Peabody LLP
101 Federal Street
Boston, MA 02110
Attention: Francis J. Feeney, Jr., Esq.

All such notices and communications hereunder shall be deemed given when received, as evidenced by the signed acknowledgment of receipt of the person to whom such notice or communication shall have been personally delivered, the acknowledgment of receipt returned to the sender by the applicable postal authorities or the confirmation of delivery rendered by the applicable overnight courier service.

13.4 Binding Effect; Assignment. This Agreement, and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors (or, in the case of the Shareholders, their respective heirs, administrators, executors and personal representatives) and permitted assigns. Neither this Agreement nor any rights, duties or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other parties hereto, except by Parent to any successor to its business or to any affiliate as long as Parent remains ultimately liable for all of Parent's obligations hereunder.

13.5 No Third Party Beneficiaries. Neither this Agreement or any provision hereof nor any Schedule, certificate or other instrument delivered pursuant hereto, nor any agreement to be entered into pursuant hereto or any provision hereof, is intended to create any right, claim or remedy in favor of any person or entity, other than the parties hereto and their respective successors (or, in the case of the Principal Shareholders, their respective heirs, administrators, executors and personal representatives) and permitted assigns and any other parties indemnified under Article XII.

13.6 Public Announcements. Promptly after the Effective Time, the Parent and the Company shall issue a press release in such form as they shall mutually agree. Other than as provided in the immediately preceding sentence, none of the parties hereto shall, except as agreed by the Parent and the Company, or except as may be required by law or applicable regulatory authority issue any reports, releases, announcements or other statements to the public relating to the transactions contemplated hereby.

13.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.8 Headings. The article and section headings contained in this Agreement are solely for convenience of reference, are not part of the agreement of the parties and shall not be used in construing this Agreement or in any way affect the meaning or interpretation of this Agreement.

13.9 Entire Agreement. This Agreement, and the Schedules, certificates and other instruments and documents delivered pursuant hereto, together with the other agreements referred to herein and to be entered into pursuant hereto, embody the entire agreement of the parties hereto in respect of, and there are no other agreements or understandings, written or oral, among the parties relating to the subject matter hereof, other than any confidentiality agreement entered into between the Parent and the Company (the "Confidentiality Agreement"). This Agreement supersedes the letter of intent dated August 24, 2003 entered into between the Parent

and the Company (except for the confidentiality provisions contained therein) and all other prior agreements and understandings, written or oral, between the parties with respect to such subject matter, other than the Confidentiality Agreement. Notwithstanding anything contained herein or in any other agreement to the contrary, including the Confidentiality Agreement, none of the parties to this Agreement (nor any of their respective employees, representatives or other agents or affiliates) shall be precluded from disclosing the tax treatment or tax structure of the transactions that are the subject of (or reasonably related to) this Agreement (the "Transactions") after the earliest to occur of (i) the date of the public announcement of discussions relating to the Transactions, (ii) the date of the public announcement of the Transactions, or (iii) the date of the execution of an agreement (with or without conditions) to enter into the Transactions; provided, however, that the foregoing shall in no way permit any such party to make any disclosure regarding the Transactions in violation of any federal or state securities laws or regulations.

13.10 Governing Law. The parties hereby agree that this Agreement, and the respective rights, duties and obligations of the parties hereunder, shall be governed by and construed in accordance with the General Corporation Law of the State of Delaware as to matters within the scope thereof and, as to all other matters, shall be governed by and construed with the laws of the State of Washington, without giving effect to principles of conflicts of law thereunder. Each of the parties hereby (i) irrevocably consents and agrees that any legal or equitable action or proceeding arising under or in connection with this Agreement shall be brought exclusively in the federal or state courts sitting in Seattle, Washington and any court to which an appeal may be taken in any such litigation, and (ii) by execution and delivery of this Agreement, irrevocably submits to and accepts, with respect to any such action or proceeding, for itself and in respect of its properties and assets, generally and unconditionally, the jurisdiction of the aforesaid courts, and irrevocably waives any and all rights such party may now or hereafter have to object to such jurisdiction.

13.11 Severability. In the event that any clause or portion of this Agreement shall be held to be invalid, illegal, unenforceable, or in violation of any law or public policy, such a finding shall not affect the balance of the terms contained herein, and the parties shall be charged with the responsibility of continuing to carry out the terms and conditions of this Agreement in a manner consistent therewith. Moreover, if one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to scope, activity or subject or otherwise unreasonable so as to be unenforceable at law, such provision or provisions shall be construed by the appropriate judicial body by limiting and reducing it or them, so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

13.12 Specific Performance. In addition to any and all other remedies that may be available at law in the event of any breach of this Agreement, the parties hereto shall be entitled to specific performance of the agreements and obligations hereunder and to such other injunctive or other equitable relief as may be granted by a court of competent jurisdiction, without the necessity of posting a bond or proving actual damages.

13.13 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AND ANY ACTION,

PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

[Remainder of Page Intentionally Left Blank]

COUNTERPART SIGNATURE PAGE
TO AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, the Parent, Acquisition Corp., the Company, the Shareholders, and the Shareholder Representative named below have caused this Agreement to be duly executed and delivered as a_ instrument under seal as of the date first above written.

PARENT:

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name: **Russell C. Horowitz**
Title: **President and Chief Executive officer**

ACQUISITION CORP:

SITEWISE ACQUISITION CORPORATION

By: /s/ RUSSELL C. HOROWITZ

Name: **Russell C. Horowitz**
Title: **President**

THE COMPANY:

SITEWISE MARKETING, INC.

By: /s/ GERALD S. WIANT

Name: **Gerald S. Wiant**
Title: **President**

SHAREHOLDER REPRESENTATIVE:

By: /s/ GERALD S. WIANT

Name: **Gerald S. Wiant**

COUNTERPART SIGNATURE PAGE
TO AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, the Parent, Acquisition Corp., the Company, the Shareholders, and the Shareholder Representative named below have caused this Agreement to be duly executed and delivered a_ an instrument under seal as of the date first above written.

SHAREHOLDERS:

/s/ GERALD S. WIANT

Gerald S. Wiant

/s/ BRUCE FABBRI

Bruce Fabbri

/s/ SEAN J. MCMAHON

Sean J. McMahon

/s/ MICHAEL B. WIANT

Michael B. Wiant

/s/ STEVE PALODICHUK

Steve Palodichuk

/s/ BRANDON WIANT

Brandon Wiant

/s/ JOSEPH B. YING

Joseph B. Ying

/s/ DATAR SAHI

Datar Sahi

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 55,000,000 shares, consisting of (i) 46,500,000 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 34,000,000 shares are designated Class B Common Stock (the "Class B Common Stock"); and (ii) 8,500,000 shares of preferred stock, par value $.01 per share (the "Preferred Stock"), of which 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 of the holders of a majority of the outstanding 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.

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 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.

FIFTH: The name and mailing address of the sole incorporator is as follows:

NAME	MAILING ADDRESS
Michelle D. Paterniti	c/o Hutchins, Wheeler & Dittmar A Professional Corporation 101 Federal Street Boston, Massachusetts 02110

SIXTH: 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 a majority in voting power of the stock of the Company entitled to vote, voting together as a single class.

SEVENTH: 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 SEVENTH 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.

EIGHTH: 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.

NINTH: 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 NINTH 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.

TENTH: 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.

IN WITNESS WHEREOF, the undersigned, being the sole incorporator hereinbefore named, has executed, signed, and acknowledged this Certificate of Incorporation this 17th day of January, 2003.

/s/ Michelle D. Paterniti

Michelle D. Paterniti
Sole Incorporator

Exhibit 3.2

CERTIFICATE OF DESIGNATION, PREFERENCES AND
RIGHTS OF SERIES A CONVERTIBLE PREFERRED STOCK
OF
MARCHEX, INC.

Pursuant to Section 151
of the General Corporation Law of
the State of Delaware

Marchex, Inc. (hereinafter called the "Corporation"), organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify as follows:

That, pursuant to authority conferred on the Board of Directors of the Corporation by the Certificate of Incorporation of the Corporation and pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, the Board of Directors has adopted resolutions providing for the designation, preferences and relative, participating, optional or other rights, and qualifications, limitations or restrictions thereof, of 8,500,000 shares of the Corporation's Preferred Stock, par value $.01 per share, which resolutions are as follows:

RESOLVED: That pursuant to the authority granted to and vested in the Board of Directors of the Corporation in accordance with the provisions of the Certificate of Incorporation of the Corporation, the Board of Directors hereby designates a series of Preferred Stock of the Corporation, par value $.01 per share (the "Preferred Stock"), consisting of 8,500,000 shares of the authorized unissued Preferred Stock, as Series A Convertible Preferred Stock (the "Series A Preferred Stock"), and hereby fixes such designation and number of shares, and the powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof as set forth below, and that the officers of the Corporation, and each acting singly, are hereby authorized, empowered and directed to file with the Secretary of State of the State of Delaware a Certificate of Designation, Preferences and Rights of the Series A Preferred Stock, as such officer or officers shall deem necessary or advisable to carry out the purposes of this Resolution.

The designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of the Series A Preferred Stock of the Corporation are as follows:

SERIES A CONVERTIBLE PREFERRED STOCK

8,500,000 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "Series A Preferred Stock" (the "Series A Preferred Stock") with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations.

1. Dividends.

(a) The holders of shares of the Series A Preferred Stock shall be entitled to receive, out of funds legally available therefor, annual dividends when and if they may be declared from time to time by the Board of Directors of the Corporation at an annual rate per share equal to eight percent (8%) of the original purchase price paid per share of the Series A Preferred Stock (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series A Preferred Stock) (the "Purchase Price"). Such dividends shall be cumulative and be deemed to accrue on the Series A Preferred Stock, whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. If such dividends in respect of any prior or current annual dividend period shall not have been declared and paid or if there shall not have been a sum sufficient for the payment thereof set apart, the deficiency shall first be fully paid before any dividend or other distribution shall be paid or declared and set apart with respect to any class of the Corporation's capital stock, now or hereafter outstanding. Upon any conversion of the Series A Preferred Stock under Section 4 or 5 hereof, 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 date of conversion thereof shall be forgiven.

(b) The Corporation shall not declare or pay any dividends or distributions (as defined below) on any shares of Common Stock until the holders of the Series A Preferred Stock then outstanding shall have first received, or simultaneously receive, a like distribution on each outstanding share of Series A Preferred Stock, in an amount at least equal to the product of (i) the per share amount, if any, of the dividends or distributions to be declared, paid or set aside for the Common Stock, multiplied by (ii) the number of whole shares of Class B Common Stock into which such share of Series A Preferred Stock is convertible as of the record date for such dividend or distribution.

(c) For purposes of this Section 1, "distribution" shall mean the transfer of cash or property without consideration, whether by way of dividend or otherwise, payable other than in Common Stock or other securities of the Corporation, or the purchase or redemption of shares of the Corporation (other than repurchases of Common Stock held by employees or directors of, or consultants to, the Corporation upon termination of their employment or services pursuant to agreements approved by the Board of Directors providing for such repurchase) for cash or property, including any such transfer, purchase or redemption by a subsidiary of the Corporation.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

(a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any distribution may be made with respect to the Common Stock or any other series of capital stock, holders of each share of Series A Preferred Stock shall be entitled to be paid out of the assets of the Corporation available for distribution to holders of the Corporation's capital stock of all classes, whether such assets are capital, surplus, or capital earnings, an amount equal to such Purchase Price per share of Series A

Preferred Stock (which amount shall be subject to equitable adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series A Preferred Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, since the date of issue up to and including the date full payment shall be tendered to the holders of the Series A Preferred Stock with respect to such liquidation, dissolution or winding up (collectively, the "Liquidation Amount"). If the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amount of the Liquidation Amount to which they shall be entitled, the holders of shares of Series A Preferred Stock shall share ratably in any distribution of assets according to the amounts which would be payable with respect to the Series A Preferred Stock held by them upon such distribution if all amounts payable on or with respect to said shares were paid in full.

(b) After the payment of the Liquidation Amount shall have been made in full to the holders of the Series A Preferred Stock or funds necessary for such payment shall have been set aside by the Corporation in trust for the account of holders of the Series A Preferred Stock so as to be available for such payments, the remaining assets of the Corporation legally available for distribution to its stockholders shall be distributed among (i) the holders of classes of capital stock of the Corporation other than Series A Preferred Stock (the "Junior Stock"), and (ii) the holders of shares of Series A Preferred Stock, collectively as one class. Such distribution shall be made to the holders of Series A Preferred Stock and Junior Stock ratably as if each share of the Series A Preferred Stock had been converted into the number of shares of Class B Common Stock issuable upon the conversion of a share of Series A Preferred Stock immediately prior to any such liquidation, dissolution or winding up of the Corporation.

(c) Any (i) merger or consolidation which results in the voting securities of the Corporation outstanding immediately prior thereto representing immediately thereafter (either by remaining outstanding or by being converted into voting securities of the surviving or acquiring entity) less than a majority of the combined voting power of the voting securities of the Corporation or such surviving or acquiring entity outstanding immediately after such merger or consolidation, (ii) sale of all or substantially all of the assets of the Corporation or (iii) sale of shares of capital stock of the Corporation, in a single transaction or series of related transactions, representing at least 50% of the voting power of all of the outstanding voting securities of the Corporation (treated as a single class), shall be deemed to be a liquidation of the Corporation, and all consideration payable to the stockholders of the Corporation (in the case of a merger or consolidation), or all consideration payable to the Corporation (net of obligations owed by the Corporation), together with all other available assets of the Corporation (in the case of an asset sale), shall be distributed to the holders of capital stock of the Corporation in accordance with Subsections 2(a) and 2(b) above. The Corporation shall promptly provide to the holders of shares of Series A Preferred Stock such information concerning the terms of such merger, consolidation or asset sale and the value of the assets of the Corporation as may reasonably be requested by the holders of Series A Preferred Stock. If applicable, the Corporation shall cause the agreement or plan of merger or consolidation to provide for a rate at which the shares of capital stock of the Corporation are converted into or exchanged for cash, new securities or other property which gives effect to this provision. The amount deemed distributed to the holders of Series A Preferred Stock upon any such merger or consolidation shall be the cash or the value of the property, rights or securities distributed to such holders by the Corporation and/or by the acquiring person, firm or other entity. The value of such property, rights or other securities shall be determined in the good faith exercise of its business judgment by the Board of Directors of the Corporation.

3. Voting. Each holder of outstanding shares of Series A Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Class B Common Stock into which the shares of Series A Preferred Stock held by such holder are convertible (as adjusted from time to time pursuant to Section 4 hereof) as of the record date for determination of the stockholders entitled to vote on such matters, or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is solicited, at each meeting of stockholders of the Corporation (and written actions of stockholders in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration. Except as provided by law or by the provisions of Section 7 below or by the provisions establishing any other series of stock, holders of Series A Preferred Stock and of any other outstanding series of stock shall vote together with the holders of Class A Common Stock and Class B Common Stock as a single class.

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

(a) Right to Convert. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Class B Common Stock as is determined by dividing the Purchase Price for such shares of Series A Preferred Stock by the Conversion Price (as defined below) in effect at the time of conversion. The "Conversion Price" shall initially be equal to the Purchase Price. Such Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Class B Common Stock, shall be subject to adjustment as provided below.

In the event of a notice of redemption of any shares of Series A Preferred Stock pursuant to Section 6 hereof, the Conversion Right of the shares designated for redemption shall terminate at the close of business on the first full day preceding the date fixed for redemption, unless the redemption price is not paid when due, in which case the Conversion Right for such shares shall continue until such price is paid in full. In the event of a liquidation of the Corporation (or deemed liquidation under Section 2(c) hereof), the Conversion Right shall terminate at the close of business on the first full business day preceding the date fixed for the payment of any amounts distributable on liquidation (or deemed liquidation under Section 2(c) hereof) to the holders of Series A Preferred Stock.

(b) Fractional Shares. No fractional shares of Class B Common Stock shall be issued upon conversion of the Series A Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Conversion Price.

(c) Mechanics of Conversion.

(i) In order for a holder of Series A Preferred Stock to convert shares of Series A Preferred Stock into shares of Class B Common Stock, such holder shall surrender the certificate or certificates for such shares of Series A Preferred Stock, at the office of the transfer agent for the Series A Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Series A Preferred Stock represented by such certificate or certificates. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Class B Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his or its attorney duly authorized in writing. The date of receipt of such certificates and notice by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) shall be the conversion date ("Conversion Date"). The Corporation shall, as soon as practicable after the Conversion Date, issue and deliver at such office to such holder of Series A Preferred Stock, or to his or its nominees, a certificate or certificates for the number of shares of Class B Common Stock to which such holder shall be entitled, together with cash in lieu of any fraction of a share.

(ii) The Corporation shall at all times when the Series A Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Series A Preferred Stock, such number of its duly authorized shares of Class B Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Series A Preferred Stock. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Class B Common Stock issuable upon conversion of the Series A Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Class B Common Stock at such adjusted Conversion Price.

(iii) Upon any such conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Series A Preferred Stock surrendered for conversion or on the Class B Common Stock delivered upon conversion.

(iv) All shares of Series A Preferred 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 immediately cease and terminate on the Conversion Date, except only the right of the holders thereof to receive shares of Class B Common Stock in exchange therefor.

(v) The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issuance or delivery of shares of Class B Common Stock upon conversion of shares of Series A Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Class B Common Stock in a name other than that in which the shares of Series A Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

(d) Adjustments to Conversion Price for Diluting Issues:

(i) Special Definitions. For purposes of this Subsection 4(d), the following definitions shall apply:

(A) "Option" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(B) "Original Issue Date" shall mean the date on which a share of Series A Preferred Stock was first issued.

(C) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(D) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Subsection 4(d)(iii) below, deemed to be issued) by the Corporation after the Original Issue Date, other than:

(I) shares of Common Stock issued or issuable as a dividend or other distribution on Series A Preferred Stock;

(II) shares of Common Stock issued or issuable by reason of a dividend or other distribution on shares of Common Stock that is covered by Subsection 4(e) or 4(f) below;

(III) shares of Class B Common Stock issued or issuable upon conversion of shares of Series A Preferred Stock or shares of Class B Common Stock issued or issuable upon conversion of shares of Class A Common Stock;

(IV) shares of Class B Common Stock issued or issuable to employees, officers or directors of, or consultants to, the Corporation pursuant to the Company's 2003 Stock Incentive Plan;

(V) shares of Common Stock, Series A Preferred Stock, options and/or warrants issued in connection with a merger, strategic investment, joint venture or other similar type of transaction, as determined by the Board of Directors; and

(VI) up to an aggregate of 250,000 shares of Class A Common Stock issued or issuable to founders, directors or officers of, the Corporation.

(ii) No Adjustment of Conversion Price. No adjustment in the number of shares of Class B Common Stock into which the Series A Preferred Stock is convertible shall be made (a) unless the consideration per share (determined pursuant to Subsection 4(d)(v)) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the applicable Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares, or (b) if prior to or within sixty (60) days subsequent to such issuance, the Corporation receives written notice from the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, agreeing that no such adjustment shall be made as the result of the issuance of Additional Shares of Common Stock.

(iii) Issue of Securities Deemed Issue of Additional Shares of Common Stock.

If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that Additional Shares of Common Stock shall not be deemed to have been issued unless the consideration per share (determined pursuant to Subsection 4(d)(v) hereof) of such Additional Shares of Common Stock would be less than the applicable Conversion Price in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) No further adjustment in the Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) If such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, upon the exercise, conversion or exchange thereof, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(C) Upon the expiration or termination of any unexercised Option, the Conversion Price shall not be readjusted, but the Additional Shares of Common Stock deemed issued as the result of the original issue of such Option shall not be deemed issued for the purposes of any subsequent adjustment of the Conversion Price;

(D) In the event of any change in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any Option or Convertible Security, including, but not limited to, a change resulting from the anti-dilution provisions thereof, the Conversion Price then in effect shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment which was made upon the issuance of such Option or Convertible Security not exercised or converted prior to such change been made upon the basis of such change; and

(E) No readjustment pursuant to clause (B) or (D) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price on the original adjustment date, or (ii) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock between the original adjustment date and such readjustment date.

In the event the Corporation, after the Original Issue Date, amends any Options or Convertible Securities (whether such Options or Convertible Securities were outstanding on the Original Issue Date or were issued after the Original Issue Date) to increase the number of shares issuable thereunder or decrease the consideration to be paid upon exercise or conversion thereof, then such Options or Convertible Securities, as so amended, shall be deemed to have been issued after the Original Issue Date and the provisions of this Subsection 4(d)(iii) shall apply.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock.

In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4(d)(iii), but excluding shares issued as a stock split or combination as provided in Subsection 4(e) or upon a dividend or distribution as provided in Subsection 4(f)), without consideration or for a consideration per share less than the applicable Conversion Price in effect on the date of and immediately prior to such issuance, then in such event, the Conversion Price then in effect shall be decreased, concurrently with such issuance, by multiplying the Conversion Price then in effect by a fraction, (A) the numerator of which shall be (1) the number of shares of Common Stock outstanding immediately prior to such issuance plus (2) the number of shares of Common Stock which the aggregate consideration received or to be received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price; and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance plus the number of such Additional Shares of Common Stock so issued; provided that, (i) for the purpose

of this Subsection 4(d)(iv), all shares of Common Stock issuable upon exercise or conversion of Options or Convertible Securities outstanding immediately prior to such issuance shall be deemed to be outstanding, and (ii) for the purpose of this Subsection 4(d)(iv), the number of shares of Common Stock deemed issuable upon conversion of such outstanding Convertible Securities shall not give effect to any adjustments to the conversion price or conversion rate of such Convertible Securities resulting from the issuance of Additional Shares of Common Stock that is the subject of this calculation.

(v) Determination of Consideration. For purposes of this Subsection 4(d), the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(A) Cash and Property: Such consideration shall:

(I) insofar as it consists of cash, be computed at the aggregate of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(II) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(III) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (I) and (II) above, as determined in good faith by the Board of Directors.

(B) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4(d)(iii), relating to Options and Convertible Securities, shall be determined by dividing

(x) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(vi) Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock which are comprised of shares of the same series or class of Convertible Securities, and such issuance dates occur within a period of no more than one hundred twenty (120) days, then, upon the final such issuance, the Conversion Price shall be adjusted to give effect to all such issuances as if they occurred on the date of the final such issuance (and without giving effect to any adjustments as a result of such prior issuances within such period).

(e) Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price then in effect immediately before that subdivision shall be proportionately decreased. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price then in effect immediately before the combination shall be proportionately increased. Any adjustment under this paragraph shall become effective at the close of business on the date the subdivision or combination becomes effective.

(f) Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time, or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then and in each such event the Conversion Price then in effect shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions; and provided further, however, that no such adjustment shall be made if the holders of Series A Preferred Stock simultaneously receive a dividend or other distribution of shares of Class B Common Stock in a number equal to the number of shares of Class B Common Stock as they would have received if all outstanding shares of Series A Preferred Stock had been converted into Class B Common Stock on the date of such event.

(g) Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date for the Series A Preferred Stock shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation other than shares of Common Stock, then and in each such event provision shall be made so that the holders of the Series A Preferred Stock shall receive upon conversion thereof in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation that they would have received had the Series A Preferred Stock been converted into Class B Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this paragraph with respect to the rights of the holders of the Series A Preferred Stock; and provided further, however, that no such adjustment shall be made if the holders of Series A Preferred Stock simultaneously receive a dividend or other distribution of such securities in an amount equal to the amount of such securities as they would have received if all outstanding shares of Series A Preferred Stock had been converted into Class B Common Stock on the date of such event.

(h) Adjustment for Reclassification, Exchange, or Substitution. If the Class B Common Stock issuable upon the conversion of the Series A Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below), then and in each such event the holder of each such share of Series A Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable, upon such reorganization, reclassification, or other change, by holders of the number of shares of Class B Common Stock into which such shares of Series A Preferred Stock might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(i) Adjustment for Merger or Reorganization, etc. In case of any consolidation or merger of the Corporation with or into another corporation or the sale of all or substantially all of the assets of the Corporation to another corporation, each share of Series A Preferred Stock, if any, remaining outstanding after such consolidation, merger or sale shall thereafter be convertible (or shall be converted into a security which shall be convertible) into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Class B Common Stock of the Corporation deliverable upon conversion of such Series A Preferred Stock would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 4 set forth with respect to the rights and interest thereafter of the holders of the Series A Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the Series A Preferred Stock.

(j) No Impairment. The Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred Stock against impairment.

(k) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a similar certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price then in effect, and (iii) the number of shares of Class B Common Stock and the amount, if any, of other property which then would be received upon the conversion of Series A Preferred Stock.

(l) Notice of Record Date. In the event:

(i) that the Corporation declares a dividend (or any other distribution) on its Common Stock payable in Common Stock or other securities of the Corporation;

(ii) that the Corporation subdivides or combines its outstanding shares of Common Stock;

(iii) of any reclassification of the Common Stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution thereon), or of any consolidation or merger of the Corporation into or with another corporation, or of the sale of all or substantially all of the assets of the Corporation; or

(iv) of the involuntary or voluntary dissolution, liquidation or winding up of the Corporation;

then the Corporation shall cause to be filed at its principal office or at the office of the transfer agent of the Series A Preferred Stock, and shall cause to be mailed to the holders of the Series A Preferred Stock at their last addresses as shown on the records of the Corporation or such transfer agent, at least ten (10) days prior to the date specified in (A) below or twenty (20) days before the date specified in (B) below, a notice stating

(A) the record date of such dividend, distribution, subdivision or combination, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, subdivision or combination are to be determined, or

(B) the date on which such reclassification, consolidation, merger, sale, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, dissolution or winding up.

5. Mandatory Conversion.

(a) Upon the closing of the sale of shares of Common Stock in a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $20,000,000 of gross proceeds to the Corporation (the "Mandatory Conversion Date"), (i) all outstanding shares of Series A Preferred Stock shall automatically be converted into shares of Class B Common Stock, at the then effective conversion rate, and (ii) all provisions hereof included under the caption "Series A Convertible Preferred Stock", and all references herein to the Series A Preferred Stock, shall be deleted and shall be of no further force or effect.

(b) All holders of record of shares of Series A Preferred Stock shall be given written notice of the Mandatory Conversion Date and the place designated for mandatory conversion of all such shares of Series A Preferred Stock, pursuant to this Section 5. Such notice need not be given in advance of the occurrence of a Mandatory Conversion Date. Such notice shall be sent by first class or registered mail, postage prepaid, to each record holder of Series A Preferred Stock at such holder's address last shown on the records of the transfer agent for the Series A Preferred Stock (or the records of the Corporation, if it serves as its own transfer agent). Upon receipt of such notice, each holder of shares of Series A Preferred Stock shall surrender his or its certificate or certificates for all such shares to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Class B Common Stock to which such holder is entitled pursuant to this Section 5. On the Mandatory Conversion Date, all rights with respect to the Series A Preferred Stock so converted, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock) will terminate, except only the rights of the holders thereof, upon surrender of their certificate or certificates therefor, to receive certificates for the number of shares of Class B Common Stock into which such Series A Preferred Stock has been converted, and payment of any declared but unpaid dividends thereon. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his or its attorney duly authorized in writing. As soon as practicable after the Mandatory Conversion Date and the surrender of the certificate or certificates for Series A Preferred Stock, the Corporation shall cause to be issued and delivered to such holder, or on his or its written order, a certificate or certificates for the number of full shares of Class B Common Stock issuable on such conversion in accordance with the provisions hereof and cash as provided in Subsection 4(b) in respect of any fraction of a share of Common Stock otherwise issuable upon such conversion.

(c) All certificates evidencing shares of Series A Preferred Stock which are required to be surrendered for conversion in accordance with the provisions hereof shall, from and after the Mandatory Conversion Date, be deemed to have been retired and cancelled and the shares of Series A Preferred Stock represented thereby converted into Class B Common Stock for all purposes, notwithstanding the failure of the holder or holders thereof to surrender such certificates on or prior to such date. The Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized Series A Preferred Stock accordingly.

6. Redemption of Series A Preferred Stock.

(a) Redemption Notice. If requested in writing by the holders of a majority of the Series A Preferred Stock then outstanding after March 31, 2011 but no later than thirty (30) days prior to March 31, 2011 (the "First Redemption Date"), the Corporation shall redeem the Specified Number (as defined below) of shares of Series A Preferred Stock as set forth below. If requested in writing by the holders of a majority of the Series A Preferred Stock after the First Redemption Date but prior to thirty (30) days before March 31, 2012 (the "Second Redemption Date"), the Corporation shall redeem the Specified Number of shares of Series A Preferred Stock as set forth below. If requested in writing by the holders of a majority of the Series A Preferred Stock after the Second Redemption Date but prior to thirty (30) days before March 31, 2013 (the "Third Redemption Date"), the Corporation shall redeem the Specified Number of shares of Series A Preferred Stock as set forth below. The First Redemption Date, Second Redemption Date, Third Redemption Date and Final Redemption Date (as defined below) are referred to individually as a "Redemption Date".

Upon receipt of each redemption request pursuant to this Section 6(a), within thirty (30) days after the applicable Redemption Date, the Corporation shall redeem from each holder of Series A Preferred Stock the Specified Number of the shares of Series A Preferred Stock held by such holder at a price per share equal to the Purchase Price (as adjusted for stock splits, stock combinations, stock dividends and recapitalizations), plus all accrued and unpaid dividends thereon, whether or not earned or declared, since the date of issue up to and including the date full payment shall be tendered to the holders of the Series A Preferred Stock under this Section 6 (the "Redemption Amount").

With respect to any holder of shares of Series A Preferred Stock, the "Specified Number" shall be (A) with respect to the First Redemption Date, one-third of the number of shares of Series A Preferred Stock such holder holds on such date; (B) with respect to the Second Redemption Date, one-third of the number of shares of Series A Preferred Stock such holder held on the First Redemption Date; and (C) with respect to the Third Redemption Date, one-third of the number of shares of Series A Preferred Stock such holder held on the First Redemption Date.

If any shares of Series A Preferred Stock are not redeemed after the Third Redemption Date and if requested in writing by a majority of the Series A Preferred Stock then outstanding after the Third Redemption Date, but prior to March 31, 2014 (the "Final Redemption Date"), the Corporation shall redeem all of the shares of Series A Preferred Stock then held by such holder.

Not later than thirty (30) days after the Company receives a redemption request in connection with the First Redemption Date, Second Redemption Date, Third Redemption Date or the Final Redemption Date, as the case may be, the Corporation shall mail, postage prepaid to each holder of record of the Series A Preferred Stock at its address shown on the records of the Corporation a redemption notice (the "Redemption Notice"), which shall set forth the Redemption Date, the Redemption Amount and that the holder is to surrender to the Corporation, at the place designated therein, the holder's certificate or certificates representing the Specified Number of shares of Series A Preferred Stock to be redeemed. The Redemption Amount shall be paid, in a lump sum payment to each holder of Series A Preferred Stock, within thirty (30) days subsequent to the applicable Redemption Date. If within thirty (30) days after the applicable Redemption Date sufficient funds are not legally available to redeem all shares required to be redeemed, the funds legally available shall be used to redeem the maximum possible number of shares ratably among the holders based upon the aggregate Redemption Price of their respective holdings of such shares, and the remaining shares shall be redeemed as soon as possible after funds become legally available.

(b) Mechanics of Redemption. Each holder of shares of Series A Preferred Stock to be redeemed shall surrender such holder's certificate or certificates representing such shares, duly endorsed in blank or accompanied by a duly endorsed stock power attached thereto, to the Corporation at the place designated in the Redemption Notice, and thereupon the Redemption Amount for such shares as set forth in this Section 6 shall be paid to the order of the person whose name appears on such certificate or certificates and each surrendered certificate shall be canceled and retired. If applicable, the Corporation shall issue to each holder redeeming shares on the First Redemption Date, the Second Redemption Date or the Third Redemption Date, as the case may be, a new certificate representing the number of shares of Series A Preferred Stock not redeemed by such holder on such Redemption Date. If any shares of Series A Preferred Stock are not redeemed solely because a holder fails to surrender the certificate or certificates representing such shares pursuant to this Section 6, then, from and after the applicable Redemption Date, and except for the continuing right to receive payment under this Section 6 (which shall not bear interest), such shares of Series A Preferred Stock thereupon subject to redemption shall not be entitled to any further rights as Series A Preferred Stock.

(c) Failure to Redeem. In the event that the Corporation fails within sixty (60) days after any Redemption Date to redeem the full number of shares of Series A Preferred Stock requested to be redeemed pursuant to Section 6(a) on such Redemption Date for the full Redemption Amount, for any reason including, but not limited to, lack of sufficient legally available funds, then the Redemption Amount owed on that Redemption Date shall accrue interest at the rate of 10% per annum but no further dividends shall accrue on such shares of Series A Preferred Stock pursuant to Section 1(a), payable quarterly in arrears.

7. Restrictions and Limitations.

(a) Corporate Action. Except as expressly provided herein or as required by law, so long as any shares of Series A Preferred Stock remain outstanding, the Corporation shall not, and shall not permit any subsidiary (which shall mean any corporation, association or other business entity which the Corporation and/or any of its other subsidiaries directly or indirectly owns at the time more than fifty percent (50%) of the outstanding voting shares of such corporation or trust, other than directors' qualifying shares) to, without the approval by vote or written consent by the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, voting as a separate class:

(i) redeem, purchase or otherwise acquire for value (or pay into or set aside for a sinking fund for such purpose), or declare and pay or set aside funds for the payment of any dividend with respect to any share or shares of capital stock, except (aa) as required or permitted hereunder, and (bb) for repurchases of Common Stock held by employees or directors of, or consultants to, the Corporation upon termination of their employment or services pursuant to agreements approved by the Board of Directors providing for such repurchase, and (cc) for any purchase of Shares (as defined in the Stockholders' Agreement) by the Corporation upon exercise of the Corporation's right of first refusal pursuant to Section 3 of the Stockholders' Agreement, by and between the Corporation and the Stockholders named therein;

(ii) authorize or issue, or obligate itself to authorize or issue, additional shares of Series A Preferred Stock; or

(iii) authorize or issue, or obligate itself to authorize or issue, any equity security senior to or on parity with the Series A Preferred Stock as to dividend rights, liquidation preferences or redemption rights.

(b) Amendments to Charter. The Corporation shall not amend its Certificate of Incorporation, or waive any provision thereof, without the approval, by vote or written consent, by the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, if such amendment or waiver would amend or waive any of the rights, preferences, privileges of or limitations provided for herein for the benefit of any shares of Series A Preferred Stock.

8. No Dilution or Impairment. The Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Series A Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred Stock against dilution or other impairment. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of the Series A Preferred Stock above the amount payable therefor on such conversion, (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of stock on the conversion of all Series A Preferred Stock from time to time outstanding, and (c) will not consolidate with or merge into any other person or permit any such person to consolidate with or merge into the Corporation (if the Corporation is not the surviving person), unless such other person shall expressly assume in writing and will be bound by all of the terms of the Series A Preferred Stock set forth herein.

9. Waiver. Any of the rights of the holders of Series A Preferred Stock set forth herein may be waived by the affirmative vote or written consent of the holders of at least a majority of the shares of Series A Preferred Stock then outstanding.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be signed by its Chief Executive Officer this 26th day of February, 2003.

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz
Title: Chief Executive Officer

Exhibit 3.4

BY-LAWS
OF
MARCHEX, INC.
(A Delaware Corporation)

Effective: January 17, 2003

BY-LAWS
OF
MARCHEX, INC.
(A Delaware Corporation)

MARCHEX, INC.
BY-LAWS

ARTICLE 1
CERTIFICATE OF INCORPORATION

Section 1.1 Contents. The name, location of principal office and purposes of Marchex, Inc. (the "Corporation") shall be as set forth in its Certificate of Incorporation. These By-Laws, the powers of the Corporation and of its Directors and stockholders, and all matters concerning the conduct and regulation of the business of the Corporation shall be subject to such provisions in regard thereto, if any, as are set forth in said Certificate of Incorporation. The Certificate of Incorporation is hereby made a part of these By-Laws. In the event of any conflict between the provisions of these By-Laws and the provisions of the Certificate of Incorporation, the Certificate of Incorporation shall at all times govern.

Section 1.2 Certificate in Effect. All references in these By-Laws to the Certificate of Incorporation shall be construed to mean the Certificate of Incorporation of the Corporation as from time to time amended, including (unless the context shall otherwise require) all certificates and any agreement of consolidation or merger filed pursuant to the Delaware General Corporation Law, as amended.

ARTICLE 2
MEETINGS OF STOCKHOLDERS

Section 2.1 Place. All meetings of the stockholders may be held at such place either within or without the State of Delaware or by remote communication, as shall be designated from time to time by the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer and stated in the notice of the meeting or in any duly executed waiver of notice thereof.

Section 2.2 Annual Meeting. Annual meetings of stockholders shall be held on the second Tuesday of April in each year, if not a legal holiday, and, if a legal holiday, then on the next secular day following, at 10:00 A.M., or at such other date and time as shall be designated from time to time by the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer and stated in the notice of the meeting. If such annual meeting has not been held on the day herein provided therefor, a special meeting of the stockholders in lieu of the annual meeting may be held, and any business transacted or elections held at such special meeting shall have the same effect as if transacted or held at the annual meeting, and in such case all references in these By-Laws, except in this Section 2.2, to the annual meeting of the stockholders shall be deemed to refer to such special meeting.

Section 2.3 Special Meetings. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the Chief Executive Officer, the Chairman of the Board, or by the Board of Directors and shall be called by the Secretary at the request in writing of a majority of the Directors then in

office, or at the request in writing of stockholders owning a majority of the voting power of all issued and outstanding stock (treated as a single class) and entitled to vote thereat. Such request shall state the purpose or purposes of the proposed meeting, which need not be the exclusive purposes for which the meeting is called.

Section 2.4 Notice of Meetings. A written notice or, if consented to by such stockholder, electronic transmission notice, of all meetings of stockholders stating the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the special meeting is called, shall be given to each stockholder entitled to vote at such meeting. Except as otherwise provided by law, such notice shall be given not less than ten nor more than sixty days before the date of the meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 2.5 Affidavit of Notice. An affidavit of the Secretary or an Assistant Secretary or the transfer agent of the Corporation that notice of a stockholders meeting has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 2.6 Quorum. The holders of shares representing a majority of the voting power of all issued and outstanding stock (treated as a single class) and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation and in no event shall a quorum consist of less than one-third (1/3) of the shares entitled to vote thereat. If, however, such quorum shall not be present or represented by proxy at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, except as hereinafter provided, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 2.7 Voting Requirements. When a quorum is present at any meeting, the vote of the holders of shares representing a majority of the voting power of all issued and outstanding stock (treated as a single class) present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of any applicable statute or of the Certificate of Incorporation, a different vote is required in which case such express provision shall govern and control the decision of such question.

Section 2.8 Proxies and Voting. Except as provided in the Certificate of Incorporation, each stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of the capital stock having voting power held by such stockholder, but no proxy shall be voted on after three years from its date, unless the proxy provides for a longer period. Persons holding stock in a fiduciary capacity shall be entitled to vote the shares so held, and persons whose stock is pledged shall be entitled to vote the pledged shares, unless in the transfer by the pledgor on the books of the Corporation he shall have expressly empowered the pledgee to vote said shares, in which case only the pledgee, or his proxy, may represent and vote such shares. Shares of the capital stock of the Corporation owned by the Corporation shall not be voted, directly or indirectly.

Section 2.9 Remote Communications. Subject to compliance with the Delaware Corporation Law, if authorized by the Board of Directors, and subject to such guidelines as the Board of Directors may adopt, stockholders and proxyholders may participate by means of remote communication in any meeting of stockholders any may be deemed present in person and vote at a meeting by remote communication. Any reference to a stockholder being present or acting "in person" shall include participation by such remote communication for all purposes.

Section 2.10 Action Without Meeting. Unless otherwise provided in the Certificate of Incorporation, any action required to be taken at any annual or special meeting of stockholders of the Corporation or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing or a consent by electronic transmission, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written or electronic transmission consent shall be given to those stockholders who have not consented in writing or, if consented to by such stockholder, by electronic transmission.

Section 2.11 Stockholder List. The Officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. The original or duplicate stock ledger shall be the only evidence as to who are the stockholders entitled to examine such list, the stock ledger or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

Section 2.12 Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing or by electronic transmission without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

If no record date is fixed by the Board of Directors:

(a) The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) The record date for determining stockholders entitled to express consent to corporate action in writing or by electronic transmission without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent or electronic transmission consent is expressed.

(c) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 2.13 Stockholder Meeting Procedures. All meetings of the stockholders shall be presided over by a person designated by the Board of Directors or the Chief Executive Officer or in the absence of such person, the person chosen by stockholders owning a majority of the voting power of all issued and outstanding stock (treated as a single class) and entitled to vote thereat. Such person shall determine the order of business and the procedure of such meeting.

ARTICLE 3
DIRECTORS

Section 3.1 Number; Election and Term of Office. There shall be a Board of Directors of the Corporation consisting of not less than one member, the number of members to be determined by resolution of the Board of Directors or by the stockholders at the annual or any special meeting, unless the Certificate of Incorporation fixed the number of Directors, in which case a change in the number of Directors shall be made only by amendment of the Certificate. Subject to any limitation which may be contained within the Certificate of Incorporation, the number of the Board of Directors may be increased or decreased, as the case may be, at any time by vote of a majority of the Directors then in office. The Directors shall be elected at the annual meeting of the stockholders, except as provided in paragraph (c) of Section 8.1, and each Director elected shall hold office until his successor is elected and qualified or until his earlier resignation or removal. Directors need not be stockholders.

Section 3.2 Duties. The business of the Corporation shall be managed by or under the direction of its Board of Directors which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 3.3 Compensation. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, the Board of Directors shall have the authority to fix the compensation of Directors, whether in equity securities of the Corporation or cash, if any. The Directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as Directors. No such payment shall preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 3.4 Reliance on Books. A member of the Board of Directors or a member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or reports made to the Corporation by any of its Officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the Board of Directors or by any committee, or in relying in good faith upon other records of the Corporation.

Section 3.5 Interested Directors. No contract or transaction between the Corporation and one or more of its Directors or Officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its Directors or Officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose if (i) the material facts as to the Director's or Officer's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Directors, even though the disinterested Directors be less than a quorum; or (ii) the material facts as to the Director's or Officer's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof or the stockholders. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE 4
MEETINGS OF THE BOARD OF DIRECTORS

Section 4.1 Place. The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware.

Section 4.2 Annual Meeting. Except as otherwise determined by the Board of Directors, the first meeting of each newly elected Board of Directors shall be held immediately following the annual meeting of stockholders or any special meeting held in lieu thereof, and no notice of such meeting shall be necessary to the newly elected Directors in order legally to constitute the meeting.

Section 4.3 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board.

Section 4.4 Special Meetings. Special meetings of the Board may be called by the Chief Executive Officer or the Chairman of the Board on two days' notice to each Director either personally or by mail or by telegram or by electronic transmission to the extent permitted by Delaware law; special meetings shall be called by the Secretary in like manner and on like notice on the written request of two Directors unless the Board consists of only one Director, in which case special meetings shall be called by the Secretary in like manner and on like notice on the written request of the sole Director.

Section 4.5 Quorum. At all meetings of the Board a majority of the Directors then in office shall constitute a quorum for the transaction of business and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Certificate of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 4.6 Action Without Meeting. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing of electronic transmissions shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.7 Telephone Meetings. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

ARTICLE 5
COMMITTEES OF DIRECTORS

Section 5.1 Designation.

(a) The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

(b) In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(c) Any such committee, to the extent provided in the resolution of the Board of Directors designating the committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending the By-Laws of the Corporation; and, unless the resolution or the Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

Section 5.2 Records of Meetings. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

ARTICLE 6
NOTICES

Section 6.1 Method of Giving Notice. Whenever, under any provision of the law or of the Certificate of Incorporation or of these By-Laws, notice is required to be given to any Director or stockholder, such notice shall be given in writing or by electronic transmission (if consented to by stockholder receiving any such notice by electronic transmission), by the Secretary or the person or persons calling the meeting by leaving such written notice with such Director or stockholder at his residence or usual place of business or by mailing it addressed to such Director or stockholder, at his address as it appears on the records of the Corporation, with postage thereon prepaid, and such written notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Notice is deemed to be given if by electronic transmission: (1) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission permitted by applicable law, when directed to the stockholder. Notice to Directors may also be given by telegram.

Section 6.2 Waiver. Whenever any notice is required to be given under any provision of law or of the Certificate of Incorporation or of these By-Laws, a waiver thereof, either in writing, signed by the person entitled to notice, or by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE 7
OFFICERS

Section 7.1 In General. The Officers of the Corporation shall be appointed by the Board of Directors and shall include a Chief Executive Officer, a Secretary, an Assistant Secretary and a Treasurer. The Board of Directors may also appoint a Chairman of the Board. The Chief Executive Officer shall be empowered by the Board of Directors to appoint Officers in addition to those Officers listed above, which may include a President, Chief Operating Officer, Chief Administrative Officer, Chief Strategy Officer, Chief Financial Officer and Assistant Treasurer. Any number of offices may be held by the same person, unless the Certificate of Incorporation or these By-Laws otherwise provide.

Section 7.2 Election of Chief Executive Officer, Secretary, Assistant Secretary and Treasurer. The Board of Directors at its first meeting after each annual meeting of stockholders shall appoint a Chief Executive Officer, a Secretary, an Assistant Secretary and a Treasurer.

Section 7.3 Election of Other Officers. The Board of Directors or the Chief Executive Officer as empowered by the Board of Directors may appoint such other Officers and agents as it shall deem appropriate who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 7.4 Salaries. The salaries of all Officers and agents of the Corporation may be fixed by the Chief Executive Officer within the parameters established by the Board of Directors.

Section 7.5 Term of Office. The Officers of the Corporation shall hold office until their successors are chosen and qualify or until their earlier resignation or removal. Any Officer elected or appointed by the Board of Directors may be removed at any time in the manner specified in Section 8.2.

Section 7.6 Duties of Chief Executive Officer, Chairman of the Board and President, if any. The Chief Executive Officer shall be the chief executive officer of the Corporation, shall preside at all meetings of the stockholders and, if he is a Director, at all meetings of the Board of Directors if there shall be no Chairman of the Board or in the absence of the Chairman of the Board, shall have general and active management of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the absence of the Chief Executive Officer or in the event of his inability or refusal to act, the President, if any, shall have all powers and perform such duties as are otherwise vested in the Chief Executive Officer. In the absence of the President, the Board of Directors shall determine which such other Officer shall have all powers and perform such duties as are otherwise vested in the Chief Executive Officer. The Chief Executive Officer and the President, if any, shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other

Officer or agent of the Corporation. The Chairman of the Board, if any, shall make his counsel available to the other Officers of the Corporation, shall preside at all meetings of the Directors at which he is present, and, in the absence of the Chief Executive Officer and the President, if any, at all meetings of the stockholders, and shall have such other duties and powers as may from time to time be conferred upon him by the Directors.

Section 7.7 Duties of Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings of the meetings of the Corporation and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, except as otherwise provided in these By-Laws, and shall perform such other duties as may be prescribed by the Board of Directors, Chief Executive Officer or President, if any, under whose supervision he shall be. He shall have charge of the stock ledger (which may, however, be kept by any transfer agent or agents of the Corporation under his direction) and of the corporate seal of the Corporation.

Section 7.8 Duties of Assistant Secretary. The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election) shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 7.9 Duties of Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the Chief Executive Officer, the Board of Directors and the President, if any, at its regular meetings, or when the Board of Directors so requires, an account of all of his transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, he shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of this office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 7.10 Duties of Other Officers. The other Officers, which may include a Chief Financial Officer, Chief Operating Officer, Chief Strategy Officer, General Counsel and Chief Administrative Officer, Chief Information Officer, one or more Vice Presidents and an Assistant Treasurer, shall perform such duties and have such powers as the Board of Directors may from time to time prescribe for each such Officer.

ARTICLE 8
RESIGNATIONS, REMOVALS AND VACANCIES

Section 8.1 Directors

(a) Resignations. Any Director may resign at any time by giving written notice or by electronic transmission notice to the Board of Directors, the Chief Executive Officer or the Secretary. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(b) Removals. Subject to any provisions of the Certificate of Incorporation, the holders of stock entitled to vote for the election of Directors may, at any meeting called for the purpose, by vote of the holders of shares representing a majority of voting power of all issued and outstanding stock (treated as a single class), remove any Director or the entire Board of Directors with or without cause and fill any vacancies thereby created. This Section 8.1(b) may not be altered, amended or repealed except by the vote of those holders representing a majority of voting power of all issued and outstanding stock (treated as a single class) and who are entitled to vote for the election of the Directors.

(c) Vacancies. Vacancies occurring in the office of Director and newly created Directorships resulting from any increase in the authorized number of Directors shall be filled by a vote of a majority of the Directors then in office, though less than a quorum, unless previously filled by the stockholders entitled to vote for the election of Directors, and the Directors so chosen shall hold office subject to the By-Laws until the next annual election and until their successors are duly elected and qualify or until their earlier resignation or removal. If there are no Directors in office, then an election of Directors may be held in the manner provided by statute.

Section 8.2 Officers.

Any Officer may resign at any time by giving written notice to the Board of Directors, the Chief Executive Officer or the Secretary. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The Board of Directors may, at any meeting called for the purpose, by vote of a majority of their entire number, remove from office any Officer of the Corporation or any member of a committee, with or without cause. Any vacancy occurring in the office of Chief Executive Officer, Secretary, Assistant Secretary or Treasurer shall be filled by the Board of Directors and the Officers so chosen shall hold office subject to the By-Laws for the unexpired term in respect of which the vacancy occurred and until their successors shall be elected and qualify or until their earlier resignation or removal.

ARTICLE 9
CERTIFICATE OF STOCK

Section 9.1 Issuance of Stock. The Directors may, at any time and from time to time, if all of the shares of capital stock which the Corporation is authorized by its Certificate of Incorporation to issue have not been issued, subscribed for, or otherwise committed to be issued, issue or take subscriptions for additional shares of its capital stock up to the amount authorized in its Certificate of Incorporation. Such stock shall be issued and the consideration paid therefor in the manner prescribed by law.

Section 9.2 Right to Certificate; Form. Every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by, the Chairman of the Board, the Chief Executive Officer, the Treasurer or an Assistant Treasurer, if any, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him in the Corporation; provided that the Directors may provide by one or more resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertified shares. Certificates may be issued for partly paid shares and in such case upon the face or back of the certificates issued to represent any such partly paid shares, the total amount of the consideration to be paid therefor, and the amount paid thereon shall be specified.

Section 9.3 Facsimile Signature. Any of or all the signatures on the certificate may be facsimile. In case any Officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such Officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such Officer, transfer agent or registrar at the date of issue.

Section 9.4 Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 9.5 Transfer of Stock. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 9.6 Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE 10
INDEMNIFICATION

Section 10.1 Third Party Actions. The Corporation shall 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 he 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 attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he 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 his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon 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 he 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 his conduct was unlawful.

Section 10.2 Derivative Actions. The Corporation shall 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 he 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 him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests 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 for negligence or misconduct in the performance of his duty 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.

Section 10.3 Expenses. To the extent that a Director, Officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 10.1 and 10.2, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 10.4 Authorization. Any indemnification under Sections 10.1 and 10.2 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, Officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 10.1 and 10.2. Such determination shall be made (a) by the Board of Directors by a majority vote of a

quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (c) by the stockholders.

Section 10.5 Advance Payment of Expenses. Expenses incurred by an Officer or Director in defending a civil or criminal action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Officer or Director to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article 10 and provided that the Corporation shall not be required to advance any expenses to such Officer or Director against whom the Corporation directly brings a claim, alleging a breach of the duty of loyalty to the Corporation, or the commission of an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

Section 10.6 Non-Exclusiveness. The indemnification provided by this Article 10 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Certificate of Incorporation, any by-law, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, Officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 10.7 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who 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 any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article 10.

Section 10.8 Constituent Corporations. The Corporation shall have power to indemnify any person who is or was a Director, Officer, employee or agent of a constituent corporation absorbed in a consolidation or merger with this 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, in the same manner as hereinabove provided for any person who 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.

Section 10.9 Additional Indemnification. In addition to the foregoing provisions of this Article 10, the Corporation shall have the power, to the full extent provided by law, to indemnify any person for any act or omission of such person against all loss, cost, damage and expense (including attorney’s fees) if such person is determined (in the manner prescribed in Section 10.4 hereof) to have acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Corporation.

Section 10.10 Contract. The indemnification provided by this Article X shall be deemed to be a contract between the Corporation and each Director, Officer, employee and agent who serves in such capacity at any time while this Article X is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state or statement of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state or statement of facts.

ARTICLE 11
EXECUTION OF PAPERS

Except as otherwise provided in these By-Laws or as the Board of Directors may generally or in particular cases otherwise determine, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other instruments authorized to be executed on behalf of the Corporation shall be executed by the Chief Executive Officer or the Treasurer.

ARTICLE 12
FISCAL YEAR

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

ARTICLE 13
SEAL

The Corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the word “Delaware”. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE 14
OFFICES

In addition to its principal office, the Corporation may have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE 15
AMENDMENTS

Except as otherwise provided herein, these By-Laws may be altered, amended or repealed or new By-Laws may be adopted by the stockholders or by the Board of Directors, when such power is conferred upon the Board of Directors by the Certificate of Incorporation, at any regular meeting of the stockholders or of the Board of Directors, or at any special meeting of the stockholders or of the Board of Directors if notice of such alteration, amendment, repeal or adoption of new By-Laws is contained in the notice of such special meeting, or by the written consent of the holders of shares representing a majority of the voting power of all issued and outstanding stock of the Corporation (treated as a single class) or by the unanimous written consent of the Directors. If the power to adopt, amend or repeal by-laws is conferred upon the Board of Directors by the Certificate of Incorporation, it shall not divest or limit the power of the stockholders to adopt, amend or repeal by-laws.

MARCHEX, INC.

STOCKHOLDERS' AGREEMENT

STOCKHOLDERS' AGREEMENT (the "Agreement"), made as of the 23rd day of January, 2003, by and among Marchex, Inc., a Delaware corporation (the "Company"), the holders of shares of Class A Common Stock (as defined herein) and the holders of shares of Class B Common Stock (as defined herein), each as identified on the signature pages hereto and each as listed on Schedule 1 attached hereto, as amended from time to time (each individually a "Stockholder" and collectively the "Stockholders") and the other holders of capital stock of the Company who become party to this Agreement from time to time.

WHEREAS, the Company and the Stockholders have agreed to place certain restrictions on the shares of the Company's Series A Convertible Preferred Stock, $.01 par value per share (the "Series A Preferred Stock"), the Company's Class A Common Stock, $.01 par value per share (the "Class A Common Stock") and the Company's Class B Common Stock, $.01 par value per share (the "Class B Common Stock"), issued by the Company to the Stockholders; and

WHEREAS, the parties hereto are willing to execute this Agreement and to be bound by the provisions hereof.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Stockholders and the Company hereby agree as follows:

1. Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

"Affiliate" means, with respect to any Person, any Person which, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any partner or member of such Person, any venture capital fund or any limited liability company or limited liability partnership now or hereafter existing which is controlled by or under common control with one or more general partners, managers or members of such Person.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commission" means the Securities and Exchange Commission, or any other federal agency at the time administering the Securities Act.

"Common Stock" means the Company's shares of Class A Common Stock and Class B Common Stock.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations of the Commission issued under such Act, as they each may, from time to time, be in effect.

"Holder" means any Person owning Registrable Shares (as defined below).

"Initial Public Offering" means the initial underwritten public offering of Shares of Common Stock pursuant to an effective Registration Statement filed by the Company under the Securities Act (other than Registration Statements on Form S-4, S-8 or other similar limited purpose forms).

"Person" shall mean any individual, corporation, trust, partnership, joint venture, unincorporated organization, limited liability company, government agency or any agency or political subdivision thereof, or other entity.

"Prospectus" means the prospectus included in any Registration Statement, as amended or supplemented by an amendment or prospectus supplement, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Registrable Shares" shall mean all Shares held by the Stockholders; provided, however, that Shares which are Registrable Shares shall cease to be Registrable Shares upon any sale of such shares pursuant to a Registration Statement or Rule 144 under the Securities Act.

"Registration Statement" means a registration statement filed by the Company with the Commission for a public offering and sale of securities of the Company (other than a registration statement on Form S-8 or Form S-4, or their successors, or any other form for a similar limited purpose, or any registration statement covering only securities proposed to be issued in exchange for securities or assets of another corporation).

"Securities Act" means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations of the Commission issued under such Act, as they each may, from time to time, be in effect.

"Selling Holder" means any Holder owning Registrable Shares included in a Registration Statement.

"Shares" shall mean and include all equity securities of the Company now owned or hereafter acquired by any Stockholder, including shares of Series A Preferred Stock, shares of Common Stock, and any securities resulting from any stock split, stock dividend or stock distribution or other recapitalization or reclassification of any Series A Preferred Stock or Common Stock of the Company.

2. Prohibited Transfers.

(a) No Stockholder shall, directly or indirectly, sell, assign, transfer, pledge, hypothecate, mortgage, encumber or dispose (either voluntarily or by operation of law or otherwise) of all or any of his Shares (or any interest therein or any option, warrant or other right with respect thereto) (collectively, a "Transfer"), except in compliance with the terms of this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement and subject to Section 2(d) below, (i) any Stockholder may Transfer, without the necessity of prior approval of the Board of Directors, all or any of his Shares by way of gift to his spouse (other than a Transfer in connection with marital divorce or separation proceedings), to any of his lineal descendants, ancestors or siblings, or to any trust for the benefit of any one or more of such Stockholders, his spouse or his lineal descendants, ancestors or siblings, provided that solely in the case of a grantor retained annuity trust (a "GRAT") upon any termination thereof the Shares may be transferred to the beneficiaries thereof and provided that with respect to any such Transfer under this clause (i) such Stockholder retains, as trustee, by irrevocable proxy or by some other means, the sole authority to vote such Shares; (ii) any Stockholder may Transfer all or any of his Shares by will or the laws of descent and distribution; (iii) any Stockholder may make a Transfer to the Company or to transferee designated by the Company pursuant to a vesting or repurchase agreement entered into between the Company and such Stockholder, and (iv) any Stockholder may Transfer all or any part of its Shares to Affiliates; *provided*, *however*, that any such transferee (other than the Company) (a "Permitted Transferee") under clauses (i), (ii), (iii) or (iv) shall agree in writing with the Company and the Stockholders, as a condition to such Transfer, to be bound by all of the provisions of this Agreement to the same extent as if such transferee were the Stockholder transferring such Shares.

(c) Notwithstanding anything to the contrary contained in this Agreement and subject to Section 2(d) below, any Stockholder may Transfer all or any portion of his Shares to another Stockholder.

(d) Notwithstanding anything to the contrary contained in this Agreement, no Stockholder other than Russell C. Horowitz may Transfer (including without limitation an Involuntary Transfer (as hereinafter defined)) shares of Class A Common Stock under this Agreement or otherwise to a Person that is not then a holder of Class A Common Stock, except for Transfers to the Company. It shall be a condition to the effectiveness of any Transfer not expressly permitted herein that prior thereto such shares of Class A Common Stock shall be converted to shares of Class B Common Stock.

3. Right of First Refusal on Dispositions.

(a) If at any time a Stockholder (the "Selling Stockholder") desires to sell or otherwise Transfer all or any part of his Shares, pursuant to a bona fide offer from a third party (the "Proposed Transferee"), the Selling Stockholder shall submit a written offer (the "Offer"), by delivering the Offer to the Company and the other Stockholders, to sell such Shares (the "Offered Shares") first to the Company (or the Company's designee) and second to any of the

other Stockholders. The Offer shall disclose the identify of the Proposed Transferee, the number of Offered Shares proposed to be sold, the total number of Shares owned by the Selling Stockholder, the terms and conditions, including price, of the proposed sale, and any other material facts relating to the proposed sale. The Offer shall further state (i) that the Company (or the Company's designee) may acquire, in accordance with the provisions of this Agreement, any of the Offered Shares for the price, and upon the terms and conditions set forth therein, and (ii) that if all such Offered Shares are not purchased by the Company (or the Company's designee), any of the other Stockholders may acquire, in accordance with the provisions of this Agreement, any of the Offered Shares not purchased by the Company (or the Company's designee) (the "Available Offered Shares"). Any shares acquired by the other Stockholders shall be acquired for the purchase price payable by the Company pursuant to this Section 3(a) and upon the other terms and conditions set forth therein.

(b) Within fifteen (15) days of the date the Offer was made, the Company shall submit a written response (the "Company Response") to the Selling Stockholder and the other Stockholders indicating (i) whether the Company (or the Company's designee) elects to purchase any of the Offered Shares and (ii) the number of Offered Shares, if any, the Company (or the Company's designee) desires to purchase. The Company Response shall, when taken in conjunction with the Offer, be deemed to constitute a valid, legally binding and enforceable agreement for the sale and purchase of such Offered Shares indicated in the Company Response. Sales of such Offered Shares to be sold to the Company (or the Company's designee) pursuant to this Section 3(b) shall be made at the offices of the Company within thirty (30) days following the date the Offer was made. Any purchase of Shares by the Company pursuant to this Section 3(b) shall require the approval of a majority of the Board of Directors of the Company; *provided*, *however*, that if the Selling Stockholder is also a director of the Company, such Selling Stockholder shall not be entitled to vote to approve or disapprove the Company's purchase of the Shares pursuant to the first clause of this sentence and the approval of a majority of the other members of the Board of Directors shall be required to approve such purchase.

(c) If any one or more of the other Stockholders (individually, a "Responding Other Stockholder" and collectively the "Responding Other Stockholders") shall desire to purchase all or any part of the Available Offered Shares (which amount shall not exceed an individual Responding Other Stockholder's Pro Rata Fraction (as such term is defined below) in the event that there is more than one Responding Other Stockholder), such Responding Other Stockholder shall communicate in writing such election to purchase to the Selling Stockholder, which communication shall state the number of Available Offered Shares such Responding Other Stockholder desires to purchase and shall be provided to the Selling Stockholder within thirty (30) days of the date the Offer was made or within fifteen (15) days of the date of the Company Response, whichever period is shorter. Such communication shall, when taken in conjunction with the Offer, be deemed to constitute a valid, legally binding and enforceable agreement for the sale and purchase of such Available Offered Shares. Sales of such Available Offered Shares to be sold to a Responding Other Stockholder pursuant to this Section 3 shall be made at the offices of the Company within forty-five (45) days following the date the Offer was made or within fifteen (15) days following the date of the purchase of Shares by the Company (or the Company's designee) pursuant to Section 3(b), whichever period is shorter.

(d) Each Responding Other Stockholder shall have the right to purchase that number of Available Offered Shares as shall be equal to the number of Available Offered Shares multiplied by a fraction, the numerator of which shall be the number of Shares (on a fully diluted basis) then owned by such Responding Other Stockholder and the denominator of which shall be the aggregate number of Shares (on a fully diluted basis) then owned by all of the Responding Other Stockholders who elect to purchase the Available Offered Shares. The amount of the Available Offered Shares that each Responding Other Stockholder is entitled to purchase under this Section 3(d) shall be referred to as the Responding Other Stockholder's "Pro Rata Fraction."

(e) Each Responding Other Stockholder shall have a right of oversubscription such that if any of the Stockholders (as the case may be) fail to accept the Offer as to his or its full Pro Rata Fraction, the remaining other Stockholders shall, among them, have the right to purchase up to the balance of such Available Offered Shares not so purchased. The Responding Other Stockholders may exercise such right of oversubscription by accepting the Offer as to more than their Pro Rata Fraction. If, as a result thereof, such oversubscriptions exceed the total number of Available Offered Shares in respect of such oversubscription privilege, the oversubscribing Responding Other Stockholders (as the case may be) shall be cut back with respect to oversubscriptions on a pro rata basis in accordance with their respective Pro Rata Fractions or as they may otherwise agree among themselves.

(f) Notwithstanding anything set forth in this Section 3 to the contrary, the Responding Other Stockholders in their response may designate the Company or any other Stockholder of the Company as a substitute purchaser who will purchase, in lieu of the Responding Other Stockholders, all or a portion which, together with the Shares purchased by the Responding Other Stockholders, equals all of the Available Offered Shares on the same terms and conditions and at the same price as set forth in the Offer, and the Selling Stockholder shall sell the Available Offered Shares to the Company or to such other designated person, as the case may be.

(g) If the Company and any of the Stockholders or their designees pursuant to this Section 3 do not elect to purchase all of the Offered Shares, the Offered Shares not purchased may be sold by the Selling Stockholder at any time thereafter up to one hundred twenty (120) days after the date the Offer was made. Any such sale shall be to the Proposed Transferee, at not less than the price and upon other terms and conditions, if any, not more favorable to the Proposed Transferee than those specified in the Offer. If the Offered Shares are not sold within such 120-day period, such Offered Shares shall continue to be subject to the requirements of a prior offer pursuant to this Section 3. If Offered Shares are sold pursuant to this Section 3 to any purchaser who is not a party to this Agreement, the purchaser of such Offered Shares shall execute a counterpart of this Agreement as a precondition of the purchase of such Offered Shares and any Offered Shares sold to such purchaser shall continue to be subject to the provisions of this Agreement.

4. Involuntary Transfer of Shares. In the event of any Involuntary Transfer (as hereinafter defined) of Shares by any Stockholder, the following procedures shall apply:

(a) The Stockholder deprived or divested of Shares by the Involuntary Transfer (the "Transferor") shall promptly give written notice of such Involuntary Transfer in reasonable detail to the Company, and the person or persons who take or propose to take any interest in such Shares (the "Transfer Shares") as a result of such Involuntary Transfer (the "Transferee") shall hold such interest subject to the rights of the Company as set forth herein.

(b) Within ninety (90) days of receipt of the notice referred to in this Section 4(a) (the "Option Notice"), or upon discovery of such Involuntary Transfer, the Company shall have the irrevocable option (the "Transfer Option"), but not the obligation, to purchase the Transfer Shares, subject to the terms and procedures set forth in Section 3 above, with the "Option Notice" delivered under this Section 4 to be deemed an "Offer" for purposes of Section 3.

(c) The purchase price per Transfer Share of any class or series of the Company's capital stock shall be the book value thereof as determined in accordance with Section 7 hereof.

(d) In the event that the Company does not purchase all of the Transfer Shares involved in an Involuntary Transfer, the Transferee shall be required to execute a counterpart of this Agreement and take and hold all rights and interests in any Transfer Shares not so purchased subject to the terms of this Agreement.

(e) For purposes of this Section 4, the term "Involuntary Transfer" shall mean any involuntary sale, Transfer, encumbrance or other disposition by or in which any Stockholder shall be deprived or divested of any right, title or interest in or to any Shares, including without limitation, any levy of execution, Transfer in connection with marital divorce or separation proceedings, Transfer in connection with bankruptcy, reorganization, insolvency or similar proceedings, Transfer in connection with any foreclosure of pledge, or any Transfer to a public officer or agency pursuant to any abandoned property to escheat law; provided, that no Transfer permitted by Section 2 hereof shall be deemed an "Involuntary Transfer" for purposes herein.

5. Right of Participation in Sales by Stockholders. If at any time any Selling Stockholder wishes to sell, or otherwise dispose of, any Shares owned by such Selling Stockholder to any Proposed Transferee pursuant to Section 3(g), each Stockholder that has not elected to purchase any such Shares pursuant to Section 3 hereof shall have the right to participate pro rata in such transaction and, accordingly, shall have the right to require, as a condition to such sale or disposition, that the Proposed Transferee purchase from such Stockholder at the same price per Share and on the same terms and conditions as involved in such sale or disposition by such Selling Stockholder a number of Shares which represents the same percentage of Shares then held by such Stockholder (assuming the conversion and exercise by such Stockholder of all securities convertible into or exercisable for Common Stock) as the

number of Shares to be sold or disposed of by the Selling Stockholder represents with respect to the Shares then owned by such Selling Stockholder (assuming the conversion and exercise by such Selling Stockholder of all securities convertible into or exercisable for Common Stock); provided, however, that any purchase by the Proposed Transferee of less than all of the Shares offered by such Selling Stockholder and each participating Stockholder shall be made from such Selling Stockholder and each participating Stockholder pro rata based upon the number of Shares to be sold by each pursuant to the foregoing. As soon as practicable after receipt of the Offer made pursuant to Section 3 hereof and in any event within fifteen (15) days after receipt of such Offer, each Stockholder which (a) has not elected to purchase any of the Offered Shares pursuant to Section 3 hereof and (b) wishes to participate in any such sale or disposition shall individually notify in writing the Selling Stockholder of such Stockholder's election to participate in such sale or disposition, which notice shall be delivered in accordance with Section 13.5 hereof to the Selling Stockholder at its address set forth in Schedule 1 hereto or at such other address furnished in accordance with Section 13.5 hereof.

6. Drag Along Right. If, at any time subsequent to the date hereof, the Stockholders owning Shares representing at least a majority of the voting power of all outstanding Shares (on a fully diluted basis) then owned by all the Stockholders (the "Selling Majority Stockholders") determine jointly to (A) sell or exchange (in a business combination or otherwise) any of their Shares in one or a series of bona fide arms-length transactions to a third party who is not an Affiliate or an associate of the Selling Majority Stockholders (the "Third Party"), or (B) enter into a transaction pursuant to which the Company agrees to merge with or into another entity or agrees to sell all or substantial all of the assets of the Company (in each case a "Corporate Transaction"), then, upon thirty (30) days written notice from the Selling Majority Stockholders, which notice shall include reasonable details of the proposed sale or exchange, including the proposed time and place of closing and the consideration to be received by the Stockholders (such notice being referred to as the "Sale Request"), the Selling Majority Stockholders may require that each Stockholder shall be obligated to, and shall (i) sell, Transfer and deliver, or cause to be sold, transferred and delivered, to such Third Party, in the same transaction at the closing thereof the same percentage of such Stockholder's Shares as is equal to the percentage of the Shares (in each case assuming the conversion and exercise of all securities convertible into or exercisable for Common Stock) owned by the Selling Majority Stockholders as of the date of the Sale Request that are being sold by the Selling Majority Stockholders in such transaction or transactions, (ii) deliver certificates for all of his or its Shares at the closing, free and clear of all claims, liens and encumbrances, (iii) upon request, consent to the cancellation of any and all vested stock options issued to such Stockholder by the Company for an amount per underlying Share equal to the difference between the consideration per Share referenced in the preceding clause (i) and the exercise price of such vested stock options, and (iv) if Stockholder approval of the transaction is required, vote his or its Shares in favor thereof. Each Stockholder (including the Selling Majority Stockholders) shall receive the same consideration per Share upon any sale pursuant to this Section 6.

7. Determination of Book Value/Manner of Payment.

(a) The term "book value" as used in this Agreement shall be defined as the total of the net assets of the Company determined on a consistent basis from the records of the Company compiled and maintained in accordance with generally accepted accounting principles, which total shall be divided by the number of outstanding Shares (on a fully diluted basis) of the Company to determine the book value of each such share. The determination of book value shall be made by the accounting firm then servicing the Company and such determination shall be conclusive on all parties.

(b) The purchase price payable by the Company (or its designee) and/or any Responding Other Stockholder, as the case may be, pursuant to Sections 3 or 4 hereof (collectively, the "Purchase Price"), shall be payable by the issuance of a Subordinated Promissory Note (the "Note") executed by the Company (or its designee) or the Responding Other Stockholder, as the case may be, substantially in the form of Exhibit A hereto, modified so that (i) such Note shall be dated the date of the closing of the purchase in accordance with this Section 7, (ii) the principal amount of such Note shall be payable in equal annual installments over a three (3) year period commencing on the last business day of the next succeeding month after such closing date, and (iii) the original principal amount of such Note shall be equal to the Purchase Price.

8. Preemptive Right.

(a) The Company hereby grants to any Stockholder, so long as he or it shall own, of record or beneficially, or has the right to acquire from the Company at least five percent (5%) of the issued and outstanding shares (on a fully diluted basis) of any class of capital stock of the Company, the right to purchase all or part of his or its pro rata share of New Securities (as defined in Section 8(b)) which the Company, from time to time, proposes to sell and issue. Such Stockholder's pro rata share, for purposes of this preemptive right, is the ratio of the number of Shares (on a fully diluted basis) such Stockholder owns to the total number of shares of the Company's equity then outstanding on a fully diluted basis. The other Stockholders having preemptive rights hereunder shall have a right of over-allotment pursuant to this Section 8 such that to the extent such Stockholder does not exercise his or its preemptive right in full hereunder, such additional shares of New Securities which such Stockholder did not purchase may be purchased by the other Stockholders having preemptive rights hereunder in proportion to the total number of Shares (on a fully diluted basis) which each such other Stockholder having preemptive rights hereunder owns or has the right to acquire from the Company compared to the total number of Shares (on a fully diluted basis) which all such other Stockholders having preemptive rights hereunder own.

(b) Definition of New Securities. "New Securities" shall mean any capital stock of the Company whether now authorized or not, and rights, options or warrants to purchase capital stock, and securities of any type whatsoever that are, or may become convertible into or exchangeable for capital stock, issued on or after the date hereof; provided that the term "New Securities" does not include (i) Common Stock issued as a stock dividend to holders of Common Stock or upon any stock split, subdivision or combination of shares of Common Stock, (ii) the

aggregate number of options and shares of Common Stock issuable upon exercise of options pursuant to the Company's 2003 Stock Incentive Plan, (iii) any shares issued upon conversion of the Class A Common Stock or the Series A Preferred Stock, (iv) Common Stock issued in connection with a Initial Public Offering, (v) shares of Common Stock, Series A Preferred Stock, options and/or warrants issued in connection with a merger, strategic investment, joint venture or other similar type of transaction, as determined by the Board of Directors; (vi) the issuance of an aggregate of up to 8,500,000 shares of Series A Preferred Stock pursuant to those certain Subscription and Stock Purchase Agreements, by and between the Company and certain Investors named therein; or (vii) up to an aggregate of 250,000 shares of Class A Common Stock issued or issuable to founders, directors or officers of, the Company.

(c) Notice from the Company. In the event the Company proposes to undertake an issuance of New Securities, it shall give each Stockholder having preemptive rights hereunder written notice of its intention, describing the type of New Securities and the price and the terms upon which the Company proposes to issue the same. Each such Stockholder shall have ten (10) business days from the date of receipt of any such notice to agree to purchase up to such Stockholder's pro rata share of such New Securities for the price and upon the terms specified in the notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased.

(d) Sale by the Company. In the event any Stockholder having preemptive rights hereunder fails to exercise in full its or his preemptive right, the Company shall have ninety (90) days thereafter to sell the New Securities with respect to which such Stockholder's option was not exercised, at a price and upon terms no more favorable than specified in the Company's notice. To the extent the Company does not sell all the New Securities offered within said ninety (90) day period, the Company shall not thereafter issue or sell such New Securities without first again offering such securities to the Stockholders having preemptive rights hereunder in the manner provided above.

9. Election of Directors.

(a) At each annual meeting of the Stockholders and at each special meeting of the Stockholders called for the purpose of electing directors of the Company, and at any time at which Stockholders shall have the right to, or shall, vote for Directors of the Company, then, and in each event, the Stockholders hereby agree to attend each meeting in person or by proxy and hereby agree to vote stock of the Company and Shares of the Company now owned or hereafter acquired by him (whether at a meeting or by written consent in lieu thereof), to elect and thereafter to continue in office as a Director of the Company the following:

(i) two Directors who shall be designated by MARRCH Investments, LLC and who shall initially be Russell C. Horowitz and John Keister.

(b) Any vacancy on the Board created by the resignation, removal, incapacity or death of any person designated under this Section 9 shall be filled by another person designated by the applicable designating party. The parties hereto shall vote their respective Shares in accordance with such new designation, and any such vacancy shall not be filled in the absence of a new designation by the applicable designating party.

10. Failure to Deliver Shares; Effect of Prohibited Transfer. If a Stockholder becomes obligated to sell any Shares to the Company under this Agreement and fails to deliver such Shares in accordance with the terms of this Agreement, the Company may, at its option, in addition to all other remedies it may have, send to the defaulting Stockholder the purchase price for such Shares as is herein specified. Thereupon, the Company shall, upon written notice to the defaulting Stockholder, (a) cancel on its books the certificate or certificates representing the Shares to be sold and (b) issue, in lieu of such Shares, in the name of the Company, a new certificate or certificates representing such Shares, and thereupon all of the defaulting Stockholder's rights in and to such Shares shall terminate. The Company shall not be required (a) to transfer on its books any Shares which may have been sold or transferred in violation of any of the provisions set forth in this Agreement, or (b) to treat as owner of such shares or to pay dividends to any transferee to whom any such shares shall have been sold or transferred.

11. Registration Rights.

11.1 Piggyback Registration Rights.

(a) After the Company's Initial Public Offering, if (but without any obligation to do so) at any time and from time to time, the Company determines to register any of its securities under the Securities Act in connection with the public offering of such securities for cash, either for its own account or for the account of a security holder or holders, other than (i) a registration relating solely to employee benefit plans, (ii) a registration relating solely to a Rule 145 transaction, (iii) a registration in which the only stock being registered is Common Stock issuable upon conversion or debt securities which are also being registered or (iv) any registration on any form which does not include substantially the same information as would be required to be included in a registration statement covering the sale of the registrable securities, the Company will, prior to such filing, give written notice to all Stockholders of its intention to do so, and use its commercially reasonable efforts to include in such registration all Registrable Shares which the Company has been requested by such Stockholder or Stockholders to register (which request must be made within ten (10) days of the Company's notice) under the Securities Act to the extent necessary to permit their sale or other disposition; provided that the Company shall have the right to postpone or withdraw any registration effected pursuant to this Section 11.1 without obligation to any Stockholder.

(b) If the registration for which the Company gives notice pursuant to Section 11.1(a) is a registered public offering involving an underwriting, the Company shall so advise the Stockholders as a part of the written notice given pursuant to Section 11.1(a). In such event, the right of any Stockholder to include its Registrable Shares in such registration shall be conditioned upon such Stockholder's participation in such underwriting on the terms set forth herein. All Stockholders proposing to distribute their securities through such underwriting shall (together with the Company, other Holders, and officers or directors distributing their securities through such underwriting) enter into an underwriting agreement as agreed upon between the Company and underwriter or underwriters selected for the underwriting by the Company. Notwithstanding any other provision of this Section 11.1, if the managing underwriter determines that the inclusion of any or all Shares requested to be registered would adversely affect the offering, the Company may limit the number of Registrable Shares to be included in the registration and underwriting. The Company shall so advise all Holders requesting registration, and the number of shares that are entitled to be included in the registration and underwriting shall be allocated pro rata based on the number of shares owned by each Holder (on a fully diluted basis) in relation to the total number of Shares requested to be registered.

11.2 Registration Procedures.

(a) If and whenever the Company is required by the provisions of this Agreement to effect the registration of any Registrable Shares under the Securities Act, the Company shall:

(i) file with the Commission a Registration Statement with respect to such Registrable Shares and use its best efforts to cause that Registration Statement to become effective and keep such Registration Statement effective for up to 120 days. The Company shall not be required to file, cause to become effective or maintain the effectiveness of any registration statement that contemplates a distribution of securities on a delayed or continuous basis pursuant to Rule 415 under the Securities Act;

(ii) prepare and file with the Commission any amendments and supplements to the Registration Statement and the prospectus included in the Registration Statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement for up to 120 days;

(iii) furnish to each Selling Holder such reasonable numbers of copies of the Prospectus, including any preliminary Prospectus, in conformity with the requirements of the Securities Act, and such other documents as such Selling Holder may reasonably request in order to facilitate the public sale or other disposition of the Registrable Shares owned by such Selling Holder;

(iv) use its best efforts to register or qualify the Registrable Shares covered by the Registration Statement under the securities "Blue Sky" laws of such states as the Selling Holders shall reasonably request; provided, however, that the Company shall not be required in connection with this paragraph (iv) to qualify as a foreign corporation or execute a general consent to service of process in any state or jurisdiction;

(v) cause all Registrable Shares covered by the Registration Statement to be listed on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed;

(vi) promptly provide a transfer agent and registrar for all such Registrable Shares not later than the effective date of such registration statement;

(vii) notify each Selling Holder, promptly after it shall receive notice thereof, of the time when such Registration Statement has become effective or a supplement to any Prospectus forming a part of such Registration Statement has been filed; and

(viii) following the effectiveness of such Registration Statement, notify each seller of such Registrable Shares of any request by the Commission for the amending or supplementing of such Registration Statement or Prospectus.

(b) If the Company has delivered a Prospectus to the Selling Holders and after having done so the Prospectus is amended to comply with the requirements of the Securities Act, the Company shall promptly notify the Selling Holders and, if requested, the Selling Holders shall immediately cease making offers of Registrable Shares and return all Prospectuses to the Company. The Company shall provide the Selling Holders with revised Prospectuses and, following receipt of the revised Prospectuses, the Selling Holders shall be free to resume making offers of the Registrable Shares.

(c) In the event that, in the judgment of the Company, it is advisable to suspend use of a Prospectus included in a Registration Statement due to pending material developments or other events that have not yet been publicly disclosed and as to which the Company believes public disclosure would be detrimental to the Company, the Company shall notify all Selling Holders to such effect, and, upon receipt of such notice, each such Selling Holder shall immediately discontinue any sales of Registrable Shares pursuant to such Registration Statement until such Selling Holder has received copies of a supplemented or amended Prospectus or until such Selling Holder is advised in writing by the Company that the then current Prospectus may be used and has received copies of any additional or supplemental filings that are incorporated or deemed incorporated by reference in such Prospectus.

11.3 Expenses of Registration. The Company will pay all Registration Expenses for all registrations under this Agreement. For purposes of this Section, the term “Registration Expenses” shall mean all expenses incurred by the Company in complying with this Agreement, including, without limitation, all registration and filing fees, exchange listing fees, printing expenses, fees and expenses of counsel for the Company, the reasonable fees and expenses of one counsel to the Selling Holders, state “Blue Sky” fees and expenses, but excluding underwriting discounts, selling commissions and the fees and expenses of individual Selling Holder’s counsel.

11.4 Indemnification and Contribution.

(a) In the event of any registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, the Company will indemnify and hold harmless each Selling Holder, against any losses, claims, damages or liabilities, joint or several, to which such Selling Holder, may become subject under the Securities Act, the Exchange Act, state securities or "Blue Sky" laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the Registration Statement, or any amendment or supplement to such Registration Statement, or arise out of or are based upon the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and subject to Sections 11.4(c) and (d), the Company will reimburse such Selling Holder, for any legal or any other expenses reasonably incurred by such Selling Holder, in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, preliminary prospectus or prospectus, or any such amendment or supplement, in reliance upon and in conformity with information furnished to the Company by or on behalf of such Selling Holder, specifically for use in the preparation thereof; and provided, however, that the Company shall not be liable to any such Selling Holder, with respect to any untrue statement or alleged untrue statement or omission or alleged omission in any preliminary prospectus to the extent that any such loss, claim, damage or liability of any Selling Holder results from the fact that such Selling Holder sold Registrable Shares at a time when sales had been discontinued pursuant to Sections 11.2(b) and (c) or to a person to whom there was not sent or given, at or prior to the written confirmation of such sale, a copy of the final prospectus as then amended or supplemented and if the Company had previously furnished copies thereof in accordance with the terms of this Agreement to such Selling Holder and the untrue statement or omission of a material fact contained in the preliminary prospectus was corrected in the final prospectus and the claims asserted by such person do not include allegations of other untrue statements or omissions of material facts made in the final prospectus.

(b) In the event of any registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, each Selling Holder, severally and not jointly, will indemnify and hold harmless the Company, each of its directors and officers and each person or entity, as the case may be, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages or liabilities, joint or several, to which the Company, such directors and officers or controlling person or entity may become subject under the Securities Act, Exchange Act, state securities or "Blue Sky" laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the Registration Statement, or any amendment or supplement to the Registration Statement, or arise

out of or are based upon any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, if the statement or omission was made in reliance upon and in conformity with information relating to such seller furnished in writing to the Company by or on behalf of such Selling Holder specifically for use in connection with the preparation of such Registration Statement, prospectus, amendment or supplement; provided, however, that the liability of any Selling Holder hereunder shall be limited to the amount of gross proceeds received by such Selling Holder in the offering giving rise to the indemnification.

(c) Each party entitled to indemnification under this Section (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom; provided, that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld); and; provided, further, that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section except to the extent that the Indemnifying Party is adversely affected by such failure. The Indemnified Party may participate in such defense at such party's expense; provided, however, that the Indemnifying Party shall pay such expense if representation of such Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between the Indemnified Party and any other party represented by such counsel in such proceeding; provided, further, that in no event shall the Indemnifying Party be required to pay the expenses of more than one law firm per jurisdiction as counsel for the Indemnified Party. The Indemnifying Party also shall be responsible for the expenses of such defense if the Indemnifying Party does not elect to assume such defense. No Indemnifying Party, in the defense of any such claim or litigation shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect of such claim or litigation, and no Indemnified Party shall consent to entry of any judgment or settle such claim or litigation without the prior written consent of the Indemnifying Party.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in this Section 11.4 is due in accordance with its terms but for any reason is held to be unavailable to an Indemnified Party in respect to any losses, claims, damages and liabilities referred to herein, then the Indemnifying Party shall, in lieu of indemnifying such Indemnified Party, contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities to which such party may be subject in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and the Stockholders on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations.

11.5 Information by Holder. Each Holder included in any registration shall furnish to the Company such information regarding such Holder and the distribution proposed by such holder as the Company may reasonably request in writing and as shall be required in connection with any registration, qualification or compliance referred to in this Agreement.

11.6 "Stand-Off" Agreement; Confidentiality of Notices. Each Stockholder, if requested by the Company and the managing underwriter of an underwritten public offering by the Company of Common Stock, shall not sell or otherwise Transfer or dispose of any Registrable Shares or other securities of the Company held by such Stockholder for a period of 180 days following the effective date of a Registration Statement and shall execute an agreement reflecting the foregoing as may be requested by the Company's underwriter at the time of the Initial Public Offering. The Company may impose stop-transfer instructions with respect to the Registrable Shares or other securities subject to the foregoing restriction until the end of such 180-day period.

11.7 Rule 144 Requirements. After the earliest of (i) the closing of the sale of securities of the Company pursuant to a Registration Statement, (ii) the registration by the Company of a class of securities under Section 12 of the Exchange Act or (iii) the issuance by the Company of an offering circular pursuant to Regulation A under the Securities Act, the Company agrees to:

(a) make and keep current public information about the Company available, as those terms are understood and defined in Rule 144 under the Securities Act;

(b) use its best efforts to file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and

(c) furnish to any Holder upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), (ii) a copy of the most recent annual or quarterly report of the Company and (iii) such other reports and documents of the Company as such Holder may reasonably request to avail itself of any similar rule or regulation of the Commission allowing it to sell any such securities without registration.

12. Attorneys-in-Fact**.** Each Stockholder hereby irrevocably appoints each person who may from time to time serve as Chief Executive Officer or Treasurer of the Company as his attorney-in-fact with specific authority to execute, acknowledge, swear to, file, and deliver all consents, elections, instruments, certificates, and other documents and to take any other action requisite to carrying out the intention and purpose of this Agreement, including, without limitation, Sections 2(d), 6 and 9 of this Agreement.

13. General.

13.1 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

13.2 Specific Performance. In addition to any and all other remedies that may be available at law in the event of any breach of this Agreement, the parties hereto shall be entitled to specific performance of the agreements and obligations hereunder and to such other injunctive or other equitable relief as may be granted by a court of competent jurisdiction, without the necessity of posting a bond or proving actual damages.

13.3 Governing Law. This Agreement shall be governed by and construed in accordance with the internal and substantive laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof. Any legal action or proceeding with respect to this Agreement shall be brought in, and adjudicated by, state or federal courts located in the State of Washington, and, by execution and delivery of this Agreement, the Company and the undersigned each hereby irrevocably accept for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of the parties hereto hereby further irrevocably waives any claim that any such courts lack jurisdiction over such party, and agrees not to plead or claim, in any legal action or proceeding with respect to this Agreement brought in any of the aforesaid courts, that any such court lacks jurisdiction over such party, that delaying of the venue in any such court is improper in any respect or that any such action or proceeding has been brought in an inconvenient forum.

13.4 Legend on Shares. The Company and the Stockholders each acknowledge and agree that substantially the following legend shall be typed on each certificate evidencing any of the Shares held at any time by a Stockholder:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS THE REGISTRATION PROVISIONS OF SAID ACT HAVE BEEN COMPLIED WITH OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL ACCEPTABLE TO IT THAT SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO THE PROVISIONS OF A STOCKHOLDERS' AGREEMENT DATED AS OF JANUARY 23, 2003, INCLUDING THEREIN CERTAIN RESTRICTIONS ON TRANSFER. A COMPLETE AND CORRECT COPY OF SUCH AGREEMENT IS AVAILABLE FOR INSPECTION AT THE PRINCIPAL OFFICE OF THE COMPANY AND WILL BE FURNISHED UPON WRITTEN REQUEST AND WITHOUT CHARGE.

13.5 Notices. All notices, requests, consents, 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 facsimile; 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), if to the Company, at the address specified below its signature hereto, and if to the Stockholders, at the addresses as specified in Schedule 1 hereto.

Any party may give any notice, request, consent or other communication under this Agreement using any other means (including, without limitation, personal delivery, messenger service, telecopy, first class mail or electronic mail), but no such notice, request, consent or other communication shall be deemed to have been duly given unless and until it is actually received by the party for whom it is intended. Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 13.5.

13.6 Complete Agreement. This Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, whether oral or written.

13.7 Amendments; No Conflicting Agreements; Waivers. Neither this Agreement nor any provision hereof may be waived, modified or amended except by a written agreement signed by each of the parties hereto*; provided, however*, that the Stockholders owning Shares representing at least a majority of the voting power of the outstanding Shares on a fully diluted basis may effect any such waiver, modification or amendment on behalf of all the Stockholders; and *provided, further*, that, notwithstanding the foregoing, without the consent of all parties to this Agreement who own Shares, no amendment or addition to this Agreement may be made which (i) modifies this Section 13.7 or (ii) would affect the holders of Shares in a disproportionate manner (other than any disproportionate results which are due to a difference in the relative stock ownership in the Company or due to the rights, preferences, privileges or limitations applicable to the Shares as set forth in the Company's Certificate of Incorporation, as amended from time to time). For purposes hereof, the term "disproportionate manner" shall refer to any event which would impair the rights of one holder while not impairing similar rights held by another holder. Each of the Stockholders represents that he or it is not a party to any other agreement which would prevent him or it from performing his or its obligations hereunder. No waiver of any breach or default hereunder shall be considered valid unless in writing, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

13.8 Termination. This Agreement, with the exception of Sections 2(d), 6, 11, 12 and 13, shall terminate immediately prior to the consummation of the Company's Initial Public Offering.

13.9 Pronouns. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

13.10 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document. This Agreement may be executed by facsimile signatures.

13.11 Section Headings. The section headings are for the convenience of the parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly executed under seal as of the date and year first above written.

COMPANY:

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name:
Title

Address: 2101 Fourth Avenue, Suite 1980
Seattle, WA 98121

With a copy to:

Francis J. Feeney, Jr., Esq.
Nixon Peabody LLP
101 Federal Street
Boston, Massachusetts 02110

Counterpart Signature Page

STOCKHOLDER:

By: _____

CONSENT OF SPOUSE

I, _____, the spouse of _____ acknowledge that I have read the attached Stockholders' Agreement (the "Stockholders' Agreement") of Marchex, Inc. (the "Company") dated as of _____, 2003 (the "Stockholders' Agreement"), and that I know the contents. I am aware that by the provisions of the Stockholders' Agreement, there are restrictions on the Company's shares of Class A Common Stock, Class B Common Stock and Series A Preferred Stock and such restrictions exist on the shares of Class A Common Stock, Class B Common Stock and/or Series A Preferred Stock, as applicable, that my spouse owns or will own, including any interest I might have therein.

I hereby agree to be bound by the Stockholders' Agreement and acknowledge and agree that my interest, if any, in the shares owned by my spouse is subject to the Stockholders' Agreement and shall be irrevocably bound by the Stockholders' Agreement, and I further understand and agree that any community property interest I may have in the shares owned by my spouse shall be similarly bound by the Stockholders' Agreement.

I am aware that the legal, financial and related matters contained in the Stockholders' Agreement are complex, and that I am free to seek independent guidance or counsel with respect to this Consent. I have either sought such guidance or counsel or determined after reviewing the Stockholders' Agreement carefully that I waive such right.

Dated: _____, 2003

_____

Name:

EXHIBIT A

[FORM – COMPANY AS MAKER]

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED, SOLD OR TRANSFERRED IN CONTRAVENTION OF SUCH ACT.

JUNIOR SUBORDINATED PROMISSORY NOTE

$_____ [Date]

FOR VALUE RECEIVED, _____, _____ (the "Maker"), promises to pay to _____ ("Payee") the sum of _____ Dollars and _____ Cents ($_____) in lawful money of the United States of America over a three year period in equal annual installments of principal in the amount of $_____, payable on the annual anniversary of the date hereof, at _____ or at such other place as Payee may specify by written notice delivered to the Maker. The outstanding principal under this Note shall bear simple, non-compounded, interest, payable annually in arrears on the annual anniversary of the date hereof, at a rate per annum equal to the rate of interest publicly announced from time to time as its "prime rate" by [_____] (or any successor thereto).

Anything in this Note to the contrary notwithstanding, the indebtedness evidenced by this Note is subordinate and junior, to the extent set forth in the following paragraphs (a)-(d) to all "Senior Debt" of the Maker now outstanding or hereinafter incurred. "Senior Debt" means (i) all indebtedness of the Maker for monies borrowed from banks, trust companies, insurance companies and other financial institutions, including commercial paper and accounts receivable sold or assigned by the Maker to such institutions and bankers acceptances, (ii) deferrals, renewals, extensions and refundings of any such indebtedness or obligations described in (i) above, (iii) obligations of the Maker as lessee under leases of real or personal property, (iv) indebtedness of the Maker for obligations to trade, merchandise or inventory vendors incurred in the ordinary course of business, and (v) any other indebtedness of the Maker which the Maker and Payee may hereafter from time to time expressly and specifically agree in writing shall constitute Senior Debt.

(a) Upon the maturity of any Senior Debt by lapse of time, acceleration or otherwise, then all principal and interest on all such matured Senior Debt shall first be paid in full, or such payment shall have been provided for, before additional payments are made upon this Note.

(b) In the event of any insolvency, bankruptcy, liquidation, reorganization or other similar proceedings, or any receivership proceedings in connection therewith, relative to the Maker, and in the event of any proceedings for voluntary liquidation, dissolution or the winding up of the Maker, whether or not involving insolvency or bankruptcy proceedings, then all principal and interest on all Senior Debt shall first be paid in full, or such payment shall have been provided for, before any payment is made upon this Note.

(c) In any of the proceedings referred to in (b) above, any payment or distribution of any kind or character, whether in cash, property, stock or obligations, which may be payable or deliverable in respect of this Note, shall be paid or delivered directly to the holders of Senior Debt (or to a banking institution selected by the court or person making the payment or delivery or designated by any holder of Senior Debt) for application in payment thereof, unless and until all principal and interest on all Senior Debt, including interest accrued subsequent to the commencement of the proceedings referenced in (b) above (commonly known as "post-petition interest"), shall have been paid in full, or such payment shall have been provided for. The holder of this Note hereby irrevocably appoints the holder of Senior Debt his agent and attorney-in-fact for the purpose of representing and voting the claims and rights of such holder during the course of any of the proceedings referenced in (b) above and agrees to take no action to terminate such agency and appointment until all such Senior Debt is paid in full or such payment shall have been provided for.

(d) In the event that the Maker is to make any payment hereunder and the Maker is at the time of such proposed payment, or will be upon delivery of such payment, as a consequence thereof, in default or in violation of the terms of any Senior Debt, no such payment shall be made by the Maker until the default or violation is first remedied.

The provisions of paragraphs (a)-(d) set forth above are for the purpose of defining the relative rights of the holders of Senior Debt on the one hand, and the holder of this Note on the other hand, against the Maker and nothing herein shall impair, as between the Maker and the holder of this Note, the obligation of the Maker, which is unconditional and absolute, to pay to the holder hereof the principal hereon in accordance with the terms and the provisions hereof.

At the option of the Maker, this Note shall be subject to prepayment, without penalty, in whole or in part, at any time.

This Note shall be binding upon and inure to the benefit of the Payee and his or its successors and assigns; *provided; however,* that this Note is non-negotiable and may not be assigned by the Payee without the Maker's consent. This Note shall be binding upon the Maker and any successor to the principal business of the Maker, whether by merger or otherwise.

If default be made in any payment due under the terms of this Note and if such default shall continue for fifteen (15) days after the written notice thereof, or if any petition under the U. S. Bankruptcy Code shall be filed by or against any maker of this Note and not discharged within sixty (60) days, the entire principal sum shall at once become due and payable, plus costs of collection, which shall include attorney's fees, without notice at the option of the holder of this Note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

Recourse under this Note shall be to the assets of the Maker only and in no event to the officers, directors or stockholders of the Maker.

All payments shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender therein for the payment of public and private debts.

All notices, requests, consents and demands shall be made in writing and shall be mailed postage prepaid, or delivered by hand, or telecopied to the Maker or to the Payee hereof at their respective addresses set forth below or to such other address as may be furnished in writing to the other party hereto:

If to the Payee:

_____

_____

_____

If to the Maker:

_____

_____

_____

If any date that may at any time be specified in this Note as a date for the making of any payment of principal or interest under this Note shall fall on Saturday, Sunday or on a day which in the city of Seattle, Washington shall be a legal holiday, then the date for the making of that payment shall be the next subsequent day which is not a Saturday, Sunday or legal holiday.

This Note is intended to take effect as a sealed instrument and its validity and construction shall be determined by the internal substantive laws of the State of Delaware. The parties hereby agree that any state court or local court of the State of Washington and the United States District Court for the District of Washington shall have exclusive jurisdiction to hear and determine any claims or disputes between the Maker and Payee pertaining directly or indirectly to this Note.

Executed as of the date first above written.

Witness: [Name of Maker]

_____ _____

[Name]

Exhibit 4.3

MARCHEX, INC.

STOCK TRANSFER AND RESTRICTION AGREEMENT

STOCK TRANSFER AND RESTRICTION AGREEMENT (the "Agreement"), made as of the 24th day of October, 2003, by and among Marchex, Inc., a Delaware corporation (the "Company"), and the holders of shares of Class B Common Stock, .01 par value per share (the "Common Stock") who have entered into employment agreements with the Company prior to the Closing (the "Principal Stockholders") and the holders of shares of Common Stock who have not entered into employment agreements with the Company prior to the Closing (the "Minor Stockholders," the Principal Stockholders and the Minor Stockholders, together the "Stockholders"), each as identified on the signature pages hereto and each as listed on Exhibit A attached hereto and the other holders of capital stock of the Company who become party to this Agreement from time to time. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Merger Agreement (as defined herein).

WHEREAS, the Company and the Stockholders have agreed to place certain restrictions on the Common Stock issued or issuable by the Company as Equity Consideration and Restricted Equity Consideration to the Stockholders in the respective amounts as set forth on Exhibit A attached hereto, in connection with that certain Agreement and Plan of Merger dated as of October 1, 2003 (the "Merger Agreement"), by and among the Company, Sitewise Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of the Company (the "Acquisition Corporation"), Sitewise Marketing, Inc., a Oregon corporation ("Sitewise"), the Stockholders of Sitewise and with respect to Articles II, VII and XII of the Merger Agreement, the Stockholder Representative, pursuant to which Sitewise is being merged with and into the Acquisition Corporation (the "Merger").

WHEREAS, in accordance with Section 2.1 of the Merger Agreement, the Equity Consideration is fully vested on the date of grant;

WHEREAS, in accordance with Section 7.8 of the Merger Agreement, the Restricted Equity Consideration shall be subject to the vesting schedule set forth in Section 2 hereof and with respect to the Principal Stockholders only, shall be subject to forfeiture upon the occurrence of those events as set forth in Section 3 hereof; and

WHEREAS, the parties hereto are willing to execute this Agreement and to be bound by the provisions hereof.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Stockholders and the Company hereby agree as follows:

1. Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

"Affiliate" means, with respect to any Person, any Person which, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any partner or member of such Person, any venture capital fund or any limited liability company or limited liability partnership now or hereafter existing which is controlled by or under common control with one or more general partners, managers or members of such Person.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commission" means the Securities and Exchange Commission, or any other federal agency at the time administering the Securities Act.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations of the Commission issued under such Act, as they each may, from time to time, be in effect.

"Holder" means any Person owning Registrable Shares (as defined below).

"Person" shall mean any individual, corporation, trust, partnership, joint venture, unincorporated organization, limited liability company, government agency or any agency or political subdivision thereof, or other entity.

"Prospectus" means the prospectus included in any Registration Statement, as amended or supplemented by an amendment or prospectus supplement, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Registrable Shares" shall mean all Shares held by the Stockholders; provided, however, that Shares which are Registrable Shares shall cease to be Registrable Shares upon any sale of such shares pursuant to a Registration Statement or Rule 144 under the Securities Act.

"Registration Statement" means a registration statement filed by the Company with the Securities and Exchange Commission, or any other Federal agency at that time administering the Securities Act, for a public offering and sale of securities of the Company (other than a registration statement on Form S-8 or Form S-4, or their successors, or any other form for a similar limited purpose, or any registration statement covering only securities proposed to be issued in exchange for securities or assets of another corporation).

"Securities Act" means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations of the Commission issued under such Act, as they each may, from time to time, be in effect.

"Selling Holder" means any Holder owning Registrable Shares included in a Registration Statement.

"Shares" shall mean and include all equity securities of the Company now owned or hereafter acquired by the Stockholder, including shares of Common Stock, and any securities

resulting from any stock split, stock dividend or stock distribution or other recapitalization or reclassification of the Common Stock of the Company.

"Vested Shares" shall mean all of the Equity Consideration and that number of shares of Restricted Equity Consideration which is then vested pursuant to Section 2 hereof.

2. Vesting of Shares. With respect to the shares of Restricted Equity Consideration, such shares shall vest and become "Vested Shares" hereunder as follows: 16.67% on the six (6) month anniversary of the Closing Date and thereafter at a rate of an additional 16.67% on the last day of each successive six (6) month period over the next two and one half years. One hundred percent (100%) of the Shares not already vested shall become immediately vested (i) in the event of an Acceleration Event with respect to the Principal Stockholders, and (ii) in the event of a Change of Control with respect to the Minor Stockholders. While the shares of Restricted Equity Consideration are subject to vesting pursuant to this Section 2, the Stockholders will have all rights with respect thereto (including, without limitation, the right to vote the shares and the right to dividends paid on the shares, if any), except that the Stockholders shall not have the right to possession and sale thereof.

3. Right to Repurchase.

(a) Upon Termination of Employment Relationship or Consulting Relationship. In the event that a Principal Stockholder's employment relationship or consulting relationship, as the case may be, with the Company terminates, for any reason whatsoever, whether due to voluntary or involuntary action, death, disability or otherwise, the Company shall have the right to repurchase at the Repurchase Price (as defined herein) all or any portion of the Shares of Restricted Equity Consideration that are not Vested Shares, which right may be exercised at any time and from time to time within ninety (90) days after the date of such termination or such longer period as may be determined in good faith by the Company if such later repurchase is deemed necessary by the Company for treatment of its stock as Qualified Small Business Stock under Section 1202 of the Code and regulations promulgated thereunder.

(b) Exercise of Right of Repurchase. The Company may exercise its right of repurchase of such Shares of Restricted Equity Consideration held by the Principal Stockholders by providing written notice to the Principal Stockholder stating the number of Shares to be repurchased, at a purchase price of $.01 per share (the "Repurchase Price") and the date (the "Repurchase Date") such repurchase shall occur (which shall be a date not fewer than ten (10) and not more than thirty (30) days from the date of such notice). On the Repurchase Date, the Company shall deliver the Repurchase Price to the Principal Stockholder, by check or wire of immediately available funds, against delivery of the certificate or certificates representing the Shares to be repurchased and duly endorsed stock powers.

4. Prohibited Transfers.

(a) No Stockholder shall, directly or indirectly, sell, assign, transfer, pledge, hypothecate, mortgage, encumber or dispose (either voluntarily or by operation of law or otherwise) of all or any of his Shares (or any interest therein or any option, warrant or other right

with respect thereto) (collectively, a "Transfer"), except in compliance with the terms of this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, (i) any Stockholder may Transfer, without the necessity of prior approval of the Board of Directors, all or any of his Vested Shares by way of gift to his spouse (other than a Transfer in connection with marital divorce or separation proceedings), to any of his lineal descendants, ancestors or siblings, or to any trust for the benefit of any one or more of such stockholders, his spouse or his lineal descendants, ancestors or siblings; (ii) any Stockholder may Transfer all or any of his Vested Shares by will or the laws of descent and distribution; and (iii) any Stockholder may make a Transfer to the Company or to transferee designated by the Company pursuant to a vesting or repurchase agreement entered into between the Company and such Stockholder; (iv) any Stockholder may Transfer all or any part of its Vested Shares to Affiliates; *provided, however,* that any such transferee (other than the Company) (a "Permitted Transferee") under clauses (i), (ii) (iii) and (iv) shall agree in writing, as a condition to such Transfer, to be bound by all of the provisions of this Agreement to the same extent as if such transferee were the Stockholder transferring such Shares.

(c) Notwithstanding anything to the contrary contained in this Agreement, any Stockholder may Transfer all or any portion of his Vested Shares to another Stockholder.

5. Right of First Refusal on Dispositions.

(a) If at any time a Stockholder (the "Selling Stockholder") desires to sell or otherwise Transfer all or any part of his Vested Shares, pursuant to a bona fide offer from a third party (the "Proposed Transferee"), the Selling Stockholder shall submit a written offer (the "Offer"), by delivering the Offer to the Company and the Stockholders named herein and to the other stockholders who are a party to that certain Stockholders' Agreement dated as of January 23, 2003 as set forth on Schedule 1 attached thereto, as amended from time to time (the "Stockholders' Agreement") (the "Other Stockholders"), to sell such Shares (the "Offered Shares") first to the Company (or the Company's designee) and second to any of the Other Stockholders. The Offer shall disclose the identify of the Proposed Transferee, the number of Offered Shares proposed to be sold, the total number of Shares owned by the Selling Stockholder, the terms and conditions, including price, of the proposed sale, and any other material facts relating to the proposed sale. The Offer shall further state (i) that the Company (or the Company's designee) may acquire, in accordance with the provisions of this Agreement, any of the Offered Shares for the price, and upon the terms and conditions set forth therein, and (ii) that if all such Offered Shares are not purchased by the Company (or the Company's designee), any of the Other Stockholders may acquire, in accordance with the provisions of this Agreement, any of the Offered Shares not purchased by the Company (or the Company's designee) (the "Available Offered Shares"). Any shares acquired by the Other Stockholders shall be acquired for the purchase price payable by the Company pursuant to this Section 5(a) and upon the other terms and conditions set forth therein.

(b) Within fifteen (15) days of the date the Offer was made, the Company shall submit a written response (the "Company Response") to the Selling Stockholder and the Other Stockholders indicating (i) whether the Company (or the Company's designee) elects to

purchase any of the Offered Shares and (ii) the number of Offered Shares, if any, the Company (or the Company's designee) desires to purchase. The Company Response shall, when taken in conjunction with the Offer, be deemed to constitute a valid, legally binding and enforceable agreement for the sale and purchase of such Offered Shares indicated in the Company Response. Sales of such Offered Shares to be sold to the Company (or the Company's designee) pursuant to this Section 5(b) shall be made at the offices of the Company within thirty (30) days following the date the Offer was made. Any purchase of Shares by the Company pursuant to this Section 5(b) shall require the approval of a majority of the Board of Directors of the Company; *provided, however,* that if the Selling Stockholder is also a director of the Company, such Selling Stockholder shall not be entitled to vote to approve or disapprove the Company's purchase of the Shares pursuant to the first clause of this sentence and the approval of a majority of the other members of the Board of Directors shall be required to approve such purchase.

(c) If any one or more of the Other Stockholders (individually, a "Responding Other Stockholder" and collectively the "Responding Other Stockholders") shall desire to purchase all or any part of the Available Offered Shares (which amount shall not exceed an individual Responding Other Stockholder's Pro Rata Fraction (as such term is defined below) in the event that there is more than one Responding Other Stockholder), such Responding Other Stockholder shall communicate in writing such election to purchase to the Selling Stockholder, which communication shall state the number of Available Offered Shares such Responding Other Stockholder desires to purchase and shall be provided to the Selling Stockholder within thirty (30) days of the date the Offer was made or within fifteen (15) days of the date of the Company Response, whichever period is shorter. Such communication shall, when taken in conjunction with the Offer, be deemed to constitute a valid, legally binding and enforceable agreement for the sale and purchase of such Available Offered Shares. Sales of such Available Offered Shares to be sold to a Responding Other Stockholder pursuant to this Section 5 shall be made at the offices of the Company within forty-five (45) days following the date the Offer was made or within fifteen (15) days following the date of the purchase of Shares by the Company (or the Company's designee) pursuant to Section 5(b), whichever period is shorter.

(d) Each Responding Other Stockholder shall have the right to purchase that number of Available Offered Shares as shall be equal to the number of Available Offered Shares multiplied by a fraction, the numerator of which shall be the number of shares of Company capital stock (on a fully diluted basis) then owned by such Responding Other Stockholder and the denominator of which shall be the aggregate number of shares of Company capital stock (on a fully diluted basis) then owned by all of the Responding Other Stockholders who elect to purchase the Available Offered Shares. The amount of the Available Offered Shares that each Responding Other Stockholder is entitled to purchase under this Section 5(d) shall be referred to as the Responding Other Stockholder's "Pro Rata Fraction."

(e) Each Responding Other Stockholder shall have a right of oversubscription such that if any of the stockholders (as the case may be) fail to accept the Offer as to his or its full Pro Rata Fraction, the remaining Other Stockholders shall, among them, have the right to purchase up to the balance of such Available Offered Shares not so purchased. The Responding Other Stockholders may exercise such right of oversubscription by accepting the Offer as to more than their Pro Rata Fraction. If, as a result thereof, such oversubscriptions exceed the total number of Available Offered Shares in respect of such oversubscription

privilege, the oversubscribing Responding Other Stockholders (as the case may be) shall be cut back with respect to oversubscriptions on a pro rata basis in accordance with their respective Pro Rata Fractions or as they may otherwise agree among themselves.

(f) Notwithstanding anything set forth in this Section 5 to the contrary, the Responding Other Stockholders in their response may designate the Company or any other stockholder of the Company as a substitute purchaser who will purchase, in lieu of the Responding Other Stockholders, all or a portion which, together with the Shares purchased by the Responding Other Stockholders, equals all of the Available Offered Shares on the same terms and conditions and at the same price as set forth in the Offer, and the Selling Stockholder shall sell the Available Offered Shares to the Company or to such other designated person, as the case may be.

(g) If the Company and any of the Other Stockholders or their designees pursuant to this Section 5 do not elect to purchase all of the Offered Shares, the Offered Shares not purchased may be sold by the Selling Stockholder at any time thereafter up to one hundred twenty (120) days after the date the Offer was made. Any such sale shall be to the Proposed Transferee, at not less than the price and upon other terms and conditions, if any, not more favorable to the Proposed Transferee than those specified in the Offer. If the Offered Shares are not sold within such 120-day period, such Offered Shares shall continue to be subject to the requirements of a prior offer pursuant to this Section 5. If Offered Shares are sold pursuant to this Section 5 to any purchaser who is not a party to this Agreement, the purchaser of such Offered Shares shall execute a counterpart of this Agreement as a precondition of the purchase of such Offered Shares and any Offered Shares sold to such purchaser shall continue to be subject to the provisions of this Agreement.

6. Involuntary Transfer of Shares. In the event of any Involuntary Transfer (as hereinafter defined) of Shares by any Stockholder, the following procedures shall apply:

(a) The Stockholder deprived or divested of Shares by the Involuntary Transfer (the “Transferor”) shall promptly give written notice of such Involuntary Transfer in reasonable detail to the Company, and the person or persons who take or propose to take any interest in such Shares (the “Transfer Shares”) as a result of such Involuntary Transfer (the “Transferee”) shall hold such interest subject to the rights of the Company as set forth herein.

(b) Within ninety (90) days of receipt of the notice referred to in this Section 6(a) (the “Option Notice”), or upon discovery of such Involuntary Transfer, the Company shall have the irrevocable option (the “Transfer Option”), but not the obligation, to purchase the Transfer Shares, subject to the terms and procedures set forth in Section 5 above, with the “Option Notice” delivered under this Section 6 to be deemed an “Offer” for purposes of Section 5.

(c) The purchase price per Transfer Share of any class or series of the Company’s capital stock shall be the book value thereof as determined in accordance with Section 9 hereof.

(d) In the event that the Company does not purchase all of the Transfer Shares involved in an Involuntary Transfer, the Transferee shall be required to execute a counterpart of this Agreement and take and hold all rights and interests in any Transfer Shares not so purchased subject to the terms of this Agreement.

(e) For purposes of this Section 6, the term "Involuntary Transfer" shall mean any involuntary sale, Transfer, encumbrance or other disposition by or in which any Stockholder shall be deprived or divested of any right, title or interest in or to any Shares, including without limitation, any levy of execution, Transfer in connection with marital divorce or separation proceedings, Transfer in connection with bankruptcy, reorganization, insolvency or similar proceedings, Transfer in connection with any foreclosure of pledge, or any Transfer to a public officer or agency pursuant to any abandoned property to escheat law; provided, that no Transfer permitted by Section 4 hereof shall be deemed an "Involuntary Transfer" for purposes herein.

7. Right of Participation in Sales by Stockholders. If at any time any Selling Stockholder wishes to sell, or otherwise dispose of, any Vested Shares owned by such Selling Stockholder to any Proposed Transferee pursuant to Section 5(g), each Other Stockholder that has not elected to purchase any such Vested Shares pursuant to Section 5 hereof shall have the right to participate pro rata in such transaction and, accordingly, shall have the right to require, as a condition to such sale or disposition, that the Proposed Transferee purchase from such Other Stockholder at the same price per Share and on the same terms and conditions as involved in such sale or disposition by such Selling Stockholder a number of shares which represents the same percentage of shares then held by such Other Stockholder (assuming the conversion and exercise by such Other Stockholder of all securities convertible into or exercisable for Common Stock) as the number of Shares to be sold or disposed of by the Selling Stockholder represents with respect to the Shares then owned by such Selling Stockholder (assuming the conversion and exercise by such Selling Stockholder of all securities convertible into or exercisable for Common Stock); provided, however, that any purchase by the Proposed Transferee of less than all of the Shares offered by such Selling Stockholder and each participating Other Stockholder shall be made from such Selling Stockholder and each participating Other Stockholder pro rata based upon the number of shares to be sold by each pursuant to the foregoing. As soon as practicable after receipt of the Offer made pursuant to Section 5 hereof and in any event within fifteen (15) days after receipt of such Offer, each Other Stockholder which (a) has not elected to purchase any of the Offered Shares pursuant to Section 5 hereof and (b) wishes to participate in any such sale or disposition shall individually notify in writing the Selling Stockholder of such Other Stockholder's election to participate in such sale or disposition, which notice shall be delivered in accordance with Section 14 hereof to the Selling Stockholder at the address specified below his signature hereto or at such other address furnished in accordance with Section 14 hereof.

8. Drag Along Right. If, at any time subsequent to the date hereof, the stockholders owning shares representing at least a majority of the voting power of all outstanding shares of Company capital stock (on a fully diluted basis) then owned by all the stockholders (the "Selling Majority Stockholders") determine jointly to (A) sell or exchange (in a business combination or otherwise) any of their shares in one or a series of bona fide arms-length transactions to a third party who is not an Affiliate or an associate of the Selling Majority Stockholders (the "Third Party"), or (B) enter into a transaction pursuant to which the Company agrees to merge with or into another entity or agrees to sell all or substantially all of the assets of the Company (in each

case a “Corporate Transaction”), then, upon thirty (30) days written notice from the Selling Majority Stockholders, which notice shall include reasonable details of the proposed sale or exchange, including the proposed time and place of closing and the consideration to be received by the stockholders (such notice being referred to as the “Sale Request”), the Selling Majority Stockholders may require that the Stockholder shall be obligated to, and shall (i) sell, Transfer and deliver, or cause to be sold, transferred and delivered, to such Third Party, in the same transaction at the closing thereof the same percentage of the Stockholder’s Shares as is equal to the percentage of the shares of Company capital stock (in each case assuming the conversion and exercise of all securities convertible into or exercisable for Common Stock) owned by the Selling Majority Stockholders as of the date of the Sale Request that are being sold by the Selling Majority Stockholders in such transaction or transactions, (ii) deliver certificates for all of his Shares at the closing, free and clear of all claims, liens and encumbrances, (iii) upon request, consent to the cancellation of any and all vested stock options issued to such Stockholder by the Company for an amount per underlying Share equal to the difference between the consideration per Share referenced in the preceding clause (i) and the exercise price of such vested stock options, and (iv) if stockholder approval of the transaction is required, vote his Shares in favor thereof. Each Stockholder (including the Selling Majority Stockholders) shall receive the same consideration per share of Company capital stock upon any sale pursuant to this Section 8.

9. Determination of Book Value/Manner of Payment.

(a) The term “book value” as used in this Agreement shall be defined as the total of the net assets of the Company determined on a consistent basis from the records of the Company compiled and maintained in accordance with generally accepted accounting principles, which total shall be divided by the number of outstanding shares of Company capital stock (on a fully diluted basis) of the Company to determine the book value of each such share. The determination of book value shall be made by the accounting firm then servicing the Company and such determination shall be conclusive on all parties.

(b) The purchase price payable by the Company (or its designee) and/or any Responding Other Stockholder, as the case may be, pursuant to Sections 5 or 6 hereof (collectively, the “Purchase Price”), shall be payable by the issuance of a Subordinated Promissory Note (the “Note”) executed by the Company (or its designee) or the Responding Other Stockholder, as the case may be, substantially in the form of Exhibit B hereto, modified so that (i) such Note shall be dated the date of the closing of the purchase in accordance with this Section 9, (ii) the principal amount of such Note shall be payable in equal annual installments over a three (3) year period commencing on the last business day of the next succeeding month after such closing date, and (iii) the original principal amount of such Note shall be equal to the Purchase Price.

10. Election of Directors.

(a) At each annual meeting of the stockholders and at each special meeting of the stockholders called for the purpose of electing directors of the Company, and at any time at which stockholders shall have the right to, or shall, vote for Directors of the Company, then, and in each event, the Stockholders hereby agree to attend each meeting in person or by proxy and

hereby agrees to vote stock of the Company and Shares of the Company now owned or hereafter acquired by him (whether at a meeting or by written consent in lieu thereof), to elect and thereafter to continue in office as a Director of the Company the following:

(i) two Directors who shall be designated by MARRCH Investments, LLC and who shall initially be Russell C. Horowitz and John Keister; and

(ii) three independent Directors shall be designated by the Company and who shall initially be Rick Thompson, Dennis M. Cline and Jonathan Fram.

(b) Any vacancy on the Board created by the resignation, removal, incapacity or death of any person designated under this Section 10 shall be filled by another person designated by the applicable designating party. The parties hereto shall vote their respective Shares in accordance with such new designation, and any such vacancy shall not be filled in the absence of a new designation by the applicable designating party.

11. Failure to Deliver Shares; Effect of Prohibited Transfer. If a Stockholder becomes obligated to sell any Shares to the Company under this Agreement and fails to deliver such Shares in accordance with the terms of this Agreement, the Company may, at its option, in addition to all other remedies it may have, send to the defaulting Stockholder the purchase price for such Shares as is herein specified. Thereupon, the Company shall, upon written notice to the defaulting Stockholder, (a) cancel on its books the certificate or certificates representing the Shares to be sold and (b) issue, in lieu of such Shares, in the name of the Company, a new certificate or certificates representing such Shares, and thereupon all of the defaulting Stockholder's rights in and to such Shares shall terminate. The Company shall not be required (a) to transfer on its books any Shares which may have been sold or transferred in violation of any of the provisions set forth in this Agreement, or (b) to treat as owner of such shares or to pay dividends to any transferee to whom any such shares shall have been sold or transferred.

12. Registration Rights.

12.1 Piggyback Registration Rights.

(a) After the Company's Qualified IPO, if (but without any obligation to do so) at any time and from time to time, the Company determines to register any of its securities under the Securities Act in connection with the public offering of such securities for cash, either for its own account or for the account of a security holder or holders, other than (i) a registration relating solely to employee benefit plans, (ii) a registration relating solely to a Rule 145 transaction, (iii) a registration in which the only stock being registered is Common Stock issuable upon conversion or debt securities which are also being registered or (iv) any registration on any form which does not include substantially the same information as would be required to be included in a registration statement covering the sale of the registrable securities, the Company will, prior to such filing, give written notice to all Stockholders of its intention to do so, and use its commercially reasonable efforts to include in such registration all Registrable Shares which the Company has been requested by such Stockholder or Stockholders to register

(which request must be made within ten (10) days of the Company's notice) under the Securities Act to the extent necessary to permit their sale or other disposition; provided that the Company shall have the right to postpone or withdraw any registration effected pursuant to this Section 12.1 without obligation to any Stockholder.

(b) If the registration for which the Company gives notice pursuant to Section 12.1 (a) is a registered public offering involving an underwriting, the Company shall so advise the Stockholders as a part of the written notice given pursuant to Section 12.1 (a). In such event, the right of any Stockholder to include its Registrable Shares in such registration shall be conditioned upon such Stockholder's participation in such underwriting on the terms set forth herein. All Stockholders proposing to distribute their securities through such underwriting shall (together with the Company, other Holders, and officers or directors distributing their securities through such underwriting) enter into an underwriting agreement as agreed upon between the Company and the underwriter or underwriters selected for the underwriting by the Company. Notwithstanding any other provision of this Section 12.1, if the managing underwriter determines that the inclusion of any or all Shares requested to be registered would adversely affect the offering, the Company may limit the number of Registrable Shares to be included in the registration and underwriting. The Company shall so advise all Holders requesting registration, and the number of shares that are entitled to be included in the registration and underwriting shall be allocated (i) first to the Company and (ii) second pro rata based on the number of shares owned (on a fully diluted basis) by each Holder in relation to the total number of shares requested to be registered (including shares held by the parties to the Stockholders' Agreement). No such reduction shall reduce the securities being offered by the Company for its own account to be included in the registration and the underwriting.

12.2 Registration Procedures.

(a) If and whenever the Company is required by the provisions of this Agreement to effect the registration of any Registrable Shares under the Securities Act, the Company shall:

(i) file with the Commission a Registration Statement with respect to such Registrable Shares and use its best efforts to cause that Registration Statement to become effective and keep such Registration Statement effective for up to 120 days. The Company shall not be required to file, cause to become effective or maintain the effectiveness of any registration statement that contemplates a distribution of securities on a delayed or continuous basis pursuant to Rule 415 under the Securities Act;

(ii) prepare and file with the Commission any amendments and supplements to the Registration Statement and the prospectus included in the Registration Statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement for up to 120 days;

(iii) furnish to each Selling Holder such reasonable numbers of copies of the Prospectus, including any preliminary Prospectus, in conformity with the requirements of the Securities Act, and such other documents as such Selling Holder may

reasonably request in order to facilitate the public sale or other disposition of the Registrable Shares owned by such Selling Holder;

(iv) use its best efforts to register or qualify the Registrable Shares covered by the Registration Statement under the securities "Blue Sky" laws of such states as the Selling Holders shall reasonably request; provided, however, that the Company shall not be required in connection with this paragraph (iv) to qualify as a foreign corporation or execute a general consent to service of process in any state or jurisdiction;

(v) cause all Registrable Shares covered by the Registration Statement to be listed on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed;

(vi) promptly provide a transfer agent and registrar for all such Registrable Shares not later than the effective date of such registration statement;

(vii) notify each Selling Holder, promptly after it shall receive notice thereof, of the time when such Registration Statement has become effective or a supplement to any Prospectus forming a part of such Registration Statement has been filed; and

(viii) following the effectiveness of such Registration Statement, notify each seller of such Registrable Shares of any request by the Commission for the amending or supplementing of such Registration Statement or Prospectus.

(b) If the Company has delivered a Prospectus to the Selling Holders and after having done so the Prospectus is amended to comply with the requirements of the Securities Act, the Company shall promptly notify the Selling Holders and, if requested, the Selling Holders shall immediately cease making offers of Registrable Shares and return all Prospectuses to the Company. The Company shall provide the Selling Holders with revised Prospectuses and, following receipt of the revised Prospectuses, the Selling Holders shall be free to resume making offers of the Registrable Shares.

(c) In the event that, in the judgment of the Company, it is advisable to suspend use of a Prospectus included in a Registration Statement due to pending material developments or other events that have not yet been publicly disclosed and as to which the Company believes public disclosure would be detrimental to the Company, the Company shall notify all Selling Holders to such effect, and, upon receipt of such notice, each such Selling Holder shall immediately discontinue any sales of Registrable Shares pursuant to such Registration Statement until such Selling Holder has received copies of a supplemented or amended Prospectus or until such Selling Holder is advised in writing by the Company that the then current Prospectus may be used and has received copies of any additional or supplemental filings that are incorporated or deemed incorporated by reference in such Prospectus.

12.3 Expenses of Registration. The Company will pay all Registration Expenses for all registrations under this Agreement. For purposes of this Section, the term "Registration Expenses" shall mean all expenses incurred by the Company in complying with this Agreement, including, without limitation, all registration and filing fees, exchange listing fees, printing expenses, fees and expenses of counsel for the Company, the reasonable fees and

expenses of one counsel to the Selling Holders, state "Blue Sky" fees and expenses, but excluding underwriting discounts, selling commissions and the fees and expenses of individual Selling Holder's counsel.

12.4 Indemnification and Contribution.

(a) In the event of any registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, the Company will indemnify and hold harmless each Selling Holder, against any losses, claims, damages or liabilities, joint or several, to which such Selling Holder, may become subject under the Securities Act, the Exchange Act, state securities or "Blue Sky" laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the Registration Statement, or any amendment or supplement to such Registration Statement, or arise out of or are based upon the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and subject to Sections 12.4(c) and (d), the Company will reimburse such Selling Holder, for any legal or any other expenses reasonably incurred by such Selling Holder, in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, preliminary prospectus or prospectus, or any such amendment or supplement, in reliance upon and in conformity with information furnished to the Company by or on behalf of such Selling Holder, specifically for use in the preparation thereof; and provided, however, that the Company shall not be liable to any such Selling Holder, with respect to any untrue statement or alleged untrue statement or omission or alleged omission in any preliminary prospectus to the extent that any such loss, claim, damage or liability of any Selling Holder results from the fact that such Selling Holder sold Registrable Shares at a time when sales had been discontinued pursuant to Sections 12.2(b) and (c) or to a person to whom there was not sent or given, at or prior to the written confirmation of such sale, a copy of the final prospectus as then amended or supplemented and if the Company had previously furnished copies thereof in accordance with the terms of this Agreement to such Selling Holder and the untrue statement or omission of a material fact contained in the preliminary prospectus was corrected in the final prospectus and the claims asserted by such person do not include allegations of other untrue statements or omissions of material facts made in the final prospectus.

(b) In the event of any registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, each Selling Holder, severally and not jointly, will indemnify and hold harmless the Company, each of its directors and officers and each person or entity, as the case may be, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages or liabilities, joint or several, to which the Company, such directors and officers or controlling person or entity may become subject under the Securities Act, Exchange Act, state securities or "Blue Sky" laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact

contained in any Registration Statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the Registration Statement, or any amendment or supplement to the Registration Statement, or arise out of or are based upon any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, if the statement or omission was made in reliance upon and in conformity with information relating to such seller furnished in writing to the Company by or on behalf of such Selling Holder specifically for use in connection with the preparation of such Registration Statement, prospectus, amendment or supplement; provided, however, that the liability of any Selling Holder hereunder shall be limited to the amount of gross proceeds received by such Selling Holder in the offering giving rise to the indemnification.

(c) Each party entitled to indemnification under this Section (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom; provided, that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld); and; provided, further, that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section except to the extent that the Indemnifying Party is adversely affected by such failure. The Indemnified Party may participate in such defense at such party's expense; provided, however, that the Indemnifying Party shall pay such expense if representation of such Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between the Indemnified Party and any other party represented by such counsel in such proceeding; provided, further, that in no event shall the Indemnifying Party be required to pay the expenses of more than one law firm per jurisdiction as counsel for the Indemnified Party. The Indemnifying Party also shall be responsible for the expenses of such defense if the Indemnifying Party does not elect to assume such defense. No Indemnifying Party, in the defense of any such claim or litigation shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect of such claim or litigation, and no Indemnified Party shall consent to entry of any judgment or settle such claim or litigation without the prior written consent of the Indemnifying Party.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in this Section 12.4 is due in accordance with its terms but for any reason is held to be unavailable to an Indemnified Party in respect to any losses, claims, damages and liabilities referred to herein, then the Indemnifying Party shall, in lieu of indemnifying such Indemnified Party, contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities to which such party may be subject in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and the Stockholders on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations.

12.5 Information by Holder. Each Holder included in any registration shall furnish to the Company such information regarding such Holder and the distribution proposed by such holder as the Company may reasonably request in writing and as shall be required in connection with any registration, qualification or compliance referred to in this Agreement.

12.6 "Stand-Off" Agreement; Confidentiality of Notices. Each Stockholder, if requested by the Company and the managing underwriter of an underwritten public offering by the Company of Common Stock, shall not sell or otherwise Transfer or dispose of any Registrable Shares or other securities of the Company held by such Stockholder for a period of 180 days following the effective date of a Registration Statement and shall execute an agreement reflecting the foregoing as may be requested by the Company's underwriter at the time of the Qualified IPO. The Company may impose stop-transfer instructions with respect to the Registrable Shares or other securities subject to the foregoing restriction until the end of such 180-day period.

12.7 Rule 144 Requirements. After the earliest of (i) the closing of the sale of securities of the Company pursuant to a Registration Statement, (ii) the registration by the Company of a class of securities under Section 12 of the Exchange Act or (iii) the issuance by the Company of an offering circular pursuant to Regulation A under the Securities Act, the Company agrees to:

(a) make and keep current public information about the Company available, as those terms are understood and defined in Rule 144 under the Securities Act;

(b) use its best efforts to file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and

(c) furnish to any Holder upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), (ii) a copy of the most recent annual or quarterly report of the Company and (iii) such other reports and documents of the Company as such Holder may reasonably request to avail itself of any similar rule or regulation of the Commission allowing it to sell any such securities without registration.

13. Attorneys-in-Fact. Each Stockholder hereby irrevocably appoints each person who may from time to time serve as Chief Executive Officer, President or Treasurer of the Company as his attorney-in-fact with specific authority to execute, acknowledge, swear to, file, and deliver all consents, elections, instruments, certificates, and other documents and to take any other action requisite to carrying out the intention and purpose of this Agreement, including, without limitation, Sections 8 and 10 of this Agreement.

14. General.

14.1 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

14.2 Specific Performance. In addition to any and all other remedies that may be available at law in the event of any breach of this Agreement, the parties hereto shall be entitled to specific performance of the agreements and obligations hereunder and to such other injunctive or other equitable relief as may be granted by a court of competent jurisdiction, without the necessity of posting a bond or proving actual damages.

14.3 Governing Law. This Agreement shall be governed by and construed in accordance with the internal and substantive laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof. Any legal action or proceeding with respect to this Agreement shall be brought in, and adjudicated by, state or federal courts located in the State of Washington, and, by execution and delivery of this Agreement, the Company and the undersigned each hereby irrevocably accept for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of the parties hereto hereby further irrevocably waives any claim that any such courts lack jurisdiction over such party, and agrees not to plead or claim, in any legal action or proceeding with respect to this Agreement brought in any of the aforesaid courts, that any such court lacks jurisdiction over such party, that delaying of the venue in any such court is improper in any respect or that any such action or proceeding has been brought in an inconvenient forum.

14.4 Legend on Shares. The Company and the Stockholders each acknowledge and agree that substantially the following legend shall be typed on each certificate evidencing any of the Shares held at any time by a Stockholder:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS THE REGISTRATION PROVISIONS OF SAID ACT HAVE BEEN COMPLIED WITH OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL ACCEPTABLE TO IT THAT SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO THE PROVISIONS OF A STOCK TRANSFER AND RESTRICTION AGREEMENT DATED AS OF OCTOBER 24, 2003, INCLUDING THEREIN CERTAIN RESTRICTIONS ON TRANSFER. A COMPLETE AND CORRECT COPY OF SUCH AGREEMENT IS AVAILABLE FOR INSPECTION AT THE PRINCIPAL OFFICE OF THE COMPANY AND WILL BE FURNISHED UPON WRITTEN REQUEST AND WITHOUT CHARGE.

14.5 Notices. All notices, requests, consents, 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 facsimile; 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), if to the Company, at the address

specified below its signature hereto, and if to the Stockholders, at the addresses as specified in Exhibit A attached hereto.

Any party may give any notice, request, consent or other communication under this Agreement using any other means (including, without limitation, personal delivery, messenger service, telecopy, first class mail or electronic mail), but no such notice, request, consent or other communication shall be deemed to have been duly given unless and until it is actually received by the party for whom it is intended. Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 14.5.

14.6 Complete Agreement. This Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, whether oral or written.

14.7 Amendments; No Conflicting Agreements; Waivers. Neither this Agreement nor any provision hereof may be waived, modified or amended except by a written agreement signed by each of the parties hereto; *provided*, *however*, that the Stockholders owning Shares representing at least a majority of the voting power of the outstanding Shares on a fully diluted basis may effect any such waiver, modification or amendment on behalf of all the Stockholders; and *provided*, *further*, that, notwithstanding the foregoing, without the consent of all parties to this Agreement who own Shares, no amendment or addition to this Agreement may be made which (i) modifies this Section 14.7 or (ii) would affect the holders of Shares in a disproportionate manner (other than any disproportionate results which are due to a difference in the relative stock ownership in the Company or due to the rights, preferences, privileges or limitations applicable to the Shares as set forth in the Company's Certificate of Incorporation, as amended from time to time). For purposes hereof, the term "disproportionate manner" shall refer to any event which would impair the rights of one holder while not impairing similar rights held by another holder. Each of the Stockholders represents that he is not a party to any other agreement which would prevent him from performing his obligations hereunder. No waiver of any breach or default hereunder shall be considered valid unless in writing, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

14.8 No Special Employment or Other Contract Rights. Nothing contained in this Agreement shall be construed or deemed by any person under any circumstances to bind the Company to continue the employment relationship or consulting relationship, as the case may be, of the Principal Stockholder for the period within which the Shares shall vest.

14.9 Termination. This Agreement shall terminate immediately prior to the consummation of the Company's Qualified IPO, with the exception of (i) Sections 1, 8, 12 and 13, and 14, and (ii) with respect to any unvested Shares also, Sections 2, 3, 4(a), 6 and 11 which such sections shall survive until such Shares are Vested.

14.10 Pronouns. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

14.11 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document. This Agreement may be executed by facsimile signatures.

14.12 Section Headings. The section headings are for the convenience of the parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly executed under seal as of the date and year first above written.

COMPANY:

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name: **Russell C. Horowitz**
Title: **President and Chief Executive Officer**

Address: 2101 Fourth Avenue, Suite 1980
Seattle,WA 98121

With a copy to:

Francis J. Feeney, Jr., Esq.
Nixon Peabody LLP
101 Federal Street
Boston, Massachusetts 02110

MARCHEX, INC.

STOCK TRANSFER AND RESTRICTION AGREEMENT

Counterpart Signature Page

STOCKHOLDER:

_____

Name:

EXHIBIT A

Stockholders

Name of Stockholder	Address	Type of Stockholder	Shares of Equity Consideration	Shares of Restricted Equity Consideration
Gerald S. Wiant	2215 Marie Lane Eugene, OR 97408	Principal Stockholder	167,577	54,216
Bruce Fabbri	385 East 34th Place Eugene, OR 97405	Principal Stockholder	167,577	54,216
Sean J. McMahon	745 East 44th Ave. Eugene, OR 97405	Minor Stockholder	30,469	9,857
Michael B. Wiant	3601 NW 195th Circle Ridgefield, WA 98642	Minor Stockholder	20,312	6,572
Steve Palodichuk	4416 NE 126th Street Vancouver, WA 98686	Minor Stockholder	20,312	6,572
Brandon Wiant	5090 Barger Ave. Eugene, OR 97402	Minor Stockholder	51	16
Joseph B. Ying	13699 S.E. Linden Lane Milwaukie, OR 97222	Minor Stockholder	254	82
Datar Sahi	3344 Bonnie Hill Road Los Angeles, CA 90068	Minor Stockholder	41	13
Michael Kunugiyama	1477 Hilyard #8 Eugene, OR 97401	Minor Stockholder	2,666	863
Clark Barry	6887 Forsythia Springfield, OR 97478	Minor Stockholder	2,285	739
Todd Brock	3231 Queens East Eugene, OR 97401	Minor Stockholder	1,955	633
Shannon Mudrick	3123 Kinsrow Ave. #60 Eugene, OR 97401	Minor Stockholder	1,955	633
Derek Andre	1888 Villard Street Eugene, OR 97403	Minor Stockholder	152	49
Dennis Greenfield	82992 Scott Lane Creswell, OR 97426	Minor Stockholder	609	197
Nick Doane	3462 Kinsrow Ave. #49 Eugene, OR 97401	Minor Stockholder	203	66
D.G. Brown	2940 Crescent Ave. #280 Eugene, OR 97408	Minor Stockholder	609	197
Rachael Nordquist	1104 Ash Ave. Cottage Grove, OR 97424	Minor Stockholder	609	197
Jae Woo	3462 Kinsrow Ave. #49 Eugene, OR 97401	Minor Stockholder	305	99
Ethan Tarr	3462 Kinsrow Ave. #49 Eugene, OR 97401	Minor Stockholder	254	82
Deanna Hanke	530 Ruskin St. Eugene, OR 97402	Minor Stockholder	203	66

Zachary Plummer	1352 Mill St. Springfield, OR 97477	Minor Stockholder	203	66
Max Keele	2170 Adams Street Eugene, OR 97405	Minor Stockholder	203	66
Panagiotis Jameson	329 West 17th Ave. Eugene, OR 97401	Minor Stockholder	178	57
Christopher Doig	3937 Monroe St. Eugene, OR 97405	Minor Stockholder	178	57
Robert Reeves	38 Ridgeline Drive Eugene, OR 97405	Minor Stockholder	127	41
James Langan	39720 Place Road Fall Creek, OR 97438	Minor Stockholder	127	41
Paul Mardesich	2816 N.W. 126th Ave. Portland, OR 97229	Minor Stockholder	5,586	1,807
TOTAL			**425,000**	**137,500**

EXHIBIT B

[FORM – COMPANY AS MAKER]

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED, SOLD OR TRANSFERRED IN CONTRAVENTION OF SUCH ACT.

JUNIOR SUBORDINATED PROMISSORY NOTE

$_____ [Date]

FOR VALUE RECEIVED, _____, _____ (the "Maker"), promises to pay to _____ ("Payee") the sum of _____ Dollars and _____ Cents ($_____) in lawful money of the United States of America over a three year period in equal annual installments of principal in the amount of $_____, payable on the annual anniversary of the date hereof, at _____ or at such other place as Payee may specify by written notice delivered to the Maker. The outstanding principal under this Note shall bear simple, non-compounded, interest, payable annually in arrears on the annual anniversary of the date hereof, at a rate per annum equal to the rate of interest publicly announced from time to time as its "prime rate" by [_____] (or any successor thereto).

Anything in this Note to the contrary notwithstanding, the indebtedness evidenced by this Note is subordinate and junior, to the extent set forth in the following paragraphs (a)-(d) to all "Senior Debt" of the Maker now outstanding or hereinafter incurred. "Senior Debt" means (i) all indebtedness of the Maker for monies borrowed from banks, trust companies, insurance companies and other financial institutions, including commercial paper and accounts receivable sold or assigned by the Maker to such institutions and bankers acceptances, (ii) deferrals, renewals, extensions and refundings of any such indebtedness or obligations described in (i) above, (iii) obligations of the Maker as lessee under leases of real or personal property, (iv) indebtedness of the Maker for obligations to trade, merchandise or inventory vendors incurred in the ordinary course of business, and (v) any other indebtedness of the Maker which the Maker and Payee may hereafter from time to time expressly and specifically agree in writing shall constitute Senior Debt.

(a) Upon the maturity of any Senior Debt by lapse of time, acceleration or otherwise, then all principal and interest on all such matured Senior Debt shall first be paid in full, or such payment shall have been provided for, before additional payments are made upon this Note.

(b) In the event of any insolvency, bankruptcy, liquidation, reorganization or other similar proceedings, or any receivership proceedings in connection therewith, relative to the Maker, and in the event of any proceedings for voluntary liquidation, dissolution or the winding up of the Maker, whether or not involving insolvency or bankruptcy proceedings, then all principal and interest on all Senior Debt shall first be paid in full, or such payment shall have been provided for, before any payment is made upon this Note.

(c) In any of the proceedings referred to in (b) above, any payment or distribution of any kind or character, whether in cash, property, stock or obligations, which may be payable or deliverable in respect of this Note, shall be paid or delivered directly to the holders of Senior Debt (or to a banking institution selected by the court or person making the payment or delivery or designated by any holder of Senior Debt) for application in payment thereof, unless and until all principal and interest on all Senior Debt, including interest accrued subsequent to the commencement of the proceedings referenced in (b) above (commonly known as "post-petition interest"), shall have been paid in full, or such payment shall have been provided for. The holder of this Note hereby irrevocably appoints the holder of Senior Debt his agent and attorney-in-fact for the purpose of representing and voting the claims and rights of such holder during the course of any of the proceedings referenced in (b) above and agrees to take no action to terminate such agency and appointment until all such Senior Debt is paid in full or such payment shall have been provided for.

(d) In the event that the Maker is to make any payment hereunder and the Maker is at the time of such proposed payment, or will be upon delivery of such payment, as a consequence thereof, in default or in violation of the terms of any Senior Debt, no such payment shall be made by the Maker until the default or violation is first remedied.

The provisions of paragraphs (a)-(d) set forth above are for the purpose of defining the relative rights of the holders of Senior Debt on the one hand, and the holder of this Note on the other hand, against the Maker and nothing herein shall impair, as between the Maker and the holder of this Note, the obligation of the Maker, which is unconditional and absolute, to pay to the holder hereof the principal hereon in accordance with the terms and the provisions hereof.

At the option of the Maker, this Note shall be subject to prepayment, without penalty, in whole or in part, at any time.

This Note shall be binding upon and inure to the benefit of the Payee and his or its successors and assigns; *provided; however,* that this Note is non-negotiable and may not be assigned by the Payee without the Maker's consent. This Note shall be binding upon the Maker and any successor to the principal business of the Maker, whether by merger or otherwise.

If default be made in any payment due under the terms of this Note and if such default shall continue for fifteen (15) days after the written notice thereof, or if any petition under the U. S. Bankruptcy Code shall be filed by or against any maker of this Note and not discharged within sixty (60) days, the entire principal sum shall at once become due and payable, plus costs of collection, which shall include attorney's fees, without notice at the option of the holder of this Note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

Recourse under this Note shall be to the assets of the Maker only and in no event to the officers, directors or stockholders of the Maker.

All payments shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender therein for the payment of public and private debts.

All notices, requests, consents and demands shall be made in writing and shall be mailed postage prepaid, or delivered by hand, or telecopied to the Maker or to the Payee hereof at their respective addresses set forth below or to such other address as may be furnished in writing to the other party hereto:

If to the Payee:

_____
_____
_____

If to the Maker:

_____
_____
_____

If any date that may at any time be specified in this Note as a date for the making of any payment of principal or interest under this Note shall fall on Saturday, Sunday or on a day which in the city of Seattle, Washington shall be a legal holiday, then the date for the making of that payment shall be the next subsequent day which is not a Saturday, Sunday or legal holiday.

This Note is intended to take effect as a sealed instrument and its validity and construction shall be determined by the internal substantive laws of the State of Delaware. The parties hereby agree that any state court or local court of the State of Washington and the United States District Court for the District of Washington shall have exclusive jurisdiction to hear and determine any claims or disputes between the Maker and Payee pertaining directly or indirectly to this Note.

Executed as of the date first above written.

Witness: [Name of Maker]

_____ _____

[Name]

Exhibit 4.4

Name of Investor (please print)

MARCHEX, INC.

SUBSCRIPTION AND STOCK PURCHASE AGREEMENT

Marchex, Inc.
2101 Fourth Avenue, Suite 1980
Seattle, WA 98121
Attention: Chief Executive Officer

Ladies and Gentlemen:

The Investor (the "Investor") acknowledges that he or she has received and reviewed a copy of the Marchex, Inc. Private Placement Memorandum dated January, 2003 (the "Memorandum") relating to an investment in the shares of Series A Convertible Preferred Stock, par value $.01 per share (the "Series A Preferred Stock") of Marchex, Inc., a Delaware corporation (the "Company") and that such Memorandum supersedes any prior information concerning the Company previously delivered to the Investor.

It is understood that, upon the sale by the Company to the Investor of shares of Series A Preferred Stock, the Investor will receive a copy of this Subscription and Stock Purchase Agreement ("Agreement") executed by an officer on behalf of the Company.

1. Subscription. Subject to the terms and conditions hereof, the Investor hereby subscribes for and agrees to purchase that number of shares of Series A Preferred Stock set forth on the signature page hereof and tenders herewith by wire transfer or check the amount of $3.00 per share payable to the order of the Company. The shares of Series A Preferred Stock sold under this Agreement are referred to as the "Shares," having the rights, restrictions privileges and preferences as set forth in the Certificate of Designation, Preferences and Rights (the "Certificate"), a copy of which is attached as an Appendix to the Memorandum.

2. Acceptance of Subscription and Return of Funds.

(a) Acceptance. The Investor understands and agrees that this subscription is made subject to the unconditional right of the Company to reject this subscription for any reason whatsoever, or for no reason. Unless this Agreement shall have previously been revoked by the Investor pursuant to the following Section 2(b), the Company may accept this subscription at any time on or prior to May 1, 2003, by delivery of a written notice to the Investor delivered by facsimile at the facsimile number set forth on the signature page hereto or by written letter to the address set forth on the signature page hereto upon satisfaction of the following conditions:

(i) The Shares sold hereunder shall be qualified or exempt from qualification under applicable Blue Sky laws;

(ii) The Company shall have filed the Certificate with the Secretary of State of the State of Delaware; and

(iii) The Company shall have received subscriptions for at least the Minimum Amount (as defined below) of shares of Series A Preferred Stock from investors pursuant to Section 2(c) below.

(b) Revocation. This subscription may be revoked by the Investor at any time prior to acceptance hereof by the Company by delivery of a written notice to the Company by facsimile to Nixon Peabody LLP, Attention Francis F. Feeney, Jr., Esq. at (866) 369-4739 clearly indicating that this subscription is revoked. Any such notice contemplated by this Section 2(b) shall be confirmed telephonically as soon as practicable following such written notice.

(c) Return of Funds. The total amount tendered herewith will be deposited for the benefit of the Company in an account (the "Account") to be maintained by Nixon Peabody LLP ("NP"), for the purpose of holding the investors' funds, and will be returned to the Investor without interest if: (a) this subscription has not been accepted and is subsequently revoked by the Investor or rejected by the Company as provided in this Agreement; or (b) less than 5,333,333 shares (the "Minimum Amount") are subscribed and paid for by investors by May 1, 2003. It is understood and agreed that if this subscription is accepted by the Company, and the Minimum Amount of Shares are subscribed and paid for by such date by investors, the first closing (the "Closing") shall occur and the funds tendered herewith shall be released from the Account to the Company and thereafter the funds shall be considered Company assets in payment for the number of Shares set forth on the signature page hereto. NP shall remit the full subscription amount paid, without interest, if the subscription represented hereby is rejected by the Company or revoked by the Investor (in accordance with Section 2 hereof) within fifteen (15) days after such rejection or revocation.

(d) Subsequent Closings. The Company shall have the right, at any time following the Closing (the "Subsequent Closings") through May 1, 2003 to sell the remaining authorized but unissued shares of Series A Preferred Stock to one or more additional investors as determined by the Company, or to the Investor hereunder who wishes to acquire additional shares of Series A Preferred Stock at the price and on the terms set forth herein, provided that any such additional investor shall be required to execute this Agreement and provided however, in no event shall the Company sell and issue more than an aggregate of 8,500,000 shares of Series A Preferred Stock to investors through the offering as set forth in the Memorandum at either the Closing or at any Subsequent Closing thereto.

3. Stockholders' Agreement. Simultaneous with the delivery of this Agreement, the Investor must execute the Company's form of Stockholders' Agreement (the "Stockholders' Agreement"), a copy of which is attached as an Appendix to the Memorandum.

4. Representations and Warranties of the Company. The Company hereby represents and warrants to the Investor as follows:

4.1 Organization; Good Standing; Qualification. The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, has all requisite corporate power and authority to own and to operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted, to execute and to deliver this Agreement, to issue and sell the Shares offered, and to carry out the provisions of this Agreement.

4.2 Authorization**.** All corporate action on the part of the Company, its officers and directors necessary for the authorization, execution and delivery of this Agreement, the performance of all obligations of the Company hereunder and the authorization, issuance, sale and delivery of the Shares being sold hereunder have been taken and this Agreement constitutes the valid and legally binding obligation of the Company, enforceable in accordance with its terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by-laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, and (iii) to the extent any indemnification provisions contained in this Agreement may be limited by applicable federal or state securities laws.

4.3 Valid Issuance of Shares**.** The Shares that are being purchased by the Investor hereunder and the shares of Class B Common Stock of the Company issued upon conversion of the Shares (the "Conversion Shares") when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid and nonassessable.

5. Representations of the Investor. The Investor represents and warrants to the Company as follows:

5.1 Investment. The Investor is acquiring the Shares for his or her own account for investment and not with a view to, or for sale in connection with, any distribution thereof, nor with any present intention of distributing or selling the same; and, except as contemplated by this Agreement, the Investor has no present or contemplated agreement, undertaking, arrangement, obligation, indebtedness or commitment which provides for the disposition thereof.

5.2 Authority. The Investor has full power and authority to enter into this Agreement. This Agreement, when executed and delivered by the Investor, will constitute a legal, valid and legally binding obligation of the Investor, enforceable in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally and (b) as limited by laws relating to the availability of a specific performance, injunctive relief, or other equitable remedies.

5.3 Experience. The Investor has made inquiries concerning the Company, its business and its personnel; the officers of the Company have made available to the Investor any and all written information which he has requested and have answered to the Investor's satisfaction all inquiries made by the Investor; and the Investor has sufficient knowledge and experience in finance and business that he is capable of evaluating the risks and merits of his investment in the Company and the Investor is able financially to bear the risks thereof.

5.4 Accredited Investor. The Investor is an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, as amended (the "Securities Act").

5.5 Unregistered Securities. The Investor understands that the Shares and Conversion Shares have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Investor's representations as expressed herein. The Investor understands that the Shares and Conversion Shares are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Investor must hold the Shares and Conversion Shares indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Investor acknowledges that the Company has no obligation to register or qualify the Shares or Conversion Shares for resale. The Investor further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Shares and the Conversion Shares, and on requirements relating to the Company which are outside of the Investor's control, and which the Company is under no obligation and may not be able to satisfy.

The Investor will not sell, transfer or otherwise dispose of the Shares or Conversion Shares in violation of the Securities Act, the Securities Exchange Act of 1934, or the rules promulgated thereunder, including Rule 144 under the Securities Act. The Investor agrees that he will not dispose of the Shares or Conversion Shares unless and until he has complied with all requirements of this Agreement and the Stockholders' Agreement applicable to the disposition of Shares and he has provided the Company with written assurances, in substance and form satisfactory to the Company, that the proposed disposition does not require registration of the Shares or the Conversion Shares under the Securities Act or all appropriate action necessary for compliance with the registration requirements of the Securities Act or with any exemption from registration available under the Securities Act (including Rule 144) has been taken.

5.6. Restrictive Legends. The Investor consents to the placement of legends on the Shares or Conversion Shares as required by applicable securities laws, including legends in form substantially as follows:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS THE REGISTRATION PROVISIONS OF SAID ACT HAVE BEEN COMPLIED WITH OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL ACCEPTABLE TO IT THAT SUCH REGISTRATION IS NOT REQUIRED.

THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO THE PROVISIONS OF A STOCKHOLDERS' AGREEMENT DATED AS OF JANUARY 23, 2003, INCLUDING THEREIN CERTAIN RESTRICTIONS ON TRANSFER. A COMPLETE AND CORRECT COPY OF SUCH AGREEMENT IS AVAILABLE FOR INSPECTION AT THE PRINCIPAL OFFICE OF THE COMPANY AND WILL BE FURNISHED UPON WRITTEN REQUEST AND WITHOUT CHARGE.

6. Miscellaneous.

6.1 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

6.2 Specific Performance. Each party expressly agrees that the other party may be irreparably damaged if this Agreement is not specifically enforced. Upon a breach or threatened breach of the terms, covenants and/or conditions of this Agreement by any party, the other party shall, in addition to all other remedies, each be entitled to a temporary or permanent injunction, and/or a decree for specific performance, in accordance with the provisions hereof, without the necessity of posting a bond or proving actual damages.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the internal and substantive laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof. Any legal action or proceeding with respect to this Agreement shall be brought in, and adjudicated by, state or federal courts located in the State of Washington, and, by execution and delivery of this Agreement, the Company and the Investor each hereby irrevocably accept for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of the parties hereto hereby further irrevocably waives any claim that any such courts lack jurisdiction over such party, and agrees not to plead or claim, in any legal action or proceeding with respect to this Agreement brought in any of the aforesaid courts, that any such court lacks jurisdiction over such party, that delaying of the venue in any such court is improper in any respect or that any such action or proceeding has been brought in an inconvenient forum.

6.4 Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing and shall be deemed delivered (i) three (3) business days after being sent by registered or certified mail, return receipt requested, postage prepaid or (ii) one (1) business day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery, to the Investor at the address set forth on the signature page hereto or to the Company at the address as set forth below:

If to the Company:	Marchex, Inc. 2101 Fourth Avenue, Suite 1980 Seattle, WA 98121 Attention: General Counsel
with a copy to:	Francis J. Feeney, Jr., Esq. Nixon Peabody LLP 101 Federal Street Boston, Massachusetts 02110 Facsimile Number: (866) 369-4739

Any party may give any notice, request, consent or other communication under this Agreement using any other means (including, without limitation, personal delivery, messenger service, facsimile, first class mail or electronic mail), but no such notice, request, consent or other communication shall be deemed to have been duly given unless and until it is actually received by the party for whom it is intended. Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 6.4.

6.5 Complete Agreement. This Agreement and the Memorandum (and any Appendices thereto) constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, whether oral or written.

6.6 Amendments and Waivers. Except as otherwise expressly set forth in this Agreement, any term of this Agreement may be amended or terminated and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the Investor. No waivers of or exceptions to any term, condition or provision of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, condition or provision.

6.7 Prevailing Party. If any legal action or other proceeding is brought for a breach of this Agreement or any of the warranties herein, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs incurred in bringing such action or proceeding, in addition to any other relief to which such party may be entitled.

6.8 Pronouns. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

6.9 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document. This Agreement may be executed by facsimile signatures.

6.10 Section Headings. The section headings are for the convenience of the parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties.

7. Continuing Effect of Representations, Warranties and Acknowledgments. The representations and warranties of Sections 4 and 5 are true and accurate in all material respects as of the date of this Agreement and shall be true and accurate as of the date of delivery to and acceptance by the Company, and shall, along with Section 8, survive such delivery and acceptance. If in any respect such representations, warranties and acknowledgments shall not be true and accurate prior to such delivery and acceptance, the Company (with respect to those contained in Section 4) or the Investor (with respect to those contained in Section 5) shall give immediate written notice of such fact to the other party hereto, specifying which representations and warranties and acknowledgments are not true and accurate and the reasons therefor.

8. Indemnification.

(a) Investor. The Investor acknowledges that he understands the meaning and legal consequences of the representations and warranties contained in Section 5, and he hereby agrees to indemnify and hold harmless the Company, its directors, officers or any of its affiliates, agents and employees from and against any and all loss, damage or liability (including costs and reasonable attorney's fees) due to or arising out of a breach of any representation, warranty or acknowledgment of the Investor contained in this Agreement which is incorporated herein for all purposes.

(b) The Company. The Company hereby agrees to indemnify and hold harmless the Investor from and against any and all loss, damage or liability (including costs and reasonable attorney's fees) due to or arising out of a breach of any representation, warranty or acknowledgment of the Company contained in this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Investor has hereby executed this Agreement this _____ day of _____, 2003.

INVESTOR:

If an individual:

_____

Signature

_____

Print Name

If an entity:

Print Name: _____

By: _____

Name: _____

Title: _____

Address:

_____

_____

_____

Facsimile Number: _____

Telephone Number: _____

Number of Shares of Series A Preferred Stock subscribed for: _____.

Series A Preferred Stock Purchase Price: $3.00 per share.

_____ (Number of Shares of Series A Preferred Stock) x $3.00 per share =

_____ Aggregate Purchase Price of Series A Preferred Stock Subscribed for by Investor.

IN WITNESS WHEREOF, the Company hereby accepts the foregoing subscription subject to the terms and conditions set forth herein as of the 1st day of May, 2003.

COMPANY:

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz
Title: Chief Executive Officer

Exhibit 10.1

MARCHEX, INC.

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 preferred 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. 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.

(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 Securities Act of 1934, as amended; 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.

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 Securities Act of 1933, as amended), 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. 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.

27. 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.

28. GOVERNING LAW.

This Plan shall be construed and enforced in accordance with the internal substantive laws of The State of Delaware.

29. 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 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 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 10.2

SUBLEASE ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS SUBLEASE ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into as of January 18, 2003 (the "Effective Date") by and between Marrch Holdings, LLC (the "Tenant"), Marchex, Inc. (the "Transferee") and Ecology and Environment, Inc. (the "Sublessor").

WHEREAS, on November 6, 2000, the Sublessor entered into a lease (the "Master Lease" and attached hereto as Exhibit A) with Selig Real Estate Holdings Five for the 19th floor level (Suite 1900) of the Fourth & Blanchard Building, 2121 Fourth Avenue, Seattle, Washington, 98121 (the "Premises"); and

WHEREAS, on October 23, 2001, the Tenant entered into a sublease (the "Sublease" and attached hereto as Exhibit B) with the Sublessor for a portion of the Premises;

WHEREAS, the members of the Tenant have set up a new entity operating as Transferee and now desire to assign the holdings of the Tenant to the Transferee; and

WHEREAS, Tenant desires to assign to Transferee as of the Effective Date all of its right, title and interest in and to the Sublease (the "Assignment"), and Transferee is willing to accept from Tenant such Assignment and to assume each and all of the obligations of the Tenant under the Sublease to be performed following the Effective Date.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Tenant's Assignment. Tenant hereby assigns, sells, conveys and otherwise transfers to Transferee all of Tenant's right, title and interest in and to the Sublease, effective on the date of full execution of this Agreement (the "Effective Date").

2. Assumption by Transferee. Transferee hereby accepts all of Tenant's right, title and interest in and to the Sublease, and, from and after the Effective Date, assumes and agrees to be bound by and perform each and all of the obligations, terms, covenants and agreements of the Tenant under the Sublease.

3. Consent. Pursuant to Paragraph 10 of the Sublease, Sublessor hereby consents to the assignment of the Sublease and to the agreement by the Transferee to assume the performance of all duties and obligations as set forth in the Sublease; provided, however, that consent to the assignment shall not discharge Tenant of its obligations under the Sublease in the event of breach of same by the Transferee.

4. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective executors, administrators, successors and assigns.

5. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. Governing Law. This Agreement shall be governed by the internal laws of State of Washington without giving effect to the conflicts of laws principles thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument or under seal as of day and year set forth above.

TENANT:

MARRCH HOLDINGS, LLC

By: /s/ RUSSELL HOROWITZ

Name: Russell Horowitz
Title:

TRANSFEREE:

MARCHEX, INC.

By: /s/ ETHAN A. CALDWELL

Name: Ethan A. Caldwell
Title: CAO and General Counsel

SUBLESSOR:

ECOLOGY AND ENVIRONMENT, INC.

By: /s/ RONALD L. FRANK

Name: Ronald L. Frank
Title: Vice President

SELIG REAL ESTATE HOLDINGS FIVE CONSENT

As required by Paragraph 18 of the Master Lease, Selig Real Estate Holdings Five does hereby give its consent to the above assignment.

By: /s/ MARTIN SELIG

Name: Martin Selig
Title: Managing Manager

SUBLEASE AGREEMENT

This Sublease Agreement entered into as of the 23RD day of October, 2001, by and between ECOLOGY AND ENVIRONMENT, INC. with offices at 368 Pleasant View Drive, Lancaster, New York 14086 (hereinafter referred to as the "Sublessor") and MARRCH HOLDINGS, L.L.C. with offices at 2021 1ST Ave., #F-18, Seattle, WA 98121 (hereinafter referred to as the "Sublessee").

WITNESSETH:

WHEREAS, heretofore on November 6, 2000 the Sublessor, as lessee, entered into a lease (the "Master Lease") with Selig Real Estate Holdings Five, as lessor, (the "Master Lessor") for the 19th floor level (Suite 1900) of the Fourth & Blanchard Building, 2121 Fourth Avenue, Seattle, Washington, 98121, whose mailing address is 2101 Fourth Avenue, Seattle, Washington, 98121 (the "Premises"). A copy of the Master Lease is attached hereto as Sublease Exhibit A (consisting of twelve pages); and

WHEREAS, the Premises consists of 13,459 square feet of leasable floor area; and

WHEREAS, the Sublessee desires to sublease from the Sublessor a portion of the Premises; and

WHEREAS, the parties desire to enter into this Sublease Agreement to provide for the leasing by the Sublessor to the Sublessee of a portion of the Premises on the terms and conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Subleased Premises. The Sublessor hereby leases to the Sublessee and the Sublessee hereby leases from the Sublessor that portion of the Premises described on Sublease Exhibit B (consisting of one page) attached hereto and made a part hereof containing approximately 5,331 square feet of leasable floor area (the "Subleased Premises"), and which shall be designated as Suite 1980.

2. Term. The Term of this Sublease shall commence on January 1, 2002 and terminate on June 30, 2006.

3. Sublessor's Work. Prior to the commencement of the Term, the Sublessor shall perform the work described on Sublease Exhibit C (consisting of one page) attached hereto and made a part hereof.

4. Possession. The Sublessee shall be entitled to possession of the Subleased Premises upon the completion of the Sublessor's Work, which shall not be later than October 31, 2001, and shall not be required to pay any Minimum Rent or Additional Rent between the date of delivery of possession and December 31, 2001; provided, however, Sublessee shall be responsible for all of the other terms and conditions contained in this Sublease during the period between the delivery of possession and December 31, 2001.

Beginning with November 1, 2001, for each day that the Sublessee is not given Possession of the Subleased Premises, the Minimum Rent due, which herein commences on January 1, 2002, shall be abated on a day-for-day basis at l/30th of the monthly rate, which is $348.00 per day. If Possession of the Subleased Premises is not given to Sublessee by November 30, 2001, Sublessee shall have the right but not the obligation to terminate this Sublease Agreement. Any abatement of Minimum Rent will be credited against the payment of Minimum Rent after the first month of the Term.

Any delay in Possession after October 31, 2001 and/or abatement of Minimum Rent will not change the Commencement date, the Termination Date except if the Sublease Agreement is terminated pursuant to the terms of this paragraph, or any other terms of this Sublease Agreement.

5. Minimum Rent. The Sublessee shall pay Minimum Rent equal to $10,439.88 per month on the first day of each month during the Term. Upon the execution of this Sublease Agreement the Sublessee shall pay the first month's rent.

6. Security Deposit. Upon the execution of this Sublease Agreement the Sublessee shall pay to the Sublessor a security deposit in the amount of $10,439.88 to secure the performance by the Sublessee of all of its obligations under the Sublease Agreement. Provided that the Sublessee has performed all of its obligations under the Sublease Agreement, the security deposit shall be returned to the Sublessee within 30 days after the expiration of the Term hereof.

7. Sublessee Improvements. The Sublessor shall provide to the Sublessee an allowance in the amount of $26,655 for the purpose of Sublessee making improvements to the Subleased Premises to make it ready for its use and occupancy. At the expiration of the Term, any permanent improvements made by the Sublessee shall remain in the Subleased Premises. The allowance shall be given to the Sublessee as a credit against Minimum Rent commencing with the second month of the Term.

8. Additional Rent. In addition to the Minimum Rent to be paid by the Sublessee hereunder, the Sublessee shall also pay to the Sublessor each year, beginning in calendar year 2003, as Additional Rent, its pro rata share of the increase in Operating Services billed to the Sublessor by the Master Lessor pursuant to Paragraph 19 of the Master Lease over the amount of the Operating Services attributable to the Premises for the calendar year 2002. Sublessee's pro rata share shall be 39.61%.

9. Parking. Under the terms of Paragraph 38 of the Master Lease the Sublessor is entitled to rent ten (10) inside parking spaces at the market rate. The Sublessor hereby grants to the Sublessee its right to rent four (4) of those ten (10) inside parking spaces from the Master Lessor until the expiration of the Term.

10. Subletting/Assignment. The Sublessee shall not assign this Sublease or further sublet the Subleased Premises without first obtaining the consent of the Sublessor and the Master Lessor. The Sublessor agrees that it will not unreasonably withhold its consent to any assignment of this Sublease. If as a result of any subletting of the Subleased Premises the Sublessee receives rent in excess of the Sublessee's minimum rent obligation to the Sublessor, the Sublessee agrees to pay to the Sublessor fifty percent (50%) of any such excess.

11. Brokerage. Sublessor and Sublessee agree that the broker who brought about this Sublease Agreement is Flinn Ferguson. The Sublessor agrees to pay the brokerage commission due to Flinn Ferguson in the amount of $18,659.

12. Incorporation of Master Lease. The following provisions of the Master Lease are hereby incorporated by reference: Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 42 (the "Incorporated Provisions"). Whenever there is a reference in the Incorporated Provisions to the Lessor it shall be deemed to be a reference to the Sublessor under this Sublease Agreement, whenever there is a reference in the Incorporated Provisions to the Lessee it shall be deemed to be a reference to the Sublessee under this Sublease Agreement and whenever there is a reference to the Premises in the Incorporated Provisions it shall be deemed a reference to the Subleased Premises.

13. Notices. Any notices given under the terms of this Sublease Agreement shall be sent to the following address:

(a)	If to Sublessor:	Ecology and Environment, Inc. 368 Pleasant View Drive Lancaster, New York 14086 Attention: Facilities Manager
	and	Ecology and Environment, Inc. 2101 Fourth Avenue, Suite 1900 Seattle, Washington 98121 Attention: Office Manager
(b)	If to Sublessee:	MARRCH Holdings, LLC 2021 lST Ave., #F-18 Seattle, WA 98121 Attn: Russell Horowitz

14. Direct Lease. The Sublessor will attempt to obtain a direct lease between the Master Lessor and the Sublessee for the Subleased Premises on the same terms and conditions as contained in this Sublease Agreement. If the Sublessor is successful in obtaining such Direct Lease, then the Sublessee agrees to enter into the Direct Lease with the Master Lessor and this Sublease Agreement will terminate as of the effective date of such Direct Lease.

15. Default. If Sublessor defaults under the Master Lease, Sublessee shall be indemnified from any monetary obligation of Sublessor to the Master Lessor under said Master Lease.

IN WITNESS WHEREOF, the parties have signed this instrument as of the day and year first above written.

SUBLESSOR: ECOLOGY AND ENVIRONMENT, INC.

/s/ RONALD L. FRANK

By: **Ronald L. Frank**
Its: **Executive Vice President**

SUBLESSEE: MARRCH HOLDINGS, L.L.C.

/s/ RUSSELL C. HOROWITZ

By: **Russell C. Horowitz**
Its: **CEO**

GUARANTY

The undersigned hereby guaranties to Ecology and Environment, Inc. the payment and performance of the financial obligations of Marrch Holdings, L.L.C. under this Sublease Agreement.

/s/ RUSSELL C. HOROWITZ

By: **Russell C. Horowitz**
Its:

LANDLORD'S CONSENT

Landlord does hereby give its consent to this Sublease as required by Paragraph 18 of the Lease which is referred to herein as the Master Lease and is attached to this Sublease Agreement as Sublease Exhibit A.

/s/ MARTIN SELIG

By: **Martin Selig**
Its: **General Partner**

SUBLESSEE'S ACKNOWLEDGMENT

STATE OF WASH.)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Russell Horowitz is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the CEO of MARRCH Holdings, L.L.C. to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 10/__/01.

/s/ DANIEL P. FLINN

(Signature of Notary Public)

Daniel P. Flinn
(Printed Name of Notary Public)

My Appointment expires 6/29/03

SUBLESSOR'S ACKNOWLEDGMENT

STATE OF New York)
) ss.
COUNTY OF Erie)

I certify that I know or have satisfactory evidence that Ronald L. Frank is the, person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Exec. Vice President of Ecology and Environment, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 10/23/01.

/s/ DIANE L. GILBERT

(Signature of Notary Public)

DIANE L GILBERT
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 7/13/2002

Diane L. Gilbert
(Printed Name of Notary Public)

My Appointment expires 7/13/02

MARTIN SELIG REAL ESTATE

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Martin Selig is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Managing Member of Selig Real Estate Holdings five to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 10.25.01.

/s/ JILL M. HAYES

(Signature of Notary Public)

Jill M. Hayes
(Printed Name of Notary Public)

[SEAL]

My Appointment expires 6.01.02

SUBLEASE EXHIBIT A

FOURTH AND BLANCHARD
OFFICE LEASE

THIS LEASE, made the __th day of November, 2000, by and between SELIG REAL ESTATE HOLDINGS FIVE, a Washington general partnership, whose address is 1000 Second Avenue, Suite 1800, Seattle, Washington, 98104-1046, hereinafter referred to as "Lessor" and ECOLOGY AND ENVIRONMENT INCORPORATED, a New York corporation, whose address is Buffalo Corporate Center, 368 Pleasant View Drive, Lancaster, New York 14086-1397, hereinafter referred to as "Lessee".

1. DESCRIPTION, Lessor in consideration of the agreements contained in this lease, does hereby lease to Lessee, upon the terms and conditions hereinafter set forth, that certain space consisting of the agreed upon square footage of 13,459 (hereinafter referred to as "Premises") situated on the 19th floor level of the Fourth & Blanchard Building, 2121 Fourth Avenue, City of Seattle, State of Washington 98121, whose mailing address is 2101 Fourth Avenue, Seattle, Washington 98121, the legal description of which is:

Lots 7, 8, 9, 10, 11 and 12, Block C, Third addition to the part of the City of Seattle heretofore laid off by A. A. Denny and William N. Bell according to plat recorded in Volume 1 of plats, page 137 in King County Washington, except in the north easterly 12 feet thereof as condemned for road purposes under King County Superior Court, cause number 52280.

SUITE 1900

2. TERM. The term of this lease shall be for a period of sixty-six (66) months, commencing January 1, 2001, and ending sixty-six (66) months thereafter.

In the event the Premises are not ready for occupancy on the date set forth above, whether occasioned by Lessor or Lessee, the lease term shall be extended in such a manner as to reflect the delay occasioned by the failure of the Premises to be ready for occupancy. In no event shall Lessor or Lessee be liable for any further damages.

**SEE SIGNATURE PAGE FOR ADDITIONAL VERBIAGE

3. RENT, Lessee covenants and agrees to pay Lessor rent each month in advance on the first day of each calendar month. Rent shall be computed at the annual base rental rate of $32.00 per square foot. Rent for any fractional calendar month, at the beginning or end of the term, shall be the pro rated portion of the rent computed on an annual basis.

4. CONSIDERATION, As consideration for the execution of this lease, Lessee has this date paid to Lessor the sum of $35,890.67, receipt of which is hereby acknowledged. In the event Lessee fully complies with all the terms and conditions of this lease, but not otherwise, an amount equal to such sum shall be credited on the first month's rental on the term of this lease.

5. USES, Lessee agrees that Lessee will use and occupy said Premises for general offices and related purposes and for no other purposes.

6. RULES AND REGULATIONS, Lessee and their agents, employees, servants or those claiming under Lessee will at all times observe, perform and abide by all of the Rules and Regulations printed on this instrument, or which may be hereafter promulgated by Lessor, all of which it is covenanted and agreed by the parties hereto shall be and are hereby made a part of this lease.

7. CARE AND SURRENDER OF PREMISES, Lessee shall take good care of the Premises and shall promptly make all necessary repairs except those required herein to be made by Lessor. At the expiration or sooner termination of this lease, Lessee, without notice, will immediately and peacefully quit and surrender the Premises in good order, condition and repair (damage by reasonable wear, the elements, or fire excepted). Lessee shall be responsible for removal of all personal property from the Premises, (excepting fixtures being that which is attached to the Premises, and property of the Lessor) including, but not limited to, the removal of Lessee's communication cabling, telephone equipment and signage. Lessee shall be responsible for repairing any damage to the Premises caused by such removal. If Lessee fails to remove and restore the Premises at lease expiration, then Lessor shall have the right to remove said property and restore the Premises and Lessee shall be responsible for all costs associated therewith. Lessee shall also be responsible for those costs incurred by Lessor for removing debris Lessee may discard in the process of preparing to vacate the Premises and for a final cleaning of the Premises, including, but not limited to, the cleaning, or replacement of carpets if damage is not caused by reasonable wear, and removal and disposal of Lessee's personal property remaining in the Premises.

8. ALTERATIONS, Lessee shall not make any alterations or improvements in, or additions to said Premises without first obtaining the written consent of Lessor, whose consent shall not be unreasonably withheld. All such alterations, additions and improvements shall be at the sole cost and expense of Lessee and shall become the property of Lessor and shall remain in and be surrendered with the Premises as a part thereof at the termination of this lease, without disturbance, molestation or injury.

9. RESTRICTIONS, Lessee will not use or permit to be used in said Premises anything that will increase the rate of insurance on said building or any part thereof, nor anything that may be dangerous to life or limb; nor in any manner deface or injure said building or any part thereof; nor overload any floor or part thereof; nor permit any objectionable noise or odor to escape or to be emitted from said Premises, or do anything or permit anything to be done upon said Premises in any way tending to create a nuisance or to disturb any other tenant or occupant of any part of said building. Lessee, at Lessee's expense, will comply with all health, fire and police regulations respecting said Premises. The Premises shall not be used for lodging or sleeping, and no animals or birds will be allowed in the building.

10. WEIGHT RESTRICTIONS, Safes, furniture or bulky articles may be moved in or out of said Premises only at such hours and in such manner as will least inconvenience other tenants, which hours and manner shall be at the discretion of Lessor. No safe or other article of over 2,000 pounds shall be moved into said Premises without the consent of Lessor, whose consent shall not be unreasonably withheld, and Lessor shall have the right to locate the position of any article of weight in said Premises if Lessor so desires.

11. SIGN RESTRICTION, No sign, picture, advertisement or notice shall be displayed, inscribed, painted or affixed to any of the glass or woodwork of the building without the prior approval of Lessor.

12. LOCKS, No additional locks shall be placed upon any doors of the Premises. Keys will be furnished to each door lock. At the termination of the lease, Lessee shall surrender all keys to the Premises whether paid for or not.

13. KEY, Lessor, his janitor, engineer or other agents may retain a pass key to said Premises to enable him to examine the Premises from time to time with reference to any emergency or to the general maintenance of said Premises.

14. TELEPHONE SERVICE, If Lessee desires telephonic or any other electric connection, Lessor will direct the electricians as to where and how the wires are to be introduced, and without such directions no boring or cutting for wires in installation thereof will be permitted.

15. SERVICES, Lessor shall maintain Premises and the public and common areas of building, such as lobbies, stairs, corridor and restrooms, in reasonably good order and condition except for damage occasioned by the act of Lessee.

Lessor shall furnish Premises with electricity for lighting and operation of low power usage office machines, heat, normal office air-conditioning, and elevator services, twenty-four (24) hours per day seven (7) days per week. Air-conditioning units and electricity therefore for special air-conditioning requirements, such as for computer centers, shall be at Lessee's expense. Lessor shall also provide lighting replacement for Lessor furnished lighting, toilet room supplies, window washing with reasonable frequency, and customary janitor service.

Lessor shall not be liable to Lessee for any loss or damage caused by or resulting from any variation, interruption or any failure of said 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 or strike or conditions or events not under Lessor's control shall be deemed as an eviction of Lessee or relieve Lessee from any of Lessee's obligations hereunder.

In the event of any lack of attention on the part of Lessor and any dissatisfaction with the service of the building, or any unreasonable annoyance of any kind, Lessee is requested to make complaints at Lessor's building office and not to Lessor's employees or agents seen within the building. Lessee is further requested to remember that Lessor is as anxious as Lessee that a high grade service be maintained, and that the Premises be kept in a state to enable Lessee to transact business with the greatest possible ease and comfort. The rules and regulations are not made to unnecessarily restrict Lessee, but to enable Lessor to operate the building to the best advantage of both parties hereto. To this end Lessor shall have the right to waive from time to time such part or parts of these rules and regulations as in his judgment may not be necessary for the proper maintenance or operation of the building or consistent with good service, and may from time to time make such further reasonable rules and regulations as in his judgment may be needed for the safety, care and cleanliness of the Premises and the building and for the preservation of order therein. Such rules and regulations shall be applied to all tenants equally.

16. SOLICITORS, Lessor will make an effort to keep solicitors out of the building, and Lessee will not oppose Lessor in his attempt to accomplish this end.

17. FLOOR PLAN, The floor plan and specifications for Lessee's occupancy shall be attached hereto and marked Exhibit "A" which shall be approved by both Lessor and Lessee, both of whose approval shall not be unreasonably withheld.

18. ASSIGNMENT, Lessee will not assign this lease, or any interest hereunder, and this lease, or any interest hereunder, shall not be assigned by operation of law without Lessor's consent, which shall not be unreasonably withheld. Lessee will not sublet said Premises or any part thereof and will not permit the use of said Premises by others other than Lessee and the agents of Lessee without first obtaining the written consent of Lessor, whose consent shall not be unreasonably withheld. If such consent is not received within ten (10) working days, the sublease shall be deemed approved. In the event such written consent shall be given, no other or subsequent assignment or subletting shall be made without the previous written consent of Lessor, whose consent shall not be unreasonably withheld. Lessee shall be entitled to retain one half of any sublease rents in excess of Lessee's base rental rate. In the event Lessee desires to assign or sublet said Premises or any part thereof, Lessor shall have the first right, but not the obligation to re-lease the Premises.

19. OPERATING SERVICES AND REAL ESTATE TAXES, The annual base rental rate per rentable square foot in Paragraph 3 includes Lessee's proportionate share of Operating Services and Real Estate Taxes cumulatively defined as "Base Year Costs." for the first twelve months of the lease term, "Base Year Costs". Only actual increases from these Base Year Costs, if any, will be passed on to Lessee on a proportionate basis.

Base Year

For computing the Base Year Costs, the base year shall be the calendar year stated herein or if a specific calendar year is not stated herein then the base year shall be the calendar year in which the lease term commences. The base year shall be the calendar year 2001.

Comparison Year

The Comparison Year(s) shall be the calendar year(s) subsequent to the base year.

Operating Services

“Operating Services” include, but are not limited to, the charges incurred by Lessor for: building operation salaries, benefits, management fee (not to exceed 5%) of gross income for the building, insurance, electricity, janitorial, supplies, telephone, HVAC, repair and maintenance, window washing, water and sewer, security, landscaping, disposal, elevator, and any other service or supplies reasonably necessary to the use and operation of the premises. Operating Services shall also include the amortization cost of capital investment items and of the installation thereof, which are primarily for the purpose of safety, saving energy or reducing operating costs, or which may be required by governmental authority, (all such costs shall be amortized over the reasonable life of the capital investment item, with the reasonable life and amortization schedule being determined in accordance with generally accepted accounting principles). Notwithstanding anything to the contrary contained herein, Operating Services shall not include any of the following:

(i) real estate taxes

(ii) legal fees, auditing fees, brokerage commissions, advertising costs, or other related expenses incurred by Lessor in an effort to generate rental income;

(iii) repairs, alterations, additions, improvements, or replacements made to rectify or correct any defect in the original design, materials or workmanship of the building or common areas (but not including repairs, alterations, additions, improvements or replacements made as a result of ordinary wear and tear);

(iv) damage and repairs attributable to fire or other casualty;

(v) damage and repairs necessitated by the negligence or willful misconduct of Lessor, Lessor’s employees, contractors or agents;

(vi) executive salaries to the extent that such services are not in connection with the management, operation, repair or maintenance of the building;

(vii) Lessor’s general overhead expenses not related to the building;

(viii) legal fees, accountant’s fees and other expenses incurred in connection with disputes with tenants or other occupants of the building or associated with the enforcement of the terms of any leases with tenants or the defense of Lessor’s title to or interest in the building or any part thereof unless the outcome is to the financial benefit of all tenants;

(ix) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving, decorating, painting or altering (1) vacant space (excluding common areas) in the building or (2) space for tenants or other occupants in the building and costs incurred in supplying any item or service to less than all of the tenants in the building;

(x) costs incurred due to a violation by Lessor or any other tenant of the building of the terms and conditions of a lease;

(xi) cost of any specific service provided to Lessee or other occupants of the building for which Lessor is reimbursed (but not including Operating Services and Real Estate Tax increases above Base Year Costs to the extent reimbursed Lessor) or any other expense for which Lessor is or will be reimbursed by another source (i.e., expenses covered by insurance or warranties);

(xii) costs and expenses which would be capitalized under generally accepted accounting principles, with the exception of the capital investment items specified hereinabove;

(xiii) building management fees in excess of the management fees specified hereinabove;

(xiv) cost incurred with owning and/or operating the parking lot(s) serving the building by independent parking operator(s).

(xv) fees paid to Lessor or any affiliate of Lessor for goods or services in excess of the fees that would typically be charged by unrelated, independent persons or entities for similar goods and services;

(xvi) rent called for under any ground lease or master lease;

(xvii) principal and/or interest payments called for under any debt secured by a mortgage or deed of trust on the building; and

Operating Services shall be adjusted for the Base Year and all Comparison Year(s) to reflect the greater of actual occupancy or 95% occupancy.

Real Estate Taxes

Real Estate Taxes shall be the taxes paid by Lessor in the base year and each respective Comparison Year. Real Estate Taxes shall be a separate category and shall be treated as such.

Proportionate Basis

Lessee’s share of Base Year and Comparison Year(s) Costs shall be a fraction, the numerator of which shall be the number of rentable square feet contained in the leased Premises (see Paragraph 1) and the denominator of which shall be the number of rentable square feet in the building in which the leased Premises are located (390,659/RSF).

Computation of Adjustments to Base Year Costs

Any adjustment to Base Year Costs will commence to occur in Month 13 of the lease term with subsequent adjustments commencing every twelve months of the lease term or in Months 25, 37, 49, etc. as appropriate under the lease term. Lessee shall be responsible for any increase between Lessee’s proportionate share of Base Year Costs and Lessee’s proportionate share of each respective Comparison Year(s) Costs. The increase shall be the increase to each expense individually. These costs shall be initially calculated based on estimated (projected) costs with reconciliation to actual costs when annual audited’ numbers are completed. For the purpose of calculating projected increases to Base Year Costs, Lessor shall review historical data to predict if any estimated increases would be anticipated in a Comparison Year(s). If they are, then commencing in Month 13 and/or every twelve month period thereafter, Lessor will assess a monthly charge to be paid together with monthly base rent. Once actual cost data for Comparison Year(s) Real Estate Taxes and Operating Services for the entire building is formulated in accordance with generally accepted accounting principles and adjusted’ to the greater of actual occupancy or 95% occupancy, then Lessee’s estimated pass-through costs shall be corrected with Lessee or Lessor, as appropriate, reimbursing the other for the difference between the estimated and actual costs, at that time in a lump sum payment.

Upon termination of this lease, the amount of any corrected amount between estimated and actual costs with respect to the final comparison year shall survive the termination of the lease and shall be paid to Lessee or Lessor as appropriate within thirty (30) days after final reconciliation.

Computation of or adjustment to Operating Services and/or Real Estate Taxes pursuant to this paragraph or to rent pursuant to Paragraph 3 shall be computed based on a three hundred sixty-five (365) day year.

For an example, see Exhibit B attached hereto.

20. ADDITIONAL TAXES OR ASSESSMENTS, Should there presently be in effect or should there be enacted during the term of this Lease, any law, statute or ordinance levying any assessments or any tax upon the leased premises other than federal or state income taxes, Lessee shall reimburse Lessor for Lessee's proportionate share of said expenses at the same time as rental payments.

21. LATE PAYMENTS, Any payment, required to be made pursuant to this Lease, not made 5 days after the date the same is due shall bear interest at a rate equal to three percent (3%) above the prime rate of interest charged from time to time by Bank of America, or its successor.

In addition to any interest charged herein, a late charge of two percent *(2%)* of the payment amount shall be incurred for payments received more than five (5) days late.

22. RISK, All personal property of any kind or description whatsoever in the demised Premises shall be at Lessee's sole risk. Lessor shall not be liable for any damage done to or loss of such personal property or damage or loss suffered by the business or occupation of the Lessee arising from any acts or neglect of co-tenants or other occupants of the building, or of Lessor or the employees of Lessor, or of any other persons, or from bursting, overflowing or leaking of water, sewer or steam pipes, or from the heating or plumbing or sprinklering fixtures, or from electric wires, or from gas, or odors, or caused in any other manner whatsoever except in the case of negligence on the part of Lessor. Lessee shall keep in force throughout the term of this lease such casualty, general liability and business interruption insurance as a prudent tenant occupying and using the Premises would keep in force.

23. INDEMNIFICATION. Lessee will defend, indemnify and hold harmless Lessor from any claim, liability or suit including attorney's fees on behalf of any person, persons, corporations and/or firm for any injuries or damages occurring in or about the said Premises or on or about the sidewalk, stairs, or thoroughfares adjacent thereto where said damages or injury was caused or partially caused by the ordinary or gross negligence or intentional act of Lessee and/or by Lessee's agents, employees, servants, customers or clients.

24. WAIVER OF SUBROGATION, Lessee and Lessor do hereby release and relieve the other, and waive their entire claim of recovery for loss, damage, injury, and all liability of every kind and nature which may arise out of, or be incident to, fire and extended coverage perils, in, on, or about the Premises herein described, whether due to negligence of either of said parties, their agents, or employees, or otherwise.

25. SUBORDINATION, This lease and all interest and estate of Lessee hereunder is subject to and is hereby subordinated to all present and future mortgages and deeds of trust affecting the Premises or the property of which said Premises are a part. Lessee agrees to execute at no expense to the Lessor, any instrument which may be deemed necessary or desirable by the Lessor to further effect the subordination of this lease to any such mortgage or deed of trust. In the event of a sale or assignment of Lessor's interest in the Premises, or in the event of any proceedings brought for the

foreclosure of, or in the event of exercise of the power of sale under any mortgage or deed of trust made by Lessor covering the Premises, Lessee shall attorn to the purchaser and recognize such purchaser as Lessor. Lessee agrees to execute, at no expense to Lessor, any estoppel certificate deemed necessary or desirable by Lessor to further effect the provisions of this paragraph provided that a non-disturbance agreement is received from the Lessor.

26. CASUALTY, In the event the leased Premises or the said building is destroyed or injured by fire, earthquake or other casualty to the extent that they are untenantable in whole or in part, then Lessor may, at Lessor's option, proceed with reasonable diligence to rebuild and restore the said Premises or such part thereof as may be injured as aforesaid, provided that within sixty (60) days after such destruction or injury Lessor will notify Lessee of Lessor's intention to do so, and during the period of such rebuilding and restoration the rent shall be abated on the portion of the Premises that is unfit for occupancy. During any period of abatement of rent due to casualty or destruction of the Premises, Lessor shall use its best efforts to locate comparable space for Lessee at the fair market rate not to exceed Lessee's rental rate hereunder. Lessor shall not be liable for any consequential damages by reason of inability, after use of its best efforts, to locate alternative space comparable to the premises leased hereunder.

27. INSOLVENCY, If Lessee becomes insolvent, or makes an assignment for the benefit of creditors, or a receiver is appointed for the business or property of Lessee, or a petition is filed in a court of competent jurisdiction to have Lessee adjudged bankrupt, then Lessor may at Lessor's option terminate this lease. Said termination shall reserve unto Lessor all of the rights and remedies available under Paragraph 28 ("Default") hereof, and Lessor may accept rents from such assignee or receiver without waiving or forfeiting said right of termination. As an alternative to exercising his right to terminate this lease, Lessor may require Lessee to provide adequate assurances, including the posting of a cash bond, of Lessee's ability to perform its obligations under this lease.

28. DEFAULT, If this lease is terminated in accordance with any of the terms herein (with the exception of Paragraph 27), or if Lessee vacates or abandons the Premises and fails to pay rent or if Lessee shall fail at any time to keep or perform any of the covenants or conditions of this lease, i.e. specifically the covenant for the payment of monthly rent, and such failure is not cured within ten (10) days after written notice thereof by Lessor to Lessee in the case of monetary default and 30 (thirty) days for all other defaults under the lease, then, and in any of such events Lessor may with or without notice or demand, at Lessor's option, and without being deemed guilty of trespass and/or without prejudicing any remedy or remedies which might otherwise be used by Lessor for arrearages or preceding breach of covenant or condition of this lease, enter into and repossess said Premises and expel the Lessee and all those claiming under Lessee by legal means. In such event Lessor may eject and remove from said Premises all goods and effects. This lease if not otherwise terminated may immediately be declared by Lessor as terminated. The termination of this lease pursuant to this Article shall not relieve Lessee of its obligations to make the payments required herein. In the event this lease is terminated pursuant to this Article, or if Lessor enters the Premises without terminating this lease and Lessor relets all or a portion of the Premises, Lessee shall be liable to Lessor for all the costs of reletting, including necessary renovation and alteration of the leased Premises. Lessee shall remain liable for all unpaid rental which has been earned plus late payment charges pursuant to Paragraph 21 and for the remainder of the term of this lease for any deficiency between the net amounts received following reletting and the gross amounts due from Lessee, or if Lessor elects, Lessee shall be immediately liable for all rent and additional rent (Paragraph 19) that would be owing to the end of the term, less any rental loss Lessee proves could be reasonably avoided, which amount shall be discounted by the discount rate of the Federal Reserve Bank, situated nearest to the Premises, plus one percent (1%). Waiver by the Lessor of any default, monetary or non-monetary, under this Lease shall not be deemed a waiver of any future default under the Lease. Acceptance of rent by Lessor after a default shall nol be deemed a waiver of any defaults (except the default pertaining to the particular payment accepted) and shall not act as a waiver of the right of Lessor to terminate this Lease as a result of such defaults by an unlawful detainer action or otherwise. Landlord win make a good faith attempt, and will use its best effort to relet the premises.

29. BINDING EFFECT, The parties hereto further agree with each other that each of the provisions of this lease shall extend to and shall, as the case may require, bind and inure to the benefit, not only of Lessor and Lessee, but also of their respective heirs, legal representatives, successors and assigns, subject, however, to the provisions of Paragraph 18 of this lease.

It is also understood and agreed that the terms “Lessor” and “Lessee” and verbs and pronouns in the singular number are uniformly used throughout this lease regardless of gender, number or fact of incorporation of the parties hereto. The typewritten riders or supplemental provisions, if any, attached or added hereto are made a part of this lease by reference. It is further mutually agreed that no waiver by Lessor of a breach by Lessee of any covenant or condition of this lease shall be construed to be a waiver of any subsequent breach of the same or any other covenant or condition.

30. HOLDING OVER, If Lessee holds possession of the Premises after term of this lease, Lessee shall be deemed to be a month-to-month tenant upon the same terms and conditions as contained herein, except rent which shall be revised to reflect the then current market rate. During month-to-month tenancy, Lessee acknowledges Lessor will be attempting to relet the Premises. Lessee agrees to cooperate with Lessor and Lessee further acknowledges Lessor’s statutory right to terminate the lease with 30 days written notice.

31. ATTORNEY’S FEES, If any legal action is commenced to enforce any provision of this lease, the prevailing party shall be entitled to an award of reasonable attorney’s fees and disbursements.

32. NO REPRESENTATIONS, The Lessor has made no representations or promises except as contained herein or in some future writings signed by Lessor.

33. QUIET ENJOYMENT, So long as Lessee pays the rent and performs the covenants contained in this lease, Lessee shall hold and enjoy the Premises peaceably and quietly, subject to the provisions of this lease.

34. RECORDATION, Lessee shall not record this lease without the prior written consent of Lessor. However, at the request of Lessor, both parties shall execute a memorandum or “short form” of this lease for the purpose of recordation in a form customarily used for such purpose. Said memorandum or short form of this lease shall describe the parties, the Premises and the lease term, and shall incorporate this lease by reference.

35. MUTUAL PREPARATION OF LEASE, It is acknowledged and agreed that this lease was prepared mutually by both parties. In the event of ambiguity, it is agreed by both parties that it shall not be construed against either party as the drafter of this lease.

36. GOVERNING LAW, This lease shall be governed by, construed and enforced in accordance with the laws of the State of Washington.

37. FINISH WORK, The space is leased in an as-is condition except that Lessor agrees, at Lessor’s expense, to install new building standard carpet and cove base throughout and to repaint the premises as selected by the tenant for color and type. Lessor also agrees to add one perimiter door at the lobby and install locks on all perimeter entrance doors into the premises, to remove the raised floor areas prior to recarpeting and to ensure that all building systems, including HVAC equipment and electrical outlets are in good condition and repair. Any additional alterations, modifications or tenant improvements shall be at Lessee’s expense and with Lessor’s prior approval of drawings and Lessee’s contractor.

38. PARKING, Lessee shall be provided parking for ten (10) cars inside the building garage at market rate and paid for by Lessee.

39. REAL ESTATE COMMISSION, Lessor and Lessee hereby acknowledge that Flinn Ferguson Corporate Real Estate represented Lessee in this transaction. Lessor agrees to pay a real estate commission to Flinn Ferguson equivalent to $4.00 per rentable square foot upon lease commencement.

40. OPTION TO RENEW, Provided that Lessee is not in default of any terms and conditions of this lease, Lessee shall have the option to renew this lease for an additional period of five (5) years on the same terms and conditions except the rent. Base rent for the renewal term shall be at market rate for comparable office space in Seattle. Lessee agrees to give Lessor notice of its intent to renew 120 days prior to the expiration of the initial lease term.

41. EARLY ACCESS, Lessee shall be allowed access to the Premises, not later than December 1, 2000, for the purpose of space planning, installing cabling and performing tenant improvements therein. No rent shall be charged Lessee until the lease commencement date set forth in Paragraph 2; however, all other terms and conditions of the lease will be in full force and effect as of the date of Lessee's possession of the Premises. Lessor will make a good faith effort to provide Lessee access prior to December 1, 2000.

42. ENVIRONMENTAL WARRANTY Lessor represents that to his knowledge there are no pre-existing conditions of hazardous material which are in violation of any environmental laws.

43. NOTICES Notices are to be simultaneously sent to Lessee at the premises, and, to the corporate office to the attention of the Facilities Manager.

IN WITNESS WHEREOF, the parties hereof have executed this lease the day and year first above written.

SELIG REAL ESTATE HOLDINGS FIVE,
a Washington general partnership

/s/ MARTIN SELIG

By: **Martin Selig**
Its: **General Partner**

"Lessor"

ECOLOGY AND ENVIRONMENT INCORPORATED,
a New York corporation

/s/ RONALD L. FRANK

By: **Ronald L. Frank**
Its: **Executive Vice President**

"Lessee"

** ADDITION TO SECTION 2 – TERM

Landlord will execute a Lease Termination Agreement with the "Now Current Lessee" of the Premises by November 6, 2000, or, Lessee will have the option to terminate this lease agreement without penalty or default, or, to extend this imposed deadline by a length of time to be determined by the Lessee.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 6th day of november, 2000, before me, a Notary Public in and for the State of Washington, personally appeared MARTIN SELIG, to me known to be the Managing Member, respectively, of Seligleal Estate Holdings Five the entity that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he/she/they is/are authorized to execute said instrument on behalf of the entity.

/s/ ANN MARIE FOWLER

[SEAL]

Notary Public in and for the State of Washington
Residing at: Reamond
My commission expires: 8/1/01

(Individual)

STATE OF)
) ss.
COUNTY OF)

On this ____ day of _____, 20__ , before me, a Notary Public in and for the State of _____, personally appeared _____, the individual(s) who executed the within and foregoing instrument, and acknowledged said instrument to be his/her/their free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

(Partnership)

STATE OF)
) ss.
COUNTY OF)

On this ____ day of _____, 20__ , before me, a Notary Public in and for the State of _____, personally appeared _____, to me known to be partner(s) of _____, the partnership that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he/she/they is/are authorized to execute said instrument on behalf of the partnership.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

(Corporation)

STATE OF NEW YORK)
) ss.
COUNTY OF ERIE)

On this 1st day of november, 2000, before me, a Notary Public in and for the State of NEW YORK , personally appeared RONALD L. FRANK , to me known to be the EXECUTIVE VICE PRESIDENT , respectively, of ECOLOGY & ENVIRONMENT, INC. , the corporation that executed the within and foregoing instrument, and acknowledged 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/they is/are authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

/s/ DIANE L. GILBERT

DIANE L. GiLBERT
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 7/13/2002

Notary Public in and for the State of NEW YORK
Residing at: 6554 TONAWANDA CREEK ROAD LOCKPORT NY 14094
My commission expires: July 13, 2002

notary.leases.version2.dot

EXHIBIT A

[GRAPHIC]

EXHIBIT B

EXAMPLE

The intent is to include Lessee's proportionate share of all Base Year Costs in Lessee's Annual Base Rental Rate. It is further the intent to limit adjustments to Lessee's Base Year Costs to actual increases in cost. The Operating Services are adjusted to the greater of actual occupancy or 95% occupancy for the base year to fairly establish the Base Year Costs at an equitable standard for comparison purposes. Comparison Years are similarly adjusted for purposes of fairness and equality. To prevent any confusion regarding computation of Base Year Costs, Comparison Year Costs and the adjustment of those costs to 95% occupancy, if necessary, we have set forth the following example. It is important to note that if adjustment to 95% occupancy is necessary, not all Operating Services are adjusted.

Expenses requiring adjustment are those which are 100% dependent upon the change in footage and adjust with the change in occupied footage. This category includes electricity, water/sewer, superintendent, disposal, management, janitorial supplies, window washing, repair and maintenance, HVAC maintenance, and janitorial labor.

Other expenses do not require adjustment nor are they dependent upon occupied footage change. These categories are the same whether the building is empty or full. They are, insurance, security, elevator, landscaping and telephone.

Real Estate Taxes are dependent upon independent assessment. Real Estate Taxes are not adjusted to 95%, but are established for each respective year based on the actual tax paid whether for the respective Base Year or each subsequent Comparison Year(s).

Please note the expenses noted below which are and are not adjusted and the adjustment to each expense to achieve. 95% occupancy, if necessary. The method of adjusting expenses depicted in the example will be followed when adjusting actual Operating Service Expenses for both the Base Year and Comparison Year(s).

HYPOTHETICAL FACTS

Building Occupancy:	80%
Actual Base Year Costs:	$ 375,000
Grossed Base Year Costs to 95%:	$ 440,000
Actual Comparison Year Costs: (see below)	$ 405,440
Grossed Comparison Year Costs to 95%: (see below)	$ 463,080
Tenant Premises:	10,000 RSF
Building RSR	125,000 RSF
Tenant Proportionate Basis:	10,000 , 125,000 = 8%

EXAMPLE

Description	Actual Expenses	Grossed Expenses	
Percent Occupied	80.00%	95.00%	Methodology
Real Estate Taxes	$ 54,854	$ 54,854	Actual Cost
Operating Expenses			
Insurance	$ 26,595	$ 26,595	Actual Cost
Electricity	$ 69,358	$ 82,363	Adjusts with occupancy
Water & Sewer	$ 4,945	$ 5,872	Adjusts with occupancy
Security	$ 5,000	$ 5,000	Actual Cost
Elevator	$ 7,526	$ 7,526	Actual Cost
Superintendent	$ 82,869	$ 98,407	Adjusts with occupancy
Landscaping	$ 2,912	$ 2,912	Actual Cost
Disposal	$ 15,502	$ 18,409	Adjusts with occupancy
Management	$ 41,680	$ 49,495	Adjusts with occupancy
Supplies	$ 4,339	$ 5,153	Adjusts with occupancy
Window Washing	$ 1,527	$ 1,813	Adjusts with occupancy
Repairs & Maintenance	$ 24,333	$ 28,895	Adjusts with occupancy
Telephone	$ 1,144	$ 1,144	Actual Cost
HVAC Maintenance	$ 6,208	$ 7,372	Adjusts with occupancy
Janitorial	$ 56,648	$ 67.270	Adjusts with occupancy
TOTALS:	$ 405,440	$ 463,080	

Exhbt_b

SUBLEASE EXHIBIT B
SUBLEASED PREMISES

[GRAPHIC]

Exhibit 10.3

FOURTH AND BLANCHARD
OFFICE LEASE

THIS LEASE, made the 5th day of September, 2003, by and between SELIG REAL ESTATE HOLDINGS FIVE, a Washington limited liability company, whose address is 1000 Second Avenue, Suite 1800, Seattle, Washington, 98104-1046, hereinafter referred to as "Lessor" and Marchex, Inc., whose address is 2101 Fourth Avenue Seattle, Washington 98121, hereinafter referred to as "Lessee".

1. DESCRIPTION, Lessor in consideration of the agreements contained in this lease, does hereby lease to Lessee, upon the terms and conditions hereinafter set forth, that certain space consisting of the agreed upon square footage* of 3,122 (hereinafter referred to as "Premises") situated on the 13th floor level of the Fourth & Blanchard Building, 2121 Fourth Avenue, City of Seattle, State of Washington 98121, whose mailing address is 2101 Fourth Avenue, Seattle, Washington 98121, the legal description of which is:

Lots 7, 8, 9, 10, 11 and 12, Block C, Third addition to the part of the City of Seattle heretofore laid off by A. A. Denny and William N. Bell according to plat recorded in Volume 1 of plats, page 137 in King County Washington, except in the north easterly 12 feet thereof as condemned for road purposes under King County Superior Court, cause number 52280.

Suite 1330

*Rentable square footage stated above is an estimate of the rentable square footage and is based on the Building Owners and Managers Association Standard Method for Measuring Area in Office Buildings (ANSI/BOMA Z65.1-1996). Lessor shall provide evidence of the actual BOMA RSF calculation prior to Lease execution.

2. TERM, The term of this lease shall be for a period of six (6) months, commencing the date of occupancy or substantial completion whichever occurs first, which is approximately the 1st day of October, 2003, and ending six (6) months thereafter. Notwithstanding the foregoing, Lessee and its agents, contractors etc. shall have the right to enter the Premises prior to the commencement date for the purposes of installing Lessor approved improvements, cabling, furniture, etc, which use shall not constitute occupancy and shall be rent free.

3. RENT, Lessee covenants and agrees to pay Lessor rent each month in advance on the first day of each calendar month. Rent shall be computed at the annual base rental rate of $18.00 per square foot. Rent for any fractional calendar month, at the beginning or end of the term, shall be the pro rated portion of the rent computed on an annual basis. During the term of the lease and, if applicable an extension of the term per paragraph 29, Option to Renew, there shall be no pass through of operating expense and real estate tax increases.

4. CONSIDERATION, As consideration for the execution of this lease, Lessee has this date paid to Lessor the sum of $4,683.00, as the first month's rent, receipt of which is hereby acknowledged.

5. USES, Lessee agrees that Lessee will use and occupy said Premises for general offices and related purposes, including but not limited to server rooms and similar uses specific to Lessee's business, and for no other purposes.

6. RULES AND REGULATIONS, Lessee and their agents, employees, servants or those claiming under Lessee will at all times observe, perform and abide by all of the Rules and Regulations that are contained in this lease, or which may be hereafter reasonably promulgated by Lessor, all of which it is covenanted and agreed by the parties hereto shall be and are hereby made a part of this lease.

7. CARE AND SURRENDER OF PREMISES, Lessee shall take good care of the Premises and shall promptly make all necessary repairs except those required herein to be made by Lessor. At the expiration or sooner termination of this lease, Lessee, without notice, will immediately and peacefully quit and surrender the Premises in good order, condition and repair (damage by reasonable wear, the elements (including water damage), or fire excepted).

Lessee shall be responsible for removal of all personal property from the Premises, (excepting fixtures being that which is attached to the Premises, and property of the Lessor) including, but not limited to, the removal of Lessee's communication cabling, telephone equipment and signage to the extent such communications cabling, telephone equipment or signage was installed be Lessee. Lessee shall be responsible for repairing any damage to the Premises caused by such removal. If Lessee fails to remove and restore the Premises at lease expiration, then Lessor shall have the right to remove said property and restore the Premises and Lessee shall be responsible for all costs associated therewith. Lessee shall also be responsible for those costs incurred by Lessor for removing debris Lessee may discard in the process of preparing to vacate the Premises and for a final cleaning of the Premises, including, but not limited to, the cleaning, or replacement of carpets if damage is not caused by reasonable wear, and removal and disposal of Lessee's personal property remaining in the Premises.

8. ALTERATIONS, Lessee shall not make any alterations or improvements in, or additions to said Premises without first obtaining the written consent of Lessor, whose consent shall be timely and shall not be unreasonably withheld. All such alterations, additions and improvements shall be at the sole cost and expense of Lessee and shall become the property of Lessor and shall remain in and be surrendered with the Premises as a part thereof at the termination of this lease, without disturbance, molestation or injury.

9. RESTRICTIONS, Lessee will not use or permit to be used in said Premises anything that will increase the rate of insurance on said building or any part thereof, nor anything that may be dangerous to life or limb; nor in any manner deface or injure said building or any part thereof; nor overload any floor or part thereof; nor permit any objectionable noise or odor to escape or to be emitted from said Premises, or do anything or permit anything to be done upon said Premises in any way tending to create a nuisance or to disturb any other tenant or occupant of any part of said building. Lessee, at Lessee's expense, will comply with all health, fire and police regulations respecting said Premises. The Premises shall not be used for lodging or sleeping, and no animals or birds will be allowed in the building.

10. WEIGHT RESTRICTIONS, Safes, furniture or bulky articles may be moved in or out of said Premises only at such hours and in such manner as will least inconvenience other tenants, which hours and manner shall be at the discretion of Lessor. No safe or other article of over 2,000 pounds shall be moved into said Premises without the consent of Lessor, whose consent shall not be unreasonably withheld, and Lessor shall have the right to locate the position of any article of weight in said Premises if Lessor so desires.

11. SIGN RESTRICTION, No sign, picture, advertisement or notice shall be displayed, inscribed, painted or affixed to any of the glass or woodwork of the building without the prior approval of Lessor.

12. LOCKS, No additional locks shall be placed upon any doors of the Premises, except for those locks on server rooms and the like, subject to Lessor's consent, which consent shall not be unreasonably withheld, refused or delayed. Keys will be furnished to each door lock. The 13th floor Premises shall be keyed the same as the 19th floor sublease premises. At the termination of the lease, Lessee shall surrender all keys to the Premises whether paid for or not.

13. KEY, Lessor, his janitor, engineer or other agents may retain a pass key to said Premises to enable him to examine the Premises from time to time with reference to any emergency or to the general maintenance of said Premises.

14. TELEPHONE SERVICE, If Lessee desires telephonic or any other electric connection, Lessor will direct the electricians as to where and how the wires are to be introduced, and without such directions no boring or cutting for wires in installation thereof will be permitted. Lessor specifically permits Lessee, at Lessee's sole expense, to install cabling for voice and/or data from the 19th floor sublease premises to the 13th floor Premises. Lessor will not charge any access fees for use of risers, conduit, etc.

15. SERVICES, Lessor shall maintain Premises and the public and common areas of building, such as lobbies, stairs, corridor and restrooms, in reasonably good order and condition in the manner of a first class office building, except for damage occasioned by the act of Lessee.

Lessor shall furnish Premises with electricity for lighting and operation of low power usage office machines, heat, normal office air-conditioning, and elevator services, during the ordinary business hours of the building.

Air-conditioning units and electricity therefore for special air-conditioning requirements, such as for computer centers, shall be at Lessee's expense. Lessor shall also provide lighting replacement for Lessor furnished lighting, toilet room supplies, window washing with reasonable frequency, and customary janitor service.

Lessor shall not be liable to Lessee for any loss or damage caused by or resulting from any variation, interruption or any failure of said 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 or strike or conditions or events not under Lessor's control shall be deemed as an eviction of Lessee or relieve Lessee from any of Lessee's obligations hereunder. Notwithstanding the foregoing, if an interruption should last more than three consecutive business days, then the rent shall be abated from the fourth day until the service is restored.

In the event of any lack of attention on the part of Lessor and any dissatisfaction with the service of the building, or any unreasonable annoyance of any kind, Lessee is requested to make complaints at Lessor's building office and not to Lessor's employees or agents seen within the building. Lessee is further requested to remember that Lessor is as anxious as Lessee that a high grade service be maintained, and that the Premises be kept in a state to enable Lessee to transact business with the greatest possible ease and comfort. The rules and regulations are not made to unnecessarily restrict Lessee, but to enable Lessor to operate the building to the best advantage of both parties hereto. To this end Lessor shall have the right to waive from time to time such part or parts of these rules and regulations as in his judgment may not be necessary for the proper maintenance or operation of the building or consistent with good service, and may from time to time make such further reasonable rules and regulations as in his judgment may be needed for the safety, care and cleanliness of the Premises and the building and for the preservation of order therein.

16. SOLICITORS, Lessor will make an effort to keep solicitors out of the building, and Lessee will not oppose Lessor in his attempt to accomplish this end.

17. FLOOR PLAN, An "as-built" floor plan shall be attached hereto and marked Exhibit "A".

18. ASSIGNMENT, Lessee will not assign this lease, or any interest hereunder, and this lease, or any interest hereunder, shall not be assigned by operation of law. Lessee will not sublet said Premises or any part thereof and will not permit the use of said Premises by others other than Lessee and the agents of Lessee without first obtaining the written consent of Lessor, whose consent shall not be unreasonably withheld. No such consent shall be required for any entity that is related to or an affiliate of Lessee.

In the event such written consent shall be given, no other or subsequent assignment or subletting shall be made without the previous written consent of Lessor, whose consent shall not be unreasonably withheld. Lessee shall pay reasonable costs to Lessor for reviewing and executing such assignment and/or sublease.

In the event Lessee desires to assign or sublet said Premises or any part thereof, Lessor shall have the first right, but not the obligation to re-lease the Premises.

19. Parking, Lessee shall be provided parking for up to two (2) cars inside the building parking garage at market rate and paid for by Lessee.

20. ADDITIONAL TAXES OR ASSESSMENTS, Should there presently be in effect or should there be enacted during the term of this Lease, any law, statute or ordinance levying any assessments or any tax upon the leased premises other than federal or state income-based taxes, Lessee shall reimburse Lessor for Lessee's proportionate share of said expenses at the same time as rental payments.

21. LATE PAYMENTS, Any payment, required to be made pursuant to this Lease, not made on the date the same is due shall bear interest at a rate equal to three percent (3%) above the prime rate of interest charged from time to time by Bank of America, or its successor.

In addition to any interest charged herein, a late charge of five percent (5%) of the payment amount shall be incurred for payments received more than five (5) days late.

22. RISK, All personal property of any kind or description whatsoever in the demised Premises shall be at Lessee's sole risk. Lessor shall not be liable for any damage done to or loss of such personal property or damage or loss suffered by the business or occupation of the Lessee arising from any acts or neglect of co-tenants or other occupants of the building, or of Lessor or the employees of Lessor, or of any other persons, or from bursting, overflowing or leaking of water, sewer or steam pipes, or from the heating or plumbing or sprinklering fixtures, or from electric wires, or from gas, or odors, or caused in any other manner whatsoever except in the case of negligence on the part of Lessor. Lessee shall keep in force throughout the term of this lease such casualty, general liability and business interruption insurance as a prudent tenant occupying and using the Premises would keep in force.

23. INDEMNIFICATION, Lessee will defend, indemnify and hold harmless Lessor from any claim, liability or suit including attorney's fees on behalf of any person, persons, corporations and/or firm for any injuries or damages occurring in or about the said Premises or on or about the sidewalk, stairs, or thoroughfares adjacent thereto where said damages or injury was caused or partially caused by the ordinary or gross negligence or intentional act of Lessee and/or by Lessee's agents, employees, servants, customers or clients.

24. WAIVER OF SUBROGATION, Lessee and Lessor do hereby release and relieve the other, and waive their entire claim of recovery for loss, damage, injury, and all liability of every kind and nature which may arise out of, or be incident to, fire and extended coverage perils, in, on, or about the Premises herein described, whether due to negligence of either of said parties, their agents, or employees, or otherwise.

25. SUBORDINATION, This lease and all interest and estate of Lessee hereunder is subject to and is hereby subordinated to all present and future mortgages and deeds of trust affecting the Premises or the property of which said Premises are a part. Lessee agrees to execute at no expense to the Lessor, any instrument which may be deemed necessary or desirable by the Lessor to further effect the subordination of this lease to any such mortgage or deed of trust. In the event of a sale or assignment of Lessor's interest in the Premises, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or deed of trust made by Lessor covering the Premises, Lessee shall attorn to the purchaser and recognize such purchaser as Lessor.

Lessee agrees to execute, at no expense to Lessor, any estoppel certificate deemed necessary or desirable by Lessor to further effect the provisions of this paragraph.

26. CASUALTY, In the event the leased Premises or the said building is destroyed or injured by fire, earthquake or other casualty to the extent that they are untenantable in whole or in part, then Lessor may, at Lessor's option, proceed with reasonable diligence to rebuild and restore the said Premises or such part thereof as may be injured as aforesaid, provided that within thirty (30) days after such destruction or injury Lessor will notify Lessee of Lessor's intention to do so, and during the period of such rebuilding and restoration the rent shall be abated on the portion of the Premises that is unfit for occupancy. During any period of abatement of rent due to casualty or destruction of the Premises, Lessor shall use its best efforts to locate comparable space for Lessee at the fair market rate not to exceed Lessee's rental rate hereunder. Lessor shall not be liable for any consequential damages by reason of inability, after use of its best efforts, to locate alternative space comparable to the premises leased hereunder.

27. INSOLVENCY, If Lessee becomes insolvent, as defined under bankruptcy code and filed for protection under such bankruptcy code, or makes an assignment for the benefit of creditors, or a receiver is appointed for the business or property of Lessee, or a petition is filed in a court of competent jurisdiction to have Lessee adjudged bankrupt, then Lessor may at Lessor's option terminate this lease. Said termination shall reserve unto Lessor all of the rights and remedies available under Paragraph 28 ("Default") hereof, and Lessor may accept rents from such assignee or receiver without waiving or forfeiting said right of termination. As an alternative to exercising his right to terminate this lease, Lessor may require Lessee to provide adequate assurances, including the posting of a cash bond, of Lessee's ability to perform its obligations under this lease.

28. DEFAULT, If this lease is terminated in accordance with any of the terms herein (with the exception of Paragraph 27), or if Lessee vacates or abandons the Premises or if Lessee shall fail at any time to keep or perform any of the covenants or conditions of this lease, i.e. specifically the covenant for the payment of monthly rent, then, and in any of such events Lessor may with or without notice or demand, at Lessor's option, and without being deemed guilty of trespass and/or without prejudicing any remedy or remedies which might otherwise be used by Lessor for arrearages or preceding breach of covenant or condition of this lease, enter into and repossess said Premises and expel the Lessee and all those claiming under Lessee. In such event Lessor may eject and remove from said Premises all goods and effects (forcibly if necessary). This lease if not otherwise terminated may immediately be declared by Lessor as terminated. The termination of this lease pursuant to this Article shall not relieve Lessee of its obligations to make the payments required herein. In the event this lease is terminated pursuant to this Article, or if Lessor enters the Premises without terminating this lease and Lessor relets all or a portion of the Premises, Lessee shall be liable to Lessor for all the costs of reletting, including necessary renovation and alteration of the leased Premises. Lessee shall remain liable for all unpaid rental which has been earned plus late payment charges pursuant to Paragraph 21 and for the remainder of the term of this lease for any deficiency between the net amounts received following reletting and the gross amounts due from Lessee provided that the Lessor has used its best efforts to obtain the highest rental amount upon re-letting the space, or if Lessor elects, Lessee shall be immediately liable for all rent and additional rent (Paragraph 19) that would be owing to the end of the term, less any rental loss Lessee proves could be reasonably avoided. Waiver by the Lessor of any default, monetary or non-monetary, under this Lease shall not be deemed a waiver of any future default under the Lease. Acceptance of rent by Lessor after a default shall not be deemed a waiver of any defaults (except the default pertaining to the particular payment accepted) and shall not act as a waiver of the right of Lessor to terminate this Lease as a result of such defaults by an unlawful detainer action or otherwise.

29. OPTION TO RENEW, Provided Lessee is not in default of any of the terms herein, with two (2) months prior written notice, Lessee may extend the lease term by six (6) months under all the same terms and conditions contained in this lease including the rent.

30. AS-IS, WHERE-IS, Lessee acknowledges Lessee has inspected the Premises and accepts them in an "as-is, where-is" condition. Except for carpet shampooing and general cleaning throughout and re-keying the entry door, Lessor will not be called upon to make any other modifications and/or improvements.

31. BINDING EFFECT. The parties hereto further agree with each other that each of the provisions of this lease shall extend to and shall, as the case may require, bind and inure to the benefit, not only of Lessor and Lessee, but also of their respective heirs, legal representatives, successors and assigns, subject, however, to the provisions of Paragraph 18 of this lease.

It is also understood and agreed that the terms "Lessor" and "Lessee" and verbs and pronouns in the singular number are uniformly used throughout this lease regardless of gender, number or fact of incorporation of the parties hereto. The typewritten riders or supplemental provisions, if any, attached or added hereto are made a part of this lease by reference. It is further mutually agreed that no waiver by Lessor of a breach by Lessee of any covenant or condition of this lease shall be construed to be a waiver of any subsequent breach of the same or any other covenant or condition.

32. HOLDING OVER, If Lessee holds possession of the Premises after term of this lease, Lessee shall be deemed to be a month-to-month tenant upon the same terms and conditions as contained herein, Including the rent. During month-to-month tenancy, Lessee acknowledges Lessor will be attempting to relet the Premises. Lessee agrees to cooperate with Lessor and Lessee further acknowledges Lessor's statutory right to terminate the lease with proper notice. Lessor agrees to give Lessee either consentually agreed to notice or 24 hours notice prior to any visit or inspection by a prospective tenant.

33. ATTORNEY'S FEES, If any legal action is commenced to enforce any provision of this lease, the prevailing party shall be entitled to an award of reasonable attorney's fees and disbursements.

34. NO REPRESENTATIONS, The Lessor has made no representations or promises except as contained herein or in some future writings signed by Lessor.

35. QUIET ENJOYMENT, So long as Lessee pays the rent and performs the covenants contained in this lease, Lessee shall hold and enjoy the Premises peaceably and quietly, subject to the provisions of this lease.

36. RECORDATION, Lessee shall not record this lease without the prior written consent of Lessor. However, at the request of Lessor, both parties shall execute a memorandum or "short form" of this lease for the purpose of recordation in a form customarily used for such purpose. Said memorandum or short form of this lease shall describe the parties, the Premises and the lease term, and shall incorporate this lease by reference.

37. MUTUAL PREPARATION OF LEASE, It is acknowledged and agreed that this lease was prepared mutually by both parties. In the event of ambiguity, it is agreed by both parties that it shall not be construed against either party as the drafter of this lease.

38. GOVERNING LAW. This lease shall be governed by, construed and enforced in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the parties hereof have executed this lease the day and year first above written.

SELIG REAL ESTATE HOLDINGS FIVE, a Washington limited liability company	MARCHEX, INC.
/s/ MARTIN SELIG	/s/ RUSSELL C. HOROWITZ
By: **Martin Selig** Its: **Managing Member**	By: **Russell C. Horowitz** Its: **CEO**
"Lessor"	"Lessee"

STATE OF WASHINGTON.)
) ss.
COUNTY OF KING)

On this 12th day of Sept, 2003 before me, a Notary Public in and for the State of Washington, personally appeared MARTIN SEILG, to me known to be the Managing member respectively, of Selig Real Estate Holdings Fine, LLC the entity that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he/she/they is/are authorized to execute said instrument on behalf of the, entity.

/s/ JILL M. HAYES

[SEAL]

Notary Public in and for the State of Washington
Residing at: Fall City
My commission expires: 6.1.06

(Individual)

STATE OF)
) ss.
COUNTY OF)

On this __ day of _____, 20__ before me, a Notary Public in and for the State of _____, personally appeared _____ _____, the individual(s) who executed the within and foregoing instrument, and acknowledged said instrument to be his/her/their free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

(Partnership)

STATE OF)
) ss.
COUNTY OF)

On this __ day of _____, 20__ before me, a Notary Public in and for the State of _____, personally appeared _____ _____, to me known to be partner(s) of _____ _____, the partnership that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he/she/they is/are authorized to execute said instrument on behalf of the partnership.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

(Corporation)

STATE OF)
) ss.
COUNTY OF)

On this 11 day of September, 2003 before me, a Notary Public in and for the State of WA, personally appeared Russell C. Horowity, to me known to be CEO respectively, of Marachey, Inc., the corporation that executed the within and foregoing instrument, and acknowledged 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/they is/are authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

/s/ GRETCHEN BRAUNSCHWERY

Notary Public in and for the State of WA
Residing at: 1557 E Garfield St
My commission expires: 3/15/04

EXHIBIT “A”

[GRAPHIC]

Exhibit 10.4

SUBLEASE

1. PARTIES

This Sublease, dated as of March 13, 2000, is made between MyFamily.com, Inc., a Utah corporation ("MyFamily") and ah-ha.com, Inc. ("Ah-ha").

2. MASTER LEASE

1. Franklin Covey Co. is the tenant under a written lease dated October 29, 1996, ("Building II Lease") wherein Covey Corporate Campus Two, L.L.C. ("CCC2") leased to Franklin Covey Co. the real property located at 466 West 4800 North, in the city of Provo, State of Utah (identified in the Building II Lease as 350 West 4800 North, Provo, Utah) generally described as Riverwoods Building II ("Building II") and more particularly described in Exhibit B to the Building II Lease. Said Building II Lease has been amended by the Amendment to Lease Agreement (Building No. 2) dated March 21,1997 ("Building II Amendment").
2. MyFamily is the sublessee under a written sublease dated February 18, 2000, wherein Franklin Covey Co. subleased Building II to MyFamily.
3. Building II Lease, together with Building II Amendment and the Sublease Agreement with MyFamily, are herein collectively referred to as the "Master Lease and Sublease" and are attached hereto as Exhibit "A."

   At the time of execution the part of the Premises subject of this Sublease is the west wing of the second floor of Building II (9,000 square feet) of the real property described in Exhibit A to the Master Lease and Sublease, as well as card access for Ah-ha employees to the restroom and break facilities located in the east wing of the second floor of Building II. Effective December 1, 2002, the lease will include the north section of the east wing, including the restrooms and the "break room" located centrally in the east wing, of the second floor of Building II according to the plan shown is Exhibit B, or 45 % of the floor space of the east wing for a total leased area of 13,050 square feet.
4. Ah-ha agrees to assume and perform all obligations of Franklin Covey Co., the lessee under the Master Lease; provided, however, that if any provision of the Master Leases conflicts with any provision of this Sublease, the provision of this Sublease shall prevail.

3. PREMISES

MyFamily hereby subleases to Ah-ha the Premises on the terms and conditions set forth in this Sublease.

4. WARRANTY BY MyFamily

MyFamily warrants and represents to Ah-ha that, to the best of its knowledge, the Master Lease has not been amended and that the Sublease has not been amended or modified except as expressly set forth herein, that MyFamily is not now, and as of the

commencement of the Term hereof (as set forth below) will not be, in default or breach of any of the provisions of the Master Lease or Sublease, and that MyFamily has no knowledge of any claim by CCC2 or Franklin Covey Co. that Franklin Covey Co. or MyFamily is in default or breach of any of the provisions of the Master Lease or Sublease.

5. TERM

The initial term of this Sublease ("Initial Term") shall be for a period of approximately thirty-six (36) months, commencing on the earlier to occur of (i) the date Ah-ha occupies any portion of the Premises for the purposes of conducting its business, or (ii) May 15, 2002 ("Commencement Date").

The Sublease Term for Ah-ha shall expire on May 14, 2005 ("Termination Date"), unless otherwise sooner terminated in "accordance with the provisions of this Sublease or if for any reason the Master Lease or Sublease are terminated. MyFamily shall deliver possession of the Premises in broom clean condition, and, upon termination, Ah-ha shall return the premises in the same condition.

Notwithstanding the above term and termination date, either party may terminate this Sublease for any reason and without stating a reason on 180 days notice to the other party.

6. RENT

1. Ah-ha shall pay to MyFamily as base rent ("Base Rent"), without deduction, setoff, notice or demand at 360 West 4800 North, Provo, Utah, or such other place as MyFamily shall designate from time to time by notice to Ah-ha, Base Rent in the amount of $15.00 per square foot. Subject to any adjustment in the actual square footage of the Premises mutually agreed upon, Ah-ha shall pay Base Rent in monthly installments as follows: $ 11,250.00, and after December 1, 2002, $16,312.50 per month. This Base Rent will increase by 3% on the 13 month and the 25 month of the Sublease term and again on the 37 month and the first month of any additional annual period if Ah-ha holds over into a month to month tenancy on termination of the primary term of this Sublease.

   Each monthly payment shall be made in advance of the first day of each month of the Sublease Term. If the Commencement Date begins on a day other than the first day of a month, the rent for the partial months shall be prorated on a per diem basis.

   It is the intent of both parties that the Base Rent herein specified is for the premises with power, light, heat and janitorial services and otherwise shall be absolutely net to MyFamily throughout the Initial Term or any Renewal Term, and that all costs, expenses and obligations relating to the Premises which may arise or become due during the Initial Term or any Renewal Term shall be paid by Ah-ha in the manner hereafter provided.

2. Further, Ah-ha will pay to MyFamily the direct costs associated with copiers, phone equipment and T1 connections provided by MyFamily at anytime during the term of this Agreement or any holdover thereto

3. *Furnishings.* Ah-ha shall pay MyFamily $1000 per month for the use of that furniture simultaneously with the payment of the base rent, with that amount increasing to $1500 on December 1, 2002.

4. *Interest and Late Charges.* If Ah-ha fails to pay within ten (10) days of the date due any rent or other amount or charges which Ah-ha is obligated to pay under the terms of this Sublease, the unpaid amount shall bear interest at the rate of ten percent (10%) per annum, hi addition to interest, if any such installment is not made by Ah-ha within ten (10) days from the date it is due, Ah-ha shall pay MyFamily to partially reimburse MyFamily, for the additional cost of handling such payment, a late charge equal to five percent (5%) of such installment. Acceptance of any interest or late charge shall not constitute a waiver of Ah-ha's default with respect to such nonpayment by Ah-ha nor prevent MyFamily from exercising any other rights or remedies available to MyFamily under this Sublease.

7. SECURITY DEPOSIT

Ah-ha shall deposit with MyFamily upon execution of this Sublease, the sum of $11,250.00, which is prepayment of the first month's rent, and $11,250.00 as security for Ah-ha's faithful performance of Ah-ha's obligations hereunder ("Security Deposit"). On December 1, 2002, Ah-ha shall deposit an additional $5062.50 as Security Deposit in relation to the additional space added to the Premises on that date. If Ah-ha fails to pay rent or other charges when due under this Sublease, or fails to perform any of its obligations hereunder, MyFamily may use or apply all or any portion of the Security Deposit for the payment of any rent or other amount when due hereunder and unpaid, for the payment of any other sum for which MyFamily may become obligated by reason of Ah-ha's default or breach, or for any loss or damage sustained by MyFamily as a result of Ah-ha's default or breach. If MyFamily so uses any portion of the Security Deposit, Ah-ha shall, within ten (10) days after written demand by MyFamily, restore the Security Deposit to the full amount originally deposited, and Ah-ha's failure to do so shall constitute a default under this Sublease. MyFamily shall not be required to keep the Security Deposit separate from its general accounts, and shall have no obligation or liability for payment of interest on the Security Deposit. In the event MyFamily assigns its interest in this Sublease, MyFamily shall deliver to its assignee so much of the Security Deposit as is then held by MyFamily. Provided Ah-ha is not then in default of any of its obligations hereunder, MyFamily shall apply a portion of the Security Deposit in an amount equal to Ah-ha's obligation for the last month's Base Rent; and within ten (10) days after the Sublease Term has expired, or Ah-ha has vacated the Premises, or any final adjustment pursuant to Subsection 6b hereof has been made, whichever shall last occur, and provided Ah-ha is not then in default of any of its obligations hereunder, so much of the Security Deposit as had not theretofore been applied by MyFamily, shall be returned to Ah-ha or to the last assignee, if any, of Ah-ha's interest hereunder.

8. AH-HA IMPROVEMENTS

Ah-ha agrees to sublease the Premises in "as is" condition. At the end of the term of this Sublease or any renewal thereof, Ah-ha shall remove from the Premises, at Ah-ha's cost, all of Ah-ha's equipment, fixtures and personal property, and repair any damage to the Premises caused by such removal.

9. SIGNAGE

Ah-ha may, at its sole expense, install signage in the lobby of Building II on the designated directory sign provided by MyFamily.

10. USE OF PREMISES

The Premises shall be used and occupied only for general office use, and for no other use or purpose. Ah-ha may use the Premises twenty-four (24) hours a day, seven (7) days a week.

11. ASSIGNMENT AND SUBLETTING

Ah-ha shall not assign this Sublease or further sublet all or any part of the Premises.

12. QUIET ENJOYMENT

Subject to the provisions of this Sublease and the Master Leases and Sublease and conditioned upon the performance of all of the provisions to be performed by Ah-ha hereunder and thereunder, MyFamily shall secure to Ah-ha during the Term the quiet and peaceful possession of the Premises and all rights and privileges appertaining thereto.

13. OTHER PROVISIONS OF SUBLEASE

All applicable terms and conditions of the Master Leases and Sublease are incorporated into and made a part of this Sublease as if (i) Ah-ha were the tenant thereunder, and (ii) MyFamily were the landlord thereunder. Ah-ha assumes and agrees to perform the Tenant's obligations under the Master Lease during the Sublease Term to the extent that such obligations are applicable to the Premises, except that the obligation to pay rent to CCC2 under the Master Leases shall be considered performed by Ah-ha to the extent and in the amount rent is paid to MyFamily in accordance with Section 6 of this Sublease. Ah-ha shall not commit or suffer any act or omission that will violate any of the provisions of the Master Leases. MyFamily shall exercise due diligence in attempting to cause CCC2 and/or Franklin Covey Co. to perform its obligations under the Master Leases or Sublease for the benefit of Ah-ha. If the Master Leases or Sublease terminate as a result of a default or breach by MyFamily or Ah-ha under this Sublease and/or the Master Leases, then the defaulting party shall be liable to the nondefaulting party for the damage suffered as a result of such termination. Notwithstanding the foregoing, if the Master Leases give MyFamily any right to terminate the Master Leases in the event of the partial or total damage, destruction, or condemnation of the Premises, the exercise of such right by MyFamily shall not constitute a default or breach hereunder.

14. ATTORNEY'S FEES

If MyFamily or Ah-ha shall commence an action against the other arising out of or in connection with this Sublease, the prevailing party shall be entitled to recover its costs of suit and reasonable attorney's fees.

15. NOTICES

All notices and demands that may or are to be required or permitted to be given by either party on the other hereunder shall be in writing. All notices and demands by MyFamily to Ah-ha shall be sent by United States mail, postage prepaid, addressed to Ah-ha at the Premises, and to the address herein below, or to such other place as Ah-ha may from time to time designate in a notice to MyFamily. All notices and demands by Ah-ha to MyFamily shall be sent by United States mail, postage prepaid, addressed to at the address set forth herein, and to such other person or place as MyFamily may from time to time designate in a notice to Ah-ha.

To MyFamily:

MyFamily.com, Inc.
Chief Financial Officer
360 West 4800 North
Provo, Utah 84604

To Ah-ha:

Ah-ha, Inc.
Chief Financial Officer
360 West 4800 North
Provo, Utah 84604

16. CONSENT BY LANDLORD

This Sublease shall be of no force or effect unless consented to by CCC2 as required under the terms of the Master Lease.

17. COMPLIANCE

The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Sublease, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and the Americans with Disabilities Act.

MYFAMILY.COM, INC

By: /s/ Illegible

Title: **CFO**

AH-HA, INC.

By: /s/ PAUL BROCKBANK

Title: **CEO**

SUBLEASE

1. PARTIES

This Sublease, dated as of February 18, 2000, is made between FRANKLIN COVEY CO., a Utah corporation ("Sublessor"), and MYFAMILY.COM, INC., a Utah corporation ("Sublessee").

2. MASTER LEASE

a. Sublessor is the Tenant under a written lease dated January 1, 1996 ("Building I Lease"), wherein Covey Corporate Campus One, L.L.C. ("CCC1") leased to Sublessor the real property located at 360 West 4800 North (identified in the Building I Lease as approximately 360 West 4800 North, and in the Amendments as 300 West 4800 North), in the city of Provo, State of Utah, generally described as Riverwoods Building I, and more particularly described in Exhibit B to the Master Lease ("Building I"). Building I Lease has been amended by the Amendment to Lease Agreement dated May 24, 1996 and the Second Amendment to Lease Agreement (Building No. 1) dated March 21, 1997 (collectively "Building I Amendments").

b. Sublessor is the Tenant under a written lease dated October 29, 1996 ("Building II Lease"), wherein Covey Corporate Campus Two, L.L.C. ("CCC2") leased to Sublessor the real property located at 466 West 4800 North, in the city of Provo, State of Utah, (identified in the Building II Lease as 350 West 4800 North, Provo, Utah) generally described as Riverwoods Building II ("Building II"), and more particularly described in Exhibit B to the Building II Lease. Said Building II Lease has been amended by the Amendment to Lease Agreement (Building No. 2) dated March 21, 1997 ("Building II Amendment").

c. Building I Lease, together with Building I Amendments, and Building II Lease, together with Building II Amendment, are herein collectively referred to as the "Master Leases" and are attached hereto as Exhibit "A."

d. CCC1 and CCC2 are herein collectively referred to as "Landlord."

e. For purposes of this Sublease, the term "Premises" includes all of Building I and Building II and the real property more particularly described in Exhibit A to the Master Leases.

f. Sublessee agrees to assume and perform all obligations of the Tenant under the Master Leases; provided, however, that if any provision of the Master Leases conflicts with any provision of this Sublease, the provision of this Sublease shall prevail.

3. PREMISES

Sublessor hereby subleases to Sublessee on the terms and conditions set forth in this Sublease the Premises, consisting of approximately 119,161 gross rentable square feet, subject to adjustment upon final calculation of Sublessor's architect (the "Premises").

4. WARRANTY BY SUBLESSOR

Sublessor warrants and represents to Sublessee that the Lease has not been amended or modified except as expressly set forth herein, that Sublessor is not now, and as of the commencement of the Term hereof (as set forth below) will not be, in default or breach of any of the provisions of the Lease, and that Sublessor has no knowledge of any claim by Lessor that Sublessor is in default or breach of any of the provisions of the Lease.

5. TERM

The initial term of this Sublease ("Initial Term") shall be for a period of approximately seven (7) years, commencing as follows:

a. For Building II, on the earlier to occur of (i) substantial completion of the Sublessee Improvements to Building II; (ii) the date Sublessee occupies any portion of Building II for the purpose of conducting its business, or (iii) April 1, 2000 ("Building II Commencement Date").

b. For Building I, on the earlier to occur of (i) substantial completion of the Sublessee Improvements to Building I; (ii) the date Sublessee occupies any portion of Building I for the purpose of conducting its business, or (iii) June 1, 2000 ("Building I Commencement Date").

The Initial Term (for both Building I and Building II) shall expire on May 31, 2007 ("Termination Date"), unless otherwise sooner terminated in accordance with the provisions of this Sublease or if for any reason the Master Leases are terminated. In the event the Initial Term commences prior to April 1, 2000 for Building II, and prior to June 1, 2000 for Building I, Sublessor and Sublessee shall execute a memorandum setting forth the actual dates of commencement of the Initial Term. Sublessor shall deliver possession of the Premises ("Possession") in broom clean condition; provided that Sublessor shall clean all carpets prior to delivery of Possession.

Notwithstanding the foregoing, on or after February 20, 2000, Sublessee may enter upon Building II, and on or after May 15, 2000, Sublessee may enter upon Building I, for the purpose of constructing Sublessee's Improvements, subject to Sublessee's observance and performance of all of the obligations contained in this Sublease (excluding the payment of Base Rent).

6. OPTION TO RENEW

Subject to earlier termination of the Master Leases as provided in Paragraph 5, above, Sublessee shall have the option to renew this Sublease as follows:

a. Provided Sublessee is not then in default under this Sublease, Sublessee shall have the option to renew this Sublease for one (1) additional term ("1st Renewal Term") for a period commencing April 1, 2007, and ending December 31, 2009 (1st Option to Renew). Sublessee shall exercise the 1st Option to Renew by giving written notice to Sublessor no later than ninety (90) days prior to the Termination Date.

b. Provided Sublessor has exercised its options to renew the Master Leases, as provided therein, and provided further that Sublessee is not then in default under this Sublease, Sublessee shall have the option to renew this Sublease for one (1) additional term ("2nd Renewal Term") for a period commencing January 1, 2009, and ending March 31, 2013 ("2nd Option to Renew"). Sublessee shall exercise the 2nd Option to Renew by giving written notice to Sublessor no later than September 1, 2009.

c. Base Rent for any Renewal Term shall increase three percent (3%) annually over the preceding lease year's Base Rent.

7. RENT

a. *Base Rent.* Sublessee shall pay to Sublessor as base rent ("Base Rent"), without deduction, setoff, notice or demand, at 2200 West Parkway Boulevard, Salt Lake City, Utah, 84119, Attn: Mike Fitch, or at such other place as Sublessor shall designate from time to time by notice to Sublessee, Base Rent in the amount of $14.85 per square foot with 3% annual increases. Subject to any adjustment in the actual square footage of the Premises as determined by Sublessor's architects, as provided for in Section 3, above, Sublessee shall pay Base Rent in monthly installments as follows:

For the Period of:	Minimum Monthly Base Rent:
Building II Commencement Date through Building I Commencement Date:	$ 77,858.55
Building I Commencement Date through March 31, 2001	$ 147,461.74
April 1, 2001 through March 31, 2002	$ 151,885.59
April 1, 2002 through March 31, 2003	$ 156,442.12
April 1, 2003 through March 31, 2004	$ 161,135.38
April 1, 2004 through March 31, 2005	$ 165,969.44
April 1, 2005 through March 31, 2006	$ 170,948.52
April 1, 2006 through March 31, 2007	$ 176,076.98

Each monthly payment shall be made in advance on the first day of each month of the Initial Term. If the Building II Commencement Date or the Building I Commencement Date begin on a day other that the first day of a month, the rent for the partial months shall be prorated on a per diem basis.

It is the intent of both parties that the Base Rent herein specified shall be absolutely net to Sublessor throughout the Initial Term or any Renewal Term, and that all costs, expenses and obligations relating to the Premises which may arise or become due during the Initial Term or any Renewal Term shall be paid by Sublessee in the manner hereafter provided.

b. *Direct Costs.* Sublessee shall pay to Sublessor as additional rent 100% of the amounts payable by Sublessor for Direct Costs incurred during the Term. Such additional rent shall be payable as and when Direct Costs are payable by Sublessor to Landlord. The Master Leases provide for the payment by Sublessor of Direct Costs on the basis of an estimate thereof. Any adjustments between estimated and actual Direct Costs shall be made pursuant to the provisions of the Master Leases. If any such adjustments shall occur after the expiration or earlier termination of the Term, then the obligations of Sublessor and Sublessee under this Subsection 7b shall survive such expiration or termination. Sublessor shall, upon request by Sublessee, furnish Sublessee with copies of all statements submitted by Lessor of actual or estimated Direct Costs during the Term.

c. *Interest and Late Charges.* If Sublessee fails to pay within ten (10) days of the date due any rent or other amount or charges which Sublessee is obligated to pay under the terms of this Sublease, the unpaid amount shall bear interest at the rate of ten (10%) per annum. In addition to interest, if any such installment is not made by Sublessee within ten (10) days from the date it is due, Sublessee shall pay Sublessor to partially reimburse Sublessor for the additional cost of handling such payment a late charge equal to five percent (5%) of such installment. Acceptance of any interest or late charge shall not constitute a waiver of Sublessee's default with respect to such nonpayment by Sublessee nor prevent Sublessor from exercising any other rights or remedies available to Sublessor under this Sublease.

8. SECURITY DEPOSIT

Sublessee shall deposit with Sublessor upon execution of this Sublease, the sum of $294,923.46, which consists of $147,461.73 prepayment of rent and $147,461.73 as security for Sublessee's faithful performance of Sublessee's obligations hereunder ("Security Deposit"). If Sublessee fails to pay rent or other charges when due under this Sublease, or fails to perform any of its obligations hereunder, Sublessor may use or apply all or any portion of the Security Deposit for the payment of any rent or other amount when due hereunder and unpaid, for the payment of any other sum for which Sublessor may become obligated by reason of Sublessee's default or breach, or for any loss or damage sustained by Sublessor as a result of Sublessee's default or breach. If Sublessor so uses any portion of the Security Deposit, Sublessee shall, within ten (10) days after written demand by Sublessor, restore the Security Deposit to the full amount originally deposited, and Sublessee's failure to do so shall constitute a default under this Sublease. Sublessor shall not be required to keep the Security Deposit separate from its general accounts, and shall have no obligation or liability for payment of interest on the Security Deposit. In the event Sublessor assigns its interest in this Sublease, Sublessor shall deliver to its assignee so much of the Security Deposit as is then held by Sublessor. Provided Sublessee is not

then in default of any of its obligations hereunder, Sublessor shall apply a portion of the Security Deposit in an amount equal to Sublessee's obligation for the last month's Base Rent and any additional rent occurring during the Initial Term or any Renewal Term; and within ten (10) days after the Initial Term has expired, or Sublessee has vacated the Premises, or any final adjustment pursuant to Subsection 7b hereof has been made, whichever shall last occur, and provided Sublessee is not then in default of any of its obligations hereunder, so much of the Security Deposit as had not theretofore been applied by Sublessor, shall be returned to Sublessee or to the last assignee, if any, of Sublessee's interest hereunder.

9. SUBLESSEE IMPROVEMENTS

Sublessee agrees to sublease the Premises in "as is" condition. Sublessor shall reimburse Sublessee for Sublessee's actual costs incurred in making improvements to the Premises, not to exceed $3.00 per rentable square foot, as determined by Landlord's architect pursuant to Paragraph 3, above ("Sublessee Improvements"). Upon completion of Sublessee Improvements, Sublessee shall submit to Sublessor (i) a written statement, certified by an officer of Sublessee setting forth the actual expenses incurred in completing Sublessee Improvements, together with copies of all applicable invoices, and (ii) copies of releases of lien from all suppliers of materials or services used in making Sublessee Improvements. Within 30 days of Sublessor's receipt of all necessary documentation, Sublessor shall pay to Sublessee an amount equal to the actual costs incurred in making Sublessee Improvements, not to exceed $3.00 per rentable square foot, or at Sublessor's option, credit said amount to Sublessee as an equivalent amount of free rent. Upon execution of this Sublease, Sublessee shall provide to Sublessor written plans and specifications for all Sublessee Improvements. Sublessor shall immediately submit said plans and specifications to the Landlord for approval. Landlord shall approve or request modifications to the plans and specifications within three (3) days of its receipt of the same. Sublessee shall not cause any Sublessee Improvements to be made to the Premises until written approval of the plans and specifications is received from Landlord under the Lease. All Sublessee Improvements and other improvements by Sublessee to the Premises shall conform to all applicable governmental ordinances and regulations, including but not limited to required permits and approvals, and shall become part of the realty upon installation thereof. At the end of the Term or any renewal thereof, Sublessee shall remove from the Premises, at Sublessee's cost, all of Sublessee's equipment, fixtures and personal property, and repair any damage to the Premises caused by such removal.

10. SIGNAGE

Sublessee may, at its sole expense, install signage upon the Premises pursuant to the terms of the Master Leases and upon obtaining necessary approvals from Riverwoods Research and Business Park Owners Association and the proper governmental authorities in Utah County, State of Utah.

11. USE OF PREMISES

The Premises shall be used and occupied only for general office use, and for no other use or purpose. Sublessee may use the Premises twenty-four (24) hours a day, seven (7) days a week.

12. FURNITURE AND EQUIPMENT

Sublessee shall have the right, exercisable by giving written notice to Sublessor not later than February 20, 2000, to purchase all or a portion of the furniture and equipment described in the attached Exhibit B, at the prices set forth on Exhibit B. All furniture and equipment currently located on the Premises that is not listed on Exhibit B or that Sublessee elects not to purchase shall be removed by Sublessor and Sublessor shall repair any damage to the Premises caused by such removal.

13. CONDITION OF PREMISES

Notwithstanding the provisions of Paragraph 12, above, Sublessor shall not remove the UPS systems, existing cabling, wiring and security systems installed upon the Premises, and Sublessee shall have the right to use said UPS systems, the existing cabling, wiring and security systems as Sublessee reasonably determines is necessary for the conduct of its business from the Premises. Further, Sublessor shall cause to remain on the Premises for

Sublessee's use the existing common area reception furniture, executive conference table and common area murals.

14. ASSIGNMENT AND SUBLETTING

Sublessee shall not assign this Sublease or further sublet all or any part of the Premises without the prior written consent of the Sublessor (and the consent of Landlord, if such is required under the terms of the Lease). Sublessor will not unreasonably withhold permission to sublet space to a mutually agreed subtenant.

15. QUIET ENJOYMENT

Subject to the provisions of this Sublease and the Master Leases and conditioned upon performance of all of the provisions to be performed by Sublessee hereunder and thereunder, Sublessor and Landlord shall secure to Sublessee during the Term the quiet and peaceful possession of the Premises and all rights and privileges appertaining thereto.

16. OTHER PROVISIONS OF SUBLEASE

All applicable terms and conditions of the Master Leases are incorporated into and made a part of this Sublease as if (i) Sublessee were the tenant thereunder and (ii) Sublessor were the landlord thereunder. Sublessee assumes and agrees to perform the Tenant's obligations under the Master Leases during the Initial Term or any Renewal Term to the extent that such obligations are applicable to the Premises, except that the obligation to pay rent to Landlord under the Master Leases shall be considered performed by Sublessee to the extent and in the amount rent is paid to Sublessor in accordance with Section 7 of this Sublease. Sublessee shall not commit or suffer any act or omission that will violate any of the provisions of the Master Leases. Sublessor shall exercise due diligence in attempting to cause Landlord to perform its obligations under the Master Leases for the benefit of Sublessee. If the Master Leases terminate as a result of a default or breach by Sublessor or Sublessee under this Sublease and/or the Master Leases, then the defaulting party shall be liable to the nondefaulting party for the damage suffered as a result of such termination. Notwithstanding the foregoing, if the Master Leases give Sublessor any right to terminate the Master Leases in the event of the partial or total damage, destruction, or condemnation of the Premises, the exercise of such right by Sublessor shall not constitute a default or breach hereunder.

17. ATTORNEY'S FEES

If Sublessor or Sublessee shall commence an action against the other arising out of or in connection with this Sublease, the prevailing party shall be entitled to recover its costs of suit and reasonable attorney's fees.

18. NOTICES

All notices and demands that may or are to be required or permitted to be given by either party on the other hereunder shall be in writing. All notices and demands by the Sublessor to Sublessee shall be sent by United States Mail, postage prepaid, addressed to the Sublessee at the Premises, and to the address herein below, or to such other place as Sublessee may from time to time designate in a notice to the Sublessor. All notices and demands by the Sublessee to Sublessor at the address set forth herein, and to such other person or place as the Sublessor may from time to time designate in a notice to the Sublessee.

To Sublessor: Franklin Covey Co.
2200 West Parkway Boulevard
Salt Lake City, Utah 84119
Attn: Val John Christensen
Executive Vice President/General Counsel

To Sublessee: MyFamily.com, Inc.
360 West 4800 North
Provo, Utah 84604
Attn: Peter W. Clark, Chief Financial Officer

19. CONSENT BY LANDLORD

This Sublease shall be of no force or effect unless consented to by Landlord as required under the terms of the Master Leases.

20. COMPLIANCE

The parties hereto agree to comply with all applicable federal, state, and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and the Americans with Disabilities Act.

Sublessor:		Sublessee:	
FRANKLIN COVEY CO.		MYFAMILY.COM, INC.	
By	/s/ VAL JOHN CHRISTENSEN	By	/s/ Illegible
Title	**Exec. Vice Pres.**	Title	**VP AND TREASURER**
Date:	3/2/00	Date	2/18/00

LANDLORD'S CONSENT TO SUBLEASE

The undersigned landlord ("Landlord") under the Building I Lease, hereby consents to the foregoing Sublease without waiver of any restriction in the Building I Lease concerning further assignment or subletting. Landlord certifies that, as of the date of Landlord's execution hereof, Sublessor is not in default or breach of any of the provisions of the Building I Lease, and that the Building I Lease has not been amended or modified except as expressly set forth in the foregoing Sublease. Landlord shall enter into a separate non-disturbance agreement in favor of Sublessee in the event the Building I Lease is terminated for any reason prior to the end of the Initial Term or any Renewal Term thereof.

COVEY CORPORATE CAMPUS ONE, L.L.C.

By	/s/ Illegible	
Title	**Manager**	
Date	3/02/00	

The undersigned landlord ("Landlord") under the Building II Lease, hereby consents to the foregoing Sublease without waiver of any restriction in the Building II Lease concerning further assignment or subletting. Landlord certifies that, as of the date of Landlord's execution hereof, Sublessor is not in default or breach of any of the provisions of the Building II Lease, and that the Building II Lease has not been amended or modified except as expressly set forth in the foregoing Sublease. Landlord shall enter into a separate non-disturbance agreement in favor of Sublessee in the event the Building II Lease is terminated for any reason prior to the end of the Initial Term or any Renewal Term thereof.

COVEY CORPORATE CAMPUS TWO, L.L.C.

By /s/ Illegible

Title **Manager**
Date 3/02/00

LEASE AGREEMENT

LANDLORD: **COVEY CORPORATE CAMPUS TWO, L.L.C.**

TENANT: **COVEY LEADERSHIP CENTER, INC.**

The Boyer Company

TABLE OF CONTENTS

LEASE AGREEMENT

COVEY LEADERSHIP OFFICE BUILDING II

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of this 29th day of October, 1996 by and between **COVEY CORPORATE CAMPUS TWO, L.L.C.** (the "Landlord"), and **COVEY LEADERSHIP CENTER Franklin Covey, INC.** (the "Tenant"). **THE BOYER COMPANY, L. C.** (the "Property Manager") is also a party to this Lease for the limited purpose of providing the property management services described herein.

For and in consideration of the rental to be paid by tenant and of the covenants and agreements herein set forth to be kept and performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Leased Premises (as hereafter defined), at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

I. PREMISES

1.1 Description of Premises. Landlord does hereby demise, lease and let unto Tenant, and Tenant does hereby take and receive from Landlord the following:

(a) That certain floor area containing approximately 62,916 gross rentable square feet (the "Leased Premises"), on Floors One, Two and Three (includes 4,719 square feet in the basement) of the three-story office building (the "Building") being constructed at approximately 350 West 4800 North, Provo, Utah, on the real property (the "Property") described on Exhibit "A" attached hereto and by this reference incorporated herein. The space occupied by Tenant consists of the entire Building, as set forth on Exhibit "B" which is attached hereto and by this reference incorporated herein.

(b) Such non-exclusive rights-of-way, easements and similar rights with respect to the Building and Property as may be reasonably necessary for access to and egress from, the Leased Premises.

(c) The exclusive right to use those areas designated and suitable for vehicular parking, including the exclusive right to the use of Two Hundred Fifty- one (251) parking stalls.

1.2 Work of Improvement. The obligation of Landlord and Tenant to perform the work and supply the necessary materials and labor to prepare the Leased Premises for occupancy are described in detail on Exhibit "C". Landlord and Tenant shall expend all funds and do all acts required of them as described on Exhibit "C" and shall perform or have the work performed promptly and diligently in a first class and workmanlike manner.

1.3 Construction of Shell Building. Landlord shall, at its own cost and expense, construct and complete a three story 62,916 gross rentable square foot building and cause all of the construction which is to be performed by it in completing the Building and performing its work as set forth on Exhibit "C", to be substantially completed as evidenced by a Certificate of Occupancy, and the Leased Premises ready for Tenant to install its fixtures and equipment and to perform its other work as described on Exhibit "C" as soon as reasonably possible, but in no event later than July 1,1997 (Target Date"). In the event that Landlord's construction of obligation has not been fulfilled upon the expiration of the "Target Date", Tenant shall have the right to exercise any right or remedy available to it under this Lease, including the right to terminate this Lease and the right to charge Landlord and cause Landlord to pay any increased costs associated with Tenant's current leases due to holding over in such space or moving to temporary space; provided that under no circumstances shall Landlord be liable to Tenant resulting from delay in construction covered by circumstances beyond Landlord's direct control.

II. TERM

2.1 Length of Term. The term of this Lease shall be for a period of twenty (20) plus the partial calendar month, if any, occurring after the Commencement Date (as hereinafter defined) if the Commencement Date occurs other than on the first day of a calendar month.

2.2 Commencement Date; Obligation to Pay Rent. The term of this Lease and Tenant's obligation to pay rent hereunder shall commence on the first to occur of the following dates ("Commencement Date"): (Projected to be July 1,1997)

(a) The date Tenant occupies the Premises and conducts business.

(b) The date fifteen (15) days after the Landlord, or Landlord's supervising contractor, notified Tenant in writing that Landlord's construction obligations respecting the Leased Premises have been fulfilled and/or that the Leased Premises are ready for occupancy and/or performance of Tenant's work. Such notice shall be accompanied by an occupancy permit and a certificate from the Building Architect stating that remaining punchlist items can be completed within fifteen (15) days and will not materially interfere with Tenant's business. Prior to Commencement Date, it is contemplated that Tenant shall be able to perform its construction obligation as per Exhibit C II(H).

2.3 Construction of Leased Premises. Landlord shall provide a budget prior to the commencement of construction of the Leased Premises (see Exhibit "E"). Landlord shall itemize each part of the construction and its associated estimated cost. Landlord shall pay an amount equal to $1,099,010 or $22.00 per usable square foot (on 49,955 usable square feet excluding the basement space of 4,719 square feet) of the cost listed (excluding cost to construct Shell Building) and Tenant shall be obligated for the

remaining costs shown on Exhibit “E”. Landlord shall not be obligated to pay for any increase in the actual cost of construction over and above the construction costs shown on Exhibit “E”. Any special decorator items, equipment, furniture or furnishings not designated on Exhibit “E”, as well as changes initiated by the Tenant to the Leased Premises, shall be the sole cost of Tenant and shall include the defined extras on Exhibit “E.”

2.4 Renewal Option. If this Lease then remains in full force and effect, Tenant shall have the option to renew this Lease for two five year options commencing on the expiration date. Each option must be exercised by written notice to Landlord one hundred and eighty (180) days before the expiration of the previous term and once exercised is irrevocable. Base rent during each renewal term shall be determined pursuant to Section 3.1 below.

2.5 Acknowledgment of Commencement Date. Landlord and Tenant shall execute a written acknowledgment of the commencement Date in the form attached hereto as Exhibit “D”.

III. BASIC RENTAL PAYMENTS

3.1 Basic Annual Rent. Tenant agrees to pay to Landlord as basic annual rent (the “Basic Annual Rent”) at such place as Landlord may designate, without prior demand therefore and without any deduction or set off whatsoever, the sum of One Million Six Thousand Six Hundred Fifty-Six and no/100 Dollars ($1,006,656.00) which includes the basement storage space. Said Basic Annual Rent shall be due and payable in twelve (12) equal monthly installments to be paid in advance on or before the first day of each calendar month during the term of the Lease. Basic Annual Rent shall escalate at the beginning of the 4th year and every three (3) years thereafter using a 3% annually compounded rate or the change in the All Urban Index, whichever is higher. For purposes of this Lease the term “All Urban Index” shall mean the Consumer Price Index for All Urban Consumers-U.S. City Average-all Items (1982-1984 equals 100 base) as published by the United States Bureau of Labor Statistics or any successor agency or any other index hereinafter employed by the Bureau of Labor Statistics in lieu of said index. The price index for the 3rd month preceding the month in which the Lease commences shall be considered the Basic Price Index. Therefore, the beginning of the 4th year and every three years thereafter, the Basic Annual Rental set forth in Section 3.1 shall be adjusted by multiplying such rental by a fraction, the numerator of which is the Price Index for the 3rd month preceding the beginning of the 4th year and the denominator of which is the Basic Price Index. The above not withstanding, the maximum increase at the beginning of the 4th year shall be no more than 15.76% which is *5%* per year compounded, and likewise on every adjustment date hereafter, the maximum increase shall be limited as described herein.

In no event shall Basic Annual Rent be reduced. In the event the Commencement Date occurs on a day other than the first day of a calendar month, then rent shall be paid on the Commencement Date for the initial fractional calendar month prorated on a per-diem basis (based upon a thirty (30) day month).

3.2 Additional Monetary Obligations. Tenant shall also pay as rental (in addition to the Basic Annual Rent) all other sums of money as shall become due and payable by Tenant to Landlord under this Lease. Landlord shall have the same remedies in the case of a default in the payment of said other sums of money as are available to Landlord in the case of a default in the payment of one or more installments of Basic Annual Rent.

IV. ADDITIONAL RENT

4.1 Basic Annual Rent. It is the intent of both parties that the Basic Annual Rent herein specified shall be absolutely net to the Landlord throughout the term of this Lease, and that all costs, expenses and obligations relating to Tenant's pro rata share of the Building, Property and/or Building, Property and/or Leased Premises which may arise or become due during the term shall be paid by Tenant in the manner hereafter provided.

For purposes of this Part IV and the Lease in general, the following words and phrases shall have the meanings set forth below:

(a) "Direct Costs" shall mean all actual costs and expenses incurred by the Property Manager or Landlord in connection with Landlord's ownership, operation, management and maintenance of the Building and Property and related improvements located thereon (the "Improvements"), including, but not limited to, all expenses incurred by Landlord or the Property Manager as a result of their compliance with any and all of their obligations under this Lease other than the performance by Landlord of its work under Sections 1.2, 1.3 and 2.3 of this Lease. In explanation of the foregoing, and not in limitation thereof, Direct Costs shall include: all real property taxes and assessments (whether general or special, known or unknown, foreseen or unforeseen) and any tax or assessment levied or charged in lieu thereof, whether assessed against Landlord and/or Tenant and whether collected from Landlord and/or Tenant: snow removal, dumpster service, insurance, license, permit and inspection fees, cost of services of independent contractors, cost of compensation (including employment taxes and fringe benefits) of all persons who perform regular and recurring duties connected with day-to-day operation, maintenance, repair, and replacement of the Building, its equipment and the adjacent walk, and landscaped area (including, but not limited to gardening) security, parking, elevator, painting, plumbing, electrical, mechanical, carpentry, structural and roof repairs and reserves (the Property Manager may collect in advance up to one percent (l%) per annum of Direct Costs as a reserve), signing and advertising, and rental expense or a reasonable allowance for depreciation of personal property used in the maintenance, operation and repair of the Building. Direct costs shall also include property management fees, which property management fees shall be equal to a percentage of Tenant's Basic Annual Rent and Estimated Costs, which percentage shall not exceed two and one half percent (2 1/2%) of the sum of Basic Annual Rent and Direct Costs and shall be paid to the Property Manager. However, Tenant shall pay the actual costs of water, sewer, gas and electrical power directly to the municipal supplier of same. Direct Costs shall not include expenses incurred in connection with leasing, renovating, or improving space for tenants or other

occupants or prospective tenants or occupants of the Building, expenses incurred for repairs resulting from damage by fire, windstorm or other casualty, to the extent such repairs are paid for by insurance proceeds, expenses paid by any tenant directly to third parties, or as to which Landlord is otherwise reimbursed by any third party or Tenant; expenses which, 9.1 by generally accepted accounting principles, are treated as capital items except that if, as a result of governmental requirements, laws or regulations, Landlord shall expend monies directly or indirectly for improvements, additions or alterations to the Building which, by generally accepted accounting principles, are treated as a capital expenditures, the amortization of such capital expenditures based on a life acceptable to the appropriate taxing authority together with interest at the rate of 9% per annum shall be considered Direct Costs. The foregoing notwithstanding, Direct Costs shall not include depreciation on the Building and Tenant Finish, and amounts paid toward principal or interest of loans of Landlord.

(b) “Estimated Costs” shall mean the projected amount of Tenant’s Direct Costs, excluding the costs of electricity provided to Tenant’s Leased Premises. The Estimated Costs for the calendar year in which the Lease commences are $200,072.00, and are not included in the Basic Annual Rent. If the Estimated Costs as of the date Tenant takes occupancy are greater than Tenant’s Estimated Costs at the time this Lease is executed, the Estimated Costs shall be increased to equal the Estimated Costs as of the date of Tenant’s occupancy.

4.2 Report of Direct Costs and Statement of Estimated Costs.

(a) After the expiration of each calendar year occurring during the term of this Lease, the Property Manager shall furnish Tenant a written statement of Tenant’s Direct Costs occurring during the previous calendar year. The written statement shall specify the amount by which Tenant’s Direct Costs exceed or are less than the amounts paid by Tenant during the previous calendar year pursuant to Section 4.3(b) below.

(b) At the same time specified in Section 4.2(a) above, Landlord shall furnish Tenant a written statement of the Estimated Costs for the then current calendar year.

4.3 Payment of Costs. Tenant shall pay the Direct Costs as follows:

(a) Each month Tenant shall pay to the Property Manager, without offset or deduction, one-twelfth ($^{1}/_{12}$th) of the Estimated Costs as defined in Sections 4.1(b) and 4.2(b) above.

(b) Within thirty (30) days after delivery of the written statement referred to in section 4.2(a) above, Tenant shall pay to the Property Manager the amount by which Tenant’s Direct Costs, as specified in such written statements, exceed and aggregate of such costs actually paid by Tenant for the year at issue. Tenant shall have the right to audit the Property Manager’s books upon reasonable notice. Tenant shall pay costs associated with the audit unless Tenant finds that the Property Manager has

inflated expenses by more than ten percent (10%), in which case, the Property Manager will pay audit charges. Payments by Tenant shall be made pursuant to this Section 4.3(b) notwithstanding that a statement pursuant to Section 4.2(a) is furnished to Tenant after the expiration of the term of this Lease.

(c) If the annual statement of costs indicates that the Estimated Costs paid by Tenant pursuant to subsection (b) above for any year exceeded Tenant's actual Direct Costs for the same year, the Property Manager shall promptly pay the amount of such excess to Tenant.

4.4 Resolution of Disagreement. Every statement given by the Property Manager pursuant to Section 4.2 shall be conclusive and binding upon Tenant unless within sixty (60) days after the receipt of such statement Tenant shall notify the Property Manager that it disputes the correctness thereof, specifying the particular respects in which the statement is claimed to be incorrect. If such dispute shall not have been settled by agreement, the parties hereto shall submit the dispute to arbitration within ninety (90) days after Tenant's receipt of statement. Pending the determination of such dispute by agreement or arbitration as aforesaid, Tenant shall, within thirty (30) days after receipt of such statement, pay in accordance with the Property Manager's statement, and such payment shall be without prejudice to Tenant's position. If the dispute shall be determined in Tenant's favor, the Property Manager shall forthwith pay Tenant the amount of Tenant's overpayment resulting from compliance with the Property Manager's statement, including interest on disputed amounts at prime plus two percent (2%). Landlord agrees to grant Tenant reasonable access to the Property Manager's books and records for the purpose of verifying Direct Costs for operating expenses incurred by the Property Manager.

4.5 Limitations. Nothing contained in this Part IV shall be construed at any time so as to reduce the monthly installments of Basic Annual Rent payable hereunder below the amount set forth in Section 3.1 of this Lease.

V. SECURITY DEPOSIT: NONE

VI. USE

6.1 Use of Leased Premises. The Leased Premises shall be used and occupied by Tenant for general office purposes only and for no other purpose whatsoever without the prior written consent of Landlord.

6.2 Prohibition of Certain Activities or Uses. The Tenant shall not do or permit anything to be done in or about, or bring or keep anything in the Leased Premises which is prohibited by this Lease or will, in any way or to any extent:

(a) Adversely affect any fire, liability or other insurance policy carried with respect to the Building, the Leased Premises or any of the contents of the Building (except with Landlord's express written permission, which will not be unreasonably withheld, but which may be contingent upon Tenant's agreement to bear any additional costs, expenses or liability for risk that may be involved).

(b) Conflict with or violate any law, statute, ordinance, rule, regulation or requirement of any governmental unit, agency or authority (whether existing or enacted as promulgated in the future, known or unknown, foreseen or unforeseen).

(c) Adversely overload the floors or otherwise damage the structural soundness of the Leased Premises or Building, or any part thereof.

6.3 Affirmative Obligations with Respect to Use.

(a) Tenant will comply with all governmental laws, ordinances, regulations, and requirements, now in force or which hereafter may be in force, of any lawful governmental body or authorities having jurisdiction over the Leased Premises, will keep the Leased Premises and every part thereof in a clean, neat, and orderly condition, free of objectionable noise, odors, or nuisances, will in all respects and at all times fully comply with all applicable health and policy regulations, and will not suffer, permit, or commit any waste.

(b) At all times during the term hereof, Tenant shall, at Tenant's sole cost and expense, comply with all statutes, ordinances, laws, orders, rules, regulations and requirements of all applicable federal, state, county, municipal and other agencies or authorities, now in effect or which may hereafter become effective, which shall impose any duty upon Landlord .or Tenant with respect to the use, occupation or alterations of the Leased Premises (including, without limitation, all applicable requirements of the Americans with Disabilities Act of 1990 and all other applicable laws relating to people with disabilities, and all rules and regulations which may be promulgated thereunder from time to time and whether relating to barrier removal, providing auxiliary aids and services or otherwise) and upon request of Landlord shall deliver evidence thereof to Landlord.

6.4 Suitability. The Leased Premises, Building and Improvements (and each and every part thereof) shall be deemed to be in satisfactory condition unless, within sixty (60) days after the Commencement Date, Tenant shall give Landlord written notice specifying, in reasonable detail, the respects in which the Leased Premises, Building or Improvements are not in satisfactory condition. Landlord further provides warranties as provided in Exhibit C II paragraphs C and E.

6.5 Personal Property Taxes. Tenant shall pay all taxes, assessments, charges, and fees which during the term hereof may be imposed, assessed or levied by any governmental or public authority against or upon Tenant's use of the Leased Premises or any personal property or fixture kept or installed therein by Tenant

VII. UTILITIES AND SERVICE

7.1 Obligations of Property Manager. Except for the specific services and costs described herein, the parties intend that the Property Manager (as the Landlord's agent) shall provide all services and pay for all costs associated with the normal operation and maintenance of the Leased Premises at a level consistent with services and maintenance provided by the Property Manager with respect to similar buildings located in Provo, Utah. Therefore, during the term of this Lease the Property Manager agrees to cause to be furnished to the Lease Premises during normal operating hours the general services described in Section 4.1(a) above, the cost and expense of which shall be included in Direct Costs. For the purposes of this Lease, normal operating hours for the Leased Premises are from 7:00 a.m. to 6:00 p.m., Monday through Friday. These services include without limitation the following:

(a) Telephone connection to the building, but not including telephone stations and equipment (it being expressly understood and agreed that Tenant shall be responsible for the ordering and installation of telephone lines and equipment which pertain to the Leased Premises).

(b) Heating and air-conditioning during normal operating hours to such extent and to such levels as is reasonably required for the comfortable use and occupancy of the Leased Premises subject however to any limitations imposed by any government agency.

(c) Security (including the lighting of common halls, stairways, entries and restrooms) to such extent as is usual and customary in similar buildings in Provo, Utah.

(d) Snow removal service.

(e) Landscaping and groundskeeping service.

(f) Elevator service.

(g) Dumpster service.

(h) Parking lot maintenance.

7.2 Tenant's Election. Tenant may at any time after the first year of the lease term elect to reduce or to terminate Landlord's and the Property Manager's obligation to provide the services described in Section 7.1, by giving written notice of such election to Landlord and to the Property Manager not less than sixty (60) days before the date upon which such change

is to be effective. From and after the effective date of any election of termination, Landlord and the Property Manager shall have no further obligation to provide any service described in the first sentence of this Section 7.1. Further, should Tenant elect to terminate Landlord's and the Property Manager's obligation, the management fee as described in Section 4.1(b) shall be reduced to 1% of Basic Annual Rent and shall be paid to the Property Manager.

7.3 Tenant's Obligations. Tenant shall arrange for and shall pay the entire cost and expense of (a) all telephone stations, equipment and use charges, electric light bulbs (but not fluorescent bulbs used in fixtures originally installed in the Leased Premises); (b) janitorial services for the Leased Premises; water, sewer, gas and electrical power for the Leased Premises; and (c) personal property taxes (as provided in Section 6.5 above).

7.4 Additional Limitations. If and where heat generating machines devices are used in the Leased Premises which affect the temperature otherwise maintained by the air conditioning system. Landlord reserves the right with Tenant's concurrence to install additional or supplementary air conditioning units for the Leased premises, and the entire cost of installing, operating, maintaining and repairing the same shall be paid by Tenant to Landlord promptly after demand by Landlord.

7.5 Limitation on Landlord's Liability. Landlord shall not be liable for and Tenant shall not be entitled to terminate this Lease or to effectuate any abatement or reduction of rent by reason of Landlord's or the Property Manager's failure to provide or furnish any of the foregoing utilities or services if such failure was reasonably beyond the control of Landlord or the Property Manager. In no event shall Landlord or the Property Manager be liable for loss or injury to persons or property, however, arising or occurring in connection with or attributable to any failure to furnish such utilities or services even if within their control except in the event of their negligence.

VIII. MAINTENANCE AND REPAIRS; ALTERATIONS; ACCESS

8.1 Maintenance and Repairs by Property Manager. The Property Manager at its sole cost shall maintain in good order, condition and repair the structural components of the Leased Premises, including without limitation roof, exterior walls and foundations, as well as all repairs covered under construction warranties provided if the Property Manager is required to make structural repairs by reason of Tenant's negligent acts or omissions, Tenant shall pay the costs for making such repairs.

8.2 Maintenance and Repairs by Tenant. Tenant, at Tenant's sole cost and expense and without prior demand being made, shall maintain the Leased Premises in good order, condition and repair, and will be responsible for the painting, carpeting or other interior design work of the Leased Premises beyond the initial construction phase as specified in Section *23* and Exhibit "C and "E" of the Lease and shall maintain all equipment and fixtures installed by Tenant. If repainting or recarpeting is required and authorized by Tenant, the cost for such are the sole obligation of Tenant and shall be paid for by Tenant immediately following the performance of said work and a presentation of an invoice for payment.

8.3 Alterations. Tenant shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any fixtures, signs, floor coverings, interior or exterior lighting, plumbing fixtures, or shades or awnings, or make any other changes to the Leased Premises without first obtaining Landlord's written approval, which approval shall not be unreasonably withheld. Tenant shall present to the Landlord plans and specifications for such work at the time approval is sought. In the event Landlord consents to the making of any alterations, additions, or improvements to the Leased Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense. All such work with respect to any alterations, additions, and changes shall be done in a good and workmanlike manner and diligently prosecuted to completion such that, except as absolutely necessary during the course of such work, the Leased Premises shall at all times be a complete operating unit. Any such alterations, additions, or changes shall be performed and done strictly in accordance with all laws and ordinances relating thereto. In performing the work or any such alterations, additions, or changes, Tenant shall have the same performed in such a manner as not to obstruct access to any portion of the Building. Any alterations, additions, or improvements to or of the Leased Premises, including, but not limited to, wallcovering, paneling, and built-in cabinet work, but excepting movable furniture and equipment, shall at once become a part of the realty and shall be surrendered with the Premises, unless Landlord and Tenant agree at any time that the specific improvement may be removed by Tenant at the end of the Term provided Tenant restores the premises to its original condition, wear and tear excepted.

8.4 Landlord's Access to Leased Premises. Landlord shall have the right to place, maintain, and repair all utility equipment of any kind in, upon, and under the Leased Premises as may be necessary for the servicing of the Leased Premises and other portion of the Building. Landlord shall upon providing adequate notice to Tenant, also have the right to enter the Leased Premises at all times to inspect or to exhibit the same to prospective purchasers, mortgagees, tenants, and lessees, and to make such repairs, additions, alterations, or improvements as Landlord may deem desirable. Landlord shall be allowed to take all material upon said Leased Premises that may be required therefor without the same constituting an actual or constructive eviction of Tenant in whole or in part and the rents reserved herein shall in no wise abate while said work is in progress by reason of loss or interruption of Tenant's business or otherwise, and Tenant shall have no claim for damages unless due to Landlord negligence. During the three (3) months prior to expiration of this Lease or of any renewal term, Landlord may place upon the Leased Premises "For Lease" or "For Sale" signs which Tenant shall permit to remain thereon.

IX. ASSIGNMENT

9.1 Assignment Prohibited. Tenant shall not transfer, assign, mortgage, or hypothecate this Lease, in whole or in part, or permit the use of the Leased Premises by any person or persons other than Tenant, or sublet the Leased Premises, or any part thereof, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, provided sufficient information is provided to Landlord to accurately represent the financial condition of those to whom this Lease will be transferred, assigned,

mortgaged, or hypothecated. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any transfer of this Lease from the Tenant by merger, consolidation, transfer of assets, or liquidation shall constitute an assignment for purposes of this Lease. In the event that Tenant hereunder is a corporation, an unincorporated association, or a partnership, the transfer, assignment, or hypothecation of any stock or interest in such corporation, association, or partnership in the aggregate in excess of forty-nine percent (49%) in any one-year period shall be deemed an assignment within the meaning of this Section. The above prohibition of assignment will not apply in the case of a registered offering of shares by Tenant or the public trading of registered shares subsequent to an initial offering.

9.2 Consent Required.

(a) Any assignment or subletting without Landlord's consent shall be void, and shall constitute a default hereunder which, at the option of Landlord, shall result in the termination of this Lease or exercise of Landlord's other remedies hereunder. Consent any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under, or through Tenant.

(b) Landlord shall have no obligation to consent to the proposed sublease or assignment if the proposed sublessee or assignee or its business is or may be subject to compliance with additional requirements of the law, including any related rules or regulations, commonly known as the "Americans with Disabilities Act of 1990" or similar state or local laws relating to persons with disabilities beyond those requirements which are applicable to the tenant desiring to so sublease or assign".

9.3 Landlord's Right in Event of Assignment. If this Lease is assigned or if the Leased Premises or any portion thereof are sublet or occupied by any person other than the Tenant, Landlord may collect rent and other charges from such assignee or other party, and apply the amount collected to the rent and other charges reserved hereunder, but such collection shall not constitute consent or waiver of the necessity of consent to such assignment, subleasing, or other transfer, nor shall such collection constitute the recognition of such assignee, sublessee, or other party as the Tenant hereunder or a release of Tenant from the further performance of all of the covenants and obligations, including obligation to pay rent, of Tenant herein contained. In the event that Landlord shall consent to a sublease or assignment hereunder, Tenant shall pay to Landlord reasonable fees, not to exceed $100.00, incurred in connection with processing of documents necessary to the giving of such consent. In the event Landlord consents to the assignment as provided by paragraph 9.1, then Tenant shall be released from further performance of any covenant and obligation under this Lease.

X. INDEMNITY

10.1 Indemnification. Tenant and Landlord shall indemnify each other and save each other harmless from and against any and all suits, actions, damage and claims, liability and

expense in connection with loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or from the Leased Premises, or occasioned wholly or in part by any act or omission of Tenant or Landlord, their agents, contractors, employees, servants, invitees, licensees or concessionaires. For the purposes of this Lease, the Property Manager is an agent of the Landlord. All insurance policies carried by Tenant and/or Landlord shall include a waiver of subrogation endorsement which specifies that the insurance carrier(s) will waive any right of subrogation against Tenant and/or Landlord arising out of any insurance claim.

10.2 Release of Landlord. Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's personal property or to Tenant's business. Tenant shall store its property in and shall use and enjoy the Leased Premises and all other portions of the Building and Improvements at its own risk, and hereby releases Landlord, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage to or arising in connection with Tenant's ownership of its personal property or the operation of Tenant's business.

10.3 Notice. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Leased Premises or in the Building of which the Leased Premises are a part or of defects therein or in any fixtures or equipment.

10.4 Litigation. If any party to this Lease, without fault on its part, shall be made a party to any litigation that names either of the other two parties to this lease, those other parties shall protect and hold harmless the party without fault and shall pay all costs, expenses, and reasonable attorneys' fees, provided that the party to be protected must first notify the other parties promptly in writing of any such claim and further provided that the party or parties to be charged shall be entitled to direct the defense or settlement of such claim. No party to this Lease shall be responsible for any settlement of compromise of any such claim without its prior written consent.

XI. INSURANCE

11.1 Fire and “All Risk” Insurance on Tenant’s Personal Properly and Fixtures. At all times during the term of this Lease, Tenant shall keep in force at its sole cost and expense, fire insurance and “All Risk” (including vandalism and malicious mischief) in companies acceptable to Landlord, equal to the replacement cost of Tenant’s fixtures, furnishings, equipment, and contents upon the Leased Premises and all improvements or additions made by Tenant to the Leased Premises. The Landlord shall be named as an additional insured on all such policies.

11.2 Liability Insurance. Tenant shall, during the entire term hereof, keep in full force and effect a policy of public liability and property damage insurance to include contractual coverage with respect to the Leased Premises and the business operated by Tenant in the Leased Premises, with a combined single limit for personal or bodily injury and property damage of not less than $500,000.00. The policy shall name Landlord, any person, firms, or corporations designated by Landlord, and Tenant as insureds, and shall contain a clause that the insurer will not cancel or materially change the insurance pertaining to the Leased Premises without first giving Landlord ten (10) days written notice. Tenant shall at all times during the term hereof provide Landlord with evidence of current insurance coverage. All public liability, property damage, and other liability policies shall be written as primary policies, not contributing with coverage which Landlord may carry.

11.3 Subrogation. Tenant and Landlord each waive its right of subrogation against each other for any reason whatsoever.

11.4 Lender. Any mortgage lender interest in any part of the Building or Improvements may, at Landlord’s option, be afforded coverage under any policy required to be secured by Tenant hereunder, by use of a mortgagee’s endorsement to the policy concerned.

XII. DESTRUCTION

If the Leased Premises shall be partially damaged by any casualty insured against under any insurance policy maintained by Landlord, Landlord shall, upon receipt of the insurance proceeds, repair the Leased Premises and until repair is complete the Basic Annual Rent and Additional Rent shall be abated proportionately as to that portion of the Leased Premises rendered untenantable. Notwithstanding the foregoing, if: (a) the Leased Premises by reason of such occurrence are rendered wholly untenantable, or (b) the Leased Premises should be damaged as a result of a risk which is not covered by insurance, or (c) the Leased Premises should be damaged in whole or in part during the last six (6) months of the term or of any renewal hereof, or (d) the Leased Premises or the Building (whether the Leased Premises are damaged or not) should be damaged to the extent of fifty percent (50%) or more of the then-monetary value thereof, then and in any such events, Landlord may either elect to repair the damage or may cancel this Lease by notice of cancellation within Ninety (90) days after such event and thereupon this Lease shall expire, and Tenant shall vacate and surrender the Leased Premises to Landlord. Tenant’s liability for rent upon the termination of this Lease shall cease as of the day following Landlord’s giving notice of cancellation. In the event Landlord elects to repair

any damage, any abatement of rent shall end five (5) days after notice by Landlord to Tenant that the Leased Premises have been repaired. If the damage is caused by the negligence of Tenant or its employees, agents, invitees, or concessionaires, there shall be no abatement of rent. Unless this Lease is terminated by Landlord, Tenant shall repair and refixture the interior of the Leased Premises to the extent of the Tenant Finish in a manner and in at least a condition equal to that existing prior to the destruction or casualty and the proceeds of all insurance carried by Tenant on its property and fixtures shall be held in trust by Tenant for the purpose of said repair and replacement.

XIII. CONDEMNATION

13.1 Total Condemnation. If the whole of the Leased Premises shall be acquired or taken by condemnation proceeding, then this Lease shall cease and terminate as of the date of title vesting in such proceeding.

13.2 Partial Condemnation. If any part of the Leased Premises shall be taken as aforesaid, and such partial taking shall render that portion not so taken unsuitable for the business of Tenant, then this Lease shall cease and terminate as aforesaid. If such partial taking is not extensive enough to render the Leased Premises unsuitable for the business of Tenant, then this Lease shall continue in effect except that the Basic Annual Rent and Additional Rent shall be reduced in the same proportion that the portion of the Leased Premises (including basement, if any) taken bears to the total area initially demised and Landlord shall, upon receipt of the award in condemnation, make all necessary repairs or alterations to the Building in which the Leased Premises are located, provided that Landlord shall not be required to expend for such work an amount in excess of the amount received by Landlord as damages for the part of the Leased Premises to taken. “Amount received by Landlord” shall mean that part of the award in condemnation which is free and clear to Landlord of any collection by mortgage lenders for the value of the diminished fee.

13.3 Landlord’s Option to Terminate. If more than twenty percent (20%) of the Building shall be taken as aforesaid, Landlord may, by written notice to Tenant, terminate this Lease. If this Lease is terminated as provided in this Section, rent shall be paid up to the day that possession is so taken by public authority and Landlord shall make an equitable refund of any rent paid by Tenant in advance.

13.4 Award. Tenant shall not be entitled to and expressly waives all claim to any condemnation award for any taking, whether whole or partial and whether for diminution in value of the leasehold or to the fee, although Tenant shall have the right, to the extent that the same shall not reduce Landlord’s award, to claim from the condemnor, but not from the Landlord, such compensation as may be recoverable by Tenant in its own right for damages to Tenant’s business and fixtures.

13.5 Definition. As used in this Part XIII the term “condemnation proceeding” means any action or proceeding in which any interest in the Leased Premises is taken for any public or quasi-public purpose by any lawful authority through exercise of eminent domain or right of condemnation or by purchase or otherwise in lieu thereof.

XIV. LANDLORD'S RIGHTS TO CURE

14.1 General Right. In the event of breach, default, or noncompliance hereunder by Landlord, Tenant shall, before exercising any right or remedy available to it, give Landlord written notice of the claimed breach, default, or noncompliance. If prior to its giving such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of a lender which has furnished any of the financing referred to in Part XV hereof, concurrently with giving the aforesaid notice to Landlord, Tenant shall, by registered mail, transmit a copy thereof to such lender. For the fifteen (15) days following the giving of the notice(s) required by the foregoing portion of this section (or such longer period of time as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be rectified within fifteen (15) days), Landlord shall have the right to cure the breach, default, or noncompliance involved. If Landlord has failed to cure a default within said period, any such lender shall have an additional fifteen (15) days within which to cure the same or, if such default cannot be cured within that period, such additional time as may be necessary if within such fifteen (15) day period said lender has commenced and is diligently pursuing the actions or remedies necessary to cure the breach default, or noncompliance involved (including, but not limited to, commencement and prosecution of proceedings to foreclose or otherwise exercise its rights under its mortgage or other security instrument, if necessary to effect such cure), in which event this Lease shall not be terminated by Tenant so long as such actions or remedies are being diligently pursued by said lender.

14.2 Mechanic's Lien. Should any mechanic's or other lien be filed against the Leased Premises or any part thereof by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the effect of the same to be cancelled and discharged or bonded over or otherwise within ten (10) days after written notice by Landlord.

XV. FINANCING; SUBORDINATION

15.1 Subordination. Tenant acknowledges that it might be necessary for Landlord or its successors or assigns to secure mortgage loan financing or refinancing affecting the Leased Premises. Tenant also acknowledges that the lender interested in any given loan may desire that Tenant's interest under this Lease be either superior or subordinate to the mortgage then held or to be taken by said Lender. Accordingly, Tenant agrees that at the request of Landlord at any time and from time to time Tenant shall execute and deliver to Landlord an instrument, in form reasonably acceptable to Landlord, whereby Tenant subordinates its interest under this Lease and in the Leased Premises to such of the following encumbrances as may be specified by Landlord: Any mortgage or trust deed and customary related instruments are herein collectively referred to merely as a "Mortgage" and securing a loan obtained by Landlord or its successors or assigns for the purpose of enabling acquisition of the Building and/or construction of additional improvements to provide permanent financing for the Building, or for the purpose of refinancing any such construction, acquisition, standing or permanent loan. Provided, however, that any such instrument or subordination executed by Tenant shall provide that so long as Tenant continues to perform all of its obligations under

this Lease its tenancy shall remain in full force and effect notwithstanding Landlord's default in connection with the Mortgage concerned or any resulting foreclosure or sale or transfer in lieu of such proceedings. Tenant shall not subordinate its interests hereunder or in the Leased Premises to any lien or encumbrance other than the Mortgages described in and specified pursuant to this Section 15.1 without the prior written consent of Landlord and of the lender interested under each mortgage then affecting the Leased Premises. Any such unauthorized subordination by Tenant shall be void and of no force or effect whatsoever.

15.2 Attornment. Any sale, assignment, or transfer of Landlord's interest under this Lease or in the Leased Premises including any such disposition resulting from Landlord's default under a mortgage, shall be subject to this Lease and also Tenant shall attorn to Landlord's successor and assigns and shall recognize such successor or assigns as Landlord under this Lease, regardless of any rule of law to the contrary or absence of privity of contract.

15.3 Financial Information. As a condition to Landlord's acceptance of this Lease, Tenant shall provide financial information sufficient to verify to Landlord the financial condition of Tenant. Tenant hereby represents and warrants that none of such information contains or will contain any untrue statement of material fact, nor will such information omit any material fact necessary to make the statements contained therein misleading or unreliable. Any financial information provided by Tenant shall beheld in confidence and distributed only to Landlord's investors or lenders for the Leased Premises.

XVI. EVENTS OF DEFAULT; REMEDIES OF LANDLORD

16.1 Default by Tenant. Upon the occurrence of any of the following events, Landlord shall have the remedies set forth in Section 16.2:

(a) Tenant fails to pay any installment of Basic Annual Rent or Estimated Costs or any other sum due hereunder within ten (10) days after Tenant receives written notice of rent due.

(b) Tenant fails to perform any other term, condition, or covenant to be performed by it pursuant to this Lease within ten (10) days after written notice of such default shall have been given to Tenant by Landlord or, if cure would reasonably require more than ten (10) days to complete, if Tenant fails to commence performance within the ten (10) day period or fails diligently to pursue such cure to completion.

(c) Tenant shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization, or appointment of a receiver or trustee; or Tenant petitions for or enters into an arrangement; or suffers this Lease to be taken under a writ of execution.

16.2 Remedies. In the event of any default by Tenant hereunder. Landlord may at any time, without waiving or limiting any other right or remedy available to it, terminate

Tenant's rights under this Lease by written notice, reenter and take possession of the Premises by any lawful means (with or without terminating this Lease), or pursue any other remedy allowed by law. Tenant agrees to pay to Landlord the cost of recovering possession of the Premises, all costs of reletting, and arising out of Tenant's default, including attorneys' fees. Notwithstanding any reentry, the liability of Tenant for the rent reserved herein shall not be extinguished for the balance of the Term, and Tenant agrees to compensate Landlord upon demand for any deficiency arising from reletting the Premises at a lesser rent than applies under this Lease.

16.3 Past Due Sums; Penalty. If Tenant fails to pay, when the same is due and payable, any Basic Annual Rent, Estimated Costs and electrical charges within ten (10) days after the same is due and payable, or other sum required to be paid by it hereunder, such unpaid amounts shall bear interest from the due date thereof to the date of payment at a fluctuating rate equal to two percent (2%) per annum above the prime rate of interest charged by First Security Bank of Utah, Salt Lake City, Utah. In addition thereto, Tenant shall pay a sum of five percent (5%) of such unpaid amounts as a service fee. Notwithstanding the foregoing, however, Landlord's right concerning such interest and service fee shall be limited by the maximum amount which may properly be charged by Landlord for such purposes under applicable law.

XVII. PROVISIONS APPLICABLE AT TERMINATION OF LEASE

17.1 Surrender of Premises. At the expiration of this Lease, except for changes made by Tenant that were approved by Landlord. Tenant shall surrender the Leased Premises in the same condition, less reasonable wear and tear, as they were in upon delivery of possession thereto under this Lease and shall deliver all keys to Landlord. Before surrendering the Leased Premises, Tenant shall remove all of its personal property and trade fixtures and such property or the removal thereof shall in no way damage the Leased Premises, and Tenant shall be responsible for all costs, expenses and damages incurred in the removal thereof. If Tenant fails to remove its personal property and fixtures upon the expiration of this Lease, the same shall be deemed abandoned and shall become the property of Landlord.

17.2 Holding Over. Any holding over after the expiration of the term hereof or of any renewal term shall be construed to be a tenancy from month to month at such rates as Landlord may designate and on the terms herein specified so far as possible. Landlord may not in any event raise the rent above 110% of the last month's rent.

XVIII. ATTORNEYS' FEES

In the event that at any time during the term of this Lease any party institutes any action or proceeding against any other party relating to the provisions of this Lease or any default hereunder, then the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful party.

XIX. ESTOPPEL CERTIFICATE

19.1 Landlord's Right to Estoppel Certificate. Tenant shall, within fifteen (15) days after Landlord's request, execute and deliver to Landlord a written declaration, in form and substance similar to Exhibit "D", in recordable form: (1) ratifying this Lease; (2) expressing the Commencement Date and termination date hereof; (3) certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated); (4) that, if true, all conditions under this Lease to be performed by Landlord have been satisfied; (5) that there are no defenses or offsets against the enforcement of this Lease by the Landlord, or stating those claimed by Tenant; (6) the amount of advance rental, if any, (or none if such is the case) paid by Tenant; (7) the date to which rental has been paid; (8) the amount of security deposited with Landlord; and (9) such other information as Landlord may reasonably request. Landlord's mortgage lenders and/or purchasers shall be entitled to rely upon such declaration.

19.2 Effect of Failure to Provide Estoppel Certificate. Tenant's failure to furnish any Estoppel Certificate within fifteen (15) days after request therefor shall be deemed a default hereunder and moreover, it shall be conclusively presumed that: (a) this Lease is in full force and effect without modification in accordance with the terms set forth in the request; (b) that there are no unusual breaches or defaults on the part of the Landlord; and (c) no more than one (1) month's rent has been paid in advance.

XX. PARKING

Automobiles of Tenant and all visitors associated with Tenant shall be parked only within parking areas designated by Landlord for parking. Landlord or its agents shall, without any liability to Tenant or its occupants, have the right to cause to be removed any automobile that may be wrongfully parked in a prohibited or reserved parking area, and Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all claims, losses, demands, damages and liabilities asserted or arising with respect to or in connection with any such removal of an automobile except due to Landlord's negligence. Tenant shall from time to time, upon request of Landlord, supply Landlord with a list of license plate numbers of all automobiles owned by Tenant or its day-to-day occupant.

XXI. SIGNS, AWNINGS, AND CANOPIES

Tenant shall not place or suffer to be placed or maintained on any exterior door, wall, or window of the Leased Premises, or elsewhere in the Building, any sign, awning, marquee, decoration, lettering, attachment, or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering, or advertising matter on the glass of any window or door of the Leased Premises without obtaining the proper authorization from Utah County prior to installing. Tenant will otherwise be free to install signage of its choice.

XXII. MISCELLANEOUS PROVISIONS

22.1 No Partnership. Neither Landlord nor the Property Manager by this Lease, in any way or for any purpose, becomes a partner or joint venturer of Tenant in the conduct of its business or otherwise.

22.2 Force Majeure. Landlord and the Property Manager shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond their control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or service, or acts of God.

22.3 No Waiver. Failure of any party to insist upon the strict performance of any provision or to exercise any option hereunder shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived unless such waiver be in writing signed by Landlord or the Property Manager or Tenant, as the case may be.

22.4 Notice. Any notice, demand, request, or other instrument which may be or is required to be given under this Lease shall be (i) given by facsimile, (ii) delivered in person or (iii) sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at the place specified for payment of rent, and (b) if to Tenant, either at the Leased Premises or at any other current address for Tenant which is known to Landlord. Either party may designate such other address as shall be given by written notice or by facsimile transmission.

Landlord: COVEY CORPORATE CAMPUS TWO, L.L.C.
C/O THE BOYER COMPANY, L.C.
127 SOUTH 500 EAST, SUITE 310
SALT LAKE CITY, UTAH 84102 (801) 521-4781/FAX (801) 521-4793
ATTENTION: B. GREG GARDNER

Tenant: COVEY LEADERSHIP CENTER, INC.
300 WEST 4800 NORTH
PROVO, UTAH

AND

RICHARD L. HILL, ESQ.
JAMESTOWN SQUARE
3319 NORTH UNIVERSITY AVENUE
SUITE 200
PROVO, UTAH 84604
(801) 375-6600/FAX (801) 375-3865

Property
Manager: THE BOYER COMPANY, L.C.
127 SOUTH 500 EAST, SUITE 310
SALT LAKE CITY, UTAH 84102 (801) 521-4781/FAX (801) 521-4793

22.5 Captions; Attachments; Defined Terms.

(a) The captions to the section of this Lease are for convenience of reference only and shall not be deemed relevant in resolving questions of construction or interpretation under this Lease.

(b) Exhibits referred to in this Lease, and any addendums and schedules attached to this Lease shall be deemed to be incorporated in this Lease as though part thereof.

22.6 Recording. Tenant may record this Lease or a memorandum thereof with the written consent of Landlord, which consent shall not be unreasonably withheld. Landlord, at its option and at any time, may file this Lease for record with the Recorder of the County in which the Building is located.

22.7 Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

22.8 Broker's Commissions. Tenant represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with this Lease and agrees to indemnify Landlord against and hold it harmless from all liabilities arising from such claim, including any attorneys' fees connected therewith.

22.9 Tenant Defined: Use of Pronouns. The word "Tenant" shall be deemed and taken to mean each and every person or party executing this document as a Tenant herein. If there is more than one person or organization set forth on the signature line as the Tenant, their liability hereunder shall be joint and several. If there is more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Landlord or Tenant shall be deemed a proper reference even though Landlord or Tenant may be an individual, a partnership, a corporation, or a group of two or more individuals or corporation. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and to corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

22.10 Provisions Binding, Etc. Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, heirs,

successors, and assigns. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition, and if there shall be more than one Tenant, they shall all be bound, jointly and severally, by such provisions. In the event of any sale or assignment (except for purposes of security or collateral) by Landlord of the Building, the Leased Premises, or this Lease, Landlord shall, from and after the Commencement Date (irrespective of when such sale or assignment occurs), be entirely relieved of all of its obligations hereunder.

22.11 Entire Agreement, Etc. This Lease and the Exhibits, Riders, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. All Exhibits, riders, or addenda mentioned in this Lease are incorporated herein by reference. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon each party unless reduced to writing and signed. Submission of this Lease for examination does not constitute an option for the Leased Premises and becomes effective as a lease only upon execution and delivery thereof by Landlord to Tenant. If any provision contained in the rider or addenda is inconsistent with a provision in the body of this Lease, the provision contained in said rider or addenda shall control. The captions and Section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any section or paragraph.

22.12 Governing Law. The interpretation of this Lease shall be governed by the laws of the State of Utah. The parties hereto expressly and irrevocably agree that either party may bring any action or claim to enforce the provisions of this Lease in the State of Utah, County of Utah, and each party irrevocably consents to personal jurisdiction in the State of Utah for the purposes of any such action or claim. Each party further irrevocably consents to service of process in accordance with the provisions of the laws of the State of Utah. Nothing herein shall be deemed to preclude or prevent the parties hereto from bringing any action or claim to enforce the provisions of this Lease in any other appropriate place or forum.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Lease on the day first set forth above.

LANDLORD: COVEY CORPORATE CAMPUS TWO, L.L.C.

By /s/ KEM C. GARDNER

KEM C. GARDNER
MANAGER

By /s/ STEPHEN M. R. COVEY

STEPHEN M. R. COVEY
MANAGER

TENANT: COVEY LEADERSHIP CENTER, INC.

By /s/ STEPHEN M. R. COVEY

STEPHEN M. R. COVEY
PRESIDENT AND CEO

PROPERTY MANAGER: THE BOYER COMPANY, L.C.

By /s/ KEM C. GARDNER

KEM C. GARDNER
PRESIDENT AND MANAGER

NOTARY

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On this 1st day of October, 1996, personally appeared before me KEM C. GARDNER, who duly acknowledged to me that he executed the foregoing Lease as the Manager of **COVEY CORPORATE CAMPUS TWO, L.L.C.**

My commission Expires:

4/28/97

/s/ DENIESE D. BALLI

Notary Public
Residing at SALT LAKE COUNTY

[SEAL]

NOTARY PUBLIC
DENIESE D. BALLI
127 South 500 East # 310
Salt Lake City. UT 84102
My Commission Expires April 28, 1997
STATE OF UTAH

STATE OF)
) ss
COUNTY OF)

On this _____ day of _____, 1996, personally appeared before me STEPHEN M. R. COVEY, who duly acknowledged to me that he executed the foregoing Lease as the Manager of **COVEY CORPORATE CAMPUS TWO, L.L.C.**

[SEAL]

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
November 15,1998
MYRTLE RAE ALLEN
1140 East 13400 South
Draper, Utah 84020

/s/ MYRTLE RAE ALLEN

Notary Public

STATE OF)
) ss
COUNTY OF)

The foregoing instrument was acknowledged before me on this _____ day of January, 1996, by STEPHEN M. R. COVEY, the President and CEO of **COVEY LEADERSHIP CENTER, INC.** STEPHEN M. R. COVEY stated that the foregoing instrument was signed on behalf of said Corporation by authority (of its by-laws or pursuant to a resolution of its board of directors) for the purposes and covenants contained therein.

[SEAL]

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
November 15,1998
MYRTLE RAE ALLEN
1140 East 13400 South
Draper, Utah 84020

/s/ MYRTLE RAE ALLEN

Notary Public

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On this 1st day of October, 1996, personally appeared before me KEM C. GARDNER, who duly acknowledged to me that he executed the foregoing Lease as the President and Manager of **THE BOYER COMPANY, L. C., A UTAH LIMITED LIABILITY COMPANY.**

My commission Expires:

4/28/97

/s/ DENIESE D. BALLI

Notary Public
Residing at SALT LAKE COUNTY

[SEAL]

NOTARY PUBLIC
DENIESE D. BALLI
127 South 500 East # 310
Salt Lake City, UT 84102
My Commission Expires April 28, 1997
STATE OF UTAH

THIS RIDER IS INCORPORATED INTO THE LEASE AGREEMENT AND MADE A PART THEREOF

A. Tenant's Right of First Refusal to Purchase Building

Landlord grants to Tenant the right of first refusal exercisable after the Commencement Date during the term of the Lease to purchase the Building (the "Right of First Refusal"). If at any time after the Commencement Date during the term of this Lease Landlord shall desire to accept an offer from a third person to purchase the Building, it shall provide written notice of such intent to Tenant together with a copy of the offer. Tenant shall have twenty (20) days to elect to purchase the Building strictly upon the terms and conditions, including price, as set forth in the offer. If Tenant does not timely exercise the Right of First Refusal, this Right of First Refusal shall expire and Landlord may thereafter sell the Building upon terms and conditions, including price, which are not more favorable to the buyer that is set forth in the offer. This Right of First Refusal shall not apply to a foreclosure sale, trustee's sale or deed in lieu of foreclosure by or to a mortgage lender in respect of the Building.

B. Tenant's Option to Purchase Building

1. Commencing as of the Commencement Date and continuing throughout the term of the Lease, Tenant shall have the right and option to purchase all of Landlord's right, title and interest in the Building upon the terms and conditions set forth in this portion of the Rider (the "Purchase Option"). To exercise this Purchase Option, tenant shall give written notice of exercise to Landlord in the manner provided in the Lease. Tenant may exercise the Purchase Option only if no default, or circumstance which with the giving of notice and/or the passage of time would constitute a default, is then existing.
2. The Purchase Price which Tenant shall pay to Landlord for its entire right, title and interest in the Building (the "Purchase Price") shall be the sum of the following:
   (a) The amount of any prepayment fee, premium or similar charge incurred by Landlord in discharging any lien or encumbrance which secures any monetary obligation on the Building.
   (b) the Fair Market Value (as defined below)
3. For purposes of this Purchase Option, the following terms shall have the meanings set forth:
   (a) "Fair Market Value" means the value of the Building as agreed upon in writing by Landlord and Tenant or, if the Landlord and Tenant

cannot agree upon such value within thirty (30) days after the Tenant exercises the Purchase Option, then either Landlord or Tenant may nominate three (3) qualified, independent appraisers to appraise the Building, each of whom shall:

(i) be a member in good standing of the Utah Chapter of the Appraisal Institute;

(ii) be state certified under the Utah Real Estate Appraiser Registration and Certification Act; and

(iii) shall have not less than five (5) years of experience valuing office buildings in Utah County, Utah.

The other party shall then select one (1) of the nominated appraisers to perform an appraisal to determine the Fair Market Value of the Building. The costs and fees of the appraiser shall be paid in equal shares by Landlord and Tenant. In determining the Fair Market Value it shall be assumed that all liens and encumbrances securing obligations to pay loans or other fixed or determinable sums have been discharged.

4. The closing, pursuant to the Purchase Option, shall occur thirty (30) days after the Purchase Price is determined. At the closing:

(a) Tenant shall pay the Purchase Price in cash.

(b) Landlord shall convey title to the Building to Tenant by special warranty deed and shall be obligated to provide at Landlord's cost a standard owner's policy of title insurance.

(c) Landlord shall discharge all liens and encumbrances securing obligations to pay loans or other fixed or determinable sums or obligations owing to mechanics or materialmen. Tenant shall take the Building subject to all other encumbrances and exceptions of record.

(d) Landlord shall represent and warrant to the best of its knowledge as to customary matters involving the condition of the Building.

(e) Each of the parties shall bear its costs and attorneys' fees in connection with the exercise and closing under the Purchase Option: provided. Landlord shall pay the premium on the policy of title

insurance delivered to Tenant, and Landlord and Tenant shall each pay one-half (1/2) of the fees of the escrow agent.

5. If the Tenant exercises the Purchase Option but timely fails to close for any reason other than the fault of Landlord, the Purchase Option shall thereafter expire and shall no longer be enforceable.

EXHIBIT “A”

LEGAL DESCRIPTION OF PROPERTY

The Property is situated in Utah County, Utah, at approximately 350 West 4800 North, Provo, and is particularly described as follows:

Commencing at a point located North 00°27’03” West along the Section line 408.42 feet and West 1987.33 feet from the East 1/4 corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 425.36 feet; thence South 72°27’59” West 45.16 feet; thence South 77°09’15” West 99.23 feet; thence North 89°32’36” West 329.26 feet; thence South 12°58’25” West 1.06 feet; thence West 56.06 feet; thence North 26°54’17” West 141.71 feet; thence North 48°08’41” East 512.69 feet; thence North 87°24’14” East 101.40 feet; thence South 82°41’46” East 107.19 feet to the point of beginning.

AREA = 4.70 ACRES

EXHIBIT "B"

PLANS OF LEASED PREMISES

EXHIBIT "B" TO BE PROVIDED FOLLOWING COMPLETION OF ARCHITECTURAL CONCEPTUAL DRAWINGS.

EXHIBIT "C"

WORK LETTER

CONSTRUCTION AND/OR FINISHING OF IMPROVEMENTS TO LEASED PREMISES

In accordance with the provisions of the body of the Lease to which this Exhibit "C is attached, the improvements to the Leased Premises shall be constructed and/or finished (as the case may be) in the manner described, and upon all of the terms and conditions contained in the following portion of this Exhibit "C".

I. CONSTRUCTION OF PHASE II BUILDING ("THE BUILDING"):

A. Landlord agrees to erect at its sole cost and expense, the Shell Building. Landlord shall build-out and finish the Leased Premises according to Tenant's plans and specifications at Tenant's cost and expense. The Building and the Leased Premises shall be constructed in a good and workmanlike manner, with any change orders thereto approved by Landlord and Tenant with respect to the Leased Premises pursuant to Article B below, and in compliance with all applicable laws and ordinances. Preliminary Plans shall provide for a completely finished building, of a type and quality that is consistent with newly constructed first-class office buildings in the Salt Lake City, Utah area, and shall include site plans showing all driveways, sidewalks, parking areas that provide 251 parking stalls, landscaping and other site improvements. Without limiting the generality of the foregoing, Preliminary Plans shall provide for a three (3) story building containing 62,916 gross rentable square feet of space and shall be generally consistent with the conceptual plans and drawings attached hereto as Exhibit "B" and incorporated herein (the "Conceptual Drawings"). The build-out and interior finish work within the Leased Premises shall be in accordance with plans and specifications that shall be prepared by Landlord's architect, MHTN Architects, and engineers ("Tenant Finish Plans"). Tenant Finish Plans shall be prepared in accordance with the time periods set forth to meet a July 1,1997 Target Date. The Target Date shall be extended by any period of Tenant's delay in providing decisions that need to be made in connection with the preparation of Tenant Finish Plans.

B. Tenant may make changes to Final Plans only if Tenant signs a change order requesting the change and then only if Landlord approves the change by signing the change order, which approval shall not be unreasonably withheld, conditioned, or delayed. Landlord shall notify Tenant in writing, within five (5) business days of Tenant's change order request, of its approval or detailed reason of its disapproval of such change order and a good faith estimate of the actual cost of such change order and any delay to the Target Date or in achieving substantial completion that would result therefrom. Tenant may, within five (5) business days of its receipt of such estimate, elect to rescind its request for such change order upon written notice to Landlord. Landlord may require changes in Final Plans only if Landlord and Tenant sign a change order. The cost of any change orders that are necessary to comply with applicable building codes and other laws shall be borne by Landlord, unless such change orders are necessitated only because of (1) other change orders requested by Tenant: (2) Tenant Finish Plans: (3) changes to Tenant Finish Plans: or (4) Tenant's early occupancy to the Building prior to substantial completion of Landlord's Work. Any

change order shall be effective only when set forth on a written change order executed by Landlord, Tenant, and the Base Building General Contractor. By approving a change order, Tenant and Landlord shall agree to a delay in Substantial Completion and to the Target Date, as specified therein, if any.

Tenant shall furnish Landlord with a written list of Tenant's authorized construction representatives for Landlord's Work. Only such construction representatives are authorized to sign any change order, receipt, or other document on behalf of Tenant related to Landlord's Work, and without the signature of any one of such authorized construction representatives, no such document shall be binding upon Tenant. Tenant may, from time to time, change or add to the list of authorized construction representatives by giving Landlord written notice of the addition or change. Landlord's authorized representative shall be B. Greg Gardner, and until changed by written notice from Landlord to Tenant, only B. Greg Gardner shall be authorized to sign change orders, receipts, or other documents on behalf of Landlord related to Landlord's Work.

C. The Phase I Building Work shall be performed by a general contractor selected by Landlord (the "Base Building General Contractor").

D. Landlord will cause Contractor to provide, at Contractor's expense, an Owner's Protective Liability (OPL) Policy acceptable to Tenant. The Owner's Protective Liability Policy shall name Myriad Genetics, Inc. as the Named Insured. The policy will be provided by an insurance company rated A. Class XV or better by Best's Key Rating Guide system. The policy will maintain a limit of liability of not less than five million dollars ($5,000,000.00). Such insurance policy must be in force prior to the commencement of construction operation of any kind. The Contractor will also insure the Building at Contractor's expense during the course of construction in an amount equal to or greater than the value of the construction. Insurance coverage shall be provided by an insurance company rated A, Class XV or better by Best's Key Rating Guide system. Insurance coverage shall be provided on a coverage form equal to or more comprehensive than Insurance Services Office (U.S.A.) Special form. Such insurance policy must be in force prior to construction operations of any kind.

II. TENANT FINISH PLANS:

A. Landlord shall cause MHTN Architects (the "Architect") to prepare plans and specifications for the interior improvement of the Building and the Leased Premises as necessary to render the Leased Premises in first-class condition and suitable for the conduct of Tenant's business (such improvement being referred to herein as the "Tenant Finish"). Landlord shall require the Architect to meet periodically with Tenant in connection with the preparation of the plans and, upon Landlord's approval thereof (which approval shall not be unreasonably withheld), to incorporate Tenant's requested features and specifications into the plans. Landlord shall submit a complete draft of the plans to Tenant on or before May 1996 (the "Base Line Date"), provided, however. Tenant has cooperated with Landlord in providing the necessary information to complete the plans. Tenant shall within seven (7) days after the plans are submitted to them, either approve the plans in writing or submit to Landlord a written itemization of all objections which Tenant may have to the plans. If Tenant approves the plans, the plans shall be deemed final. If Tenant submits to Landlord a written itemization of objections to the plans. Landlord and Tenant shall negotiate in good faith to resolve Tenant's objections to their mutual satisfaction. If Landlord and Tenant are able to resolve all of Tenant's objections to their mutual satisfaction, then Landlord and Tenant

shall each approve the plans as modified to incorporate the resolution of Tenant's objections and the plans as so modified shall be deemed final.

B. Changes to Plans. After the plans arc deemed final, the plans shall not be subject to further change except as provided under this Paragraph. If either Landlord or Tenant desires any change to the plans after they are deemed final, it shall submit to the other for approval (which approval shall not be unreasonably withheld) a proposed change order, in writing, setting forth the change. Thereupon the other party shall either approve the proposed change order or notify the party submitting the proposed change order of its reason for withholding such approval, within two (2) business days after receipt of the proposed change order for approval. Without limiting the reasons for which approval of any proposed change order may be reasonably withheld, approval shall be deemed to have been reasonably withheld if the proposed change (1) would result in additional construction maintenance repair or replacement costs which could not be fully borne by the party proposing the change, (2) would result in a violation of any applicable law, regulation, ordinance or code, or (3) in the case of a change proposed by Landlord would materially reduce the usable area of the Building or would materially adversely affect the aesthetics of the Leased Premises or the usability thereof for the conduct of Tenant's business. Upon approval of any proposed change order pursuant to this Paragraph, Landlord shall cause the plans and construction contracts to be modified or amended as necessary to reflect such change order.

C. Landlord's Construction Responsibilities. Landlord shall be fully responsible for the installation and construction of Tenant Finish, including, without limitation, the following: (1) the obtaining of all building and sign permits, licenses and other approvals required to construct the Tenant Finish: (2) the management and supervision of all architects, contractors, subcontractors and material providers participating in the construction of the Tenant Improvements; (3) all necessary coordination with governmental entities having jurisdiction over the Lease Premises and utility companies; (4) enforcement of construction contracts; (5) security with respect to the Leased Premises during the construction period: (6) quality control and inspection of work; (7) construction clean up and refuse disposal: (8) construction timetables and deadlines as necessary to comply with the Lease; (9) compliance with applicable laws, regulations, ordinances and codes; and (10) all other matters relating to the construction of the Tenant Improvements, except as otherwise expressly provided in the Lease. Landlord represents and covenants that upon the completion of the Tenant Improvements, the Leased Premises shall conform to the Tenant Finish Plans and shall be in compliance with all applicable laws, regulations, ordinances, and codes, including, without limitation, applicable building codes and environmental laws. Tenant shall be entitled at any time during the construction period to inspect the construction of the Tenant Improvements, provided that such inspection does not unreasonably interfere with the construction of the Tenant Improvements. No failure of Tenant to conduct such inspections or to discover or assert any defect in connection therewith shall constitute a waiver by Tenant of, or preclude Tenant from thereafter asserting, any rights it may have with respect to any representation, warranty or covenant made by Landlord with respect to the Leased Premises or the Tenant Finish.

D. Construction Contracts. Landlord, in its reasonable discretion, may act as general contractor with respect to. or install and construct using its own personnel, all or portions of the Tenant Improvements, provided, however. Landlord shall contract with and use licensed, qualified and reputable companies or persons for the performance of all such work to the extent Landlord is not licensed and fully qualified to perform the same. Landlord shall be entitled to select all contractors and material providers to perform work with respect to the Tenant

Improvements which Landlord does not elect to perform directly and to negotiate the terms and conditions of the contracts with such contractors and material providers.

E. Landlord warrants to Tenant for one (1) year after the Commencement Date of the Lease, that Tenant Finish shall be completed by Landlord in a good and workmanlike manner, free from faulty materials, in accordance with all applicable legal requirements, and sound engineering standards, and in accordance with the Final Plans and Tenant Finish Plans. Such warranty includes, without limitation, the repair or replacement (including labor), for one (1) year at Landlord's sole cost, of all materials, fixtures and equipment which are defective or which are defectively installed by Landlord or its agents in connection with Landlord's Work. In addition, Landlord shall obtain manufacturer's warranties, including, without limitation, for air conditioner, compressors, and the roof of the Building.

F. Landlord shall pay an allowance ("Tenant Finish Allowance") of $1,099,010.00 or $22.00 per usable square foot (49,995 total usable square feet) which shall be applied toward the total construction cost of the Tenant Finish. Tenant shall pay to Landlord any amount by which the total construction cost of the Tenant Finish exceeds the allowance. Any amounts payable by Tenant under this Paragraph shall be paid by Tenant to Landlord on a monthly, progress payment basis, based on the percentage of the Tenant Finish that has been completed to date, as evidenced by a certificate to that effect from Landlord's architect, together with copies of paid invoices and/or such other evidence as Tenant shall reasonably require.

G. Commencement Date Agreement. When the Commencement Date has been determined, Landlord and Tenant shall execute Exhibit D (attached) expressly confirming the Commencement Date and the expiration date of the Initial Term of this Lease and confirming, to the best knowledge of Tenant and Landlord, that Substantial Completion has occurred.

H. Tenant's Construction Obligations. Tenant shall be fully responsible for the installation of all of Tenant's trade fixtures, equipment, furnishings or decorations, except to the extent such installation is contemplated or provided for in the Plans. Landlord shall provide Tenant reasonable access to the Leased Premises for such purposes.

EXHIBIT "D"

ACKNOWLEDGMENT OF COMMENCEMENT DATE
AND TENANT ESTOPPEL CERTIFICATE

TO: DATE:

RE: _____

_____

_____

_____

Gentlemen:

The undersigned, as Tenant, has been advised that the Lease has been or will be assigned to you as a result of your financing of the above-referenced property, and as an inducement therefor hereby confirms the following:

1. That it has accepted possession and is in full occupancy of the Premises, that the Lease is in full force and effect, that Tenant has received no notice of any default of any of its obligations under the Lease, and that the Lease Commencement Date is _____

2. That the improvements and space required to be furnished according to the Lease have been completed and paid for in all respects, and that to the best of its knowledge, Landlord has fulfilled all of its duties under the terms, covenants and obligations of the Lease and is not currently in default thereunder.

3. That the Lease has not been modified, altered, or amended, and represents the entire agreement of the parties, except as follows:

_____

_____

_____

_____

4. That there are no offsets, counterclaims or credits against rentals, nor have rentals been prepaid or forgiven, except as provided by the terms of the Lease.

AMENDMENT TO LEASE AGREEMENT
(Building No. 2)

THIS AMENDMENT TO LEASE AGREEMENT (the "Amendment") is made effective the 21st day of March, 1997, by and between COVEY CORPORATE CAMPUS TWO, L.L.C., a Utah limited liability company (the "Landlord"), FRANKLIN COVEY CO., a Utah corporation (the "Tenant") and THE BOYER COMPANY, L.C., a Utah limited liability company (the "Property Manager").

RECITALS:

On the 29th day of October, 1996, Landlord and Covey Leadership Center, Inc., a Utah corporation ("CLC") as tenant, entered into a certain Lease Agreement providing for the lease by Landlord to Tenant of office space located in a three-story office building, at approximately 466 West 4800 North, Provo, Utah, for the rental and on terms and conditions more particularly set forth in said Lease ("Existing Lease Agreement"). Effective June 2, 1997, Franklin Covey Co. became the successor in interest to CLC by merger. The parties desire to amend the Existing Lease Agreement as follows:

AGREEMENT:

For and in consideration of the mutual promises herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree that the Existing Lease Agreement shall be and is hereby amended as follows:

1. Amendment to Section l.l(c). Section l.l(c) of the Existing Lease Agreement is hereby amended and restated as follows:

(c) The exclusive right as to all persons and entities other than the tenant of the Adjacent Property (as defined in Section 15 of this Second Amendment) and its guests, employees and visitors to use those areas on the Property and on the Adjacent Property which are designated and suitable for vehicular parking (the "Parking Areas"). Landlord represents that Two Hundred Sixty (260) parking stalls are located on the Property and One Hundred and Ninety Eight (198) parking stalls are located on the Adjacent Property. Landlord covenants that the total number of parking stalls in the Parking Areas shall not be less than Four Hundred and Fifty-Six (456) parking stalls, and that Parking Areas shall be available for the exclusive use of Tenant and the tenant of the Adjacent Property, and their respective guests, employees and visitors. The parking rights of Tenant and its guests, employees and visitors pursuant to this subsection are subject to, and Tenant is hereby granted the benefit of parking rights on adjacent tracts of land created by, the reciprocal cross-parking easements set forth in that certain Reciprocal Grant of Easements recorded July 10, 1995 as Entry No. 43655 in Book 3716 at Page 195 of the Utah County Recorder's Office, as amended by that certain Amendment to Reciprocal Grant of Easements dated December __, 1997 (collectively, the "Reciprocal Easement Agreement").

_____ of the Reciprocal Easement Agreement is attached to this Second Amendment as : “A”.

__. Amendment to Section 2.1. The text of Article 2.1 of the Existing Lease _____ hereby amended and restated, in its entirety as follows:

_____ Length of Term. The term of this Lease shall be for a period which _____ as of the Commencement Date and shall continue until December 31, _____ he “Expiration Date”).

__. Amendment to Section 4.1. Section 4.1(a) of the Existing Lease Agreement is ____ follows:

(a) In line 17 of Section 4.1(a), insert a closing parentheses after the word _____ning” and before the next comma.

(b) In Line 19, insert the words “per annum” after the words “one percent (1%)” __fore the words “of Direct Costs.”

(c) In line 33, insert the words “described in Section 8.1” between the words ___ses” and “which.”

__. Amendment of Section 6.2(c). Section 6.2(c) of the Existing Lease Agreement is _____ entirety to read as follows:

(c) Adversely overload the floors or otherwise damage _____ the structural soundness of the Leased Premises or Building or any _____ part thereof.

__. Amendment of Section 7.1 of Existing Lease Agreement. The first paragraph of _____ the Existing Lease Agreement is hereby amended in its entirety to read as follows:

7.1 Obligations of Landlord. Except for the specific services and costs _____ herein, Landlord shall provide all services and pay for all costs _____ with the normal operation and maintenance of the Leased Premises at a _____ consistent with services and maintenance provided by lessors with respect to _____ buildings located in Provo, Utah. Therefore, during the term of this Lease Landlord shall cause to be furnished to the Leased Premises during normal _____ hours the general services described in Section 4. l(a) above, the cost and _____ of which shall be included in Direct Costs. For the purposes of this Lease, _____ operating hours for the Leased Premises are from 7:00 a.m. to 6:00 p.m., _____ through Friday. These services include without limitation the following:

_____ Section 7.1, consisting of subsections (a) through (h), is not altered.

329.26 feet; thence North 12°58’25” East 216.59 feet; thence North 25°30’46” West 68.49 feet; thence North 02°48’53” West 71.27 feet; thence North 8°53’32” East 85.72 feet; thence North 33°58’26” East 35.00 feet to the point of beginning.

PARCEL NO. 3

Commencing at a point located North 00°27’03” West along the Section line 207.11 feet and West 2431.32 feet from the East quarter corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 25°30’46” East 51.01 feet; thence South 12°58’25” West 217.65 feet; thence West 56.06 feet; thence North 26°54’17” West 141.71 feet; thence North 48°08’41” East 197.46 feet to the point of beginning.

Together with a right of easement of use and enjoyment in and to the common areas and facilities of the portion lying within said Lot 2, as the same are provided for in that Certain Master Declaration of the Protective Covenants, Conditions, and Restrictions recorded October 24, 1991, as Entry No. 42273, in Book 2847, as Page 618, Utah County Recorder’s Office.

Less and excepting therefrom any portion thereof lying within the West Union Canal and the Provo Bench Canal.

19. Ratification. In the event of any inconsistency between this Amendment and the Existing Lease Agreement, the provisions of this Amendment shall control. Except as amended by this Amendment, the Existing Lease Agreement is ratified and affirmed.

IN WITNESS WHEREOF, this Amendment to the Existing Lease Agreement has been executed the day and year first hereinabove written.

“LANDLORD”

COVEY CORPORATE CAMPUS TWO, L.L.C.,
a Utah limited liability company

By /s/ KEM C. GARDNER

Kem C. Gardner
Manager

By /s/ STEPHEN M.R. COVEY

Stephen M.R. Covey
Manager

"TENANT"

FRANKLIN COVEY CO., a Utah corporation

By /s/ VAL JOHN CHRISTENSEN

Val John Christensen
Executive Vice President

"PROPERTY MANAGER"

THE BOYER COMPANY, L.C., a Utah limited liability company

By /s/ KEM C. GARDNER

Its **Kem C. Gardner**
President and Manager

EXHIBIT “A”

TO

AMENDMENT TO LEASE AGREEMENT
(Building No.2)

[See attached copy of Reciprocal Grant of Easements and
Amendment to Reciprocal Grant of Easements]

WHEN RECORDED RETURN TO:

Kenner Associates, Inc.
P.O. Box 666
Sandy, Utah 84091

EXT 43262 BK 3715 PG 132
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1995 JUL 6 4:53 PM FEE 30.00 ____
RECORDED FOR ROWLEY-METRO TITLE

RECIPROCAL GRANT OF EASEMENTS

FOR VALUE RECEIVED, the undersigned, KENNER ASSOCIATES, INC., a Utah Corporation (the "Developer"), and COVEY CORPORATE CAMPUS ONE, L.L.C., the ("Optionee"), and their respective successors and assigns hereby GRANT, DECLARE, ACKNOWLEDGE AND AGREE as follows:

1. OWNERSHIP OF PARCELS. The Developer is the owner of land legally described on Exhibit "A" attached hereto and incorporated herein, which Developer intends to subdivide and develop as the four separate parcels identified herein as Parcels A, B, C and D (hereinafter the "Parcels") situated in Utah County, State of Utah, which parcels are more particularly described in Exhibit "B" attached hereto and incorporated herein, and are outlined on Exhibit "C" attached hereto and incorporated herein. Optionee has an option to acquire Parcel A of the property.

2. EASEMENT FOR INGRESS AND EGRESS. The Developer as owner of the Parcels and the Optionee with respect to its interest in Parcel A and their respective successors, assigns, tenants, customers, invitees and employees shall have non-exclusive rights-of-way and easements for ingress and egress for vehicular and pedestrian traffic over, upon and across the roads, driveways and access ways, entrances, and exits on all of said Parcels as established and modified from time to time.

3. EASEMENT FOR PARKING. The Developer, the Optionee, and any successor owners of Parcels A, B, C and D, and their respective successors, assigns, tenants, customers, invitees and employees shall have non-exclusive and common parking rights and privileges upon the designated parking areas of Parcels A, B, C and D as the same are constructed, established and modified from time to time. The owners of each Parcels shall have the right to designate a reasonable number of parking stalls on its Parcel as being for the exclusive use of its tenants, guests and visitors.

4. PARKING REQUIREMENTS. Each Parcel shall have improved and developed on such Parcel the necessary minimum number of parking spaces initially required by governmental authorities for development of such Parcel. In addition, all automobile parking spaces as established from time to time on Parcel A, B, C and D shall be deemed available for the calculation of a single parking count index total for consideration by governmental authorities in determining the necessary balance between gross building areas developed on Parcels A, B, C and D and commensurate parking space requirements.

* RE-RECORDED TO CORRECT LEGAL ON EXHIBIT "A" *

EXT 43655 BK 3716 PG 195
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1995 JUL 10 7:57 AM FEE 30.00 ____
RECORDED FOR ROWLEY-METRO TITLE

5. EASEMENTS FOR UTILITIES. The Developer, the Optionee, and any successor owners of Parcels A, B, C and D and their respective successors and assigns shall have non-exclusive rights-of-way and easements over, under, upon and across the roads, driveways, parking strips, sidewalks, access ways and utilities easements of all of said Parcels as established by the Owner of such Parcels for the purpose of connecting to, maintaining, repairing and replacing any and all utilities, including but not limited to water lines, sewers, gas lines, telephone lines and electrical lines as reasonably necessary; providing further, however, that any use of this right shall include the responsibility and obligation to fully and completely repair and restore any and all damage or destruction resulting from said use.

6. OPEN SPACE REQUIREMENTS: To the extent that any Parcel has landscaping, open space or green belt in excess of that required by any governmental authorities or any recorded restrictive covenant or condition applicable to such Parcel, such excess landscaping, open space or green belt shall be deemed available for the calculation and consideration of compliance with total landscape, open space or green belt compliance requirements by or for all Parcels.

7. COVENANTS RUNNING WITH THE LAND. It is understood and agreed that the rights, easements and restrictions herein granted shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of the owners of Parcels A, B, C and D, their respective successors and assigns.

8. PARTIAL SUBORDINATION TO PRI TRUST DEED. So long as that certain Trust Deed executed by Developer in favor of Property Reserve, Inc., ("PRI") remains a lien of encumbrance on any portion of Parcels B, C and D, at the option of PRI or its successors in interest, this Reciprocal Grant of Easements shall be deemed subordinate to the lien of such Trust Deed as to any unreleased property encumbered by the Trust Deed, such that upon foreclosure of the Trust Deed, PRI may, upon its written, recorded election, treat the benefits and burdens of this Reciprocal Grant of Easements as being ineffective and foreclosed as to such unreleased Property foreclosed by PRI or its successor in interest.

IN WITNESS WHEREOF, this Agreement is executed this __ day of July, 1995.

KENNER ASSOCIATES, INC.,
a Utah corporation

By /s/ BRUCE B. KENNER

Bruce B. Kenner, President

COVEY CORPORATE CAMPUS ONE, L.L.C.,
A Utah limited liability company

By /s/ BRUCE B. KENNER

Its **Authorized Manager**

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

EXT 43653 BK 3716 PG 197

On the 6th day of July, 1995, personally appeared before me Bruce B. Kenner, who being first duly sworn, acknowledged to me that he is the duly authorized President of Kenner Associates, Inc., a Utah corporation, and that he executed the foregoing instrument on behalf of said corporation.

[SEAL] Illegible /s/ Illegible

Notary Public
Residing at: _____

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the __th day of July, 1994, personally appeared before me Bruce B. Kenner, who being first duly sworn, acknowledged to me that he is the duly authorized Manager of Covey Corporate Campus One, L.L.C., a Utah limited liability company, and that he executed the foregoing instrument in such capacity on behalf of said limited liability company.

[SEAL] Illegible /s/ Illegible

Notary Public
Residing at: _____

EXHIBIT A

BOUNDARY DESCRIPTION

Beginning at a point which is South 88°12’21” West 1424.54 feet and South 1404.82 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence on a 23.00 foot radius curve to the right 41.81 feet having a central angle of 104°09’08” and whose long chord bears South 40°32’53” East 36.29 feet; thence South 11°31’41” West 19.38 feet; thence South 12°06’35” West 200.21 feet; thence South 11°58’56” West 35.52 feet; thence South 12°03’06” West 52.09 feet; thence South 10°05’37” West 24.25 feet; thence South 10°19’19” West 447.83 feet; thence along the arc of a 428.00 foot radius curve to the left 121.29 feet having a central angle of 16°14’15” and whose long chord bears South 02°12’12” West 120.89 feet; thence South 05°54’56” East 184.49 feet; thence South 72°15’49” West 265.89 feet; thence South 72°27’59” West 221.15 feet; thence South 77°09’15” West 99.23 feet; thence North 89°32’36” West 329.26 feet; thence North 12°58’25” East 216.59 feet; thence North 25°30’46” West 68.49 feet; thence North 02°48’53” West 71.27 feet; thence North 08°53’32” East 85.72 feet; thence North 33°58’26” East 76.95 feet; thence North 16°55’39” East 57.10 feet; thence North 28°02’07” East 58.65 feet; thence North 86°15’41” East 48.75 feet; thence North 60°37’06” East 81.91 feet; thence North 68°30’54” East 222.86 feet; thence North 55°07’50” East 133.92 feet; thence North 24°19’59” East 58.85 feet; thence North 44°07’17” East 57.64 feet; thence North 09°19’28” East 55.55 feet; thence North 19°00’50” East 99.76 feet; thence North 15°13’54” East 177.05 feet; thence along the arc of a 50.00 foot radius curve to the left 50.20 feet and having a central angle of 57°31’22” and whose long chord bears North 75°12’37” East 48.12 feet; thence along the arc of a 40.00 foot radius curve to the right 28.57 foot having a central angle of 40°55’25” and whose long chord bears North 66°54’30” East 27.97 feet; thence North 87°22’33” East 228.01 feet to the point of beginning.

EXT 43653 BK 3716 PG 198

Contains 16.87 acres.

PARCEL A

Beginning at a point which is South 2546.19 feet, and West 1534.50 feet, from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 72°15’49” West 265.89 feet; thence South 72°27’59” West 175.99 feet; thence Due North 475.36 feet; thence North 72°15’49” East 450.77 feet; thence South 10°79’19” West 126.40 feet; thence on a 428.00 foot radius curve to the left 121.29 feet, having a central angle of 16°74’15” and whose long chord bears South 02°12’12” West 120.89 feet; thence South 05°54’56” East 184.49 feet to the point of beginning.

Contains 4.01 acres

EXT 43653 BK 3716 PG 199

[GRAPHIC]

July 3, 1995

COVEY LEADERSHIP CENTER EXT 43655 BK 3716 PG 201

PARCEL C (REVISED)

Beginning at a point which is West 1859.92 feet and South 1861.93 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; Southeasterly a long the arc of a 395.00 foot radius curve to the right 254.78 feet (Central Angle is 36°57'23" with a Long Chord of South 53°31'25" East 250.39 feet); thence North 72°15'49" East 169.23 feet; thence South 10°19'19" West 160.91 feet; thence South 72°15'49" West 450.77 feet; thence North 82°41'46" West 107.13 feet; thence South 87°24'14" West 314.64 feet; thence North 33°58'26" East 41.95 feet; thence North 16°55'39" East 57.10 feet; thence North 28°02'07" East 56.65 feet; thence North 66°15'41" East 48.75 feet; thence North 60°37'06" East 81.91 feet; thence North 68°30'54" East 222.86 feet; thence North 55°07'50" East 133.92 feet; thence North 24°19'59" East 39.67 feet to the point of beginning.

Contains 4.30 Acres

Data from Boundary Survey for Covey Corporate Campus prepared by CRS Consulting Engineers, Inc., (Job No. 12765) signed August 30, 1994, was used to prepare this legal description.

MEMBER OF AMERICAN SOCIETY OF CIVIL ENGINEERS / MEMBER OF UTAH COUNCIL OF LAND SURVEYORS
MEMBER OF AMERICAN CONSULTING ENGINEERS COUNCIL

[GRAPHIC]

July 3, 1995

COVEY LEADERSHIP CENTER EXT 43653 BK 3716 PG 202

PARCEL D (REVISED)

Beginning at a point which is West 1859.92 feet and South 1861.93 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 24°19'59" East 19.19 feet; thence North 44°07'17" East 57.64 feet; thence North 09°19'28" East 55.55 feet; thence North 19°00'50" East 99.76 feet; thence North 15°13'54" East 177.05 feet; thence on a 50.00 foot radius curve to the left 50.20 feet having a central angle of 37°31'22" and whose Long Chord bears North 75°12'49" East 48.12 feet; thence on a 40.00 foot radius curve to the right 20.57 feet; having a central angle of 40°55'25" and whose long chord bears North 66°54'50" East 27.97 feet; thence North 87°22'33" East 228.01 feet; thence on a 23.00 foot radius curve to the right 41.81 feet; having a central angle of 104°09'08" and whose long chord bears South 40°32'53" East 36.29 feet; thence South 11°31'41" West 19.38 feet; thence South 12°06'35" West 200.21 feet; thence South 11°58'56" West 35.52 feet; thence South 12°03'06" West 52.09 feet; thence South 10°05'37" West 24.25 feet; thence South 10°19'19" West 160.52 feet; thence South 72°15'49" West 169.24 feet; thence Northwesterly along the arc of a 395.00 foot radius curve to the left 254.78 feet (central angle is 36°57'23" with a Long Chord of North 53°31'25" West 250.39 feet) to this point of beginning.

Contains 3.86 Acres

Data from Boundary Survey for Covey Corporate Campus prepared by CRS Consulting Engineers, Inc., (Job No. 12765) signed August 30, 1994, was used to prepare this legal description.

MEMBER OF AMERICAN SOCIETY OF CIVIL ENGINEERS / MEMBER OF UTAH COUNCIL OF LAND SURVEYORS
MEMBER OF AMERICAN CONSULTING ENGINEERS COUNCIL

EXHIBIT “C”

EXT 43655 BK 3716 PG 203

[GRAPHIC]

WHEN RECORDED RETURN TO:

David E. Gee, Esq.
PARR, WADDOUPS, BROWN, GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1536

AMENDMENT
TO
RECIPROCAL GRANT OF EASEMENTS

THIS AMENDMENT TO RECIPROCAL GRANT OF EASEMENTS (the "Amendment") is executed as of the _____ day of December, 1997, by the undersigned.

WHEREAS a Reciprocal Grant of Easements (the "Declaration") was executed as of July 6, 1995 by Kenner Associates, Inc., a Utah corporation, as Developer, and Covey Corporate Campus One, L.L.C., a Utah limited liability company as Optionee, and recorded on July 6, 1995, in the office of the Utah County Recorder as Entry No. 43262 in Book 3715, Page 132; and

WHEREAS the Declaration was re-recorded on July 10, 1995, in the office of the Utah County Recorder as Entry No. 43655 in Book 3716, Page 195 to correct the legal description on Exhibit "A" to the Declaration; and

WHEREAS the undersigned desire to amend the Declaration so as to modify certain rights and obligations upon the owners of Parcels (as defined in the Declaration and shown on the attached Exhibit A).

NOW THEREFORE, FOR THE SUM OF TEN DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned agree as follows:

A. Paragraph 3 of the Declaration shall be amended and restated in its entirety as follows:

3. PARKING. The Developer, the Optionee, and any successor owners of Parcels C and D, and their respective successors, assigns, tenants, customers, invitees and employees shall have non-exclusive and common parking rights and privileges upon the designated parking areas of Parcels C and D as the same are constructed, established and modified from time to time.

B. Paragraph 4 of the Declaration shall be amended and restated in its entirely as follows:

4. PARKING REQUIREMENTS. Each Parcel shall have improved and developed on such Parcel the necessary minimum number of parking spaces initially required by governmental authorities for development of such Parcel. In addition, all automobile parking

spaces as established from time to time on Parcel C and D shall be deemed available for the calculation of a single parking count index total for consideration by governmental authorities in determining the necessary balance between gross building areas developed on Parcels C and D and commensurate parking space requirements.

C. Effective Date. The parties agree that Sections A and B of this Amendment shall become effective upon the occurrence of any of the following:

1. The reconveyance or release by or at the request of Property Reserve, Inc. of that certain Deed of Trust, dated July 6, 1995, between Kenner Associates, Inc., as Trustor, Metro National Title, as Trustee, and Property Reserve, Inc., as Beneficiary (the "Deed of Trust"), or the purchase or acquisition of the Deed of Trust by Kenner Associates, Inc. and/or any other person or entity affiliated with, or controlled by or which controls Kenner Associates, Inc.

2. Any sale or other transfer of Parcels C and D by Kenner Associates, Inc. pursuant to which the Deed of Trust is reconveyed or otherwise released in full; provided, that this Section C shall not apply to any transfer of Parcels C and D pursuant to a judicial foreclosure of the Deed of Trust or a trustee's sale pursuant to Section 57-1-27 of the Utah Code, in which case Sections A and B of this Amendment shall not be effective unless Property Reserve, Inc., or the purchaser at any such foreclosure or trustees sale consents to this Amendment.

D. Designation of Exclusive Parking Spaces for Parcels A & B. Effective immediately, the owner of Parcel A hereby designates 198 parking spaces located on Parcel A for the exclusive use of the owner of Parcel A and its successors, assigns, tenants, customers, invitees, visitors and employees. Effective immediately, the owner of Parcel B hereby designates 260 parking spaces located on Parcel B for the exclusive use of the owner of Parcel B and its successors, assigns, tenants, customers, invitees, visitors and employees. The parties hereto acknowledge that the foregoing exclusive parking designations are reasonable given the exclusive parking requirements of those certain Lease Agreements, as amended, between the owner of Parcels A and B, or its predecessor in interest, and Franklin Covey Co., or its predecessor in interest. The Lease Agreement with respect to Parcel A is dated January 1, 1996 and amended on May 24, 1996 and March 21, 1997. The Lease Agreement with respect to Parcel B is dated October 29, 1996 and amended March 21, 1997.

E. Ratification. Except as specifically modified herein, the parties hereby ratify and reaffirm the terms and conditions set forth in the Declaration. To the extent that any term or condition of this Amendment is inconsistent with the terms or conditions of the Declaration, the terms of this Amendment shall control.

F. Counterpart Signatures. Multiple originals of this Amendment may be produced, the parties hereto agreeing to accept counterpart signatures to this Amendment all of which, when taken together, shall be considered signatures on one and the same original document.

THE UNDERSIGNED have executed this Amendment to Declaration on the respective dates set forth below, to be effective as of the date set forth in Section C above.

PARCEL A and B OWNER:

COVEY CORPORATE CAMPUS ONE, L.L.C. a Utah limited liability company

_____

By: _____

Title: _____

Date: _____

PARCEL C and D OWNER:

KENNER ASSOCIATES, INC.
a Utah Corporation

_____

By: _____

Title: _____

Date: _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 1997, by _____ as _____ of COVEY CORPORATE CAMPUS ONE, L.L.C.

(Seal) NOTARY PUBLIC

My Commission Expires: Residing at:

_____ _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 1997, by _____ as _____ of KENNER ASSOCIATES, INC.

_____

(Seal) NOTARY PUBLIC

My Commission Expires: Residing at:

_____ _____

Exhibit A

to
Amendment
to
Reciprocal Grant of Easements

Parcel A

Beginning at a point which is South 2546.19 feet, and West 1534.50 feet, from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 72°15’49” West 265.89 feet; thence South 72°27’59” West 175.99 feet; thence Due North 425.36 feet; thence North 72°15’49” East 450.77 feet; thence South 10°19’19” West 126.40 feet; thence on a 428.00 foot radius curve to the left 121.29 feet, having a central angle of 16°14’15” and whose long chord bears South 02°12’12” West 120.89 feet; thence South 05°54’56” East 184.49 feet to the point of beginning.

Parcel B (Revised)

Beginning at a point which is West 2376.20 feet and South 2255.47 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 87°24’14” East 314.64 feet; thence South 82°41’46” East 107.19 feet; thence South 425.36 feet; thence South 72°27’59” West 45.16 feet; thence South 77°09’15” West 99.23 feet; thence North 89°32’36” West 329.26 feet; thence North 12°58’25” East 216.59 feet; thence North 25°30’46” West 68.49 feet; thence North 02°48’53” West 71.27 feet; thence North 8°53’32” East 85.72 feet; thence North 33°58’26” East 35.00 feet to the point of beginning.

Parcel C (Revised)

Beginning at a point which is West 1859.92 feet and South 1861.93 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; Southeasterly along the arc of a 395.00 foot radius curve to the right 254.78 feet (Central Angle is 36°57’23” with a Long Chord of South 53°31’25” East 250.39 feet); thence North 72°15’49” East 169.23 feet; thence South 10°19’19” West 160.91 feet; thence South 72°15’49” West 450.77 feet; thence North 82°41’46” West 107.19 feet; thence South 87°24’14” West 314.64 feet; thence North 33°58’26” East 41.95 feet; thence North 16°55’39” East 57.10 feet; thence North 28°02’07” East 56.65 feet; thence North 66°15’41” East 48.75 feet; thence North 60°37’06” East 81.91 feet; thence North 68°30’54” East 222.86 feet; thence North 55°07’50” East 133.92 feet; thence North 24°19’59” East 39.67 feet to the point of beginning.

Parcel D (Revised)

Beginning at a point which is West 1859.92 feet and South 1861.93 feet from the Northeast Corner of Section 13, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 24°19’59” East 19.19 feet; thence North 44°07’17” East 57.64 feet; thence North 09°19’28” East 55.55 feet; thence North 19°00’50” East 99.76 feet; thence North 15°13’54” East 177.05 feet; thence on a 50.00 foot radius curve to the left 50.20 feet having a central angle of 37°31’22” and whose long chord bears North 75°12’49” East 48.12 feet; thence on a 40.00 foot radius curve to the right 28.57 feet; having a central angle of 40°55’25” and whose long chord bears North 66°54’50” East 27.97 feet; thence North 87°22’33” East 228.01 feet; thence on a 23.00 foot radius curve to the right 41.81 feet; having a central angle of 104°09’08” and whose long chord bears South 40°32’53” East 36.29 feet; thence South 11°31’41” West 19.38 feet; thence South 12°06’35” West 200.21 feet; thence South 11°58’56” West 35.52 feet; thence South 12°03’06” West 52.09 feet; thence South 10°05’37” West 24.25 feet; thence South 10°19’19” West 160.52 feet; thence South 72°15’49” West 169.24 feet; thence Northwesterly along the arc of a 395.00 foot radius curve to the left 254.78 feet (central angle is 36°57’23” with a long chord of North 53°31’25” West 250.39 feet) to the point of beginning.

Exhibit 10.5

THIS INDENTURE OF LEASE entered into this 31st day of August, 2001, between A&A Properties, N.W., L.L.C. hereinafter called the lessor, and Sitewise Marketing, Inc., D.B.A. Traffic Leader, hereinafter called the lessee,

Witnesseth: In consideration of the covenants herein, the lessor hereby leases unto the lessee those certain premises, as is, situated in the City of Eugene, County of Lane and State of Oregon, hereinafter called the premises, described as follows:

Approximately 4,000 square feet of office space located at 2896 Crescent Drive, Eugene, Oregon, Suite 101 97408 (Exhibit A)

Landlord shall pay for the tenant improvements to the subject space as per McIntyre's— bid, not to exceed $81,468.20 (Exhibit B)

Internet Enabled T-l via Ethernet to be provided during the 3 year term as long as IP Services has internet at the facility. Tenant shall abide by A.C.C. Use Policy of the internet (Exhibit C)

Tenant shall have the right to 12 parking spaces

To Have and to Hold the premises commencing with the lst day of November, 2001 and ending at midnight on the 31st day of October, 2004, for a rental of $192,074.40 for the whole term, which lessee agrees to pay at 875 Wilson, Suite C, City of Eugene, State of Oregon, at the following times and in the following amounts, to-wit:

Rental Shall be $5,180 per month payable monthly in advance for the period of November 1,2001 through October 31,2002

Rental shall be $5,335.40 Per month for the period of November 1,2002 through October, 31 2003.

Rental shall be $5,495.46 per month for the period of November 1,2003 through October 31,2004

It is understood and agreed that first and last month's rent has been paid in the amount of $10,675.46 which represents rent for November 2001 and October 2004.

Rent shall commence on the Monday following the issuance of an occupancy permit.

In consideration of the leasing of the premises and of the mutual agreements herein contained, the parties agree as follows:

Lessee's Acceptance Of lease	(1)	The lessee accepts this letting and agree to pay to the order of the lessor the monthly rentals above stated for the full term of this lease, in advance, at the times and in the manner aforesaid.
Use of Premises	(2a)	The lessee shall use the premises during the term of this lease for the conduct of the following business: General Office Purposes

(2b) The lessee will not make any unlawful improper or offensive use of the premises; the lessee will not suffer any strip or waste thereof; the lessee will not permit any objectionable noise or odor to escape or to be emitted from the premises or do anything or permit anything to be done upon or about the premises in any way tending to create a nuisance; the lessee will not sell or permit to be sold any product, substance or service upon or about the premises, excepting such as lessee may be licensed by law to sell and as may be herein expressly permitted.

(2c) The lessee will not allow the premises at any time to fall into such a state of repair or disorder as to increase the fire hazard thereon; the lessee will not install any power machinery on the premises except under the supervision and with written consent of the lessor; the lessee will not store gasoline or other highly combustible materials on the premises at any time; the lessee will not use the premises in such a way or for such a purpose that the fire insurance rate on the improvements on the premises is thereby increased or that would prevent the lessor from taking advantage of any rulings of any agency of the state in which the premises are situated, or which would allow the lessor to obtain reduced premium rates for long term fire insurance policies.

(2d) The lessee shall comply at lessee's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting the use of the premises. These include, without limitation, all laws, regulations and ordinances pertaining to air and water quality, Hazardous Material as herein defined, waste disposal, air emissions, and other environmental matters. As used herein, Hazardous Materials means any hazardous or toxic substance, material, or waste, including but not limited to those substances, materials, and waste listed in the U.S. Department of Transportation Hazardous Materials Table or by the U.S. Environmental Protection Agency as hazardous substances and amendments thereto, petroleum products, or such other substances, materials, and waste that are or become regulated under any applicable local, state, or federal law.

(2e) The lessee shall regularly occupy and use the premises for the conduct of lessee's business, and shall not abandon or vacate the premises for more than ten days without written approval of lessor.

(2f) Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the premises by lessee, its agents, employees, contractors, or invitees without the prior written consent of lessor, which consent will not be unreasonably withheld so long as lessee demonstrates to lessor's reasonable satisfaction that such Hazardous Material is necessary or useful to lessee's business and will be used, kept and stored in a manner that will comply at all times with all laws regulating any such Hazardous material so brought upon or used or kept on or about the premises.

UTILITIES

(3) The lessor shall pay for all heat, light, water, and other services or utilities used in the premises during the term of this lease.

REPAIRS AND IMPROVEMENTS

(4a) The lessor shall not be required to make any repairs, alterations, additions or improvements to or upon the premises during the term of this lease, except only those hereinafter specifically provided for; the lessee hereby agrees to maintain and keep the premises, including all interior walls and doors, heating, ventilating and cooling systems, interior wiring, plumbing and drain pipes to sewers or septic tank, in good order and repair during the entire term of this lease, at lessee's own cost and expense, and to replace all glass which may be broken or damaged during the term hereof in the windows and doors of the premises with glass as of good or better quality as that now is use; it is further agreed that the lessee will make no alterations, additions or improvements to or upon the premises without the written consent of the lessor first being obtained.

(4b) The lessor agrees to make all necessary structural repairs to the building, including exterior walls, foundation, roof, gutters and downspouts, and the abutting sidewalks. The lessor reserves and at any and all times shall have the right to alter, repair or improve the building of which the premises are a part, or to add thereto, and for that purpose at any time may erect scaffolding and all other necessary structures about and upon the premises and lessor and lessor's representatives, contractors, and workers for that purpose may enter in or about the premises with such materials as lessor may deem necessary therefore, and lessee waives any claim to damages, including loss of business resulting therefrom.

LESSOR'S RIGHT OF ENTRY

(5) It shall be unlawful for the lessor, the lessor's agents and representatives, at any reasonable time to enter into or upon the premises for the examining into the condition thereof, or for any other lawful purpose

RIGHT OF ASSIGNMENT

(6) The lessee will not assign, transfer, pledge, hypothecate, surrender or dispose of this lease, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the premises without the written consent of the lessor Being first obtained in writing; this lease is personal to lessee; lessee's interest, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the lessee, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the lessee, or in any other manner, except as above mentioned.

LIENS

(7) The lessee will not permit any lien of any kind, type or description to be placed or imposed upon the improvements in Which the premises are situated, or any part thereof, or the land on which they stand.

ICE, SNOW, DEBRIS

(8) If the premises are located at street level, then at all times lessee shall keep the sidewalks in front of the premises free and clear of ice, snow and rubbish, debris and obstruction; and if the lessee occupies the entire building, the lessee will not permit rubbish, debris, ice or snow to accumulate on the roof of the building so as to stop up or obstruct gutters or downspouts or cause damage to the roof, and will save harmless and protect the lessor against any injury whether to lessor or to lessor's property or to any other person or property caused by lessee's failure in that regard.

OVERLOADING FLOORS

(9) The lessee will not overload the floors of the premises in such a way as to cause any undue or serious OF stress or strain upon the building in which the premises are located, or any part thereof, and the lessor shall have the right, at any time, to call upon any competent engineer or architect whom the lessor may choose, to decide whether or not the floor of the premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on the building, or any part thereof, and the decision of the engineer or architect shall be final and binding upon the lessee; and in the event that it is the opinion of the engineer or architect that the stress or strain is such as to endanger or injure the building, or any part thereof, then and in that even the lessee agrees immediately to relieve the stress or strain, either by reinforcing the building or by lightening the load which causes such stress or strain, in a manner satisfactory to the lessor.

ADVERTISING SIGNS

(10) The lessee will not use the outside walls of the premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the lessee or for any purpose whatsoever without the written consent of the lessor; however, the lessee may make use of the windows of the premises to display lessee's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the lessee may not suspended or place within said windows or paint thereon any banners, signs, sign-boards or other devices in violation of the intent and meaning of this section.

LIABILITY INSURANCE

(11) At all times during the term hereof, the lessee will, at the lessee's own expense, keep in effect and deliver to the lessor liability insurance policies in form, and with an insurer, satisfactory to the lessor. Such policies shall insure both the lessor and the lessee against all liability for damage to persons or property in, upon, or about the premises. The amount of such insurance shall be not less than $500,000 for injury to one person, not less than $1,000,000, for injuries to all persons arising out of any single incident, and not less than $1,000,000, for damage to property, or a combined single limit of not less than $2,000,000. It shall be the responsibility of lessor to purchase casualty insurance with extended coverage so as to insure any structure on the premises against damage caused by fire or the effects of fire (smoke, heat, means of extinguishment, etc.) or any other means of loss. It shall be the responsibility of the lessee to insure all of the lessee's belongings upon the premises, of whatsoever nature, against the same. With respect to these policies, lessee shall cause the lessor to be named as an additional insured party. Lessee agrees to and shall indemnify and hold lessor harmless against any and all claims and demands arising from the negligence of the lessee, lessee's officers, agents, invitees and / or employees, as well as those arising from lessee's failure to comply with any covenant of this lease on lessee's part to be performed, and shall at lessee's own expense defend the lessor against any and all suits or actions arising out of such negligence, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgment which may be awarded against lessor in any such suit or action.

FIXTURES

(12) All partitions, plumbing electrical wiring, additions to or improvements upon the premises, whether or installed by the lessor or lessee, shall be and become a part of the building in which the premises are located as soon as installed and the property of the lessor unless other wise herein provided.

LIGHT AND AIR

(13) This lease does not grant any rights of access to light and air over the premises or adjacent property.

DAMAGED BY CASUALTY, FIRE AND DUTY TO REPAIR

(14) In the event of the destruction of the improvements in which the premises are located by fire or other casualty, either party hereto may terminate this lease as of the date of fire or casualty, provided, however, that in the event of damage to the improvements by fire or other casualty to the extent of 50 per cent or more of the sound value thereof; The lessor may or may not elect to repair the same; written notice of lessor's election shall be given to lessee within fifteen days after the occurrences of the damage; if notice is not so given, lessor conclusively shall be deemed to have elected not to repair; in the even lessor elects not to repair, then and in that event this lease shall terminate with the date of the damage; but if the improvements in which

the premises are located be but partially destroyed and the damage so occasioned shall not amount the extent indicated above, or if greater than said extent and lessor elects to repair, as aforesaid. Then the lessor shall repair the same with all convenient speed and repairs, and the lessee hereby agrees to vacate upon request, all or any part thereof which the lessor may require for the purpose of making necessary repairs, and for the period of time between the day of such damage and until such repairs have been substantially completed there shall be such an abatement of rent as the nature of the injury or damage and its interference with the occupancy of the premises by the lessee shall warrant; however, if the premises be but slightly injured and the damage so occasioned shall not cause any material interference with the occupation of the premises by lessee, then there shall be no abatement of rent and the lessor shall repair the damage with all convenient speed.

WAIVER OF SUBROGATION RIGHTS

(15) Neither the lessor nor the lessee shall be liable to the other for loss arising out of damage to or destruction of the premises or the building or improvement of which the premises are a part or with which are or could be included within or they are connected, or the contents of any thereof, when such loss is caused by any of the perils which Insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims caused by the negligence of either lessor or lessee or by any of their respective agents, servants or employees. It is the intention and agreement of the lessor and the lessee that the rentals reserved by this lease have been fixed in contemplation that both parties shall fully provide their own insurance protection at their own expense, and that both parties shall look to their respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be intitled to subrogation under any circumstances against any party this lease. Neither the lessor nor the lessee shall have any interest or claim in the other’s insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

EMINENT DOMAIN

(16) In case of the condemnation or purchase of all or any substantial part of the premises by any public or private corporation with the power of condemnation this lease may be terminated, effective on the date possession is take by either party hereto on written notice to the other and in that case the lessee shall not be liable for any rent after the termination date. Lessee shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

FOR SALE AND FOR RENT SIGNS

(17) During the period of 90 days prior to the date above fixed for the termination of this lease, the lessor herein may post on the premises or in the windows thereof signs of moderate size notifying the public that the premises are “for sale” or “for lease”

DELIVERING UP PREMISES ON TERMINATION

(18) At the expiration of the lease term or upon any sooner termination thereof, the lessee will quit and deliver up the premises and all future erections or additions to or upon the same, broom-clean, to the lessor or those having lessor’s estate in the premises, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are not in or hereafter may be put in by the lessor.

ADDITIONAL COVENANTS OR EXCEPTIONS

(19) Tenant shall have the right to 12 parking spaces.

Landlord shall pay for the tenant improvements to the subject space as per McIntyre’s bid, not to exceed $81,468.20.

Internet Enabled T-1 via Ethernet to be provided during the 3 year term as long as IP Services has internet at the Facility. Tenant shall abide by A.C.C Use Policy of the internet.

RENEWAL OPTION

(20) If the Lease is not in default at the time this option is exercised or at the time the renewal term is to commence, Lessee shall have the option to renew this Lease for one (1) term of two (2) years, as follows;

(A) The renewal term shall commence on the day following expiration of this Lease.

(B) The option may be exercised by written notice by Lessee to Lessor given not less than 60 days prior to the last day of the expiration of the Lease. The giving of such notice shall be sufficient to make the Lease binding for the renewal term without further act of the parties. Lessor and Lessee shall then be bound to take the steps required in the connection with the determination of rent as specified below.

(C) The terms and conditions of the Lease for the renewal term shall be identical with the original term except for rent and except that Lessee will no longer have any option to renew this Lease that has been exercised. Rent for the renewal term shall be negotiated by and between the parties.

(D) If the parties do not agree on the rent within 30 days after notice of election to renew, the rent shall be determined by a qualified, independent real property appraiser familiar with commercial rental values in the area. The appraiser shall be chosen by Lessor from a list of not fewer than three (3) such individuals submitted by Lessee. If Lessor does not make a choice within five (5) days after submission of the list, Lessee may do so. If Lessee does not submit such a list within ten (10) days after written request from Lessor to do so, Lessor may name, as an appraiser, any individual with such qualifications. Within 30

days after the appraiser's appointment, the appraiser shall return his or her decision, which shall be final and binding upon both parties. The cost for the appraisal shall be borne equally by both parties.

ATTACHMENT BANKRUPT DEFAULT

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the lessee shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the lessee shall fail or neglect to perform or observe any of the covenants and agreements contained herein on lessee's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to lessee or (3) if the lessee shall be declared bankrupt or insolvent according to law, or (4) if any assignment of lessee's property shall be made for the benefit of creditors, or (5) If on the expiration of this lease lessee fails to surrender possession of the premises, the lessor or those having lessor's estate in the premises, may terminate this lease and, lawfully, at lessor's option immediately or at any time thereafter, without demand or notice, enter into and upon the premises and every part thereof and repossess the same, and expel lessee and those claiming by, through and under lessee and remove lessee's effects at lessee's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent of preceding breach of covenant.

Neither the termination of this lease by forfeiture not the taking or recovery of possession of the premises shall deprive lessor any other action, right, or remedy against lessee for possession, rent or damages, nor shall any omission by lessor to enforce any forfeiture, right or remedy to which lessor may be entitled be deemed a waiver by lessor of the right to enforce the performance of all terms and conditions of this lease by lessee.

In the event of any re-entry by lessor, lessor may lease or relet the premises in whole or part to any tenant or tenants who may be satisfactory to lessor, for any duration, and for the best rent, terms and conditions as lessor may reasonably obtain. Lessor shall apply the rent received from any such tenant first the cost of retaking and reletting the premises, including remodeling required to obtain any such tenant, and then to any arrears of rent and future rent payable under this lease and any other damage to which lessor may be entitled hereunder.

Any property which lessee leaves on the premises after abandonment or expiration of the lease, or for more than ten days after any termination of the lease by landlord, shall be deemed to have been abandoned, and lessor may remove and sell the property at public or private sale as lessor sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of any such sale shall be applied toward the expenses of landlord and rent as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the lessee.

HOLDING OVER

In the event the lessee for any reason shall hold over after the expiration of this lease, such holding over shall not be deemed to operate as a renewal or extension of this lease, but shall only create a tenancy at sufferance which may be terminated at will at any time by the lessor.

ATTORNEY FEES AND COURT COSTS

In case suite or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease, or to collect the rental which may become due hereunder, or any portion thereof, the losing party agrees to pay the prevailing party's reasonable attorney fees incurred throughout such proceeding, including at trial, on appeal and for postjudgement collection. The lessee agrees to pay and discharge all lessor's costs and expenses, including lessor's reasonable attorney's fees that shall arise from enforcing any provision or covenants of this lease even though no suit or action is Instituted. Should the lessee be or become the debtor in any bankruptcy proceeding, voluntarily, involuntarily, or otherwise, either during the period this lease is in effect or while there exists any outstanding obligation of the lessee created by this lease in favor of the lessor, the lessee agrees to pay the lessor's reasonable attorney fees and costs which the lessor may incur as the result of lessor's participation in such bankruptcy proceedings. It is understood and agreed by both parties that applicable federal bankruptcy law or rules of procedure may affect, alter, reduce or nullify the attorney fee and cost awards mentioned in the preceding sentence.

WAIVER

Any waiver by the lessor of any breach of any covenant herein contained to be kept and performed by the lessee shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the lessor from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

NOTICES

Any notice required by the terms of this lease to be given by one party hereto to the other or desired so to be given, shall be sufficient if in writing, contained in a sealed envelope, and sent first class mail, with postage fully prepaid, and if intended for the lessor herein, then if addressed to the lessor at 875 Wilson St. Suite C, Eugene, Oregon, 97402 and if intended for the lessee, then if addressed to the lessor at 2896 Crescent Drive Eugene, Oregon, 97408 Any such notice shall be deemed conclusively to have been delivered to the addresses forty – eight hours after the deposit thereof in the U.S. Mail.

HEIRS AND ASSIGNS

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, successors, personal representatives and so far as this lease is assignable by the terms hereof, to the assigns of such parties.

In construing this lease, it is understood that the lessor or the lessee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, The parties have executed this lease on the day and year first hereinabove written, any corporation signature being by authority of its Board of Directors.

Sitewise Marketing Inc. dba Traffic Leader

A & A Properties N.W., L.L.C.

/s/ SCOTT ALDRIDGE

MANAGER PARTNER.

Guarantors: /s/ JERRY WIANT,

President
Jerry Wiant

/s/ BRUCE FABBRI

Bruce Fabbri

The Publisher strongly recommends that both the lessor and the lessee become familiar with the Americans with Disabilities Act of 1990, Public Laws 101-336. The Act may Impose certain duties and responsibilities upon either or both parties to this lease. These duties and responsibilities may include but not limited to the removal of certain architectural barriers and ensuring that disabled persons are not denied the opportunity to benefit from the same goods and services as those available to persons without disabilities. Under the Act, Prohibition against discrimination applies to any person who is the owner, operator, lessor, or lessee of a place of public accommodation.

[GRAPHIC]

[GRAPHIC]

Waint Design, Inc., an entity wholly-owned by Jerry Waint, subleases the portion of the office space premises outlined above.

Exhibit 10.6

SUBLEASE

AMONG:	Radiant Marketing Solutions, Inc., an Oregon corporation	**(Sublessor)**
AND:	Site Wise Marketing, Inc.	**(Sublessee)**
AND:	Jerry Wiant and Bruce Fabbri	**(Guarantors)**
EFFECTIVE DATE:	June 1, 2003	

RECITAL

Sublessor hereby subleases to Sublessee a portion of Suite 100 at 2896 Crescent Avenue, Eugene, Oregon, more particularly described below, upon and subject to the following terms, covenants and conditions.

AGREEMENT

1. Leased Premises; Main Lease.

1.1. Leased Premises. The leased premises consist of approximately 2725 sq feet making up the east side of Suite 100 in the building commonly known as 2986 Crescent Avenue, Eugene, Oregon.

1.2. Main Lease. The Leased Premises are presently being leased by Sublessor under terms of a Lease Agreement between A & A Properties Northwest, L.L.C., as Lessor, and Media Products, Inc., as Lessee, dated January 7, 2002, the Lessee's rights of which have been assigned to Sublessor (Main Lease), a copy of which Main Lease is attached as Exhibit A.

2. Term of Sublease; Possession.

2.1. Term. The term of this Sublease shall be from midnight on June 1, 2003 till midnight on July 31, 2004. Thereafter, the lease will be month to month.

2.2. Possession. Sublease shall be entitled to possession of the Leased Premises on the effective date hereof.

3. Rent.

3.1. Basic Rental. As basic rental, Sublessee shall pay to Sublessor the sum of $4076.60 (including triple net allocation) per month, payable in advance, on the first day of each month and on the first day of each month thereafter during the term of this lease.

3.2. Additional Rental. As additional rental, Sublessee shall pay to Sublessor such additional monthly rental amounts, if any, as may be payable by Sublessor to Lessor pursuant to the Main Lease.

3.3. Security Deposit. To secure Sublessee's compliance with all terms of this Sublease, upon execution of this Sublease, Sublessee shall pay Sublessor the sum of $4076.60 as a deposit. The deposit shall be a debt from Sublessor to Sublessee, refundable within 30 days after expiration of the Sublease term or other termination not caused by Sublessee's default. Sublessor may commingle the deposit with its funds and Sublessee shall not be entitled to interest on the deposit. Sublessor shall have the right to offset against the deposit any sums owing from Sublessee to Sublessor and not paid when due, any damages caused by Sublessee's default, the cost of curing any default by Sublessee should Sublessor elect to do so, and the cost of performing any repair or cleanup that is Sublessee's responsibility under this lease. Offset against the deposit shall not be an exclusive remedy in any of the above cases, but may be invoked by Sublessor, at its option, in addition to any other remedy provided by law or this sublease for Sublessee's nonperformance. Sublessor shall give notice to Sublessee each time an offset is claimed against the deposit, and, unless the Sublease is terminated, Sublessee shall within 10 days after such notice deposit with Sublessor a sum equal to the amount of the offset so that the total deposit amount, net of offset, shall remain constant throughout the sublease term.

3.4. Late Charge. In the event that any payment required by this Sublease is not paid within 10 days after the date it is due, Sublessee agrees to pay a late charge of five percent of the amount overdue. This provision shall not be deemed to waive any remedies Sublessor may have in the event any payment required by this sublease is not paid when due.

3.5. Place of Payment. All rental payments shall be made to Sublessor at such place as Sublessor may from time to time direct by written notice to Sublessee.

4. Use of Leased Premises. Sublessee shall use the Leased Premises for office purposes only and shall not use the Leased Premises in any manner which would constitute a violation of the Main Lease.

5. Sublessee's Covenants.

5.1. Compliance with Main Lease. Sublessee acknowledges the existence of the Main Lease and agrees to take the Leased Premises subject to all of the terms and conditions of the Main Lease, to use the Leased Premises within the restrictions provided by the Main Lease and to perform any and all obligations required to be performed by Sublessor as lessee under the Main Lease, except for the payment of rentals due thereunder which Sublessor shall continue to pay to Lessor.

5.2. Hold Harmless. Sublessee agrees to protect, defend, and hold harmless Sublessor from and against any loss, liability or claim arising out of or attributable to Sublessee's use of the Leased Premises or Sublessee's breach of any provisions of the Main Lease, the performance or observance of which is Sublessee's responsibility under paragraph 5.1 above, or any other provision of this Sublease.

6. Mutual Rights and Obligations. Insofar as the Leased Premises are concerned, and as between Sublessor and Sublessee, and except to the extent of conflict with an express provision of this Sublease, Sublessor shall be deemed to have all of the rights and obligations of the Lessor under the Main Lease, and Sublessee shall be deemed to have all of the rights and obligations of the Lessee under the Main Lease.

7. Additional Provisions.

7.1. Condition of Leased Premises. Sublessee accepts the Leased Premises in "AS IS" condition.

7.2. Insurance. Sublessee will provide Sublessor with evidence of casualty and liability insurance as required by the Main Lease, with loss payable to Lessor and the Sublessor as their respective interest may appear.

7.3. No Other Rights. This is a sublease only. Notwithstanding any other provision of this Sublease to the contrary, Sublessee shall not have any renewal rights, rights of first refusal, or option rights which Sublessor may have under the Main Lease.

7.4. Assignment. Sublessee shall not assign this Sublease or sublet the Leased Premises or grant any other person the right to use the Leased Premises, unless written permission is granted.

8. Guarantee. Guarantors, jointly and severally, unconditionally and irrevocably guarantee strict and timely performance of all of Sublessee's obligations under this Sublease.

9. Notice. All notices required by this agreement shall be in writing addressed to the party to whom the notice is directed at the address of that party set forth below the signatures on this agreement and shall be deemed to have been given for all purposes upon receipt when personally delivered; one day after being sent, when sent by recognized overnight courier service; two days after deposit in United States mail, postage prepaid, registered or certified mail; or on the date transmitted by telegraph or telecopier. Any party may designate a different mailing address or a different person for all future notices by notice given in accordance with this paragraph.

10. Attorney Fees. In any proceeding to enforce or interpret this agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees, costs, and expenses incurred by the prevailing party before and at any trial, arbitration, bankruptcy, or other proceeding, and in any appeal or review.

11. Modification. No modification of this agreement shall be valid unless it is in writing and is signed by all of the parties.

12. Integration. This agreement is the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this agreement. This agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.

13. Interpretation. The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be constructed against the drafting party.

14. Severability. The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.

15. Waiver. Waiver by any party of strict performance of any provision of this agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

16. Binding Effect. Subject to restrictions in this agreement upon assignment, this agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

17. Governing Law. This agreement shall be interpreted and enforced according to the laws of the state of Oregon.

18. Counterparts. This agreement may be executed in multiple counterparts, each of which shall constitute one agreement, even though all parties do not sign the same counterpart.

19. Exhibits. All exhibits referred to in this agreement are incorporated by reference.

Sublessor
Radiant Marketing Solutions, Inc.

By /s/ JEFFRY W. POWELL

Jeffry W. Powell, President

Dated: 5/9/03

Address: 2896 Crescent Ave., Suite 100
Eugene, OR 97408

Sublessee
Site Wise Marketing, Inc.

By /s/ GERALD S. WIANT

Title **President**

Dated: 5.14.03

Address: 2896 Crescent Ave., Suite 101
Eugene, OR 97408

Guarantors

/s/ JERRY WIANT

Jerry Wiant

Dated: 5.14.03
Address:

/s/ BRUCE FABBRI

Bruce Fabbri

Dated: 5/14/03
Address:

Attachment: Exhibit A – Main Lease

LEASE AGREEMENT

THIS INDENTURE OF LEASE entered into this 7th day of January, 2002, between A & A Properties Northwest, L.L.C., hereinafter called the lessor, and Media Products Inc., hereinafter called the lessee,

Witnesseth: In consideration of the covenants herein, the lessor hereby leases unto the lessee those certain premises, as is, situated in the City of Eugene, County of Lane and State of Oregon, hereinafter called the premises, described as follows:

Approximately 4,875 square feet of rentable space on the ground floor of the building with restrooms and common area included at 2896 Crescent Drive, Suite 203. It is understood that has been paid upon execution of this lease which represents rent for March, 2002 and last month's rental will be paid on March 1, 2002. Lessor agrees to remodel the subject space at a cost not too exceed according to the plan and contractors bid made a part of this lease (Exhibit A). Basic security system will be provided by landlord at his expense and will include a key pad for tenant and door sensors. Monthly rental for this lease shall be paid monthly in advance.

To Have and to Hold the premises commencing with the 1st day of March, 2002 and ending at midnight on the 28th day of February, 2005, for a monthly rental of due on the 1st of each month for the whole term, which lessee agrees to pay at 875 Wilson Street, Suite C, Eugene, OR 97402, City of Eugene, State of Oregon, at the following times and in the following amounts, to-wit____

In consideration of the leasing of the premises and of the mutual agreements herein contained, the parties agree as follows:

Lessee's Acceptance Of lease

(1) The lessee accepts this letting and agree to pay to the order of the lessor the monthly rentals above stated for the full term of this lease, in advance, at the times and in the manner aforesaid.

Use of Premises

(2a) The lessee shall use the premises during the term of this lease for the conduct of the following business, General Office Space

(2b) The lessee will not make any unlawful improper or offensive use of the premises; the lessee will not suffer any strip or waste thereof; the lessee will not permit any objectionable noise or odor to escape or to be emitted from the premises or do anything or permit anything to be done upon or about the premise in any way tending to create a nuisance; the lessee will not sell or permit to be sold any product, substance or service upon or about the premises, excepting such as lessee may be licensed by law to sell and as may be herein expressly permitted.

(2c) The lessee will not allow the premises at any time to fall into such a state of repair or disorder as to increase the fire hazard thereon; the lessee will not install any power machinery on the premises except under the supervision and with written consent of the lessor, the lessee will not store gasoline or other highly combustible materials on the premises at any time; the lessee will not use the premises in such a way or for such a purpose that the fire insurance rate on the improvements on the premises is thereby increased or that would prevent the lessor from taking advantage of any rulings of any agency of the state in which the premises are situated, or which would allow the lessor to obtain reduced premium rates for long term fire insurance policies.

(2d) The lessee shall comply at lessee's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting the use of the premises. These include, without limitation, all laws, regulations and ordinances pertaining to air and water quality, Hazardous Material as herein defined, waste disposal , air emissions, and other enviornmental matters. As used herein, Hazardous Material means any hazardous or toxic substance, material, or waste, including but not limited to those substances, materials, and waste listed in the U.S. Department of Transportation Hazardous Materials Table or by the U.S. Environmental Protection Agency as hazardous substances and amendments thereto, petroleum products, or such other substances, materials, and waste that are or become regulated under any applicable local, state, or federal law.

(2e) The lessee shall regularly occupy and use the premises for the conduct of lessee's business, and shall not abandon or vacate the premises for more than ten days without written approval of lessor.

(2f) Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the premises by lessee, its agents, employees, contractors, or invitees without the prior written consent of lessor, which consent will not be unreasonably withheld so long as lessee demonstrates to lessor's reasonable satisfaction that such Hazardous Material is necessary or useful to lessee's business and will be used, kept, and stored in a manner that will comply at all times with all laws regulating any such Hazardous material so brought upon or used or kept on or about the premises.

UTILITIES

(3) The lessee shall pay for all heat, light, water, and other services or utilities used in the premises during the term of this lease.

REPAIRS AND IMPROVEMENTS

(4a) The lessor shall not be required to make any repairs, alterations, additions or improvements to or upon the premises during the term of this lease, except only those hereinafter specifically provided for; the lessee hereby agrees to maintain and keep the premises, including all interior and exterior walls and doors, heating, ventilating and cooling systems, interior wiring, plumbing and drain pipes to sewers or septic tank, in good order and repair during the entire term of this lease, at lessee's own cost and expense; and to replace all glass which may be broken or damaged during the term hereof in the windows and doors of the premises with glass as of good or better quality as that now in use; it is further agreed that the lessee will make no alterations, additions or improvements to or upon the premises without the written consent of the lessor first being obtained.

(4b) The lessor agrees to make all necessary structural repairs to the building, including exterior walls, foundation, roof, gutters and downspouts, and the abutting sidewalks. The lessor reserves and any and all times shall have the right to alter, repair or improve the building of which the premises are a part, or to add thereto, and for that purpose at any time may erect scaffolding and all other necessary structures about and upon the premises and lessor and lessor's representatives, contractors, and workers for that purpose may enter in or about the premises with such materials as lessor may deem necessary therefore, and lessee waives any claim to damages, including loss of business resulting therefrom.

LESSOR'S RIGHT OF ENTRY

(5) It shall be lawful for the lessor, the lessor's agents and representatives, at any reasonable time to enter into or upon the premises for the examining into the condition thereof, or for any other lawful purpose, providing 24 hour notice be given to lessee in advance.

RIGHT OF ASSIGNMENT

(6) The lessee will not assign, transfer, pledge, hypothecate, surrender or dispose of this lease, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the premises without the written consent of the lessor Being first obtained in writing; this lease is personal to lessee; lessee's interest, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the lessee, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the lessee, or in any other manner, except as above mentioned; Landlord shall not unreasonably with hold consent to sublease or assign.

LIENS

(7) The lessee will not permit any lien of any kind, type or description to be placed or imposed upon the improvements in Which the premises are situated, or any part thereof, or the land on which they stand.

ICE, SNOW, DEBRIS

(8) Maintenance responsibility is lessor's

OVERLOADING FLOORS

(9) The lessee will not overload the floors of the premises in such a way as to cause any undue or serious OF stress or strain upon the building in which the premises are located, or any part thereof, and the lessor shall have the right, at any time, to call upon any competent engineer or architect whom the lessor may choose; to decide whether or not the floor of the premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on the building, or any part thereof, and the decision of the engineer or architect shall be final and binding upon the lessee; and in the event that it is the opinion of the engineer or architect that the stress or strain is such as to endanger or injure the building, or any part thereof, then and in that even the lessee agrees immediately to relieve the stress or strain, either by reinforcing the building or by lightening the load which causes such stress or strain, in a manner satisfactorily to the lessor.

ADVERTISING SIGNS

(10) The lessee will not use the outside walls of the premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the lessee or for any purpose whatsoever without the written consent of the lessor; however, the lessee may make use of the windows of the premises to display lessee's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the lessee may not suspend or place within said windows or paint thereon any banners, signs, sign-boards or other devices in violation of the intent and meaning of this section. Signage rights to include lighted shared sign at exterior of building provided by landlord and at lessee's expense an interior sign placed on wall in lobby, with approval of sign by Landlord.

LIABILITY INSURANCE

(11) At all times during the term hereof, the lessee will, at the lessee's own expense, keep in effect and deliver to the lessor liability insurance policies in form, and with an insurer, satisfactory to the lessor, Such policies shall insure both the lessor and the lessee against all liablity for damage to persons or property in, upon, or about the premises. The amount of such insurance shall be not less than $1,000,000 for injury to one person, not less than $1,000,000 for injuries to all persons arising out of any single incident, and not less than $1,000,000 for damage to property, or a combined single limit of not less than $2,000,000. It shall be the responsibility of lessor to purchase casualty insurance with extended coverage so as to insure any structure on the premises against damage caused by fire or the effects of fire (smoke, heat, means of extinguishment, etc.) or any other means of loss. It shall be the responsibility of the lessee to insure all of the lessee's belongings upon the premises, of whatsoever nature, against the same. With respect to these policies, lessee shall cause the lessor to be named as an additional insured party. Lessee and lessor agree to and shall indemnify and hold each other harmless against any and all claims and demands arising from the negligence of the lessee, lessee's officers, agents, invitees and / or employees, as well as those arising from lessee's failure to comply with any covenant of this lease on lessee's part to be performed, and shall at lessee's own expense defend the lessor against any and all suits or actions arising out of such negligence, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgment which may be awarded against lessor in any such suit or action.

FIXTURES

(12) All partitions, plumbing, electrical wiring, additions to or improvements upon the premises, whether or installed by the lessor or lessee, shall be and become a part of the building in which the premises are located as soon as installed and the property of the lessor unless other wise herein provided.

LIGHT AND AIR

(13) This lease does not grant any rights of access to light and air over the premises or adjacent property.

DAMAGE BY CASUALTY, FIRE AND DUTY TO REPAIR

(14) In the event of the destruction of the improvements in which the premises are located by fire or other casualty, either party hereto may terminate this lease as of the date of fire or casualty, provided, however, that in the event of damage of the improvements by fire or other casualty to the extent of 50 per cent or more of the same; written notice of lessor's election shall be given to lessee within fifteen days after the occurrence of the damage; if notice is not so given, lessor conclusively shall be deemed to have elected not to repair; in the even lessor elects not to repair, then and in that event this lease shall terminate with the date of the damage; but if the improvements in which the premises are located be but partially destroyed, and the damage so occasioned shall not amount the extent indicated above, or if greater than said extent and lessor elects to repair; as aforesaid. Then the lessor shall repair the same with all convenient speed and repairs, and the lessee hereby agrees to vacate upon request, all or any part thereof which the lessor may require for the purpose of making necessary repairs, and for the period of time between the day of such damage and until such repairs have been substantially completed there shall be such an abatement of rent as the nature of the injury or damage and its interference with the occupancy of the premises by the lessee shall warrant; however, if the premises be but slightly injured and the damage so occasioned shall not cause any material interference with the occupation of the premises by lessee, then there shall be no abatement of rent and the lessor shall repair the damage with all convenient speed.

WAIVER OF SUBROGATION RIGHTS

(15) Neither the lessor nor the lessee shall be liable to the other for loss arising out of damage to or destruction of the premises or the building or improvement of which the premises are a part or with which they are connected, or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either lessor or lessee or by any of their respective agents, servants or employees. It is the intention and agreement of the lessor and the lessee that the rentals reserved by this lease have been fixed in contemplation that both parties shall fully provide their own insurance protection at their own expense, and that both parties shall look to their respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this lease. Neither the lessor nor the lessee shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

EMINENT DOMAIN

(16) In case of the condemnation or purchase of all or any substantial part of the premises by any public or private corporation with the power of condemnation this lease may be terminated, effective on the date possession is taken by either party hereto on written notice to the other and in that case the lessee shall not be liable for any rent after the termination date. Lessee shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

FOR SALE AND FOR RENT SIGNS

(17) During the period of 90 days prior to the date above fixed for the termination of this lease, the lessor herein may post on the premises or in the windows thereof signs of moderate size notifying the public that the premises are “for sale” or “for lease”

DELIVERING UP PREMISES ON TERMINATION

(18) At the expiration of the lease term or upon any sooner termination thereof, the lessee will quit and deliver up the premises and all future erections or additions to or upon the same, broom-clean, to the lessor or those having lessor’s estate in the premises, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are not in or hereafter may be put in by the lessor.

ATTACHMENT BANKRUPT DEFAULT

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the lessee shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the lessee shall fail or neglect to perform or observe any of the covenants and agreements contained herein on lessee’s part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to lessee or (3) if the lessee shall be declared bankrupt or insolvent according to law, or (4) if any assignment of lessee’s property shall be made for the benefit of creditors, or (5) If on the expiration of this lease lessee fails to surrender possession of the premises, the lessor or those having lessor’s estate in the premises, may terminate this lease and, lawfully, at lessor’s option immediately or at any time thereafter, without demand or notice, enter into and upon the premises and every part thereof and repossess the same, and expel lessee and those claiming by, through and under lessee and remove lessee’s effects at lessee’s expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent of preceding breath of covenant.

Neither the termination of this lease by forfeiture not the taking or recovery of possession of the premises shall deprive lessor of any other action, right, or remedy against lessee for possession, rent or damages, nor shall any omission by lessor to enforce any forfeiture, right or remedy to which lessor may be entitled be deemed a waiver by lessor of the right to enforce the performance of all terms and conditions of this lease by lessee.

In the event of any reentry by lessor, lessor may lease or relet the premises in whole or part to any tenant or tenants who may be satisfactory to lessor, for any duration, and for the best rent, terms and conditions as lessor may reasonably obtain. Lessor shall apply the rent received from any such tenant first the cost of retaking and reletting the premises, including remodeling required to obtain any such tenant, and then to any arrears of rent and future rent payable under this lease and any other damage to which lessor may be entitled hereunder.

Any property which lessee leaves on the premises after abandonment or expiration of the lease, or for more than ten days after any termination of the lease by landlord, shall be deemed to have been abandoned, and lessor may remove and sell the property at public or private sale as lessor sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of any such sale shall be applied toward the expenses of landlord and rent as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the lessee.

HOLDING OVER

In the event the lessee for any reason shall hold over after the expiration of this lease, such holding over shall not be deemed to operate as a renewal or extension of this lease, but shall only create a tenancy at sufferance which may be terminated at will at any time by the lessor.

ATTORNEY FEES AND COURT COSTS

In case suite or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease, or to collect the rental which may become due hereunder, or any portion thereof, the losing party agrees to pay the prevailing party's reasonable attorney fees incurred throughout such proceeding, including at trial, on appeal and for postjudgement collection. The lessee agrees to pay and discharge all lessor's costs and expenses, including lessor's reasonable attorney's fees that shall arise from enforcing any provision or covenants of this lease even though no suit or action is Instituted. Should the lessee be or become the debtor in any bankruptcy proceeding, voluntarily, involuntarily, or otherwise, either during the period this lease is in effect or while there exists any outstanding obligation of the lessee created by this lease in favor of the lessor, the lessee agrees to pay the lessor's reasonable attorney fees and costs which the lessor may incur as the result of lessor's participation in such bankruptcy proceedings. It is understood and agreed by both parties that applicable federal bankruptcy law or rules of procedure may affect, alter, reduce or nullify the attorney fee and cost awards mentioned in the preceding sentence.

WAIVER

Any waiver by the lessor or any breach of any covenant herein contained to be kept and performed by the lessee shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the lessor from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

NOTICES

Any notice required by the terms of this lease to be given by one party hereto to the other or desired so to be given, shall be sufficient if in writing, contained in a sealed envelope, and sent first class mail, with postage fully prepaid, and if intended for the lessor herein, then if addressed to the lessor at 875 Wilson Street, Suite C, Eugene, Oregon, 97402 and if intended for the lessee, then if addressed to the lessee at _____. Any such notice shall be deemed conclusively to have been delivered to the addresses forty – eight hours after the deposit thereof in the U.S. Mail.

HEIRS AND ASSIGNS

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, successors, personal representatives and so far as this lease is assignable by the terms hereof, to the assigns of such parties.

In construing this lease, it is understood that the lessor or the lessee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, The parties have executed this lease on the day and year first hereinabove written, any corporation signature being by authority of its Board of Directors.

Media Products, Inc.	A & A Properties Northwest, Inc.
/s/ JEFF POWELL	/s/ Illegible
Jeff Powell	
1.14.02	1-14-02
/s/ JEFF POWELL	

[GRAPHIC]

[GRAPHIC]

Exhibit 10.7

Marchex, Inc.

EXECUTIVE EMPLOYMENT AGREEMENT

AGREEMENT (the "Agreement"), made effective as of the 17th day of January, 2003 by and between Marchex, Inc. a Delaware corporation (the "Company"), and Russell C. Horowitz, a resident of Seattle, Washington (the "Executive").

WHEREAS, the Company desires to engage the services of the Executive and the Executive desires to be employed by the Company;

WHEREAS, the Company and the Executive wish to enter into an Agreement effective as of the date hereof and intend that this Agreement shall supersede all prior agreements between the Company and Executive;

WHEREAS, the Company desires to be assured that the unique and expert services of the Executive will be substantially available to the Company, and that the Executive is willing and able to render such services on the terms and conditions hereinafter set forth; and

WHEREAS, the Company desires to be assured that the confidential information and goodwill of the Company will be preserved for the exclusive benefit of the Company.

NOW, THEREFORE, in consideration of such employment and the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Executive agree as follows:

Section 1. Employment. The Company hereby employs the Executive as its CEO, and the Executive hereby accepts such employment under and subject to the terms and conditions hereinafter set forth.

Section 2. At-Will Relationship. The term of employment under this Agreement shall begin on the date hereof (the "Effective Date") and shall continue until either the Executive or the Company elects to terminate the employment relationship. Both parties agree and understand this employment relationship is "at-will" and that it may be terminated by either party at any time, with or without cause.

Section 3. Termination of Employment. The Executive shall not be entitled to any compensation, severance or other benefits from the Company upon the termination of this Agreement for any reason whatsoever by either party.

Section 4. Duties. The Executive shall serve as CEO, and he shall have such additional duties as the Company's Board of Directors (the "Board") may assign to him from time to time. The Executive hereby agrees to devote his full business time and best efforts to the faithful performance of such duties and to the promotion and development of the business and affairs of the Company while employed by the Company.

Section 5. Salary Compensation. In consideration of the services rendered by the Executive under this Agreement, the Company shall pay the Executive a salary (the "Salary") at the rate of $50,000 per calendar year. The Salary shall be paid in such installments and at such times as the Company pays its regularly salaried employees. The Salary will be subject to annual adjustment by the Board of Directors (the "Board"), in their sole discretion, based upon the performance by the Executive of his duties hereunder and the financial performance of the Company. The Company shall deduct or cause to be deducted from Executive's compensation and benefits as set forth in this Section 5 and in Sections 6 and 7, all taxes and amounts required by law to be withheld.

Section 6. Stock or Option Grants. With respect to any grants of capital stock, which shall include grants of options to purchase shares of capital stock of the Company, received by the Executive from the Company, the Executive agrees that the investigation of the tax consequences of such a grant of capital stock or options and the implementation of a plan to provide for such consequences are solely the responsibility of the Executive. The Company shall have no responsibility, legal, financial or otherwise, with regards to any tax consequences of any stock or options granted by the Company to the Executive.

Section 7. Benefits. During the Executive's employment by the Company, the Executive shall be entitled to participate in or receive benefits under any medical or other employee benefit plan or arrangement generally made available by the Company to its employees, now or in the future, subject to and on a basis consistent with the terms, conditions and overall administration of such plans and arrangements. Nothing in this Section 7 or elsewhere in this Agreement shall be construed to require the Company to establish any such benefits and/or benefit plans or to prevent the Company from modifying or terminating any such benefits and/or benefit plans, and no action or failure thereof shall affect this Agreement.

Section 8. Insurance Coverage. During the Executive's employment under this Agreement, the Company shall provide the Executive with insurance protection to the same extent that it makes such protection available to its other employees.

Section 9. Confidential Information. The CONFIDENTIALITY, ASSIGNMENT OF INVENTIONS AND EMPLOYMENT-AT WILL AGREEMENT FOR CONSULTANTS AND EMPLOYEES attached hereto as Exhibit A (the "Confidentiality Agreement"), and all of the obligations, restrictions, including, but not limited to, the non-compete and non-solicitation provisions, are hereby adopted as part of this Agreement.

Section 10. Severable Provisions. The provisions of this Agreement are severable and the invalidity of any one or more provisions shall not affect the validity of any other provision. In the event that a court of competent jurisdiction shall determine that any provision of this Agreement or the application thereof is unenforceable in whole or in part because of the duration or scope thereof, the parties hereto agree that said court in making such determination shall have the power to reduce the duration and scope of such provision to the extent necessary to make it enforceable, and that the Agreement in its reduced form shall be valid and enforceable to the full extent permitted by law.

Section 11. Notices. All notices 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:

If to the Company:
Marchex, Inc.
2101 Fourth Avenue
Suite 1980
Seattle, WA 98121
Telephone No.: 206.774.5000
Facsimile No: 206.774.5049
Attention: General Counsel

Copy to:
Francis J. Feeney, Jr., Esq.
Nixon Peabody, LLP.
101 Federal Street
Boston, MA 02110
Telephone No: (617) 345-6107
Facsimile No: (617) 345-1300

If to the Executive:
Russell C. Horowitz
c/o Marchex, Inc.
Suite 1980
Seattle, WA 98121
Telephone No.: 206.774.5000
Facsimile No. 206.774.5049

or to such other address as a party may notify the other pursuant to a notice given in accordance with this Section 11.

Section 12. Miscellaneous.

Section 12.01. Modification. This Agreement and the Confidentiality Agreement constitute the entire Agreement between the parties hereto with regard to the subject matter hereof, superseding all prior understandings and agreements, whether written or oral. This Agreement may not be amended, revised or waived, except by a writing signed by the parties.

Section 12.02. Assignment and Transfer. This Agreement shall not be terminated by the merger or consolidation of the Company with any corporate or other entity or by the transfer of all or substantially all of the assets of the Company to any other person, corporation, firm or entity. The provisions of this Agreement shall be binding on and shall inure to the benefit of any such successor in interest to the Company. Neither this Agreement nor any of the rights, duties or obligations of the Executive shall be assignable by the Executive, nor shall any of the

payments required or permitted to be made to the Executive by this Agreement be encumbered, transferred or in any way anticipated, except as required by applicable laws.

Section 12.03. Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

Section 12.04 No Conflicting Agreements. The Executive represents and warrants to the Company that (i) there are no restrictions, agreements, or understandings whatsoever to which the Executive is a party which would prevent or make unlawful Executive's execution of this Agreement or Executive's employment hereunder, (ii) the execution of this Agreement and Executive's employment hereunder shall not constitute a breach or violation of any law, contract, agreement or understanding, oral or written, to which Executive is a party or by which Executive is bound, (iii) Executive is free and able to execute this Agreement and to enter into employment with the Company, (iv) Executive has not violated nor is in violation of any law, regulation, rule, order, stipulation or the like relevant to the Company's business, and (v) this Agreement is Executive's valid and binding obligation, enforceable in accordance with its terms.

Section 12.05. Governing Law. This Agreement shall be construed under and enforced in accordance with the internal substantive laws of the State of Washington.

Section 12.06 Arbitration. Any dispute, controversy or claim arising out of or in connection with this Agreement shall be exclusively subject to arbitration before the American Arbitration Association in Seattle, Washington, before a single arbitrator in accordance with their then current Commercial Arbitration Rules; provided, however, that disputes with regard to Confidential Information or non-competition provisions shall be excluded from this Section 12.06. Judgment upon any arbitration award may be entered in any court of competent jurisdiction. All parties shall cooperate in the process of arbitration for the purpose of expediting discovery and completing the arbitration proceedings. Nothing contained in this Section 12.06 or elsewhere in this Agreement shall in any way deprive either party of its right to obtain injunctive or other equitable relief in a court of competent jurisdiction.

Section 12.07. Waiver of Breach. The waiver of either party of a breach of any provision of this Agreement, which waiver must be in writing to be effective, shall not operate as or be construed as a waiver of any subsequent breach.

Section 12.08. 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.

[Remainder of page intentionally left blank]

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

MARCHEX, INC.

By: /s/ JOHN KEISTER

Name: John Keister
Title: Chief Operating Officer

/s/ RUSSELL C. HOROWITZ

Name: Russell C. Horowitz

CONFIDENTIALITY, ASSIGNMENT OF INVENTIONS AND
EMPLOYMENT-AT WILL AGREEMENT FOR CONSULTANTS AND EMPLOYEES

AGREEMENT made as of _____ ____, 2003, by and between Marchex, Inc., a Delaware corporation, with any of its current or future subsidiaries, affiliates, successors or assigns (collectively, the "Company"), and _____ .

NOW, THEREFORE, as a condition of your becoming employed (or your employment being continued) by the Company, or you being retained as a consultant of the Company, and in consideration of your employment or consulting relationship with the Company and your receipt of the compensation now and hereafter paid to you by the Company, you agree to the following:

1. You covenant and agree that all information, whether written, oral or other tangible or intangible forms, which is the property of the Company, including, but not limited to, ideas, concepts, research, industry and product analysis, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, samples, flow charts, data, computer programs, computer software, marketing plans, expansion plans, the identity of customers and customer contacts, product development plans, product pricing information, budgets, financial status, results and plans, customer information, customer preferences, personnel information, trade secrets and other technical, financial or business information (collectively, "Confidential Information"), shall be kept secret and confidential at all times during and after the end of the term of your employment or consulting relationship with the Company and shall not be used, or divulged by you, except as is required in the course of your employment or consulting relationship with the Company or as the Company may otherwise expressly authorize in writing.

2. You represent that your performance of all the terms of this Agreement as an employee or consultant of the Company have not breached and will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by you, in confidence or trust, prior or subsequent to the commencement of your employment or consulting relationship with the Company. You further represent that you will not disclose to the Company, or induce the Company to use, any inventions, confidential or proprietary information, or material belonging to any previous employer or any other third party.

3. You recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. You agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or

corporation or to use it except as necessary in carrying out your work for the Company consistent with the Company's agreement with such third party.

4. INVENTIONS.

(a) INVENTIONS RETAINED AND LICENSED. You have attached hereto, as Exhibit A, a list describing with specificity all inventions, original works of authorship, developments, improvements, and trade secrets which were made by you prior to the commencement of your employment (collectively referred to as "Prior Inventions"), which belong solely to you or belong to you jointly with another, which relate in any way to any of the Company's proposed businesses, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, you represent that there are no such Prior Inventions. If, in the course of your employment or consulting relationship with the Company, you incorporate into a Company product, process or machine a Prior Invention owned by you or in which you have an interest, the Company is hereby granted and shall have a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, sell and otherwise distribute such Prior Invention as part of or in connection with such product, process or machine.

(b) ASSIGNMENT OF INVENTIONS. You agree to promptly make full written disclosure to the Company, to hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all your right, title and interest throughout the world in and to any and all inventions, original works of authorship, developments, concepts, know-how, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which you may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time in which you are employed by or a consultant of the Company (collectively referred to as "Inventions"). You further acknowledge that all inventions, original works of authorship, developments, concepts, know-how, improvements or trade secrets which are made by you (solely or jointly with others) within the scope of and during the period of your employment or consulting relationship with the Company are "works made for hire" (to the greatest extent permitted by applicable law) and are compensated by your salary (if you are an employee) or by such amounts paid to you under any applicable consulting agreement or consulting arrangements (if you are a consultant). In the event that you fail to comply with this Section 4(b), you hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as your agent and attorney in fact, to act for and in your behalf and stead with specific authority to execute, acknowledge, swear to, file, and deliver any and all such instruments that may be necessary or proper to vest such Inventions in the Company.

(c) MAINTENANCE OF RECORDS. You agree to keep and maintain adequate and current written records of all Inventions made by you (solely or jointly with others) during your employment or consulting relationship with the Company. The records may

be in the form of notes, sketches, drawings, flow charts, electronic data or recordings, laboratory notebooks, and any other format. The records will be available to and remain the sole property of the Company at all times. You agree not to remove such records from the Company's place of business except as expressly permitted by Company policy which may, from time to time, be revised at the sole election of the Company for the purpose of furthering and protecting the Company's business.

(d) PATENT AND COPYRIGHT RIGHTS. You agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, trademarks, mask work rights, moral rights, or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments which the Company shall deem necessary in order to apply for, obtain, maintain and transfer such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. You further agree that your obligation to execute or cause to be executed, when it is in your power to do so, any such instrument or papers shall continue after the termination of this Agreement until the expiration of the last such intellectual property right to expire in any country of the world. If the Company is unable because of your mental or physical incapacity or unavailability or for any other reason to secure your signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then you hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as your agent and attorney in fact, to act for and in your behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance or transfer of letter patent or copyright registrations thereon with the same legal force and effect as if originally executed by me. You hereby waive and irrevocably quitclaim to the Company any and all claims, of any nature whatsoever, which you now or hereafter have for infringement of any and all proprietary rights assigned to the Company.

5. You covenant and agree that all data, reports, software, drawings and other records and written material prepared or compiled by you or furnished to you while in the employ of the Company shall be the sole and exclusive property of the Company.

6. You covenant and agree that during the term of your employment or consulting relationship with the Company, you will not directly or indirectly, invest or engage in any business which is a Competitor of the Company, nor will you accept employment or render services to a Competitor as a director, officer, agent, employee or consultant. A "Competitor" is defined as any person, company or other business entity which is competitive with or engaged in activities similar to the business of the Company. Any exceptions to this policy must be with prior written consent.

7. Since it is anticipated that during the course of your employment with the Company, that you will have extensive access to and become acquainted with Confidential Information, and the disclosure of the foregoing to existing or potential Competitors of the Company would place the Company at a serious competitive disadvantage and do serious damage, financial or otherwise, to the Company's business, or if you were to work for a competitive business, it would cause the Company irreparable harm, you covenant and agree that for a period of twelve (12) months commencing immediately after the termination of your employment for any reason (the "Non-Compete Period"), you will not, without the express written consent of the company, enter into the employment of, act as a consultant to, or perform any services for any Competitor.

8. In consideration of both your salary as well as the wide access the Company grants you to review and become familiar with the Company's business, including Confidential Information, you hereby covenant and agree as part of and ancillary to this Agreement, that in the event that your employment or consulting relationship terminates for any reason, for a period of twelve (12) months thereafter (the "Non-Solicitation Period"), you will not, directly or indirectly, either for yourself or through any kind of ownership as a director, agent, employee or consultant, for any other person, firm or corporation, call on, solicit, take away, or cause the loss of clients or customers of the Company on whom you called or with whom you became acquainted during your employment or consulting relationship with the Company.

9. You expressly acknowledge that (i) the covenants set forth in Sections 7 and 8 are reasonable and necessary for the protection of the Company's Confidential Information and customer and employee relations and (ii) consideration for such covenants has been received by you (in the form of continued employment and salary or amounts paid to you under any applicable consulting agreement or consulting arrangements). You also acknowledge that the enforcement of the covenants contained in Sections 7 and 8 will not deprive you of the ability to earn a livelihood. If any provision of Sections 7 and 8 is held unenforceable by a court of competent jurisdiction, the remaining provisions shall be enforced. In the event a court of competent jurisdiction determines that any covenant contained in Sections 7 and 8 is in any respect overbroad or unreasonable, such provision shall be given effect to the maximum extent possible by narrowing or enforcing in part such provision.

10. While in the employ of the Company and thereafter, you further agree not to, directly or indirectly, solicit, entice, persuade or induce any employee or consultant of the Company to leave the employ of the Company or to become employed by or to enter into contractual relations with a Competitor or any other company; nor shall you assist in the taking of any such actions by any third party; nor shall you directly or indirectly hire or participate in the hiring of any employee or consultant of the Company.

11. (a) You acknowledge and agree that a breach by you of any provision of this Agreement would cause the Company irreparable injury and damage and therefore, you agree that in the event of a breach by you of any provision of this Agreement, the Company shall be entitled, in addition to any other rights or remedies, to injunctive or other equitable relief, without the posting of any bond or security or proving actual damages, because you acknowledge and agree that money damages would be an inadequate and insufficient remedy.

(b) You agree to pay all costs and expenses, including attorneys' fees, incurred by the Company in enforcing the covenants contained in this Agreement if the Company is successful in so doing. Further, in the event of your violation of any of such covenants, the term of any such covenant shall be automatically extended for a period equal to the period of such violation.

12. Upon termination of your employment or consulting relationship for any reason whatsoever, or whenever requested by the Company, you agree within five (5) days of any such request to return all of the Confidential Information or any other property of the Company in your possession or custody or at your disposal, which you obtained or have been furnished, without retaining any copies thereof.

13. You agree to execute promptly any proper oath or verify any proper document required to carry out the terms of this Agreement upon the Company's written request to do so.

14. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Washington without regard to its conflicts of laws principles. The federal and state courts of the State of Washington shall be the exclusive forum for any legal action brought by the Employee which relates in any way to this Agreement.

15. You agree to inform any new employer, prior to accepting any such new employment, of the existence and terms of this Agreement and to provide such new employer with a copy of this Agreement. You also agree that the Company may notify any person, company or other business entity which the Company believes has hired or may hire you, of the existence and terms of this Agreement; the Company may also furnish a copy of this Agreement to any such person, company or other business entity.

16. Inasmuch as you can terminate your employment or consulting relationship with the Company at any time and for any or no reason, the Company can terminate your employment or consulting relationship at any time and for any or no reason. You understand that the Company subscribes to the policy of "employment at will" and that continued employment with the Company is at the sole and exclusive option of the Company. No promises or guarantees of permanent or specific term employment will be made to you, by anyone; nor will such purported promises or guarantees, if made, ever be binding on the Company or enforced by you.

17. This Agreement contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relative to such subject matter. This Agreement may only be amended or modified by an instrument in writing, signed by both of the parties hereto.

18. The provisions of this Agreement shall survive the termination of your employment or consulting relationship with the Company and the assignment of this Agreement by the Company to any successor in interest or other assignment.

19. You acknowledge that, in executing this Agreement, you have had the opportunity to seek the advice of independent legal counsel, and you have read and understood all of the terms and provisions of this Agreement. This Agreement shall not be construed against any party by reason of the drafting or preparation hereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

Name:

Marchex, Inc.

By:

Name: Ethan A. Caldwell
Title: General Counsel

EXHIBIT A

Prior Inventions:

Exhibit 21.1

List of Subsidiaries of the Registrant

	Name	Jurisdiction
1.	eFamily.com, Inc.	Utah
2.	Enhance Interactive, Inc.	Utah
3.	TrafficLeader, Inc.	Delaware

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
December 10, 2003