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As filed with the Securities and Exchange Commission on February 3, 2005

Registration Number 333-121213

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

AMENDMENT NO. 2 TO
FORM SB-2
REGISTRATION STATEMENT
Under
THE SECURITIES ACT OF 1933

Marchex, Inc.
(Name of small business issuer in its charter)

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

Marchex, Inc.
413 Pine Street, Suite 500
Seattle, Washington 98101
(206) 331-3300

(Address and telephone number of principal executive offices and principal place of business)

Russell C. Horowitz
Chairman and Chief Executive Officer
Marchex, Inc.
413 Pine Street, Suite 500
Seattle, Washington 98101
(206) 331-3300

(Name, address and telephone number of agent for service)

Copies to:

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

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box: ☐

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 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(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: ☐

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

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

[C] **Subject to completion, dated February 3, 2005**

7,000,000 Shares
MARCHEX, INC.

Class B Common Stock

$ per share

- Marchex, Inc. is offering 7,000,000 shares of Class B common stock.
- Simultaneously with this offering of Class B common stock, Marchex is offering 200,000 shares of % convertible exchangeable preferred stock, excluding up to 30,000 shares available to cover over-allotments, by means of a separate prospectus.
- The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus but is not contingent upon the closing of the concurrent convertible exchangeable preferred stock offering.
- The last reported sale price of our Class B common stock on February 2, 2005 was $20.87 per share.
- Class B common stock trading symbol: Nasdaq National Market—MCHX

This investment involves risks. See " Risk Factors" beginning on page 16.

	Per Share	Total
Public offering price	$	$
Underwriting discount	$	$
Proceeds, before expenses, to Marchex, Inc	$	$

The underwriters have a 30-day option to purchase up to 1,050,000 additional shares of Class B common stock from us to cover over-allotments, if any.

Our officers, directors and employees may purchase up to 1.0% of the shares of Class B common stock offered hereby, excluding the over-allotment, at the public offering price. At our request, the underwriters have reserved shares of Class B common stock at the 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 of anyone's investment in these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Piper Jaffray

RBC Capital Markets

Thomas Weisel Partners LLC

Sanders Morris Harris

The date of this prospectus is , 2005.

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

[P] **Subject to completion, dated February 3, 2005**

200,000 Shares
MARCHEX, INC.

% Convertible Exchangeable Preferred Stock
(Cumulative Dividend, Liquidation Preference of $250 per share)

- Marchex, Inc. is offering 200,000 shares of % convertible exchangeable preferred stock, par value $0.01 per share.
- Dividends will be cumulative from the date of original issue at the annual rate of % of the liquidation preference of the preferred stock, payable quarterly on the day of , , and , commencing , 2005. Any dividends must be declared by our board of directors and must come from funds which are legally available for dividend payments.
- The preferred stock is convertible at the option of the holder at any time, unless previously redeemed or exchanged, into our Class B common stock, par value $0.01 per share, at an initial conversion price of $ (equivalent to a conversion rate of approximately shares of Class B common stock for each share of preferred stock). The initial conversion price is subject to adjustment in certain events.
- At any time, we may elect to automatically convert some or all of the preferred stock into shares of our Class B common stock if the closing price of our Class B common stock has exceeded $, subject to adjustment, which is 150% of the conversion price for at least 20 of the 30 consecutive trading days ending within 5 trading days prior to the notice of automatic conversion.
- If we elect to automatically convert some or all of the preferred stock prior to , 2008, we will make an additional payment on the preferred stock equal to the aggregate amount of dividends that would have accrued and become payable on the preferred stock from , 2005 through and including , 2008, less any dividends already paid on the preferred stock.
- Prior to , 2008, the preferred stock is not redeemable at our option. Thereafter, the preferred stock is redeemable at our option, in whole or in part, at the declining redemption prices set forth herein, together with accrued dividends to, but excluding the redemption date.
- The preferred stock is exchangeable, in whole but not in part, at our option on any dividend payment date beginning , 2006, for our % convertible subordinated debentures at the rate of $250 principal amount of debentures for each share of preferred stock. The debentures, if issued upon exchange of the preferred stock, will mature on the twenty-five year anniversary of the exchange date. The debentures, if issued, will have terms substantially similar to those of the preferred stock.
- The preferred stock has no maturity date and voting rights prior to conversion into Class B common stock, except under limited circumstances.
- Shares of our Class B common stock are listed on the Nasdaq National Market under the symbol “MCHX.” The last reported sale price of our Class B common stock on February 2, 2005 was $20.87 per share. We have applied to list the preferred stock on the Nasdaq National Market under the symbol “MCHXP.”
- Simultaneously with this offering of preferred stock, Marchex is offering 7,000,000 shares of Class B common stock, excluding up to 1,050,000 shares available to cover over-allotments, by means of a separate prospectus.
- The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus and the closing of the concurrent Class B common stock offering.

This investment involves risks. See “ Risk Factors” beginning on page 16.

	Per Share	Total
Public offering price	$	$
Underwriting discount	$	$
Proceeds, before expenses, to Marchex, Inc.	$	$

The offering prices set forth above do not include accrued dividends, if any. Dividends on the preferred stock will accrue from the date of original issuance of the preferred stock, expected to be , 2005.

The underwriters have a 30-day option to purchase up to 30,000 additional shares of preferred stock from us to cover over-allotments, if any.

Neither the Securities and Exchange Commission nor any state securities commission has approved of anyone’s investment in these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Piper Jaffray

RBC Capital Markets

Thomas Weisel Partners LLC

The date of this prospectus is , 2005.

EXPLANATORY NOTE

This Registration Statement relates to the concurrent offering by Marchex, Inc. of its Class B common stock and its % convertible exchangeable preferred stock. The completion of the Class B common stock offering is not contingent upon the completion of the preferred stock offering. The completion of the preferred stock offering is contingent upon the completion of the Class B common stock offering. This Registration Statement contains alternate sections, paragraphs, sentences and phrases, which will be contained in two forms of prospectuses covered by this Registration Statement, as follows: (1) one prospectus to be used in connection with an offering by Marchex, Inc. of its shares of Class B common stock (the "common prospectus"); and (2) one prospectus to be used in connection with an offering by Marchex, Inc. of its % convertible exchangeable preferred stock (the "preferred prospectus"). Those sections, paragraphs, sentences or phrases that will appear in the preferred prospectus but not in the common prospectus are marked at the beginning of such section, paragraph, sentence or phrase by the symbol [P], and those appearing only in the common prospectus are designated by the symbol [C]. Unless indicated with a [P] or [C], the language herein will appear in both forms of prospectus. Prior to this Registration Statement being declared effective by the SEC, we will file each prospectus used in its entirety.

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You should rely only on the information contained in this prospectus. We have not, and the underwriters have not, authorized any other person to provide you with different information. This prospectus is not an offer to sell, nor is it seeking an offer to buy, these securities in any state where the offer or sale is not permitted. The information in this prospectus is complete and accurate as of the date on the front cover, but the information may have changed since that date.

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. (formerly ah-ha.com, Inc.), TrafficLeader, Inc. (formerly Sitewise Marketing, Inc.) and goClick.com, Inc., on a consolidated basis.

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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. (formerly ah-ha.com, Inc.), TrafficLeader, Inc. (formerly Sitewise Marketing, Inc.) and goClick.com, Inc., on a consolidated basis.

PROSPECTUS SUMMARY

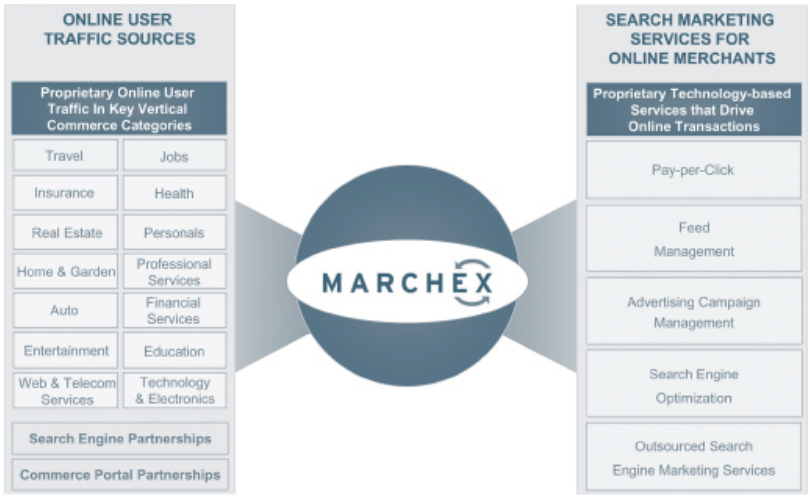
The items in the following summary are described in more detail later in this prospectus. This summary provides an overview of selected information about us, the offerings and the proposed Name Development asset acquisition contained elsewhere in this prospectus and does not contain all the information you should consider. Therefore, you should also read the more detailed information set out in this prospectus, the financial statements and the other information incorporated by reference into this prospectus.

Overview

We provide technology-based merchant services that facilitate and drive growth in online transactions. We connect merchants with consumers who are searching for information, products and services on the Internet. Our platform of integrated performance-based advertising and search marketing services enables merchants to more efficiently market and sell their products and services across multiple online distribution channels, including search engines, product shopping engines, directories and other selected Web properties.

Upon the completion of the Name Development asset acquisition, we believe we will be among the leaders in the direct navigation market. We will own a proprietary base of online user traffic that represented more than 17 million unique visitors in November 2004, searching for information, products and services. This user traffic is generated from a portfolio of Web properties, or Internet domains, which are generally reflective of commercially-relevant search terms in many of the Internet's most popular and dynamic vertical commerce categories, and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. Key vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, professional services, home and garden, Web and telecom services, education, and entertainment. The online user traffic is primarily monetized with pay-per-click listings that are relevant to the Web properties. As such, the Web properties connect online users searching for specific information with relevant advertisements.

With the Name Development asset acquisition, we believe we will be one of the few companies that owns both proprietary search engine marketing services and a critical mass of proprietary online user traffic.



Merchants transacting online is a large and growing trend. Our services facilitate and support the efficient and cost-effective marketing and selling of goods and services online through the most rapidly-developing forms of search-based marketing methods. We accomplish this by providing multiple services:

- ***Pay-Per-Click Services.*** We deliver pay-per-click advertising listings that are reflective of our merchant advertisers' products and services to online users in response to their keyword search queries. These pay-per-click listings are generally ordered in the search results based on the amount our merchant advertisers choose to pay for a targeted placement. These targeted listings are displayed to consumers and businesses through our distribution network of leading search engines, product shopping engines, directories and other Web properties.

- ***Feed Management Services.*** We leverage our proprietary technology to crawl and extract relevant product content from merchant advertisers' databases and Web sites to create highly-targeted product and service listings, which we deliver into our distribution network. These feed management listings are ordered in the results based on relevance to user search queries. Our trusted feed relationships with our distribution partners enable merchant advertisers to deliver comprehensive and up-to-date product and service listings to some of the Web's largest search engines, product shopping engines and directories.

- ***Advertising Campaign Management Services.*** We enable merchant advertisers to: (1) track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks using our bid management services; and (2) evaluate the effectiveness of online advertising campaigns using our conversion tracking and detailed reporting services.

- ***Search Engine Optimization Services.*** We optimize key attributes of merchant advertiser Web sites to ensure the greatest opportunity for proper indexing, listing and inclusion in the editorial results of algorithmic search engines.

- ***Outsourced Search Marketing Services Platform.*** We provide large aggregators of advertisers, such as yellow page companies, with an outsourced, integrated platform to enable them to market performance-based advertising and search marketing services directly to their customers.

We distribute performance-based advertisements through our broad network of distribution partners comprising many of the leading search engines, product shopping engines, directories and other Web properties. Our sources of distribution include industry leaders such as Yahoo!, Google, Shopping.com and many others.

Pending Name Development Asset Acquisition

Description of the Asset Acquisition

On November 19, 2004, we entered into an agreement to acquire certain assets of Name Development, a corporation operating in the direct navigation market. Direct navigation is one of the methods that consumers use to search for information, products or services online. Direct navigation is primarily characterized by online users directly accessing a Web site by: (1) typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser; or (2) accessing bookmarked Web sites. It can also include navigating through referring or partner traffic sources. Name Development owns and maintains a portfolio of Internet domains, or Web properties, that are generally reflective of online user search terms, descriptive keywords and keyword strings. Name Development has entered into agreements with advertising service providers to monetize its online user traffic with pay-per-click listings. As such, Name Development is able to connect online users searching for specific information with relevant advertisements.

Upon completion of the asset acquisition, we believe we will be among the leaders in the direct navigation market due to our proprietary ownership of online user traffic, which totaled more than 17 million unique visitors in November 2004. This user traffic is generated from a portfolio of Web properties, which are generally reflective of commercially-relevant search terms in many of the Internet's most popular vertical commerce categories, and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. Key vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, professional services, home and garden, Web and telecom services, education and entertainment.

Name Development's revenue increased 260% from $3.5 million for the fiscal year ended June 30, 2003 to $12.5 million for the fiscal year ended June 30, 2004. For the corresponding periods, income from operations grew from $3.2 million to $12.6 million. For the nine months ended September 30, 2004, revenues were $15.5 million and income from operations was $14.9 million.

We expect to account for the Name Development asset acquisition as a business combination. The closing of the transaction is conditioned on a number of factors, including the successful completion of these offerings to finance the purchase by us. For more information on the asset acquisition, see "Name Development Asset Acquisition."

Anticipated Benefits of the Asset Acquisition

We believe that the Name Development asset acquisition will provide us with several benefits, including:

- ***A Defensible, Proprietary Source of Targeted Traffic.*** We believe that we will have an exclusive position due to the nature of Internet domain registration, which is similar to owning real-estate in that each Internet domain name is unique. The asset acquisition will provide us with Web properties that collectively generated more than 17 million unique visitors in November 2004. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000.
- ***Synergies with our Existing Search Engine Marketing Services Platform.*** We believe that our technology platform, combined with the acquired assets, gives us an advantage in extending market share within the direct navigation market and expanding our participation in the search advertising market and in key commerce verticals.
- ***Platform to Extend Expansion Initiatives.*** We intend to use the asset acquisition to supplement our planned expansion, both domestically and internationally.

Transaction Structure

The aggregate consideration to be paid under the asset purchase agreement is an amount of cash equal to $155.2 million and the number of shares of our Class B common stock obtained by dividing $9.0 million by the average of the last quoted sale price for shares of our Class B common stock on the Nasdaq National Market for the ten trading days immediately prior to the closing.

The asset purchase agreement contains customary representations and warranties and requires Name Development's sole stockholder to indemnify us for various liabilities arising under the agreement, subject to various limitations and conditions. At the closing of the asset acquisition, we will deposit into escrow, for a period of eighteen months from the closing date, an amount of cash equal to $24.6 million to secure the sole stockholder's indemnification and other obligations under the asset purchase agreement.

The asset acquisition is contingent on customary closing conditions, including the closing by us of financing sufficient to consummate such acquisition. If the closing does not occur on or before June 30, 2005, we may be required to pay Name Development a termination fee of $1.5 million through a combination of cash and equity. We have also agreed to file a registration statement to register the shares of Class B common stock issued as equity consideration in the transaction or any shares of Class B common stock issued in connection with payment of the termination fee for resale on Form S-3 once we become eligible to file such a registration statement with the SEC.

Industry Overview

Performance-Based Advertising

As technology and the Internet continue to evolve, consumers are becoming increasingly confident that they can find comprehensive product information and securely transact online. As consumers spend more time and money online, advertisers are turning to the Internet to market their products and services. Businesses of all sizes can benefit from the Internet's potential to efficiently and cost-effectively reach consumers. Internet advertising enables merchant advertisers to measure the effectiveness of their advertising campaigns and to revise them in response to real-time feedback and market factors. Within the Internet advertising market, paid search has become one of the fastest growing sectors. Merchant advertisers are increasingly turning to performance-based online advertising due to its competitive return-on-investment and consumers' increasing receptiveness to this medium.

Direct Navigation

Currently, there are three primary means through which online users access and search for information, products and services: search engines and directories, commerce portals and direct navigation Web properties. Direct navigation is primarily characterized by online users directly accessing a Web site by: (1) typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser; or (2) accessing bookmarked Web sites. It can also include navigating through referring or partner traffic sources.

First Albany Capital estimates that the paid search market will reach $4.5 billion in revenue in 2004, and we believe the direct navigation market currently represents more than 10% of the global search market and is growing at comparable annual rates. According to WebSideStory, Inc.'s StatMarket division, in September 2004 more than 67% of daily global Internet users arrived at Web sites by direct navigation defined as typing a URL into a browser address bar or using a bookmark rather than through search engines and Web links, compared to approximately 53% in February 2002. The growth of the direct navigation market is a result of consumers' increasing sophistication in utilizing the Internet as a resource tool, coupled with their desire to quickly find targeted information, and their trust and experience that the depth and breadth of available and relevant online information extends to Web sites named by descriptive keywords. Direct navigation and the use of search engines, however, are not mutually exclusive. We believe that many of the commercially relevant Web properties which we will own as part of the Name Development asset acquisition may be beneficiaries of search engine traffic.

Strategy

We intend to leverage our senior management's experience, our financial and human resources, and our existing operations to provide technology-based merchant services that facilitate and drive growth in online transactions. Key elements of our strategy include the following initiatives:

- Provide quality services in support of merchants and partners;
- Increase the number of merchants served;

- Develop new markets;
- Extend presence in the direct navigation market; and
- Pursue selective acquisition and consolidation opportunities.

Acquisitions

Acquisition initiatives have played an important part in our corporate history, since our incorporation on January 17, 2003, and are a component of our strategy. Including the proposed Name Development asset acquisition, we will have made four acquisitions since our inception.

- On February 28, 2003, we acquired eFamily together with its direct wholly-owned subsidiary Enhance Interactive.
- On October 24, 2003, we acquired TrafficLeader.
- On July 27, 2004, we acquired goClick.
- In conjunction with this offering, we will acquire certain assets of Name Development.

Our Relationship with Our Founding Executive Officers

As of December 31, 2004, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister, our founding executive officers, beneficially owned 54% of our outstanding capital stock, which represented 93% of the combined voting power of our outstanding capital stock. Upon completion of the Class B common stock and preferred stock offerings, these founding executive officers will beneficially own 42% of all of our outstanding capital stock, excluding any shares that may be purchased by them in the Class B common stock and preferred stock offerings and the shares of Class B common stock issuable upon conversion of the preferred stock being offered in the preferred stock offering, which will represent 91% of the combined voting power of our outstanding capital stock.

Recent Developments

Fourth Quarter Financial Results

On February 3, 2005, we announced our unaudited operating results for the quarter ended December 31, 2004. Revenue for the fourth quarter of 2004 was $15.1 million, compared to $7.5 million for the fourth quarter of 2003. Net income for the fourth quarter of 2004 was $607,000, compared to a net loss applicable to common stockholders of $1.1 million for the fourth quarter of 2003.

Operating income before amortization (OIBA) for the fourth quarter of 2004, which excludes from net income (a) stock-based compensation of $169,000, (b) amortization of intangible assets of $1.5 million, (c) other income, net of $100,000, and (d) the tax expense of $152,000, was $2.3 million. For the comparable period of 2003, OIBA which excludes from net loss (a) stock-based compensation of $538,000, (b) amortization of intangible assets of $994,000, (c) other income, net of $41,000, and (d) the tax benefit of $301,000, was $448,000.

The results for the quarter ended December 31, 2004 are preliminary and subject to change as we complete our closing procedures and as our independent auditors complete the audit of our financial statements for fiscal year 2004.

For a discussion of management's reasons for disclosing OIBA in addition to net income as calculated in accordance with accounting principles generally accepted in the U.S., see "Management's Discussion and Analysis of Financial Condition and Results of Operations"—"Results of Operations"—"Operating Income Before Amortization" on page 49 of this prospectus.

Strategic Alliance with Overture

On February 3, 2005 we also announced that in connection with the closing of the Name Development asset acquisition and in furtherance of our overall strategic alliance with Overture Services, Inc. ("Overture"), we intend to enter into (i) a new master agreement with Overture with respect to our direct navigation business, and (ii) a license agreement with Overture with respect to certain of Overture's patents, including but not limited to U.S. Patent No. 6,269,361, pursuant to which we will pay $4,500,000 in an upfront payment (and an additional $674,000 in certain circumstances) and a royalty based on certain percentages of certain of our gross revenues payable on a quarterly basis through December 2016, which royalty amount is currently estimated to be between $1,000,000 and $3,000,000 in the aggregate for 2005.

Legal Proceedings

On February 3, 2005, we received notice of a purported class action complaint entitled Pagniello v. Cool Web Search, Enhance Interactive, Inc., Marchex, Inc., FindWhat.com Inc., Google Inc., Yahoo/Overture Search Engine Co., Microsmarts, LLC, STOPzilla, Inc., PC Tools Pty Ltd., eBlocs.com, and Network Dynamics Corporation, which was filed in the United States District Court for the Northern District of Georgia on January 24, 2005. The complaint alleges that the defendants have exploited web browsers and reconfigured his and others' computers by installing code on their computers without their approval or knowledge and seeks injunctive relief and damages. Based on our initial review of the complaint, we believe that we have meritorious defenses to these claims and intend to contest them vigorously. However, since the litigation is in a preliminary stage and any litigation is inherently uncertain, it is not feasible at this time to predict how this matter will proceed, what the ultimate outcome will be or whether an unfavorable outcome could have a material adverse impact on our business.

Concurrent Offerings

[C] Simultaneously with this offering of Class B common stock, Marchex is offering 200,000 shares of preferred stock, excluding up to 30,000 shares available to cover over-allotments by means of a separate prospectus. The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus but is not contingent upon the closing of the concurrent preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly.

[P] Simultaneously with this offering of preferred stock, Marchex is offering 7,000,000 shares of Class B common stock, excluding up to 1,050,000 shares available to cover over-allotments by means of a separate prospectus. The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus and the closing of the concurrent Class B common stock offering.

Office Location

Our principal executive offices are located at 413 Pine Street, Suite 500, Seattle, Washington 98101, and our telephone number is (206) 331-3300. We maintain a number of Web sites, including our corporate Web site at *www.marchex.com*. The information on our Web sites is not incorporated by reference into and does not form a part of this prospectus.

[C] The Offering

Class B common stock offered by Marchex, Inc.	7,000,000 shares
Common stock 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)	20,421,539 shares
Total	32,409,039 shares
Offering Price	$ per share
Concurrent Offering	In a separate, concurrent offering, we are offering 200,000 shares of % convertible exchangeable preferred stock which are initially convertible into shares of Class B common stock, excluding a maximum of 30,000 shares which may be issued upon exercise in full of the underwriter's over-allotment option. The preferred stock offering is being made exclusively by a separate prospectus.
Use of Proceeds	We intend to use the net proceeds from this offering, together with the net proceeds from the preferred stock offering, to pay for the pending Name Development asset acquisition and for working capital and other general corporate purposes, including potential future acquisitions. See "Use of Proceeds."
Nasdaq National Market Symbol for the Class B common stock	MCHX
Risk Factors	You should carefully read and consider the information set forth under the caption "Risk Factors" and all other information set forth in this prospectus before investing in Marchex's Class B common stock.

The number of shares of common stock to be outstanding after this offering is 32,409,039, based on 25,409,039 shares outstanding as of September 30, 2004. This number of shares:

- excludes 4,938,603 shares of Class B common stock reserved for issuance and not exercised under our 2003 amended and restated stock incentive plan as of September 30, 2004 and 278,915 shares of Class B common stock reserved for issuance and not purchased under our 2004 employee stock purchase plan as of September 30, 2004. As of September 30, 2004, 3,571,167 shares were subject to outstanding options, with a weighted average exercise price of $4.02 per share;
- excludes 262,500 shares of Class A common stock that are held in treasury;

- excludes the exercise of warrants to purchase 120,000 shares of Class B common stock with an exercise price of $8.45 per share which were issued as compensation to the underwriters in connection with our initial public offering in April 2004;
- excludes 439,239 shares of Class B common stock to be issued in connection with the Name Development asset acquisition assuming that $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, is the applicable price for determining the number of shares to be issued; and
- excludes shares of Class B common stock issuable upon the conversion of the preferred stock.

Unless we indicate otherwise, in preparing this prospectus we have *not* given effect to the exercise by the underwriters of the over-allotment option granted to them to purchase an additional 1,050,000 shares of Class B common stock in the offering.

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.

[P] The Offering

Securities Offered by Marchex, Inc.	200,000 shares of % convertible exchangeable preferred stock, par value $0.01 per share, plus an additional 30,000 shares of preferred stock if the underwriters exercise their over-allotment option in full.
Dividends	Dividends will be cumulative from the date of original issue at the annual rate of % of the liquidation preference of the preferred stock, payable quarterly on the day of , , and , commencing , 2005. Any dividends must be declared by our board of directors and must come from funds which are legally available for dividend payments.
Conversion Rights	Unless we redeem or exchange the preferred stock, the preferred stock can be converted at your option at any time into shares of Class B common stock, par value $0.01 per share, at an initial conversion price of $ (equivalent to a conversion rate of approximately shares of Class B common stock for each share of preferred stock). The initial conversion price with respect to the preferred stock is subject to adjustment in certain events, including a non-stock fundamental change or a common stock fundamental change, which are explained in more detail under the section entitled “Description of Preferred Stock—Conversion Rights—Conversion Price Adjustment—Merger, Consolidation or Sale of Assets.”
Automatic Conversion	We may elect to automatically convert some or all of the preferred stock if the closing price of our Class B common stock has exceeded 150% of the conversion price for at least 20 out of 30 consecutive trading days ending within five trading days prior to the notice of automatic conversion.
Dividend Make-Whole Payment	If we elect to automatically convert some or all of the preferred stock prior to , 2008, we will make an additional payment on the preferred stock equal to the aggregate amount of cumulative dividends that would have accrued and become payable on the preferred stock from , 2005 through and including , 2008, less any dividends already paid on the preferred stock. This additional payment is payable by us in cash or, at our option, in shares of our Class B common stock, or a combination of cash and shares of our Class B common stock.
Liquidation Preference	$250 per share of preferred stock, plus accrued and unpaid dividends.
Optional Redemption	On or after , 2008, we may redeem the preferred stock, in whole or in part, at our option at the redemption prices set forth in this prospectus, together with accrued dividends to, but excluding, the redemption date. See the section entitled “Description of Preferred Stock—Optional Redemption” below.

Voting Rights	Except as provided by law and in other limited situations described in this prospectus, you will not be entitled to any voting rights. However, you will, among other things, be entitled to vote as a separate class to elect two directors if we have not paid the equivalent of six or more quarterly dividends, whether or not consecutive. These voting rights will continue until we pay the full accrued but unpaid dividends on the preferred stock.
Exchange Provisions	At our option, we may exchange the preferred stock in whole, but not in part, on any dividend payment date beginning on , 2006 for our % convertible subordinated debentures. If we elect to exchange the preferred stock for debentures, the exchange rate will be $250 principal amount of debentures for each share of preferred stock. The debentures, if issued upon exchange of the preferred stock, will mature 25 years after the exchange date.
Debentures	The debentures, if issued upon exchange of the preferred stock, will have the following terms:
Interest Rate	The debentures will have an interest rate of % per year. Interest will be payable on and of each year, beginning on the first interest payment date after the exchange date.
Redemption	On or after , 2008 we may redeem the debentures at the redemption prices listed in this prospectus, plus accrued interest.
Maturity	The debentures will mature 25 years after the exchange date.
Conversion	The debentures may be converted at any time prior to maturity into Class B common stock at the same conversion price applicable to the preferred stock.
Automatic Conversion	We may automatically convert the debentures at any time prior to maturity under the same terms applicable to the preferred stock.
Interest Make-Whole Payment	If we elect to automatically convert some or all of the debentures prior to , 2008, we will make an additional payment on the debentures equal to the value of the aggregate amount of interest that would have accrued and become payable on the debentures from the date of issuance upon the exchange through and including , 2008, less any interest already paid on the debentures. This additional payment is payable by us in cash or, at our option, in shares of our Class B common stock, or a combination of cash and shares of our Class B common stock.
Subordination	The debentures are subordinated to all existing and future senior indebtedness and are effectively subordinated to all of the indebtedness and other liabilities, including trade and other payables, of our subsidiaries. As of September 30, 2004, we had approximately $6.8 million of indebtedness and other liabilities

	outstanding to which the debentures would have been effectively subordinated, including trade and other payables, but excluding intercompany liabilities. The indenture governing the debentures does not limit the amount of indebtedness, including senior indebtedness, that we and our subsidiaries may incur. See the section entitled “Description of the Debentures—Subordination” below.
Concurrent Offering	In a separate, concurrent offering, we are offering 7,000,000 shares of our Class B common stock, excluding a maximum of 1,050,000 shares which may be issued upon exercise in full of the underwriter’s over-allotment option. The Class B common stock offering is being made exclusively by a separate prospectus.
Use of Proceeds	We intend to use the net proceeds from this offering, together with the net proceeds from the preferred stock offering, to pay for the pending Name Development asset acquisition and for working capital and other general corporate purposes, including potential future acquisitions. See “Use of Proceeds.”
Proposed Nasdaq National Market Symbol for the Preferred Stock	MCHXP
Nasdaq National Market Symbol for the Class B Common Stock	MCHX
Risk Factors	You should carefully read and consider the information set forth under the caption “Risk Factors” and all other information set forth in this prospectus before investing in Marchex’s preferred stock.

Summary Consolidated Financial Data

The following tables summarize historical and pro forma consolidated financial data regarding our business and should be read together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our historical and pro forma consolidated financial statements and the related notes included elsewhere in this prospectus. The summary information presented for the period from January 17, 2003 (inception) to September 30, 2003, the period from January 17, 2003 (inception) to December 31, 2003, and the nine months ended September 30, 2004 has been derived from our consolidated financial statements included elsewhere in this prospectus. The results of operations of Enhance Interactive are also derived from financial statements included elsewhere in this prospectus and have been presented as the "Predecessor" for the year ended December 31, 2002 and for the period from January 1, 2003 to February 28, 2003. See subsection "Presentation of Financial Reporting Periods" on page 52 for a further description of the basis of presentation of the 2003 period and of other financial reporting periods.

The unaudited pro forma condensed consolidated statement of operations data for the year ended December 31, 2003 give effect to: (1) our 2003 acquisitions of Enhance Interactive and TrafficLeader and our 2004 acquisition of goClick; and (2) our proposed Name Development asset acquisition and the offerings, as if they had all occurred on January 1, 2003. The unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2003 are based upon the historical results of operations of Marchex for the period from January 17, 2003 (inception) through December 31, 2003, the Predecessor for the period from January 1, 2003 through February 28, 2003, TrafficLeader for the period from January 1, 2003 through October 23, 2003 and goClick and Name Development for the year ended December 31, 2003. The unaudited pro forma condensed consolidated statement of operations data for the nine months ended September 30, 2004 give effect to: (1) our 2004 acquisition of goClick; and (2) our proposed Name Development asset acquisition and the offerings, as if they had all occurred on January 1, 2003. The unaudited pro forma condensed consolidated statement of operations for the nine months ended September 30, 2004 are based upon the historical results of operations of Marchex for the nine months ended September 30, 2004, goClick for the period from January 1, 2004 through July 26, 2004 and for Name Development for the nine months ended September 30, 2004.

The summary unaudited pro forma condensed consolidated statement of operations data are presented for illustrative purposes only and do not represent what our results of operations actually would have been if the transactions referred to above had occurred as of the dates indicated or what our results of operations will be for future periods.

In addition, the completion of the Class B common stock offering is not contingent upon the completion of the preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly, which is not given effect in the following tables.

	Predecessor Periods		Successor Periods				
						Nine months ended September 30,	
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Marchex Period from January 17, (inception) to December 31, 2003	Pro Forma Marchex, Prior and Pending Acquisitions and Offering 2003	Marchex Period from January 17, (inception) to September 30, 2003	Marchex 2004	Pro Forma Marchex, Prior and Pending Acquisitions and Offering 2004
Consolidated Statement of Operations Data:							
Revenue	$ 10,070,507	$ 3,071,055	$ 19,892,158	$ 34,993,516	$ 12,431,493	$ 28,682,924	$ 47,890,567
Expenses:							
Service costs	6,334,173	1,732,813	11,292,070	19,431,873	6,806,021	18,142,886	21,186,372
Sales and marketing	1,821,237	365,043	2,460,683	3,341,578	1,592,722	3,196,996	3,217,449
Product development	811,673	144,479	1,291,422	1,613,807	844,399	1,636,321	1,733,063
General and administrative	976,881	234,667	2,743,919	3,476,947	1,816,522	2,613,932	3,439,835
Acquisition-related retention consideration	—	—	283,269	283,269	—	374,858	374,858
Facility relocation	—	—	—	—	—	199,960	199,960
Stock-based compensation	364,693	38,981	2,125,110	2,659,280	1,587,476	721,403	721,403
Amortization of intangible assets	—	—	3,023,408	20,774,974	2,028,244	3,473,976	14,460,401
Total operating expenses	10,308,657	2,515,983	23,219,881	51,581,728	14,675,384	30,360,332	45,333,341
Gain on sale of intangible assets, net	—	—	—	965,297	—	—	1,507,498
Income (loss) from operations	(238,150)	555,072	(3,327,723)	(15,622,915)	(2,243,891)	(1,677,408)	4,064,724
Other income (expense)	5,491	1,529	74,059	70,148	33,502	218,974	226,878
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)	(15,552,767)	(2,210,389)	(1,458,434)	4,291,602
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)	(5,609,792)	(783,231)	(118,016)	2,076,639
Net income (loss)	(89,783)	332,519	(2,169,352)	(9,942,975)	(1,427,158)	(1,340,418)	2,214,963
Accrual of convertible preferred stock dividends	—	—	—	2,500,000	—	—	1,875,000
Accretion of redemption value of redeemable convertible preferred stock	—	—	1,318,885	1,318,885	911,620	420,430	420,430
Net income (loss) applicable to common stockholders	$ (89,783)	$ 332,519	$ (3,488,237)	$ (13,761,860)	$ (2,338,778)	$ (1,760,848)	$ (80,467)
Consolidated Statement of Cash Flows Data:							
Cash flows from operating activities	$ 1,539,808	$ 353,053	$ 2,907,053		$ 1,738,073	$ 2,335,785	
Other Financial Data:							
Operating income before amortization (OIBA)[1]	$ 126,543	$ 594,053	$ 1,820,795	$ 7,811,339	$ 1,371,829	$ 2,517,971	$ 19,246,528

Footnote on page 15.

The following table sets forth our consolidated balance sheet data as of September 30, 2004 on:

- an actual basis;
- a pro forma basis to give effect to: (1) the sale of 7,000,000 shares of Class B common stock at the price of $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, less $8.1 million in estimated underwriting discounts and estimated offering expenses; and (2) the sale of 200,000 shares of preferred stock at the price of $250 per share, less $1.8 million in estimated underwriting discounts and estimated offering expenses; and
- a pro forma as adjusted basis to also give effect to the Name Development asset acquisition.

	As of September 30, 2004		
	Actual	Pro forma	Pro forma, as adjusted
Consolidated Balance Sheet Data:			
Cash and cash equivalents	$ 24,772,316	$ 208,380,816	$ 53,230,816
Total current assets	28,008,769	211,617,269	56,583,223
Total assets	62,504,069	246,112,569	255,582,569
Total current liabilities	7,270,020	7,270,020	7,740,020
Total stockholders' equity	54,463,628	238,072,128	247,072,128

The following table provides a reconciliation of Income (loss) from operations and Net income (loss) applicable to common stockholders to the non-GAAP measure of OIBA.

	Predecessor Periods		Successor Periods				
						Nine months ended September 30	
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Marchex Period from January 17, (inception) to December 31, 2003	Pro Forma Marchex Prior and Pending Acquisitions and Offering 2003	Marchex Period from January 17, (inception) to September 30, 2003	Marchex 2004	Pro Forma Marchex Prior and Pending Acquisitions and Offering 2004
Operating income before amortization (OIBA)[1]	$ 126,543	$ 594,053	$ 1,820,795	$ 7,811,339	$ 1,371,829	$ 2,517,971	$ 19,246,528
Stock-based compensation	(364,693)	(38,981)	(2,125,110)	(2,659,280)	(1,587,476)	(721,403)	(721,403)
Amortization of intangible assets	—	—	(3,023,408)	(20,774,974)	(2,028,244)	(3,473,976)	(14,460,401)
Income (loss) from operations	(238,150)	555,072	(3,327,723)	(15,622,915)	(2,243,891)	(1,677,408)	4,064,724
Other income (expense)							
Interest income	5,491	1,529	45,874	53,989	33,502	163,808	169,304
Interest expense	—	—	—	—	—	(3,728)	(3,728)
Adjustment to fair value of redemption obligation	—	—	25,500	25,500	—	55,250	55,250
Other	—	—	2,685	(9,341)	—	3,644	6,052
Total other income	5,491	1,529	74,059	70,148	33,502	218,974	226,878
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)	(15,552,767)	(2,210,389)	(1,458,434)	4,291,602
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)	(5,609,792)	(783,231)	(118,016)	2,076,639
Net income (loss)	(89,783)	332,519	(2,169,352)	(9,942,975)	(1,427,158)	(1,340,418)	2,214,963
Accrual of convertible stock dividends	—	—	—	2,500,000	—	—	1,875,000
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885	1,318,885	911,620	420,430	420,430
Net income (loss) applicable to common stockholders	$ (89,783)	$ 332,519	$ (3,488,237)	$ (13,761,860)	$ (2,338,778)	$ (1,760,848)	$ (80,467)

[1] We report operating income before amortization (OIBA) that is a supplemental measure to GAAP. OIBA represents income (loss) from operations before: (1) stock-based compensation expense; and (2) amortization of intangible assets. This measure, among other things, is one of the primary metrics by which we evaluate the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, and should not be considered in isolation, as a substitute for, or superior to, GAAP results. We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses. OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses, including non-cash stock-based compensation associated with our employees and acquisition-related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure.

RISK FACTORS

Any investment in our securities 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 securities. 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. ***[P]*** *In any such case, the trading price of our preferred stock could decline.* ***[C]*** *In any such case, the trading price of our Class B common stock could decline. 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, TrafficLeader in October 2003 and goClick in July 2004 and in November 2004 entered into an agreement to acquire certain assets of Name Development.

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

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

We have incurred net losses since inception and had an accumulated deficit of $5.2 million as of September 30, 2004. 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 if we will become profitable in the future. Even if we were to achieve profitability, we may not be able to sustain it.

We are dependent on certain distribution partners, including Yahoo! and its subsidiaries, for distribution of our services, and we derive a significant portion of our total revenue through these distribution partners. A loss of distribution partners or a decrease in revenue from certain distribution partners could adversely affect our business.

A relatively small number of distribution partners currently deliver a significant percentage of traffic to our merchant listings. Yahoo!, primarily through its subsidiaries, such as Inktomi and Overture, is our largest distribution partner, collectively representing approximately 19% of our total revenue for the nine months ended September 30, 2004 and was responsible for 100% of the revenue of Name Development during the same period. For the year ended December 31, 2003, distribution through Yahoo! and its subsidiaries collectively represented less than 10% of Marchex's total revenue.

Our existing agreements with many of our larger distribution partners permit either company to terminate without penalty on short notice and are primarily structured on a variable-payment basis, under which we make payments based on a specified percentage of revenue or based on the number of paid click-throughs. We intend to continue devoting resources in support of our larger distribution partners, but there are no guarantees that these relationships will remain in place over the short- or long-term. 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 relationships could have an adverse effect on our revenue, and the loss of any one large distribution partner could have a material adverse effect on our business, financial condition and results of operations.

Companies distributing advertising on the Internet have experienced, and will likely continue to experience, consolidation. This consolidation has reduced the number of partners that control the online advertising outlets with the most user traffic. According to comScore Media Metrix qSearch, Yahoo! Search accounted for 27% of the online searches in the United States in May 2004 and Google accounted for 37%. 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. In addition, many participants in the performance-based advertising and search marketing industries control 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 third-party distribution network to deliver their services. This gives these companies a significant advantage over us in delivering their services, and with a lesser degree of risk.

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

Our success depends, in part, on the maintenance and growth of a critical mass of merchant advertisers and distribution partners and a continued interest in our performance-based advertising and search marketing services. If our business is unable to achieve a growing base of merchant advertisers, our current distribution partners may be discouraged from continuing to work with us, and this may create obstacles for us to enter into agreements with new distribution partners. Similarly, if our distribution network does not grow and does not continue to improve over time, current and prospective merchant advertisers may reduce or terminate their business with us. Any decline in the number of merchant advertisers and distribution partners could adversely affect the value of our services.

We are dependent upon the quality of traffic in our network to provide value to our merchant advertisers, and any failure in our quality control could have a material adverse effect on the value of our services to our merchant advertisers.

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

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

Our success depends, in part, on our ability to protect our intellectual property and to operate without infringing on the intellectual property rights of others in the process. There can be no guarantee that any of our intellectual property will be adequately safeguarded, or that it will not be challenged by third parties. We may be subject to patent infringement claims or other intellectual property infringement claims, including claims of trademark infringement in connection with an acquisition of previously-owned Internet domain names, 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 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 FindWhat.com relating to this patent. FindWhat.com is vigorously contesting Overture's patent. If we were to acquire or develop a related product or business model that Overture construes as infringing the Overture patent or if Overture construes any of our current products or business models as infringing upon the Overture patent, then we could be asked to license, re-engineer our products and services or revise our business model according to terms that may be extremely expensive and/or unreasonable. As part of our overall business relationship with Yahoo!, we have entered into

various agreements to license technologies and services from Yahoo! and its subsidiaries, and expect to continue discussions with these partners to license other technologies and services, which may include the Overture patent.

Any patent or other intellectual property 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, services and property 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.

Following the offerings, we may need additional funding to meet our obligations and to pursue our business strategy. Additional funding may not be available to us and our financial condition could therefore be adversely affected.

We have allocated a substantial portion of the net proceeds of the offerings to the proposed Name Development asset acquisition. Following the offerings, we may require additional funding to meet our ongoing obligations and to pursue our business strategy, which may include the selective acquisition of businesses and technologies. In addition, we have incurred and we may incur certain obligations in the future, including:

- We may be obligated to make performance payments based on 2004 earnings to the original shareholders and certain employees of eFamily and its wholly-owned subsidiary, Enhance Interactive, which we acquired in February 2003, with a maximum remaining aggregate payment obligation of $10.0 million.
- We may also be obligated to make revenue-based performance payments based on 2004 results to the original shareholders of TrafficLeader, which we acquired in October 2003, with a maximum aggregate payment obligation of $1.0 million.
- Upon the issuance of preferred stock as contemplated in the preferred stock offering, we will become obligated to pay dividends to the holders of such stock.
- If debentures are issued upon exchange of the preferred stock, we will become obligated to make interest payments to the holders of the debentures.

Following the offerings, there can be no assurance that additional financing arrangements will be available in amounts or on terms acceptable to us, if at all. Furthermore, the sale of additional equity or convertible securities will result in further dilution to existing stockholders. If adequate additional funds are not available, we will be required to delay, reduce the scope of, or eliminate material parts of the implementation of our business strategy, including potential additional acquisitions or internally-developed businesses.

Our acquisitions could divert management's attention, cause ownership dilution to our stockholders, cause our earnings to decrease and be difficult to integrate.

Our business strategy includes identifying, structuring, completing and integrating acquisitions. Acquisitions 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 to meet our objectives which include revenue growth, profitability and competitive market share. Our acquired companies may have histories of net losses and may expect net losses for the foreseeable future.

Acquisitions are accompanied by a number of risks that could harm 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 could be diverted from our ongoing business concerns;

- While integrating new companies, we may lose key executives or other employees of these companies;
- We may issue shares of our Class B common stock as consideration for acquisitions which may result in ownership dilution to our stockholders;
- We could fail to successfully integrate our financial and management controls, technology, reporting systems and procedures, or adequately expand, train and manage our workforce;
- We could experience customer dissatisfaction or performance problems with an acquired company or technology;
- We could become subject to unknown or underestimated liabilities of an acquired entity or incur unexpected expenses or losses from such acquisitions; and
- We could 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 executive officers, could harm our current and future operations and prospects.

We are heavily dependent upon the continued services of Russell C. Horowitz, our chairman and chief executive officer, and John Keister, our president and chief operating officer, and the other members of our senior management team. Each member of our senior management team is an at-will employee and may voluntarily terminate his employment with us at any time with minimal notice. Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister, our founding executive officers, each own shares of fully vested Class A common stock. Following any termination of employment, each of these employees would only be subject to a twelve-month non-competition and non-solicitation obligation with respect to our clients and customers under our standard confidentiality agreement.

Further, as of December 31, 2004, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister together controlled 93% of the combined voting power of our outstanding capital stock. Upon completion of the offerings, these founding executive officers together will control 91% of the combined voting power of all of our outstanding capital stock, excluding any shares that may be purchased by them in the offerings and shares of Class B common stock issuable upon conversion of preferred stock. 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 executive officers, for any reason, or any conflict among our founding executive officers, could harm our current and future operations and prospects.

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

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

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

We may not be able to obtain and maintain 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 that are not covered or adequately covered by insurance, our financial condition 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 could have a material adverse effect on our operations.

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

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 boards 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 Stock 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 listing of our shares of Class B common stock on the Nasdaq National Market could be adversely affected.

If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud, which could harm our brand and operating results.

Effective internal controls are necessary for us to provide reliable and accurate financial reports and effectively prevent fraud. We have devoted significant resources and time to comply with the new internal control over financial reporting requirements of the Sarbanes-Oxley Act of 2002. In addition, Section 404 under the Sarbanes-Oxley Act of 2002 requires that we assess and our auditors attest to the design and operating effectiveness of our controls over financial reporting. Our compliance with the annual internal control report requirement for our first fiscal year ending on or after July 15, 2005, the requisite SEC compliance date, will depend on the effectiveness of our financial reporting and data systems and controls across our operating subsidiaries. We expect these systems and controls to become increasingly complex to the extent that we integrate acquisitions and our business grows. To effectively manage this growth, we will need to continue to improve our operational, financial and management controls and our reporting systems and procedures. We cannot be certain that these measures will ensure that we design, implement and maintain adequate controls over our financial processes and reporting in the future. Any failure to implement required new or improved controls, or difficulties encountered in their implementation or operation, could harm our operating results or cause us to fail to meet our financial reporting

obligations. Inferior internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our stock and our access to capital.

Recently adopted changes in accounting rules and regulations, such as expensing of stock options and shares issued through the employee stock purchase plan, will result in unfavorable accounting charges and may require us to change our compensation policies.

Accounting methods and policies regarding expensing stock options are subject to review, interpretation and guidance from relevant accounting authorities, including the Financial Accounting Standards Board, or FASB. For example, we currently are not required to record stock-based compensation charges if an employee's stock option exercise price equals or exceeds the fair value of our common stock at the date of grant. On December 16, 2004, the FASB adopted a revised final statement of financial accounting standards which requires us, as a small business issuer, to expense the fair value of stock options granted for periods beginning after December 15, 2005. In addition, under the FASB's final rules on employee stock purchase plans, we will incur an expense. We rely heavily on stock options to compensate existing employees and attract new employees. In light of these new requirements to expense stock options and shares issued under the employee stock purchase plan, we may choose to reduce our reliance on these as compensation tools. If we reduce our use of stock options and the employee stock purchase plan, it may be more difficult for us to attract and retain qualified employees and we may need to compensate our employees with greater amounts of cash or other incentives. If we do not reduce our reliance on stock options and the employee stock purchase plan, our reported losses will increase. Further changes to interpretations of accounting methods or policies in the future may require us to adversely revise how our financial statements are prepared.

Impairment of goodwill and other intangible assets would result in a decrease in earnings.

Current accounting rules require that goodwill and other intangible assets with indefinite useful lives no longer be amortized, but instead be tested for impairment at least annually. These rules also require that intangible assets with definite useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. 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.

We have substantial goodwill and other intangible assets, and we may be required to record a significant charge to earnings in our financial statements during the period in which any impairment of our goodwill or amortizable intangible assets is determined. Any impairment charges or changes to the estimated amortization periods could have a material adverse effect on our financial results.

Risks Relating to the Name Development Asset Acquisition

We may not be able to complete the transactions contemplated by this prospectus, which could negatively impact our reputation and prospects.

The Name Development asset acquisition is dependent upon the successful completion of the simultaneous offerings of our Class B common stock and our preferred stock. We will be unable to finance the proposed asset acquisition without the funding from the net proceeds of these offerings. The closing of the proposed asset acquisition is also dependent on certain closing conditions, which if not met or not waived by Name Development or us, as the case might be, would release the parties from the terms of the asset purchase agreement. If we were unable to meet our obligations under the agreement, we would be obligated to pay a termination fee to Name Development of approximately $1.5 million in a combination of cash and shares of our Class B common stock.

We have expended significant time, resources and manpower to pursue the asset acquisition and related financings, which could have been used for other purposes and opportunities. If the proposed asset acquisition

and offerings are not consummated, we will have incurred significant expense which may affect our financial results. We will also have potentially foregone other transactions or devoted resources that could have been directed to our current operations during that period.

Acquisitions are a component of our strategy. Our successful execution of this strategy relies in part on our reputation for delivering value for our target partners and our ability to demonstrate a successful transaction record. A failure to complete this transaction would, at this juncture in our corporate history, negatively impact our reputation and could adversely affect our prospects for future acquisitions or the terms on which we may complete such acquisitions.

We may not be able to realize the intended and anticipated benefits from the Name Development asset acquisition, which could affect the value of the asset acquisition to our business strategy and our ability to meet our financial obligations and targets.

We may not be able to realize the intended and anticipated benefits that we currently expect from the Name Development asset acquisition. These intended and anticipated benefits include increasing our cash flow from operations, growing our merchant network, broadening our distribution offerings and delivering services that strengthen our merchant relationships.

Factors that could affect our ability to achieve these benefits include:

- Name Development currently earns 100% of its revenue through the outsourcing of its pay-per-click listings to one major provider, Yahoo! In order to achieve the desired financial results from this asset acquisition, we will need to transition the existing commercial relationship on similar or better terms, develop other relationships for the delivery of pay-per-click listings or provide pay-per-click listings directly from our merchant advertisers, or some combination of the above. Our execution of this aspect of the acquired assets will be a significant factor in determining whether we realize the anticipated economic benefits.
- We will need to continue to acquire commercially valuable Internet domain names to grow our presence in the field of direct navigation. We will need to continuously improve our technologies to acquire valuable Internet domain names as competition in the marketplace for appropriate Internet domain names intensifies. Our domain name acquisition efforts are subject to rules and guidelines established by registries which maintain Internet domain name registrations and the registrars which process and facilitate Internet domain name registrations. The registries and registrars may change the rules and guidelines for acquiring Internet domains in ways that may prove detrimental to our domain acquisition efforts.
- The business of Name Development is dependent on current technologies and user practices. If browser or search technologies were to change significantly, the practice of direct navigation may be altered to our disadvantage.
- Some of our existing distribution partners may perceive Name Development as a competitive threat and therefore may decide to terminate their agreements with us because of the Name Development asset acquisition.
- We intend to apply our technology and expertise to geography-specific Web properties that we believe are under-commercialized and not yet mature from a monetization perspective. However, if the current disparities in traffic and monetization of such search terms do not narrow in a favorable way, we may expend significant company resources on business efforts that do not realize the results we expect.

If the acquired business is not integrated into our business as we anticipate, we may not be able to achieve these benefits or realize the value paid for the asset acquisition, which could materially harm our business, financial condition and results of operations.

We may experience unforeseen liabilities in connection with the Name Development asset acquisition or our acquisition of other Internet domain names, which could negatively impact our financial results.

The Name Development asset acquisition involves the acquisition of a large number of previously-owned Internet domain names. Furthermore, we have separately acquired and intend to continue to acquire in the future additional previously-owned Internet domain names. In some cases, these acquired names may have trademark significance that is not readily apparent to us or is not identified by us in the bulk purchasing process. As a result we may face demands by third party trademark owners asserting infringement or dilution of their rights and seeking transfer of acquired Internet domain names under the Uniform Domain Name Dispute Resolution Policy administered by ICANN or actions under the U.S. Anti-Cybersquatting Consumer Protection Act.

We intend to review each claim or demand which may arise from time to time on its merits on a case-by-case basis with the assistance of counsel and we intend to transfer any rights acquired by us to any party that has demonstrated a valid prior right or claim. We cannot, however, guarantee that we will be able to resolve these disputes without litigation. The potential violation of third party intellectual property rights and potential causes of action under consumer protection laws may subject us to unforeseen liabilities including injunctions and judgments for money damages.

Regulation could reduce the value of the Internet domain names acquired or negatively impact the Internet domain acquisition process, which could significantly impair the value of the asset acquisition.

The Name Development business includes the registrations of thousands of Internet domain names both in the United States and internationally. Name Development acquires previously-owned Internet domain names that have expired and have been offered for sale by Internet domain name registrars following the period of permitted reclamation by their prior owners. Furthermore, we have separately acquired and intend to continue to acquire in the future additional previously-owned Internet domain names.

The acquisition of Internet domain names generally is governed by regulatory bodies. The regulation of Internet domain names in the United States and in foreign countries is subject to change. Regulatory bodies could establish additional requirements for previously-owned Internet domain names or modify the requirements for holding Internet domain names. As a result, we might not acquire or maintain names that contribute to our financial results in the same manner as reflected in the historical financial results of Name Development. Because certain Internet domain names are important assets which support the valuation of the Name Development asset acquisition, a failure to acquire or maintain such Internet domain names could adversely affect our financial results and our growth. Any impairment in the value of these important assets could cause our stock price to decline.

Risks Relating to Our Business and Our Industry

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

We operate in a highly competitive and changing environment. We principally compete with other companies which offer services in five main areas:

- sales to merchant advertisers of pay-per-click services;
- sales to merchant advertisers of feed management services;
- aggregation or optimization of online advertising for distribution through search engines, product shopping engines, directories, Web sites or other outlets;
- delivery of online advertising to end users or customers of merchants through 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 FindWhat.com, Google, Microsoft and Yahoo! Many of these actual or perceived competitors also currently or may in the future have business relationships with us, particularly in distribution. Going forward, however, these companies may terminate their relationships with us. Furthermore, our competitors may be able to secure agreements with us on 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.

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

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

- longer operating histories;
- more management experience;
- an employee base with more extensive experience;
- better geographic coverage;
- larger customer bases;
- greater brand recognition; and
- significantly greater financial, marketing and other resources.

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 and reduce the demand for any of our services.

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

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

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

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

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

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

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

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

We rely upon third party colocation providers to host our main servers. If these providers experience any interruption in operations or cease operations for any reason or if we are unable to agree on satisfactory terms for continued hosting relationships, we would be forced to enter into a relationship with other service providers or assume hosting responsibilities ourselves. If we are forced to switch hosting facilities, we may not be successful in finding an alternative service provider on acceptable terms or in hosting the computer servers ourselves. We

may also be limited in our remedies against these providers in the event of a failure of service. In the past, we have experienced short-term outages in the service maintained by one of our current colocation providers. We also rely on third party providers for components of our technology platform, such as hardware and software providers, credit card processors and domain name registrars. A failure or limitation of service or available capacity by any of these third party providers could adversely affect our business and reputation.

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

Our success and ability to compete effectively are substantially dependent upon our internally developed and acquired technology and data resources, which we protect through a combination of copyright, trade secret, and patent and trademark law. To date, we have filed two provisional patent applications with the United States Patent and Trademark Office, and two non-provisional patent applications based on the two filed provisional applications in the United States and via the Patent Cooperation Treaty designating all member countries. In the future, additional patents may be filed 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 and the trading price of our preferred stock.

We may incur liabilities for the activities of users of our services and our merchant advertisers, which could adversely affect our business.

Many of our advertisement generation processes are automated and we do not conduct a manual editorial review of a substantial number of our merchant listings. We may not successfully avoid liability for unlawful activities carried out by users of our services and our merchant advertisers, or unpermitted uses of our merchant listings by distribution partners.

Our potential liability for unlawful activities of users of our services and our merchant advertisers or unpermitted uses of our merchant listings by distribution partners 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. For example, as a result of the actions of merchant advertisers in our network, we may be subject to civil claims relating to a wide variety of issues, such as privacy, gambling, promotions, and intellectual property ownership and infringement. Furthermore, under agreements with certain of our larger distribution partners, we are required to indemnify these partners against any liabilities or losses resulting from the content of our merchant listings. Although our merchant advertisers indemnify us with respect to claims arising from these listings, we may not be able to recover all or any of the liability or losses incurred by us as a result of the activities of our merchant advertisers.

Our insurance policies may not provide coverage for liability arising out of activities of users of our services. Furthermore, we may not be able to obtain or maintain adequate insurance coverage to reduce or limit the liabilities associated with our businesses. 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.

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

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

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

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

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

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

- possible disruptions or other damage to the Internet or telecommunications infrastructure;
- failure of the individual networking infrastructures of our merchant advertisers and distribution partners to alleviate potential overloading and delayed response times;

- a decision by merchant advertisers to spend more of their marketing dollars in offline areas;
- increased governmental regulation and taxation; and
- actual or perceived lack of security or privacy protection.

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

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

We have suffered losses and may continue to suffer losses as a result of payments made with fraudulent credit card data. Our failure to control fraudulent credit card transactions adequately could reduce 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 or fraudulently "charge-back" amounts on their credit cards for services that have already been delivered by us.

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

Companies engaging in online search, commerce and related businesses face uncertainty related to future government regulation of the Internet. Due to the rapid growth and widespread use of the Internet, legislatures at the federal and state levels have enacted and are considering various laws and regulations relating to the Internet. Individual states may also enact stricter consumer legislation that affects the conduct of our business.

Furthermore, the application of existing laws and regulations to Internet companies remains somewhat unclear. For example, as a result of the actions of merchant advertisers in our network, we may be subject to the application of existing laws and regulations relating to a wide variety of issues such as privacy, gambling, sweepstakes, promotions, financial market regulation, and intellectual property ownership and infringement. In addition, existing laws that regulate or require licenses or permits for certain businesses of merchant advertisers may be unclear in their application to our business, including those related to insurance and securities brokerage, law offices and pharmacies. Our business may be negatively affected by a variety of new or existing laws and regulations, which may expose us to substantial compliance costs and liabilities and may impede the growth in use of the Internet.

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

- The Digital Millennium Copyright Act and its related safe harbors are intended to reduce the liability of online service providers for listing or linking to third-party Web sites that include materials that infringe copyrights or other rights of others.
- The Children's Online Protection Act and the Children's Online Privacy Protection Act are intended to restrict the distribution of certain materials deemed harmful to children, and they impose additional restrictions on the ability of online services to collect user information from minors.
- The Protection of Children from Sexual Predators Act of 1998 requires online service providers to report evidence of violations of federal child pornography laws under certain circumstances.
- The CAN-SPAM Act of 2003 and certain state laws are intended to impose limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

Courts may apply each of these laws in unintended and unexpected ways. As a company that provides services over the Internet, we may be subject to an action brought under any of these or future laws governing online services. Among the types of legislation currently being considered at the federal and state levels are consumer laws regulating the practices for software applications or downloads and the use of "cookies" and these laws may introduce requirements for user consent and other restrictions. These proposed laws are intended to target applications often referred to as spyware, invasiveware or adware, although the scope may also include some software applications currently used in the online advertising industry to serve and distribute advertisements.

Many of the services of the Internet are automated, and companies such as ours may be unknowing conduits for illegal or prohibited materials. It is not known how courts will rule in many circumstances; for example, it is possible that courts could find strict liability or impose "know your customer" standards of conduct in some circumstances. Although we may not be directly involved in any of these practices, under current and future regulation we may ultimately be held responsible for the actions of our merchant advertisers or distribution partners.

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 cost of complying with, current and possible future laws and regulations related to our business could harm our business and operating results.

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

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

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

On November 19, 2004, the federal government passed legislation placing a three-year ban on state and local governments' imposition of new taxes on Internet access or electronic commerce transactions. Unless the ban is extended, state and local governments may begin to levy additional taxes on Internet access and electronic commerce transactions upon the legislation's expiration in November 2007. An increase in 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.

[P] Risks Relating to this Offering

We may not be able to complete the proposed offering of our Class B common stock.

We may not be able to complete the offering of 7,000,000 shares of our Class B common stock being conducted concurrently with this offering, or such offering may not raise the amount of proceeds we expect. If we are unable to complete the Class B common stock offering, we may not be able to execute fully on our contemplated acquisition strategy and the information in this prospectus regarding the Class B common stock offering would not be applicable or would need to be revised, perhaps significantly.

Our Class B common stock price has been and is likely to continue to be highly volatile. The price of our Class B common stock, and therefore the value of the preferred stock, may fluctuate significantly, which may make it difficult for holders to resell the preferred stock or the shares of our Class B common stock issuable upon conversion thereof when desired or at attractive prices.

The trading price of our Class B common stock has been and is likely to continue to be highly volatile and subject to wide fluctuations. Since our initial public offering, the closing sale price of our Class B common stock on the Nasdaq National Market ranged from $8.56 to $21.00 per share through December 31, 2004, and the last reported sale price on February 2, 2005 was $20.87 per share. Our stock price may fluctuate in response to a number of events and factors, which may be the result of our business strategy or events 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, financings, commercial relationships, joint ventures or capital commitments;
- registration of additional shares of Class B common stock in connection with a strategic transaction;
- actual or anticipated fluctuations in our operating results;
- developments concerning our various strategic collaborations;
- lawsuits initiated against us or lawsuits initiated by us;
- announcements of acquisitions or technical innovations;
- potential loss or reduced contributions from distribution partners or merchant advertisers;
- changes in earnings estimates or recommendations by analysts;
- 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. Additionally, there can be no assurance that an active trading market of our Class B common stock will be sustained.

Because the shares of the preferred stock are convertible into shares of Class B common stock, volatility or depressed prices for our Class B common stock could have a similar effect on the value of the preferred stock. Holders who receive Class B common stock upon conversion also will be subject to the risk of volatility and depressed prices of our Class B common stock.

If we, or our existing stockholders, sell additional shares of our Class B common stock after this offering, the market price of our Class B common stock could decline.

We have a substantial number of shares of Class B common stock that are eligible for resale following the offering, including:

- Upon completion of the offerings, we will have 20,421,539 shares of Class B common stock outstanding and 21,471,539 shares if the underwriters exercise their over-allotment option in full. We will have 16,452,159 shares of our common stock subject to lock-up for 90 days following the offering by executive officers, directors and certain of our stockholders.
- As of September 30, 2004, we had issued options for approximately 3,571,167 shares of Class B common stock, of which options for 970,244 shares were exercisable as of such date. We have also issued shares in connection with our initial financing and our prior acquisitions, of which 20,279,063 are eligible for resale under Rule 144.
- As of September 30, 2004, we had 111,578,461 shares of authorized but unissued shares of our Class B common stock that are available for future sale.
- Approximately 11,987,500 of our shares of Class A common stock and 8,725,104 of our shares of Class B common stock are subject to piggyback registration rights. Following the Name Development asset acquisition 439,239 shares of our Class B common stock will be subject to Form S-3 registration rights assuming that $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, is the applicable price for determining the number of shares to be issued; these shares will not be subject to lock-up following the acquisition. We also may enter into additional registration rights agreements in the future in connection with any subsequent acquisitions we may undertake. Any sales of our common stock under these registration rights arrangements with these stockholders could be negatively perceived in the trading markets and negatively affect the price of our common stock.

The market price of our Class B common stock could decline as a result of sales of a large number of shares of our Class B common stock in the market after this offering, or the perception that such sales could occur. These sales, or the possibility that these sales may occur, could make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

Following this offering, conversion of our convertible preferred stock will dilute the interests of our existing Class B common stockholders.

The conversion of some or all of the preferred stock will dilute the interests of our existing Class B common stockholders. Sales in the public market of shares of Class B common stock issued upon conversion would apply downward pressure on the prevailing market price. In addition, the very issuance of the preferred stock represents a future issuance, and perhaps a future sale, of our Class B common stock to be acquired upon conversion, which could depress trading prices for our Class B common stock.

There is currently no public market for the preferred stock or the debentures, and the market price of the preferred stock may decline after you invest.

There is currently no public market for the preferred stock or the debentures. Although we have applied for inclusion of the preferred stock on the Nasdaq National Market, there is no guarantee that these securities will be accepted for trading or if accepted that an active or liquid trading market will develop for the preferred stock. If an active trading market does not develop, the market price and liquidity of the preferred stock will be adversely affected. Even if an active trading market for the preferred stock were to develop, the preferred stock could trade for less than the public offering price, depending on many factors, including prevailing interest rates, our operating results and the markets for similar securities, and such active trading market could cease to continue at any time. In addition, if the preferred stock is exchanged for debentures, we are not obligated to list the debentures and cannot assure you that a market for the debentures will develop.

We will require a significant amount of cash to meet the dividend obligations under the terms of the preferred stock. Our ability to generate cash depends on many factors beyond our control. If we cannot generate the required cash, we may not be able to make the preferred stock dividend payments.

Our ability to meet the dividend payments under the terms of the preferred stock, and to fund planned capital expenditures and potential acquisitions will depend on our ability to generate cash in the future. Our ability to generate cash, to a certain extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control.

Our future financial results could be subject to fluctuations. Our business may not be able to generate sufficient cash flow from our operations or future financings may not be available to us in an amount sufficient to enable us to meet our payment obligations, including the accrued dividends under the terms of the preferred stock, or to fund our other liquidity needs. Our inability to meet our payment obligations would require us to pursue one or more alternative strategies, such as selling assets, refinancing, restructuring or selling equity capital. However, alternative strategies may not be feasible at the time or may not prove adequate, which could cause us to default on our obligations and would impair our liquidity.

We may not be able to pay dividends on the preferred stock, which could impair the value of your investment.

Under Delaware law, dividends to stockholders may be made only from the surplus of a company, or, in certain situations, from the net profits for the current fiscal year or the fiscal year before which the dividend is declared. Our ability to pay dividends in the future will depend on our financial results, liquidity and financial condition. We can not be sure that we will have the surplus or profits to make periodic dividend payments, and we can not be sure that we will be able to pay the periodic installments of the dividend on the preferred stock.

There may be tax consequences to you if we exchange your preferred stock for debentures.

An exchange of the preferred stock for debentures will be a taxable event for federal income tax purposes which may result in tax liability to the holders without any corresponding receipt of cash by the holder. Such an exchange may be taxable as a dividend distribution to the extent of our current and accumulated earnings and profits, and may be subject to withholding tax if the exchanging stockholder is a Non-U.S. Holder.

Our current and future payment obligations or indebtedness will have priority over a preferred stock liquidation preference and accrued dividend payment obligation in the event of our liquidation, dissolution or winding-up.

The terms of the preferred stock do not contain any financial or operating covenants that would prohibit or limit us or our subsidiaries from incurring indebtedness or other liabilities, pledging assets to secure such indebtedness and liabilities, paying dividends, or issuing securities or repurchasing securities issued by us or any of our subsidiaries. The incurrence of indebtedness by us or our subsidiaries and, in particular, the granting of a security interest to secure the indebtedness could adversely affect our ability to pay accrued dividends under the terms of the preferred stock.

If we incur indebtedness, the holders of that debt will have prior rights with respect to any proceeds distributed in connection with any insolvency, liquidation, reorganization, dissolution or other winding-up of us. This may have the effect of reducing the amount of proceeds in connection with any insolvency, liquidation, reorganization or other winding-up of us paid to you as a holder of the preferred stock.

Our founding executive officers 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.

As of December 31, 2004, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister, our founding executive officers, beneficially owned 96% of the outstanding shares of our Class A common stock, which shares represented 93% of the combined voting power of all outstanding shares of our capital stock. Upon completion of the offerings, these founding executive officers together will control 91% of the combined voting power of all outstanding shares of our capital stock, excluding any shares that may be purchased by them in the offerings and shares of Class B common stock issuable upon conversion of preferred 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 these founding executive 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 these founding executive 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, these founding executive officers will be in a position to continue to control all fundamental matters affecting our company, including any merger involving, sale of substantially all of the assets of, or change in control of, our company.

The ability of these founding executive officers to control our company may result in our Class B common stock trading at a price lower than the price at which it would trade if these founding executive 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. The application of Section 203 of the Delaware General Corporation Law could have the effect of delaying or preventing a change of control of our company.

[C] Risks Relating to this Offering

We may not be able to complete the proposed offering of our preferred stock.

We may not be able to complete the offering of 200,000 shares of our preferred stock being conducted concurrently with this offering of Class B common stock, or such offering may not raise the amount of proceeds we expect and we may be unable to increase the size of the Class B common stock offering to compensate accordingly. If we are unable to complete the preferred stock offering, we may not be able to execute fully on our contemplated acquisition strategy and the information in this prospectus regarding the preferred stock offering would not be applicable or would need to be revised, perhaps significantly.

Our stock price has been and is likely to continue to be highly volatile.

The trading price of our Class B common stock has been and is likely to continue to be highly volatile and subject to wide fluctuations. Since our initial public offering, the closing sale price of our Class B common stock on the Nasdaq National Market ranged from $8.56 to $21.00 per share through December 31, 2004 and the last reported sale price on February 2, 2005 was $20.87 per share. Our stock price may fluctuate in response to a number of events and factors, which may be the result of our business strategy or events 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, financings, commercial relationships, joint ventures or capital commitments;
- registration of additional shares of Class B common stock in connection with a strategic transaction;
- actual or anticipated fluctuations in our operating results;
- developments concerning our various strategic collaborations;
- lawsuits initiated against us or lawsuits initiated by us;
- announcements of acquisitions or technical innovations;
- potential loss or reduced contributions from distribution partners or merchant advertisers;
- changes in earnings estimates or recommendations by analysts;
- 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. Additionally, there can be no assurance that an active trading market of our Class B common stock will be sustained.

If we, or our existing stockholders, sell additional shares of our Class B common stock after this offering, the market price of our Class B common stock could decline.

We have a substantial number of shares of Class B common stock that are eligible for resale following the offering, including:

- Upon completion of the offerings, we will have 20,421,539 shares of Class B common stock outstanding and 21,471,539 shares if the underwriters exercise their over-allotment option in full.

We will have 16,452,159 shares of our common stock subject to lock-up for 90 days following the offering by executive officers, directors and certain of our stockholders.

- As of September 30, 2004, we had issued options for 3,571,167 shares of Class B common stock, of which options for 970,244 shares were exercisable as of such date. We have also issued shares in connection with our initial financing and our prior acquisitions, of which 20,279,063 are eligible for resale under Rule 144.
- As of September 30, 2004, we had 111,578,461 shares of authorized but unissued shares of our Class B common stock that are available for future sale.
- Approximately 11,987,500 of our shares of Class A common stock and 8,725,104 of our shares of Class B common stock are subject to piggyback registration rights. Following the Name Development asset acquisition 439,239 shares of our Class B common stock will be subject to Form S-3 registration rights assuming that $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, is the applicable price for determining the number of shares to be issued; these shares will not be subject to lock-up following the acquisition. We also may enter into additional registration rights agreements in the future in connection with any subsequent acquisitions we may undertake. Any sales of our common stock under these registration rights arrangements with these stockholders could be negatively perceived in the trading markets and negatively affect the price of our common stock.

The market price of our Class B common stock could decline as a result of sales of a large number of shares of our Class B common stock in the market after this offering, or the perception that such sales could occur. These sales, or the possibility that these sales may occur, could make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

Following this offering, conversion of our convertible preferred stock will dilute the interests of our existing Class B common stockholders.

The conversion of some or all of the preferred stock will dilute the interests of our existing Class B common stockholders. Sales in the public market of shares of Class B common stock issued upon conversion would apply downward pressure on the prevailing market price. In addition, the mere issuance of the preferred stock represents a future issuance, and perhaps a future sale, of our Class B common stock to be acquired upon conversion, which could depress trading prices for our Class B common stock.

Our founding executive officers 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.

As of December 31, 2004, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister, our founding executive officers, beneficially owned 96% of the outstanding shares of our Class A common stock, which shares represented 93% of the combined voting power of all outstanding shares of our capital stock. Upon completion of the offerings, these founding executive officers together will control 91% of the combined voting power of all outstanding shares of our capital stock, excluding any shares that may be purchased by them in the offerings and shares of Class B common stock issuable upon conversion of the preferred 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 these founding executive 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 these founding executive 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, these founding executive officers will be in a position to continue to control all fundamental matters affecting our company, including any merger involving, sale of substantially all of the assets of, or change in control of, our company.

The ability of these founding executive officers to control our company may result in our Class B common stock trading at a price lower than the price at which it would trade if these founding executive 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. The application of Section 203 of the Delaware General Corporation Law could have the effect of delaying or preventing a change of control of our company.

We anticipate that we will retain our future earnings, and as a result holders of Class B common stock 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 and to make periodic installments of the dividend on the preferred stock. Therefore, holders of Class B common stock are not likely to receive dividends in the foreseeable future. In addition, dividends, if and when paid, may be subject to income tax withholding.

The rights of holders of the Class B common stock will be junior to the rights of holders of the preferred stock in the event of our liquidation, dissolution or winding-up.

The terms of the preferred stock provide that holders will receive a preference over the other equity securities of the company upon its liquidation, dissolution or winding-up. This liquidation preference is equal to $250 per share of preferred stock plus all accrued and unpaid dividends through the distribution date. These rights of payment are senior to the liquidation rights of the holders of the Class B common stock. This may have the effect of reducing the amount of proceeds in connection with any insolvency, liquidation, reorganization or other winding-up of us paid to you as holder of the Class B common stock.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements, principally in the sections entitled “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operation” and “Business.” All statements other than statements of historical facts contained in this prospectus, including statements regarding the benefits and risks associated with the pending Name Development asset acquisition, our future operating results, financial position, and business strategy, expectations regarding our growth and the growth of the industry in which we operate, and plans and objectives of management for future operations, are forward-looking statements. The words “believe,” “may,” “estimate,” “continue,” “anticipate,” “intend,” “expect” and similar expressions, as they relate to us, are intended to identify forward-looking statements.

Any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. 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. They may be affected by inaccurate assumptions we might make or by known or unknown risks and uncertainties, including the risks, uncertainties and assumptions described in “Risk Factors.” In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur as contemplated, and actual results could differ materially from those anticipated or implied by the forward-looking statements.

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, the Internet advertising and transaction markets and the direct navigation markets generally, have been obtained from independent industry sources, unless otherwise noted. 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.

You should not unduly rely on these forward-looking statements, which speak only as of the date of this prospectus. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise. You should, however, review the factors and risks we describe in the reports we will file from time to time with the SEC after the date of this prospectus. See “Where You Can Find More Information.”

[P] RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

The following table sets forth our deficiency of earnings to combined fixed charges and preferred stock dividends for the periods indicated. For the periods indicated below, earnings were insufficient to cover fixed charges. For this reason, no ratios are provided.

	Period from January 17, (inception) to December 31, 2003	Nine months ended September 30, 2004
Loss from continuing operations before income taxes	$ (3,253,664)	$ (1,458,434)
Fixed charges:		
Interest expense	—	3,728
Assumed interest component of rental expenses[1]	120,333	133,892
Total fixed charges	120,333	137,620
Adjusted loss	(3,133,331)	(1,320,814)
Total fixed charges	120,333	137,620
Preferred share dividends	—	—
Combined fixed charges and preferred stock dividend	120,333	137,620
Deficiency of earnings to combined fixed charges and preferred stock dividends	$ (3,253,664)	$ (1,458,434)

[1] Estimated as one-third of operating lease expense.

[P] USE OF PROCEEDS

We estimate that the net proceeds from the sale of 200,000 shares of our % convertible exchangeable preferred stock in this offering will be approximately $48.3 million, after deducting the estimated underwriting discounts of approximately $1.8 million. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds will be approximately $55.5 million. Concurrently with this offering, we are offering 7,000,000 shares of our Class B common stock. We estimate that the net proceeds from the Class B common stock offering will be approximately $135.4 million, after deducting the estimated underwriting discounts and commissions of approximately $7.2 million and estimated offering expenses of approximately $900,000. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds from the Class B common stock offering will be approximately $155.8 million. The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus and the closing of the concurrent Class B common stock offering.

We expect to use the net proceeds from this offering and our concurrent Class B common stock offering approximately as follows:

	Amount	Percentage of Net Proceeds
	(in millions)	
Name Development asset acquisition	$ 155.2	85%
Asset acquisition fees and expenses	0.5	—
Working capital and other general corporate purposes, including potential future acquisitions	27.9	15%
	$ 183.6	100%

[C] USE OF PROCEEDS

We estimate that the net proceeds from the sale of 7,000,000 shares of our Class B common stock in this offering will be approximately $135.4 million, after deducting the estimated underwriting discounts of approximately $7.2 million and estimated offering expenses of approximately $900,000. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds will be approximately $155.8 million. Concurrently with this offering, we are offering 200,000 shares of our % convertible exchangeable preferred stock. We estimate that the net proceeds from the preferred stock offering will be approximately $48.3 million, after deducting the estimated underwriting discounts and commissions of approximately $1.8 million. If the underwriters exercise the over-allotment option in full, we estimate that the net proceeds from the preferred stock offering will be approximately $55.5 million. The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus but is not contingent upon the closing of the concurrent preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly.

We expect to use the net proceeds from this offering and our concurrent preferred stock offering approximately as follows:

	Amount	Percentage of Net Proceeds
	(in millions)	
Name Development asset acquisition	$ 155.2	85%
Asset acquisition fees and expenses	0.5	—
Working capital and other general corporate purposes, including potential future acquisitions	27.9	15%
	$ 183.6	100%

PRICE RANGE OF CLASS B COMMON STOCK

Our Class B common stock has been traded on the Nasdaq National Market under the symbol "MCHX" since March 31, 2004 when we completed our initial public offering at a price of $6.50 per share. Prior to that time, there was no public market for our Class B common stock. As of September 30, 2004, there were approximately 144 holders of record of our Class B common stock. The following table sets forth, for the periods indicated, the high and low closing sales prices for Marchex's Class B common stock as reported on the Nasdaq National Market:

	High	Low
Year ended December 31, 2004		
First Quarter (Beginning March 31, 2004)	$ 8.88	$ 8.88
Second Quarter	$ 13.28	$ 9.50
Third Quarter	$ 13.35	$ 8.56
Fourth Quarter	$ 21.00	$ 12.40
Year ended December 31, 2005		
First Quarter (through February 2, 2005)	$ 22.09	$ 17.38

The last reported closing sale price of our Class B common stock on the Nasdaq National Market on February 2, 2005 was $20.87 per share.

DIVIDEND POLICY

We currently intend to pay cash dividends on the preferred stock. Dividends on the preferred stock are cumulative, meaning that if they are not paid they continue to accrue and must be paid prior to the payment of any dividends on our common stock. [P] For a discussion of dividends payable on the preferred stock, please see "Description of Preferred Stock—Dividends."

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

CAPITALIZATION

The following table sets forth our capitalization as of September 30, 2004 on:

- an actual basis;
- a pro forma basis to give effect to: (1) the sale of 7,000,000 shares of Class B common stock at the price of $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, less $8.1 million in estimated underwriting discounts and commissions and estimated offering expenses; and (2) the sale of 200,000 shares of preferred stock at the price of $250 per share, less $1.8 million in estimated underwriting discounts and commissions and estimated offering expenses; and
- a pro forma as adjusted basis to also give effect to the Name Development asset acquisition.

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

	As of September 30, 2004		
	Actual	Pro Forma	Pro Forma, as adjusted
Cash and cash equivalents	$ 24,772,316	$ 208,380,816	$ 53,230,816
Stockholders' equity:			
% convertible exchangeable preferred stock, $.01 par value: 1,000,000 authorized; none issued and outstanding, actual and 200,000 issued and outstanding pro forma and pro forma as adjusted	$ —	$ 48,250,000	$ 48,250,000
Common stock, $.01 par value: 137,500,000 shares authorized;			
Class A: 12,500,000 shares authorized; 12,250,000 shares issued and 11,987,500 shares outstanding, actual, pro forma and pro forma as adjusted	122,500	122,500	122,500
Class B: 125,000,000 shares authorized; 13,421,539 shares issued and outstanding, actual, including 114,583 shares of restricted stock; 20,421,539 shares issued and outstanding pro forma; 20,860,778 shares issued and outstanding pro forma as adjusted	134,216	204,216	208,608
Treasury stock: 262,500 shares of Class A common stock actual, pro forma and pro forma as adjusted	—	—	—
Additional paid-in capital	60,146,934	195,435,434	204,431,042
Deferred stock-based compensation	(690,937)	(690,937)	(690,937)
Accumulated deficit	(5,249,085)	(5,249,085)	(5,249,085)
Total stockholders' equity	54,463,628	238,072,128	247,072,128
Total capitalization	$ 54,463,628	$ 238,072,128	$ 247,072,128

The above discussion and table exclude:

- 4,938,603 shares of Class B common stock reserved for issuance and not exercised under our 2003 amended and restated stock incentive plan as of September 30, 2004 and 278,915 shares of Class B common stock reserved for issuance and not purchased under our 2004 employee stock purchase plan as of September 30, 2004. As of September 30, 2004, 3,571,167 shares were subject to outstanding options under our 2003 amended and restated stock incentive plan, which options are at a weighted average exercise price of $4.02 per share.
- 120,000 shares of Class B common stock issuable upon the exercise of the warrants at an exercise price of $8.45 per share issued to the underwriters in connection with our initial public offering in April 2004.
- shares of our Class B common stock issuable upon conversion of the preferred stock.

In addition, the completion of the Class B common stock offering is not contingent upon the completion of the preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly, which is not given effect in the above table.

NAME DEVELOPMENT ASSET ACQUISITION

Description of the Asset Acquisition

On November 19, 2004, we entered into an agreement to acquire certain assets of Name Development Ltd., or Name Development, a corporation operating in the direct navigation market. Direct navigation is one of the methods that online consumers use to search for information, products or services online. Direct navigation is primarily characterized by online users directly accessing a Web site by: (1) typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser; or (2) accessing bookmarked Web sites. It can also include navigating through referring or partner traffic sources. Name Development owns and maintains a portfolio of Web properties, that are generally reflective of online user search terms, descriptive keywords and keyword strings. Name Development has entered into agreements with advertising service providers to monetize its online user traffic with pay-per-click listings. As such, Name Development is able to connect online users searching for specific information with relevant advertisements.

Upon completion of the asset acquisition, we believe we will be among the leaders in the direct navigation market due to our proprietary ownership of online user traffic, which totaled more than 17 million unique visitors in November 2004. This user traffic is generated from a portfolio of Web properties that are generally reflective of commercially-relevant search terms in many of the Internet's most popular and dynamic vertical commerce categories and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. Key vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, home and garden, Web and telecom services, education, and entertainment.

Name Development's revenues increased 260% from $3.5 million for the fiscal year ended June 30, 2003 to $12.5 million for the fiscal year ended June 30, 2004. For the corresponding periods, income from operations grew from $3.2 million to $12.6 million. For the nine months ended September 30, 2004, revenues were $15.5 million and income from operations was $14.9 million.

We expect to account for the Name Development asset acquisition as a business combination.

Anticipated Benefits of the Asset Acquisition

We believe that the Name Development asset acquisition will provide us with several benefits, including:

- ***A Defensible, Proprietary Source of Targeted Traffic***. We believe that we will have an exclusive position due to the nature of Internet domain registration, which is similar to owning real-estate in that each Internet domain name is unique. The asset acquisition will provide us with Web properties that collectively generated more than 17 million unique visitors in November 2004. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000.
- ***Synergies with our Existing Search Engine Marketing Services Platform***. We believe that our technology platform, combined with the Name Development asset acquisition, gives us an advantage in extending market share within the direct navigation market, expanding our participation in the search advertising market and in key commerce verticals. For example, we believe that: (1) there may be opportunities to work with monetization providers to improve the categorization and revenue generation of individual Web properties; (2) there may be opportunities to leverage our database of current search-related information to improve and automate selection and acquisition of complementary Web properties; (3) there may be opportunities to generate incremental user traffic to selected Web properties through leveraging our existing distribution network; (4) there may be opportunities to leverage our experience in working with a variety of online providers to add dynamic content and relevant advertiser listings, including product shopping listings and classified listings, to increase the user utility of the Web properties; and (5) there may

be opportunities, over time, to supplement existing listings on certain Web properties with our performance-based advertisements.

- ***Platform to Extend Expansion Initiatives***. Over time, we intend to use the asset acquisition to supplement our planned expansion, both domestically and internationally.

Transaction Structure

The aggregate consideration to be paid under the asset purchase agreement is an amount of cash equal to $155.2 million plus the number of shares of our Class B common stock obtained by dividing $9.0 million by the average of the last quoted sale price for shares of our Class B common stock on the Nasdaq National Market for the ten trading days immediately prior to the closing.

The asset purchase agreement contains customary representations and warranties and requires Name Development's sole stockholder to indemnify us for various liabilities arising under the agreement, subject to various limitations and conditions. At the closing, we will deposit into escrow for a period of eighteen months from the closing an amount of cash equal to $24.6 million to secure the sole stockholder's indemnification and other obligations under the asset purchase agreement.

The asset acquisition is contingent on customary closing conditions, including the closing by us of financing sufficient to consummate such acquisition. If the closing does not occur on or before June 30, 2005, we may be required to pay Name Development a termination fee of $1.5 million through a combination of cash and equity. We have also agreed to file a registration statement to register the shares of Class B common stock issued as the equity consideration thereunder or any shares of Class B common stock issued in connection with payment of the termination fee for resale on Form S-3 once we become eligible to file such a registration statement with the SEC.

SUMMARY UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

The following tables present a summary of our unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2003 and for the nine months ended September 30, 2004. You should read this financial data together with "Unaudited Pro Forma Condensed Consolidated Statements of Operations," "Quarterly Results of Operations," "Management's Discussion and Analysis of Financial Condition and Results of Operations," our historical audited consolidated financial statements and the related notes and the historical audited and unaudited financial statements of TrafficLeader, goClick.com and Name Development appearing elsewhere in this prospectus.

The unaudited pro forma condensed consolidated statement of operations data for the year ended December 31, 2003 give effect to: (1) our 2003 acquisitions of Enhance Interactive and TrafficLeader and our 2004 acquisition of goClick; and (2) our proposed Name Development asset acquisition and the offerings, as if they had all occurred on January 1, 2003. The unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2003 are based upon the historical results of operations of Marchex for the period from January 17, 2003 (inception) through December 31, 2003, the Predecessor for the period from January 1, 2003 through February 28, 2003, TrafficLeader for the period from January 1, 2003 through October 23, 2003 and goClick and Name Development for the year ended December 31, 2003.

The summary unaudited pro forma condensed consolidated statement of operations data are presented for illustrative purposes only and do not represent what our results of operations actually would have been if the transactions referred to above had occurred as of the dates indicated or what our results of operations will be for future periods.

In addition, the completion of the Class B common stock offering is not contingent upon the completion of the preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly, which is not given effect in the following tables.

	Year ended December 31, 2003					
	Predecessor Period	Successor Periods				
	Period from January 1 to February 28, 2003	Marchex Period from January 17, (inception) to December 31, 2003	Pro Forma Marchex and Prior Acquisitions 2003	Pending Asset Acquisition and Offering 2003	Adjustments	Pro Forma Marchex, Prior and Pending Acquisitions and Offering 2003
Unaudited Pro Forma Statement of Operations:						
Revenue	$ 3,071,055	$ 19,892,158	$ 30,657,395	$ 4,336,121	$ —	$ 34,993,516
Expenses:						
Service costs	1,732,813	11,292,070	18,528,420	1,238,536	(335,083)[1]	19,431,873
Sales and marketing	365,043	2,460,683	3,341,578	—	—	3,341,578
Product development	144,479	1,291,422	1,613,807	—	—	1,613,807
General and administrative	234,667	2,743,919	3,404,305	72,642	—	3,476,947
Acquisition-related retention consideration	—	283,269	283,269	—	—	283,269
Facility relocation	—	—	—	—	—	—
Stock-based compensation	38,981	2,125,110	2,659,280	—	—	2,659,280
Amortization of intangible assets	—	3,023,408	6,186,641	—	14,588,333[1]	20,774,974
Total operating expenses	2,515,983	23,219,881	36,017,300	1,311,178	14,253,250	51,581,728
Gain on sale of intangible assets, net	—	—	—	965,297	—	965,297
Income (loss) from operations	555,072	(3,327,723)	(5,359,905)	3,990,240	(14,253,250)	(15,622,915)
Other income (expense)	1,529	74,059	81,381	(11,233)	—	70,148
Income (loss) before provision for income taxes	556,601	(3,253,664)	(5,278,524)	3,979,007	(14,253,250)	(15,552,767)
Income tax expense (benefit)	224,082	(1,084,312)	(1,705,580)	441,588	(4,345,800)[2]	(5,609,792)
Net income (loss)	332,519	(2,169,352)	(3,572,944)	3,537,419	(9,907,450)	(9,942,975)
Accrual of convertible preferred stock dividends	—	—	—	2,500,000[3]	—	2,500,000[3]
Accretion of redemption value of redeemable convertible preferred stock	—	1,318,885	1,318,885	—	—	1,318,885
Net Income (loss) applicable to common stockholders[4]	$ 332,519	$ (3,488,237)	$ (4,891,829)	$ (1,037,419)	$ (9,907,450)	$ (13,761,860)
Other Financial Data:						
Operating income before amortization (OIBA)[5]	$ 594,053	$ 1,820,795	$ 3,486,016	$ 3,990,240	—	$ 7,811,339

[1] Represents the amortization of identifiable intangible assets associated with the Name Development asset acquisition, which are amortized over their useful lives ranging from 12 to 60 months, amortization of $14.6 million in the first twelve months and $25.5 million in the first twenty-one months following the acquisition. Name Development, for the year ended December 31, 2003 and the nine months ended September 30, 2004, recorded approximately $335,000 and $529,000, respectively, of amortization included in service costs related to the above noted intangible assets.

[2] Represents pro forma income tax expense (benefit) as though Name Development was taxed as a C corporation for the periods presented with an effective federal and state combined rate of 38%. Name Development is organized under the corporate law of the British Virgin Islands and is not subject to income tax in the British Virgin Islands. Name Development had e-commerce activities in several other governmental jurisdictions and as such, had recognized a provision for taxes in these foreign jurisdictions. A 1% change in the effective federal and state combined rate would modify income tax expense (benefit) by ($103,000) for the twelve month period ended December 31, 2003 and $46,000 for the nine months ended September 30, 2004.

[3] Represents preferred stock dividends related to the proposed preferred stock offering. Based upon an estimated preferred stock offering of $50.0 million with an estimated 5% dividend rate, the accrual of the convertible preferred dividend for the twelve month period ended December 31, 2003 would be approximately $2.5 million.

[4] On February 3, 2005 we announced that in connection with the closing of the Name Development asset acquisition we intend to enter into (i) a new master agreement with Overture with respect to our direct navigation business, and (ii) a license agreement with Overture with respect to certain of Overture's patents, including but not limited to U.S. Patent No. 6,269,361, pursuant to which we will pay $4.5 million, in an upfront payment (and an additional $674,000 in certain circumstances) and a contingent royalty based on a discounted rate of 3% (3.75% under certain circumstances) of certain of our gross revenues payable on a quarterly basis through December 2016. We have not yet determined the accounting treatment of such payment obligations, including whether all or a portion of such amounts will be recorded as an expense or as a reduction of revenue or to the extent, if any, of the amounts that would be capitalized and no pro forma adjustments have been made on account thereof.

Footnote continued on page 48.

The unaudited pro forma condensed consolidated statement of operations data for the nine months ended September 30, 2004 give effect to: (1) our 2004 acquisition of goClick; and (2) our proposed Name Development asset acquisition and the offerings, as if they had all occurred on January 1, 2003. The unaudited pro forma condensed consolidated statement of operations for the nine months ended September 30, 2004 are based upon the historical results of operations of Marchex for the nine months ended September 30, 2004, goClick for the period from January 1, 2004 through July 26, 2004 and for Name Development for the nine months ended September 30, 2004.

	Nine months ended September 30, 2004				
	Marchex	Pro Forma Marchex and Prior Acquisitions	Pending Asset Acquisition and Offering	Adjustments	Pro Forma Marchex, Prior and Pending Acquisitions and Offering
Unaudited Pro Forma Statement of Operations:					
Revenue	$28,682,924	$ 32,434,453	$ 15,456,114	$ —	$ 47,890,567
Expenses:					
Service costs	18,142,886	20,473,056	1,242,744	(529,428)(1)	21,186,372
Sales and marketing	3,196,996	3,217,449	—	—	3,217,449
Product development	1,636,321	1,733,063	—	—	1,733,063
General and administrative	2,613,932	2,646,440	793,395	—	3,439,835
Acquisition-related retention consideration	374,858	374,858	—	—	374,858
Facility relocation	199,960	199,960	—	—	199,960
Stock-based compensation	721,403	721,403	—	—	721,403
Amortization of intangible assets	3,473,976	3,594,151	—	10,866,250(1)	14,460,401
Total operating expenses	30,360,332	32,960,380	2,036,139	10,336,822	45,333,341
Gain on sale of intangible assets, net	—	—	1,507,498	—	1,507,498
Income (loss) from operations	(1,677,408)	(525,927)	14,927,473	(10,336,822)	4,064,724
Other income (expense)	218,974	224,470	2,408	—	226,878
Income (loss) before provision for income taxes	(1,458,434)	(301,457)	14,929,881	(10,336,822)	4,291,602
Income tax expense (benefit)	(118,016)	331,277	1,387,434	357,928(2)	2,076,639
Net income (loss)	(1,340,418)	(632,734)	13,542,447	(10,694,750)	2,214,963
Accrual of convertible preferred stock dividends	—	—	1,875,000(3)	—	1,875,000(3)
Accretion of redemption value of redeemable convertible preferred stock	420,430	420,430	—	—	420,430
Net income (loss) applicable to common stockholders(4)	$ (1,760,848)	$ (1,053,164)	$ 11,667,447	$ (10,694,750)	$ (80,467)
Other Financial Data:					
Operating income before amortization (OIBA)(5)	$ 2,517,971	$ 3,789,627	$ 14,927,473	—	$ 19,246,528

(1) Represents the amortization of identifiable intangible assets associated with the acquisition of Name Development, which are amortized over their useful lives ranging from 12 to 60 months, amortization of $14.6 million in the first twelve months and $25.5 million in the first twenty-one months following the Name Development asset acquisition, for the year ended December 31, 2003 and the nine months ended September 30, 2004, recorded approximately $335,000 and $529,000, respectively, of amortization included in service costs related to the above noted intangible assets.

(2) Represents pro forma income tax expense (benefit) as though Name Development was taxed as a C corporation for the periods presented with an effective federal and state combined rate of 38%. Name Development is organized under the corporate laws of the British Virgin Islands and is not subject to income tax in the British Virgin Islands. Name Development had e-commerce activities in several other governmental jurisdictions and as such, had recognized a provision for taxes in these foreign jurisdictions. A 1% change in the effective federal and state combined rate would modify income tax expense (benefit) by ($103,000) for the twelve month period ended December 31, 2003 and $46,000 for the nine months ended September 30, 2004.

(3) Represents preferred stock dividends related to the proposed preferred stock offering. Based upon an estimated preferred stock offering of $50.0 million with an estimated 5% dividend rate, the accrual of the convertible preferred dividend for the nine months ended September 30, 2004 would be approximately $1.9 million.

(4) On February 3, 2005 we announced that in connection with the closing of the Name Development asset acquisition we intend to enter into (i) a new master agreement with Overture with respect to our direct navigation business, and (ii) a license agreement with Overture with respect to certain of Overture's patents, including but not limited to U.S. Patent No. 6,269,361, pursuant to which we will pay $4.5 million, in an upfront payment (and an additional $674,000 in certain circumstances) and a contingent royalty based on a discounted rate of 3% (3.75% under certain circumstances) of certain of our gross revenues payable on a quarterly basis through December 2016. We have not yet determined the accounting treatment of such payment obligations, including whether all or a portion of such amounts will be recorded as an expense or as a reduction of revenue or to the extent, if any, of the amounts that would be capitalized and no pro forma adjustments have been made on account thereof.

Footnote continued on page 48.

The following table provides a reconciliation of Income (loss) from operations and Net income (loss) applicable to common stockholders to the non-GAAP measure of OIBA.

	Year ended December 31, 2003					Nine months ended September 30, 2004			
	Predecessor Period	Successor Period				Successor Period			
	Period from January 1 to February 28, 2003	Marchex Period from January 17, (inception) to December 31, 2003	Pro Forma Marchex and Prior Acquisitions 2003	Pending Acquisition and Offering 2003	Pro Forma Marchex, Prior and Pending Acquisitions and Offering 2003	Marchex	Pro Forma Marchex and Prior Acquisitions	Pending Asset Acquisition and Offering	Pro Forma Marchex, Prior and Pending Acquisitions and Offering
Operating income before amortization (OIBA)[5]	$ 594,053	$ 1,820,795	$ 3,486,016	$ 3,990,240	$ 7,811,339	$ 2,517,971	$ 3,789,627	$ 14,927,473	$ 19,246,528
Stock-based compensation	(38,981)	(2,125,110)	(2,659,280)	—	(2,659,280)	(721,403)	(721,403)	—	(721,403)
Amortization of intangible assets	—	(3,023,408)	(6,186,641)	—	(20,774,974)	(3,473,976)	(3,594,151)	—	(14,460,401)
Income (loss) from operations	555,072	(3,327,723)	(5,359,905)	3,990,240	(15,622,915)	(1,677,408)	(525,927)	14,927,473	4,064,724
Other income (expense):	1,529	74,059	81,381	(11,233)	70,148	218,974	224,470	2,408	226,878
Income (loss) before provision for income taxes	556,601	(3,253,664)	(5,278,524)	3,979,007	(15,552,767)	(1,458,434)	(301,457)	14,929,881	4,291,602
Income tax expense (benefit)	224,082	(1,084,312)	(1,705,580)	441,588	(5,609,792)	(118,016)	331,277	1,387,434	2,076,639
Net income (loss)	332,519	(2,169,352)	(3,572,944)	3,537,419	(9,942,975)	(1,340,418)	(632,734)	13,542,447	2,214,963
Accrual of convertible preferred stock dividends	—	—	—	2,500,000	2,500,000	—	—	1,875,000	1,875,000
Accretion of redemption value of redeemable convertible preferred stock	—	1,318,885	1,318,885	—	1,318,885	420,430	420,430	—	420,430
Net income (loss) applicable to common stockholders	$ 332,519	$ (3,488,237)	$ (4,891,829)	$ 1,037,419	$ (13,761,860)	$ (1,760,848)	$ (1,053,164)	$ 11,667,447	$ (80,467)

[5] We report operating income before amortization (OIBA) that is a supplemental measure to GAAP. OIBA represents income (loss) from operations before: (1) stock-based compensation expense; and (2) amortization of intangible assets. This measure, among other things, is one of the primary metrics by which we evaluate the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, and should not be considered in isolation, as a substitute for, or superior to, GAAP results. We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses. OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses, including non-cash stock-based compensation associated with our employees and acquisition-related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure.

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 provide technology-based merchant services that facilitate and drive growth in online transactions. We connect merchants with consumers who are searching for information, products and services on the Internet. Our platform of integrated performance-based advertising and search marketing services enables merchants to more efficiently market and sell their products and services across multiple online distribution channels, including search engines, product shopping engines, directories and other selected Web properties.

We currently provide our merchant advertisers with the following technology-based services:

- ***Pay-Per-Click Services.*** We deliver pay-per-click advertising listings that are reflective of our merchant advertisers' products and services to online users in response to their keyword search queries. These pay-per-click listings are generally ordered in the search results based on the amount our merchant advertisers choose to pay for a targeted placement. These targeted listings are displayed to consumers and businesses through our distribution network of leading search engines, product shopping engines, directories and other Web properties.
- ***Feed Management Services.*** We leverage our proprietary technology to crawl and extract relevant product content from merchant advertisers' databases and Web sites to create highly-targeted product and service listings, which we deliver into our distribution network. These feed management listings are ordered in the results based on relevance to user search queries. Our trusted feed relationships with our distribution partners enable merchant advertisers to deliver comprehensive and up-to-date product and service listings to some of the Web's largest search engines, product shopping engines and directories.
- ***Advertising Campaign Management Services.*** We enable merchant advertisers to: (1) track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks using our bid management services; and (2) evaluate the effectiveness of online advertising campaigns using our conversion tracking and detailed reporting services.
- ***Search Engine Optimization Services.*** We optimize key attributes of merchant advertiser Web sites to ensure the greatest opportunity for proper indexing, listing and inclusion in the editorial results of algorithmic search engines.

We were incorporated in Delaware on January 17, 2003. Acquisition initiatives have played an important part in our corporate history to date. Excluding the pending Name Development asset acquisition, we have completed three acquisitions since our inception including:

- On February 28, 2003, we acquired eFamily together with its direct wholly-owned subsidiary Enhance Interactive. eFamily was incorporated in Utah on November 29, 1999 under the name FocusFilter.com, Inc.
- On October 24, 2003, we acquired TrafficLeader which was incorporated in Oregon on January 24, 2000 under the name Sitewise Marketing, Inc.
- On July 27, 2004, we acquired goClick which was incorporated in Connecticut on October 25, 2000.

From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives.

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

Prior Acquisitions

Enhance Interactive

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

- $13.3 million in net cash and acquisition costs; plus
- Additional consideration in the form of a contingent earnings-based cash payment of up to $13.5 million payable over two years, of which $3.5 million has been paid and up to a maximum obligation of $10.0 million remains.

The additional consideration consists of two components:

- A contingent earnings-based payment to the original stockholders (“earn-out consideration”); and
- A contingent earnings-based payment to certain employees (“retention consideration”).

These amounts are payable by us with respect to the years 2003 and 2004. We shall have no obligation with respect to a calendar year in the event that Enhance Interactive’s earnings before taxes, excluding stock-based compensation and amortization of intangibles relating to the acquisition (“earnings before taxes”) do not exceed $3.5 million for that calendar year. The threshold determination is calculated separately for each of the calendar years 2003 and 2004. For the 2003 calendar year, the total Enhance Interactive earnings-based payment obligation was approximately $3.5 million. For the 2004 calendar year, the total Enhance Interactive earnings-based payment obligation was approximately $6.2 million.

The contingent payment of earn-out consideration, payable to the original stockholders of Enhance Interactive, is calculated based on the formula of 69.44% of earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $12.5 million in aggregate. This payment obligation for each calendar year is conditioned on Enhance Interactive meeting the earnings threshold described above. Any payments made under this obligation will be accounted for as additional goodwill. For the 2003 calendar year, the earn-out consideration paid was approximately $3.2 million. For the 2004 calendar year, the earn-out consideration payment obligation was approximately $5.7 million.

The contingent payment of retention consideration, payable to certain employees of Enhance Interactive, is calculated based on the formula of 5.56% of Enhance Interactive’s earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $1 million in aggregate. This payment obligation for each calendar year is also conditioned on Enhance Interactive meeting the earnings threshold described above. Any payments made under this obligation will be accounted for as compensation. For the 2003 calendar year, the retention consideration paid was approximately $283,000. For the 2004 calendar year, the retention consideration payment obligation was approximately $500,000.

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

TrafficLeader

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

- $3.2 million in net cash and acquisition costs; plus

- 425,000 shares of Class B common stock, which had a redemption right prior to the closing of our initial public offering in April 2004; plus
- 137,500 shares of restricted Class B common stock which vest over a three-year period in six month installments of 16.67%; plus
- Additional consideration in the form of a contingent revenue-based cash incentive payment of up to $1.0 million.

With respect to the second and third components, the total value of the shares and the redemption right was recorded at $3.9 million. Prior to its expiration, the redemption right required us to buy back the 425,000 shares for $8.00 per share, but only at the election of the holders of 75% of such shares in the event we had not completed a firm commitment initial public offering with gross proceeds of at least $20.0 million prior to October 24, 2005.

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

In the event that on or prior to December 31, 2004, there is a change of control of TrafficLeader or of us, or both TrafficLeader's chief executive officer and chief technology officer either resign for good reason or are terminated without cause, or we take any action prior to the end of December 31, 2004, which makes it impractical to calculate or reconstruct the earn-out obligation, we will be obligated to pay the full amount of the $1.0 million contingent payment obligation.

goClick

In July 2004, we acquired goClick, a Norwalk, Connecticut-based company for the following consideration:

- $7.5 million in net cash and acquisition costs; plus
- 433,541 shares of Class B common stock.

The shares of Class B common stock were valued at $9.55 per share, for accounting purposes, for an aggregate amount of $4.1 million.

Pending Name Development Asset Acquisition

On November 19, 2004, we signed an asset purchase agreement with Name Development. Pursuant to this agreement, we will acquire substantially all of the assets of Name Development for the following consideration:

- $155.2 million in cash; plus
- $9.0 million in shares of Class B common stock, based on the average of the last quoted sale price for shares of Class B common stock on the Nasdaq National Market for the 10 trading days immediately prior to the closing.

Under the terms of the agreement, we will acquire only the identified assets of Name Development, including its inventory of Internet domain names, revenue-generating contracts, technology and systems, for the operation of the Name Development direct navigation business. We will not assume any other obligations with respect to Name Development in this asset acquisition.

We expect to account for the Name Development asset acquisition as a business combination. The closing of the transaction is conditioned on a number of factors, including the closing by us of financing sufficient to consummate such acquisition. For more information on the asset acquisition, see "Name Development Asset Acquisition."

Consolidated Statements of Operations

Our consolidated statements of operations, stockholders' equity, and cash flows have been presented for:

- the period of January 17, 2003 (inception) to September 30, 2003;
- the period of January 17, 2003 (inception) to December 31, 2003; and
- the nine months ended September 30, 2004.

The statements of operations, stockholders' equity and cash flows have been presented for the Predecessor, Enhance Interactive:

- for the year ended December 31, 2002; and
- the period of January 1, 2003 to February 28, 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 executive officers for approximately $86,000 in general and administrative pre-incorporation costs. Included in property and equipment are purchases from certain of our founding executive officers of approximately $62,000 for the carrying value of the assets.

The assets, liabilities and operations of Enhance Interactive, TrafficLeader and goClick are included in our consolidated financial statements since the date of their respective acquisitions in February 2003, October 2003 and July 2004.

All significant inter-company transactions and balances within Marchex have been eliminated in consolidation. Our purchase accounting resulted in all assets and liabilities from our acquisitions of Enhance Interactive, TrafficLeader and goClick being recorded at their estimated fair values on their respective acquisition dates. For the periods of: (1) February 28, 2003 through December 31, 2003; (2) October 24, 2003 through December 31, 2003; and (3) July 27, 2004 through September 30, 2004, all goodwill, intangible assets and liabilities resulting from the respective Enhance Interactive, TrafficLeader and goClick acquisitions 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 year ended December 31, 2002 and the period from January 1, 2003 through February 28, 2003.

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

Presentation of Financial Reporting Periods

For purposes of our discussion, we have included the results of operations of the Predecessor, Enhance Interactive. The comparative periods presented are for:

- the results of Enhance Interactive for the year ended December 31, 2002 (2002 period), compared to the combined results for the period of January 17, 2003 (inception) to December 31, 2003 and the results of Enhance Interactive for the period of January 1, 2003 to February 28, 2003 (2003 period); and

- the nine months ended September 30, 2003 (the combined periods of Marchex's results from January 17, 2003 (inception) to September 30, 2003 and the Predecessor's results for the period of January 1, 2003 to February 28, 2003), compared to the nine months ended September 30, 2004.

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

Revenue

We currently generate revenue through our suite of services, including our pay-per-click services, feed management services, advertising campaign management services, search management services and search optimization services.

Our primary sources of revenue are the performance-based advertising services, which include pay-per-click services and feed management services. These primary sources amounted to greater than 91% of our revenues in all periods presented. Our secondary sources of revenue are our advertising campaign management services, search management services and search optimization services. These secondary sources amounted to less than 9% of our revenues in all periods presented. We have no barter transactions.

We recognize revenue upon the completion of our performance obligation, provided that: (1) evidence of an arrangement exists; (2) the arrangement fee is fixed and determinable; and (3) collection is reasonably assured.

Performance-Based Advertising Services

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

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

Search Marketing Services

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

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

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

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

Industry and Market Factors

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

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

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

Service Costs

Our service costs represent the cost of providing our performance-based advertising services and our search marketing services. The service costs that we have incurred in the periods presented primarily include:

- user acquisition costs;
- amortization of intangible assets;
- credit card processing fees;
- network operations;
- serving our search results;
- maintaining our Web sites;
- network fees;
- fees paid to outside service providers;
- delivering customer service;
- depreciation of our Web site and network equipment;

- colocation service charges of our Web site equipment;
- bandwidth, and software license fees;
- salaries of related personnel; and
- stock-based compensation of related personnel.

User Acquisition Costs

For the periods presented the largest component of our service costs consist of user acquisition costs that relate primarily to payments to our distribution partners for access to their online user traffic. We enter into agreements of varying durations with distribution partners that integrate our services into their sites and indexes. The primary economic structure of our distribution partner agreements is a variable payment based on a specified percentage of revenue. These variable payments are often subject to minimum payment amounts per click-through. Other economic structures that we may use to a lesser degree include:

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

Our method of expensing user acquisition costs is based on whether the agreement provides for fixed or variable payments. Agreements with fixed payments are generally expensed at the greater of: (1) pro-rata over the term the fixed payment covers; or (2) usage delivered to date divided by the guaranteed minimum amount of usage delivered. Agreements with variable payments based on a percentage of revenue, number of paid click-throughs or other metrics are generally expensed based on the volume of the underlying activity or revenue multiplied by the agreed-upon price or rate.

Sales and Marketing

Sales and marketing expenses consist primarily of:

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

Product Development

Product development costs consist primarily of expenses incurred in the research and development, creation and enhancement of our Internet sites and services.

Our research and development expenses include:

- compensation and related expenses;
- costs of computer hardware and software; and
- costs incurred in developing features and functionality of the services we offer.

For the periods presented, substantially all of our 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;
- professional services, including accounting, legal and insurance;
- bad debt provisions;
- facilities costs; and
- other general corporate expenses.

Acquisition-Related Retention Consideration

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

The contingent payment obligation is calculated based on the formula of 5.56% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to a maximum payout cap of $1.0 million in the aggregate. To the extent we make any payments under this obligation, we will account for such amounts as compensation. For the 2003 calendar year, the retention consideration was approximately $283,000. For the nine months ended September 30, 2004, we recorded an additional $375,000 in retention-related consideration as compensation expense for such period. The actual amount for the calendar year 2004 has not yet been determined.

Stock-Based Compensation

Stock-based compensation consists of the following components:

- the intrinsic value of employee option and restricted stock issuances in cases where the fair value of the underlying stock was greater than the exercise price on the date of the grant;
- the fair value of non-employee option issuances; and
- the amount by which the fair value of our Class B common stock exceeds the exercise price at the end of the period for certain options.

We used variable accounting for the options to purchase 125,000 shares of our Class B common stock that were issued under our stock incentive plan. These options were held in escrow until February 28, 2004 as security for the indemnification obligations under the Enhance Interactive merger agreement, and these options were subject to forfeiture during the escrow period. We accounted for these options as variable awards until February 28, 2004.

Amortization of Intangibles

Amortization of intangible assets relates to intangible assets identified in connection with our acquisitions.

Intangible assets identified in connection with the purchase of Enhance Interactive were valued at $8.4 million at the acquisition date of February 28, 2003. Intangible assets identified in connection with the purchase of TrafficLeader were valued at $1.3 million at the acquisition date of October 24, 2003. Intangible assets identified in connection with the purchase of goClick were valued at $3.3 million at the acquisition date of July 27, 2004.

The intangible assets have been identified as:

- non-competition agreements;
- trade and Internet domain names;

- distributor relationships;
- merchant advertising customer base relationships; and
- acquired technology.

These assets are amortized over useful lives ranging from 12 to 42 months.

Provision for Income Taxes

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

As of September 30, 2004, we had net operating loss, or NOL, carryforwards of $1.8 million, which will begin to expire in 2019. The Tax Reform Act of 1986 limits the use of 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.

Initial Public Offering

On March 30, 2004, we commenced an initial public offering of 4.6 million shares of our Class B common stock. The closing of our initial public offering took place on April 5, 2004. The proceeds of our initial public offering, net of cash offering expenses, were approximately $27.2 million. In connection with our initial public offering, those underwriters were also granted warrants, exercisable over a four-year period commencing April 5, 2005 date and ending April 5, 2009, to purchase 120,000 shares of Class B common stock at an exercise price equal to $8.45 per share. Net proceeds have been or are expected to be used to pay for product and business development, acquisitions and strategic relationships, capital expenditures, personnel, facilities, earn-out obligations and working capital and other general corporate purposes.

Accretion to Redemption Value of Redeemable Convertible Preferred Stock

All 6,724,063 shares of our outstanding Series A redeemable convertible preferred stock were automatically converted into 6,724,063 shares of Class B common stock upon the closing of our initial public offering in April 2004. Prior to this conversion, holders of our Series A redeemable convertible preferred stock were 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 our board of directors. Upon the conversion of the Series A redeemable convertible preferred stock, dividend rights were automatically terminated and any rights to past dividends were forgiven.

Prior to the automatic conversion, we accounted 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 was equal to redemption amount at the earliest redemption date.

Results of Operations

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

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

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

Expenses

Service Costs. Service costs increased 106%, from $6.3 million in the 2002 period to $13.0 million in the 2003 period. The net increase in costs was mainly attributable to an increase in payments to distribution partners of $6.2 million, an increase in credit card processing fees of $333,000, an increase in personnel costs of $171,000, a decrease in technology licensing costs of $104,000, and an increase in facility and other costs of $91,000. This net increase related to a greater number of searches, an increase in database and hardware capacity requirements as a result of an increase in our distribution partner base and corresponding number of searches, an increase in the number of personnel required to support our services and increased fees paid to outside service providers. Service costs represented 63% of revenue in the 2002 period and 57% of revenue in the 2003 period. As a percentage of revenue, the decrease in service costs for the 2003 period compared to the 2002 period was primarily a result of network operation expenses containing fixed costs and also not increasing at a higher rate than revenue. The decrease in the 2003 period was partially offset by the impact of $943,000 in service costs and the impact as a percentage of revenue resulting from the October 2003 acquisition of TrafficLeader and its feed management services. Payments to feed management services distribution partners account for higher user acquisition costs as a percentage of revenue relative to our overall service cost percentage.

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

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

General and Administrative. General and administrative expenses increased 205%, from $977,000 in the 2002 period to $3.0 million in the 2003 period. As a percentage of revenue, general and administrative expenses were 10% in the 2002 period and 13% in the 2003 period. The increase in the dollars was due to an increase in personnel costs of $640,000, an increase in professional fees of $617,000, an increase in travel of $288,000, an increase in insurance of $74,000, an increase in bad debt expense of $126,000, and an increase in facility and other operating expenses of $257,000.

Many of these costs and increases in costs as a percentage of revenue in the 2003 period result from operating in multiple jurisdictions commencing in 2003 and increased operating activity, including approximately $136,000 in general and administrative expenses from the acquisition of TrafficLeader in October 2003.

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

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

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

Amounts in the 2003 period related primarily to the vesting of stock options granted to employees in which the exercise price was less than the fair value of the shares at the date of grant, and $112,000 related to restricted stock issued to employees for future services in connection with the acquisition of TrafficLeader. The 2003 period also includes $781,000 of stock-based compensation for options to purchase 125,000 shares of Class B common stock, which were being held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options were subject to forfeiture, until the expiration of the escrow period on February 28, 2004. Accordingly, we have accounted for these options as variable awards.

Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair value of the shares of our Class B common stock covered by the option grant exceeds the exercise price and is recognized over the vesting period thereof. Increases or decreases in the fair value of our Class B common stock between the date of grant and the date of exercise result in a corresponding increase or decrease in the measure of compensation expense.

Amortization of Identifiable Intangibles. Intangible amortization expense increased from zero in the 2002 period to $3.0 million in the 2003 period as a result of amortizing identifiable intangibles associated with the

purchase of Enhance Interactive and TrafficLeader. Of the $3.0 million intangible amortization expense in the 2003 period, $123,000 was associated with the acquisition of TrafficLeader. During the 2003 period, the components of amortization of intangibles were service costs of $2.2 million, sales and marketing of $348,000, and general and administrative of $458,000.

Our application of purchase accounting resulted in the recording of all assets and liabilities from our acquisitions of Enhance Interactive and TrafficLeader at their estimated fair values on the acquisition dates of February 28, 2003 and October 24, 2003, respectively. For the period of February 28, 2003, through December 31, 2003, all goodwill, identifiable intangible assets and liabilities resulting from the Enhance Interactive and TrafficLeader acquisitions have been recorded in our financial statements. The identified intangibles amounted to $9.7 million, including $1.3 million associated with TrafficLeader, and are being amortized over a range of useful lives of 12 to 42 months.

Our consolidated financial results for periods subsequent to the acquisition of Enhance Interactive are not comparable to the financial statements of Enhance Interactive presented for prior periods.

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

The adjustment to fair value of the redemption obligation went from zero in the 2002 period to $26,000 in the 2003 period. As of the date of acquisition of TrafficLeader, a redemption obligation was recorded at fair value in the amount of $81,000. The $26,000 adjustment reflects the decrease in the fair value of the obligation to $55,000 as of December 31, 2003. This obligation was eliminated with the closing of our initial public offering in April 2004.

Income Taxes. The income tax benefit increased from $143,000 in the 2002 period to $860,000 in the 2003 period. The 2002 period effective tax rate benefit of 61% differed from the expected effective rate of 34% primarily due to our reversing $208,000 of the valuation allowance on deferred tax assets and due to the effective rate impact of the $133,000 of non-deductible stock-based compensation during the 2002 period.

During the 2002 period, Enhance Interactive determined that it was more likely than not, based on improved operating performance, that it would realize all of the available net deferred tax assets. The income tax effective rate was 32% in the 2003 period. This differed from the expected rate of 34% primarily due to state income taxes offset by non-deductible stock compensation amounts.

The 2003 period was also impacted by the following factors:

- On February 28, 2003 and October 24, 2003, in connection with the application of purchase accounting for our respective acquisitions of Enhance Interactive and TrafficLeader, we recorded net deferred tax liabilities of approximately $3.5 million, including $482,000 associated with the acquisition of TrafficLeader, relating to the difference in the book basis and tax basis of its assets and liabilities.
- Approximately $3.6 million of these deferred tax liabilities, including $479,000 associated with the acquisition of TrafficLeader, related to the book basis versus tax basis of the identifiable intangible assets in the acquisitions totaling approximately $9.7 million.

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

Accretion to Redemption Value of Redeemable Convertible Preferred Stock. The accretion to redemption value of preferred stock was $1.3 million in the 2003 period. The accretion to the redemption value recorded during the period is based upon 6,724,063 shares of Series A preferred stock outstanding as of December 31, 2003 with a dividend rate of 8% per annum.

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

Comparison of the combined periods of January 1, 2003 to February 28, 2003 and January 17, 2003 (inception) to September 30, 2003 (the nine months ended September 30, 2003) to the nine months ended September 30, 2004

Revenue. Revenue increased 85%, from $15.5 million in the nine months ended September 30, 2003 to $28.7 million in the same period in 2004. This increase was primarily attributable to our performance-based advertising services, which increased by approximately $12.7 million in the nine months ended September 30, 2004. Of this increase approximately 77% related to an increase in the average revenue per merchant advertiser, while approximately 23% related to an increase in the number of merchant advertisers.

We believe the increase in revenue is primarily attributable to the growth of our revenue resulting from our existing distribution partners, the increased number of searches and resulting click-throughs performed by users of our services, and the addition of new distribution partners and merchant advertisers. The number of our distribution partners was approximately 390 in September 2003 and approximately 440 in September 2004. We also believe the foregoing factors, combined with our sales efforts and improved operational controls, have contributed to the increase in the average revenue per merchant advertiser. The increase in revenue in the nine months ended September 30, 2004 is also attributable to the acquisition of TrafficLeader in October 2003, which added 11 unique distribution partners and more than 280 merchant advertisers and the acquisition of goClick in July 2004 which added more than 40 unique distribution partners and more than 5,000 unique merchant advertisers. The operating results of TrafficLeader and goClick were included as of the acquisition dates of October 24, 2003 and July 27, 2004, respectively.

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

Expenses

Service Costs. Service costs increased 112%, from $8.5 million in the nine months ended September 30, 2003 to $18.1 million in the same period in 2004. This increase was primarily attributable to an increase of $8.1 million in payments to distribution partners, an increase in personnel costs of $942,000, an increase in facility and other costs of $310,000, an increase in payment processing fees of $163,000 and an increase in production technology and bandwidth costs of $118,000.

Service costs as a percentage of revenue were 63% in the nine months ended September 30, 2004 as compared to 55% in the same period in 2003. As a percentage of revenue, the increase in service costs for the nine months ended September 30, 2004 period as compared to the same period in 2003 was primarily a result of the impact as a percentage of revenue from the service cost level from the October 2003 acquisition of TrafficLeader and their feed management services. TrafficLeader's service costs, of which feed management services is the primary

component, were 78% of TrafficLeader's revenue for the nine months ended September 30, 2004. Payments to feed management services distribution partners account for higher user acquisition costs as a percentage of revenue relative to our overall service cost percentage. To the extent that payments to feed management services distribution partners make up a larger percentage of future operations, we expect that service costs will increase as a percentage of revenue. goClick's operating activities are in the process of being integrated with our other operations. goClick's service costs did not have a significant percentage impact on the consolidated service cost percentage of revenue.

Approximately $5.3 million and $1.2 million of the total increase in service costs for the nine months ended September 30, 2004 was attributable to the October 2003 acquisition of TrafficLeader and the July 2004 acquisition of goClick, respectively, which were not included in the same period in 2003. The increase in services also resulted from a greater number of searches, an increase in database and hardware capacity requirements as a result of an increase in our distribution partner base and corresponding number of searches, an increase in the number of personnel required to support our services and an increase in fees paid to outside service providers. We expect that service costs will continue to increase in absolute dollars, since we anticipate expanding our operations.

Sales and Marketing. Sales and marketing expenses increased 63%, from $2.0 million in the nine months ended September 30, 2003 to $3.2 million in the same period in 2004. The increase in dollars was primarily attributable to an increase in personnel costs of $893,000, an increase in travel costs of $166,000 and an increase in other expenses of $181,000. As a percentage of revenue, sales and marketing expenses were 13% and 11% for the nine months ended September 30, 2003 and 2004, respectively. We expect that sales and marketing expenses will increase in absolute dollars in connection with any revenue increase, to the extent that we also increase our marketing activities.

Product Development. Product development expenses increased 65%, from $989,000 in the nine months ended September 30, 2003 to $1.6 million in the same period in 2004. The increase in dollars was primarily attributable to an increase in personnel costs of $530,000, an increase in travel costs of $39,000 and an increase in other expenses of $78,000. As a percentage of revenue, the product development expenses were 6% for both the nine months ended September 30, 2003 and 2004. 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 27%, from $2.1 million in the nine months ended September 30, 2003 to $2.6 million in the same period in 2004. As a percentage of revenue, general and administrative expenses decreased to 9% in the nine months ended September 30, 2004 as compared to 13% in the same period in 2003. As a percentage of revenue, the decrease in general and administrative expenses in the nine months ended September 30, 2004 as compared to the same period in 2003 was primarily a result of general and administrative expenses being compared to a larger revenue base.

The net increase in the dollars was primarily due to an increase in personnel costs of $754,000, a decrease in travel costs of $106,000, an increase in insurance of $74,000, an increase in bad debt expense of $133,000 and a decrease in other expenses of $292,000. Many of these costs in the nine months ended September 30, 2004 result from operating in multiple jurisdictions commencing in 2003 and increased operating activity, including the acquisitions of TrafficLeader in October 2003 and goClick in July 2004. 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 being a public company, including expenses related to professional fees and insurance.

Acquisition-Related Retention Consideration. Acquisition-related retention consideration increased 100%, from zero in the nine months ended September 30, 2003 to $375,000 in the same period in 2004. A ratable proportion of the annual estimated acquisition-related retention consideration was recorded for the nine months ended September 30, 2004. During the nine months ended September 30, 2004, the components of acquisition-related

retention consideration were estimated based on forecasts of the Enhance Interactive earn-out calculations. Estimated allocations were made as follows: service costs of $45,000, sales and marketing of $127,000, product development of $138,000, and general and administrative of $65,000.

The acquisition-related retention consideration was calculated as part of the contingent, earnings-based payment obligation to certain employees of Enhance Interactive and is equal to 5.56% of Enhance Interactive's earnings before taxes in excess of $3.5 million for the 2004 period of which $375,000 has been recorded as acquisition-related retention consideration including employer payroll-related taxes. We will account for any payment amount as compensation. The acquisition-related retention consideration for the calendar years 2003 and 2004 is subject to an aggregate maximum of $1.0 million.

Facility Relocation. In March 2004, we entered into a sublease agreement for new and larger office facilities in Seattle, Washington, and we relocated from our original office facilities also located in Seattle, Washington. In March 2004, we accrued lease and related costs of $230,000 for the estimated future obligations of non-cancelable lease and other payments for the original facilities. In the third quarter of 2004, we reduced the lease and related costs accrual by $30,000 based on a revised estimate for subtenant income. The remaining lease obligations for the original facilities extend through June 30, 2006 and totaled $219,000 as of September 30, 2004. As of September 30, 2004, we estimate the net sublease income to be approximately $57,000 over the remaining life of the lease.

The remaining lease accrual is based on estimates of vacancy period and sublease income. The actual vacancy periods may differ from these estimates, and sublease income, if any, may not materialize. Accordingly, these estimates may be adjusted in future periods.

Stock-Based Compensation. The amortization of stock-based compensation decreased 56%, from $1.6 million in the nine months ended September 30, 2003 to $721,000 in the same period in 2004. During the nine months ended September 30, 2004, the components of stock-based compensation were service costs of $9,000, sales and marketing of $124,000, product development of $47,000 and general and administrative of $541,000. Amounts in the 2004 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 and $341,000 related to restricted stock issued to employees for future services in connection with the acquisition of TrafficLeader.

The nine months ended September 30, 2003 includes $603,000 of stock-based compensation for 125,000 options issued that were held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options were subject to forfeiture, until the expiration of the escrow period on February 28, 2004. Accordingly, we have accounted for these options as variable awards during the escrow period. 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 71%, from $2.0 million for the nine months ended September 30, 2003 to $3.5 million in the same period in 2004. The increase is associated with the acquisitions of Enhance Interactive, TrafficLeader, and goClick. During the nine months ended September 30, 2004, the components of amortization of intangibles were service costs of $2.4 million, sales and marketing of $533,000 and general and administrative of $494,000.

Our purchase accounting resulted in all assets and liabilities from our acquisition of Enhance Interactive, TrafficLeader and goClick being recorded at their estimated fair values on the acquisition dates of February 28, 2003, October 24, 2003, and July 27, 2004, respectively. For the period from February 28, 2003 through September 30, 2004, all goodwill, identifiable intangible assets and liabilities resulting from the Enhance

Interactive, TrafficLeader and goClick acquisitions have been recorded in our financial statements. The identified intangibles amounted to approximately $13.0 million and are being amortized over a range of useful lives of 12 to 42 months. Our consolidated financial results for periods subsequent to the acquisition of Enhance Interactive are not comparable to the financial statements of Enhance Interactive presented for prior periods. We may acquire identifiable intangible assets as part of future acquisitions and, if so, we expect that our intangible amortization will increase in absolute dollars.

Other Income. Other income increased 525%, from $35,000 in the nine months ended September 30, 2003 to $219,000 in the same period in 2004. The increase was primarily attributable to an increase in interest income of $130,000 and the adjustment to fair value of the TrafficLeader redemption obligation of $55,000 in the nine months ended September 30, 2004 as compared to the same period in 2003. Interest income increased as a result of the impact of the initial public offering on the average cash balances in the nine months ended September 30, 2004.

Income Taxes. The income tax benefit decreased 79%, from $559,000 in the nine months ended September 30, 2003 to $118,000 in the same period in 2004.

In the nine months ended September 30, 2003, the effective tax rate benefit of 34% equaled the expected rate but was impacted by state income taxes in addition to non-deductible stock compensation amounts. The income tax effective rate benefit was 8% in the nine months ended September 30, 2004. This differed from the expected rate of 34% primarily due to non-deductible stock compensation amounts. The periods were also impacted by the following factors:

- On February 28, 2003 and October 24, 2003, in connection with the purchase accounting for the respective acquisitions of Enhance Interactive and TrafficLeader, we recorded net deferred tax liabilities in the amount of approximately $3.5 million, including $482,000 associated with the acquisition of TrafficLeader, relating to the difference in the book basis and tax basis of its assets and liabilities.
- Approximately $3.6 million of these deferred tax liabilities, including $479,000 associated with the acquisition of TrafficLeader, related to the book basis versus tax basis of the identifiable intangible assets in the acquisitions totaling approximately $9.7 million.
- On July 27, 2004, in connection with the purchase accounting for goClick, we recorded net deferred assets of approximately $11,000 relating to the difference in the book versus tax basis of its assets and liabilities. The $9.4 million of goodwill and $3.3 million of intangible assets relating to the goClick acquisition are being deducted for tax purposes over a 15 year period.

During the period from January 1, 2003 through February 28, 2003 and in the nine months ended September 30, 2004, as a result of tax deductions from stock option exercises, Enhance Interactive and we recognized tax-effected benefits of approximately $231,000 and $180,000 respectively, which were recorded as credits to additional paid in capital.

Accretion to Redemption Value of Redeemable Convertible Preferred Stock. The accretion to redemption value of preferred stock decreased 54%, from $912,000 in the nine months ended September 30, 2003 to $420,000 in the same period in 2004. The accretion to the redemption value recorded during these periods is based upon 6,724,063 shares of Series A redeemable convertible preferred stock outstanding as of April 5, 2004 with a dividend rate of 8% per annum. All 6,724,063 shares of Series A redeemable convertible preferred stock automatically converted into 6,724,063 shares of Class B common stock upon the closing of the initial public offering on April 5, 2004.

Net Income (Loss) Applicable to Common Stockholders. The net loss applicable to common stockholders decreased 12%, from $2.0 million in the nine months ended September 30, 2003 period to $1.8 million in the same period in 2004. The decrease was primarily attributable to revenue increasing at a faster rate than sales and

marketing, product development and general and administrative expenses, a decrease in accretion to redemption value of the Series A redeemable convertible preferred stock of $491,000, a decrease in stock-based compensation of $905,000, partially offset by an increase in service costs as a percentage of revenue, an increase in amortization of intangible assets of $1.4 million, an increase in acquisition-related retention consideration of $375,000 and an increase in facility relocation costs of $200,000.

Operating Income before Amortization

Our management believes that certain non-GAAP measures, which are calculated and presented on the basis of methodologies other than in accordance with generally accepted accounting principles (GAAP), are helpful, when presented in conjunction with comparable GAAP measures. The non-GAAP measures are not meant to replace or supersede the GAAP measures, but rather to supplement the GAAP information and to present to the readers of the financial statements the same information that management considers in assessing our results of operations and performance.

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

We report operating income before amortization (OIBA) that is a supplemental measure to GAAP. OIBA represents income (loss) from operations before: (1) stock-based compensation expense; and (2) amortization of intangible assets. It is one of the primary metrics by which we evaluate the performance of our business.

Additionally, management uses adjusted OIBA which excludes both: (1) the acquisition-related retention consideration, as we view this as part of the earn-out incentives related to our acquisition of Enhance Interactive; and (2) a facility relocation expense. Both of these items are viewed as non-recurring in nature. The Enhance Interactive earn-out consideration is recorded for its respective calendar year, and the facility relocation expense was recorded in the nine months ended September 30, 2004.

We refer to adjusted OIBA to facilitate accurate comparisons to our historical operating results, in making operating decisions, for internal budget planning, and in some cases to form the basis upon which management is evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. These non-GAAP measures should be considered in addition to results prepared in accordance with GAAP, and should not be considered in isolation, as a substitute for or superior to GAAP results. We believe these measures are useful to investors because they represent our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash and non-recurring expenses.

OIBA and adjusted OIBA have certain limitations in that they do not take into account the impact to our statement of operations of certain expenses, including non-cash stock-based compensation associated with our employees, acquisition-related accounting and facility relocation amounts. We endeavor to address the limitations of these non-GAAP measures presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure.

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

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

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

The following is a reconciliation of income (loss) from operations and net income (loss) applicable to common stockholders to the non-GAAP measure of operating income before amortization, also referred to as OIBA, for the year ended December 31, 2002, the period of January 1, 2003 to February 28, 2003 and the period of January 17, 2003 (inception) to September 30, 2003, the period from January 17, 2003 (inception) to December 31, 2003 and for the nine months ended September 30, 2004.

	Predecessor Periods		Successor Periods		
	Year ended December 31, 2002	Period from January 1 to February 28, 2003	Period from January 17, (inception) to December 31, 2003	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
Operating income before amortization	$ 126,543	$ 594,053	$ 1,820,795	$ 1,371,829	$ 2,517,971
Stock-based compensation	(364,693)	(38,981)	(2,125,110)	(1,587,476)	(721,403)
Amortization of intangible assets	—	—	(3,023,408)	(2,028,244)	(3,473,976)
Income (loss) from operations	(238,150)	555,072	(3,327,723)	(2,243,891)	(1,677,408)
Other income:					
Interest income	5,491	1,529	45,874	33,502	163,808
Interest expense	—	—	—	—	(3,728)
Adjustment to fair value of redemption obligation	—	—	25,500	—	55,250
Other	—	—	2,685	—	3,644
Total other income	5,491	1,529	74,059	33,502	218,974
Income (loss) before provision for income taxes	(232,659)	556,601	(3,253,664)	(2,210,389)	(1,458,434)
Income tax expense (benefit)	(142,876)	224,082	(1,084,312)	(783,231)	(118,016)
Net income (loss)	(89,783)	332,519	(2,169,352)	(1,427,158)	(1,340,418)
Accretion to redemption value of redeemable convertible preferred stock	—	—	1,318,885	911,620	420,430
Net income (loss) applicable to common stockholders	$ (89,783)	$ 332,519	$ (3,488,237)	$ (2,338,778)	$ (1,760,848)

OIBA increased from $127,000 in the 2002 period to $2.4 million in the 2003 period. The increase was primarily attributable to increased operating activity that resulted in an increase in revenue of $12.9 million offset by an increase in operating expenses of $10.6 million, excluding stock-based compensation expense and amortization of intangible assets. OIBA increased in the nine months ended September 30, 2004 by $552,000, or 28%, as compared to the same period in 2003. This increase was primarily attributable to revenue increasing at a faster rate than sales and marketing, product development and general and administrative expenses, partially offset by an increase in service costs as a percentage of revenue, an increase in acquisition-related retention consideration of $375,000 and an increase in facility relocation costs of $200,000.

Quarterly Results of Operations

The following tables set forth our unaudited quarterly results of operations data for the eight most recent quarters and periods ended September 30, 2004, as well as such data expressed as a percentage of our revenues for the periods presented. The information in the tables below should be read in conjunction with our consolidated financial statements and the notes thereto included elsewhere in this prospectus. We have prepared this information on the same basis as the consolidated financial statements and the information includes all adjustments, consisting only of normal recurring adjustments, that we consider necessary for a fair statement of our financial position and operating results for the quarters or other periods presented. Our quarterly operating results have varied substantially in the past and may vary substantially in the future. You should not draw any conclusions about our future results from the results of operations for any particular quarter or period presented.

	Predecessor Periods		Successor Periods						
				Quarter ended					
	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from Jan 17, (inception) to March 31, 2003	June 30, 2003	Sept 30, 2003	Dec 31, 2003	March 31, 2004	June 30, 2004	Sept 30, 2004
Consolidated Statement of Operations Data:									
Revenue	$ 3,642,928	$ 3,071,055	$ 1,715,933	$ 5,356,286	$ 5,359,274	$ 7,460,665	$ 7,601,911	$ 8,865,178	$ 12,215,835
Expenses:									
Service costs[1]	2,170,479	1,732,813	883,280	2,955,535	2,967,206	4,486,049	4,779,575	5,743,815	7,619,496
Sales and marketing[1]	684,853	365,043	214,615	654,182	723,753	868,133	1,009,972	1,030,710	1,156,314
Product development[1]	322,543	144,479	104,947	354,927	384,248	447,300	505,535	528,306	602,478
General and administrative[1]	357,837	234,667	426,919	729,856	659,177	927,967	694,748	846,680	1,072,505
Acquisition-related retention consideration[2]	—	—	—	—	—	283,269	132,936	122,724	119,198
Facility relocation	—	—	—	—	—	—	230,459	—	(30,499)
Stock-based compensation[3]	2,421	38,981	710,991	550,078	326,407	537,634	360,764	235,234	125,405
Amortization of intangible assets[4]	—	—	290,087	869,588	869,588	994,145	1,034,868	1,034,643	1,404,464
Total operating expenses	3,538,133	2,515,983	2,630,839	6,114,166	5,930,379	8,544,497	8,748,857	9,542,112	12,069,361
Income (loss) from operations	104,795	555,072	(914,906)	(757,880)	(571,105)	(1,083,832)	(1,146,946)	(676,934)	146,474
Other income:									
Interest income	2,967	1,529	3,092	13,479	16,931	12,372	11,016	70,329	82,462
Interest expense	—	—	—	—	—	—	(325)	(1,488)	(1,915)
Adjustment to fair value of redemption obligation	—	—	—	—	—	25,500	55,250	—	—
Other	—	—	—	—	—	2,685	3,644	—	—
Total other income	2,967	1,529	3,092	13,479	16,931	40,557	69,585	68,841	80,547
Income (loss) before provision for income taxes	107,762	556,601	(911,814)	(744,401)	(554,174)	(1,043,275)	(1,077,361)	(608,093)	227,021
Income tax expense (benefit)	47,841	224,082	(323,092)	(263,771)	(196,368)	(301,081)	(53,700)	(147,103)	82,787
Net income (loss)	59,921	332,519	(588,722)	(480,630)	(357,806)	(742,194)	(1,023,661)	(460,990)	144,234
Accretion to redemption value of redeemable convertible preferred stock	—	—	119,081	385,274	407,265	407,265	402,679	17,751	—
Net income (loss) applicable to common stockholders	$ 59,921	$ 332,519	$ (707,803)	$ (865,904)	$ (765,071)	$ (1,149,459)	$ (1,426,340)	$ (478,741)	$ 144,234
Other Financial Data:									
Operating income before amortization (OIBA)	$ 107,216	$ 594,053	$ 86,172	$ 661,786	$ 624,890	$ 447,947	$ 248,686	$ 592,943	$ 1,676,343
[1] Excludes acquisition-related retention consideration, stock- based compensation and amortization of intangible assets									
[2] Components of acquisition- related retention consideration:									
Service costs	$ —	$ —	$ —	$ —	$ —	$ 33,723	$ 15,826	$ 14,604	$ 14,185
Sales and marketing	—	—	—	—	—	96,262	45,175	41,726	40,503
Product development	—	—	—	—	—	104,233	48,916	45,162	43,865
General and administrative	—	—	—	—	—	49,051	23,019	21,232	20,645
[3] Components of stock-based compensation:									
Service costs	$ 285	$ 190	$ —	$ —	$ —	$ 9,776	$ 4,050	$ 2,250	$ 2,250
Sales and marketing	1,073	715	128,993	99,861	87,720	105,297	67,546	49,042	7,573
Product development	315	37,710	69,769	95,108	38,348	37,855	21,902	12,675	12,653
General and administrative	748	366	512,229	355,109	200,339	384,706	267,266	171,267	102,929
[4] Components of amortization of intangible assets:									
Service costs	$ —	$ —	$ 215,087	$ 644,588	$ 644,588	$ 712,694	$ 734,868	$ 734,643	$ 978,389
Sales and marketing	—	—	29,167	87,500	87,500	143,951	162,500	162,500	207,527
Product development	—	—	—	—	—	—	—	—	—
General and administrative	—	—	45,833	137,500	137,500	137,500	137,500	137,500	218,548

	Predecessor Periods		Successor Periods						
				Quarter ended					
	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from Jan 17, (inception) to March 31, 2003	June 30, 2003	Sept 30, 2003	Dec 31, 2003	March 31, 2004	June 30, 2004	Sept 30, 2004
Consolidated Statement of Operations Data:									
Revenue	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Expenses:									
Service costs	59.6	56.4	51.5	55.2	55.4	60.1	62.9	64.8	62.4
Sales and marketing	18.8	11.9	12.5	12.2	13.5	11.6	13.3	11.6	9.5
Product development	8.9	4.7	6.1	6.6	7.2	6.0	6.7	6.0	4.9
General and administrative	9.8	7.6	24.9	13.6	12.3	12.4	9.1	9.6	8.8
Acquisition-related retention consideration	—	—	—	—	—	3.8	1.7	1.4	1.0
Facility relocation	—	—	—	—	—	—	3.0	—	(0.2)
Stock-based compensation	0.1	1.3	41.4	10.3	6.1	7.2	4.7	2.7	1.0
Amortization of intangible assets	—	—	16.9	16.2	16.2	13.3	13.6	11.7	11.5
Total operating expenses	97.2	81.9	153.3	114.1	110.7	114.4	115.0	107.8	98.9
Income (loss) from operations	2.8	18.1	(53.3)	(14.1)	(10.7)	(14.4)	(15.0)	(7.8)	1.2
Other income:									
Interest income	0.1	—	0.2	0.3	0.3	0.2	0.1	0.8	0.7
Interest expense	—	—	—	—	—	—	—	—	—
Adjustment to fair value of redemption obligation	—	—	—	—	—	—	—	—	—
Other	—	—	—	—	—	0.3	0.7	—	—
Total other income	0.1	—	0.2	0.3	0.3	0.5	0.8	0.8	0.7
Income (loss) before provision for income taxes	3.0	18.1	(53.1)	(13.9)	(10.3)	(14.0)	(14.2)	(7.0)	1.9
Income tax expense (benefit)	1.3	7.3	(18.8)	(4.9)	(3.7)	(4.0)	(0.7)	(1.7)	0.7
Net income (loss)	1.6	10.8	(34.3)	(9.0)	(6.7)	(9.9)	(13.5)	(5.3)	1.2
Accretion to redemption value of redeemable convertible preferred stock	—	—	6.9	7.2	7.6	5.5	5.3	0.2	—
Net income (loss) applicable to common stockholders	1.6	10.8	(41.2)	(16.2)	(14.3)	(15.4)	(18.8)	(5.5)	1.2

For purposes of discussion, we have included the results of operations of the Predecessor, Enhance Interactive. The results of operations of TrafficLeader have been included since the acquisition date of October 24, 2003. The results of operations of goClick have been included since the acquisition date of July 27, 2004. The results of operations for the quarter ended March 31, 2003 as discussed below are based on the combined periods including our results from January 17, 2003 (inception) to March 31, 2003 and Enhance Interactive's results from January 1, 2003 to February 28, 2003 (quarter ended March 31, 2003). From January 17, 2003 (inception) through February 28, 2003, we were involved in business and product development, as well as financing and acquisition initiatives and accordingly, our activities were different from the operating activities of Enhance Interactive. For further discussion of the presentation of Financial Reporting Periods, see page 52.

Revenue

Revenue progressively increased in the quarters presented due primarily to an increase in the number of and growth of distribution partners, an increase in the number of and average revenue per merchant advertiser, and an overall increase in the number of searches and resulting click-throughs performed by users of our services. Revenue also increased as a result of the acquisitions of TrafficLeader on October 24, 2003 and goClick on July 27, 2004.

Expenses

Service costs increased mainly as a result of increases each quarter in payments to distribution partners, costs of processing larger numbers of transactions, such as related credit card processing fees, and personnel and facility costs. Service costs generally decreased as a percentage of revenue in the 2003 quarters as compared to the 2002 quarters. The decrease in the percentage of revenue during this period is attributable to fixed network costs not increasing as revenue has grown, as well as economies of scale in our support and network infrastructure being realized, and certain variable costs having increased at a lower rate than revenue. Service costs increased as a percentage of revenue beginning in the quarter ended December 31, 2003 primarily as a result of increased additional fixed costs for network operations incurred in anticipation of additional expansion and the impact as a percentage of revenue from the service cost level from the October 2003 acquisition of TrafficLeader and their feed management services. Payments to feed management services distribution partners account for higher user acquisition costs as a percentage of revenue relative to overall service cost percentage. Sales and marketing expense, product development expense, and general and administrative expense generally increased over the quarters presented, largely as a result of increases in personnel associated with selling, developing, and supporting our services. The progressive increases in the quarters are also related to increases in outside marketing activities, rent, travel and other operating costs arising from maintaining operations in multiple jurisdictions. Periods beginning after the acquisition of TrafficLeader acquisition in October 2003 were also impacted by the inclusion of TrafficLeader personnel in those periods.

In March 2004, we entered into a sublease agreement for new and larger office facilities in Seattle, Washington, and we relocated from our original office facilities also located in Seattle, Washington. In March 2004, we accrued lease and related costs of $230,000 for the estimated future obligations of non-cancelable lease and other payments for the original facilities. In the third quarter of 2004, we reduced the lease and related costs accrual by $30,000 based on a revised estimate for subtenant income.

The stock-based compensation in the 2003 quarters related primarily to:

- employee stock options, for which the exercise price was less than the fair value on the date of grant, and
- the options to purchase 125,000 shares of Class B common stock held in escrow as security for the indemnification obligations under the Enhance Interactive acquisition agreement.

These options were subject to forfeiture, until the expiration of the escrow period on February 28, 2004. Accordingly, these options have been accounted for as variable awards during the escrow period. Under variable plan accounting, compensation expense is measured quarterly as the amount by which the fair market 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.

The amortization of stock-based compensation increased in the periods subsequent to the acquisition of October 2003 acquisition of TrafficLeader primarily due to amounts recognized for restricted shares issued to employees in connection with the acquisition of TrafficLeader. Amounts in the 2004 quarters 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, and to a lesser extent included the restricted stock issued to employees for future services in connection with the acquisition of TrafficLeader.

Amortization of intangible assets expense in the initial three quarters of 2003 resulted from amortizing identifiable intangibles associated with the purchase of Enhance Interactive. Amortization of intangible assets expense increased in the periods subsequent to the October 2003 acquisition of TrafficLeader and the July 2004 acquisition of goClick as a result of the additional amortization of identifiable intangibles associated with these acquisitions.

The following table provides a reconciliation of Income (loss) from operations and Net income (loss) applicable to common stockholders to the non-GAAP measure of operating income before amortization for the eight most recent quarters and/or periods ended September 30, 2004.

	Predecessor Periods		Successor Periods						
				Quarter ended					
	Quarter ended Dec 31, 2002	Period from Jan 1 to Feb 28, 2003	Period from January 17, (inception) to March 31, 2003	June 30, 2003	Sept 30, 2003	Dec 31, 2003	March 31, 2004	June 30, 2004	Sept 30, 2004
Operating income before amortization (OIBA)[1]	$ 107,216	$ 594,053	$ 86,172	$ 661,786	$ 624,890	$ 447,947	$ 248,686	$ 592,943	$ 1,676,343
Stock-based compensation	(2,421)	(38,981)	(710,991)	(550,078)	(326,407)	(537,634)	(360,764)	(235,234)	(125,405)
Amortization of intangible assets	—	—	(290,087)	(869,588)	(869,588)	(994,145)	(1,034,868)	(1,034,643)	(1,404,464)
Income (loss) from operations	104,795	555,072	(914,906)	(757,880)	(571,105)	(1,083,832)	(1,146,946)	(676,934)	146,474
Other income:									
Interest income	2,967	1,529	3,092	13,479	16,931	12,372	11,016	70,329	82,462
Interest expense							(325)	(1,488)	(1,915)
Adjustment to fair value of redemption obligation	—	—	—	—	—	25,500	55,250	—	—
Other	—	—	—	—	—	2,685	3,644	—	—
Total other income	2,967	1,529	3,092	13,479	16,931	40,557	69,585	68,841	80,547
Income (loss) before provision for income taxes	107,762	556,601	(911,814)	(744,401)	(554,174)	(1,043,275)	(1,077,361)	(608,093)	227,021
Income tax expense (benefit)	47,841	224,082	(323,092)	(263,771)	(196,368)	(301,081)	(53,700)	(147,103)	82,787
Net income (loss)	59,921	332,519	(588,722)	(480,630)	(357,806)	(742,194)	(1,023,661)	(460,990)	144,234
Accretion to redemption value of redeemable convertible preferred stock	—	—	119,081	385,274	407,265	407,265	402,679	17,751	—
Net income (loss) applicable to common stockholders	$ 59,921	$ 332,519	$ (707,803)	$ (865,904)	$ (765,071)	$ (1,149,459)	$ (1,426,340)	$ (478,741)	$ 144,234

[1] We report operating income before amortization ("OIBA") that is a supplemental measure to GAAP. OIBA represents income (loss) from operations plus: (1) stock-based compensation expense; and (2) amortization of intangible assets. This measure, among other things, is one of the primary metrics by which we evaluate the performance of our business. Additionally, management uses adjusted OIBA which excludes acquisition-related retention consideration as we view this as part of the earn-out consideration from the transaction. Adjusted OIBA is the basis on which our internal budgets are based and by which management is currently evaluated. Management believes that investors should have access to, and we are obligated to provide, the same set of tools that we use in analyzing our results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered in isolation, as a substitute for, or superior to GAAP results. We believe this measure is useful to investors because it represents our consolidated operating results, taking into account depreciation, which we believe is an ongoing cost of doing business, but excluding the effects of certain other non-cash expenses. OIBA has certain limitations in that it does not take into account the impact to our statement of operations of certain expenses including non-cash stock-based compensation associated with our employees and acquisition-related accounting. We endeavor to compensate for the limitations of the non-GAAP measure presented by providing the comparable GAAP measure with equal or greater prominence, GAAP financial statements and detailed descriptions of the reconciling items and adjustments, including quantifying such items, to derive the non-GAAP measure.

Results of Operations for Name Development

On November 19, 2004, we entered into an agreement to acquire certain assets of Name Development, a corporation operating in the direct navigation market. We expect to account for the Name Development asset acquisition as a business combination. The closing of the transaction is conditioned on a number of factors, including the successful completion of these offerings to finance the purchase by us. For more information on the asset acquisition, see "Name Development Asset Acquisition."

Comparison of the fiscal year ended June 30, 2003 (2003 fiscal year) to the fiscal year ended June 30, 2004 (2004 fiscal year)

Revenue. Revenue increased 260%, from $3.5 million in the 2003 fiscal year to $12.5 million in the 2004 fiscal year. This revenue increased year over year primarily as a result of:

- a new agreement signed in December 2003 with a pay-per-click listings provider with improved revenue-per-click characteristics and improved revenue sharing terms;
- as of June 30, 2004 compared to June 30, 2003, an increase of 10% in the number of Web properties in the network; and
- an increase in the overall number of users initiating searches on Web properties in the network.

Expenses

Service Costs. Service costs increased by $393,000 or 37% for the 2004 fiscal year compared to the 2003 fiscal year. This increase was primarily attributable to an increase of $266,000 in amortization of Web property name registration and renewal fees and an increase of $46,000 in third party network costs.

The increase in amortization of Web property name registration and renewal fees is the result of a greater number of Web property names purchased and held in the 2004 fiscal year. We expect the amortization of Web property names and renewal registration fees to increase in absolute dollars to the extent that we expand the purchasing of Web property names. We also expect that the cost per Web property, given the competitive landscape of Web property acquisition, to increase in the future.

Third party network costs associated with the serving of search results has increased due to higher levels of operating activities and search results.

General and Administrative Expenses. General and administrative expenses increased 44% from $49,000 in the 2003 fiscal year to $71,000 in the 2004 fiscal year. As of percentage of revenue, general and administrative expenses were 1% in both the 2003 and 2004 fiscal years. The increase in the dollars was primarily due to an increase in administrative professional fees resulting from increased operating activity. We expect that general and administrative expenses will increase in absolute dollars to the extent that we expand operations, which could include an increase in the number of personnel to administer operations, tracking and administering Web properties, as well as other costs such as insurance, professional fees and additional costs associated with internal controls.

Sales and marketing and product development expenses are expected to increase in absolute dollars in the future as we expect to add personnel to enhance the service offerings associated with the network of Web properties.

Gains on Sales of Intangible Assets, Net. Gains from the sale of Web property intangible assets are reported net of selling costs, the unamortized cost basis and prepaid registration fees of the assets sold on the statement of operations. These amounts increased from $796,000 in the 2003 fiscal year to $1.6 million in the 2004 fiscal year based on an increase in both the number of Web properties sold and the average sales price per Internet domain.

Income Taxes. Name Development was organized under the laws of the British Virgin Islands and was not subject to income tax in the British Virgin Islands. Name Development had e-commerce activities in several foreign jurisdictions and has recorded an income tax provision based on an apportionment of its income. The income tax expense increased from $487,000 in the 2003 fiscal year to $1.2 million in the 2004 fiscal year primarily based on increased revenue, overall operating activity and therefore income apportioned to foreign jurisdictions.

Net Income. Net income increased from $2.7 million in the 2003 fiscal year to $11.5 million in the 2004 fiscal year. The increase was primarily attributable to an increase in revenue and a decrease in amortization and service costs as a percentage of revenue.

Liquidity and Capital Resources

We initially financed our company through the private sales of Marchex securities in January through May of 2003, which resulted in total proceeds of approximately $20.3 million. Primarily from such proceeds, we funded our early 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.

On April 5, 2004, we completed our initial public offering of 4.6 million shares of Class B common stock. The proceeds received in the second quarter of fiscal year 2004 from the stock offering, net of cash offering expenses and underwriter discounts, were $27.2 million. Net proceeds have been or will be used to pay for product and business development, acquisitions and strategic relationships, capital expenditures, personnel, facilities, earn-out obligations and working capital and other general corporate purposes. On April 5, 2004, all of our outstanding shares of Series A redeemable convertible preferred stock, with a value of $21.8 million, were automatically converted into Class B common stock and are now included as components of stockholders' equity.

As of September 30, 2004, we had cash and cash equivalents of $24.8 million. As of September 30, 2004, we had operating lease contractual obligations of $3.2 million of which $2.8 million is for rent under our facility leases.

Cash provided by operating activities primarily consists of net income (loss) adjusted for certain non-cash items such as depreciation and amortization, tax benefit from stock options, facility relocation amounts, deferred income taxes and changes in working capital. Cash provided by operating activities for the nine months ended September 30, 2004 of $2.3 million consisted primarily of a net loss of $1.3 million adjusted for non-cash items of $5.5 million, including depreciation, amortization of intangibles, allowance for doubtful accounts, merchant advertiser credits and stock-based compensation, and $1.8 million used by working capital and other activities. Cash provided by operating activities for the nine months ended September 30, 2003 of $2.1 million consisted primarily of a net loss of $1.1 million adjusted for non-cash items of $4.3 million, including depreciation and amortization of intangibles, allowance for doubtful accounts, merchant advertiser credits and stock-based compensation and approximately $1.1 million used by working capital and other activities.

With respect to most of our pay-per-click advertising services, we receive payments prior to our delivery of related click-throughs. Our corresponding payments to the distribution partners who provide placement for the listings are generally made only after our delivery of a click-through. In most cases, the amount payable to the distribution partner will be calculated at the end of a calendar month, with a payment period following the delivery of the click-throughs. This payment structure results in a lag period between the earlier receipt of the cash from the merchant advertisers and the later payment to the distribution partners. These services constituted the majority of revenue in the 2003 and 2004 periods.

Nearly all of our feed management services are billed on a monthly basis following the month of our click-through delivery. This payment structure results in our advancement of monies to the distribution partners who have provided the corresponding placements of the listings. For these services, merchant advertiser's

payments are generally received one to three weeks following payment to the distribution partners. We expect that in future periods, if the feed management services account for a greater percentage of our operating activity, working capital requirements will increase as a result.

Cash used in investing activities for the nine months ended September 30, 2004 of $11.2 million was primarily attributable to the acquisition of goClick of approximately $7.3 million, the Enhance earn-out obligation payment of $3.2 million and purchases of property and equipment of $627,000. Cash used in investing activities for the nine months ended September 30, 2003 of $13.9 million was primarily attributable to the acquisition of Enhance Interactive of $13.3 million and purchases of property and equipment of $442,000.

As a result of our acquisitions, we increased our property and equipment purchases for items such as network equipment and software, furniture, software and equipment for our personnel, and systems used to sell to and serve merchant advertisers. Purchases of property, plant and equipment for the period following the Enhance Interactive acquisition date of February 28, 2003 through September 30, 2004 totaled $1.1 million. As our operations increase, we expect property and equipment purchases will increase as we continue to invest in equipment and software for our systems and personnel.

Cash provided by financing activities for the nine months ended September 30, 2004 of approximately $27.6 million was primarily attributable to net proceeds from our initial public offering. Cash provided by financing activities for the nine months ended September 30, 2003 of $20.3 million 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.

For purposes of the calculations of the contingent earnings- and revenue-based payment obligations for Enhance Interactive and TrafficLeader, we have allocated revenue based on the source of revenue. We attribute revenue from products and services originating with Enhance Interactive to Enhance Interactive, and likewise we attribute revenue from products and services originating with TrafficLeader to TrafficLeader. Consistent with that approach, we allocate revenues based on origination of merchant advertiser and distribution partner relationships and agreements.

Future contingent earnings-and revenue-based payment obligations related to Enhance Interactive and TrafficLeader acquisitions, which will be determined in early 2005 for the 2004 calendar year, could significantly impact our cash flows and could significantly reduce our available cash and cash equivalents balances. These payment obligations are still subject to the aggregate maximums of $10.0 million for Enhance Interactive for the calendar year 2004 and $1.0 million for TrafficLeader for the calendar year 2004.

For the calendar year 2003, the total aggregate Enhance Interactive contingent, earnings-based payment obligation was approximately $3.5 million. This payment obligation includes the earn-out consideration of approximately $3.2 million and the retention-related consideration of approximately $283,000. These amounts for the calendar year 2003 were paid in April 2004.

The following table summarizes our contractual obligations as of September 30, 2004, and the effect these obligations are expected to have on our liquidity and cash flows in future periods:

	Total	less than 1 year	1-3 years	4-5 years	After 5 years
Contractual Obligations:					
Operating leases	$ 3,204,000	$ 268,000	$ 2,025,000	$ 911,000	$ —
Earn-out obligation associated with Enhance Interactive[1]	Up to 9,997,000	Up to 9,997,000	—	—	—
Earn-out obligation associated with acquisition of TrafficLeader[2]	Up to 1,000,000	Up to 1,000,000	—	—	—
Total contractual obligations[3]	$ Up to 14,201,000	$ Up to 11,265,000	$ 2,025,000	$ 911,000	$ —

[1] A contingent, earnings-based payment obligation may be owed to the former shareholders of Enhance Interactive. The payment obligation has two components, which consist of earn-out consideration and retention consideration.
The earn-out consideration is calculated based on the formula of 69.44% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to an aggregate maximum payout cap of $12.5 million. In the event 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 payable will be accounted for as additional goodwill. As of September 30, 2004, no amount was recorded for calendar year 2004 as the contingent amounts were not determinable beyond a reasonable doubt.
The retention consideration is calculated based on the formula of 5.56% of Enhance Interactive's earnings before taxes for each of the calendar years 2003 and 2004, up to an aggregate maximum payout cap of $1 million. In the event earnings before taxes do not exceed $3.5 million for 2003 and 2004, then no amount shall be payable for the related period. Any amounts payable will be accounted for as compensation.
Based upon the calculation for the calendar year 2003, a $3.5 million payment liability was recorded for total 2003 earnings-based payment obligations and an estimate for the nine months of 2004 of $375,000 was recorded. These amounts will reduce the maximum aggregate obligation by the same amount.

[2] A contingent, revenue-based payment obligation may be owed under the TrafficLeader acquisition agreement. The contingent revenue-based payment is conditioned on TrafficLeader having revenue in excess of $15 million for calendar year 2004. In the event that TrafficLeader meets the minimum revenue threshold, we will be obligated to pay an amount equal to 10% of each dollar in revenue above the $15 million threshold, up to a maximum payout cap of $1 million. Any amounts payable will be accounted for as additional goodwill.
In the event on or prior to December 31, 2004, there were a change of control of us or TrafficLeader, or TrafficLeader's chief executive officer and chief technology officer both were either to resign for good reason or were terminated without cause, or we were to take any action prior to the end of December 31, 2004, which would make 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.

[3] On February 3, 2005 we announced that in connection with the closing of the Name Development asset acquisition we intend to enter into (i) a new master agreement with Overture with respect to our direct navigation business, and (ii) a license agreement with Overture with respect to certain of Overture's patents, including but not limited to U.S. Patent No. 6,269,361, pursuant to which we will pay $4.5 million, in an upfront payment (and an additional $674,000 in certain circumstances) and a contingent royalty based on a discounted rate of 3% (3.75% under certain circumstances) of certain of our gross revenues payable on a quarterly basis through December 2016. We have not yet determined the accounting treatment of such payment obligations, including whether all or a portion of such amounts will be recorded as an expense or as a reduction of revenue or to the extent, if any, of the amounts that would be capitalized.

On November 19, 2004, we entered into an asset purchase agreement with Name Development which provides that in the event that we do not close the contemplated asset acquisition as a result of our failure to meet our closing obligations, we may be required to pay a termination fee to Name Development equal to $1.5 million consisting of: (1) expense reimbursement for Name Development's reasonable administrative, legal and accounting expenses incurred in connection with the agreement and contemplated transactions in a minimum amount of $600,000 payable in cash but which amount shall not exceed $750,000; and (2) the issuance of our Class B common stock with a value (calculated based on the average closing price of the shares on the Nasdaq National Market for the 10 trading days ending on June 30, 2005) equal to $1.5 million less the amount of the expense reimbursement.

On July 27, 2004, we acquired goClick for approximately $7.5 million in net cash and acquisition costs. Additionally, we issued 433,541 shares of Class B common stock, which shares were valued at $9.55 per share, for accounting purposes, for an aggregate amount of $4.1 million.

We anticipate that we will need to invest working capital towards the development and expansion of our overall operations. We may also make a significant number of acquisitions, which could result in the reduction of our cash balances or the incurrence of debt. We have allocated a portion of net proceeds from our offering to fund acquisitions. Furthermore, we expect that future capital expenditures may increase in future periods, particularly if our operating activity increases.

Upon the issuance of the preferred stock, we will have a dividend payment obligation under the terms of the preferred stock. Under Delaware law, dividends to stockholders may be made only from the surplus of a company, or, in certain situations, from the net profits for the current fiscal year before the dividend is declared by the board of directors. If we were to exchange the preferred stock for debentures, we would assume the principal and interest payment obligations under the terms of the debentures. Our ability to pay dividends under the preferred stock or to make payments of principal and interest under the debentures in the future will depend on our financial results, liquidity and financial condition. [P] For the terms of the preferred stock and debentures, respectively, see “Description of Preferred Stock” and “Description of Debentures.”

Except for our proposed Name Development asset acquisition and related offerings, based on our operating plans we believe that the remaining proceeds from our initial public offering, together with existing resources and cash flow provided by ongoing operations, will be sufficient to fund our operations for at least twelve months. Additional equity and debt financing may be needed to support our acquisition strategy, our long-term obligations and our company’s 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.

Pending Asset Acquisition

Management of Name Development’s assets will have different working capital requirements than our existing business. The direct navigation business requires the continued acquisition of relevant Internet domain names. The quality of the Internet domain names will impact the value to merchant advertisers or aggregators as a source of customers, which in turn impacts the potential revenue from the Internet domain names. This ongoing investment requires cash flow or capital reserves to make purchases of Internet domain names and registration fees in advance of collecting any associated revenue that may be generated from these assets.

Name Development’s cash provided by operating activities for the nine months ended September 30, 2004 was significantly higher than the twelve months ended December 31, 2003 primarily due to the increase in net income offset by larger working capital needs associated with accounts receivable.

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 condensed consolidated financial statements have been prepared with accounting principles generally accepted in the United States. The preparation of these condensed 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, merchant advertiser and incentive program credits.

Revenue

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

We have entered into agreements with various distribution partners in order to expand our distribution network, which includes search engines, directories, product shopping engines and other Web sites 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. We also recognize revenue for certain agency contracts with merchant advertisers under the net revenue recognition method. Under these specific agreements, we purchase listings on behalf of merchant advertisers from search engines and directories. We are paid an agency fee based on the total amount of the purchase made on behalf of these merchant advertisers. Under these agreements, our merchant advertisers are primarily responsible for choosing the publisher and determining pricing.

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 Asset." (SFAS 144).

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

We review our long-lived assets for impairment in accordance with SFAS 144 whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment is to be

recognized by the amount by which the carrying amount of the assets exceeds fair value. Assets to be disposed of are separately presented on the balance sheet and reported at the lower of their carrying amount or fair value less costs to sell, and are no longer depreciated.

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

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

Stock-Based Compensation

Our stock-based compensation plan is described more fully in Note 3(b) to the condensed 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,” (SFAS 123) established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans.

As allowed by SFAS 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 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. 123 and EITF No. 96-18.

We used variable plan accounting to account for options to purchase 125,000 shares of our Class B common stock issued under our stock incentive plan that were held in escrow as security for the indemnification obligations under the Enhance Interactive merger agreement. These options were subject to forfeiture, until the expiration of the escrow period which was February 28, 2004, and, accordingly, we were required to record a compensation charge on a quarterly basis, which lowered 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. The amount of stock-based compensation recognized was derived based upon our determination of the fair value of our Class B common stock. We determined the fair value of our Class B common stock based upon factors, including our operating performance, issuance 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. Recent changes to applicable accounting standards will require us to record the fair value of options as an expense for periods beginning after December 15, 2005. 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 3(b) to our condensed consolidated financial statements for a discussion of how our net income (loss) would have been adversely affected.

Allowance for Doubtful Accounts and Merchant Advertiser and Incentive Program 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. Under the merchant advertiser incentive program, we grant merchant advertisers credits depending upon the individual amounts of prepayments made. The incentive program reserve is determined based on the historical rate of incentives earned and used by merchant advertisers compared to the related revenues recognized by us. 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

SFAS No. 123-R replaces SFAS No. 123, “Accounting for Stock-Based Compensation”, and supersedes APB Opinion No. 25, “Accounting for Stock Issued to Employees”. As originally issued, SFAS No. 123 established as preferable a fair-value-based method of accounting for share-based payment transactions with employees. However, that pronouncement permitted entities to continue applying the intrinsic-value-based model of APB Opinion No. 25, provided that the financial statements disclosed the pro forma net income or loss based on the preferable fair-value method.

The Company is required to apply SFAS No. 123-R as of the interim reporting period that begins after December 15, 2005. Thus, the Company’s consolidated financial statements will reflect an expense for (a) all share-based compensation arrangements granted after January 1, 2006 and for any such arrangements that are modified, cancelled, or repurchased after that date, and (b) the portion of previous share-based awards for which the requisite service has not been rendered as of that date, based on the grant-date estimated fair value of those awards.

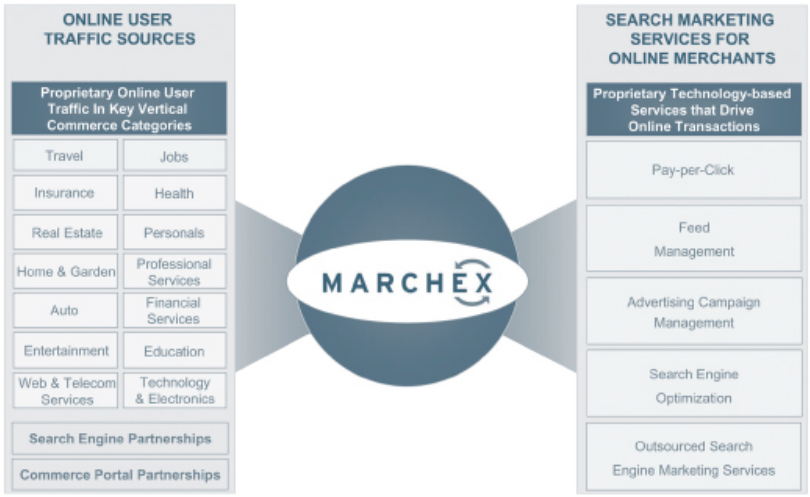
BUSINESS

Overview

We provide technology-based merchant services that facilitate and drive growth in online transactions. We connect merchants with consumers who are searching for information, products and services on the Internet. Our platform of integrated performance-based advertising and search marketing services enables merchants to more efficiently market and sell their products and services across multiple online distribution channels, including search engines, product shopping engines, directories and other selected Web properties.

Upon completion of our Name Development asset acquisition, we believe we will be among the leaders in the direct navigation market. We will own a proprietary base of online user traffic that represented more than 17 million unique visitors in November 2004, searching for information, products and services. This user traffic is generated from a portfolio of Web properties that are generally reflective of commercially-relevant search terms in many of the Internet's most popular and dynamic vertical commerce categories and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. Key vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, professional services, home and garden, Web and telecom services, education, and entertainment. The online user traffic is primarily monetized with pay-per-click listings that are relevant to the Web properties. As such, the Web properties connect online users searching for specific information with relevant advertisements.

With the Name Development asset acquisition, we believe we will be one of the few companies that owns both proprietary search engine marketing services and a critical mass of proprietary online user traffic.



We intend to continue introducing products and services that will enable merchants to successfully acquire customers and transact online. While we currently provide performance-based advertising and search marketing services, in the future we may provide additional, complementary services. We also intend to grow proprietary traffic sources, consistent with our Name Development asset acquisition, that can drive potential customers to our merchants.

Merchants transacting online is a large and growing trend. Our services facilitate and support the efficient and cost-effective marketing and selling of goods and services online through the most rapidly-developing forms of search-based marketing methods. We accomplish this by providing multiple services:

- ***Pay-Per-Click Services.*** We deliver pay-per-click advertising listings that are reflective of our merchant advertisers' products and services to online users in response to their keyword search queries. These pay-per-click listings are generally ordered in the search results based on the amount our merchant advertisers choose to pay for a targeted placement. These targeted listings are displayed to consumers and businesses through our distribution network of leading search engines, product shopping engines, directories and other Web properties.
- ***Feed Management Services.*** We leverage our proprietary technology to crawl and extract relevant product content from merchant advertisers' databases and Web sites to create highly-targeted product and service listings, which we deliver into our distribution network. These feed management listings are ordered in the results based on relevance to user search queries. Our trusted feed relationships with our distribution partners enable merchant advertisers to deliver comprehensive and up-to-date product and service listings to some of the Web's largest search engines, product shopping engines and directories.
- ***Advertising Campaign Management Services.*** We enable merchant advertisers to: (1) track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks using our bid management services; and (2) evaluate the effectiveness of online advertising campaigns using our conversion tracking and detailed reporting services.
- ***Search Engine Optimization Services.*** We optimize key attributes of merchant advertiser Web sites to ensure the greatest opportunity for proper indexing, listing and inclusion in the editorial results of algorithmic search engines.
- ***Outsourced Search Marketing Services Platform.*** We provide large aggregators of advertisers, such as yellow page companies, with an outsourced, integrated platform to enable them to market performance-based advertising and search marketing services directly to their customers.

We distribute performance-based advertisements through our broad network of distribution partners comprising many of the leading search engines, product shopping engines, directories and other Web properties. Our sources of distribution include industry leaders such as Yahoo!, Google, Shopping.com and many others.

We were incorporated in Delaware on January 17, 2003. Acquisition initiatives have played an important part in our corporate history to date and are a component of our overall strategy. With the proposed Name Development asset acquisition, we will have made four acquisitions since our inception including:

- On February 28, 2003, we acquired eFamily together with its direct wholly-owned subsidiary Enhance Interactive.
- On October 24, 2003, we acquired TrafficLeader.
- On July 27, 2004, we acquired goClick.
- In conjunction with this offering, we will acquire certain assets of Name Development.

Pending Name Development Asset Acquisition

Description of the Asset Acquisition

On November 19, 2004, we entered into an agreement to acquire certain assets of Name Development, a corporation operating in the direct navigation market. Direct navigation is one of the methods that online

consumers use to search for information, products or services online. Direct navigation is primarily characterized by online users directly accessing a Web site by: (1) typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser; or (2) accessing bookmarked Web sites. It can also include navigating through referring or partner traffic sources. Name Development owns and maintains a portfolio of Web properties, that are generally reflective of online user search terms, descriptive keywords and keyword strings. Name Development has entered into agreements with advertising service providers to monetize its online user traffic, generated through direct navigation means, with pay-per-click listings. As such, Name Development is able to connect online users searching for specific information with relevant advertisements.

Upon completion of the asset acquisition, we believe we will be among the leaders in the direct navigation market due to our proprietary ownership of online user traffic totaling more than 17 million unique visitors in November 2004. This user traffic is generated from a portfolio of Web properties that are generally reflective of commercially-relevant search terms in many of the Internet's most popular and dynamic vertical commerce categories and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. Key vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, professional services, home and garden, Web and telecom services, education, and entertainment. The online user traffic is primarily monetized with pay-per-click listings that are relevant to the Web property. As such, the Web properties facilitate the introduction of online users searching for specific information to targeted advertisements.

Name Development's revenue increased 260% from $3.5 million for the fiscal year ended June 30, 2003 to $12.5 million for the fiscal year ended June 30, 2004. For the corresponding periods, income from operations has grown from $3.2 million to $12.6 million. For the nine months ended September 30, 2004, revenues were $15.5 million and income from operations was $14.9 million.

We expect to account for the Name Development asset acquisition as a business combination.

Anticipated Benefits of the Asset Acquisition

We believe that the Name Development asset acquisition will provide us with several benefits, including:

- ***A Defensible, Proprietary Source of Targeted Traffic.*** We believe that we will have an exclusive position due to the nature of Internet domains registration, which is similar to owning real-estate in that each Internet domain name is unique. The asset acquisition will provide us with Web properties that collectively generated more than 17 million monthly unique visitors in November 2004. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000.
- ***Synergies with our Existing Search Engine Marketing Services Platform.*** We believe that our technology platform, combined with the Name Development asset acquisition, gives us an advantage in extending market share within the direct navigation market, expanding our participation in the search advertising market and in key commerce verticals. For example, we believe that: (1) there may be opportunities to work with monetization providers to improve the categorization and revenue generation of individual Web properties; (2) there may be opportunities to leverage our database of current search-related information to improve and automate selection and acquisition of complementary Web properties; (3) there may be opportunities to generate incremental user traffic to selected Web properties through leveraging our existing distribution network; (4) there may be opportunities to leverage our experience in working with a variety of online providers to add dynamic content and relevant advertiser listings, including product shopping listings and classified listings, to increase the user utility of the Web properties; and (5) there may be opportunities, over time, to supplement existing listings on certain Web properties with our performance-based advertisements.

- ***Platform to Extend Expansion Initiatives.*** We intend to use the asset acquisition to supplement our planned expansion, both domestically and internationally.

Industry Overview

Performance-Based Advertising

As technology and the Internet continue to evolve, consumers are becoming increasingly confident that they can find comprehensive product information and securely transact online. As consumers spend more time and money online, advertisers are turning to the Internet to market their products and services. Businesses of all sizes can benefit from the Internet's potential to efficiently and cost-effectively reach consumers. With the U.S. Census Bureau reporting more than 23 million small businesses alone, we believe there is a large opportunity to sell online performance-based advertising services to businesses of all sizes. As a reflection of the potential impact of the Internet as an advertising medium, PricewaterhouseCoopers estimates that global Internet advertising will grow from $12.2 billion in 2004 to $18.9 billion in 2008. Internet advertising enables merchant advertisers to measure the effectiveness of their advertising campaigns and to revise them in response to real-time feedback and market factors. Traditional forms of advertising are not as targeted and do not permit evaluation of results in as timely and accurate a manner.

Within the Internet advertising market, paid search has become one of the fastest growing sectors. First Albany Capital estimates that paid search will grow 191% from $4.5 billion in 2004 to $13.1 billion in 2008. According to the Kelsey Group, only 17% of small and medium businesses in the United States currently utilize search marketing methods, but that number is expected to grow as more merchants experience the benefits. In addition, according to PricewaterhouseCoopers, 40% of Internet advertising in the second quarter of 2004 was performance-based, as opposed to 31% in the second quarter of 2003. Merchant advertisers are increasingly turning to performance-based online advertising for the following reasons:

- ***Competitive Return-On-Investment.*** Merchant advertisers have experienced competitive returns on their online advertising campaigns. As advertisers have analyzed their marketing programs, they have determined that they are able to pay more for their programs while still generating an acceptable return-on-investment. As a result, First Albany Capital estimates that the average price-per-click will increase at a compound annual growth rate, or CAGR, of 7% from 2003 to 2008.
- ***Consumers' Increasing Receptiveness to Performance-Based Advertising.*** Due to the relevancy and appropriate placement of advertisements, First Albany Capital estimates that the rate at which consumers click through performance-based advertisements will grow at a CAGR of 21% from 2003 to 2008.

Direct Navigation

Navigating and searching for information online has continued to evolve as users have become increasingly sophisticated. This continuing evolution has translated into a need for information providers to more efficiently provide highly-targeted, relevant information. Currently, there are three primary means through which online users access and search for information, products and services: search engines, commerce portals and direct navigation Web properties. Direct navigation is primarily characterized by online users directly accessing a Web site by: (1) typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser; or (2) accessing bookmarked Web sites. It can also include navigating through referring or partner traffic sources.

First Albany Capital estimates that the paid search market will reach $4.5 billion in revenue in 2004, and we believe the direct navigation market currently represents more than 10% of the global search market and is growing at comparable annual rates. According to WebSideStory, Inc.'s StatMarket division, in September 2004 more than 67% of daily global Internet users arrived at Web sites by direct navigation defined as typing a URL into a browser address bar or using a bookmark rather than through search engines and Web links, compared to

approximately 53% in February 2002. The growth of the direct navigation market is a result of consumers' increasing sophistication in utilizing the Internet as a resource tool, coupled with their desire to quickly find targeted information, and their trust and experience that the depth and breadth of available and relevant online information extends to Web sites named by descriptive keywords. Direct navigation and the use of search engines, however, are not mutually exclusive. We believe that many of the commercially relevant Web properties which we will own as part of the Name Development asset acquisition may be beneficiaries of search engine and directory traffic.

Strategy

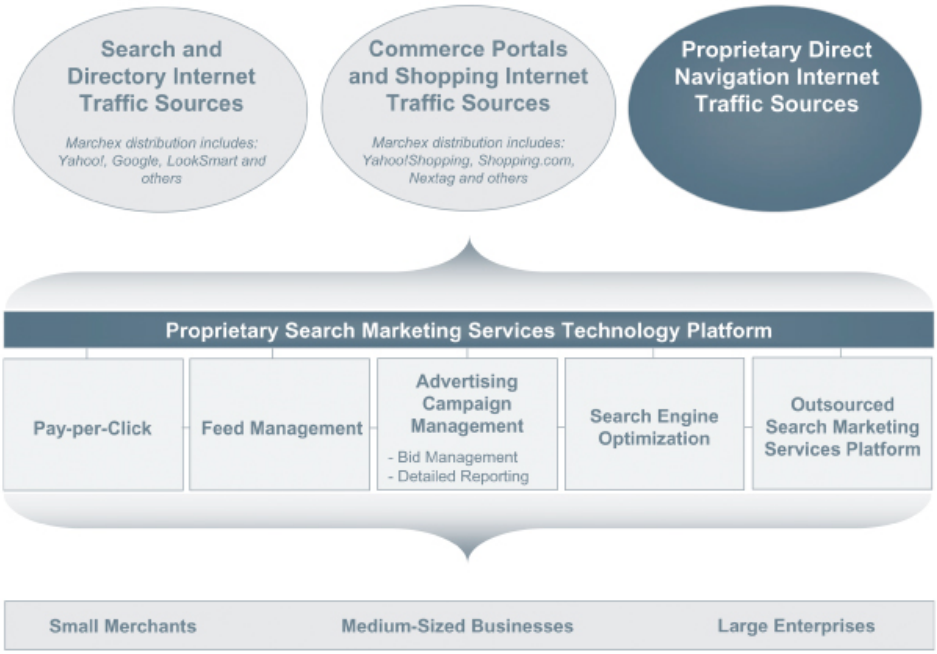
We intend to leverage our senior management's experience, our financial and human resources and our existing operations to provide technology-based merchant services that facilitate and drive growth in online transactions. Key elements of our strategy include the following initiatives:

- ***Provide Quality Services in Support of Merchants and Partners.*** We believe providing high quality services will make us more valuable to our merchants and partners. We are building proprietary products and services that we believe are innovative and provide a high degree of utility. We intend to continue investing our resources to create or develop new products, technologies and business models. We intend to expand our services by providing systems and information that help merchant advertisers maximize the performance of online marketing budgets and by working with partners to develop and market new products. For example, the services we have developed include:
  - a search engine inclusion and optimization platform for merchant advertisers who want the greatest opportunity for proper indexing, listing and inclusion of their product and services in the editorial results of algorithmic search engines;
  - an advertising campaign management platform for merchant advertisers who want to continuously track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks; and
  - an outsourced search marketing services platform for large aggregators of advertisers, such as yellow page companies, who want an integrated platform to market performance-based advertising and search marketing services directly to their customers.
- ***Increase the Number of Merchants Served.*** We believe we will continue to grow our base of merchant advertisers and strive to build merchant loyalty by providing merchants with a consistently high level of service and support as well as the ability to achieve their target return-on-investment thresholds. We intend to increase the number of merchants served through:
  - direct sales efforts, including strategic sales and telesales initiatives;
  - referral arrangements with entities that can promote our services to potential merchants, such as advertising agencies; and
  - partnerships with large aggregators of advertisers, such as regional yellow page companies.
- ***Develop New Markets.*** We intend to analyze opportunities and may seek to expand our technology-based services into new categories or new geographies where our services can be replicated on a cost effective basis, or where the creation or development of a service may be appropriate. We anticipate utilizing various strategies to enter new markets, including: developing 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. For example, the Name Development asset acquisition will diversify our business and will allow us to enter the direct navigation market.

- ***Extend Presence in the Direct Navigation Market.*** With the closing of the Name Development asset acquisition, we will implement numerous initiatives to increase the traffic and monetization of the acquired network of Web properties, including enhancing the utility of the Web properties, broadening our geographic presence and making selective purchases of complementary Web properties.
- ***Pursue Selective Acquisition and Consolidation Opportunities.*** We plan to selectively pursue strategic acquisitions. We apply rigorous evaluation criteria to acquisitions that are intended to enhance our strategic position, strengthen our financial profile, augment our points of defensibility and increase shareholder value. We do this through focusing on acquisition opportunities that represent a combination of the following characteristics:
  - under-leveraged and under-commercialized assets;
  - opportunities for business model, product or service innovation and evolution;
  - critical mass of transactions volume, merchants, traffic, revenue and profits;
  - business defensibility;
  - 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.

Our Services

Through our suite of search marketing services, we have partnered with a diverse set of Internet traffic partners in order to provide our merchant advertisers with access to a large base of potential, targeted customers. Our distribution strategy has been focused on building a broad footprint with primary online traffic sources, including search engines, directory sites and commerce portals, and with the Name Development asset acquisition, direct navigation Web properties. Additionally, we have focused on developing services and technologies to expand the suite of search-based marketing products we provide to online merchant advertisers. We believe that offering a holistic approach of search engine marketing services enables us to extend our reach to a broad base of customers and offer solutions that can generally address all the needs of a customer interested in search marketing.



Our services are used to support and build the businesses of our merchant advertisers. We enable merchants to market and sell their products and services online through the following technology-based services:

Service	Description
Performance-Based Advertising Services	Performance-based advertising services enable merchants to reach their target audience through search, product shopping and directory results. · Pay-per-click services. With pay-per-click services, the amount that a merchant advertiser pays for the click-through influences the rank of its listings within the applicable results set. · Feed management services. With feed management services, the ranking of a merchant's listing is influenced by the relevance of the product or service in relation to the user search query.
Search Marketing Services	Search marketing services are designed to assist merchant advertisers who want to acquire customers through search-based marketing methods, optimize the performance of their online advertising campaigns by tracking and analyzing historical results and refine their Web sites for increased relevance in algorithmic search engine indexes. · Advertising campaign management services. Advertising campaign management services enable merchant advertisers to: (1) track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks using our bid management services; and (2) evaluate the effectiveness of their online advertising campaigns using our conversion tracking and detailed reporting services. · Search engine optimization services. Search engine optimization services enable merchant advertisers to optimize key attributes of their Web sites to ensure the greatest opportunity for proper indexing, listing and inclusion in the editorial results of algorithmic search engines.
Outsourced Search Marketing Services Platform	Outsourced search marketing services are designed to enable large advertiser aggregator partners with an outsourced, integrated search management platform to market performance-based advertising and search marketing services to their customers.

In the nine month period ending September 30, 2004, performance-based advertising services comprised more than 91% of our total revenue while search marketing services and outsourced search marketing services accounted for less than 9% of total revenue.

We currently provide these services through our operating subsidiaries Enhance Interactive, goClick and TrafficLeader. Enhance Interactive and goClick primarily manage our pay-per-click services while TrafficLeader primarily manages our feed management services, search marketing services and outsourced search marketing services. All of our services currently run on, or are being migrated to run on, a common technology architecture. As we continue to develop our services and implement new technologies and services, we believe the breadth of our marketing solutions will lead to cross leverage through technical integration.

Performance-Based Advertising Services

Merchant advertisers utilize our performance-based advertising services to reach millions of individuals and businesses who search online for information on products and services. According to a Pricewaterhouse Coopers April 2004 report, performance-based advertising is one of the most rapidly growing segments of Internet advertising, as it is one of the most efficient and effective means to generate competitive returns-on-investment for advertisers. Accordingly, we are building appropriate services to leverage this trend.

On any given search engine results page, the listings that appear can either be categorized as “sponsored listings” or “editorial listings.” By leveraging the combination of our pay-per-click and feed management performance-based advertising services, merchant advertisers can ensure the broadest coverage within a given results page in response to a user search query, since our pay-per-click management service ensures merchant advertisement appearance within sponsored listings, and our feed management service ensures merchant advertisement appearance within editorial listings. The following is a description of our performance-based advertising services:

Pay-Per-Click Services. Our pay-per-click services enable merchant advertisers to market their products and services through targeted pay-per-click listings that we distribute through search engine or directory results when a user searches for information, products or services. We provide our services to thousands of merchant advertisers who want to drive customer leads to their Web sites. Our services enable merchants to purchase keywords or keyword strings, based on an amount they choose for a targeted placement, that are specific to their products and services and their marketing objectives.

Merchant advertisers find us directly through our Web site and through contact with our internal telesales force, and we reach out to find merchant advertisers through direct sales efforts, through third-party referral programs and through a variety of marketing activities that include trade shows, targeted mailings, online advertisements, e-mails and other promotional materials sent directly to merchant advertisers, advertising agencies and search engine marketers.

We believe that pay-per-click services are an important complement to algorithmic search and feed management technologies as they enable merchants to place relevant listings on a search engine results page related to a specific user information request. This process has the dual benefit of: (1) enhancing the user experience by placing relevant targeted listings at the portion of a search page dedicated to sponsored listings; and (2) connecting merchant advertisers with targeted customer leads.

When merchant advertisers submit advertisement listings to our service, we review them for relevance and for conformity with our editorial guidelines. We may also assist merchant advertisers in optimizing their advertisement campaigns by recommending relevant keywords or keyword strings based on their Web sites and product or service offerings.

The pay-per-click results distributed by our services are prioritized for users by the amount the merchant advertiser is willing to pay each time a user clicks on the merchant’s advertisement. Merchant advertisers pay us when a click-through occurs on their advertisement.

Feed Management Services. Our feed management services deliver targeted advertiser listings into some of the Internet’s most visited search engines and product shopping engines. Feed management leverages our proprietary technology to crawl and extract relevant product data and content from a merchant advertiser database and Web site, and to create highly relevant, optimized 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 a competitive return-on-investment for merchant advertisers, as higher relevance typically leads to increased click-through and conversion rates, or customer acquisitions.

Once our 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 that link back to specific product pages when clicked, which we believe typically leads to competitive advertiser conversion rates.

We believe that most algorithmic search engines crawl the Web approximately every seven days. When a merchant's Web site is crawled by algorithmic technology, many product and service listings tend to be excluded due to the nature of most merchant advertisers' product databases, which contain complex structures and are dynamically-updated. Our trusted feed relationships with our distribution partners allow us to deliver every merchant advertiser's product and to provide updated content in frequent intervals, as we regularly refresh the listings with the most up-to-date information. This is a significant benefit for our merchant advertisers as we maximize the number of selling opportunities and for our distribution partners as we increase the relevance of a user search experience.

We believe that feed management is an important complement to algorithmic search technologies since merchant advertisers provide us with direct access to their internal product databases. Often, only once a feed management service 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. We believe the indexing and subsequent listing of these Web pages made possible by feed management enhances the overall relevancy of the search engines with which the company partners. We also believe feed management is complementary to pay-per-click services as merchants: (1) can leverage our technology to create detailed listings for each of their products; and (2) can leverage our extensive keyword query string database to identify many relevant keyword listings often overlooked in the manual pay-per-click listing creation process.

Merchant advertiser URL strings and advertisement listings are typically ordered based on relevance to the user search query. Merchant advertisers generally pay us a fixed price for each click received on each URL string and advertisement listing.

Additionally, by leveraging proprietary technology, we can analyze an advertiser's database as well as thousands to millions of actual, relevant user search queries to create additional, unique merchant advertiser listings that drive targeted traffic resulting in highly competitive conversion, or customer acquisition, rates. These additional unique listings are generally included as part of our basic feed management service.

Search Marketing Services

Our search marketing services are designed to assist merchant advertisers who want to acquire customers through search-based marketing methods, optimize the performance of their online advertising campaigns through tracking and analyzing historical results and refine their Web sites for increased relevance in algorithmic search engine indexes. The following is a description of our search marketing services:

*Advertising Campaign Management Services***.** Through our advertising campaign management services, merchant advertisers continuously track, monitor and optimize the placement of performance-based search advertising campaigns across a number of search engines and pay-per-click networks and track the effectiveness of their online advertising campaigns through the use of the following services:

- Bid management services. Our bid management services allow our merchant advertisers to consolidate the purchasing, management, optimization and reporting aspects of performance based search advertising campaigns. We have partnerships with leading search and product shopping engines that allow us to place and manage our clients' paid listings directly within their account management systems.
- Conversion tracking and detailed reporting services. Our detailed reporting services enable merchants to track the effectiveness of their online advertising campaigns through conversion tracking and detailed reporting tools. By developing a common technology architecture underneath our platform of search marketing services, we are able to analyze the effectiveness of our merchant

partners' advertising campaigns across a wide array of services and provide detailed reporting, such as: revenue per month statistics, number of orders, average order size and conversion rate and revenue by keyword and revenue by distribution source.

Our advertising campaign management services broaden the potential reach of a merchant's advertising campaign by including multiple distribution partners as options for bid placement. Merchant advertisers pay us a pre-negotiated rate when a click through occurs on their advertisement. Also, with our analytic tool set, merchants are effectively able to track the effectiveness of their online advertising campaigns through the use of conversion tracking and analytic services.

Search Engine Optimization Services. Our search engine optimization technology optimizes key attributes of merchant advertisers' Web sites to ensure the greatest opportunity for proper indexing, listing and inclusion in the editorial results of algorithmic search engines. By leveraging our experience in the search industry and relationships with search engine distribution partners, we have architected a flexible technology platform that is designed to enable us to efficiently optimize our merchant partner Web sites in order to meet the ever changing technical standards of our distribution partners.

We primarily attract merchant advertisers with product databases who want to increase their online sales and achieve targeted return-on-investment metrics. Potential merchant advertisers find our services and we find them through a variety of means, including contact by our direct sales staff, through marketing efforts such as trade shows or advertising, and through third-party referral programs. Merchant advertisers pay us fees to optimize their site for inclusion in algorithmic search results.

Outsourced Search Marketing Services Platform

Our ability to build and integrate all of our marketing services on a common technology platform provides us with the opportunity to create an outsourced solution for strategic partners who have several hundred to several thousand direct merchant relationships. As part of our search management service we can enable a strategic partner or aggregator of merchant partner relationships with all or any part of our suite of search marketing services. For example, we currently enable a major regional yellow page company with our advertising campaign management and feed management technology platform which it can market to its local online yellow page merchants.

Partners can leverage this service in one of two ways, including: (1) as a fully outsourced solution, in which we manage and fulfill search marketing campaigns, and also delivers reporting on behalf of our partners; or (2) a partner-hosted solution that allows aggregators, such as yellow page companies, to easily manage campaigns internally and service their customers more directly. We principally receive payment for our outsourced search marketing services through a combination of variable licensing fees associated with total revenue generated using our technology platform, flat rate licensing fees for the use of our technology platform and per-click payments for clicks delivered from our pay-per-click and feed management network.

Our Distribution Network

We have built a broad distribution network for our marketing services comprised of many of the leading search engines, product shopping engines, directories and selected Web properties. With the Name Development asset acquisition, we will acquire a proprietary source of direct navigation traffic.

Performance-Based Advertising Distribution

We distribute merchant advertisement listings and advertiser URL strings through hundreds of traffic sources, including search and product shopping engines, directories and Web properties. Distribution sources for our marketing services platform include:

Selected Search Engines and Directories	Selected Product Shopping Engines
Google	CNet's MySimon
LookSmart	Google's Froogle.com
Switchboard	NexTag
Valueclick's Search123	PriceGrabber.com
24/7 Search	Shopping.com
Yahoo!	Yahoo!Shopping

Yahoo!, primarily through its subsidiaries, such as Overture and Yahoo!Shopping, is our largest distribution partner, accounting for approximately 19% of our total revenue for the nine months ended September 30, 2004. Prior to this period, distribution through Yahoo! and its subsidiaries collectively represented less than 10% of our total revenue. Over the past year, we have enhanced and grown this relationship with additional agreements with Yahoo! and its subsidiaries. Additionally, we have enhanced existing relationships with various other partners, including LookSmart and Switchboard, and created several new relationships, including CNet's MySimon and Shopping.com. We intend to continue enhancing our existing partner relationships and create new ones, where appropriate.

Payment arrangements with our distribution partners are often subject to minimum payment amounts per click-through. Other economic structures that we may use to a lesser degree include:

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

Direct Navigation Distribution

Upon completion of the Name Development asset acquisition, we believe we will be among the leaders in the direct navigation market due to our proprietary ownership of online user traffic, which totaled more than 17 million unique visitors in November 2004. This user traffic is generated from a portfolio of Web properties that are generally reflective of commercially-relevant search terms in many of the Internet's most popular and dynamic vertical commerce categories and may include geographically-targeted elements. The total number of Web properties in the portfolio, including Marchex's existing Web properties, is more than 200,000. These vertical commerce categories include: travel, financial services, insurance, real estate, auto, health, technology and electronics, personals, jobs, professional services, home and garden, Web and telecom services, education and entertainment. The online user traffic is primarily monetized with pay-per-click listings that are relevant to the Web properties. As such, the Web properties connect online users searching for specific information with relevant advertisements.

Online users can navigate the Web properties through a number of ways. For example, an online user who is specifically interested in going to Las Vegas for a vacation may enter *www.lasvegasvacations.com* directly into the Web address or URL box of their Internet browser. Once the user has arrived at the Web property they will find relevant product listings and information. As the user finds relevant information and clicks on a particular listing, Name Development receives a pay-per-click fee.

The following represents a sampling of the Web properties we will acquire as part of the Name Development asset acquisition and their corresponding vertical commerce category:

Vertical Commerce Category	Active Web Property Examples
Travel	· FranceVacation.com · LasVegasVacations.com · TravelAustralia.com
Financial Services	· AutoLender.com · Debts.com · LoanConsolidation.com
Insurance	· AffordableInsurance.com · InsuranceOnline.com · UnemploymentInsurance.com
Real Estate	· ApartmentFind.com · HouseLoans.com · LAProperties.com
Auto	· AffordableCars.com · CarSeller.com · LeaseCars.com
Health	· HealthAdvisor.com · MedicalSearch.com · NaturalDiets.com
Technology and Electronics	· 3g.com · NetworkServers.com · VideoCamera.com
Personals	· FriendsOnline.com · LoveFinder.com · SingleMatch.com
Jobs	· CareerInfo.com · BayAreaJobs.com · SoftwareJob.com
Professional Services	· PhysicianOnline.com · TaxesOnline.com · TortLawyers.com
Home and Garden	· BathroomHardware.com · CarpetCleaners.com · HomeDecoration.com
Web and Telecom Services	· ComputerNetworking.com · TelecomConsultants.com · WirelessDevelopers.com
Education	· USColleges.com · VirtualEducation.com · LearningVideos.com
Entertainment	· ActionMovies.com · HollywoodMovies.com · TicketsUnlimited.com

Sales, Marketing & Business Development

As of December 1, 2004, we had 53 full-time employee equivalents in our sales department, 11 full-time employee equivalents in our business development department and 5 full-time employee equivalents in our marketing department. Our sales department focuses on adding new merchant advertisers to our operating businesses, while our business development department focuses on servicing existing distribution partnerships and selectively adding new distribution partners. Our marketing department focuses on promoting our services through affiliate relationships, press coverage, and industry exposure. Advertising and promotion of our services is broken into five main categories: direct sales, agency sales, super aggregator sales, online promotion, and referral agreements.

- ***Direct Sales.*** Our sales staff targets new merchant advertiser relationships through telesales efforts, direct marketing, and attendance at industry events.
- ***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.
- ***Super Aggregator Sales***. Our super aggregator program includes a group within the sales team that targets large aggregators of merchant advertisers. An example of a large aggregator relationship would be our partnership with a large regional yellow page company whereupon we supply a comprehensive, outsourced search marketing platform that integrates our advertising campaign management and feed management platforms for their merchant advertisers. Our super aggregator agreements include a combination of revenue sharing, licensing revenue and per-click fees.
- ***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 is 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

Performance-Based Advertising

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, 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 pursue a strategy that we believe allows us to work with all relevant companies in the industry, even those companies that may be perceived 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: (1) merchant advertisers who advertise online; (2) partners who provide a distribution network for online advertising; and (3) other intermediaries who may provide purchasing and/or sales opportunities, including advertising agencies, search engine marketing companies and search engine optimization companies. We depend on maintaining and continually expanding our network of partners and merchants to generate transactions online. As a result, we may work with, and 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 online advertising and marketing services industry is highly competitive. Although overall Internet advertising expenditures have increased in the last few years, the advertising industry has suffered 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 in utilizing the different forms of Internet advertising, purchasing Internet advertising in a cost-effective manner, and measuring return-on-investment. 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. 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. While thousands of smaller outlets are available to customers, several large media and search engine companies, such as AOL, Google, Microsoft through MSN Search and Yahoo!, through its subsidiaries, dominate online user traffic. 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.

Direct Navigation

The direct navigation market is primarily categorized into two parts: (1) Web property owners, which are the entities that own the Internet domain and potentially monetize it through performance-based integrations with third parties, including pay-per-click integrations; and (2) Web property monetization providers, which are companies that provide the monetization engine for Web property owners, including pay-per-click providers. We believe that the segment of the direct navigation market that directly owns and monetizes Internet domains with performance-based advertising is highly fragmented, and that, after the closing of the transaction, we will be among the leaders in this segment.

While the availability of a high quality portfolio of multiple Internet domain names is limited and difficult to attain, the barriers to entry in the direct navigation market are also low as the cost of registering an individual Internet domain name is not significant. We expect competition to intensify as more analysis is conducted on, and more companies enter, the direct navigation market. This could adversely affect our competitive position and relatively small market share in the direct navigation industry.

Intellectual Property and Proprietary Rights

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

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

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

- US Provisional Patent Application Serial Number 60/504,963, of Horowitz et al., entitled "Performance-Based Online Advertising System and Method," was filed on September 23, 2003,

with subsequent non-provisional US and PCT patent applications filed on September 23, 2004, and which are currently pending. These patent applications describe a system, method, and computer program product for implementing a performance-based online service for advertisers that provide the ability for advertisers to purchase various advertising products.

- US Provisional Patent Application Serial Number 60/523,688, of Horowitz et al., entitled "Online Advertising System and Method," was filed on November 21, 2003, with subsequent non-provisional US and PCT patent applications filed on November 19, 2004, and which are currently pending. This patent application describes an online advertising system, method, and computer program product configured to present an advertiser with keyword-driven pricing for advertisements.

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

We have been issued registered trademarks in the United States covering certain goods and services for "Marchex," "Direct Search Inclusion," "goClick.com," "Sitewise" and "TrafficLeader." We have also applied for registered trademark status for "Enhance Interactive" in the United States. In addition, we have been issued registered trademarks for "Marchex" in Australia, Benelux, China, France, Germany, Japan, Italy, Spain, Sweden, Republic of Korea, Russian Federation and the United Kingdom. We have also applied for registered trademark status for "Marchex" in a number of other foreign jurisdictions. 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.

Regulation

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 properties that include materials that infringe copyrights or rights of others. The Children's Online Protection Act and the Children's Online Privacy Protection Act are intended to restrict the distribution of certain materials deemed harmful to children and impose additional restrictions on the ability of online services to collect user information from minors. In addition, the Protection of Children from Sexual Predators Act requires online services providers to report evidence of violations of federal child pornography laws under certain circumstances. The foregoing legislation may impose significant additional costs on our business or subject us to additional liabilities, if we were not to comply fully with their terms, whether intentionally or not. If we did not meet the safe harbor requirements of the Digital Millennium Copyright Act, we could be exposed to copyright actions, which could be costly and time-consuming. The Children's Online Protection Act and the Children's Online Privacy Protection Act impose fines and penalties to persons and operators that are not fully compliant with their requirements. The federal government could impose penalties on those parties that do not

meet the full compliance practices of the Protection of Children from Sexual Predators Act. We intend to fully comply with the laws and regulations that govern our industry, and we employ internal resources and incur outside professional fees to establish, review and maintain policies and procedures to reduce the risk of noncompliance.

Our purchase of assets from Name Development will subject us to a new and rapidly developing body of regulations. The acquisition of Internet domain names generally is governed by Internet regulatory bodies, predominantly the Internet Corporation for Assigned Names and Numbers (ICANN). The regulation of Internet domain names in the United States and in foreign countries is subject to change. ICANN and other regulatory bodies could establish additional requirements for previously owned Internet domain names or modify the requirements for holding Internet domain names.

We post our privacy policy and practices concerning the use and disclosure of any user data on our Web properties. 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 1, 2004, we employed a total of 207 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 real estate property. Our corporate offices are located at 413 Pine Street, Suite 500, Seattle, Washington. In March 2004, we entered into a sublease agreement for our current corporate office space in Seattle, Washington, and this commitment extends through 2009. The sublease agreement provides for the leasing of 11,400 square feet of office space at $16,150 per month, increasing to 26,788 square feet at $37,950 per month, over the term of the agreement ending in 2009. With respect to our additional office space at 2101 Fourth Avenue, Suite 1980, Seattle, Washington, we currently have approximately 5,331 square feet under lease agreements expiring in June 2006 at a monthly rental of $10,440. We also have offices located at 360 West 4800 North, Provo, Utah, that are comprised of approximately 13,050 square feet under a sublease agreement expiring in May 2005, at a monthly rental of $16,802. Additionally, we have offices located at 2986 Crescent Avenue, Eugene, Oregon, that are comprised of 6,725 square feet under a lease agreement expiring in October 2006 at a monthly rental of $10,087 per month.

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

Legal Proceedings

Except as provided for in the “Prospectus Summary—Recent Developments,” 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	38	Chairman of the Board of Directors, Chief Executive Officer and Treasurer
Michael A. Arends	34	Chief Financial Officer
Ethan A. Caldwell	36	Chief Administrative Officer, General Counsel and Secretary
Peter Christothoulou	33	Chief Strategy Officer
John Keister	38	President, Chief Operating Officer and Director
Walter Korman	31	Senior Vice President of Engineering
Dennis Cline[1][2][3]	44	Director
Jonathan Fram[1][2][3]	47	Director
Rick Thompson[1][2][3]	45	Director

[1]Member of the Audit Committee.
[2]Member of the Nominating and Governance Committee.
[3]Member of the Compensation Committee.

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

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

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

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

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

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

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

Jonathan Fram. Mr. Fram has served as a member of our board of directors since May 2003. Mr. Fram currently serves as a consultant to companies that provide media and voice services over the Internet. From May 2002 through December 2003, Mr. Fram was the CEO for Envivio, a privately-held company, where he remains a member of the board of directors, a provider of MPEG-4 broadcast and streaming solutions. From October 2001 to May 2002, Mr. Fram was the Acting CEO of Envivio while he was a consultant to France Telecom, Envivio's majority shareholder at that time. From August 2000 to July 2001, Mr. Fram was the President and CEO of eVoice, an online voicemail and unified messaging provider, until its sale to America Online in July 2001. Prior to eVoice from July 1999 to August 2000, Mr. Fram was the President of Net2Phone, a provider of voice services over IP networks, until AT&T acquired a controlling interest in the company. Prior to Net2Phone, from 1991 to 1999, Mr. Fram was a General Manager at Bloomberg, responsible for the Television, Internet and Radio divisions. Mr. Fram received a B.S. degree in Electrical Engineering and Computer Science from Princeton University.

Rick Thompson. Mr. Thompson has served as a member of our board of directors since May 2003. Mr. Thompson has been the Vice President for the Extended Windows Platform Group at Microsoft since December 2002. From February 2001 to November 2002, Mr. Thompson was a business consultant to retail

automotive, packaged goods and health and fitness companies, with a particular focus on providing product and market analysis services and management consulting. From May 2000 through January 2001, Mr. Thompson was the CFO and EVP for Product Development for Go2Net. Prior to Go2Net, from October 1987 to June 1999, Mr. Thompson was the Vice President of Hardware for Microsoft and from July 1999 to May 2000, Mr. Thompson was the Vice President of Xbox 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: (1) Russell C. Horowitz (Chairman); (2) John Keister; (3) Dennis Cline; (4) Jonathan Fram; and (5) 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 automatically terminated upon the closing of our initial public 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 acts pursuant to a formal charter adopted by the board, which is available on our Web site. The audit committee reviews, with our independent auditors, the scope and timing of the auditors' services, the auditors' report on our consolidated financial statements following completion of our audits, and our internal accounting and financial control policies and procedures. In addition, the audit committee makes annual recommendations to the board of directors for the appointment of independent auditors for the ensuing year. The board has determined that each of the members of the audit committee qualifies as an "audit committee financial expert" as that term is defined in accordance with the Securities and Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002 and that each also satisfies related Nasdaq finance or accounting experience requirements. Mr. Thompson currently serves as the chairman of the audit committee.

Compensation Committee

The compensation committee of our board of directors is comprised of Messrs. Cline, Fram and Thompson, each of whom is an independent director. The compensation committee acts pursuant to a formal charter adopted by the board, which is available on our Web site. The compensation committee reviews and evaluates the compensation and benefits of all of our officers, including the compensation of our CEO, reviews general policy matters relating to compensation and employee benefits, and makes recommendations concerning these matters to our board of directors. The compensation committee also administers our stock incentive plan and our employee stock purchase plan. Mr. Cline currently serves as the chairman of the compensation committee. For a more detailed description of these plans, please see "Benefit Plans."

Nominating and Governance Committee

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

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

Code of Conduct and Code of Ethics

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

Corporate Governance Guidelines

Our board of directors has adopted corporate governance guidelines to ensure effective corporate governance. These guidelines provide that our independent directors shall meet regularly (not less than two times per year) in executive session at which only our independent directors shall be present.

Disclosure Committee

The disclosure committee is comprised of Mr. Ethan Caldwell, our General Counsel, and Mr. Jeff Thielman, our Controller. The disclosure committee acts pursuant to a formal charter adopted by our Chief Executive Officer and our Chief Financial Officer, which is available on our Web site. The disclosure committee is responsible for designing and establishing and monitoring the integrity and effectiveness of controls and other procedures that are designed to ensure that: (1) information required to be disclosed by us in the reports we file with the Securities and Exchange Commission under the Securities Exchange Act, and other information that we disclose to the investment community is recorded, processed, summarized and reported accurately and on a timely basis and in accordance with Securities and Exchange Commission rules and regulations; and (2) information is accumulated and communicated to management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding such required disclosure and to assist such officers in fulfilling their responsibility for overseeing the accuracy and timeliness of our disclosures and in certifying our periodic reports under the Securities Exchange Act.

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 member of our compensation committee and any member of any other company’s board of directors or compensation committee. Members of the compensation committee will not receive additional compensation other than the compensation noted above that they received pursuant to becoming members of the board of directors. See “Security Ownership of Certain Beneficial Owners and Management” and “Certain Relationships and Related Transactions” for a summary of the holdings, rights and transactions of these members with respect to our shares of our Class B common stock.

Executive Compensation

The following table sets forth the compensation earned by our Chief Executive Officer and our Chief Financial Officer for services rendered in all capacities during the period from our inception, January 17, 2003, to December 31, 2004. No other executive officer's total annual salary and bonus for 2003 exceeds $100,000. We refer to these executives as our "named executive officers" elsewhere in this prospectus.

Summary Compensation Table

			Annual Compensation			Long-term Compensation
Name	Principal Position	Year	Salary	Bonus	All Other Compensation	Securities Underlying Options
Russell C. Horowitz[1]	Chief Executive Officer	2004	$ 50,000	$ 0	*	0
		2003	$ 39,712	$ 0	*	0
Michael A. Arends[2]	Chief Financial Officer	2004	$ 140,250	$ 0	*	0
		2003	$ 104,000	$ 0	*	450,000

[1] Mr. Horowitz was not paid a salary for the period from January 17, 2003 (inception) through March 16, 2003, and his salary compensation commenced as of March 17, 2003.
[2] Mr. Arends joined Marchex as of May 1, 2003, and his salary compensation commenced as of that date. Mr. Arends' initial annual base salary of $156,000 was adjusted to $135,000 upon the closing of our initial public offering in April of 2004 in accordance with his employment agreement.
* No other compensation in excess of the lesser of either $50,000 or 10% of total annual salary and bonus.

The following table sets forth information with respect to stock options granted to our named executive officers during the fiscal year ended December 31, 2004.

Option Grants in Fiscal Year 2004

Name	Number of Securities underlying options granted	Percentage of Total Options Granted to Employees	Exercise Price Per Share	Expiration Date
Russell C. Horowitz	0	0%	N/A	N/A
Michael A. Arends	0	0%	N/A	N/A

The following table sets forth information regarding unexercised options held as of December 31, 2004, by our named executive officers.

Aggregate Option Exercises/Option Values During 2004 and Fiscal Year-End Option Values

	Number of Shares Acquired on Exercise		Number of Securities Underlying Unexercised Options At December 31, 2004		Value of Unexercised In-the-Money Options At December 31, 2004	
Name	Exercised	Value Realized	Exercisable	Unexercisable	Exercisable	Unexercisable
Russell C. Horowitz	N/A	N/A	N/A	N/A	N/A	N/A
Michael A. Arends	N/A	N/A	164,583	285,417	$ 2,845,829	$ 4,904,172

Employment Contract with Named Executive Officers

Russell C. Horowitz

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

Michael A. Arends

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

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

In the event that either: (1) Russell C. Horowitz ceases to be a Marchex employee for any reason; or (2) a change in control occurs while Mr. Arends is employed by Marchex, all options or other equity awards held by Mr. Arends with respect to our Class B common stock shall become fully vested. For purposes of this provision, a change in control occurs if one person or entity acquires control of 50% or more of our common stock entitled to vote for directors, but does not occur as a result of an acquisition by Marchex or any corporation controlled by Marchex.

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

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

Benefit Plans

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

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

Marchex has reserved 6,288,901 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 Class B common stock issuable upon conversion of any outstanding capital stock) on such date. The total number of

shares of Class B common stock for which options designated as ISOs may be granted shall not exceed 8,000,000. As of September 30, 2004, options to purchase 3,571,167 shares of Class B common stock were outstanding. As of September 30, 2004, options to purchase 75,350 shares of Class B common stock had been exercised under the plan.

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

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

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

Employee Stock Purchase Plan. Our 2004 employee stock purchase plan, effective on March 30, 2004, was adopted by our board of directors and approved by our stockholders on February 15, 2004. This plan will be intended to qualify under Section 423 of the Internal Revenue Code and will permit eligible employees to purchase our Class B common stock for amounts up to 15% of their compensation in offering periods under the plan. Under the purchase plan, no employee will be permitted to purchase stock worth more than $25,000 in any calendar year, valued as of the first day of each offering period. We have authorized an aggregate of 300,000 shares of our Class B common stock for issuance under the purchase plan to participating employees.

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

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

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

Limitations on Directors' Liability and Indemnification Matters

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

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

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

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

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Organizational Transactions

Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou, John Keister and Victor Oquendo, our initial stockholders, were involved in our initial funding and by reason of such involvement would be deemed to be acting as promoters as such term is defined by Rule 405 of Regulation C under the Act. Following our inception, in January 2003, we issued an aggregate of 12,250,000 shares of our Class A common stock to these individuals 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.

As part of our original organization, we purchased certain property and equipment from Russell C. Horowitz and an affiliated entity for approximately $57,000 and from Ethan A. Caldwell for approximately $4,000. The original cost of the property and equipment was $70,000 and $4,000, respectively. The purchase price for such property and equipment was based on the estimated fair market value of the property and equipment as determined by our initial stockholders.

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. Upon the closing of our initial public offering, all outstanding shares of preferred stock automatically converted 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 founding executive officers, directors, five-percent and initial stockholders and certain of their family members or permitted transferees:

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

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

[2] Hippo Beach Trust is the sole member of Rainwater River Authority, LLC. The beneficial owner of the shares held by such trust is Mr. David M. Horowitz, 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: (1) MARRCH Investments, LLC; and (2) 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 customary piggyback registration rights which are triggered by this offering. Notwithstanding the foregoing, the underwriters can limit the number of shares to be included in such registration. 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.

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 31, 2004 and as adjusted to reflect the sale of the Class B common stock in the offering 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 owns our common stock;
- each of our executive officers listed in the "Summary Compensation Table" who owns our common stock; and
- all directors and executive officers as a group.

Percentage of beneficial ownership is based on 25,498,961 shares of common stock outstanding as of December 31, 2004 and 32,938,200 shares of common stock outstanding after completion of the Class B common stock offering, including 439,239 shares of Class B common stock that we estimate we will issue in connection with the closing of the Name Development asset acquisition assuming that $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, is the applicable price for determining the number of shares to be issued. This percentage also assumes that the underwriters will not exercise their over-allotment option to purchase an additional 1,050,000 shares of Class B common stock from us. This percentage also excludes the shares of Class B common stock issuable upon conversion of the preferred stock being offered in the preferred stock 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 31, 2004, are deemed outstanding. These shares are not, however, deemed outstanding for the purposes of computing the percentage ownership of any other person. Except as otherwise noted below, the address for each beneficial owner listed below is c/o Marchex, Inc., 413 Pine Street, Suite 500, Seattle, Washington 98101.

		Percentage of Shares Outstanding	
Name of Beneficial Owner	Number of Shares Owned	Before Offering	After Offering
Russell C. Horowitz[1]	9,525,040	37.4%	28.9%
Michael A. Arends[2]	208,083	*	*
John Keister[3]	2,695,160	10.6%	8.2%
Rainwater River Authority, LLC[4]	804,500	3.2%	2.4%
Twin Oaks Plateau, LLC[5]	500,000	2.0%	1.5%
Dennis Cline[6]	110,000	*	*
Jonathan Fram[7]	25,000	*	*
Rick Thompson[8]	1,218,333	4.8%	3.7%
All directors and executive officers as a group (9 persons)[9]	15,395,992	59.8%	46.4%

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: (1) 8,026,707 shares of our Class A common stock held by MARRCH Investments, LLC; (2) 1,400,000 shares of our Class B common stock held by MARRCH Investments, LLC; and (3) 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.

Footnotes continued on following page

(2) Includes: (1) 164,583 shares of our Class B common stock issuable upon exercise of options; (2) 11,500 shares of our Class B common stock; (3) 10,500 shares of our Class B common stock held by the Nicole Marie Arends 2003 Trust for the benefit of Nicole Marie Arends, the daughter of Mr. Arends, for which shares Mr. Arends disclaims beneficial ownership; (4) 15,000 shares of Class B common stock held in an Individual Retirement Account for the benefit of Mr. Arends; and (5) 6,500 shares of Class B common stock held in an Individual Retirement Account for the benefit of Diana Arends, Mr. Arends's wife.

(3) Includes: (1) 2,000,167 shares of our Class A common stock; (2) 6,160 shares of our Class B common stock held in an Individual Retirement Account for the benefit of Mr. Keister; (3) 58,657 shares of our Class B common stock held in a Grantor Retained Annuity Trust, of which Mr. Keister is the grantor; and (5) 630,176 shares of our Class B common stock.

(4) Hippo Beach Trust is the sole member of Rainwater River Authority, LLC. The beneficial owner of the shares held by such trust is Mr. David M. Horowitz. The address for Rainwater River Authority, LLC is: 10900 NE 8th Street, Suite 900, Bellevue, Washington 98004.

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

(6) Consists of 100,000 shares held by DMC Investments, LLC, a limited liability company of which Mr. Cline is the managing member and 10,000 shares of Class B common stock subject to options that are currently exercisable or exercisable within 60 days of December 31, 2004.

(7) Consists of 15,000 shares held by the Jonathan and Leslie Fram Trust for the benefit of Mr. Fram and Leslie Fram, Stanford Fram, Timothy Fram and Sarah Fram, Mr. Fram's wife and children, and 10,000 shares of Class B common stock subject to options that are currently exercisable or exercisable within 60 days of December 31, 2004.

(8) Includes: (1) 1,158,333 shares of our Class B common stock; (2) 30,000 shares of our Class B common stock held by the Daniel Thompson Trust for the benefit of Daniel Thompson, Mr. Thompson's son; (3) 20,000 shares of our Class B common stock held by the Ellen Thompson Trust for the benefit of Ellen Thompson, Mr. Thompson's daughter; and (4) 10,000 shares of Class B common stock subject to options that are currently exercisable or exercisable within 60 days of December 31, 2004. Mr. Thompson disclaims beneficial ownership for the shares in this section (2) and (3).

(9) Includes an aggregate of: (1) 11,537,500 shares of our Class A common stock; (2) 3,610,159 shares of our Class B common stock (including 60,500 shares for which beneficial ownership has been disclaimed); and (3) 248,333 shares of our Class B common stock subject to options that are currently exercisable or exercisable within 60 days of December 31, 2004.

DESCRIPTION OF CAPITAL STOCK

General

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

Authorized and Outstanding Capital Stock

Marchex is 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.

Prior to Completion of the Offering. As of September 30, 2004, there were 25,409,039 shares of common stock outstanding that were held by 149 stockholders of record. Of these shares:

- 11,987,500 shares were issued as Class A common stock, and as of this date were held by 5 stockholders of record, and
- 13,421,539 shares were issued as Class B common stock, and as of this date were held by 144 stockholders of record.

As of September 30, 2004, we had options outstanding for the purchase of an aggregate of 3,571,167 shares of Class B common stock with a weighted average exercise price of $4.02 per share. These options were issued under our 2003 amended and restated stock incentive plan, which is discussed in more detail below.

Upon Completion of the Offering. Our authorized capital stock, following the completion of the Class B common stock and preferred stock offerings, 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 20,421,539 will be outstanding (21,471,539 shares if the underwriters' over-allotment option is exercised in full); and
- with 1,000,000 shares authorized as our % convertible exchangeable preferred stock, $0.01 par value per share, of which 200,000 will be outstanding (230,000 shares if the underwriters' over-allotment option is exercised in full).

In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly.

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 our stockholders:

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 our liquidation, dissolution or winding up. 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 the Class B common stock offering will be, fully paid and non-assessable.

Preferred Stock

Our board of directors has 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 also has 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.

The shares of the preferred stock, when issued and sold for the consideration contemplated by the preferred stock offering, will be duly and validly issued, fully paid and nonassessable and the holders thereof will have no preemptive rights in connection therewith. The preferred stock will not be subject to any sinking fund or other obligation of Marchex to redeem or retire the preferred stock. Unless earlier converted, exchanged or redeemed by Marchex, the preferred stock will have a perpetual maturity. Any preferred stock converted, exchanged or redeemed or otherwise acquired by us will, upon cancellation of such shares, have the status of authorized but unissued shares of preferred stock.

[P] % Convertible Exchangeable Preferred Stock

The preferred stock is discussed below under the caption "Description of Preferred Stock."

[C] Proposed Terms of Preferred Stock

We are concurrently offering, with a separate prospectus, 200,000 shares of our % convertible exchangeable preferred stock. The closing of this offering is subject to the concurrent closing of the Name Development asset acquisition described in this prospectus but is not contingent upon the closing of the concurrent preferred stock offering. The following summary of the proposed terms of the preferred stock is not complete and is subject to, and qualified in its entirety by reference to, our certificate of incorporation and the certificate of designation governing the preferred stock.

General. Each share of preferred stock will have a "liquidation preference" of $250 plus all accrued and unpaid dividends through the distribution date, which is the amount a holder of one share of preferred stock would be entitled to receive if our company were liquidated. We will pay cumulative, cash dividends on the preferred stock at an annual rate of % of the liquidation preference of the preferred stock.

Optional Conversion by Holders. Holders of the preferred stock will have the right to convert some or all of their shares of preferred stock into shares of our Class B common stock, unless we have already redeemed them. The initial conversion price will be $ per share. At that price, holders of the preferred stock would receive approximately shares of our Class B common stock for each share of preferred stock. Holders of preferred stock will not be entitled to any accrued or unpaid dividends upon conversion. The conversion price will be adjusted if specified dilutive events or specified transactions occur.

Optional Conversion by Us. We may elect to convert some or all of the preferred stock into shares of our Class B common stock if the closing price of our Class B common stock has exceeded 150% of the conversion price of the preferred stock for at least 20 out of 30 consecutive trading days ending within five trading days prior to the notice of automatic conversion. If we elect to automatically convert some or all of the preferred stock prior to , 2008, we will also make an additional payment for accrued but unpaid dividends in cash or, at our option, in shares of our Class B common stock or a combination of cash and shares of our Class B common stock, with the Class B common stock valued at 97.5% of the average closing price for the five trading days immediately preceding the second trading day prior to the date of automatic conversion.

Redemption of the Preferred Stock by Us. Beginning on , 2008, we will have the right to redeem some or all of the preferred stock at a redemption price equal to $ per share, plus accrued and unpaid dividends to, but excluding, the date of redemption. The redemption price will decline until it equals $250 per share on , 2015, and will remain at $250 per share thereafter until redeemed. We will pay this redemption price out of legally available funds.

Ranking. The preferred stock will rank:

- junior to all our existing and future indebtedness and other obligations;
- junior to any of our capital stock or preferred stock which provides that it be ranked senior to the preferred stock and which receives the requisite approval of the holders of the preferred stock; and
- equal with any of our preferred stock issued in the future which provides that it be ranked equal with the preferred stock and which receives the requisite approval of the holders of the preferred stock.

Exchange Provisions. We may exchange the preferred stock in whole, but not in part, for debentures on any dividend payment date on or after , 2006, at the rate of $250 principal amount of debentures for each outstanding share of the preferred stock. On the date of this exchange, rights as a stockholder of Marchex will cease, and the shares of preferred stock will no longer be outstanding and will only represent the right to receive the debentures and any accrued and unpaid dividends. We may not exercise our option to exchange the preferred stock for the debentures if full cumulative dividends on the preferred stock have not been paid or set aside for payment, or if an event of default under the indenture has occurred and is continuing.

Voting Rights. Holders of the preferred stock will be entitled to elect two additional directors to the board of directors if we have not declared or paid dividends on the preferred stock for a total of six quarterly periods. These voting rights and the terms of office of the additional directors will terminate when we have declared and either paid or set aside for payment accrued and unpaid dividends.

In addition, the vote or consent of at least a majority of the holders of the preferred stock will be required to take specified actions or enter into specified transactions that would adversely effect the preferred stock.

Warrants to Representatives in Initial Public Offering

At the closing of our initial public offering in April 2004, we sold warrants to purchase shares of our Class B common stock to Sanders Morris Harris Inc. and National Securities Corporation, as representatives of the underwriters for our initial public offering, for nominal consideration.

These representatives, or their designees, may exercise warrants to purchase up to 120,000 shares of Class B common stock over a period commencing on April 5, 2005 and ending April 5, 2009 for an exercise price of $8.45 per share. We have reserved an equivalent number of shares of Class B common stock for issuance upon exercise of the warrants. The holders of the warrants will not possess any rights as a stockholder unless the

warrants are exercised. These warrants grant to the holders thereof certain piggyback registration rights for the shares of Class B common stock issuable upon exercise thereof, as set forth in more detail below.

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.

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

Registration Rights

As of September 30, 2004, the holders of an aggregate of 20,712,604 shares of our Class A and Class B common stock are entitled to rights to register these shares under the Securities Act. These rights are provided under: (1) the stockholders’ agreement entered into with certain investors, dated as of January 23, 2003; (2) 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, dated as of October 24, 2003; (3) the warrant agreement issued to Sanders Morris Harris Inc., dated as of April 5, 2004; (4) the warrant agreement issued to National Securities Corporation, dated as of April 5, 2004; (5) the registration rights agreement entered into with the holder of those shares of Class B common stock which were issued in connection with the acquisition of goClick, dated as of July 27, 2004; and (6) the asset purchase agreement entered into in connection with the acquisition of certain assets of Name Development, dated as of November 19, 2004. With the exception of the Name Development asset purchase agreement, each of these holders are entitled to customary piggyback registration rights upon request at our expense subject to the right of underwriters to limit the number of shares included in such registration and underwriting. The piggyback registration rights granted to Sanders Morris Harris Inc. and National Securities Corporation in connection with our initial public offering are not effective until April 5, 2005 and will therefore not be triggered by this offering. In connection with the Name Development asset acquisition, we have also agreed to file a registration statement to register the shares of Class B common stock issued as part of the equity consideration thereunder or any shares of Class B common stock issued in connection with payment of the termination fee pursuant to the asset purchase agreement for resale on Form S-3 once we become eligible to file such a registration statement with the SEC. This offering will trigger piggyback registration rights with respect to holders of an aggregate of 20,712,604 shares of our Class A and Class B common stock which have been waived in connection with 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 Class B 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.

Drag Along Rights

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

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

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

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

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

2003 Stock Incentive Plan

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

2004 Employee Stock Purchase Plan

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

Anti-Takeover Provisions Affecting Stockholders

As of December 31, 2004, our founding executive officers control ninety-three percent (93%) of the combined voting power of our outstanding capital stock, which could be deemed to have an anti-takeover effect.

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

- any breach of the director's duty of loyalty to us or our stockholders;
- acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- acts or omissions in respect of certain unlawful dividend payments or stock redemptions or repurchases; or
- any transaction from which such director derives improper personal benefit.

Our by-laws provide that we shall, to the extent permitted by Delaware law, indemnify and advance expenses to our currently acting and former directors, officers, employees and agents or director, officers, employees and

agents of other corporations, partnerships, joint ventures, trusts or other enterprises if serving at our request arising in connection with their acting in such capacities. We have entered into indemnification agreements with each of our directors and executive officers.

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

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

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

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

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

Nasdaq National Market Listing

Marchex's Class B common stock is listed on the Nasdaq National Market under the trading symbol "MCHX." We have applied to have the preferred stock listed on the Nasdaq National Market under the trading symbol "MCHXP."

Transfer Agent and Registrar

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

[P] DESCRIPTION OF PREFERRED STOCK

The following is a summary of some, but not all, of the terms of the preferred stock. You should refer to the actual terms of the preferred stock and the certificate of designation filed with the Secretary of State of the State of Delaware and filed as an exhibit to this registration statement. As used in this description, the words “we,” “us” or “our” do not include any current or future subsidiary of Marchex.

General

Our board of directors has the authority, without stockholder approval, to issue up to 1,000,000 shares of preferred stock in one or more series and to determine the rights, privileges and limitations of the preferred stock. The rights, preferences, powers and limitations on different series of preferred stock may differ with respect to dividend rates, amounts payable on liquidation, voting rights, conversion rights, redemption provisions, sinking fund provisions, and purchase funds and other matters.

In the description, we refer to our % convertible exchangeable preferred stock as the “preferred stock.” The shares of preferred stock, when issued and sold in the manner contemplated by this prospectus, will be duly and validly issued, fully paid and nonassessable. You will not have any preemptive rights if we issue other series of preferred stock. The preferred stock is not subject to any sinking fund. We have no obligation to retire the preferred stock. The preferred stock has a perpetual maturity, subject to your right to convert the preferred stock and our right to auto-convert the preferred stock and exchange or redeem the preferred stock at our option. Any preferred stock converted, exchanged or redeemed or acquired by us will, upon cancellation, have the status of authorized but unissued shares of preferred stock. We will be able to reissue these cancelled shares of preferred stock.

Dividends

When and if declared by our board of directors out of the legally available funds, you will be entitled to receive cash dividends at an annual rate of % of the liquidation preference of the preferred stock. Dividends will be payable quarterly on , , and , beginning 2005. In the case of any accrued but unpaid dividends, we will pay dividends at additional times and for interim periods, if any, as determined by our board of directors. Dividends on the preferred stock will be cumulative from the issue date. Dividends will be payable to holders of record as they appear on our stock books not more than 60 days nor less than 10 days preceding the payment dates, as fixed by our board of directors. If the preferred stock is called for redemption on a redemption date between the dividend record date and the dividend payment date and you do not convert the preferred stock (as described below), you shall receive the dividend payment together with all other accrued and unpaid dividends on the redemption date instead of receiving the dividend on the dividend date. Dividends payable on the preferred stock for any period greater or less than a full dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months. Accrued but unpaid dividends will not bear interest.

If we do not pay or set aside dividends in full on the preferred stock and any other preferred stock ranking on the same basis as to dividends, all dividends declared upon shares of the preferred stock and any other preferred stock will be declared on a pro rata basis. For these purposes, “pro rata” means that the amount of dividends declared per share on the preferred stock and any other preferred stock bear to each other will be the same ratio that accrued and unpaid dividends per share on the shares of the preferred stock and such other preferred stock bear to each other. Except as described above, we will not be able to redeem, purchase or otherwise acquire any of our stock ranking on the same basis as the preferred stock as to dividends or liquidation preferences unless we have paid or set aside full cumulative dividends, if any, accrued on all outstanding shares of preferred stock.

Unless we have paid or set aside full cumulative dividends, if any, accrued on all outstanding shares of preferred stock and any other of our preferred stock ranking on the same basis as to dividends:

- we may not declare or pay or set aside dividends on common stock or any other stock ranking junior to the preferred stock as to dividends or liquidation preferences, excluding dividends or distributions of shares, options, warrants or rights to purchase common stock or other stock ranking junior to the preferred stock as to dividends; or
- we will not be able to redeem, purchase or otherwise acquire any of our other stock ranking junior to the preferred stock as to dividends or liquidation preferences.

Under Delaware law, we may only make dividends or distributions to our stockholders from:

- our surplus; or
- the net profits for the current fiscal year or the fiscal year before which the dividend or distribution is declared under certain circumstances.

Our ability to pay dividends and make any other distributions in the future will depend upon our financial results, liquidity and financial condition.

Conversion Rights

General

You may convert the preferred stock at any time into a number of shares of Class B common stock determined by dividing the $250 liquidation preference by the conversion price of $, subject to adjustment as described below. When we refer to common stock or common equity in this prospectus, we are referring to both the Class A common stock and Class B common stock. This conversion price is equivalent to a conversion rate of approximately shares of Class B common stock for each share of preferred stock. We will not make any adjustment for accrued or unpaid dividends or for common stock dividends upon conversion. We will not issue fractional shares of Class B common stock upon conversion. However, we will instead pay cash for each fractional share based upon the market price of the Class B common stock on the last business day prior to the conversion date. If we call the preferred stock for redemption, your right to convert the preferred stock will expire at the close of business on the next business day preceding the date fixed for redemption, unless we fail to pay the redemption price.

In order to convert your shares of preferred stock, you must either:

- deliver your preferred stock certificate at the transfer agent office and a duly signed and completed notice of conversion, or
- if the preferred stock is held in global form, according to the procedures set forth below under the subsection entitled “Form, Denomination and Registration.”

The conversion date will be the date you deliver your preferred stock certificate and the duly signed and completed notice of conversion to the transfer agent. You will not be required to pay any taxes or duties on conversion, but will be required to pay any tax or duty payable as a result of the Class B common stock upon conversion being issued other than in your name. We will not issue Class B common stock certificates unless all taxes and duties, if any, have been paid by the holder. If you convert your preferred stock after a dividend record date and prior to the next dividend payment date, you will have to pay us an amount equal to the dividend payable on such dividend payment date unless the preferred stock has been called for redemption or we have issued a notice of automatic conversion.

Conversion Price Adjustment—General

The conversion price of $ will be adjusted if:

(1) we dividend or distribute common stock on shares of our common stock;

(2) we subdivide or combine our common stock;

(3) we issue to all holders of common stock certain rights or warrants to purchase our common stock at less the current market price;

(4) we dividend or distribute to all holders of our common stock shares of our capital stock or evidences of indebtedness or assets, excluding:

- those rights, warrants, dividends or distributions referred to in (1) or (3), or
- dividends and distributions paid exclusively in cash;

(5) we make a dividend or distribution consisting exclusively of cash to all holders of common stock;

(6) we purchase common stock pursuant to a tender offer made by us or any of our subsidiaries; and

(7) a person other than us or any of our subsidiaries makes any payment on a tender offer or exchange offer and, as of the closing of the offer, the board of directors is not recommending rejection of the offer. We will only make this adjustment if the tender or exchange offer increases a person's ownership to more than *25%* of our outstanding common equity, and only if the payment per share of common stock exceeds the current market price of our Class B common stock. We will not make this adjustment if the offering documents disclose our plan to engage in any consolidation, merger, or transfer of all or substantially all of our properties and if specified conditions are met.

In the event that we pay a dividend or make a distribution on shares of our common stock consisting of capital stock of, or similar equity interests in, as described in paragraph (4) above, a subsidiary or other business unit of ours, the conversion price will be adjusted based on the market value of the securities so distributed relative to the market value of our Class B common stock, in each case based on the average sale prices of those securities for the 10 trading days commencing on and including the fifth trading day after the date on which "ex-dividend trading" commences for such dividend or distributed on the Nasdaq National Market or such other national or regional exchange or market on which the securities are then listed or quoted.

If we implement a stockholder rights plan, this new rights plan must provide that upon conversion of the exiting preferred stock the holders will receive, in addition to the Class B common stock issuable upon such conversion, the rights under such rights plan unless the rights have separated from the common stock before the time of conversion, in which case the conversion price will be adjusted as if we distributed to all holders of our common stock, shares of our capital stock, evidences of indebtedness or assets as described above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

We may make a temporary reduction in the conversion price of the preferred stock if our board of directors determines that this decrease would be in the best interests of Marchex. We may, at our option, reduce the conversion price if our board of directors deems it advisable to avoid or diminish any income tax to holders of common stock resulting from any dividend or distribution of stock or rights to acquire stock or from any event treated as such for income tax purposes. See the section entitled "Material Federal Income Tax Consequences" below for more information.

Conversion Price Adjustment—Merger, Consolidation or Sale of Assets

If we are involved in a transaction in which shares of our common stock are converted into the right to receive other securities, cash or other property, or a sale or transfer of all or substantially all of our assets under which the holders of our common stock shall be entitled to receive other securities, cash or other property, then appropriate provision shall be made so that your preferred stock will convert into:

(1) if the transaction is a common stock fundamental change (as defined below), common stock of the kind received by holders of common stock as a result of common stock fundamental change in accordance with paragraph (1) below under the subsection entitled "—Fundamental Change Conversion Price Adjustments," and

(2) if the transaction is not a common stock fundamental change, and subject to funds being legally available at conversion, the kind and amount of the securities, cash or other property that would have been receivable upon the recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange by a holder of the number of shares of Class B common stock issuable upon conversion of the preferred stock immediately prior to the recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange, after giving effect to any adjustment in the conversion price in accordance with paragraph (2) below under the subsection entitled "—Fundamental Change Conversion Price Adjustments."

The company formed by the consolidation, merger, asset acquisition or share acquisition shall provide for this right in its organizational document. This organizational document shall also provide for adjustments so that the organizational document shall be as nearly practicably equivalent to adjustments in this section for events occurring after the effective date of the organizational document.

The following types of transactions, among others, would be covered by this adjustment:

(1) we recapitalize or reclassify our common stock, except for:

- a change in par value,
- a change from par value to no par value,
- a change from no par value to par value, or
- a subdivision or combination of our common stock,

(2) we consolidate or merge into any other person, or any merger of another person into us, except for a merger that does not result in a reclassification, conversion, exchange or cancellation of common stock,

(3) we sell, transfer or lease all or substantially all of our assets and holders of our common stock become entitled to receive other securities, cash or other property, or

(4) we undertake any compulsory share exchange.

Fundamental Change Conversion Price Adjustments

If a fundamental change occurs, the conversion price will be adjusted as follows:

(1) in the case of a common stock fundamental change, the conversion price shall be the conversion price after giving effect to any other prior adjustments effected pursuant to the preceding paragraphs, multiplied by a fraction, the numerator of which is the purchaser stock price and the denominator of which is the applicable price. However, in the event of a common stock fundamental change in which:

(a) 100% of the value of the consideration received by a holder of our common stock is common stock of the successor, acquiror or other third party, and cash, if any, paid with respect to any fractional interests in such common stock resulting from such common stock fundamental change, and

(b) all of our common stock shall have been exchanged for, converted into or acquired for, common stock of the successor, acquiror or other third party, and any cash with respect to fractional interests, the conversion price shall be the conversion price in effect immediately prior to such common stock fundamental change multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of shares of common stock of the successor, acquiror or other third party received by a holder of one share of our common stock as a result of the common stock fundamental change; and

(2) in the case of a non-stock fundamental change, the conversion price shall be the lower of:

(a) the conversion price after giving effect to any other prior adjustments effected pursuant to the preceding paragraphs, and

(b) the product of:

(1) the greater of the applicable price or $, and

(2) a fraction, the numerator of which is $250 and the denominator of which is (x) the amount of the redemption price for one share of preferred stock if the redemption date were the date of the non-stock fundamental change (or the date of the period beginning on the first issue date of the preferred stock and through , 2005, or the twelve-month period commencing , 2005, the product of % and %, respectively, times $250) plus (y) any then-accrued and unpaid distributions on one share of preferred stock.

You may receive significantly different consideration upon conversion depending upon whether a fundamental change is a non-stock fundamental change or a common stock fundamental change. In the event of a non-stock fundamental change, your preferred stock will convert into stock and other securities or property or assets, including cash, determined by the number of shares of Class B common stock receivable upon conversion at the conversion price as adjusted in accordance with (2) above. In the event of a common stock fundamental change, under certain circumstances you will receive different consideration depending on whether you convert your preferred stock on or after the common stock fundamental change. For example, you will receive Class B common stock if you convert your preferred stock following a common stock fundamental change in which less than 100% of the value of the consideration received by a holder of common stock is common stock of the successor, acquirer or other third party. However, if you had converted your preferred stock prior to the common stock fundamental change, you would have received consideration in the form of such Class B common stock as well as any other securities or assets, including cash, issuable upon conversion of such preferred stock immediately prior to the common stock fundamental change.

Additional Conversion Price Adjustment Upon Certain Fundamental Changes

In addition to the conversion price adjustments set forth above upon a fundamental change, if a fundamental change occurs prior to , 2008, and 10% or more of the consideration for the common stock in the corporate transaction that constitutes such fundamental change consists of cash, securities or other property that is not traded or scheduled to be traded immediately following such transaction on a U.S. national security exchange or the Nasdaq National Market, we will adjust the conversion price by increasing the conversion rate for the preferred stock surrendered for conversion by a number of additional shares (the “additional shares”) as described below.

The number of additional shares will be determined by reference to the table below, based on the date on which such corporate transaction becomes effective (the “effective date”) and the price (the “stock price”) paid per share of our common stock in the corporate transaction. If holders of our common stock receive only cash in such corporate transaction, the stock price shall be the cash amount paid per share. Otherwise, the stock price shall be the average of the closing sale prices of our Class B common stock on the five trading days prior to but not including the effective date of our Class B common stock on the five trading days prior to but not including the effective date of such corporate transaction.

The stock prices set forth in the first row of the table below (i.e. column headers) will be adjusted as of any date on which the conversion rate of the preferred stock is adjusted, as described above under “Conversion Price Adjustment—General.” The adjusted stock prices will equal the stock prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. The number of additional shares will be adjusted in the same manner as the conversion rate set forth above under “Conversion Price Adjustment—General.”

The following table sets forth the hypothetical stock price and number of additional shares to be received per $250 liquidation preference.

	Stock Price									
Effective Date	$	$	$	$	$	$	$	$	$	$
, 2005										
, 2006										
, 2007										
, 2008										

The stock prices and additional share amounts set forth above are based upon a Class B common stock price of and an initial conversion price of .

The exact stock prices and effective dates may not be set forth in the table above, in which case:

- If the stock price is between two stock price amounts in the table or the effective date is between two effective dates in the table, the number of additional shares will be determined by a straight line interpolation between the number of additional shares set forth for the higher and lower stock price amounts and the two dates, as applicable, based on a 365-day year.
- If the stock price is equal to or in excess of $ per share (subject to adjustment), no additional shares will be issued upon conversion.
- If the stock price is less than $ per share (subject to adjustment), no additional shares will be issued upon conversion.

Notwithstanding the foregoing, in no event will the total number of shares of Class B common stock issuable upon conversion exceed per preferred share, subject to adjustments in the same manner as the conversion price as set forth under “Conversion Rights.”

Definitions for the Fundamental Change Adjustment Provision

The term “applicable price” means:

- in a non-stock fundamental change in which the holders of common stock receive only cash, the amount of cash received by a holder of one share of common stock, and
- in the event of any other fundamental change, the average of the daily closing price for one share of Class B common stock during the 10 trading days immediately prior to the record date for the determination of the holders of common stock entitled to receive cash, securities, property or other assets in connection with the fundamental change or, if there is no such record date, prior to the date upon which the holders of common stock shall have the right to receive such cash, securities, property or other assets.

The term “common stock fundamental change” means any fundamental change in which more than 50% of the value, as determined in good faith by our board of directors, of the consideration received by holders of our common stock consists of common stock that, for the 10 trading days immediately prior to such fundamental change, has been admitted for listing or admitted for listing subject to notice of issuance on a national securities exchange or quoted on Nasdaq National Market, except that a fundamental change shall not be a common stock fundamental change unless either:

- we continue to exist after the occurrence of the fundamental change and the outstanding preferred stock continues to exist as outstanding preferred stock, or

- not later than the occurrence of the fundamental change, the outstanding preferred stock is converted into or exchanged for shares of convertible preferred stock, which convertible preferred stock has rights, preferences and limitations substantially similar, but no less favorable, to those of the preferred stock.

The term “fundamental change” means the occurrence of any transaction or event or series of transactions or events pursuant to which all or substantially all of our common stock shall be exchanged for, converted into, acquired for or shall constitute solely the right to receive cash, securities, property or other assets, whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization or otherwise. However, for purposes of adjustment of the conversion price, in the case of any series of transactions or events, the fundamental change shall be deemed to have occurred when substantially all of the common stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets, but the adjustment shall be based upon the consideration that the holders of our common stock received in the transaction or event as a result of which more than 50% of our common stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets.

The term “non-stock fundamental change” means any fundamental change other than a common stock fundamental change.

The term “purchaser stock price” means the average of the daily closing price for one share of the common stock received by holders of the common stock in the common stock fundamental change during the 10 trading days immediately prior to the date fixed for the determination of the holders of the common stock entitled to receive such common stock or, if there is no such date, prior to the date upon which the holders of the common stock shall have the right to receive such common stock.

Automatic Conversion

At any time, we may elect to convert some or all of the preferred stock if the closing price of our Class B common stock has exceeded 150% of the conversion price for at least 20 of the 30 consecutive trading days ending within five trading days prior to the notice of automatic conversion. If we elect to convert less than all of the preferred stock, we shall select the shares to be converted by lot or pro rata or in some other equitable manner in our discretion. On or after , 2008, we may not elect to automatically convert the preferred stock if full cumulative dividends on the preferred stock for all past dividend payments have not been paid or set aside for payment.

Dividend Make-Whole Payment

If we elect to automatically convert some or all of the preferred stock prior to , 2008, we will make an additional payment on the preferred stock equal to the aggregate amount of dividends that would have accrued and become payable on the preferred stock from , 2005 through and including , 2008, less any dividends already paid on the preferred stock. This additional payment is payable by us, in cash or, at our option, in shares of our Class B common stock or a combination of cash and shares of our Class B common stock, with the Class B common stock valued at 97.5% of the average closing price for the five trading days immediately preceding the second trading day prior to the date of automatic conversion. We will specify, in the notice of automatic conversion, whether we will make the dividend make-whole payment in cash, shares of our Class B common stock or a combination of cash and shares of our Class B common stock. We will not issue fractional shares for any additional payment upon conversion but will instead make a cash adjustment for any fractional share payment.

Liquidation Rights

In the event of our liquidation, you shall receive a liquidation preference of $250 per share and all accrued and unpaid dividends through the distribution date. For purposes of this section, the term “liquidation” refers to either a liquidation, dissolution or winding up of Marchex. Holders of any class or series of preferred stock ranking on the same basis as your preferred stock as to liquidation shall also be entitled to receive the full respective

liquidation preferences and any accrued and unpaid dividends through the distribution date. Only after the preferred stock holders have received their liquidation preference and any accrued and unpaid dividends will we distribute assets to common stock holders or any of our other stock ranking junior to the shares of preferred stock upon liquidation. If upon liquidation we do not have enough assets to pay in full the amounts due on the preferred stock and any other preferred stock ranking on the same basis with your preferred stock as to liquidation, you and the holders of such other preferred stock will share ratably in any such distributions of our assets:

- first in proportion to the liquidation preferences until the preferences are paid in full, and
- then in proportion to the amounts of accrued but unpaid dividends.

After we pay any liquidation preference and accrued dividends, you will not be entitled to participate any further in the distribution of our assets. The following events will not be deemed to be a liquidation of Marchex:

(1) the sale of all or substantially all of the assets, or

(2) our merger or consolidation into or with any other corporation, our liquidation, dissolution, winding up or reorganization immediately followed by a reincorporation of another corporation.

Optional Redemption

On or after , 2008 we may redeem the preferred stock, out of legally available funds, in whole or in part, at our option, at the redemption prices listed below. The redemption price for each share of preferred stock is as follows for the 12-month period beginning of the following years, beginning , 2008 and ending on , 2009 in the case of the first period:

Year	Redemption Price
2008	$
2009	
2010	
2011	
2012	
2013	
2014	

and $250 at , 2015 and thereafter. In each case we will pay accrued and unpaid dividends to, but excluding, the redemption date. We are required to give notice of redemption not more than 60 and not less than 20 days before the redemption date.

If we redeem less than all of the shares of preferred stock, we shall select the shares to be redeemed by lot or pro rata or in some other equitable manner in our sole discretion.

Exchange Provisions

We may exchange the preferred stock in whole, but not in part, for debentures on any dividend payment date on or after , 2006 at the rate of $250 principal amount of debentures for each outstanding share of preferred stock. Debentures will be issuable in denominations of $1,000 and integral multiples of $1,000. See the section entitled “Description of Debentures” below. If the exchange results in an amount of debentures that is not an integral multiple of $1,000, we will pay in cash an amount in excess of the closest integral multiple of $1,000. We will mail written notice of our intention to exchange the preferred stock to each record holder not less than 30 nor more than 60 days prior to the exchange date.

We refer to the date fixed for exchange of the preferred stock for debentures as the “exchange date.” On the exchange date, your rights as a stockholder of Marchex shall cease. Your shares of preferred stock will no longer

be outstanding, and will only represent the right to receive the debentures and any accrued and unpaid dividends, without interest. We may not exercise our option to exchange the preferred stock for the debentures if:

- full cumulative dividends on the preferred stock to the exchange date have not been paid or set aside for payment, or
- an event of default under the indenture has occurred and is continuing.

The exchange of preferred stock for debentures will be a taxable event, since holders will be exchanging their preferred stock for debt and we will not make any related cash payment to the holder. See the section entitled “Material Federal Income Tax Consequences” below.

Voting Rights

You will have no voting rights except as described below or as required by law. Holders of the preferred stock will be entitled to one vote for each share held on all matters submitted to a vote of the holders of preferred stock. Shares held by us or any of our affiliates will not have any voting rights.

If we have not paid dividends on the preferred stock or on any outstanding shares of preferred stock ranking on the same basis as to dividends with the preferred stock in an aggregate amount equal to at least six quarterly dividends whether or not consecutive, we will increase the size of our board of directors by two additional directors. So long as dividends remain due and unpaid, holders of the preferred stock, voting separately as a class with holders of preferred stock ranking on the same basis as to dividends having like voting rights, will be entitled to elect two additional directors at any meeting of stockholders at which directors are to be elected. These voting rights will terminate when we have declared and either paid or set aside for payment accrued and unpaid dividends. The terms of office of all directors so elected will terminate immediately upon the termination of these voting rights.

In addition, without the vote or consent of at least the majority of holders of preferred stock, we may not:

- adversely change the rights, preferences and limitations of the preferred stock by modifying our certificate of incorporation or bylaws, or
- authorize, issue, reclassify, increase the authorized amount, or authorize or issue any convertible obligation or security or right to purchase any class of stock that ranks senior to or on the same basis with the preferred stock as to dividends or distributions of assets upon liquidation, dissolution or winding up of the stock.

Without the vote or consent of the holders of at least a majority of the preferred stock we may not:

- enter into a share exchange that affects the preferred stock,
- consolidate with or merge into another entity, or
- permit another entity to consolidate with or merge into us,

unless the preferred stock remains outstanding and unaffected or is converted into or exchanged for convertible preferred stock of the surviving entity having rights, preferences and limitations substantially similar, but no less favorable, to the preferred stock, except for changes that do not affect the holders of the preferred stock adversely. In determining a majority under these voting provisions, holders of preferred stock will vote together with holders of any other preferred stock that rank on parity as to dividends and that have like voting rights.

Global Preferred Stock

The preferred stock will be evidenced by a global certificate which will be deposited with, or on behalf of, DTC and registered in the name of Cede & Co. as DTC's nominee. Except as set forth below, the global certificate may be transferred, in whole or in part, only to another nominee of DTC or to a successor of DTC or its nominee.

Purchasers may hold their interests in the global certificate directly through DTC or indirectly through organizations which are participants in DTC. Transfers between participants will be effected in the ordinary way in accordance with DTC rules and will be settled in clearing house funds. The laws of some states require that certain persons take physical delivery of securities in definitive form. Consequently, the ability to transfer beneficial interests in the global certificate to such persons may be limited.

Purchasers may beneficially own interests in the global certificate held by DTC only through participants, or certain banks, brokers, dealers, trust companies and other parties that clear through or maintain a custodial relationship, with a participant, either directly or indirectly through indirect participants. So long as Cede & Co., as the nominee of DTC, is the registered owner of the global certificate, Cede & Co. for all purposes will be considered the sole holder of the global certificate. Except as provided below, owners of beneficial interests in the global certificate will not be entitled to have certificates registered in their names, will not receive or be entitled to receive physical delivery of certificates in definitive form, and will not be considered the holders.

Payment of dividends on and the redemption price of the global certificate will be made to Cede & Co. by wire transfer of immediately available funds. Neither we, the trustee nor any paying agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the global certificate or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

We have been informed by DTC that, with respect to any payment of dividends on or the redemption price of the global certificate, DTC's practice is to credit participants' accounts on the payment date with payments in amounts proportionate to their respective beneficial interests in the preferred stock represented by the global certificate as shown on the records of DTC, unless DTC has reason to believe that it will not receive payment on such payment date. Payments by participants to owners of beneficial interests in preferred stock represented by the global certificate held through such participants will be the responsibility of such participants, as is now the case with securities held for the accounts of customers registered in "street name."

Because DTC can only act on behalf of participants, who in turn act on behalf of indirect participants and certain banks, the ability of a person having a beneficial interest in preferred stock represented by the global certificate to pledge such interest to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such interest, may be affected by the lack of a physical certificate evidencing such interest.

Neither we, the transfer agent, registrar, paying agent nor conversion agent will have any responsibility for the performance by DTC or its participants or indirect participants under the rules and procedures governing their operations. DTC has advised us that it will take any action permitted to be taken by a holder of preferred stock only at the direction of one or more participants to whose account with DTC interests in the global certificate are credited and only in respect of the amount of shares of the preferred stock represented by the global certificate as to which the participant has given this direction.

DTC is a limited purpose trust company organized under the laws of the State of New York, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Exchange Act. DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes to accounts of its participants, thereby eliminating the need for physical movement of certificates. Participants include securities brokers and dealers, banks, trust companies

and clearing corporations and may include certain other organizations such as the initial purchaser. Certain participants, together with other entities, own DTC. Indirect access to the DTC system is available to others such as banks, brokers, dealers and trust companies that clear through, or maintain a custodial relationship with, a participant, either directly or indirectly.

If DTC is at any time unwilling or unable to continue as depositary and a successor depositary is not appointed by us within 90 days, we will cause preferred stock to be issued in definitive form in exchange for the global certificate.

Transfer Agent and Registrar

Mellon Investor Services LLC will act as transfer agent and registrar for the preferred stock.

[P] DESCRIPTION OF DEBENTURES

If we elect to issue debentures in exchange for the preferred stock, we will issue the debentures under an indenture between us and , as trustee. The following summarizes some, but not all, of the provisions of the indenture and the debentures. You should refer to the actual terms of the indenture and the debentures for the definitive terms and conditions that have been filed as an exhibit to this registration statement. As used in this description, the words "we," "us" or "our" do not include any current or future subsidiary of Marchex.

If we elect to issue debentures for preferred stock, we will issue the debentures at a rate of $250 principal amount of debentures for each share of preferred stock that we exchange. The debentures will be general, unsecured, subordinated obligations of Marchex. The debentures will initially be limited to an aggregate principal amount equal to the aggregate liquidation value of the outstanding preferred stock, excluding accrued and unpaid dividends payable upon liquidation. We may, without the consent of the holders, "reopen" the notes and issue additional notes under the indenture with the same terms and with the same CUSIP numbers as the notes offered hereby in an unlimited aggregate principal amount, provided that no such additional notes may be issued unless fungible with the notes offered hereby for U.S. federal income tax purposes. The debentures will mature 25 years after the exchange date, unless earlier converted by a holder or redeemed at our option.

The debentures will be issued only in fully registered form, without coupons, in denominations of $1,000 and any integral multiple of $1,000. You will not be required to pay a service charge for registration of transfer or exchange of the debentures. We may, however, require you to pay any tax or other governmental charge payable in the transaction.

We will maintain an office in New York, New York where payments will be made on the debentures and where transfer of debentures will be registrable. Initially, this office will be an office or agency of the trustee in New York, New York.

The debentures will be issued in the same form as the preferred stock for which debentures were exchanged. Any global certificates will be replaced with one or more global debentures as described above under the section entitled "Description of Preferred Stock—Form, Denomination and Registration." Debentures may be issued in certificated form in exchange for a global debenture under limited specified circumstances.

We are not restricted from paying dividends or repurchasing securities under the indenture. We are not subject to any financial covenants under the indenture.

Interest

The debentures will bear interest at the rate of % per year. Interest will be paid on and of each year to the record holder on the preceding and . Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months. We may, at our option, pay interest in the debentures by check mailed to the holders. However, holders of more than $2.0 million in principal amount of debentures will be paid by wire transfer in immediately available funds at the holder's election.

Conversion Rights

Holders may convert their debentures at any time prior to maturity, subject to prior redemption, at a conversion price of $, subject to adjustment as described below. Except as described in this section, the conversion provisions of the debentures will be identical to the conversion provisions of the preferred stock. See the section entitled "Description of Preferred Stock—Conversion Rights" above for more information. If you convert your debentures after a record date and prior to the next interest payment date, you will have to pay us interest unless the debentures have been called for redemption. We are not required to issue fractional shares of Class B

common stock upon conversion of debentures. Instead, we will pay a cash adjustment based upon the market price of the Class B common stock on the last business day prior to the date of conversion. If the debentures are called for redemption, your conversion rights will expire at the close of business on the business day preceding the redemption date, unless we default in the payment of the redemption price.

In order to convert your debentures, you must deliver the debenture at the specified office of a conversion agent, along with a duly signed and completed notice of conversion and any interest that may be required as described in the preceding paragraph. The conversion date shall be the date on which you deliver the debenture, the duly signed and completed notice of conversion and any required interest payments as described in the preceding paragraph.

You will not be required to pay any taxes or duties payable for the issue or delivery of Class B common stock on conversion. You will, however, be required to pay any tax or duty payable as a result of the issuance of Class B common stock upon conversion in a name other than your name. We will not issue or deliver Class B common stock unless all taxes and duties, if any, have been paid by the holder.

Automatic Conversion

At anytime, we may elect to convert some or all of the debentures if the closing price of our Class B common stock has exceeded 150% of the conversion price for at least 20 of the 30 consecutive trading days ending within five trading days prior to the notice of automatic conversion. If we elect to convert less than all of the debentures, the trustee shall select the debentures to be converted by lot or pro rata or in some other equitable manner in our discretion.

Interest Make-Whole Payment

If we elect to automatically convert some or all of the debentures prior to , 2008, we will make an additional payment on the debentures equal to the value of the aggregate amount of interest that would have accrued and become payable on the debentures from the date of issuance upon the exchange through and including , 2008, less any interest already paid on the debentures. This additional payment is payable by us, in cash or, at our option, in shares of our Class B common stock or a combination of cash and our shares of Class B common stock, with the Class B common stock valued at 97.5% of the average closing price for the five trading days immediately preceding the second trading day prior to the date of automatic conversion. We will specify, in the notice of automatic conversion, whether we will make the interest make-whole payment in cash or shares of our Class B common stock or a combination of cash and shares of our Class B common stock.

Subordination

The debentures are subordinated to the prior payment in full of all senior indebtedness as provided in the indenture. Upon any distribution of our assets upon our dissolution, winding up, liquidation or reorganization, the payments on the debentures will be subordinated to the prior payment in full of all senior indebtedness. However, holders of debentures may receive securities that are subordinated at least to the same extent as the debentures are subordinated to senior indebtedness and any securities issued in exchange for senior indebtedness under the indenture.

If the debentures are accelerated as a result of an event of default, holders of all senior indebtedness will be entitled to payment in full in cash before the holders of the debentures will be entitled to receive any payment on the debentures. We are required to promptly notify holders of senior indebtedness if payment of the debentures is accelerated because of an event of default.

We may not make any payment on the debentures if:

- a default in the payment of senior indebtedness occurs and is continuing beyond any period of grace, or

- any other default occurs and is continuing under any designated senior indebtedness that permits holders of designated senior indebtedness to accelerate its maturity, and the trustee receives a notice known as a payment blockage notice from us or any other person permitted to give such notice under the indenture.

We may resume making payments on the debentures:

- in the case of a payment default, upon the date on which such default is cured or waived or ceases to exist, and
- in case of any other default, the earlier of the date on which such other default is cured or waived or ceases to exist or 179 days after receipt of the payment blockage notice, unless the maturity of any senior indebtedness is accelerated.

No new period of payment blockage arising due to a default other than a payment default may be commenced unless:

- 365 days have elapsed since the effectiveness of the immediately prior payment blockage notice, and
- all scheduled payments on the debentures have been paid in full in cash.

No default other than a payment default that existed or was continuing on the date of delivery of any payment blockage notice to the trustee shall be the basis for a subsequent payment blockage notice.

By reason of the subordination provisions, in the event of our bankruptcy, dissolution or reorganization, holders of senior indebtedness may receive more, and holders of the debentures may receive less, than our other creditors. These subordination provisions will not prevent the occurrence of any event of default under the indenture.

The term “senior indebtedness” means the principal, premium, if any, and interest on any indebtedness of Marchex, including bankruptcy interest or any other payment on indebtedness, whether outstanding on the date of the indenture or thereafter created, incurred, assumed, guaranteed or in effect guaranteed by us including all deferrals or renewals or amendments or modifications. However, senior indebtedness does not include:

- indebtedness evidenced by the debentures,
- any liability for federal, state, local or other taxes owed or owing by us,
- our indebtedness to any of our subsidiaries,
- any of our trade payables incurred in the ordinary course of business, and
- any indebtedness that expressly provides that the indebtedness shall not be senior in right of payment to, or is on the same basis with, or is subordinated or junior to, the debentures.

The term “indebtedness” means:

(1) all obligations:

- for borrowed money,
- evidenced by a note, debenture, bond or other written instrument,
- under a lease required to be capitalized on the balance sheet of the lessee under generally accepted accounting principles,
- under any lease or related document, including a purchase agreement, that provides that we are contractually obligated to purchase or cause a third party to purchase and thereby guarantee a

minimum residual value of the lease property to the lessor and our obligations under this lease or related document to purchase or to cause a third party to purchase such leased property,

- letters of credit, bank guarantees or bankers' acceptances, including reimbursement obligations,
- indebtedness secured by a mortgage, pledge, lien, encumbrance, charge or adverse claim affecting title in an encumbrance to which the property or assets of the person are subject,
- the balance of deferred and unpaid purchase price of any property or assets,
- under interest rate or currency swap agreements, cap, floor and collar agreements, spot and forward contracts and similar agreements and arrangements;

(2) any obligation of others of the type described in the preceding section (1) or under section (3) below assumed by or guaranteed or in effect guaranteed through an agreement to purchase; and

(3) any deferrals, renewals or amendments or modifications of section (1) and section (2) above.

The term "designated senior indebtedness" means any particular senior indebtedness that expressly provides that such senior indebtedness shall be designated senior indebtedness for purposes of the indenture.

If the trustee or any holder of debentures receives any payment or distribution of our assets of any kind in contravention of the indenture, then this payment or distribution will be held by the recipient in trust for the benefit of the holders of senior indebtedness and will be immediately paid over or delivered to the holders of senior indebtedness or their representatives.

The debentures are our exclusive obligations. Since a significant amount of our operations are conducted through our subsidiaries, our cash flow and our consequent ability to service debt, including the debentures, will depend in part upon the earnings of our subsidiaries and the distribution of those earnings to, or under loans or other payments of funds by those subsidiaries to, us. The payment of dividends and the making of loans and advances to us by our subsidiaries may be subject to statutory or contractual restrictions, will depend upon the earnings of those subsidiaries and are subject to various business considerations.

Our right to receive assets of any of our subsidiaries upon their liquidation or reorganization (and the consequent right of the holders of the debentures to participate in those assets) is effectively subordinated to the claims of that subsidiary's creditors (including trade creditors), except to the extent that we are recognized as a creditor of that subsidiary, in which case our claims would still be subordinate to any security interests in the assets of that subsidiary and any indebtedness of that subsidiary senior to that held by us.

As of September 30, 2004, we had no indebtedness outstanding that would have constituted senior indebtedness, and our subsidiaries had approximately $6.8 million of indebtedness and other liabilities outstanding to which the notes would have been effectively subordinated (including trade and other payables, but excluding intercompany liabilities). The indenture will not limit the amount of additional indebtedness, including senior indebtedness, which we can create, incur, assume or guarantee, nor will the indenture limit the amount of indebtedness or other liabilities that any subsidiary can create, incur, assume or guarantee.

Optional Redemption

On or after , 2008, we may redeem the debentures, in whole or in part, at our option, at the redemption prices listed below. The redemption prices, expressed as a percentage of the principal amount, for each $1,000 principal amount of debentures are as follows for the 12-month periods beginning of the following years, beginning , 2008 and ending on , 2009 in the case of the first period.

Year	Redemption Price
2008	%
2009	
2010	
2011	
2012	
2013	
2014	

and 100% at , 2015 and thereafter. In each case we will pay accrued interest to, but excluding, the redemption date. If the redemption date is an interest payment date, we will pay interest to the record holders as of the relevant record date. We are required to give notice not more than 60 and not less than 20 days before the redemption date.

If fewer than all the debentures are to be redeemed, the trustee will select the debentures to be redeemed in principal amounts of $1,000 or multiples of 1,000 by lot or, in its discretion, on a pro rata basis.

No sinking fund is provided for the debentures, which means that we are not required under the indenture to redeem or retire the debentures periodically.

Events of Default and Remedies

The following events are “events of default” under the indenture:

- we fail to pay the principal or premium, if any, on the debentures, whether or not prohibited by the subordination provisions of the indenture;
- we fail to pay interest on the debentures when due and this failure continues for 30 days, whether or not prohibited by the subordination provisions of the indenture;
- we fail to perform any covenant in the indenture and this failure continues for 45 days after notice is given in accordance with the indenture;
- we fail to pay at maturity, including any applicable grace period, in an amount of indebtedness in excess of $5.0 million and this failure continues for 30 days after notice given in accordance with the indenture;
- a default by us on any indebtedness that results in the acceleration of indebtedness in an amount in excess of $5.0 million without the indebtedness being discharged or the acceleration being rescinded or annulled for 30 days after notice given in accordance with the indenture; or
- events involving our bankruptcy, insolvency or reorganization, as described in the indenture.

The trustee is required to give notice to holders of all uncured defaults known to the trustee within 90 days after the occurrence of the default. However, the trustee may withhold this notice if it determines in good faith that it is in the best interest of the holders, except notice of:

- a default in the payment of the principal or premium, if any, or interest on the debentures, or

- a default in the payment of any redemption obligation.

If an event of default has occurred and is continuing, the trustee or the holders of not less than 25% in aggregate principal amount of outstanding debentures may declare the principal and premium, if any, on the debentures and accrued interest on the debentures to be immediately due and payable. However, if we cure all defaults, except payment defaults on the debentures as a result of the acceleration, and we meet certain conditions, this acceleration declaration may be canceled and past defaults may be waived by the holders of a majority in principal amount of outstanding debentures. If an event of default resulting from events of bankruptcy, insolvency or reorganization were to occur, all unpaid principal and accrued interest on outstanding debentures will become due and payable immediately without any declaration or other act on the part of the trustee or any holders of debentures, subject to certain limitations.

Holders of a majority in principal amount of the outstanding debentures may, subject to certain limitations, direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee. The trustee shall be entitled to receive from holders reasonable security or indemnity against any costs, expenses and liabilities incurred by the trustee. Before you may institute a proceeding with respect to the indenture, each of the following must occur:

- you must have given the trustee written notice of a continuing event of default;
- the holders of at least 25% of the aggregate principal amount of all outstanding debentures must make a written request of the trustee to take action because of the default;
- holders must have offered reasonable indemnification to the trustee against the cost, expenses and liabilities of taking action;
- the trustee must not have received from the holders of a majority in aggregate principal amount of the outstanding debentures a direction inconsistent with the written request; and
- the trustee must not have taken action for 60 days after the receipt of such notice and offer of indemnification.

These limitations do not apply to a suit for the enforcement of payment of the principal of or any premium or interest on a debenture or the right to convert the debenture in accordance with the indenture.

Generally, the holders of not less than a majority of the aggregate principal amount of outstanding debentures may waive any default or event of default, except if:

- we fail to pay principal, premium or interest on any debenture when due;
- we fail to convert any debenture into Class B common stock; or
- we fail to comply with any of the provisions of the indenture that would require the consent of the holder of each outstanding debenture affected.

We will send the trustee annually a statement as to whether we are in default and the nature of any default under the indenture.

Limitation on Merger, Sale or Consolidation

We may not consolidate with or merge with or into another person or sell, lease, convey or transfer all or substantially all of our assets on a consolidated basis, whether in a single or series of related transactions, to another person or group of affiliated persons, unless:

- either: (a) we are the surviving entity; or (b) the resulting entity is a U.S. corporation or any state thereof or the District of Columbia, and expressly assumes in writing all of our obligations under the debentures and the indenture;

- no default or event of default exists or shall occur immediately after giving effect to the transaction; and
- other conditions specified in the indenture are satisfied.

Modifications of the Indenture

Certain limited modifications of the indenture may be made without the necessity of obtaining the consent of the holders of the debentures. The consent of the holders of a majority in principal amount of outstanding debentures at the time is required for other modifications or amendments to the indenture or any supplemental indenture. However, a modification or amendment would require the consent of the holder of each outstanding debenture affected if it would:

- extend the fixed maturity of any debenture;
- reduce the rate or extend the time for payment of interest on any debenture;
- reduce the principal amount or any premium of any debenture;
- reduce any amount payable upon redemption of any debenture;
- impair or adversely affect a holder's right to institute suit for the payment on any debenture;
- change the currency in which the debentures are payable;
- impair or adversely change the right to convert the debentures;
- adversely modify the subordination provisions of the debentures; or
- reduce the percentage required to consent to modifications and amendments.

Taxation of Debentures

You should read the section entitled "Material Federal Income Tax Consequences" below for a discussion of the federal tax considerations which may apply to you as a debenture holder.

Governing Law

The indenture and the debentures will be governed by the laws of the State of New York.

Concerning the Trustee

We have accepted , as the trustee, the initial paying agent, conversion agent, registrar and custodian for the debentures. We may maintain deposit accounts and conduct other banking transactions with the trustee or its affiliates in the ordinary course of business. In addition, the trustee and its affiliates may in the future provide banking and other services to us in the ordinary course of their business. If there is an event of default under the indenture, the trustee will:

- exercise the rights and powers given to the trustee under the indenture and
- use the same degree and care and skill in its exercise as a prudent person would exercise under the circumstances in the conduct of the person's own affairs.

If the trustee becomes one of our creditors, the indenture and the Trust Indenture Act of 1939 may limit the trustee from obtaining payment of claims in certain cases or realizing on certain property received by the trustee.

[P] CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following is a summary of certain material U.S. federal income tax considerations relevant to the purchase, ownership and disposition of our preferred stock, Class B common stock and debentures. This summary is based on the current provisions of the Internal Revenue Code of 1986, as amended ("Code"), Treasury regulations and judicial and administrative authority, all of which are subject to change, possibly on a retroactive basis. This summary applies only to investors who purchase our preferred stock at the original issuance, and hold our preferred stock, Class B common stock and debentures as capital assets, within the meaning of section 1221 of the Code, and does not discuss the tax consequences to special classes of investors, such as brokers or dealers in securities or currencies, financial institutions, tax-exempt entities, life insurance companies, persons holding our preferred stock, Class B common stock or debentures as a part of a hedging, short sale or conversion transaction or a straddle, investors whose functional currency is not the U.S. dollar, persons who hold our preferred stock, Class B common stock or debentures through partnerships or other pass- through entities, or, except as specifically noted, Non-U.S. Holders or U.S. expatriates. State, local and foreign tax consequences of ownership of our preferred stock, Class B common stock and debentures are not summarized, nor are the U.S. federal estate tax consequences, except with respect to Non-U.S. Holders.

We have not requested, and do not intend to request, any rulings from the Internal Revenue Service ("IRS") concerning the U.S. federal income tax consequences of an investment in our preferred stock, Class B common stock or debentures. You are advised to consult with your own tax advisor regarding the consequences of acquiring, holding or disposing of our preferred stock, Class B common stock or debentures in light of current tax laws, your particular investment circumstances, and the application of state, local and foreign tax laws.

When we refer in the summary to a "U.S. Holder," we mean a beneficial owner of preferred stock, Class B common stock or debentures that is:

- a citizen or resident of the United States for U.S. federal income tax purposes;
- a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, that was created or organized in or under the laws of the United States or of any political subdivision thereof;
- an estate whose income is includible in gross income for U.S. federal income tax purposes regardless of its source; or
- a trust if a court within the United States is able to exercise primary supervision of the administration of the trust and one or more U.S. persons has the authority to control all substantial decisions of the trust.

When we refer in the summary to a "Non-U.S. Holder," we mean a beneficial owner of preferred stock, Class B common stock or debentures that is not a U.S. Holder.

Characterization of Preferred Stock and Debentures

Under section 385(c) of the Code, our characterization of the preferred stock as "stock" is binding upon us and all holders of the preferred stock, other than holders who disclose on their tax returns that they are treating the preferred stock in a manner inconsistent with such characterization. Although our characterization of the preferred stock is not binding upon the IRS or any court, this summary assumes that the preferred stock will be treated in a manner consistent with our characterization. Holders should be aware that if the preferred stock is treated as debt for federal income tax purposes, the tax consequences of acquiring, holding and disposing of the preferred stock will differ materially from the tax consequences described in this prospectus. The following discussion also assumes that the debentures will be treated as debt for federal income tax purposes.

U.S. Holders

Distributions

A distribution on the preferred stock or Class B common stock will be treated as a dividend to the extent of our current or accumulated earnings and profits as determined under U.S. federal income tax principles. The amount of our earnings and profits at any time will depend upon our future actions and financial performance. If the amount of the distribution exceeds our current and accumulated earnings and profits, the distribution will be treated as a nontaxable return of capital and will be applied against and reduce your adjusted tax basis in the stock, but not below zero. The reduction in tax basis will increase the amount of any gain, or reduce the amount of any loss, which you would otherwise realize on the sale or other taxable disposition of the stock. If the distribution exceeds both our current and accumulated earnings and profits and your adjusted tax basis in your stock, the excess will be treated as capital gain and will be either long-term or short-term capital gain depending on your holding period for the stock.

Non-corporate holders currently are generally subject to a maximum U.S. federal income tax rate of 15% on dividends, provided certain holding period and other requirements are met. Corporate investors in our preferred stock or Class B common stock generally should be eligible for the 70% dividends-received deduction with respect to the portion of any distribution on the stock that is taxable as a dividend. However, corporate investors should consider certain provisions that may limit the availability of a dividends-received deduction, including the holding period required by section 246(c) of the Code (including the possibility that the IRS may contend that the holding period does not include days during which our redemption right is outstanding), the rules of section 246A which reduce the dividends-received deduction with respect to dividends on certain debt-financed stock, and the rules of section 1059 of the Code that reduce the basis of stock in respect of certain extraordinary dividends, as well as the effect of the dividends-received deduction on the determination of alternative minimum tax liability.

Optional Redemption of Preferred Stock for Cash

If we redeem our preferred stock for cash, the redemption will be taxable to you. The redemption generally will be treated as a sale or exchange if the redemption results in a “complete termination” of your interest in Marchex, meaning that after the redemption you do not own, actually or constructively within the meaning of section 318 of the Code, any stock of Marchex. If after the redemption you do own, actually or constructively, other stock of Marchex, a cash redemption of your preferred stock may be taxable in accordance with the treatment described above for distributions. Such treatment as a distribution will not apply if the redemption: (1) is “substantially disproportionate” with respect to you under section 302(b)(2) of the Code; or (2) is “not essentially equivalent to a dividend” under section 302(b)(1) of the Code. A distribution to you will be “not essentially equivalent to a dividend” if it results in a meaningful reduction in your stock interest in us, which should be the case if your proportionate ownership interest, taking into account any actual and constructive ownership, is reduced, your relative stock interest in Marchex is minimal, and you exercise no control over our business affairs.

If a cash redemption of your preferred stock is treated as a sale or exchange, it will result in capital gain or loss equal to the difference between the amount of cash received and the adjusted tax basis in the preferred stock redeemed, except to the extent that the redemption price includes unpaid dividends which we declare prior to the redemption. Any cash you receive in discharge of declared dividend arrearages on the preferred stock will be treated as a distribution on the preferred stock to the extent of the dividends in arrears, taxable in accordance with the treatment described above for distributions. The capital gain or loss will be long term if you have held the preferred stock for more than one year. It is possible that the IRS may contend that the holding period does not begin so long as ours redemption right is outstanding.

To the extent that the cash you receive on redemption of your preferred stock is taxed as a dividend, your tax basis in the redeemed preferred stock (reduced for amounts, if any, treated as return of capital) will be transferred to any remaining Marchex stock you actually own, subject in the case of a corporate taxpayer to possible basis reduction under section 1059 of the Code in an amount equal to the portion of any extraordinary dividend that is

nontaxable because of the dividends-received deduction (and possibly gain recognition if the nontaxable amount exceeds basis). If you do not actually own any other Marchex stock, you may lose the benefit of your tax basis in the preferred stock, or the tax basis may be shifted to the stock of a related person whose stock you are treated as owning constructively.

Under certain circumstances, section 305(c) of the Code requires that any excess of the redemption price of preferred stock over its issue price be treated as constructively distributed on a periodic basis prior to actual receipt. However, these rules do not apply if you and Marchex are not "related" within the meaning of Treasury regulations under section 305(c), there are no plans, arrangements or agreements that effectively require or are intended to compel us to redeem the preferred stock, and our exercise of the right to redeem would not reduce the yield of the preferred stock, as determined under the regulations. We intend to take the position that the existence of our optional redemption rights does not result in a constructive distribution under section 305(c).

Sale or Other Taxable Disposition of Preferred Stock or Class B Common Stock

If you sell or dispose of your preferred stock or Class B common stock in a taxable transaction other than a redemption by us or conversion, you generally will recognize capital gain or loss equal to the difference between the amount of cash and the fair market value of property received and your tax basis in the preferred stock or Class B common stock. The gain or loss will be long-term capital gain or loss if your holding period for the stock exceeds one year. For corporate taxpayers, long-term capital gains are taxed at the same rate as ordinary income. For individual taxpayers, net capital gains—the excess of the taxpayer's net long-term capital gains over their net short-term capital losses—are subject to a maximum tax rate of 15% if the stock is held for more than one year.

Exchange of Preferred Stock for Debentures

An exchange of shares of preferred stock for debentures would be treated as a redemption for U.S. federal income tax purposes subject to the rules of section 302 of the Code described above. Since a holder of debentures will be treated under the constructive ownership rules as owning the Class B common stock into which the debentures are convertible, the exchange would not by itself satisfy the "complete termination" test or the "substantially disproportionate" test described above. The "not essentially equivalent to a dividend" test could be met only if the exchange were regarded as resulting in a meaningful reduction in the holder's proportionate interest in Marchex. If none of these tests is met, the fair market value of the debentures received upon the exchange will be taxable as a dividend to the extent of Marchex's current or accumulated earnings and profits and then would be treated as a return of capital to the extent of the holder's tax basis in the preferred stock. If the fair market value of the debentures exceeds the amounts treated as a dividend and as a return of capital, any such excess would be treated as capital gain.

The basis of the debentures received in the exchange generally will be equal to their fair market value as of the date of the exchange, and the holding period in the debentures generally will begin the day after the exchange. To the extent that the exchange is taxed as a dividend, your tax basis in the preferred stock that you exchange for debentures (reduced for amounts, if any, treated as return of capital) will be transferred to any remaining Marchex stock you actually own, subject in the case of a corporate taxpayer to possible basis reduction under Section 1059 of the Code in an amount equal to the portion of any extraordinary dividend that is nontaxable because of the dividends-received deduction (and possibly gain recognition if the nontaxable amount exceeds basis). If you do not actually own any other Marchex stock, it is unclear whether you will lose the benefit of your tax basis in the preferred stock, or whether the tax basis will be shifted to the debentures or to the stock of a related person whose stock you are treated as owning constructively.

Prospective purchasers should consult their own tax advisors regarding satisfaction of the section 302 tests in their particular circumstances, including the possibility that a sale of a part of a holder's preferred stock or the debentures received might be regarded as reducing the holder's interest in Marchex, thereby satisfying one of the tests of section 302(b); in such a case, the holder would recognize capital gain or loss on the exchange. For purposes of determining gain or loss, the amount realized by a stockholder would be the issue price of the debentures received (see "Original Issue Discount and Premium on Debentures"). Such gain or loss would be

long-term capital gain or loss (taxable in the case of individuals at a maximum rate of 15%) if the holding period exceeds one year. It is possible that the IRS may contend that the holding period of preferred stock does not begin so long as our redemption right is outstanding. The installment method will not be available for reporting such gain in the event that the preferred stock, the debentures or the Class B common stock into which the debentures are convertible are traded or readily tradable on an established securities market.

Original Issue Discount and Premium on Debentures

Stated interest on the debentures will be includable in income in accordance with the holder's method of accounting. There is also a risk that the debentures will be treated as having original issue discount taxable as interest income as discussed below. Original issue discount is the excess of the stated redemption price at maturity of the debentures over their issue price, provided that such excess is more than a *de minimis* amount. Such excess will be considered more than *de minimis* if it is equal to or greater than one-fourth of one percent of the stated redemption price at maturity of the debentures multiplied by the number of complete years to maturity.

Different rules apply for determining the issue price of the debentures depending upon whether the preferred stock or the debentures are or will be traded on an established securities market. If the debentures are listed on an exchange or are otherwise considered to be traded on an established securities market under Treasury regulations issued under section 1273 of the Code at any time during the 60-day period ending 30 days after the date of the exchange, the issue price of the debentures will be their fair market value as of the date of the exchange. If the debentures are not listed on an exchange or otherwise considered to be traded on an established securities market within such time period, but the preferred stock is so listed or traded, the issue price of the debentures will be the fair market value of the preferred stock as of the date of the exchange. In the event that neither the preferred stock nor the debentures are listed on an exchange or otherwise considered to be traded on an established securities market within the requisite time period, the issue price of the debentures will be their stated principal amount, assuming that the debentures bear adequate stated interest within the meaning of section 1274 of the Code. If the debentures do not bear adequate stated interest, the issue price will be equal to their "imputed principal amount" as determined under 1274 of the Code.

A holder of a debenture would generally be required to include in gross income (irrespective of the holder's method of accounting) a portion of the original issue discount for each year during which it holds the debenture even though the cash to which such income is attributable would not be received until maturity or redemption of the debenture. The amount of any original issue discount included in income for each year would be calculated under a constant yield to maturity formula that would result in the allocation of less original issue discount to the early years of the term of the debenture and more original issue discount to later years.

If the preferred stock is exchanged for debentures whose issue price exceeds the amount payable at maturity, such excess (excluding any amount attributable to the conversion feature) will be deductible by the holder of the debentures as amortizable bond premium over the term of the debentures under a yield to maturity formula, if an election by the taxpayer under section 171 of the Code is in effect or is made. Such election would apply to all obligations owned or subsequently acquired by the taxpayer during or after the taxable year in which the election is made. The amortizable bond premium will be treated as an offset to the extent of stated interest on the debentures, and any excess will be allowable as a deduction, limited to the excess of the holder's interest income inclusions on the debenture in prior accrual periods over bond premium deductions allowed the holder in such prior periods. Any amount in excess of such limitation will be carried forward as additional bond premium in the next accrual period.

Redemption or Sale of Debentures

Generally a redemption or sale of the debentures will result in taxable gain or loss equal to the difference between the amount of cash and fair market value of other property received and the holder's tax basis in the debentures. To the extent that the amount received is attributable to accrued interest, however, that amount will be taxed as ordinary income. The tax basis of a holder who received the debentures in exchange for shares of

preferred stock will generally be equal to the fair market value of the debentures at the time of exchange plus any original issue discount included in the holder's income or minus any premium previously allowed as an offset to interest income on the debentures. Such gain or loss will be capital gain or loss and will be long-term capital gain or loss (taxable in the case of individuals at a maximum rate of 15%) if the holding period for the debentures exceeds one year.

If the debentures were issued with original issue discount and Marchex were treated as having an intention at the time the debentures were issued to call them before maturity, any gain realized on a sale, exchange or redemption of debentures prior to maturity would be considered ordinary income to the extent of any unamortized original issue discount for the period remaining to the stated maturity of the debentures. Marchex cannot predict whether it will have an intention, when and if the debentures are issued, to call the debentures before their maturity.

Conversion of Preferred Stock or Debentures into Class B Common Stock

No gain or loss generally will be recognized upon conversion of shares of preferred stock or debentures into shares of Class B common stock. Gain or loss will be recognized to the extent of the difference between the cash paid in lieu of fractional shares of Class B common stock and the basis of the preferred stock or debentures allocable to such fractional shares, and ordinary income will be recognized to the extent of the shares of Class B common stock attributable to accrued interest. Additionally, if the conversion takes place when there is a dividend arrearage on the preferred stock and the fair market value of the Class B common stock exceeds the issue price of the preferred stock, a portion of the Class B common stock received may be treated as a dividend distribution, taxable as ordinary income. Assuming the conversion is not treated as resulting in the payment of a dividend, the tax basis of the Class B common stock received upon conversion will be equal to the tax basis of the shares of preferred stock or the debentures converted (less the amount of basis allocable to any fractional share of Class B common stock for which cash is received), and the holding period of the Class B common stock will include the holding period of the shares of preferred stock or the debentures converted. The tax basis of any Class B common stock treated as a dividend will be equal to its fair market value on the date of the conversion, and the holding period will begin the day after the conversion.

Adjustment of Conversion Price

Holders of preferred stock or debentures may be deemed to have received constructive distributions if the conversion ratio is adjusted to reflect property distributions with respect to Class B common stock into which such preferred stock or debentures are convertible. Adjustments to the conversion price made pursuant to a bona fide reasonable adjustment formula which has the effect of preventing the dilution of the interest of the holders of the preferred stock or debentures, however, will generally not be considered to result in a constructive distribution of stock. Certain of the possible adjustments provided in the preferred stock and the debentures (including the adjustments for cash distributions on our stock) will not qualify as being pursuant to a bona fide reasonable adjustment formula. If such adjustments were made, the holders of preferred stock or debentures might be deemed to have received constructive distributions taxable as dividends.

Backup Withholding

Under the backup withholding provisions of the Code and applicable Treasury regulations, a holder of preferred stock, Class B common stock or debentures may be subject to backup withholding at the rate of 28% with respect to payments of dividends or interest on, or payments attributable to original issue discount accrued with respect to, or the proceeds of a sale, exchange or redemption of preferred stock, debentures, or Class B common stock, unless (a) such holder is a corporation or comes within certain other exempt categories and when required demonstrates this fact or (b) provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding and otherwise complies with applicable requirements of the backup withholding rules. The amount of any backup withholding from a payment to a holder will be allowed as a credit against the holder's federal income tax liability and may entitle such holder to a refund, provided that the required information is furnished to the IRS.

Non-U.S. Holders

Dividends, Interest and Original Issue Discount

Income received by a Non-U.S. Holder in the form of dividends on preferred stock or Class B common stock generally will be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty, unless the dividend income is effectively connected with your conduct of a trade or business within the United States or, where a tax treaty applies, is attributable to a U.S. permanent establishment you maintain, in which case the income will be subject to federal income tax on a net income basis at applicable graduated individual or corporate rates and will be exempt from the 30% withholding tax. Such effectively connected income received by a Non-U.S. Holder that is a corporation may in certain circumstances be subject to an additional "branch profits tax" at a 30% rate, or if applicable, a lower treaty rate.

If a distribution exceeds our current and accumulated earnings and profits attributable to the distribution, the excess will be treated first as a return of your tax basis in the stock to the extent of your basis and then as gain from the sale of a capital asset which would be taxable as described below. Any withholding tax on distributions in excess of our current and accumulated earnings and profits is refundable to you upon the timely filing of an appropriate claim for refund with the IRS.

Payments to Non-U.S. Holders of interest or attributable to original issue discount are generally subject to U.S. federal withholding tax at a rate of 30%. Payments of interest on the debentures to most Non-U.S. Holders, however, will qualify as "portfolio interest," and thus will be exempt from the withholding tax, if the holders certify their nonresident status as described below. The portfolio interest exception will not apply to payments of interest on or attributable to original issue discount to a Non- U.S. Holder that owns, directly or indirectly, at least 10% of the voting power of our voting stock, or is a "controlled foreign corporation" that is related to Marchex. In general, a foreign corporation is a controlled foreign corporation if more than 50% of its stock is owned, directly or indirectly, by one or more U.S. persons that each owns, directly or indirectly, at least 10% of the corporation's voting stock.

Generally, to claim the portfolio interest exemption or a reduced rate of withholding under an income tax treaty, a Non-U.S. Holder of our preferred stock, Class B common stock or debentures will be required to provide to Marchex or its paying agent a properly executed IRS Form W-8BEN and satisfy applicable certification and other requirements. If the holder holds preferred stock, Class B common stock or debentures through a financial institution or other agent acting on the holder's behalf, the holder will be required to provide appropriate documentation to the agent. The holder's agent will then be required to provide certification to us or our paying agent, either directly or through other intermediaries. For payments made to a foreign partnership or other flow-through entity, the certification requirements generally apply to the partners or other owners rather than to the partnership or other entity, and the partnership or other entity must provide the partners' or other owners' documentation to us or our paying agent. If you claim exemption from withholding with respect to income that is effectively connected with your conduct of a business within the United States, you must provide appropriate certification, currently, IRS Form W-ECI, to Marchex or its paying agent. If you are eligible for a reduced rate of U.S. federal withholding tax you may obtain a refund of any excess withheld amounts by timely filing an appropriate claim for refund.

Disposition of Preferred Stock, Class B Common Stock or Debentures

Generally, you will not be subject to U.S. federal income tax on any gain recognized upon the sale or other disposition of preferred stock, Class B common stock or debentures. However, you will be subject to federal income tax on the gain if:

(1) the gain is effectively connected with your U.S. trade or business or, if a tax treaty applies, attributable to your U.S. permanent establishment;

(2) you are an individual who is a former citizen of the United States who lost such citizenship within the preceding ten-year period, or former long-term resident of the United States who relinquished U.S. residency

on or after February 6, 1995, and the loss of citizenship or permanent residency had as one of its principal purposes the avoidance of U.S. tax; or

(3) you are a non-resident alien individual, are present in the United States for 183 days or more days in the taxable year of disposition and either (a) have a "tax home" in the United States for U.S. federal income tax purposes or (b) the gain is attributable to an office or other fixed place of business you maintain in the United States.

You will also be subject to federal income tax on the gain from the sale of our preferred stock, Class B common stock or debentures if we are or have been a "United States real property holding corporation"—which we refer to in this prospectus as USRPHC—within the meaning of section 897(c)(2) of the Code at any time during the shorter of the period that you held the stock or debentures, or the five-year period preceding the sale of the stock or debentures. We believe we are not now a USRPHC, that we have not been a USRPHC at any time since we were formed, and that it is unlikely we will become a USRPHC. If we were a USRPHC or were to become a USRPHC, you would be subject to U.S. income tax on any gain from your sale of preferred stock, Class B common stock or debentures if you beneficially own, or owned at any time during a specified 5-year period, more than 5% of the total fair market value of the class of stock or debentures you sold.

Conversion or Redemption of Preferred Stock

As a Non-U.S. Holder, you generally will not be subject to U.S. federal income tax upon conversion of preferred stock into Class B common stock, except with respect to any cash paid in lieu of fractional shares of Class B common stock, which would be subject to the rules described under "Disposition of Preferred Stock or Class B Common Stock." However, you may recognize dividend income to the extent there are declared dividends in arrears on the preferred stock at the time of conversion into Class B common stock.

A redemption of preferred stock for cash or an exchange of preferred stock for debentures will constitute either a dividend to the extent of our current and accumulated earnings and profits or a sale or exchange. See "U.S. Holders—Optional Redemption of Preferred Stock for Cash." To the extent the redemption is treated as a dividend, the tax consequences are described in "Non-U.S. Holders—Dividends, Interest and Original Issue Discount," and to the extent the redemption is treated as a sale or exchange, the tax consequences are described in "Non-U.S. Holders—Disposition of Preferred Stock, Class B Common Stock or Debentures."

U.S. Federal Estate Taxes

The estates of nonresident alien individuals are subject to U.S. federal estate tax on property with a U.S. situs. Shares of preferred stock and Class B common stock that you hold or are treated as owning at the time of your death will be included in your U.S. gross estate for U.S. federal estate tax purposes and may be subject to U.S. federal estate tax, unless an applicable estate tax treaty provides otherwise. The debentures will not be U.S. situs property as long as interest on the debentures paid immediately before the death of the holder qualified as portfolio interest exempt from withholding tax (without regard to whether the holder provides the required certification) as described above.

Information Reporting and Backup Withholding

We generally will be required to report to holders of our preferred stock, Class B common stock or debentures and to the IRS the amount of any dividends or interest paid to the holder or original issue discount accrued in each calendar year and the amounts of tax withheld, if any, with respect to such payments. Copies of the information returns reporting such dividends, interest, original issue discount and withholding may also be made available to the tax authorities in the country in which a Non-U.S. Holder resides under the provisions of an applicable income tax treaty.

Each holder of preferred stock, Class B common stock or debentures—other than an exempt holder such as a corporation, tax-exempt organization, qualified pension or profit-sharing trust, individual retirement account, or a nonresident alien individual who provides certification as to his or her status as a nonresident—will be required

to provide, under penalties of perjury, a certification setting forth the holder's name, address, correct federal taxpayer identification number and a statement that the holder is not subject to backup withholding. If a nonexempt holder fails to provide the required certification, we will be required to withhold 28% of the amount otherwise payable to the holder, and remit the withheld amount to the IRS as a credit against the holder's federal income tax liability. You should consult your own tax advisor regarding your qualification for exemption from backup withholding and the procedure for obtaining any applicable exemption.

U.S. information reporting and backup withholding generally will not apply to a payment of proceeds of a disposition of preferred stock, Class B common stock or debentures where the transaction is effected outside the United States through a non-U.S. office of a broker. However, unless you establish an exemption or a broker has documentary evidence in its files of your non-U.S. status, U.S. information reporting requirements (but not backup withholding) will apply to a payment of disposition proceeds where the transaction is effected outside the U.S. by or through an office outside the U.S. of a broker that is:

- a U.S. person;
- a foreign person that derives 50% or more of its gross income for certain periods from the conduct of a trade or business in the United States;
- a controlled foreign corporation as defined in the Code; or
- a foreign partnership with certain U.S. connections.

If you receive payments of the proceeds of a disposition of our preferred stock, Class B common stock or debentures to or through a U.S. office of a broker, the payment is subject to both U.S. backup withholding tax and information reporting unless you certify under penalties of perjury, among other things, that you are a non-U.S. person (and we or our paying agent do not have actual knowledge or reason to know that you are a U.S. person) or you otherwise establish an exemption.

Backup withholding is not an additional tax. Rather, the tax liability of persons subject to backup withholding is reduced by the amount of tax withheld. When backup withholding results in an overpayment of taxes, a refund may be obtained if the required information is furnished to the IRS in a timely manner.

A NON-U.S. HOLDER SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE APPLICATION OF THESE REGULATIONS.

THE FOREGOING DISCUSSION IS FOR GENERAL INFORMATION AND IS NOT TAX ADVICE. ACCORDINGLY, EACH PROSPECTIVE HOLDER OF PREFERRED STOCK, CLASS B COMMON STOCK OR DEBENTURES SHOULD CONSULT ITS TAX ADVISOR AS TO THE PARTICULAR TAX CONSEQUENCES TO IT OF THE PREFERRED STOCK, CLASS B COMMON STOCK AND DEBENTURES, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN INCOME TAX LAWS, AND ANY RECENT OR PROSPECTIVE CHANGES IN APPLICABLE TAX LAWS.

[C] MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

General

Market Information

Based upon the number of shares outstanding as of September 30, 2004, upon completion of this offering, we will have 20,421,539 shares of Class B common stock outstanding, assuming no exercise of the underwriters' over-allotment option, and 21,471,539 shares of Class B common stock outstanding if the underwriters exercise their over-allotment option. Of these shares:

- the 7,000,000 shares of Class B common stock included in this offering, plus any shares issued upon exercise of the over-allotment option by the underwriters, will be freely tradable without restriction under the Securities Act, unless purchased by our "affiliates" as that term is defined in Rule 144 under the Securities Act; and
- of the remaining 13,421,539 shares of Class B common stock that will be outstanding after this offering, 8,725,104 of such shares and all of the shares of Class A common stock are "restricted securities" within the meaning of Rule 144.

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

We and each of our directors, executive officers and certain of our stockholders have agreed to certain restrictions on our ability to sell additional shares of our Class B common stock for a period of 90 days after the date of this prospectus (the "Lock-up Period"). We have agreed not to directly or indirectly offer for sale, sell, contract to sell, grant any option for the sale of, or otherwise issue or dispose of any shares of Class B common stock, options or warrants to acquire shares of Class B common stock, or any related security or instrument, without the prior written consent of the underwriters. The agreements provide exceptions for: (1) sales to underwriters pursuant to the purchase agreement; and (2) issuances in connection with the exercise of options previously granted and the granting of options under our 2003 amended and restated stock incentive plan and our 2004 employee stock purchase plan.

We have reserved for issuance shares of our Class B common stock issuable upon conversion of the preferred stock and debentures being offered concurrently with this offering. These shares, if and when issued, will be registered and freely tradeable, subject to resale restrictions upon affiliates under Rule 144.

In addition, the shares that we are issuing in connection with the Name Development asset acquisition are unregistered and will be subject to the resale limitations of Rule 144 under the Securities Act.

We have filed one or more registration statements on Form S-8 under the Securities Act to register the shares of Class B common stock issued under our 2003 amended and restated stock incentive plan and our 2004 employee stock purchase plan and, as a result, all shares of Class B common stock acquired upon exercise of stock options and other equity-based awards granted under these plans will thereafter be freely tradable under the Securities Act unless purchased by our affiliates.

Securities Authorized for Issuance under Equity Compensation Plans

Equity Compensation Plan Information as of December 31, 2004:

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance
Equity compensation plans approved by security holders			
2003 stock incentive plan[1]	4,409,570	$6.06 per share	444,761
2004 employee stock purchase plan	26,735	$9.17	273,265
Stand-alone options and warrants not approved by security holders[2]	120,000	$8.45	N/A
Total	4,556,305	$6.06 to $9.17	718,026

(1) We have reserved 6,288,901 shares of Class B common stock for issuance under our 2003 stock incentive plan, of which an increase of 1,274,948 to the authorized number of shares available under the plan occurred on January 1, 2005 as a result of the "evergreen provision" under the plan. The "evergreen provision" provides for annual increases in the number of shares available for issuance under the plan, on the first day of our fiscal year, equal to 5% of the outstanding shares of Class B common stock (including any shares of Class B common stock issuable upon conversion of any outstanding capital stock) on such date.

(2) In connection with our initial public offering in April 2004 we granted warrants to the underwriters in that offering to purchase an aggregate of 120,000 shares of Class B common stock upon exercise thereof at an exercise price of $8.45 per share. The warrants are exercisable over a four year period commencing on April 5, 2005 and ending April 5, 2009.

Holders

As of September 30, 2004, there were 25,409,039 shares of common stock outstanding that were held by 149 stockholders of record. Of these shares:

- 11,987,500 shares were issued as Class A common stock, and as of this date were held by 5 stockholders of record; and
- 13,421,539 shares were issued as Class B common stock, and as of this date were held by 144 stockholders of record.

Rule 144

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

- one percent of the number of shares of Class B common stock then outstanding; or
- the average weekly trading volume in our Class B common stock during the four calendar weeks preceding the required filing of a Form 144 with respect to such sale.

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

Rule 701

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

Registration of Shares

We have entered into the following registration rights agreements: (1) the stockholders' agreement entered into with certain investors, dated as of January 23, 2003; (2) 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, dated as of October 24, 2003; (3) the warrant agreement issued to Sanders Morris Harris Inc., dated as of April 5, 2004; (4) the warrant agreement issued to National Securities Corporation, dated as of April 5, 2004; (5) the registration rights agreement entered into with the holder of those shares of Class B common stock which were issued in connection with the acquisition of goClick, dated as of July 27, 2004; and (6) the asset purchase agreement entered into in connection with the acquisition of certain assets of Name Development, dated as of November 19, 2004. See "Description of Capital Stock—Registration Rights."

[P] UNDERWRITING

The underwriters named below have agreed to buy, subject to the terms of the purchase agreement, the number of shares listed opposite their names below. Piper Jaffray & Co., RBC Capital Markets Corporation and Thomas Weisel Partners LLC are acting as representatives of the underwriters. The underwriters are committed to purchase and pay for all of the shares if any are purchased.

Underwriters	Number of Shares
Piper Jaffray & Co.	
RBC Capital Markets Corporation	
Thomas Weisel Partners LLC	
Total	200,000

The underwriters have advised us that they propose to offer the shares to the public at $ per share. The underwriters propose to offer the shares to certain dealers at the same price less a concession of not more than $ per share. The underwriters may allow and the dealers may reallow a concession of not more than $ per share on sales to certain other brokers and dealers. After the offering, these figures may be changed by the underwriters.

We have granted to the underwriters an option to purchase up to an additional 30,000 shares of preferred stock from us at the same price to the public, and with the same underwriting discount, as the shares set forth in the table above. The underwriters may exercise this option any time during the 30-day period after the date of this prospectus, but only to cover over-allotments, if any. To the extent the underwriters exercise the option, each underwriter will become obligated, subject to certain conditions, to purchase approximately the same percentage of the additional shares as it was obligated to purchase under the purchase agreement.

The following table shows the underwriting fees to be paid to the underwriters in connection with this offering. These amounts are shown assuming both no exercise and full exercise of the over-allotment option.

	No Exercise	Full Exercise
Per share	$	$
Underwriting discounts & commissions	$	$

Lock-up Agreements

We and each of our directors, executive officers and certain of our stockholders have agreed to certain restrictions on our ability to sell additional shares of our preferred stock for a period of 90 days after the date of this prospectus (the “Lock-up Period”). We have agreed not to directly or indirectly offer for sale, sell, contract to sell, grant any option for the sale of, or otherwise issue or dispose of any shares of preferred stock, options or warrants to acquire shares of preferred stock, or any related security or instrument, without the prior written consent of the underwriters. The agreements provide exceptions for: (1) sales to underwriters pursuant to the purchase agreement; and (2) issuances in connection with the exercise of options previously granted and the granting of options under our 2003 amended and restated stock incentive plan and our 2004 employee stock purchase plan.

Indemnification

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

Stabilizing Transactions, Short Positions and Penalty Bids

To facilitate the offering, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of our preferred stock or Class B common stock during and after the offering. Specifically, the underwriters may over-allot or otherwise create a short position in our preferred stock for their own account by selling more shares of our preferred stock than have been sold to them by us. The underwriters may elect to cover any such short position by purchasing shares of our preferred stock in the open market or by exercising the over-allotment option granted to the underwriters. In addition, the underwriters may stabilize or maintain the price of our preferred stock by bidding for or purchasing shares of our preferred stock in the open market and may impose penalty bids. If penalty bids are imposed, selling concessions allowed to syndicate members or other broker-dealers participating in the offering are reclaimed if shares of our preferred stock previously distributed in the offering are repurchased, whether in connection with stabilization transactions or otherwise. The effect of these transactions may be to stabilize or maintain the market price of our convertible preferred stock and Class B common stock at a level above that which might otherwise prevail in the open market. The imposition of a penalty bid may also effect the price of our preferred stock to the extent that it discourages resales of our preferred stock. The magnitude or effect of any stabilization or other transactions is uncertain. These transactions may be effected on the Nasdaq National Market or otherwise and, if commenced, may be discontinued at any time.

In connection with this offering, some underwriters may also engage in passive market making transactions in our preferred stock on the Nasdaq National Market. Passive market making consists of displaying bids on the Nasdaq National Market limited by the prices of independent market makers and effecting purchasers limited by those prices in response to order flow. Rule 103 of Regulation M promulgated by the SEC limits the amount of net purchases that each passive market maker may make and the displayed size of each bid. Passive market making may stabilize the market price of our preferred stock at a level above that which might otherwise prevail in the open market and, if commenced, may be discontinued at any time.

[C] UNDERWRITING

The underwriters named below have agreed to buy, subject to the terms of the purchase agreement, the number of shares listed opposite their names below. Piper Jaffray & Co., RBC Capital Markets Corporation, Thomas Weisel Partners LLC and Sanders Morris Harris Inc. are acting as representatives of the underwriters. The underwriters are committed to purchase and pay for all of the shares if any are purchased.

Underwriters	Number of Shares
Piper Jaffray & Co.	
RBC Capital Markets Corporation	
Thomas Weisel Partners LLC	
Sanders Morris Harris Inc.	
Total	7,000,000

The underwriters have advised us that they propose to offer the shares to the public at $ per share. The underwriters propose to offer the shares to certain dealers at the same price less a concession of not more than $ per share. The underwriters may allow and the dealers may reallow a concession of not more than $ per share on sales to certain other brokers and dealers. After the offering, these figures may be changed by the underwriters.

We have granted to the underwriters an option to purchase up to an additional 1,050,000 shares of Class B common stock from us at the same price to the public, and with the same underwriting discount, as the shares set forth in the table above. The underwriters may exercise this option any time during the 30-day period after the date of this prospectus, but only to cover over-allotments, if any. To the extent the underwriters exercise the option, each underwriter will become obligated, subject to certain conditions, to purchase approximately the same percentage of the additional shares as it was obligated to purchase under the purchase agreement.

At our request, the underwriters have reserved for sale, at the public offering price, up to 1.0% of the shares of our Class B common stock for our officers, directors and employees. The number of shares of our Class B common stock available for sale to the general public will be reduced to the extent these reserved shares are purchased. Any reserved shares that are not purchased by these persons will be offered by the underwriters to the general public on the same basis as the other shares in this offering.

The following table shows the underwriting fees to be paid to the underwriters in connection with this offering. These amounts are shown assuming both no exercise and full exercise of the over-allotment option.

	No Exercise	Full Exercise
Per share	$	$
Underwriting discounts & commissions	$	$

Lock-up Agreements

We and each of our directors, executive officers and certain of our stockholders have agreed to certain restrictions on our ability to sell additional shares of our Class B common stock for a period of 90 days after the date of this prospectus (the “Lock-up Period”). We have agreed not to directly or indirectly offer for sale, sell, contract to sell, grant any option for the sale of, or otherwise issue or dispose of any shares of Class B common stock, options or warrants to acquire shares of Class B common stock, or any related security or instrument, without the prior written consent of the underwriters. The agreements provide exceptions for: (1) sales to underwriters pursuant to the purchase agreement; and (2) issuances in connection with the exercise of options previously granted and the granting of options under our 2003 amended and restated stock incentive plan and our 2004 employee stock purchase plan.

Indemnification

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

Stabilizing Transactions, Short Positions and Penalty Bids

To facilitate the offering, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of our Class B common stock during and after the offering. Specifically, the underwriters may over-allot or otherwise create a short position in our Class B common stock for their own account by selling more shares of Class B common stock than have been sold to them by us. The underwriters may elect to cover any such short position by purchasing shares of Class B common stock in the open market or by exercising the over-allotment option granted to the underwriters. In addition, the underwriters may stabilize or maintain the price of our Class B common stock by bidding for or purchasing shares of Class B common stock in the open market and may impose penalty bids. If penalty bids are imposed, selling concessions allowed to syndicate members or other broker-dealers participating in the offering are reclaimed if shares of Class B common stock previously distributed in the offering are repurchased, whether in connection with stabilization transactions or otherwise. The effect of these transactions may be to stabilize or maintain the market price of our Class B common stock at a level above that which might otherwise prevail in the open market. The imposition of a penalty bid may also effect the price of our Class B common stock to the extent that it discourages resales of our Class B common stock. The magnitude or effect of any stabilization or other transactions is uncertain. These transactions may be effected on the Nasdaq National Market or otherwise and, if commenced, may be discontinued at any time.

In connection with this offering, some underwriters may also engage in passive market making transactions in our Class B common stock on the Nasdaq National Market. Passive market making consists of displaying bids on the Nasdaq National Market limited by the prices of independent market makers and effecting purchasers limited by those prices in response to order flow. Rule 103 of Regulation M promulgated by the SEC limits the amount of net purchases that each passive market maker may make and the displayed size of each bid. Passive market making may stabilize the market price of our Class B common stock at a level above that which might otherwise prevail in the open market and, if commenced, may be discontinued at any time.

[C] LEGAL MATTERS

The validity of the shares of Class B common stock offered hereby will be passed upon for us by Nixon Peabody LLP. A partner with the law firm of Nixon Peabody LLP beneficially owns 33,000 shares of Class B common stock. The underwriters have been represented by Wilson Sonsini Goodrich & Rosati, Professional Corporation, in connection with this offering.

[P] LEGAL MATTERS

The validity of the shares of preferred stock offered hereby will be passed upon for us by Nixon Peabody LLP. A partner with the law firm of Nixon Peabody LLP beneficially owns 33,000 shares of Class B common stock. The underwriters have been represented by Wilson Sonsini Goodrich & Rosati, Professional Corporation, in connection with this offering.

EXPERTS

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

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, the financial statements of goClick.com, Inc. as of December 31, 2003 and for the year then ended and the financial statements of Name Development Ltd. as of June 30, 2003 and 2004 and for each of the years in the two-year period ended June 30, 2004, have been included herein in reliance upon the reports of KPMG LLP, independent auditors, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

DISCLOSURE OF COMMISSION POSITION ON INDEMNIFICATION FOR SECURITIES ACT LIABILITIES

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

WHERE YOU CAN FIND MORE INFORMATION

We are subject to the reporting requirements of the Securities Exchange Act of 1934 and, in accordance with its requirements, file annual, quarterly and current reports, proxy statements and other information with the Securities Exchange Commission. Marchex's SEC file number is 000-50658. These reports, proxy statements and other information may be obtained:

- At the Public Reference Room of the Commission, Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549;
- From the Commission, Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549;
- At the offices of The Nasdaq Stock Market, Inc., Reports Section, 1735 K Street, N.W., Washington, D.C. 20006;
- From the Internet site maintained by the Commission at *http://www.sec.gov*, which contains reports, proxy and information statements and other information regarding issuers, including us, that file electronically with the Commission; or
- From the investor relations section of our Internet site, *www.marchex.com*, under the heading "SEC Filings."

Some locations may charge prescribed rates or modest fees for copies. For more information on the operation of Public Reference Room, call the Commission at 1-800-SEC-0330.

You may also request a copy of any of our filings with the Commission, or any of the agreements or other documents that constitute exhibits to those filings, at no cost, by writing or telephoning us at the following address or phone number:

Marchex, Inc.
413 Pine Street, Suite 500
Seattle, WA 98101
(206) 331-3300
Attention: Ethan A. Caldwell, General Counsel & Chief Administrative Officer

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, our Class B common stock and preferred stock, we make reference to the registration statement and to the exhibits and schedules 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.

INDEX TO FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Marchex, Inc.:

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

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Predecessor to Marchex, Inc. and Marchex, Inc. and its subsidiaries, as of December 31, 2002, February 28, 2003 and December 31, 2003 and the results of their operations and their cash flows for the Predecessor periods and Successor period in conformity with U.S. generally accepted accounting principles.

/s/ KPMG LLP

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

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

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

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES
Consolidated Statements of Operations

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

[1] Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangible assets

[2] Components of acquisition-related retention consideration:			
Service costs	$ —	$ —	$ 33,723
Sales and marketing	—	—	96,262
Product development	—	—	104,233
General and administrative	—	—	49,051
[3] Components of stock-based compensation:			
Service costs	$ 3,161	$ 190	$ 9,776
Sales and marketing	148,669	715	421,871
Product development	57,078	37,710	241,080
General and administrative	155,785	366	1,452,383
[4] Components of amortization of intangible assets:			
Service costs	$ —	$ —	$ 2,216,957
Sales and marketing	—	—	348,118
Product development	—	—	—
General and administrative	—	—	458,333

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Stockholders' Equity

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

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

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

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

See accompanying notes to consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

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

(a) Description of Business and Basis of Presentation

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

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

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

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

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

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

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

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

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

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

(b) Cash and Cash Equivalents

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

(c) Fair Value of Financial Instruments

The Company and the Predecessor had the following financial instruments as of the periods presented: cash and cash equivalents, accounts receivable, other receivables, accounts payable and accrued liabilities, fair value of redemption obligation and Series A redeemable convertible preferred stock. The carrying value of cash and cash equivalents, accounts receivable, other receivables, accounts payable and accrued liabilities approximates their fair value based on the liquidity of these financial instruments or based on their short-term nature. The fair value of the redemption obligation is recorded in the consolidated balance sheet at its estimated fair value. Factors affecting the fair value determination include, among others, interest rates, the difference between the redemption amount and the fair market value of our Class B common stock, the proximity in time to the redemption date and the probability of the redemption right being exercised. The carrying value of the Series A redeemable convertible preferred stock is recorded at its accreted redemption value. The fair value is estimated to be approximately $47,070,000 at December 31, 2003.

(d) Accounts Receivable

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

Allowance for Doubtful Accounts

The allowance for doubtful accounts is the Company's and the Predecessor's best estimate of the amount of probable credit losses in existing accounts receivable. The Company and Predecessor determine the allowance based on analysis of historical bad debts, advertiser concentrations, advertiser credit-worthiness and current economic trends. Past due balances over 90 days and specific other balances are reviewed individually for

collectibility. The Company and Predecessor review the allowance for collectibility quarterly. Account balances are written off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

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

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

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

Allowance for Merchant Advertiser Credits

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

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

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

(e) Property and Equipment

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

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.

(g) Impairment or Disposal of Long-Lived Assets

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

(h) Revenue Recognition

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

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

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

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

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

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

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

The Company and the Predecessor enter into agreements with various distribution partners to provide merchant advertisers' listings. The Company and the Predecessor generally pay distribution partners based on a percentage of revenue or a fixed amount per click-through on these listings. The Company and the Predecessor act as the primary obligor with the merchant advertiser for revenue click-through transactions and are responsible for the fulfillment of services. In accordance with Emerging Issues Task Force (EITF) Issue No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, the revenue derived from advertisers are reported gross based upon the amounts received from the merchant advertiser.

(i) Service Costs

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

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

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

(j) Advertising Expenses

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

(k) Product Development

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

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

(l) Income Taxes

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(m) Stock Option Plan

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

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

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

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

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

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

(n) Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company and the

Predecessor have used estimates in determining certain provisions, including allowance for doubtful accounts, allowance for merchant advertiser credits, useful lives for property and equipment, intangibles, the fair value of a redemption right obligation, the fair-value of the Company's and the Predecessor's common stock and stock option awards, the fair value of the Series A redeemable convertible preferred stock and a valuation allowance for deferred tax assets. Actual results could differ from those estimates.

(o) Concentrations

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

Primarily all of the Company's and the Predecessor's revenue earned from merchant advertisers is generated through arrangements with distribution partners. The Company may not be successful in renewing any of these agreements, or if they are renewed, they may not be on terms as favorable as current agreements. The Company may not be successful in entering into agreements with new distribution partners on commercially acceptable terms. In addition, several of these distribution partners may be considered potential competitors.

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

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

(p) Segment Reporting and Geographic Information

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

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

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

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

(q) Net Income (Loss) Per Share

The Company's basic and diluted net loss per share is presented for the period from January 17, 2003 (inception) to December 31, 2003. Basic net loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of common and dilutive common equivalent shares outstanding during the period. Net loss applicable to common stockholders consists of net loss as adjusted for the impact of accretion of redeemable convertible preferred stock to its redemption value. As the Company had a net loss during the period from January 17, 2003 (inception) to December 31, 2003 basic and diluted net loss per share are the same.

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

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

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

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

(r) Guarantees

The Predecessor adopted FASB Interpretation (FIN) No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, during the year ended December 31, 2002. FIN No. 45 provides expanded accounting guidance surrounding liability recognition and disclosure requirements related to guarantees, as defined by the interpretation. The Company adopted FIN No. 45

upon inception. In the ordinary course of business, neither the Company nor the Predecessor is subject to potential obligations under guarantees that fall within the scope of FIN No. 45 except for standard indemnification provisions that are contained within many of our advertiser and distribution partner agreements, and give rise only to the disclosure requirements prescribed by FIN No. 45.

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

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

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

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

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

(t) Recently Issued Accounting Standards

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

(2) Related Party Transactions

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

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

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(3) Property and Equipment

Property and equipment consisted of the following:

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

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

(4) Commitments

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(5) Income Taxes

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

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

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

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

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

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

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

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

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

(6) Stockholders' Equity – Predecessor Periods

(a) Common Stock and Authorized Capital

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

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

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

(b) Stock Option Plans

2001 Plan

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

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

The following table summarizes stock option activity:

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

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

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

(7) Stockholders' Deficit – Successor Period

(a) Authorized Capital and Common Stock

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

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

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

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

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

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

(b) Series A Redeemable Convertible Preferred Stock

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

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

Conversion

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

Redemption

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

The Company accounts for the difference between the carrying amount of redeemable preferred stock and the redemption amount by increasing the carrying amount for periodic accretion using the interest method, so that

the carrying amount will equal the redemption amount at the redemption date. The aggregate redemption amount is approximately $21,489,000 at December 31, 2003.

Voting

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

Dividends

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

Liquidation

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

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

(c) Stock Option Plan

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

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

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

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

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

Stock option activity during the period indicated is as follows:

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

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

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

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

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

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

(d) Issuance of Class B Common Stock

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

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

(8) Contingencies

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

(9) 401(k) Savings Plan

The Company has a Retirement/Savings Plan ("401(k) Plan") under Section 401(k) of the Internal Revenue Code which covers those employees that meet eligibility requirements. Eligible employees may contribute up to 15% of their compensation subject to Internal Revenue Code provisions. Under the 401(k) Plan, management may, but

is not obligated to, match a portion of the employee contributions up to a defined maximum. No matching contributions have been made to date.

(10) Pre-Incorporation Costs

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

(11) Acquisition of Predecessor

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

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

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

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

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

A total of $1,500,000 and 125,000 of the 416,667 vested options were placed in escrow to secure indemnification obligations of the former shareholders of the Predecessor. The amounts can be released after 12 months. The cash

escrow is included as part of the purchase price consideration and will ultimately be released to the former Predecessor shareholders in the event no indemnification obligations are identified.

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

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

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

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

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

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

(12) Acquisition of TrafficLeader, Inc.

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

- Cash and acquisition costs of approximately $3,570,000; and
- 425,000 shares of class B common stock. In the event the Company has not completed an IPO with gross proceeds of $20 million prior to October 24, 2005, the purchase agreement provides the selling shareholders with a right to cause the 425,000 shares of Class B common stock to be

redeemed for $8 per share (aggregate redemption amount of $3,400,000) upon the affirmative vote of holders of 75% of such shares. These shares were valued at $6.75 per share and the associated redemption right was recorded at an estimated fair value of $80,750. Based on the terms of the redemption right, the obligation is subject to variable accounting and the Company will mark the redemption right to fair value at each reporting period until such time as the redemption right expires or the shares are redeemed. The estimated fair value of the redemption right, which has been recorded as a liability, was $55,250 at December 31, 2003.

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

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

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

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

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

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

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

(13) Acquired Identifiable Intangible Assets

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

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

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

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

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

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

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

MARCHEX, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements—(Continued)

(15) Subsequent Events

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

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

MARCHEX, INC. AND SUBSIDIARIES

Condensed Consolidated Balance Sheets
(unaudited)

	December 31, 2003	September 30, 2004
Assets		
Current assets:		
Cash and cash equivalents	$ 6,019,119	$ 24,772,316
Accounts receivable, net	1,627,730	2,301,249
Other receivables	384	—
Prepaid expenses	117,596	357,871
Income tax receivable	290,939	17,727
Deferred tax assets	263,193	513,404
Other current assets	24,190	46,202
Total current assets	8,343,151	28,008,769
Property and equipment, net	994,793	1,279,962
Other assets	409,878	61,465
Goodwill	17,252,999	26,666,058
Identifiable intangible assets, net	6,701,791	6,487,815
Total assets	$ 33,702,612	$ 62,504,069
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 2,842,229	$ 3,868,745
Accrued payroll and benefits	252,642	278,209
Accrued expenses and other current liabilities	1,031,850	930,283
Accrued facility relocation	—	59,498
Deferred revenue	848,958	1,755,738
Earn-out liability payable	3,525,995	377,547
Total current liabilities	8,501,674	7,270,020
Deferred tax liabilities	1,829,687	658,043
Deferred revenue	38,993	23,617
Accrued facility relocation	—	50,578
Other non-current liabilities	2,274	38,183
Fair value of redemption obligation	55,250	—
Total liabilities	10,427,878	8,040,441
Series A redeemable convertible preferred stock	21,440,402	—
Commitments, contingencies, and subsequent events		
Stockholders' equity:		
Class A common stock	122,500	122,500
Class B common stock	15,675	134,216
Additional paid-in capital	6,716,734	60,146,934
Deferred stock-based compensation	(1,532,340)	(690,937)
Accumulated deficit	(3,488,237)	(5,249,085)
Total stockholders' equity	1,834,332	54,463,628
Total liabilities and stockholders' equity	$ 33,702,612	$ 62,504,069

See accompanying notes to condensed consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Operations
(unaudited)

	Predecessor Period	Successor Periods	
	Period from January 1 to February 28, 2003	Period from January 17 (inception) to September 30, 2003	Nine months ended September 30, 2004
Revenue	$ 3,071,055	$12,431,493	$28,682,924
Expenses:			
Service costs[1]	1,732,813	6,806,021	18,142,886
Sales and marketing[1]	365,043	1,592,722	3,196,996
Product development[1]	144,479	844,399	1,636,321
General and administrative[1]	234,667	1,816,522	2,613,932
Acquisition-related retention consideration[2]	—	—	374,858
Facility relocation	—	—	199,960
Stock-based compensation[3]	38,981	1,587,476	721,403
Amortization of intangible assets[4]	—	2,028,244	3,473,976
Total operating expenses	2,515,983	14,675,384	30,360,332
Income (loss) from operations	555,072	(2,243,891)	(1,677,408)
Other income (expense):			
Interest income	1,529	33,502	163,808
Interest expense	—	—	(3,728)
Adjustment to fair value of redemption obligation	—	—	55,250
Other	—	—	3,644
Total other income	1,529	33,502	218,974
Income (loss) before provision for income taxes	556,601	(2,210,389)	(1,458,434)
Income tax expense (benefit)	224,082	(783,231)	(118,016)
Net income (loss)	332,519	(1,427,158)	(1,340,418)
Accretion to redemption value of redeemable convertible preferred stock	—	911,620	420,430
Net income (loss) applicable to common stockholders	$ 332,519	$ (2,338,778)	$ (1,760,848)
Basic net income (loss) per share applicable to common stockholders		$ (0.18)	$ (0.08)
Diluted net income (loss) per share applicable to common stockholders		$ (0.18)	$ (0.08)
Shares used to calculate basic net income (loss) per share		13,203,398	20,971,993
Shares used to calculate diluted net income (loss) per share		13,203,398	20,971,993
[1] Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangible assets			
[2] Components of acquisition-related retention consideration			
Service costs	—	—	44,608
Sales and marketing	—	—	127,427
Product development	—	—	137,948
General and administrative	—	—	64,875
[3] Components of stock-based compensation			
Service costs	190	39,158	8,550
Sales and marketing	715	316,574	124,161
Product development	37,710	164,070	47,230
General and administrative	366	1,067,674	541,462
[4] Components of amortization of intangible assets			
Service costs	—	1,503,244	2,447,901
Sales and marketing	—	204,167	532,527
Product development	—	—	—
General and administrative	—	320,833	493,548

See accompanying notes to condensed consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Cash Flows
(unaudited)

	Predecessor Period	Successor Periods	
	Period from January 1 to February 28, 2003	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
Cash flows from operating activities:			
Net income (loss)	$ 332,519	$ (1,427,158)	$ (1,340,418)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Amortization and depreciation	43,584	2,228,183	3,917,774
Adjustment to fair value of redemption obligation	—	—	(55,250)
Facility relocation	—	—	137,736
Allowance for doubtful accounts and merchant advertiser credits	86,908	282,848	870,325
Stock-based compensation	38,981	1,587,476	721,403
Deferred income taxes	(6,956)	(1,332,902)	(1,436,096)
Income tax benefit related to stock options	231,038	—	179,869
Change in certain assets and liabilities, net of acquisitions:			—
Accounts receivable, net	(135,457)	(512,866)	(1,564,144)
Other receivables	(1,137)	(3,480)	398
Income tax receivable and payable	—	(385,329)	273,212
Prepaid expenses and other current assets	(26,549)	(31,878)	(261,752)
Accounts payable	(403,753)	896,950	570,085
Accrued expenses, payroll, benefits and other current liabilities	117,133	372,392	(82,652)
Deferred revenue	75,650	64,306	313,291
Acquisition-related retention consideration in earn-out liability	—	—	94,278
Other non-current liabilities	1,092	(469)	(2,274)
Net cash provided by operating activities	353,053	1,738,073	2,335,785
Cash flows from investing activities:			
Purchases of property and equipment	(63,878)	(378,385)	(627,148)
Cash paid for acquisitions, net of cash acquired	—	(13,295,931)	(10,519,156)
Proceeds from sale of equipment	—	—	3,710
Decrease in other non-current assets	—	(149,433)	(27,728)
Net cash used in investing activities	(63,878)	(13,823,749)	(11,170,322)
Cash flows from financing activities:			
Capital lease obligation principal paid	—	—	(2,689)
Offering costs paid	—	—	(1,082,809)
Proceeds from IPO, net of offering costs	—	—	28,405,100
Proceeds from exercises of stock options	37,288	—	86,650
Proceeds from employee stock purchase plan	—	—	181,482
Proceeds from sale of stock	—	132,500	—
Proceeds from sale of redeemable convertible preferred stock	—	20,121,517	—
Net cash provided by financing activities	37,288	20,254,017	27,587,734
Net increase in cash and cash equivalents	326,463	8,168,341	18,753,197
Cash and cash equivalents at beginning of period	1,494,300	—	6,019,119
Cash and cash equivalents at end of period	$ 1,820,763	$ 8,168,341	$ 24,772,316

See accompanying notes to condensed consolidated financial statements

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements
(unaudited)

(1) Description of Business and Basis of Presentation

The accompanying unaudited condensed consolidated financial statements of Marchex, Inc. and subsidiaries (the "Company") have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and pursuant to [the instructions to the Quarterly Report under the Securities Exchange Act of 1934, as amended, on Form 10-QSB and] Item 310(b) of Regulation S-B under the Securities Act of 1933, as amended. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for annual financial statements. In the opinion of management, all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the nine months ended September 30, 2004 are not necessarily indicative of the results that may be expected for the year ending December 31, 2004, or for any other period. The balance sheet at December 31, 2003 has been derived from the audited consolidated financial statements at that date but does not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. These financial statements and notes should be read with the financial statements and notes thereto for the year ended December 31, 2003 included in the Company's final prospectus dated March 30, 2004 for its initial public offering filed with the Securities and Exchange Commission.

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 ah-ha.com, Inc., the wholly-owned operating subsidiary, based in Provo, Utah. ah-ha.com, Inc. was renamed Enhance Interactive, Inc. in December 2003. The aggregate cash consideration, including acquisition costs to acquire Enhance Interactive was approximately $15,117,000. The purchase price excludes performance-based contingent payments that depend on Enhance Interactive's achievement of minimum thresholds in calendar years 2003 and 2004 of income before tax, excluding stock-based compensation and amortization of intangible assets relating to the purchase ("earnings before taxes"). The payment of the earnings-based contingent amounts is based on the formula of 69.44% of the acquired businesses' 2003 and 2004 earnings before taxes up to an aggregate maximum payout cap of $12,500,000 ("earn-out consideration"). In the event earnings before taxes do not exceed $3,500,000 for 2003 or 2004, then no amount shall be payable for such period. The contingent earn-out consideration payments are being accounted for as additional goodwill, as all former Predecessor shareholders receive the consideration in proportion to their respective share holdings prior to the acquisition date and the amounts reflect the payment of additional purchase price to these shareholders. For the calendar year 2003, additional goodwill of $3,243,000 was recorded for the earn-out consideration.

In addition, if the minimum earnings before taxes thresholds above are achieved, a payment of 5.56% of the acquired businesses' 2003 and 2004 earnings before taxes up to an aggregate maximum of $1,000,000 will be paid to certain current employees of the acquired business ("acquisition-related retention consideration"). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of the calendar years 2003 and 2004. At September 30, 2003, in consideration of the assessed probability of payment, no amounts were accrued for the acquisition-related retention consideration. For the calendar year 2003, $283,000 was recorded for the acquisition-related retention consideration including employer payroll-related taxes. For the nine months ended September 30, 2004, an additional $375,000 in acquisition-related consideration was recorded based on the ratable portion of the annual estimated forecast.

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

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

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

- Cash and acquisition costs of approximately $3,570,000; plus
- 425,000 shares of Class B common stock with a redemption right that required the Company to buy back the 425,000 shares for $8 per share, but only at the election of the holders of 75% of such shares in the event the Company had not completed a firm commitment initial public offering with gross proceeds of at least $20 million prior to October 24, 2005. This redemption right terminated with the closing of the Company's initial public offering on April 5, 2004; plus
- 137,500 shares of restricted Class B common stock that vest over a period of 3 years.

The above summary of the costs of acquisition excludes performance-based contingent payments that depend on TrafficLeader's achievement of revenue thresholds. The assets, liabilities and operations of TrafficLeader are included in the Company's condensed consolidated financial statements since the October 24, 2003 acquisition date.

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 relevant product listings and then placing these listings in front of potential customers, primarily through search engines. Merchant advertiser's product listings map directly to user search queries, which link to specific product or information pages when clicked. On behalf of merchant advertisers, TrafficLeader indexes these relevant listings through its distribution partners, including search engines, product shopping engines and directories.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

On July 27, 2004, the Company acquired 100% of the outstanding stock of goClick.com, Inc. ("goClick"), a Norwalk, Connecticut-based company, for the following consideration:

- $7.5 million in net cash and acquisition costs; plus
- 433,541 shares of Class B common stock.

The shares of Class B common stock were valued at $9.55 per share (for accounting purposes) for an aggregate amount of $4.14 million.

goClick is a provider of marketing technology and services for small merchants. The assets, liabilities and operations of goClick are included in the Company's condensed consolidated financial statements since the July 27, 2004 acquisition date.

(2) Initial Public Offering (IPO), Pro Forma Net Loss Per Share and the 2004 Employee Stock Purchase Plan

The Securities and Exchange Commission declared the Company's registration statement on Form SB-2 (Registration No. 333-111096) under the Securities Act of 1933 effective on March 30, 2004. Under this registration statement, in an initial public offering, the Company registered 4,600,000 shares of its Class B common stock, including 600,000 shares subject to the underwriters' over-allotment option, with an aggregate public offering price of $29,900,000.

On April 5, 2004 the Company completed its IPO in which it sold 4,600,000 shares of the Company's Class B common stock that resulted in aggregate gross proceeds of approximately $29,900,000, of which the Company applied approximately $1,500,000 to underwriting discounts and commissions and approximately $1,200,000 to related IPO costs. As a result, the net cash amount of the offering proceeds was approximately $27,200,000. In connection with the IPO, the underwriters were also granted warrants, exercisable for a four-year period commencing one year after the offering date, to purchase 120,000 shares of Class B common stock at an exercise price equal to $8.45 per share. The $579,000 fair value of the warrants is also an IPO related cost and 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 4.75%, volatility of 102%, and an expected life equal to the warrant term of five years.

Upon the completion of the initial public offering on April 5, 2004, 6,724,063 outstanding shares of the Company's Series A redeemable convertible preferred stock automatically converted into 6,724,063 shares of Class B common stock and the Series A redeemable convertible preferred stock was automatically retired. Subsequent to the initial public offering, the authorized number of shares of preferred stock is 1,000,000 and the authorized number of shares of the Class B common stock is 125,000,000. The Board has the authority to issue up to 1,000,000 shares of preferred stock, $0.01 par value, in one or more series and has 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.

On February 15, 2004, the Company's board of directors and shareholders approved the 2004 Employee Stock Purchase Plan, which became effective on March 30, 2004. The plan provides employees the opportunity to purchase the Company's Class B common stock at 85% of the lower of the fair value at the beginning or end of the three-month offering period. A total of 300,000 shares have been initially reserved under the plan.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

(3) *(a) Significant Accounting Policies*

The Company's significant accounting policies are disclosed in the Company's final prospectus dated March 30, 2004 for its initial public offering filed with the Securities and Exchange Commission. The Company's significant accounting policies have not materially changed during the nine months ended September 30, 2004.

(b) Stock-based Compensation

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

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

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

	Predecessor Period	Successor Periods	
	Period from January 1 to February 28, 2003	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
Net income (loss) applicable to common stockholders:			
As reported	$ 332,519	$(2,338,778)	$(1,760,848)
Add: stock-based employee compensation expense included in reported net income (loss), net of related tax effect	38,428	1,020,889	627,213
Deduct: stock-based employee compensation expense determined under fair-value-based method for all awards, net of related tax effect	(42,375)	(1,449,094)	(3,019,403)
Pro forma	$ 328,572	$(2,766,983)	$(4,153,038)
Net income (loss) per share applicable to common stockholders:			
As reported (basic and diluted)		$ (0.18)	$ (0.08)
Pro forma (basic and diluted)		$ (0.21)	$ (0.20)

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.*

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

(4) Net Income (Loss) Per Share

The Company's basic and diluted net income (loss) per share is presented for the period from January 17, 2003 (inception) to September 30, 2003, and for the nine months ended September 30, 2004. 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 (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, 2003 (inception) to September 30, 2003, and for the nine months ended September 30, 2004, basic and diluted net loss per share are the same.

The following table reconciles the Company's reported net income (loss) applicable to common stockholders used to compute basic and diluted net income (loss) per share for the period from January 17, 2003 (inception) to September 30, 2003, and for the nine months ended September 30, 2004:

	Successor Periods	
	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
Numerator:		
Net income (loss)	(1,427,158)	(1,340,418)
Accretion to redemption value of Series A redeemable convertible preferred stock	911,620	420,430
Net income (loss) applicable to common stockholders	(2,338,778)	(1,760,848)
Denominator:		
Weighted average common shares outstanding excluding unvested common shares subject to repurchase or cancellation	13,203,398	20,971,993
Weighted average number of shares outstanding used to calculate basic net income (loss) per share	13,203,398	20,971,993
Effect of dilutive securities		
Weighted average stock options and warrants and unvested common shares subject to repurchase or cancellation	—	—
Weighted average number of shares outstanding used to calculate diluted net income (loss) per share	13,203,398	20,971,993
Basic and diluted net income (loss) per share applicable to common stockholders	$ (0.18)	$ (0.08)

The computation of diluted net loss per share during the period from January 17, 2003 (inception) to September 30, 2003, and for the nine months ended September 30, 2004, 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 at September 30, 2003. On April 5, 2004, 6,724,063 shares of the Company's Series A redeemable convertible preferred stock automatically converted into 6,724,063 shares of Class B common stock;

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

- Outstanding options at September 30, 2003 to acquire: (a) 2,421,500 shares of Class B common stock with a weighted average exercise price of $1.67 per share; and (b) 273,350 options to acquire shares of Class B common stock with an exercise price equal to the initial public offering price; provided that in the event that twelve months from the option grant date the Company had not completed a firm commitment initial public offering with gross proceeds of at least $20 million, these options were to have an exercise price equal to the then determined fair market value. Outstanding options at September 30, 2004 to acquire 3,571,167 shares of Class B common stock with a weighted average exercise price of $4.02 per share;
- Warrants to acquire 120,000 shares of Class B common stock at an exercise price equal to $8.45 per share at September 30, 2004; and
- 108,462 Class B restricted common shares issued in connection with the October 2003 acquisition of TrafficLeader at September 30, 2004. These shares were for future services that vest over 3 years. Additionally, these unvested shares were excluded from the computation of basic net income (loss) per share.

(5) Concentrations

The Company and the Predecessor maintain substantially all of their cash and cash equivalents with two financial institutions. Primarily all of the Company's 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 Period	Successor Periods	
	Period from January 1 to February 28, 2003	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
Distribution Partner A	12%	8%	4%
Distribution Partner B	—	—	19%
Distribution Partner C	—	—	9%

(6) 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.

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

Revenues by geographic region are as follows:

	Predecessor Period	Successor Periods	
	Period from January 1 to February 28, 2003	Period from January 17, (inception) to September 30, 2003	Nine months ended September 30, 2004
United States	90%	90%	90%
Canada	5%	5%	4%
Other countries	5%	5%	6%
	100%	100%	100%

(7) Facility Relocation

As part of its anticipated expansion, in March 2004, the Company entered into a sublease agreement for new office facilities in Seattle, Washington and relocated from its original office facilities also located in Seattle, Washington. Future minimum payments related to these new facilities as of September 30, 2004 are as follows: $74,000 in 2004, $340,000 in 2005, $422,000 in 2006, and $455,000 in each of 2007, 2008 and 2009. The remaining lease obligation for the previous office facilities extends through June 30, 2006 and totaled $219,000 as of September 30, 2004. In March 2004, the Company accrued for lease and related costs of $230,000 for the estimated future obligations of non-cancelable lease and other payments for the original facilities and subsequently, in the quarter ended September 30, 2004, the Company reduced the lease and related costs accrual by $30,000 based on a revised estimate for subtenant income.

The remaining lease accrual is based on estimates of vacancy period and sublease income. The actual vacancy periods may differ from these estimates, and sublease income may not materialize. Accordingly, these estimates may be adjusted in future periods. The remaining liability at September 30, 2004 was $110,000, of which $59,000 was the current portion.

(8) Acquisition of goClick.com, Inc.

On July 27, 2004, the Company acquired 100% of the outstanding stock of goClick. goClick is a provider of marketing technology and services for small merchants. As a result of the acquisition, the Company obtained customer-facing technologies and a broader base of merchant advertisers and distribution partners. The purchase price consideration consisted of cash and acquisition costs of approximately $8,586,000 and 433,541 shares of Class B common stock. The shares of Class B common stock were valued at $9.55 per share (for accounting purposes) for an aggregate amount of $4.14 million. The holder of such shares is entitled to customary piggyback registration rights.

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

Current assets, including acquired cash and cash equivalents of $1,037,756	$ 1,060,078
Property and equipment	27,819
Intangible assets	3,260,000
Goodwill	9,387,023
Total assets acquired	13,734,920
Current liabilities	1,008,853
Net assets acquired	$ 12,726,067

MARCHEX, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements—(Continued)
(unaudited)

The acquired intangible assets in the amount of $3,260,000 have a weighted average useful life of approximately 1.9 years. The identifiable intangible assets are comprised of a merchant advertiser customer base with a value of approximately $500,000 (2-year weighted-average useful life), distribution partner base with a value of approximately $700,000 (3-year weighted-average useful life), non-compete agreement with a value of approximately $900,000 (2-year weighted average useful life), trademarks/domain names with a value of approximately $60,000 (3-year weighted average useful life), and acquired technology with a value of $1,100,000 (1-year weighted average useful life). The goodwill of $9,387,023 and the acquired intangible assets with a value of $3,260,000 are deductible for tax purposes. The estimated fair value of assets and liabilities assumed are based upon preliminary estimates and may vary from the final allocation of the purchase price consideration.

The following table presents pro forma results of operations for the nine months ended September 30, 2004 as if the acquisition of goClick had occurred as of the beginning of the period. The pro forma results of operations for the nine months ended September 30, 2004 are based on the historical results of operations of goClick for the period from January 1, 2004 to July 26, 2004 and the historical results of the Company for the nine months ended September 30, 2004. The following table also presents pro forma results of operations for the nine months ended September 30, 2003 as if the acquisition of goClick and the 2003 acquisitions of TrafficLeader and the Predecessor had occurred as of the beginning of the period. The pro forma results of operations for the nine months ended September 2003 are based on the historical results of operations of goClick and TrafficLeader for the nine months ended September 30, 2003, the historical results of the Company for the period from January 17, 2003 (inception) to September 30, 2003, and the Predecessor for the two months ended February 28, 2003.

	January 2003 to September 30, 2003	Nine months ended September 30, 2004
Revenue	$ 21,702,111	$ 32,434,453
Net loss	(1,737,401)	(1,275,065)
Net loss applicable to common stockholders	(2,649,021)	(1,695,495)
Net loss per share applicable to common stockholders:		
Basic and diluted loss per share	$ (.19)	$ (.08)

The pro forma information is not necessarily indicative of the combined results that would have occurred had the acquisitions taken place at January 1, 2003 or at January 1, 2004, 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 ("the Company"), based in Eugene, Oregon, was formed in January, 2000. TrafficLeader provides performance-based advertising and search marketing services to merchant advertisers, including paid inclusion, advertising campaign management, conversion tracking and analysis, and search engine optimization. Through TrafficLeader's primary service, paid inclusion, TrafficLeader manages search-based advertising campaigns and services for merchant advertisers. TrafficLeader's paid inclusion service helps merchant advertisers reach prospective customers by first creating highly relevant product listings and then placing them in front of potential customers, primarily through search engines. The merchant advertiser's product listings map directly to user search queries, which link to specific product or information pages when clicked. On behalf of merchant advertisers, TrafficLeader indexes these highly relevant listings into many of the Internet's most visited search engines, product shopping engines, directories and other Web sites.

(b) Cash and Cash Equivalents

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

(c) Fair Value of Financial Instruments

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

(d) Accounts Receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. The allowance for doubtful accounts is the Company's best estimate of the amount of probable credit losses in the Company's existing accounts receivable. The Company determines the allowance based on analysis of historical bad debts, merchant advertiser concentrations, merchant advertiser credit-worthiness and current economic trends. The Company reviews its allowance for collectibility quarterly. Past due balances over 90 days and specified other balances are reviewed individually for collectibility. All other balances are reviewed on an aggregate basis. Account balances are written off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

The Company does not have any off-balance sheet credit exposure related to its merchant advertisers.

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

	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Write-offs	Balance at End of Period
Allowance for doubtful accounts:				
December 31, 2002	$ 67,097	$ 98,196	$158,709	$ 6,584
September 30, 2003	6,584	74,318	41,260	39,642

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

Notes To Financial Statements—(Continued)
Year ended December 31, 2002 and nine month period ended September 30, 2003

At December 31, 2002 and September 30, 2003, one merchant advertiser represented 15% and 11%, respectively, of total accounts receivable.

For the year ended December 31, 2002 and the nine month period ended September 30, 2003, one merchant advertiser represented approximately 19% and 24%, respectively, of total revenue.

(e) Property and Equipment

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

(f) Impairment or Disposal of Long-Lived Assets

In accordance with Statement of Financial Accounting Standards ("SFAS") No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, the Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds their estimated fair value. Assets to be disposed of would be separately presented on the balance sheet and reported at the lower of their carrying amount or fair value less costs to sell, and are no longer depreciated.

(g) Advertising Expenses

Advertising costs are expensed as incurred and include Internet-based direct advertising and trade shows. Such costs are included in sales and marketing. The amounts for the periods presented were not significant.

(h) Product Development

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

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

(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

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

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

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

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

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Net income:		
As reported	$ 186,786	$ 154,764
Add: stock-based employee expense included in reported net income	24,474	9,139
Deduct: stock-based employee compensation expense determined under fair-value-based method for all awards[1]	(38,515)	(14,614)
Pro forma	$ 172,745	$ 149,289

[1] See Note 4 for details of the assumptions used to arrive at the fair value of each.

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

(j) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company has used estimates in determining certain provisions, including uncollectible accounts receivable, useful lives for property and equipment and the fair-value of the Company's common stock. Actual results could differ from those estimates.

(k) Concentrations

The Company maintains substantially all of its cash and cash equivalents with one financial institution.

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

Primarily all of the Company's revenue earned from merchant advertisers is supplied through distribution partners under short-term agreements. The Company may not be successful in renewing any of these agreements, or if they are renewed, they may not be on terms as favorable as current agreements. The Company may not be successful in entering into agreements with new distribution partners on commercially acceptable terms. In addition, several of these distribution partners may be considered potential competitors.

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

	Year ended December 31, 2002	Nine month period ended September 30, 2003
Affiliate A	42%	40%
Affiliate B	12%	12%

(l) Segment Reporting and Geographic Information

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

The Company attributes revenue from merchant advertisers in different geographical areas on the basis of the location of the customer. Substantially all of the Company's revenue and accounts receivable are derived from domestic sales to merchant advertisers engaged in various activities involving the Internet.

(m) Revenue Recognition

Revenue is generated primarily through paid inclusion services, that is, revenue is generated when a user clicks on a merchant advertiser's listings after it has been included by our distribution partners in their index of search listings. In paid inclusion services, merchant advertisers pay for their Web pages and product databases to be crawled, or searched, and included within search engine results. Generally, the paid inclusion results are delivered in a different section of the results than the pay-per-click listing results where the merchant advertiser drives placement through the price they choose to pay per click. For this inclusion service, revenue is not a result of placement in search results; rather the arrangement provides for inclusion in particular search engines, which may determine ranking based on individual algorithms such as relevancy determinations for a particular query.

Merchant advertisers also pay for supplementary search marketing services including advertising campaign management, conversion tracking and analysis, and search engine optimization. Merchants generally pay on a per click-through basis for these fees, although in limited cases a flat service fee is received for delivery of these services. These supplementary services allow merchant advertisers to track, monitor and optimize the placement of their advertising listings; to calculate conversion of listings that result in sales and those that do not; and optimize and organize their sites and listings for enhanced performance within algorithmic search engines. Revenue also consists of initial set-up fees.

Revenue from these collective services accounted for less than 2% of total revenue in all periods presented. The Company has no barter transactions.

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 supplementary services are generally based on usage that is billed on a fixed amount per click-through or a fixed monthly amount. Revenue is recognized on a click-through basis or in the month the service is provided.

The Company follows Staff Accounting Bulletin 101, *Revenue Recognition in Financial Statements* (SAB No. 101). This pronouncement summarizes certain of the Security and Exchange Commissions (SEC) staff's view on the application of accounting principles generally accepted in the United States of America to revenue recognition. Revenue associated with paid inclusion fees and supplementary search marketing services is recognized once persuasive evidence of an arrangement is obtained, services are performed, provided the fee is fixed and determinable and collection is reasonably assured.

Non-refundable initial account set-up fees paid by a merchant advertiser are recognized ratably over the longer of the contract or the average expected merchant advertiser campaign period which is currently estimated to be one year.

The Company has entered into agreements with various distribution partners to provide merchant advertisers' listings. The Company generally pays distribution partners based on a specified percentage of revenue or a fixed amount per click-through on these listings. The Company acts as principal to revenue transactions and bears the risk of loss. In accordance with EITF No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, the revenue derived from merchant advertisers who receive paid introductions through the Company as supplied by distribution partners is reported gross of the payment to distribution partners.

(n) Service Costs

Service costs represent those costs specifically applicable to our revenue. Service costs include network operations and customer service costs that consist primarily of costs associated with serving our search results, maintaining our Web site, credit card processing fees and network and fees paid to outside service providers that provide our paid listings and customer services. Customer service and other costs associated with providing our performance-based advertising and search marketing services, and maintaining our Web site include depreciation of Web site and network equipment, colocation charges of our Web site equipment, bandwidth, software license fees and salaries of related personnel.

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

The Company expenses 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

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

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

(o) Income Taxes

The stockholders of the Company elected to utilize the provisions of subchapter S of the Internal Revenue Code. In lieu of corporate income taxes, the stockholders of a subchapter S corporation are taxed on their portion of the Company's taxable income. Therefore, no provision or liability for Federal income taxes was recorded in the financial statements.

(p) Guarantees

The Company adopted FASB Interpretation (FIN) No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, during the year ended December 31, 2002. FIN No. 45 provides expanded accounting guidance surrounding liability recognition and disclosure requirements related to guarantees, as defined by the interpretation. In ordinary course of business, the Company is not subject to potential obligations under guarantees that fall within the scope of FIN No. 45, except for standard indemnification provisions that are contained within many of it's merchant advertiser and distribution partner agreements, and give rise only to the disclosure requirements prescribed by FIN No. 45.

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

(q) Recently Issued Accounting Standards

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

In May 2003, the FASB issued SFAS 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*. The Statement establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity.

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.

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

(2) Property and Equipment

Property and equipment consisted of the following at:

	December 31, 2002	September 30, 2003
Computer and other related equipment	$ 123,787	$ 299,111
Purchased and internally developed software	127,801	150,580
Furniture and fixtures	7,547	14,258
Leasehold improvements	3,483	6,183
Less accumulated depreciation and amortization	(110,277)	(190,841)
Property and equipment, net	$ 152,341	$ 279,291

Depreciation and amortization expense incurred by the Company was approximately $61,895 and $80,564 for the year ended December 31, 2002 and the nine-month period ended September 30, 2003, respectively.

(3) Commitments

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

	Office Leases	Contractual Obligations	Total
Through end of 2003	$ 28,556	$ 4,571	$ 33,127
2004	83,491	7,500	90,991
Total minimum payments	$ 112,047	$ 12,071	$ 124,118

Other contractual obligations primarily relate to minimum contractual payments due to content and other service providers. Rent expense was $61,000 and $66,000 for the year ended December 31, 2002 and the nine-month period ended September 30, 2003, respectively.

(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*.

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

In accordance with this methodology approximately $24,000 and $9,000 was recognized as stock compensation expense for the year ended December 31, 2002 and nine-month period ended September 30, 2003 respectively.

The fair value for each option grant is estimated at the date of grant using a Black-Scholes option pricing model based on the following assumptions for the year ended December 31, 2002 and the nine-month period ended September 30, 2003: risk-free interest rates of 6%; no dividends; volatility factor of the expected market price of the Company's common stock of 111%; and a weighted-average expected life of approximately 3 years.

The following table summarizes stock option activity:

	Options available for grant	Number of options outstanding	Weighted average exercise price of options outstanding	Weighted average fair value of options granted
Balance at December 31, 2001	310,500	689,500	$ 0.20	
Granted below fair value	(30,000)	30,000	$ 0.25	$ 0.48
Exercised	—	(7,500)	$ 0.20	
Expired or cancelled	98,500	(98,500)	$ 0.20	
Balance at December 31, 2002	379,000	613,500	$ 0.20	
Exercised	—	(1,000)	$ 0.20	
Expired or cancelled	30,000	(30,000)	$ 0.20	
Balance at September 30, 2003	409,000	582,500	$ 0.20	

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).

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

Borrowings under this line of credit were $27,000 at December 31, 2002. The line of credit was repaid in full and terminated in August 2003.

(7) 401(k) Savings Plan

The Company's Retirement/Savings Plan ("401 (k) Plan") adopted May 1, 2003 under Section 401 (k) of the Internal Revenue Code covers those employees that meet eligibility requirements. Eligible employees may contribute up to 25% of their compensation subject to Internal Revenue Code provisions. Under the 401 (k) Plan, management may, but is not obligated to, match a portion of the employee contributions up to a defined maximum. No matching contributions have been made to date.

(8) Subsequent Events

On October 24, 2003, Marchex, Inc. acquired 100% of the outstanding stock of the Company. The consideration consisted of:

- cash and acquisition costs of approximately $3,570,000;
- 425,000 shares of class B common stock. In the event that Marchex has not completed an IPO with gross proceeds of $20 million prior to October 24, 2005, the 425,000 shares of Class B common stock can be redeemed for $8 per share upon the affirmative vote of the holders of 75% of such shares.

In addition, Marchex, Inc. issued 137,500 shares of restricted class B common stock, of which 29,068 shares are non-forfeitable and 108,432 shares are based on continued employment agreements. The restricted shares vest over a period of 3 years, one-third at the end of each year, valued at $6.75 per share.

The purchase price excludes performance-based contingent payments that depend on the TrafficLeader's achievement of revenues thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, Marchex, at the end of 2004, will pay 10% in the form of a performance-based payment to the former TrafficLeader shareholders up to a maximum $1 million. Any amounts will be accounted for as additional goodwill.

INDEPENDENT AUDITORS' REPORT

The Board of Directors and Stockholder
goClick.com, Inc.:

We have audited the accompanying balance sheet of goClick.com, Inc. as of December 31, 2003 and the related statements of income, stockholder's equity, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit 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 audit provides 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 goClick.com, Inc. as of December 31, 2003 and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ KPMG LLP

Seattle, Washington
August 25, 2004

GOCLICK.COM, INC.

Balance Sheets

	December 31, 2003	Unaudited June 30, 2004
Assets		
Current assets:		
Cash and cash equivalents	$ 1,093,174	$ 1,198,955
Accounts receivable	61,021	12,147
Other current assets	588	636
Total current assets	1,154,783	1,211,738
Property and equipment, net	34,337	26,500
Total assets	$ 1,189,120	$ 1,238,238
Liabilities and Stockholder's Equity		
Current liabilities:		
Accounts payable	$ 116,670	$ 249,350
Accrued payroll and benefits	29,744	4,049
Accrued expenses and other current liabilities	44,935	75,196
Deferred revenue	429,052	572,892
Total current liabilities	620,401	901,487
Total liabilities	620,401	901,487
Stockholder's equity:		
Common stock, no par value. 20,000 shares authorized and 100 shares issued and outstanding at December 31, 2003 and June 30, 2004	1,000	1,000
Retained earnings	567,719	335,751
Total stockholder's equity	568,719	336,751
Total liabilities and stockholder's equity	$ 1,189,120	$ 1,238,238

See accompanying notes to financial statements.

GOCLICK.COM, INC.

Statements of Income

		Unaudited	
	Year ended December 31, 2003	Six months ended June 30, 2003	Six months ended June 30, 2004
Revenue	$ 3,409,855	$ 1,378,214	$ 3,060,236
Expenses:			
Service costs	2,235,913	865,536	1,931,520
Sales and marketing	141,559	66,759	82,667
Product development	37,259	16,600	17,947
General and administrative	82,350	33,467	22,736
Total expenses	2,497,081	982,362	2,054,870
Income from operations	912,774	395,852	1,005,366
Other income:			
Interest income	5,923	2,805	5,148
Net income	$ 918,697	$ 398,657	$ 1,010,514

See accompanying notes to financial statements.

GOCLICK.COM, INC.

Statements of Stockholder's Equity

	Common stock		Retained earnings	Total stockholder's equity
	Shares	Amount		
Balances at December 31, 2002	100	$1,000	$ 208,024	$ 209,024
Net income	—	—	918,697	918,697
Dividends	—	—	(559,002)	(559,002)
Balances at December 31, 2003	100	1,000	567,719	568,719
Net income—unaudited	—	—	1,010,514	1,010,514
Dividends—unaudited	—	—	(1,242,482)	(1,242,482)
Balances at June 30, 2004—unaudited	100	$1,000	$ 335,751	$ 336,751

See accompanying notes to financial statements.

GOCLICK.COM, INC.

Statements of Cash Flows

		Unaudited	
	Year ended December 31, 2003	Six months ended June 30, 2003	Six months ended June 30, 2004
Cash flows from operating activities:			
Net income	$ 918,697	$ 398,657	$ 1,010,514
Adjustments to reconcile net income to net cash provided by operating activities:			
Amortization and depreciation	24,648	11,414	12,947
Change in certain assets and liabilities:			
Accounts receivable	(26,241)	3,165	48,874
Other current assets	(2,153)	(3,192)	(1,125)
Accounts payable	7,731	53,867	132,680
Accrued payroll and benefits	12,551	12,172	(25,695)
Accrued expenses and other current liabilities	(5,355)	16,742	30,261
Deferred revenue	141,519	87,927	143,840
Net cash provided by operating activities	1,071,397	580,752	1,352,296
Cash flows from investing activities:			
Purchases of property and equipment	(15,232)	(5,023)	(4,033)
Net cash used in investing activities	(15,232)	(5,023)	(4,033)
Cash flows from financing activities:			
Dividends paid to shareholder	(559,002)	(404,732)	(1,242,482)
Net cash used in financing activities	(559,002)	(404,732)	(1,242,482)
Net increase in cash and cash equivalents	497,163	170,997	105,781
Cash and cash equivalents at beginning of period	596,011	596,011	1,093,174
Cash and cash equivalents at end of period	$1,093,174	$ 767,008	$ 1,198,955

See accompanying notes to financial statements.

GOCLICK.COM, INC.

Notes to Financial Statements
Year ended December 31, 2003 and unaudited six months ended June 30, 2003 and 2004

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

(a) Description of Business and Basis of Presentation

goClick.com, Inc. (the "Company"), formed in October 2000, provides performance-based advertising services to merchant advertisers, including pay-per-click listings. Through the Company's per-per-click service, merchant advertisers create keyword listings that describe their products or services, which are marketed to consumers and businesses primarily through search engine or directory results when users search for information, products or services using the Internet.

(b) Cash and cash equivalents

The Company considers all highly liquid investments with an original maturity of three months or less at the date of purchase and proceeds in-transit from credit and debit card transactions with settlement terms of less than five days to be cash equivalents. Cash equivalents totaled approximately $858,797 and $622,760 at December 31, 2003, and June 30, 2004, respectively, and consisted primarily of certificates of deposit with seven day original maturity. Cash equivalents include credit and debit card in-transit amounts of approximately $29,024, and $54,913 at December 31, 2003 and June 30, 2004, respectively.

(c) Fair Value of Financial Instruments

At December 31, 2003 and June 30, 2004, the Company had the following financial instruments: cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities. The carrying value of cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities 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 Company records an allowance for doubtful accounts when it estimates probable credit losses in existing accounts receivable. The allowance is determined 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 on a quarterly basis. Account balances are written off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The Company had no allowance and no write-offs in the periods presented.

No merchant advertiser represented greater than 10% of revenue for the year ended December 31, 2003 and the six month periods ended June 30, 2003 and June 30, 2004. One merchant advertiser represented 67% and 57% of total accounts receivable at December 31, 2003 and June 30, 2004, respectively.

(e) Property and Equipment

Property and equipment are stated at cost. Depreciation on computers and equipment is calculated on the straight-line method over the estimated useful lives of the assets, generally averaging three 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 in accordance with SFAS No. 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 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.

(g) Merchant Advertiser Credit and Incentive Program Reserves

The Company grants merchant advertiser credits to its customers under certain circumstances. The merchant advertiser credit reserve is the Company's best estimate of the amount of expected future reductions in merchant advertisers' payment obligations to the Company related to delivered services. The Company determines the merchant advertiser credit reserve based on analysis of historical credits.

Under the merchant advertiser incentive program, the Company grants merchant advertisers with account credits depending upon the individual amounts of prepayments made. The incentive program reserve is determined based on historical rate of incentives earned and used by merchant advertisers compared to the related revenues recognized by the Company. The costs related to the incentives are comprised primarily of user acquisition costs and other costs as denoted in footnote (1) (n). These costs are expensed as incurred in accordance with Emerging Issues Task Force (EITF) No. 01-09, *Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor's Products)*.

Revenue is recognized based upon the total estimated click-throughs to be delivered, which includes incentive credits to be provided to merchant advertisers.

The merchant advertiser credit and incentive program reserve balances are included in accrued expenses and other current liabilities and total $33,482 and $60,391 as of December 31, 2003 and June 30, 2004, respectively.

(h) Advertising Expenses

Advertising costs are expensed as incurred and are primarily Internet-based direct advertising. Such costs are included in sales and marketing. Advertising expenses were $104,300, $50,160 and $64,719 for the year ended December 31, 2003 and the six months ended June 30, 2003 and June 30, 2004, respectively.

(i) Product Development

Product development costs consist primarily of expenses incurred by the Company in the research and development, creation, and enhancement of the Company's Internet 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. No costs were capitalized in the periods presented.

GOCLICK.COM, INC.

Notes to Financial Statements—(Continued)
Year ended December 31, 2003 and unaudited six months ended June 30, 2003 and 2004

(j) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company has used estimates in determining certain provisions, including the merchant advertiser credits and incentive program reserves and useful lives for property and equipment and intangibles. Actual results could differ from those estimates.

(k) Concentrations

The Company maintains substantially all of its cash and cash equivalents with one financial institution. Management believes that the financial risks associated with such deposits are minimal. The percentage of revenue earned from merchant advertisers supplied by distribution partners representing more than 10% of total revenue is as follows:

		Unaudited	
	Year Ended December 31, 2003	Six Months Ended June 30, 2003	Six Months Ended June 30, 2004
Distribution Partner A	57%	54%	29%
Distribution Partner B	11%	5%	31%
Distribution Partner C	—	—	21%

Primarily all of the Company's revenue earned from merchant advertisers is generated through arrangements with distribution partners that provide search listings. The Company may not be successful in renewing any of these agreements, or if they are renewed, they may not be on as favorable terms. 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.

(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.

(m) Revenue Recognition

Revenue is generated primarily through pay for performance advertising services when a user clicks on a merchant advertiser's listing after it has been placed by the Company or our distribution partners in the search listing. The Company follows Staff Accounting Bulletin 104, *Revenue Recognition* (SAB No. 104). 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 from click-through activity is recognized once persuasive evidence of an arrangement is obtained, services are performed (clicks are delivered), provided the fee is fixed and determinable and collection is reasonably assured. The Company has no barter transactions.

The Company enters 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 the primary obligor with the merchant advertiser for revenue click-through transactions and is 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.

(n) Service Costs

Service costs include network operations and customer service costs that consist primarily of costs associated with providing performance-based advertising services, maintaining the Company's Web site, credit card processing fees and network and fees paid to outside service providers that provide and manage the Company's paid listings and customer services. Customer service and other costs associated with serving the Company's search results and maintaining the Company's Web site include depreciation of Web site and network equipment, co-location charges of the Company's Web site equipment, bandwidth, salaries of related personnel and amortization of domain names.

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 enters into agreements of varying durations with distribution partners that integrate the Company'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. Other economic structures that to a lesser degree exist include variable payments based on a specific metric, such as number of paid click-throughs.

(o) Income Taxes

The stockholder of the Company elected to utilize the provisions of subchapter S of the Internal Revenue Code. In lieu of corporate income taxes, the stockholder of a subchapter S corporation is taxed on the Company's taxable income. Therefore, no provision or liability for Federal or state income tax 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 the 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 our advertiser and distribution partner agreements, and give rise only to the disclosure requirements prescribed by FIN No. 45.

Indemnification provisions contained within the Company's advertiser and distribution partner agreements are generally consistent with those prevalent in the Company's industry. The Company has not incurred significant obligations under 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 advertiser and distribution partner indemnification obligations.

GOCLICK.COM, INC.

Notes to Financial Statements—(Continued)
Year ended December 31, 2003 and unaudited six months ended June 30, 2003 and 2004

(q) Recently Issued Accounting Standards

In November 2002, the Emerging Issues Task Force (EITF) reached a consensus on Issue No. 00-21 ("EITF No. 00-21"), *Revenue Arrangements with Multiple Deliverables.* EITF No. 00-21 addresses certain aspects of the accounting by a vendor for arrangements under which the vendor will perform multiple revenue generating activities. EITF No. 00-21 became effective for fiscal periods beginning after June 15, 2003. The adoption of EITF No. 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 No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity.* SFAS No. 150 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 SFAS No. 150 did not have a material impact on our financial statements.

(r) Related Party Transactions

The Company has an affiliate company as one of its distribution partners. The terms of the distribution partner agreement are consistent with the Company's other distribution partner arrangements. Service costs in each period and accounts payable at each balance sheet date were as follows:

		Unaudited	
	Year Ended December 31, 2003	Six Months Ended June 30, 2003	Six Months Ended June 30, 2004
Service costs	$ 11,406	$ —	$ 12,806

		Unaudited
	December 31, 2003	June 30, 2004
Accounts payable	$ 845	$ 715

(2) Property and Equipment

Property and equipment consisted of the following:

		Unaudited
	December 31, 2003	June 30, 2004
Computers and equipment	$ 77,339	$ 81,372
Less accumulated depreciation	(43,002)	(54,872)
Property and equipment, net	$ 34,337	$ 26,500

Depreciation expense incurred by the Company was $22,566, $10,490 and $11,870 for the year ended December 31, 2003 and the six months ended June 30, 2003 and June 30, 2004, respectively.

GOCLICK.COM, INC.

Notes to Financial Statements—(Continued)
Year ended December 31, 2003 and unaudited six months ended June 30, 2003 and 2004

(3) Contingencies

The Company is involved in legal and administrative proceedings and claims of various types. 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.

(4) Simplified Employee Pension Plan

The Company has made contributions to eligible employees' individual retirement account under a simplified employee pension described in section 408(K) of the Internal Revenue Code. The Company may elect each year whether or not to contribute. The amounts contributed were $27,735, $12,500 and $0 for the year ended December 31, 2003, the six months ended June 30, 2003 and June 30, 2004, respectively.

(5) Subsequent Events

In July 2004, Marchex, Inc. acquired 100% of the outstanding stock of the Company. The consideration consisted of:

- cash of approximately $8,300,000, and
- 433,541 shares of Class B common stock.

INDEPENDENT AUDITORS' REPORT

The Board of Directors and Stockholder
Name Development Ltd.:

We have audited the accompanying balance sheets of Name Development Ltd. as of June 30, 2003 and 2004 and the related statements of operations, stockholder's equity (deficit), and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with 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 Name Development Ltd. as of June 30, 2003 and 2004, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ KPMG LLP

Seattle, Washington
November 24, 2004

NAME DEVELOPMENT LTD.

Balance Sheets

June 30, 2003 and 2004

	2003	2004
Assets		
Current assets:		
Cash	$ 1,399,452	$ 4,269,497
Trade accounts receivable	578,162	3,397,683
Other receivables	112,995	255,230
Prepaid expenses	240,045	209,236
Other current assets	35,040	220,573
Total current assets	2,365,694	8,352,219
Intangible assets, net	463,165	1,594,511
Security deposits	27,000	27,000
Total other assets	490,165	1,621,511
Total assets	$ 2,855,859	$ 9,973,730
Liabilities and Stockholder's Equity		
Current liabilities:		
Accounts payable	$ 123,693	$ 9,178
Accrued expenses, including related party	110,641	216,831
Income taxes	3,251,109	4,412,685
Total liabilities	3,485,443	4,638,694
Stockholder's equity (deficit):		
Common stock, $1.00 par value. Authorized and outstanding 50,000 shares	50,000	50,000
Retained earnings (accumulated deficit)	(679,584)	5,285,036
Total stockholder's equity (deficit)	(629,584)	5,335,036
Total liabilities and stockholder's equity (deficit)	$ 2,855,859	$ 9,973,730

See accompanying notes to financial statements.

NAME DEVELOPMENT LTD.

Statements of Operations

Years ended June 30, 2003 and 2004

	2003	2004
Revenue	$ 3,478,790	$ 12,530,782
Operating expenses:		
Service costs	1,066,660	1,459,476
General and administrative	49,406	71,067
Total operating expenses	1,116,066	1,530,543
Gain on sale of intangible assets, net	795,769	1,635,318
Income from operations	3,158,493	12,635,557
Other income (expense), net	(10,877)	639
Income before provision for income taxes	3,147,616	12,636,196
Income tax expense	487,185	1,161,576
Net income	$ 2,660,431	$ 11,474,620

See accompanying notes to financial statements.

NAME DEVELOPMENT LTD.

Statements of Stockholder's Equity (Deficit)

Years ended June 30, 2003 and 2004

	Common stock		Retained earnings (accumulated deficit)	Total stockholder's equity (deficit)
	Shares	Amount		
Balances at June 30, 2002	50,000	$ 50,000	$ 759,985	$ 809,985
Dividend distribution to stockholder	—	—	(4,100,000)	(4,100,000)
Net income	—	—	2,660,431	2,660,431
Balances at June 30, 2003	50,000	50,000	(679,584)	(629,584)
Dividend distribution to stockholder	—	—	(5,510,000)	(5,510,000)
Net income	—	—	11,474,620	11,474,620
Balances at June 30, 2004	50,000	$ 50,000	$ 5,285,036	$ 5,335,036

See accompanying notes to financial statements.

NAME DEVELOPMENT LTD.

Statements of Cash Flows

Years ended June 30, 2003 and 2004

	2003	2004
Cash flows from operating activities:		
Net income	$ 2,660,431	$ 11,474,620
Adjustments to reconcile net income to net cash provided by operating activities:		
Gain on sale of intangible assets	(795,769)	(1,635,318)
Amortization of intangible assets	467,981	611,938
Impairment of intangible assets	144,507	222,860
Changes in operating assets and liabilities:		
Trade accounts receivable and other receivables	(254,355)	(2,819,521)
Prepaid expenses, other current assets and security deposits	(153,131)	(223,859)
Accounts payable	22,762	(13,604)
Accrued expenses, including related party	102,848	106,191
Income taxes	487,185	1,161,576
Net cash provided by operating activities	2,682,459	8,884,883
Cash flows from investing activities:		
Proceeds from the sale of intangible assets	689,073	1,499,212
Purchase of intangible assets	(519,490)	(2,004,050)
Net cash provided by (used in) investing activities	169,583	(504,838)
Cash flows from financing activities:		
Dividends paid to stockholder	(4,100,000)	(5,510,000)
Net cash used in financing activities	(4,100,000)	(5,510,000)
Net increase (decrease) in cash	(1,247,958)	2,870,045
Cash at beginning of period	2,647,410	1,399,452
Cash at end of period	$ 1,399,452	$ 4,269,497

See accompanying notes to financial statements.

NAME DEVELOPMENT, LTD.

Notes to Financial Statements

June 30, 2003 and 2004

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

(a) Description of Business and Basis of Presentation

Name Development Ltd. (Company or Name Development), based in the British Virgin Islands, was formed in July 2000. Name Development is principally involved in the field of direct navigation. Direct navigation is one of the methods that online consumers use to search for information, products or services online. Direct navigation is primarily characterized by online users directly accessing a Web site by typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser and by accessing bookmarked pages. It can also include navigating through referring or partner traffic sources. Name Development owns and maintains a portfolio of Web properties, that are reflective of online user search terms, descriptive keywords and keyword strings. The Company has entered into agreements with advertising service providers to monetize its online user traffic, generated through direct navigation means, with pay-per-click listings. As such, the Company is able to connect online users searching for specific information with relevant advertisements.

The Company’s functional currency is the U.S. dollar.

(b) Cash

Primarily all of the Company’s cash at June 30, 2003 and 2004 was held in bank deposit accounts with an Asia-Pacific financial institution.

(c) Fair Value of Financial Instruments

At June 30, 2003 and 2004, the Company had the following financial instruments: cash, accounts receivables and accounts payable. The carrying value of these financial instruments approximates their fair value based on the liquidity of these financial instruments or based on their short-term nature.

(d) Trade Accounts Receivable and Other Receivables

Trade accounts receivable are recorded at contractual revenue sharing amounts due primarily from North-American based advertising services partners and do not bear interest. Other receivables relate to the sale of domain name intangible assets and are recorded at the agreed sales price. The buyer generally deposits the sales proceeds with an escrow company or agent that closes the sale on behalf of the Company. The Company has evaluated the credit worthiness of its advertising service partners and has determined that no allowance for doubtful accounts is required at June 30, 2003 and 2004. The Company has not experienced any credit losses during the years ended June 30, 2003 and 2004.

The Company does not have any off-balance sheet credit exposure related to its advertising service partners.

(e) Property and Equipment

The Company leases its property and equipment under operating leases and does not own any depreciable property and equipment.

(f) Intangible Assets

The Company capitalizes costs incurred to acquire domain names or URLs, which includes the initial registration fees, and amortizes the cost over the expected useful life of the domain names. The expected useful life for

NAME DEVELOPMENT, LTD.

Notes to Financial Statements—(Continued)

June 30, 2003 and 2004

accounting purposes ranges from 12 to 54 months, with a weighted average useful life of approximately 28 months. In order to maintain the rights to each domain name acquired, the Company must pay periodic registration fees, which cover a period of 12 months. The Company records registration renewal fees of domain name intangible assets as a prepaid expense and amortizes the cost over the 12-month renewal period.

Costs incurred to obtain software for internal use have been expensed as incurred in accordance with the American Institute of Certified Public Accountants' (AICPA) Statement of Position (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. Costs incurred on internal use software through June 30, 2004 have not been significant.

(g) 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, primarily domain name intangible 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 would no longer be amortized.

(h) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. The Company has used estimates in determining certain provisions, including the useful life of domain name intangible assets, uncollectible accounts receivable, and income taxes. Actual results could differ from those estimates.

(i) Concentrations

The Company maintains substantially all of its cash with one financial institution. Management believes that the financial risks associated with such deposits are minimal.

The percentage of revenue earned from advertising service partners representing more than 10% of revenue is as follows:

	Year ended June 30	
	2003	2004
Advertising services partner A	96%	17%
Advertising services partner B	0%	83%

NAME DEVELOPMENT, LTD.

Notes to Financial Statements—(Continued)

June 30, 2003 and 2004

Accounts receivable from these advertising services partners are as follows:

	June 30	
	2003	2004
Advertising services partner A	$ 569,562	—
Advertising services partner B	—	$ 3,397,083

The majority of the Company's revenue earned is derived from multi-year agreements with advertising service partners. From inception to December 2003, the Company operated primarily with one advertising services partner. On December 15, 2003, the Company entered into a contract with a new advertising services partner and since January 1, 2004 the Company's operations have been primarily dependent on this new contractual arrangement. Under this agreement the advertising services partner may terminate the agreement upon a change in control of the Company, which includes the sale of all or substantially all of the Company's assets. The Company's operations would be disrupted if it is not successful in maintaining this agreement or securing a similar relationship with another provider on substantially the same or better terms. The Company may not be successful in entering into agreements with new advertising services partners on commercially acceptable terms.

(j) Revenue Recognition and Gain on Sale of Intangible Assets, Net

The Company follows Staff Accounting Bulletin (SAB) 101, *Revenue Recognition in Financial Statements*, as amended by SAB No. 104, *Revenue Recognition that Revises and Rescinds Certain Sections of SAB No. 101.* The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred, the fee is fixed, or determinable and collectibility is probable. If the Company has doubt about the collectibility of revenue at the time it is earned, such revenue is deferred until cash has been received.

Revenue is generated primarily through revenue sharing arrangements with the Company's advertising services provider. The Company enters into agreements of varying durations and economic terms with advertising services providers who integrate targeted advertisements into the Company's Internet domains or web properties.

Merchant advertisers pay the Company's advertising services providers for search marketing services that are designed to generate online purchases of merchant advertisers' products or services. Merchants generally pay on a per click-through basis for these services. The Company, under its contract with its advertising services partners, receives a fixed percentage of the gross revenue received by the advertising services partner, who is the principal in the transactions with the merchant advertisers. The Company recognizes its net share of the revenue based on usage that is billed on a click-through basis in accordance with the provisions of Emerging Issues Task Force 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent.*

The Company recognizes gains from the sale of domain name intangible assets at the time of the transaction, which is when the parties have reached a written agreement, and if collection is reasonably assured. Upon the sale of a domain name, the Company does not have a continuing obligation regarding the registration of a domain name. Gains from the sale of domain name intangible assets are reported net of selling costs and the Company's unamortized cost basis and prepaid registration fees of the assets sold on the statement of operations.

(k) Service Costs

Service costs consist primarily of the amortization of the purchase cost of domain names, the costs incurred for the annual renewal of the domain name registration and impairment charges for domain name intangible assets.

NAME DEVELOPMENT, LTD.

Notes to Financial Statements—(Continued)

June 30, 2003 and 2004

In addition, service costs include the costs associated with maintaining our database of domain names and our Web site, fees paid to outside service providers, and co-location hosting charges for our Web site equipment.

(l) Income Taxes

The Company is organized under the corporate law of the British Virgin Islands and as such is not subject to income tax in the British Virgin Islands. The Company has e-commerce activities in several other governmental jurisdictions and as such, the Company has recognized a provision for taxes in these foreign jurisdictions.

(m) Related Party Transactions

In June 2002, the Company's sole director appointed three corporate director companies as directors of the Company. These corporate director companies are affiliated with a trust company (Trust Company) that provides trust management services to the Company's sole beneficial shareholder, a trust established for the purposes of holding the stock of the Company. These four directors exercise management and corporate oversight responsibilities. The Trust Company also provides certain administrative services to the Company. The Company paid the Trust Company compensation for administrative services of $9,796 and $22,547 in the years ended June 30, 2003 and 2004, respectively.

On October 8, 2004, the existing directors resigned and the sole nominee shareholder appointed a sole director, who is an employee of the Trust Company, to direct and manage the Company's corporate actions subsequent to this date. All corporate actions were approved by the sole director.

The Company has engaged a consultant to provide technical services related to the e-commerce activities of the Company. The consultant is one of the parties with a beneficial interest in the trust that holds the stock of the Company. The Company has accrued consulting expenses of $93,000 and $104,000 in the periods ended June 30, 2003 and 2004, respectively, pursuant to agreements that were memorialized in 2004. As of June 30, 2004, $210,000 is recorded as an accrued liability to the consultant, which is included as accrued expenses on the balance sheet.

(2) Intangible Assets

Intangible assets consist of the following:

	June 30	
	2003	2004
Internet domain names	$ 1,255,598	$ 2,720,169
Less accumulated amortization	792,433	1,125,658
Intangible assets, net	$ 463,165	$ 1,594,511

Amortization expense incurred by the Company was approximately $468,000 and $612,000 for the years ended June 30, 2003 and 2004, respectively, and has been recorded in service costs in the statements of operations. Estimated amortization expense for the next four years is approximately $735,000, $594,000 and $265,000 in 2005, 2006 and 2007, respectively.

The Company periodically reviews its domain name intangible assets to determine if the estimated undiscounted net future cash flows from a domain name are less than the unamortized carrying value. Certain under-performing domain name intangible assets were deemed to be impaired as of June 30, 2003 and 2004 as the assets' carrying values exceeded their estimated fair values. The estimated fair values were based on the projected discounted cash flows of the domain names. The Company recorded impairment charges for

NAME DEVELOPMENT, LTD.

Notes to Financial Statements—(Continued)

June 30, 2003 and 2004

intangibles assets of $144,507 and $222,860 for the years ended June 30, 2003 and 2004, respectively, which are included in service costs on the statements of operations.

(3) Commitments

The Company has commitments for future payments for the rental of co-location website hosting equipment and services under annual and eighteen month contractual arrangements. Future minimum payments for the fiscal year ending June 30, 2005 total $172,000.

(4) Stockholder's Equity

The Company's authorized and outstanding capital is made up of 50,000 shares of common stock, with one vote per share, which are held by a single shareholder. There are four directors appointed by the sole nominee shareholder. Corporate actions must be approved by a majority of the duly appointed directors.

(5) Contingencies

The Company is involved in legal and administrative proceedings and claims of various types from time to time. While any legal and administrative proceeding 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) Income Taxes

The Company is not subject to taxation in the British Virgin Islands, where it has its corporate domicile. However, the Company has e-commerce activities in several foreign jurisdictions and has recorded a tax provision based on apportionment of its income. The components of the provision for income taxes for the years ended June 30, 2003 and 2004 are as follows:

	2003	2004
Current:		
Foreign	$487,185	$1,161,576
Deferred:		
Foreign	—	—
Provision for income taxes	$487,185	$1,161,576
Effect of income apportioned to foreign jurisdictions	15.5%	9.2%
Effective income tax rate	15.5%	9.2%

The Company has not provided deferred income taxes because there are no differences between the carrying amounts of assets and liabilities and their tax bases in the jurisdictions where the Company has recorded a tax provision based on apportioned income.

(7) Subsequent Events

On September 28, 2004 the Company completed a share recapitalization, which established three classes of stock: (a) 100 voting , non-participating Class A Common shares were authorized; (b) 100 non-voting, participating Class B Common shares were authorized; and (c) 300,000,000 voting, non-participating, redeemable Class C Preferred shares were authorized. The sole stockholder of the Company exchanged all

NAME DEVELOPMENT, LTD.

Notes to Financial Statements—(Continued)

June 30, 2003 and 2004

50,000 common shares outstanding for 177,636,966 Class C Preferred shares and separately subscribed for one share of Class A Common stock and one share of Class B Common stock. The Class C Preferred shares are redeemable at the option of the holder at any time for $1 per Class C Preferred share. The redemption value of the Class C Preferred shares at the date of the recapitalization was approximately $177.6 million.

In November 19, 2004, Marchex, Inc. (Marchex) and the Company entered into a definitive agreement for Marchex to purchase certain identified assets of the Company for $164.2 million. The agreement provides for consideration consisting of $155.2 million in cash and approximately $9 million in shares of Class B common stock of Marchex. Marchex expects to acquire all the operating assets of the business, excluding cash, accounts receivable and the Company's name. The consummation of the transaction is subject to Marchex's completion of a financing.

NAME DEVELOPMENT LTD.

Condensed Balance Sheets
(Unaudited)

	June 30, 2004	September 30, 2004
Assets		
Current assets:		
Cash	$ 4,269,497	$ 5,911,772
Trade accounts receivable	3,397,683	3,638,012
Other receivables	255,230	97,837
Prepaid expenses	209,236	181,317
Other current assets	220,573	150,954
Total current assets	8,352,219	9,979,892
Intangible assets, net	1,594,511	1,527,748
Security deposits	27,000	27,000
Total other assets	1,621,511	1,554,748
Total assets	$ 9,973,730	11,534,640
Liabilities and Stockholder's Equity		
Current liabilities:		
Trade accounts payable	$ 9,178	$ 21,300
Accrued expenses, including related party	216,831	597,978
Income taxes	4,412,685	4,855,176
Total liabilities	4,638,694	5,474,454
Class C redeemable preferred stock, $1.00 par value, 300,000,000 shares authorized and 177,636,966 shares outstanding	—	177,636,966
Stockholder's equity (deficit):		
Common stock, $ 1.00 par value, 50,000 shares authorized and outstanding	50,000	—
Class A common stock, $1.00 par value, 100 shares authorized and 1 share outstanding	—	1
Class B common stock, $1.00 par value, 100 shares authorized and 1 share outstanding	—	1
Retained earnings (accumulated deficit)	5,285,036	(171,576,782)
Total stockholder's equity (deficit)	5,335,036	(171,576,780)
Total liabilities and stockholder's equity (deficit)	$ 9,973,730	$ 11,534,640

See accompanying notes to condensed financial statements.

NAME DEVELOPMENT LTD.

Condensed Statements of Operations
Three months ended September 30, 2003 and 2004
(Unaudited)

	2003	2004
Revenue	$ 1,047,768	$ 5,486,779
Operating expenses:		
Service costs	322,721	443,552
General and administrative	15,900	753,670
Total operating expenses	338,621	1,197,222
Gain on sale of intangible assets, net	242,216	376,221
Income from operations	951,363	4,665,778
Other income (expense), net	4	1,861
Income before provision for income taxes	951,367	4,667,639
Income tax expense	85,942	442,491
Net income	$ 865,425	$ 4,225,148

See accompanying notes to condensed financial statements.

NAME DEVELOPMENT LTD.

Condensed Statement of Stockholder's Equity (Deficit)
(Unaudited)

	Common stock		Retained earnings (accumulated deficit)	Total stockholder's equity (deficit)
	Shares	Amount		
Balances at June 30, 2004	50,000	$ 50,000	$ 5,285,036	$ 5,335,036
Cash dividend distribution to stockholder			(3,500,000)	(3,500,000)
Issuance of Class A common stock	1	1		1
Issuance of Class B common stock	1	1		1
Cancellation of common stock	(50,000)	(50,000)		(50,000)
Deemed dividend of redemption value of Class C redeemable preferred stock			(177,586,966)	(177,586,966)
Net income			4,225,148	4,225,148
Balances at September 30, 2004	2	$ 2	$ (171,576,782)	$ (171,576,780)

See accompanying notes to condensed financial statements.

NAME DEVELOPMENT LTD.

Condensed Statements of Cash Flows
Three months ended September 30, 2003 and 2004
(Unaudited)

	2003	2004
Cash flows from operating activities:		
Net income	$ 865,425	$ 4,225,148
Adjustments to reconcile net income to net cash provided by operating activities:		
Gain on sale of intangible assets	(240,281)	(376,221)
Amortization of intangible assets	145,878	221,488
Impairment loss of intangible assets	58,938	25,274
Changes in operating assets and liabilities:		
Trade accounts receivable and other receivables	200,115	(240,329)
Prepaid expenses, other current assets and security deposits	104,289	89,541
Accounts payable	(13,603)	88
Other accounts payable	334,341	—
Accrued expenses, including related party	42,022	381,147
Income taxes	85,942	442,491
Net cash provided by operating activities	1,583,066	4,768,627
Cash flows from investing activities:		
Proceeds from the sale of intangible assets	294,911	539,272
Purchase of intangible assets	(306,281)	(165,624)
Net cash provided by (used in) investing activities	(11,370)	373,648
Cash flows from financing activities:		
Dividends paid to stockholder	(850,000)	(3,500,000)
Net cash used in financing activities	(850,000)	(3,500,000)
Net increase in cash	721,696	1,642,275
Cash at beginning of period	1,399,452	4,269,497
Cash at end of period	$ 2,121,148	$ 5,911,772
Supplemental disclosure of non-cash investing and financing activities:		
Issuance of Class C Preferred Stock	$ —	$ 177,636,966

See accompanying notes to condensed financial statements.

NAME DEVELOPMENT LTD.

Notes to Condensed Financial Statements (Unaudited)

(1) Description of Business and Basis of Presentation

Name Development Ltd. (Company or Name Development) based in the British Virgin Islands, was formed in July 2000. Name Development is principally involved in the field of direct navigation. Direct navigation is one of the methods that online consumers use to search for information, products or services online. Direct navigation is primarily characterized by online users directly accessing a Web site by typing descriptive keywords or keyword strings into the uniform resource locator, or URL, address box of an Internet browser and by accessing bookmarked pages. To a lesser extent, it can also include navigating through referring or partner traffic sources. Name Development owns and maintains a portfolio of Internet domains, or Web properties, that are reflective of online user search terms, descriptive keywords and keyword strings. The Company has entered into agreements with advertising service providers to monetize its online user traffic, generated through direct navigation means, with pay-per-click listings. As such, the Company is able to facilitate the introduction of online users searching for specific information with targeted advertiser results.

The accompanying unaudited condensed financial statements of Name Development have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for annual financial statements. In the opinion of management, all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the quarter ended September 30, 2004 are not necessarily indicative of the results that may be expected for the year ending June 30, 2005 or for any other period. The balance sheet at June 30, 2004 has been derived from the audited consolidated financial statements at that date but does not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. These financial statements and notes should be read with the financial statements and notes thereto for the year ended June 30, 2004.

The Company’s functional currency is the U.S. dollar.

(2) Significant Accounting Policies

The Company’s significant accounting policies are disclosed in the financial statements for the year ended June 30, 2004 that are included in this Registration statement. The Company’s significant accounting policies have not materially changed during the quarter ended September 30, 2004.

(3) Concentrations

Primarily all of the Company’s cash at September, 2003 and 2004 was held in bank deposit accounts with Asia-Pacific and European financial institutions, respectively.

Trade accounts receivable are recorded at contractual revenue sharing amounts due primarily from North-American based advertising services partners and do not bear interest. Other receivables relate to the sale of domain name intangible assets and are recorded at the agreed sales price. The buyer generally deposits the sales proceeds with an escrow company or agent that closes the sale on behalf of the Company.

NAME DEVELOPMENT LTD.

Notes to Condensed Financial Statements (Unaudited)—(Continued)

The percentage of revenue earned from advertising service partners representing more than 10% of revenue is as follows:

	3-months ended September 30	
	2003	2004
Advertising services partner A	99%	0%
Advertising services partner B	0%	100%

Accounts receivable from these advertising services partners are as follows:

	June 30, 2004	September 30, 2004
Advertising services partner A	$ —	$ —
Advertising services partner B	3,394,083	3,638,012

(4) Related Party Transactions

In June 2002, the Company's sole director appointed three corporate director companies as directors of the Company. These corporate director companies are affiliated with a trust company (Trust Company) that provides trust management services to the Company's sole beneficial shareholder, a trust established for the purposes of holding the stock of the Company. These four directors exercise management and corporate oversight responsibilities. The Trust Company also provides certain administrative services to the Company. The Company paid the Trust Company compensation for administrative services of $3,000 and $145,000 in the three months ended September 30, 2003 and 2004, respectively.

On October 8, 2004, the existing directors resigned and the sole nominee shareholder appointed a sole director, who is an employee of the Trust Company, to direct and manage the Company's corporate actions. Subsequent to this date, all corporate actions were approved by the sole director.

The Company has engaged a consultant to provide technical services related to the e-commerce activities of the Company. The consultant is one of the parties with a beneficial interest in the trust that holds the stock of the Company. The Company has accrued consulting expenses of approximately $30,000 and $45,000 in the periods ended September 30, 2003 and 2004, respectively, pursuant to agreements that were memorialized in 2004. As of September 30, 2004, $255,000 is recorded as an accrued liability to the consultant, which is included as accrued expenses on the balance sheet.

(5) Intangible Assets

Intangible assets consist of the following:

	June 30, 2004	September 30, 2004
Internet domain names	$ 2,720,169	$ 2,837,167
Less accumulated amortization	1,125,658	1,309,419
Intangible assets, net	$ 1,594,511	$ 1,527,748

Amortization expense incurred by the Company was approximately $146,000 and $222,000 for the three months ended September 30, 2003 and 2004, respectively, and has been recorded in service costs in the statements of operations.

NAME DEVELOPMENT LTD.

Notes to Condensed Financial Statements (Unaudited)—(Continued)

(6) Redeemable Preferred Stock and Stockholder's Equity

On September 28, 2004 the Company completed a share recapitalization, which established three classes of stock; (a) 100 voting, non-participating Class A Common shares were authorized, (b) 100 non-voting, participating Class B Common shares were authorized, and (c) 300,000,000 voting, non-participating, redeemable Class C Preferred shares were authorized. The sole stockholder of the Company exchanged all 50,000 common shares outstanding for 177,636,966 Class C Preferred shares and separately subscribed for one share of Class A Common stock and one share of Class B Common stock.

The Class C Preferred shares are redeemable at the option of the Company or the holder at any time for $1.00 per Class C Preferred share and the holder is entitled to one vote per each Class C Preferred share held. The redemption value of the Class C Preferred shares at the date of the recapitalization was $177.6 million.

As of September 30, 2003, the Company's authorized and outstanding capital was made up of 50,000 shares of common stock, with one vote per share, which were held by a single stockholder.

During the three-month periods ended September 30, 2003 and 2004, there were four directors appointed by the sole nominee stockholder. Corporate actions were approved by a majority of the duly appointed directors.

On October 8, 2004, the sole nominee stockholder appointed a sole director, who is an employee of the Trust Company referred to in note (4), to direct and manage the Company's corporate actions. Subsequent to this date, all corporate actions must be approved by the sole director.

(7) Subsequent Event

In November 19, 2004, Marchex, Inc. (Marchex) and the Company entered into a definitive agreement for Marchex to purchase certain identified assets of the Company for $164.2 million. The agreement provides for consideration consisting of $155.2 million in cash and approximately $9 million in shares of Class B common stock of Marchex. Marchex expects to acquire all the operating assets of the business, excluding cash, accounts receivable and the Company's name. The consummation of the transaction is subject to Marchex's completion of a financing.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Enhance Interactive Acquisition

On February 28, 2003, Marchex, Inc. ("Company") acquired 100% of the outstanding stock of eFamily.com, Inc. and its wholly-owned subsidiary, ah-ha.com, Inc. ah-ha.com, Inc., based in Provo, Utah was renamed Enhance Interactive, Inc. in December 2003. The aggregate net cash consideration including acquisition costs to acquire Enhance Interactive was approximately $13.3 million. The $13.3 million purchase price excludes earnings-based contingent payments that depend on Enhance Interactive's achievement of pre-tax minimum income before tax thresholds in calendar years 2003 and 2004. The payment of the earnings-based amounts is based on the formula of 69.44% of Enhance Interactive's income before taxes for calendar years 2003 and 2004 up to an aggregate maximum payout cap of $12.5 million ("earn-out consideration"). In the event income before taxes, excluding stock-based compensation and amortization of intangible assets related to the acquisition ("earnings before taxes"), does not exceed $3.5 million for the calendar years 2003 and 2004, then no amount shall be payable for the related period. These contingent payments, if made, will be accounted for as additional goodwill. For the calendar year 2003, additional goodwill of approximately $3,243,000 was recorded for the earn-out consideration.

Additionally, if the minimum $3.5 million thresholds above are achieved, a payment of 5.56% of Enhance Interactive's income before taxes for calendar years 2003 and 2004, up to an aggregate maximum of $1 million will be paid to certain then current employees of Enhance Interactive ("acquisition-related retention consideration"). These amounts will be accounted for as compensation expense. The threshold determination is calculated separately for each of the calendar years 2003 and 2004. For the calendar year 2003, approximately $283,000 was recorded for the acquisition-related retention consideration including employer payroll-related taxes. The amount of the total consideration to be paid to the former shareholders of Enhance Interactive was determined by an arms-length negotiation between the parties. As part of the purchase price and conditioned upon their employment subsequent to the acquisition, the Company agreed to issue 1,250,000 options to purchase Class B common shares at an exercise price of $0.75 per share to employees of Enhance Interactive. Of these options, 416,667 shares were vested upon issuance. The remaining 833,333 shares vest in one-third increments at the end of each year over a three year period. The contingent payments will be recorded as an expense in the period during which they would be earned.

The Company's purchase method of accounting for its acquisition of Enhance Interactive resulted in all assets and liabilities being recorded at their estimated fair values on the acquisition date. For the period from February 28, 2003 through December 31, 2003, all goodwill, identifiable intangible assets and liabilities resulting, exclusive of any calendar year 2004 contingent consideration, from the Enhance Interactive acquisition have been recorded in the consolidated financial statements of the Company. The statement of operations reflecting Enhance Interactive's results have been labeled as the "Predecessor" for the period from January 1 through February 28, 2003. The Company, including the results of Enhance Interactive since the date of acquisition, is labeled as the "Successor" in the accompanying unaudited Pro Forma condensed financial statements.

TrafficLeader Acquisition

On October 24, 2003, the Company acquired 100% of the outstanding stock of TrafficLeader, a Eugene, Oregon based company, for approximately $3.2 million in cash and acquisition costs, net of cash acquired.

Additionally, the Company issued 425,000 shares of Class B common stock subject to a separate redemption right. In the event the Company had 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 could have redeemed 425,000 shares of our Class B common stock for $8 per share (an aggregate redemption amount of $3.4 million) upon the affirmative vote of the holders of 75% of such shares. The shares were valued at $6.75 per share and the associated redemption right was recorded as a liability, until such time as the redemption right expired or the shares are redeemed. Based on the terms of the redemption right, the redemption right was marked to market at

each reporting period until such time as the redemption right expired or the shares are redeemed. This redemption right terminated with the closing of the Company's initial public offering on April 5, 2004.

The Company also issued 137,500 shares of restricted Class B common stock that were 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% 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 are being recorded as compensation expense over the associated employment period in which the shares vest. The purchase price excludes revenue-based contingent payments that depend on TrafficLeader's achievement of revenue thresholds. For each dollar of TrafficLeader revenue in calendar year 2004 in excess of $15 million, the Company will pay 10% in the form of a revenue-based payment to the former shareholders up to a maximum $1 million. These contingent payments, if made, will be accounted for as additional goodwill. For the period from October 24, 2003 through September 30, 2004, all goodwill, identifiable intangible assets and resulting liabilities, exclusive of contingent consideration, from the TrafficLeader acquisition has been recorded in the consolidated financial statements of the Company.

goClick Acquisition

On July 27, 2004, the Company acquired 100% of the outstanding stock of goClick.com, Inc., a Norwalk, Connecticut-based company. The purchase price consideration consisted of cash and acquisition costs of approximately $7.5 million, net of cash acquired and 433,541 shares of Class B common stock. The shares of Class B common stock were valued at $9.55 per share (for accounting purposes) for an aggregate amount of $4.14 million.

For the period from July 27, 2004 through September 30, 2004, all goodwill, identifiable intangible assets and resulting liabilities, from the goClick acquisition have been recorded in the consolidated financial statements of the Company. The estimated fair values of assets acquired and liabilities assumed are based upon preliminary estimates and may not be indicative of the final allocation of the purchase price consideration.

Pending Name Development Asset Acquisition

On November 19, 2004, the Company entered into an agreement to acquire certain assets of Name Development Ltd., or Name Development. The aggregate consideration to be paid under the asset purchase agreement is an amount of cash equal to $155.2 million and the number of shares of the Company's Class B common stock obtained by dividing $9.0 million by the average of the last quoted sale price for shares of the Company's Class B common stock on the Nasdaq National Market for the ten trading days immediately prior to closing.

The asset purchase agreement contains customary representations and warranties and requires Name Development's sole stockholder to indemnify us for various liabilities arising under the agreement, subject to various limitations and conditions. At the closing, we will deposit for the benefit of the sole stockholder into escrow for a period of eighteen months from the closing an amount of cash equal to $24.6 million to secure the sole stockholder's indemnification and other obligations under the asset purchase agreement.

The asset acquisition is contingent on customary closing conditions, including the closing by us of financing sufficient to consummate such acquisition. Additionally if the closing does not occur on or before June 30, 2005, we will be required to pay Name Development a termination fee of $1.5 million through a combination of cash and equity. We have also agreed to file a registration statement to register the shares of Class B common stock issued as the equity consideration thereunder or any shares of Class B common stock issued in connection with payment of the termination fee for resale on Form S-3 once the Company becomes eligible to file such a registration statement with the SEC.

The estimated fair values of assets to be acquired are based upon preliminary estimates and may not be indicative of the final allocation of the purchase price consideration.

Pro Forma Financial Information

The following unaudited pro forma condensed consolidated balance sheet as of September 30, 2004 gives effect to the Name Development asset acquisition and the offerings as if they had all occurred on September 30, 2004. The unaudited pro forma condensed consolidated balance sheet is based upon historical balances of the Company and Name Development as of September 30, 2004.

The following unaudited pro forma condensed consolidated statements of operations for the year-ended December 31, 2003 and the nine months ended September 30, 2004 give effect to the Company's acquisition of the Predecessor, the acquisition of TrafficLeader, the acquisition of goClick, the Name Development asset acquisition and the offerings as if they had all occurred on January 1, 2003.

The unaudited pro forma condensed consolidated statements of operations for the period ended December 31, 2003 are based upon the historical results of operations of the Company for the period from January 17, 2003 (inception) through December 31, 2003, the Predecessor for the period from January 1 through February 28, 2003, TrafficLeader for the period ended October 23, 2003 and goClick and Name Development for the year ended December 31, 2003. The unaudited pro forma condensed consolidated statement of operations for the nine months ended September 30, 2004 are based upon the historical results of operations for the Company for the nine months ended September 30, 2004, for goClick for the period of January 1, 2004 through July 26, 2004 and for Name Development for the nine months ended September 30, 2004. The unaudited pro forma condensed consolidated statements of operations and the accompanying notes should be read in conjunction with the historical financial statements and notes thereto of the Company, the Predecessor, TrafficLeader, goClick and Name Development. In addition, for purposes of the following tables we have assumed an offering of only that number of shares of Class B common stock as necessary to consummate the Name Development asset acquisition.

The unaudited pro forma condensed consolidated financial information is intended for illustrative purposes only and is not necessarily indicative of the combined results that would have occurred had the acquisitions taken place on January 1, 2003, nor is it necessarily indicative of results that may occur in the future.

In addition, the completion of the Class B common stock offering is not contingent upon the completion of the preferred stock offering. In the event we elect not to consummate the preferred stock offering, we will increase the size of the Class B common stock offering accordingly, which is not given effect in the following tables.

MARCHEX, INC.

Unaudited Pro Forma Condensed Consolidated Balance Sheet
As of September 30, 2004

	Marchex, Inc. (as reported)	Pending Name Development Asset Acquisition	Pro Forma Adjustments	Pro Forma Subtotal	Pending Offering Pro Forma Adjustments	Pro Forma Combined
Assets						
Current Assets:						
Cash and cash equivalents	$ 24,772,316	$ 5,911,772	$ (5,911,772)(b)	$ 24,772,316	$ 155,150,000(s)	$ 24,772,316
			(155,150,000)(a)	(155,150,000)		
Accounts receivable, net	2,301,249	3,638,012	(3,638,012)(b)	2,301,249		2,301,249
Other receivables	—	97,837	(97,837)(b)	—		—
Prepaid expenses	357,871	181,317	(181,317)(b)	357,871		357,871
Income tax receivable	17,727	—		17,727		17,727
Deferred tax assets	513,404	—	—	513,404		513,404
Other current assets	46,202	150,954	(35,000)(b)	162,156		162,156
Total current assets	28,008,769	9,979,892	(165,013,938)	(127,025,277)	155,150,000	28,124,723
Property and equipment, net	1,279,962			1,279,962		1,279,962
Other assets	61,465	27,000	(27,000)(b)	61,465		61,465
Goodwill	26,666,058		109,004,046(a)	135,670,104		135,670,104
Other intangible assets, net	6,487,815	1,527,748	(1,527,748)(b)	61,987,815		61,987,815
			55,500,000(a)			—
	34,495,300	1,554,748	162,949,298	198,999,346	—	198,999,346
Total Assets	$ 62,504,069	$ 11,534,640	$ (2,064,640)	$ 71,974,069	$ 155,150,000	$ 227,124,069
Liabilities and Stockholders' Equity (Deficit)						
Current Liabilities:						
Accounts payable	$ 3,868,745	$ 21,300	$ (21,300)(b)	$ 3,868,745		$ 3,868,745
Accrued payroll and benefits	278,209			278,209		278,209
Accrued expenses, taxes and other current liabilities	930,283	5,453,154	(5,453,154)(b)	1,400,283		1,400,283
			470,000(a)			
Accrued facility relocation	59,498			59,498		59,498
Deferred revenue	1,755,738			1,755,738		1,755,738
Earn-out liability payable	377,547			377,547		377,547
Total current liabilities	7,270,020	5,474,454	(5,004,454)	7,740,020	—	7,740,020
Deferred tax liabilities	658,043			658,043		658,043
Deferred revenue	23,617			23,617		23,617
Accrued facility relocation	50,578			50,578		50,578
Other non-current liabilities	38,183		—	38,183		38,183
Total Liabilities	8,040,441	5,474,454	(5,004,154)	8,510,441	—	8,510,441
Class C redeemable preferred stock	—	177,636,966	(177,636,966)(b)	—		—
Stockholders' equity:						
Common stock		—	—	—		—
Class B Convertible Preferred Stock			—	—	48,250,000(s)	48,250,000
Class A common stock	122,500	1	(1)(b)	122,500		122,500
Class B common stock	134,216	1	4,392(a)	138,608	55,380(s)	193,988
			(1)(b)			—
Additional paid-in capital	60,146,934		8,995,608(a)	69,142,542	106,844,620(s)	175,987,162
Deferred stock-based compensation	(690,937)			(690,937)		(690,937)
Accumulated earnings (deficit)	(5,249,085)	(171,576,782)	171,576,782(b)	(5,249,085)		(5,249,085)
Total stockholders' equity	54,463,628	(171,576,780)	180,576,780	63,463,628	155,150,000	218,613,628
Total Liabilities and Stockholders' Equity	$ 62,504,069	$ 11,534,640	$ (2,064,640)	$ 71,974,069	$ 155,150,000	$ 227,124,069

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, 2003

	Predecessor	Successor											
	Period from January 1 to February 28, 2003	Period from January 17, (inception) to December 31, 2003	TrafficLeader, Inc. Period from January 1, to October 23, 2003	Pro Forma Adjustments	Pro Forma Marchex and Traffic Leader Acquisition	goClick	Pro Forma Adjustments	Pro Forma Marchex, Traffic Leader and goClick Acquisitions	Pending Name Development Asset Acquisition	Pro Forma Adjustments	Pro Forma Marchex, Traffic Leader, goClick, and Pending Asset Acquisition	Pro Forma Offering	Pro Forma Marchex Prior and Pending Acquisitions and Pro Forma Offering
Revenue	$ 3,071,055	$ 19,892,158	$ 4,388,753		$ 27,351,966	$3,409,855	$ (104,426)[l]	$ 30,657,395	$ 4,336,121		$ 34,993,516		$ 34,993,516
Expenses:													
Service costs[1]	1,732,813	11,292,070	3,372,050		16,396,933	2,235,913	(104,426)[l]	18,528,420	1,238,536	(335,083)[o]	19,431,873		19,431,873
Sales and marketing[1]	365,043	2,460,683	374,293		3,200,019	141,559		3,341,578			3,341,578		3,341,578
Product development[1]	144,479	1,291,422	140,647		1,576,548	37,259		1,613,807			1,613,807		1,613,807
General and administrative[1]	234,667	2,743,919	343,369		3,321,955	82,350		3,404,305	72,642		3,476,947		3,476,947
Acquisition-related retention consideration[2]		283,269	—		283,269			283,269			283,269		283,269
Stock-based compensation[3]	38,981	2,125,110	9,968	362,999[i]	2,659,280			2,659,280			2,659,280		2,659,280
				122,222[e]							—		—
Amortization of intangible assets[4]	—	3,023,408	—	579,500[c]	4,133,308		2,053,333[m]	6,186,641		14,588,333[o]	20,774,974		20,774,974
	—		—	530,400[g]							—		—
Total operating expenses	2,515,983	23,219,881	4,240,327	1,595,121	31,571,312	2,497,081	1,948,907	36,017,300	1,311,178	14,253,250	51,581,728	—	51,581,728
Gain on sale of intangible assets, net	—	—	—	—	—	—	—	—	965,297		965,297		965,297
Income (loss) from operations	555,072	(3,327,723)	148,426	(1,595,121)	(4,219,346)	912,774	(2,053,333)	(5,359,905)	3,990,240	(14,253,250)	(15,622,915)	—	(15,622,915)
Other income (expense)													
Interest income	1,529	45,874	663		48,066	5,923		53,989			53,989		53,989
Interest expense					—			—			—		—
Adjustment to fair value of redemption obligation		25,500	—		25,500			25,500			25,500		25,500
other	—	2,685	(793)	—	1,892		—	1,892	(11,233)	—	(9,341)		(9,341)
Total other income	1,529	74,059	(130)	—	75,458	5,923	—	81,381	(11,233)	—	70,148	—	70,148
Income (loss) before provision for income taxes	556,601	(3,253,664)	148,296	(1,595,121)	(4,143,888)	918,697	(2,053,333)	(5,278,524)	3,979,007	(14,253,250)	(15,552,767)	—	(15,552,767)
Income tax expense (benefit)	224,082	(1,084,312)	—	(216,200)[d]	(1,263,526)			(1,705,580)	441,588	(4,345,800)[p]	(5,609,792)		(5,609,792)
				(203,408)[h]			(442,054)[n]						
				61,323[j]									
				(45,011)[f]									
Net income (loss)	332,519	(2,169,352)	148,296	(1,191,825)	(2,880,362)	918,697	(1,611,279)	(3,572,944)	3,537,419	(9,907,450)	(9,942,975)	—	(9,942,975)
Accrual of convertible preferred stock dividends	—	—	—	—	—	—	—	—	—	—	—	2,500,000	2,500,000
Accretion of redemption value of redeemable convertible preferred stock	—	1,318,885	—	—	1,318,885	—	—	1,318,885	—	—	1,318,885	—	1,318,885
Net income (loss) applicable to common stockholders	$ 332,519	$ (3,488,237)	$ 148,296	$ (1,191,825)	$ (4,199,247)	$ 918,697	$ (1,611,279)	$ (4,891,829)	$ 3,537,419	$ (9,907,450)	$ (11,261,860)	$(2,500,000)	$ (13,761,860)
Basic and diluted net income (loss) per share applicable to common stockholders		$ (0.26)			$ (0.31)			$ (0.35)			$ (0.78)		$ (0.69)
Shares used to calculate basic and diluted net income (loss) per share		13,259,747		374,384[q]	13,634,131		433,541[q]	14,067,672		439,239	14,506,911	5,538,003	20,044,914
Adjusted pro forma basic and diluted net income (loss) per share applicable to common stockholders		$ (0.26)			$ (0.22)			$ (0.25)			$ (0.56)		$ (0.53)
Shares used to calculate adjusted pro forma basic and diluted net income (loss) per share		13,259,747		374,384[q]	19,385,477		433,541[q]	19,819,018		439,239	20,258,257	5,538,003[q]	25,796,260
				5,751,346[q]									

[1] Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangibles

[2] Components of acquisition-related consideration

Service costs	—	33,723	—	—	33,723			33,723			33,723		33,723
Sales and marketing	—	96,262	—	—	96,262			96,262			96,262		96,262
Product development	—	104,233	—	—	104,233			104,233			104,233		104,233
General and	—	49,051	—	—	49,051			49,051			49,051		49,051

administrative										
(3) Components of stock-based compensation										
Service costs	190	9,776	3,219	3,300	16,485		16,485		16,485	16,485
Sales and marketing	715	421,871	3,156	21,755	447,497		447,497		447,497	447,497
Product development	37,710	241,080	3,166	8,189	290,145		290,145		290,145	290,145
General and administrative	366	1,452,383	427	451,977	1,905,153		1,905,153		1,905,153	1,905,153
(4) Components of amortization of intangible assets										
Service costs	—	2,216,957	—	716,352	2,933,309	1,353,333	4,286,642	11,788,333	16,074,975	16,074,975
Sales and marketing	—	348,118	—	301,882	650,000	250,000	900,000	—	900,000	900,000
Product development	—	—	—	—	—	—	—	—	—	—
General and administrative	—	458,333	—	91,666	549,999	450,000	999,999	2,800,000	3,799,999	3,799,999

See notes to unaudited pro forma condensed consolidated financial statements

MARCHEX, INC.

Unaudited Pro Forma Condensed Consolidated Statements of Operations
For the nine months ended September 30, 2004

	Marchex, Inc.	goClick Period from January 1, 2004 to July 26, 2004	Pro Forma Adjustments	Pro Forma Marchex and goClick Acquisition	Pending Name Development Asset Acquisition	Pro Forma Adjustments	Pro Forma Marchex, goClick and Pending Asset Acquisition	Pro Forma Offering	Pro Forma Marchex and 2004 Actual and Pending Acquisitions and Pro Forma Offering
Revenue	$ 28,682,924	$3,769,347	$ (17,818)[l]	$32,434,453	$ 15,456,114		$ 47,890,567		$ 47,890,567
Expenses:									
Service costs[1]	18,142,886	2,347,988	(17,818)[l]	20,473,056	1,242,744	(529,428)[o]	21,186,372		21,186,372
Sales and marketing[1]	3,196,996	20,453		3,217,449			3,217,449		3,217,449
Product development[1]	1,636,321	96,742		1,733,063			1,733,063		1,733,063
General and administrative[1]	2,613,932	32,508		2,646,440	793,395		3,439,835		3,439,835
Acquisition-related retention consideration[2]	374,858	—		374,858			374,858		374,858
Facility relocation	199,960	—		199,960			199,960		199,960
Stock-based compensation[3]	721,403	—		721,403			721,403		721,403
Amortization of intangible assets[4]			(225,000)[g]						
	3,473,976	—	345,175[m]	3,594,151		10,866,250[o]	14,460,401		14,460,401
Total operating expenses	30,360,332	2,497,691	102,357	32,960,380	2,036,139	10,336,822	45,333,341	—	45,333,341
Gain on sale of intangible assets, net	—	—	—	—	1,507,498	—	1,507,498		1,507,498
Income (loss) from operations	(1,677,408)	1,271,656	(120,175)	(525,927)	14,927,473	(10,336,822)	4,064,724	—	4,064,724
Other income (expense)									
Interest income	163,808	5,496		169,304			169,304		169,304
Interest expense	(3,728)			(3,728)			(3,728)		(3,728)
Adjustment to fair value of redemption obligation	55,250			55,250			55,250		55,250
Other	3,644			3,644	2,408		6,052		6,052
Total other income	218,974	5,496	—	224,470	2,408	—	226,878	—	226,878
Income (loss) before provision for income taxes	(1,458,434)	1,277,152	(120,175)	(301,457)	14,929,881	(10,336,822)	4,291,602	—	4,291,602
Income tax expense (benefit)			86,288[h]						
	(118,016)	—	363,005[n]	331,277	1,387,434	357,928[o]	2,076,639		2,076,639
Net income (loss)	(1,340,418)	1,277,152	(569,468)	(632,734)	13,542,447	(10,694,750)	2,214,963	—	2,214,963
Accrual of convertible preferred stock dividends	—	—	—	—	—	—	—	1,875,000	1,875,000
Accretion of redemption value of redeemable convertible preferred stock	420,430	—	—	420,430	—	—	420,430	—	420,430
Net income (loss) applicable to common stockholders	$ (1,760,848)	$1,277,152	$ (569,468)	$(1,053,164)	$ 13,542,447	$(10,694,750)	$ 1,794,533	$(1,875,000)	$ (80,467)
Basic and diluted net income (loss) per share applicable to common stockholders	$ (0.08)			$ (0.05)			$ 0.08		$ (0.00)
Shares used to calculate basic and diluted net income (loss) per share	20,971,993		31,600[q]	21,332,322		439,239	21,771,561	5,538,003	27,309,564
			328,729[q]						
Adjusted pro forma basic and diluted net income (loss) per share applicable to common stockholders	$ (0.08)			$ (0.04)			$ 0.07		$ (0.00)
Shares used to calculate adjusted pro forma basic and diluted net income (loss) per share	20,971,993		31,600[q]	23,672,197		439,239	24,111,436	5,538,003	29,649,439
			328,729[q]						
			2,339,875[q]						

[1] Excludes acquisition-related retention consideration, stock-based compensation and amortization of intangibles

[2] Components of acquisition-related consideration

Service costs	44,608		—	44,608		—	44,608		44,608
Sales and marketing	127,427		—	127,427		—	127,427		127,427
Product development	137,948		—	137,948		—	137,948		137,948
General and administrative	64,875		—	64,875		—	64,875		64,875

[3] Components of stock-based compensation

Service costs	8,550		—	8,550		—	8,550		8,550
Sales and marketing	124,161		—	124,161		—	124,161		124,161
Product development	47,230		—	47,230		—	47,230		47,230
General and administrative	541,462		—	541,462		—	541,462		541,462

[4] Components of amortization of intangible assets

Service costs	2,447,901		(53,747)	2,394,154		8,766,250	11,160,404		11,160,404
Sales and marketing	532,527		(82,530)	449,997		—	449,997		449,997
Product development	—		—	—		—	—		—
General and administrative	493,548		256,452	750,000		2,100,000	2,850,000		2,850,000

See notes to unaudited pro forma condensed consolidated financial statements

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, TrafficLeader, goClick and Name Development to arrive at the unaudited pro forma condensed consolidated financial information:

Pro Forma Adjustments for Name Development

(a) The purchase price adjustments reflect cash and direct acquisition costs of approximately $155.2 million to the Name Development asset acquisition. Additionally, the Company will issue shares of Class B common stock determined by dividing $9.0 million by the average of the last quoted price for Company Class B common stock on Nasdaq National Market for the ten trading days immediately prior to closing.

We expect to account for the Name Development asset acquisition as a business combination. For purposes of the pro forma financial information a summary of the purchase price consideration for the acquisition is as follows:

Cash	$	155,150,000
Stock issued		9,000,000
Direct acquisition costs		470,000
Total	$	164,620,000

The following represents the allocation of the purchase price to the acquired assets of Name Development. The allocation is based upon Name Development's assets and liabilities as of September 30, 2004.

Other current assets	$	115,954
Goodwill		109,004,046
Identifiable intangible assets		55,500,000
Total	$	164,620,000

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.

(b) Represents the elimination of the historical assets, liabilities and stockholders' equity not acquired or assumed as part of the Name Development asset acquisition.

Pro Forma Adjustments for Enhance Interactive.

(c) Represents the amortization of identifiable intangible assets associated with the Company's acquisition of the Predecessor, which are amortized over their useful lives ranging from 24 to 42 months, amortization of $3.5 million in the first twelve months, following the acquisition. The Company, for the period from January 17, 2003 (inception) to December 31, 2003, recorded approximately $2.9 million of amortization related to the above-noted identifiable intangible assets.

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

(e) Represents stock-based compensation charges associated with options issued to employees of Enhance Interactive. As part of the Enhance Interactive acquisition agreement, the Company agreed to issue an aggregate

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

of 1,250,000 options to purchase Class B common shares at an exercise price of $0.75 per share to employees of Enhance Interactive. Upon issuance, 416,667 of these options were vested. The remaining 833,333 shares vest in one-third increments at the end of each year over a three year period.

The intrinsic value associated with the initial grant of the 1,250,000 options totaled $1,800,000. Compensation totaling $600,000 was recognized for the 416,667 options that vested upon issuance. For the 833,333 remaining options, the Company is recognizing stock-based compensation expense over the associated employment period in which these shares vest which results in $733,333 in amortization for the first twelve months following the acquisition. For the period from January 17 (inception) to December 31, 2003, the Company recorded approximately $1,211,000 relating to the above-noted options, excluding the variable accounting charges noted below.

125,000 of the 416,667 vested options were held in escrow as security for the indemnification obligations under the acquisition agreement and were subject to forfeiture. These options were accounted for by the Company as variable awards because they were 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 by the Company for the period from January 17, 2003 (inception) to December 31, 2003 for these 125,000 options were approximately $781,000. Of the $781,000, a total of $180,000 is included as part of the $600,000 compensation amount noted above that was recognized at the time of issuance. In periods prior to the acquisition of the Enhance Interactive, the Company and the Predecessor have not given effect in the pro forma statement of operations to the potential impact of the variable plan accounting because the effect is non-recurring.

The option grants were for post acquisition services and were not accounted for as part of the acquisition consideration.

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

Pro Forma Adjustments for TrafficLeader

(g) 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 totals $653,000 in the first twelve months and $918,000 in the first twenty one months following the acquisition. The Company, for the period of January 17, 2003 (inception) to December 31, 2003 and the nine months ended September 30, 2004, recorded approximately $123,000 and 490,000, respectively, of amortization related to the above-noted identifiable intangible assets.

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

(i) 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 acquisition date. The Company is recognizing stock-based compensation expense for the value of these shares over the associated employment period in which these shares vest, which results in $476,000 in amortization in the first twelve months following the acquisition. The Company, for the period from January 17, 2003 (inception) to December 31, 2003, recorded approximately $112,000 relating to the above-noted restricted shares.

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

(j) 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 corporation, in which case shareholders were taxed on their respective portions of TrafficLeader's taxable income.

(k) Based upon the terms of the redemption right of $8 per share on the 425,000 shares issued in the TrafficLeader acquisition, the obligation was reflected as a liability and was subject to variable plan accounting. The obligation was marked to market at each reporting date until such time as the redemption right expires or the shares were redeemed. No adjustment for possible changes in the value of the redemption right has been reflected in the accompanying pro forma statements. The redemption right expired upon the closing of the Company's initial public offering on April 5, 2004.

Pro Forma Adjustments for goClick

(l) Represents the elimination of intercompany revenues and service costs between goClick and the Company.

(m) Represents the amortization of identifiable intangible assets associated with the Company's acquisition of goClick, which are amortized over their useful lives ranging from 12 to 36 months. Amortization totals $2.1 million in the first twelve months and $2.8 million in the first twenty-one months following the acquisition. The Company, for the period of July 27, 2004 to September 30, 2004, recorded approximately $370,000 of amortization related to the above-noted intangible assets.

(n) Represents pro-forma income tax expense as though goClick was taxed as a C corporation for the periods presented using the federal and state statutory tax rates. Prior to Marchex's acquisition, goClick was an S corporation, such that shareholders were taxed on their respective portions of goClick's taxable income.

Pro Forma Adjustments for Name Development

(o) Represents the amortization of identifiable intangible assets associated with the Name Development asset acquisition, which are amortized over their useful lives ranging from 12 to 60 months, amortization of $14.6 million in the first twelve months and $25.5 million in the first twenty-one months following the acquisition. Name Development, for the year ended December 31, 2003 and for the nine months ended September 30, 2004, recorded approximately $335,000 and $529,000, respectively, of amortization included in service costs related to the above-noted intangible assets.

(p) Represents pro forma income tax expense (benefit) as though Name Development was taxed as a C corporation for the periods presented with an effective federal and state combined rate of 38%. Name Development is organized under the corporate laws of the British Virgin Islands and is not subject to income tax in the British Virgin Islands. Name Development had e-commerce activities in several other governmental jurisdictions and as such, had recognized a provision for taxes in these foreign jurisdictions. A 1% change in the effective federal and state combined rate would modify income tax expense (benefit) by ($103,000) for the twelve month period ended December 31, 2003 and $46,000 for the nine months ended September 30, 2004.

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

(q) The following is a reconciliation of shares used to compute historical basic and diluted net loss per share to historical pro forma basic and diluted net loss per share and to shares used to compute adjusted pro forma basic and diluted net loss per share for the combined twelve month period ended December 31, 2003 and the combined nine month period ended September 30, 2004. Potentially dilutive securities were not included in the computations because their effects would be anti-dilutive.

	Twelve month period ended December 31, 2003	
	Pro Forma basic and diluted	Adjusted Pro Forma basic and diluted
Shares used to calculate Marchex Pro Forma net loss per share-actual	13,259,747	13,259,747
Weighted average shares assuming conversion of Series A redeemable convertible preferred stock at the original issuance date	—	5,751,346
TrafficLeader:		
Pro forma shares issued in TrafficLeader acquisition subject to redemption right	341,954	341,954
Pro forma restricted shares issued in TrafficLeader acquisition	23,394	23,394
Weighted average restricted shares issued in TrafficLeader acquisition for services expected to vest during the period	9,036	9,036
Pro forma shares issued in goClick acquisition	433,541	433,541
Pro forma shares to be issued in the Name Development asset acquisition	439,239	439,239
Pro forma common shares to be issued in the proposed offering	5,538,003	5,538,003
Shares used to calculate pro forma and adjusted pro forma basic and diluted net loss per share	20,044,914	25,796,260

	Nine months ended September 30, 2004	
	Pro Forma basic and diluted	Adjusted Pro Forma basic and diluted
Shares used to calculate Marchex Pro Forma net loss per share-actual	20,971,993	20,971,993
Weighted average shares assuming conversion of Series A redeemable convertible preferred stock at the original issuance date	—	2,339,875
TrafficLeader:		
Pro forma shares issued in TrafficLeader acquisition subject to redemption right	—	—
Pro forma restricted shares issued in TrafficLeader asset acquisition	—	—
Weighted average restricted shares issued in TrafficLeader acquisition for services expected to vest during the period	31,600	31,600
Pro forma shares issued in goClick acquisition	328,729	328,729
Pro forma shares to be issued in the Name Development asset acquisition	439,239	439,239
Pro forma common shares to be issued in the proposed offering	5,538,003	5,538,003
Shares used to calculate pro forma and adjusted pro forma basic and diluted net loss per share	27,309,564	29,649,439

The Company's initial public offering closed on April 5, 2004. Each of the 6,724,063 outstanding shares of the Company's Series A redeemable convertible preferred stock automatically converted into 1 share of Class B common stock upon closing of the initial public offering.

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

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 Class B common stock at the original issuance date.

The proposed acquisition of substantially all of the assets of Name Development includes the following consideration:

- $155.2 million in cash; plus
- $9.0 million in shares of Class B common stock based on the average of the last quoted sale price for shares of Class B common stock on the Nasdaq National Market for the 10 trading days immediately prior to the closing.

For purposes of calculating the shares used for pro forma and pro forma adjusted basic and diluted net loss per share we have assumed:

- the shares of Class B common stock will be issued at an offering price of $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005;
- 5,538,003 shares of Class B common stock to be issued as part of this offering resulting in gross offering proceeds totaling $113.5 million;
- preferred stock to be issued as part of this offering resulting in gross offering proceeds totaling $50.0 million. The shares of Class B common stock which could be issued upon the conversion of all shares of preferred stock have not been included as their effect would be anti-dilutive. Issuance costs for the offering were estimated at $8.3 million.

Assuming a 5% preferred stock dividend rate, for each $1.0 million change to the preferred stock offering, the annual dividends and income (loss) applicable to common shareholders would vary by $50,000 per year. Any modifications to the above offering assumptions could have a significant effect on the calculation of pro forma and pro forma adjusted basic and diluted net loss per share.

Pro Forma Adjustments for Offering

(r) Represents preferred stock dividends related to the proposed preferred stock financing associated with the offering. Based upon an estimated preferred stock offering of $50.0 million with an estimated 5% dividend rate, the accrual of the convertible preferred dividend for the twelve month period ended December 31, 2003 would be approximately $2.5 million. The accrual of the convertible preferred dividend for the nine months ended September 30, 2004 would be approximately $1.9 million. The financial impact of a 25 basis point fluctuation in the estimated dividend rate of 5% would result in a change in the accrual of the convertible preferred dividend of approximately $125,000 for the twelve month period ended December 31, 2003 and approximately $94,000 for the nine months ended September 30, 2004.

(s) Pro forma proceeds from the contemplated offering of $155.2 million, net of offering costs have been calculated based on $163.5 million of gross proceeds resulting from the issuance of 5,538,003 shares of Class B common stock at an estimated offering price of $20.49, the last reported sale price of our Class B common stock on January 7, 2005; and the issuance of $50.0 million of preferred stock and with offering costs of $8.3 million based on underwriting commissions and discounts of 5% and 3.5% of the gross proceeds from the Class B common stock and preferred stock offerings respectively and $900,000 of other offering costs.

In the event the contemplated financing is comprised solely of the issuance of shares of Class B common stock:

a) Pro forma proceeds from the contemplated offering would be $155.2 million, net of offering costs calculated based on $164.3 million of gross proceeds resulting from the issuance of 8,016,748 shares of Class B common

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

stock at an estimated offering price of $20.49 per share, the last reported sale price of our Class B common stock on January 7, 2005, with offering costs of $9.1 million based on underwriting commissions and discounts of 5% of the gross proceeds from the Class B common stock and $900,000 of other offering costs.

b) Pro forma information would be as follows:

	Twelve month period ended December 31, 2003	Nine months ended September 30, 2004
Pro forma net income (loss) applicable to common stockholders	$ (11,261,860)	$ 1,794,533
Historical pro forma net income (loss) per share applicable to common stockholders		
Basic	$ (0.50)	$ 0.06
Diluted	$ (0.50)	$ 0.06
Adjusted pro forma net income (loss) per share applicable to common stockholders		
Basic	$ (0.40)	$ 0.06
Diluted	$ (0.40)	$ 0.05
Shares used to calculate historical pro forma net income (loss) per share applicable to common stockholders		
Basic	22,523,659	29,788,309
Diluted	22,523,659	31,144,421
Shares used to calculate adjusted pro forma net income (loss) per share applicable to common stockholders		
Basic	28,275,005	32,128,184
Diluted	28,275,005	33,484,296

Other information

The purchase price for Enhance Interactive (“Predecessor”) excludes earnings-based contingent payments that depend on Enhance Interactive’s achievement of minimum income before taxes excluding stock-based compensation and amortization of intangible assets related to the acquisition (“earnings before taxes”) thresholds in calendar years 2003 and 2004. The payment of the earn-out amounts is based on the formula of 69.44% of the Enhance Interactive’s earnings before taxes in calendar years 2003 and 2004 up to an aggregate maximum payout cap of $12.5 million. In the event earnings before taxes does not exceed $3.5 million for calendar year 2003 or 2004, then no amount shall be payable for the related period. Any amounts will be accounted for as additional goodwill. For calendar year 2003, additional goodwill of $3,243,000 was recorded for the earn-out consideration.

In addition, if the individual $3.5 million thresholds above are achieved, a payment of 5.56% of Enhance Interactive’s earnings before taxes for calendar years 2003 and 2004, up to an aggregate maximum of $1 million will be paid to certain current employees of Enhance Interactive (acquisition retention consideration). These amounts will be accounted for as compensation. The threshold determination is calculated separately for each of calendar years 2003 and 2004. For calendar year 2003, $283,000 was recorded for the acquisition-related retention consideration.

The purchase price for TrafficLeader excludes revenue-based contingent earn-out payments that depend on TrafficLeader’s achievement of revenue thresholds. For each dollar of TrafficLeader revenue in calendar 2004 in excess of $15 million, the Company, at the end of 2004, will pay 10% in the form of an earn-out based payment to the former TrafficLeader shareholders up to a maximum $1 million. Any amounts paid under this provision will be accounted for as additional goodwill.

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

In the event there is a change in control of the Company or of TrafficLeader, or the termination without cause or resignation for good reason of both of TrafficLeader's Chief Executive Officer and Chief Technology Officer 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.

The terms of the preferred stock being offered contain an exchange right, at the Company's option, to convert the preferred stock into a convertible debenture. This embedded derivative would be reflected as an asset and is subject to variable accounting. The right will be marked to market at each reporting date until such time as the right is exercised or expires. Based on a variety of factors including the assessed probability of exercise, no value has been ascribed to this right. No adjustment for possible changes in the value of the redemption right has been reflected in the accompanying pro forma statements.

The estimated amortization relating to intangible assets acquired and proposed to be acquired as part of the acquisitions of Enhance Interactive, TrafficLeader, goClick and the proposed Name Development asset acquisition for the period of October 1 to December 31, 2004 and the next 4 years are as follows:

	Period of October 1 to December 31, 2004	2005	2006	2007	2008 and thereafter	Total
Enhance Interactive	$ 869,000	$ 1,943,000	$ 83,000	$ —	$ —	$ 2,895,000
TrafficLeader	107,000	353,000	227,000	—	—	687,000
goClick	513,000	1,580,000	652,000	144,000		2,889,000
Name Development	3,647,000	14,563,000	13,788,000	11,455,000	12,047,000	55,500,000
	$ 5,136,000	$ 18,439,000	$ 14,750,000	$ 11,599,000	$ 12,047,000	$ 61,971,000

On February 3, 2005 we announced that in connection with the closing of the Name Development asset acquisition we intend to enter into (i) a new master agreement with Overture with respect to our direct navigation business, and (ii) a license agreement with Overture with respect to certain of Overture's patents, including but not limited to U.S. Patent No. 6,269,361, pursuant to which we will pay $4.5 million, in an upfront payment (and an additional $674,000 in certain circumstances) and a contingent royalty based on a discounted rate of 3% (3.75% under certain circumstances) of certain of our gross revenues payable on a quarterly basis through December 2016. We have not yet determined the accounting treatment of such payment obligations, including whether all or a portion of such amounts will be recorded as an expense or as a reduction of revenue or to the extent, if any, of the amounts that would be capitalized and no pro forma adjustments have been made on account thereof.

[C]

7,000,000 Shares

MARCHEX, INC.

Class B Common Stock

PROSPECTUS

Piper Jaffray

RBC Capital Markets

Thomas Weisel Partners LLC

Sanders Morris Harris

, 2005

[P]

200,000 Shares

MARCHEX, INC.

% Convertible Exchangeable Preferred Stock

(Cumulative Dividend, Liquidation Preference of $250 per share)

PROSPECTUS

Piper Jaffray

RBC Capital Markets

Thomas Weisel Partners LLC

, 2005

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: (1) for any breach of a director's duty of loyalty to the corporation or its stockholders; (2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) arising under Section 174 thereof; or (4) 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 purchase 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 Purchase Agreement filed at Exhibit 1.1 hereto.

We maintain directors and officers liability insurance for the benefit of our directors and certain of our officers.

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

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

The following table sets forth the expenses (other than the underwriting discounts and commissions) payable in connection with issuance and distribution of the Class B common stock and preferred stock registered under this Registration Statement, all of which will be paid by Marchex, Inc. Certain of these expenses are based on the best estimate of Marchex, Inc., as indicated below.

	Amount to be Paid
Registration Fee to Securities and Exchange Commission	$ 24,717
NASD filing fee	21,500
Nasdaq National Market listing fee (preferred stock only)	5,000
Printing and engraving expenses	100,000*
Legal fees and expenses	295,000*
Accounting fees and expenses	295,000*
Transfer agent and registrar fees and expenses	15,000*
Blue sky fees and expenses	5,000*
Trustee fees	9,500*
Miscellaneous fees and expenses	129,283*
Total	$ 900,000*

* Estimated amount of expenses as of the filing date of this Amendment No. 2 to the Registration Statement.

Item 26. ***Recent Sales of Unregistered Securities***

Since our inception on January 17, 2003, we have issued the following securities, none of which have been registered under the Securities Act of 1933, as amended (the "Act"):

1. In January 2003, we issued and sold an aggregate of 12,250,000 shares of our Class A common stock to our five initial stockholders 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 initial stockholders for cash consideration of $10,000.

3. In February 2003, we also issued 5,000 shares of Class B common stock for services pursuant to a stock grant agreement.

4. In February and May 2003, we issued and sold 6,724,063 shares of our Series A redeemable convertible preferred stock to ninety-four (94) investors, each of whom we reasonably believe is an "accredited investor" within the meaning of Rule 501 of Regulation D of the Act, for 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. In July 2004, we issued 433,541 shares of our Class B common stock as partial consideration in connection with our acquisition of goClick, with an allocated value of $4.25 million.

7. During the period ended June 30, 2004, we issued and sold an aggregate of 37,850 shares of Class B common stock upon the exercise of stock options previously issued to two employees and one independent contractor under our 2003 amended and restated stock incentive plan, with an average weighted exercise price of $1.55. We received an aggregate of $58,525 as payment upon exercise thereof.

8. Since our inception until the filing of a registration statement on Form S-8 on June 25, 2004, under our stock incentive plan, we granted options to a number of our employees, directors and consultants to purchase an aggregate of 3,571,600 shares of our Class B common stock with a weighted average exercise price of $3.47 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 Purchase Agreement (Class B Common Stock Offering).
*1.2	Form of Purchase Agreement (Preferred Stock Offering).
**2.1	Agreement and Plan of Merger, dated as of February 19, 2003, by and among Registrant, Marchex Acquisition Corporation, eFamily.com, Inc., the Shareholders of eFamily.com, Inc., ah-ha.com, Inc. and Paul J. Brockbank, as Stockholder Representative.
**2.2	Agreement and Plan of Merger, dated as of October 1, 2003, by and among Registrant, Sitewise Acquisition Corporation, TrafficLeader, Inc., the Shareholders of TrafficLeader, Inc. and Gerald Wiant, as Shareholder Representative.
***2.3	Agreement and Plan of Merger, dated as of July 21, 2004, by and among Registrant, Project TPS, Inc., goClick.com, Inc and the Sole Stockholder of goClick.com, Inc.
*****2.4	Asset Purchase Agreement, dated as of November 19, 2004, by and among Registrant, Name Development Ltd. and the Sole Stockholder of Name Development Ltd.
**3.1	Certificate of Incorporation of the Registrant.
**3.2	Amended and Restated Certificate of Incorporation of the Registrant.
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**3.4	By-laws of the Registrant, as currently in effect.
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*4.2	Specimen stock certificate representing shares of % Convertible Exchangeable Preferred stock of the Registrant.
**4.3	Representative's Warrant Agreement for Sanders Morris Harris Inc.
**4.4	Representative's Warrant Agreement for National Securities Corporation.
*4.5	Form of Indenture.
*5.1.1	Opinion of Nixon Peabody LLP.
*5.1.2	Opinion of Nixon Peabody LLP.
**10.1	Amended and Restated 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.

Number	Description
**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, dated as of January 17, 2003, by and between Russell C. Horowitz and the Registrant.
**10.8	Executive Employment Agreement, dated as of May 1, 2003, by and between Michael A. Arends and the Registrant.
**10.9	2004 Employee Stock Purchase Plan.
**10.10	Letter of Intent, dated as of February 11, 2004, by and between Seattle's Best Coffee, LLC and the Registrant.
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**10.12	Representative Director and Officer Indemnification Agreement, dated as of February 4, 2004, by and between Russell C. Horowitz and the Registrant.
****10.13	Sublease Agreement, dated September 9, 2004, by and between Registrant and G. Russell Knobel and Associates, Inc.
****10.14	Commercial Lease, entered into as of September 14, 2004, by and between Registrant and TrafficLeader, Inc. and A&A Properties Northwest.
*****21.1	Subsidiaries of the Registrant.
*23.1	Consent of Independent Registered Public Accounting Firm.
*23.2	Independent Auditors' Consent.
*23.3	Independent Auditors' Consent.
*23.4	Consent of Counsel (included in Exhibit 5.1).
*****24.1	Power of Attorney.
*25.1	Form T-1 Statement of Eligibility of Trustee.

* Filed herewith.
** Incorporated by reference to the Registration Statement on Form SB-2 (No. 333-111096) filed by Marchex on March 30, 2004.
*** Incorporated by reference to the Current Report on Form 8-K filed by Marchex on August 10, 2004.
**** Incorporated by reference to the Quarterly Report on Form 10-QSB filed by Marchex on November 15, 2004.
***** Previously filed as an exhibit to this Registration Statement.

(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 purchase 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 as a new registration statement for the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form SB-2 and authorizes this Amendment No. 2 to Registration Statement to be signed on its behalf by the undersigned, in the City of Seattle, State of Washington on February 3, 2005.

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Chairman and Chief Executive Officer

In accordance with the requirements of the Securities Act of 1933, this Amendment No. 2 to Registration Statement was signed by the following persons in the capacities indicated below on February 3, 2005.

Signature	
/s/ RUSSELL C. HOROWITZ	
Russell C. Horowitz	**Chairman and Chief Executive Officer (Principal Executive Officer)**
/s/ MICHAEL A. ARENDS	
Michael A. Arends	**Chief Financial Officer (Principal Financial and Accounting Officer)**
*	
John Keister	**President, Chief Operating Officer and Director**
*	
Dennis Cline	**Director**
*	
Jonathan Fram	**Director**
*	
Rick Thompson	**Director**

*By: /s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Attorney-in-Fact

Table of Contents

EXHIBIT INDEX

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Exhibit 1.1

[7,000,000] Shares

MARCHEX, INC.

Class B Common Stock

PURCHASE AGREEMENT

February __, 2005

PIPER JAFFRAY & CO.
RBC CAPITAL MARKETS
THOMAS WEISEL PARTNERS LLC
SANDERS MORRIS HARRIS
As Representatives of the several
Underwriters named in Schedule I hereto
c/o Piper Jaffray & Co.
800 Nicollet Mall
Minneapolis, Minnesota 55402

Ladies and Gentlemen:

Marchex, Inc., a Delaware corporation (the "*Company*") proposes to sell to the several Underwriters named in Schedule I hereto (the "*Underwriters*") an aggregate of [7,000,000] shares (the "*Firm Shares*") of Class B common stock, $0.01 par value per share (the "*Common Stock*"), of the Company. The Company has also granted to the several Underwriters an option to purchase up to [1,050,000] additional shares of Common Stock on the terms and for the purposes set forth in Section 3 hereof (the "*Option Shares*"). The Firm Shares and any Option Shares purchased pursuant to this Purchase Agreement are herein collectively called the "*Securities*."

In connection with the proposed offering of the Securities, the Underwriters have agreed to administer a directed share program (the "*Directed Share Program*") pursuant to which up to [70,000] Firm Shares, or one percent (1.0%) of the Firm Shares, to be purchased by it (the "*Reserved Shares*") shall be reserved for sale at the public offering price to the Company's officers, directors and employees (the "*Directed Share Participants*") as part of the distribution of the Securities by the Underwriters, subject to the terms of this Purchase Agreement, the applicable rules, regulations and interpretations of the National Association of Securities Dealers, Inc. ("*NASD*") and all other applicable laws, rules and regulations. The number of Securities available for sale to the general public will be reduced to the extent that the Directed Share Participants purchase the Reserved Shares. Reserved Shares not confirmed for purchase by the Directed Share Participants by the end of the business day on

which this Purchase Agreement is executed will be offered to the general public by the Underwriters on the same basis as the other Securities being issued and sold hereunder. The Company has supplied the Underwriters with the names, addresses and telephone numbers of the individuals or other entities which the Company has designated to be participants in the Directed Share Program. It is understood that any number of those designated to participate in the Directed Share Program may decline to do so.

The Company hereby confirms its agreement with respect to the sale of the Securities to the several Underwriters, for whom you are acting as representatives (the "*Representatives*").

1. ***Registration Statement and Prospectus***. A registration statement on Form SB-2 (File No. 333-121213) with respect to the Securities, including a preliminary form of prospectus, has been prepared by the Company in conformity with the requirements of the Securities Act of 1933, as amended (the "*Securities Act*"), and the rules and regulations ("*Rules and Regulations*") of the Securities and Exchange Commission (the "*Commission*") thereunder and has been filed with the Commission; one or more amendments to such registration statement have also been so prepared and have been, or will be, so filed; and, if the Company has elected to rely upon Rule 462(b) of the Rules and Regulations to increase the size of the offering registered under the Securities Act, the Company will prepare and file with the Commission a registration statement with respect to such increase pursuant to Rule 462(b). Copies of such registration statement(s) and amendments and each related preliminary prospectus have been delivered to you.

If the Company has elected not to rely upon Rule 430A of the Rules and Regulations, the Company has prepared and will promptly file an amendment to the registration statement and an amended prospectus (including a term sheet meeting the requirements of Rule 434 of the Rules and Regulations). If the Company has elected to rely upon Rule 430A of the Rules and Regulations, it will prepare and file a prospectus (or a term sheet meeting the requirements of Rule 434) pursuant to Rule 424(b) that discloses the information previously omitted from the prospectus in reliance upon Rule 430A. Such registration statement as amended at the time it is or was declared effective by the Commission, and, in the event of any amendment thereto after the effective date and prior to the First Closing Date (as hereinafter defined), such registration statement as so amended (but only from and after the effectiveness of such amendment), including a registration statement (if any) filed pursuant to Rule 462(b) of the Rules and Regulations increasing the size of the offering registered under the Securities Act and information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rules 430A(b) and 434(d) of the Rules and Regulations, is hereinafter called the "*Registration Statement*." The prospectus included in the Registration Statement at the time it is or was declared effective by the Commission is hereinafter called the "*Prospectus*," except that if any prospectus (including any term sheet meeting the requirements of Rule 434 of the Rules and Regulations provided by the Company for use with a prospectus subject to completion within the meaning of Rule 434 in order to meet the requirements of Section 10(a) of the Rules and Regulations) filed by the Company with the Commission pursuant to Rule 424(b) (and Rule 434, if applicable) of the

Rules and Regulations or any other such prospectus provided to the Underwriters by the Company for use in connection with the offering of the Securities (whether or not required to be filed by the Company with the Commission pursuant to Rule 424(b) of the Rules and Regulations) differs from the prospectus on file at the time the Registration Statement is or was declared effective by the Commission, the term "*Prospectus*" shall refer to such differing prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) from and after the time such prospectus is filed with the Commission or transmitted to the Commission for filing pursuant to such Rule 424(b) (and Rule 434, if applicable) or from and after the time it is first provided to the Underwriters by the Company for such use. The term "*Preliminary Prospectus*" as used herein means any preliminary prospectus included in the Registration Statement prior to the time it becomes or became effective under the Securities Act and any prospectus subject to completion as described in Rule 430A or 434 of the Rules and Regulations.

2. ***Representations and Warranties of the Company***.

(a) The Company represents and warrants to, and agrees with, the several Underwriters as follows:

(i) No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission and each Preliminary Prospectus, at the time of filing thereof, did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; except that the foregoing shall not apply to statements in or omissions from any Preliminary Prospectus in reliance upon, and in conformity with, written information furnished to the Company by you, or by any Underwriter through you, specifically for use in the preparation thereof. The parties acknowledge and agree that such information provided by you, or by any underwriter through you, consists solely of the disclosures, including but not limited to disclosure regarding "Lock-up Agreements," "Indemnification," and "Stabilizing Transactions, Short Positions and Penalty Bids," under the caption "*Underwriting*" in the Prospectus.

(ii) As of the time the Registration Statement (or any post-effective amendment thereto, including a registration statement (if any) filed pursuant to Rule 462(b) of the Rules and Regulations increasing the size of the offering registered under the Securities Act) is or was declared effective by the Commission, upon the filing or first delivery to the Underwriters of the Prospectus (or any supplement to the Prospectus (including any term sheet meeting the requirements of Rule 434 of the Rules and Regulations)) and at the First Closing Date and Second Closing Date (as hereinafter defined), (A) the Registration Statement and Prospectus (in each case, as so amended and/or supplemented) conformed or will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations, (B) the Registration Statement (as so amended) did not or will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or

necessary to make the statements therein not misleading, and (C) the Prospectus (as so supplemented) did not or will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they are or were made, not misleading; except that the foregoing shall not apply to statements in or omissions from the Registration Statement or Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you, specifically for use therein. The parties acknowledge and agree that such information provided by you, or by any underwriter through you, consists solely of the disclosures, including but not limited to disclosure regarding "Lock-up Agreements," "Indemnification," and "Stabilizing Transactions, Short Positions and Penalty Bids," under the caption "*Underwriting*" in the Prospectus. If the Registration Statement has been declared effective by the Commission, no stop order suspending the effectiveness of the Registration Statement has been issued, and no proceeding for that purpose has been initiated or, to the Company's knowledge, threatened by the Commission.

(iii) The financial statements of the Company, together with the related notes thereto, set forth in the Registration Statement and Prospectus comply in all material respects with the requirements of the Securities Act and fairly present the financial condition of the Company as of the dates indicated and the results of operations and changes in financial position, stockholders' equity and cash flows for the periods therein specified in conformity with generally accepted accounting principles in the United States consistently applied throughout the periods involved; and the supporting schedules included in the Registration Statement present fairly the information required to be stated therein. The summary financial and statistical data included in the Registration Statement and Prospectus present fairly the information shown therein and such data have been prepared on a basis consistent with the financial statements contained therein. The pro forma financial statements and information set forth in the Registration Statement and Prospectus, together with the related notes thereto, present fairly the information contained therein, have been prepared in accordance with the Securities Act and the rules and guidelines of the Commission with respect to pro forma financial information, have been prepared on a basis consistent with the historical financial statements of the Company and have been compiled on the pro forma bases described therein, and (A) the assumptions underlying the pro forma adjustments are reasonable, (B) such adjustments are appropriate to give effect to the transactions or circumstances referred to therein and have been properly applied to the historical amounts in the compilation of such statements and information and (C) such statements and information fairly present the pro forma results of operations and information purported to be shown therein for the respective periods therein specified based on the assumptions identified therein. No other financial statements or schedules are required to be included in the Registration Statement or Prospectus. To the Company's knowledge, KPMG LLP, which has expressed its opinion with respect to the financial statements filed as a part of the

Registration Statement and included in the Registration Statement and Prospectus, is an independent public accounting firm within the meaning of the Securities Act and the Rules and Regulations. The Company has no reason to believe that such accountants, in the performance of their work for the Company, are in violation of the auditor independence requirements of the Sarbanes-Oxley Act of 2002 (the "*Sarbanes-Oxley Act*") and the rules and regulations promulgated in connection therewith. All "non-GAAP financial measures" (as described in Item 10 of Regulation S-B ("*Item 10*") promulgated pursuant to the Securities Act and Regulation G promulgated pursuant to the Securities Exchange Act of 1934, as amended ("*Regulation G*")) set forth in the Registration Statement and Prospectus comply in all material respects with Regulation G.

(iv) eFamily.com, Inc.; Enhance Interactive, Inc.; TrafficLeader, Inc.; goClick.com, Inc.; and MDNH, Inc. are the Company's only significant subsidiaries within the meaning of Rule 1-02(w) of Regulation S-X promulgated pursuant to the Securities Act. Each of the Company and its subsidiaries has been duly organized and is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation. Each of the Company and its subsidiaries has full corporate power and authority to own, lease and operate its properties and conduct its business as currently being carried on and as described in the Registration Statement and Prospectus, and is duly qualified to do business as a foreign corporation in good standing in each jurisdiction in which it owns or leases real property or in which the conduct of its business makes such qualification necessary, except where the failure to so qualify or be in good standing would not have a material adverse effect upon the business, prospects, properties, operations, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole ("*Material Adverse Effect*").

(v) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock; and there has not been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt, or any issuance of options (other than issuances made in the ordinary course pursuant to the Company's 2003 Amended and Restated Stock Incentive Plan and 2004 Employee Stock Purchase Plan), warrants, convertible securities or other rights to purchase the capital stock, of the Company or any of its subsidiaries, or any material adverse change in the business, properties, operations, condition (financial or otherwise), prospects, or results of operations of the Company and its subsidiaries, taken as a whole ("*Material Adverse*

Change") or any development that could reasonably be expected to result in a Material Adverse Change.

(vi) Except as set forth in the Prospectus, there is not pending or, to the knowledge of the Company, threatened by a third party or contemplated by the Company, any action, suit or proceeding to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company is the subject before or by any court or governmental agency, authority or body, or any arbitrator, which, individually or in the aggregate, could reasonably be expected to result in any Material Adverse Change. Neither the Company or any of its subsidiaries is a party or subject to the provisions of any material injunction, judgment, decree or order of any court, regulatory body or governmental agency.

(vii) There are no statutes, regulations, contracts or documents that are required to be described in the Registration Statement and Prospectus or be filed as exhibits to the Registration Statement by the Securities Act or by the Rules and Regulations that have not been so described or filed.

(viii) This Agreement has been duly authorized, executed and delivered by the Company, and constitutes a valid, legal and binding obligation of the Company, enforceable in accordance with its terms, except as rights to indemnity hereunder may be limited by federal or state securities laws and except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the rights of creditors generally and subject to general principles of equity. The execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated will not result in a breach or violation of any of the terms and provisions of, or constitute a default under, (A) any statute, indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company is a party or by which it is bound or to which any of its property is subject, (B) the Company's charter or by-laws or other organizational document of the Company or any of its subsidiaries, or (C) any order, rule, regulation or decree of any court or governmental agency or body having jurisdiction over the Company or any of its properties except in the case of subsections 2(a)(ix)(A) and (C) where such breach, violation or default individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect on the Company's ability to perform its obligation under this Agreement or consummate the transactions contemplated hereby; no consent, approval, authorization or order of, or filing with, any court or governmental agency or body is required for the execution, delivery and performance of this Agreement or for the consummation of the transactions contemplated hereby, including the issuance or sale of the Securities by the Company, except such as may be required under the Securities Act or state securities or blue sky laws; and the Company has full power and authority to enter into this Agreement, to authorize, issue, sell and deliver the Securities as contemplated by this Agreement, and to otherwise perform all of its obligations hereunder and to complete the transactions contemplated by this Agreement.

(ix) All of the issued and outstanding shares of capital stock of the Company, including the outstanding shares of Common Stock, are duly authorized and validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, were not issued in violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities that have not been waived in writing (a copy of which has been delivered to counsel to the Representatives); the Securities which may be sold hereunder by the Company have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will have been validly issued, will be fully paid and nonassessable and free of any preemptive or similar right, and will have been issued in compliance with all applicable state, federal and foreign securities laws; and the capital stock of the Company, including the Common Stock, conforms to the description thereof in the Registration Statement and Prospectus. Except as otherwise stated in the Registration Statement and Prospectus, there are no preemptive rights or other rights to subscribe for or to purchase, or any restriction upon the voting or transfer of, any shares of Common Stock pursuant to the Company's charter, by-laws or any agreement or other instrument to which the Company is a party or by which the Company is bound. Except as otherwise stated in the Registration Statement and Prospectus, neither the filing of the Registration Statement nor the offering or sale of the Securities as contemplated by this Agreement gives rise to any rights for or relating to the registration of any shares of Common Stock or other securities of the Company. All of the issued and outstanding shares of capital stock of each of the Company's subsidiaries have been duly and validly authorized and issued and are fully paid and nonassessable, and, except as otherwise described in the Registration Statement and Prospectus and except for any directors' qualifying shares, the Company owns of record and beneficially, free and clear of any security interests, claims, liens, proxies, equities or other encumbrances, all of the issued and outstanding shares of such stock. Except as described in the Registration Statement and the Prospectus, there are no options, warrants, agreements, contracts or other rights in existence to purchase or acquire from the Company or any subsidiary of the Company any shares of the capital stock of the Company or any subsidiary of the Company. The Company has an authorized and outstanding capitalization as set forth in the Registration Statement and the Prospectus as of the respective dates specified therein.

(x) Each of the Company and its subsidiaries has all necessary consents, approvals, authorizations, orders, registrations, qualifications, licenses, filings and permits of, with and from all judicial, regulatory and other legal or governmental agencies and bodies and all third parties, foreign and domestic (each, a "*Consent*" and collectively, the "*Consents*"), to own, lease and operate its properties and conduct its business as it is now being conducted and as disclosed in the Registration Statement and the Prospectus, and each such Consent is valid and in full force and effect except for such failures as could not reasonably be expected to have a Material Adverse Effect, and neither the Company nor any subsidiaries have received

notice of any proceedings which results in or, if decided adversely to the Company or the subsidiaries, could reasonably be expected to result in, the revocation of, or imposition of a materially burdensome restriction on, any Consent.

(xi) The Company and each subsidiary owns or leases all such properties as are necessary to the conduct of its business as presently operated and as proposed to be operated as described in the Registration and the Prospectus. The Company and its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all Liens (as defined below) except such as are described in the Registration Statement and the Prospectus or such as do not (individually or in the aggregate) materially affect the value of such property or materially interfere with the use made or proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease or sublease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material to, and do not materially interfere with, the use made and proposed to be made of such property and buildings by the Company and its subsidiaries. Neither the Company nor any subsidiary has received any notice of any claim adverse to its ownership of any domain name which is reasonably likely to result in a Material Adverse Effect.

(xii) The Company and its subsidiaries own or possess all patents, trademarks, trademark registrations, service marks, service mark registrations, tradenames, copyrights, licenses, inventions, trade secrets and rights described in the Prospectus as being owned by them or described in the Prospectus as being necessary for the conduct of their business (collectively, "*Company Intellectual Property*"), and neither the Company nor any of its subsidiaries is aware of any claim against the Company or its subsidiaries to the contrary or any challenge by any other person to the rights of the Company or its subsidiaries with respect to the foregoing. No claim has been made against the Company or its subsidiaries alleging the infringement by the Company or its subsidiaries of any patent, trademark, service mark, tradename, copyright, trade secret, license in or other intellectual property right or franchise right of any person. To the knowledge of the Company, no person is infringing or misappropriating any Company Intellectual Property, which is material to the conduct of its business. To the knowledge of the Company, no current or former employee, officer, director, shareholder, consultant or independent contractor of the Company or any subsidiary has any valid right, claim or interest in or with respect to any Company Intellectual Property which would materially impair or which could give rise to the material impairment of the use, distribution, license or other exploitation of the Company Intellectual Property by the Company or any such subsidiary. The Company and each of its subsidiaries have taken reasonable measures and precautions necessary to protect, preserve and maintain the confidentiality and secrecy of all trade secrets and other confidential information used in the business of the Company and

such subsidiaries and otherwise to maintain and protect the value of all Company Intellectual Property.

(xiii) Neither the Company nor any subsidiary (i) is in violation of its certificate or articles of incorporation, by-laws, certificate of formation, limited liability company agreement, partnership agreement or other organizational documents, (ii) is in default under, and no event has occurred which, with notice or lapse of time or both, would constitute a default under or result in the creation or imposition of any lien, charge or encumbrance upon any of its property or assets pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject or (iii) is in violation in any respect of any law, rule, regulation, ordinance, directive, judgment, decree or order of any judicial, regulatory or other legal or governmental agency or body, foreign or domestic, except (in the case of clauses (ii) and (iii) above) violations or defaults that could not (individually or in the aggregate) reasonably be expected to have a Material Adverse Effect and except for any lien, charge or encumbrance disclosed in the Registration Statement and the Prospectus. To the knowledge of the Company, otherwise than as set forth in the Registration Statement and the Prospectus, no prospective change in any of such federal or state laws, rules or regulations has been adopted which, when made effective, would have a Material Adverse Effect with respect to its ownership of domain names.

(xiv) The Company and its subsidiaries have timely filed all federal, state, local and foreign income and franchise tax returns required to be filed and are not in default in the payment of any taxes which were payable pursuant to said returns or any assessments with respect thereto, other than any which the Company or any of its subsidiaries is contesting in good faith.

(xv) The Company has not distributed and will not distribute any prospectus or other offering material in connection with the offering and sale of the Securities other than any Preliminary Prospectus or the Prospectus or other materials permitted by the Securities Act to be distributed by the Company.

(xvi) The Company is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, (the "*Exchange Act*") and files reports with the Commission on the EDGAR System. The Common Stock is registered pursuant to Section 12(g) of the Exchange Act and the outstanding shares of Common Stock are listed for quotation on the Nasdaq National Market and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or de-listing the Common Stock from the Nasdaq, nor has the Company received any notification that the Commission or the Nasdaq is contemplating terminating such registration or listing.

(xvii) The subsidiaries listed in Exhibit 21 to the Registration Statement are the only subsidiaries of the Company within the meaning of Rule 405 under the Securities Act. Except for the subsidiaries and as otherwise disclosed in the Registration Statement and the Prospectus, the Company holds no ownership or other interest, nominal or beneficial, direct or indirect, in any corporation, partnership, joint venture or other business entity. The Company owns, directly or indirectly through other subsidiaries, 100% of the outstanding capital stock or other securities evidencing equity ownership of each subsidiary free and clear of any lien, charge, mortgage, pledge, security interest, claim, equity, trust or other encumbrance, preferential arrangement, defect or restriction of any kind whatsoever (any "*Lien*"); and all of such securities have been duly and validly authorized and issued and are fully paid and non-assessable and were not issued in violation of any preemptive or similar rights that does or will entitle any person, upon the issuance or sale of any security, to acquire from the Company or any subsidiary any Securities, except for such rights as may have been fully satisfied or waived prior to the effectiveness of the Registration Statement.

(xviii) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(xix) Other than as contemplated by this Agreement, the Company has not incurred any liability for any finder's or broker's fee or agent's commission in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.

(xx) The Company and each of its subsidiaries carries, or is covered by, insurance in such amounts and covering such risks as is adequate for the conduct of its business and the value of its properties and as is customary for companies engaged in similar businesses in similar industries, all of which is in full force and effect. There are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause. The Company and each of its subsidiaries reasonably believes that it will be able to renew its existing insurance as and when such coverage expires or will be able to obtain replacement insurance adequate for the conduct of the business and the value of its properties at a cost that could not reasonably be expected to have a Material Adverse Effect.

(xxi) The Company is not and, after giving effect to the offering and sale of the Securities, will not be an "investment company," as such term is defined in the Investment Company Act of 1940, as amended, or an entity "controlled" by an "investment company" and will conduct its business in a manner so that it will not become subject to the Investment Company Act.

(xxii) Nothing has come to the attention of the Company that has caused the Company to believe that the statistical, industry-related and market-related data, if any, included in the Registration Statement and the Prospectus is not based on or derived from sources that are credible and generally recognized as authoritative in the Company's industry, and the Company has no reason to believe that such data does not agree with the sources from which they are derived.

(xxiii) Neither the Company nor any of its officers, directors or affiliates (within the meaning of Rule 144 under the Securities Act) has taken or may take, directly or indirectly, any action which constitutes or is designed to cause or result in, or which could reasonably be expected to constitute, cause or result in, the stabilization or manipulation of the price of any security to facilitate the sale or resale of the Securities or otherwise.

(xxiv) No relationship, direct or indirect, exists between or among any of the Company or any affiliate of the Company, on the one hand, and any director, officer, stockholder, customer or supplier of the Company or any affiliate of the Company, on the other hand, which is required by the Securities Act, the Exchange Act or the Rules and Regulations to be described in the Registration Statement or the Prospectus which is not so described and described as required. There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company to or for the benefit of any of the officers or directors of the Company or any of their respective family members, except as disclosed in the Registration Statement and the Prospectus. The Company has not, in violation of the Sarbanes-Oxley Act, directly or indirectly, including through a subsidiary, extended or maintained credit, arranged for the extension of credit, or renewed an extension of credit, in the form of a personal loan to or for any director or executive officer of the Company.

(xxv) There is no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any applicable provisions of the Sarbanes-Oxley Act, and the rules and regulations promulgated in connection therewith that would have a Material Adverse Effect.

(xxvi) The Company has established and maintains "disclosure controls and procedures" (as defined in Rules 13a-14(c) and 15d-14(c) of the Exchange Act); such "disclosure controls and procedures" are reasonably designed to ensure that material information relating to the Company, including its subsidiaries, is made known to the Company's chief executive officer and its chief financial officer

by others within those entities, and such disclosure controls and procedures are effective to perform the functions for which they were established.

(xxvii) The Company's auditors and the audit committee of the board of directors of the Company (or persons fulfilling the equivalent function) have not been advised of (i) any significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data nor any material weaknesses in internal controls; (ii) any known fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

(xxviii) Since the date of the filing of the Company's Quarterly Report on Form 10-QSB for the quarter ended September 30, 2004, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.

(xxix) The statements set forth in the Prospectus under the caption "Description of Debentures," "Description of Preferred Stock" and "Description of Capital Stock" fairly summarize the terms of the Securities, the Indenture and the Common Stock in all material respects.

(xxx) Neither the Company nor to the Company's knowledge any director, officer, agent, employee or other person associated with or acting on behalf of the Company has used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provisions of the Foreign Corrupt Practices Act of 1972; or made any bribe, rebate, payoff, influence, payment, kickback or other unlawful payment.

(xxxi) Any certificate signed by any officer of the Company and delivered to you or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

3. ***Purchase, Sale and Delivery of Securities***.

(a) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell the Firm Shares to the several Underwriters, and each Underwriter agrees, severally and not jointly, to purchase from the Company the number of Firm Shares set forth opposite the name of such Underwriter in Schedule I hereto. The purchase price for each Firm Share shall be $__ per share. In making this Agreement, each Underwriter is contracting severally and not jointly; except as provided in paragraph (c) of this Section 3

and in Section 8 hereof, the agreement of each Underwriter is to purchase only the respective number of Firm Shares specified in Schedule I.

The Firm Shares will be delivered by the Company to you for the accounts of the several Underwriters against payment of the purchase price therefor by same day funds payable to the order of the Company at the offices of Wilson Sonsini Goodrich & Rosati, P.C., 701 Fifth Avenue, Suite 5100, Seattle, Washington 98104, or such other location as may be mutually acceptable, at 7:00 a.m. Pacific time on the third (or if the Securities are priced, as contemplated by Rule 15c6-1(c) under the Exchange Act, after 4:30 p.m. Eastern time, the fourth) full business day following the date hereof, or at such other time and date as you and the Company determine pursuant to Rule 15c6-1(a) under the Exchange Act, such time and date of delivery being herein referred to as the "*First Closing Date*." If the Representatives so elect, delivery of the Firm Shares may be made by credit through full fast transfer to the accounts at The Depository Trust Company designated by the Representatives. Certificates representing the Firm Shares, in definitive form and in such denominations and registered in such names as you may request upon at least two business days' prior notice to the Company, will be made available for checking and packaging not later than 10:30 a.m., Pacific time, on the business day next preceding the First Closing Date at the above-mentioned offices of Wilson Sonsini Goodrich & Rosati, P.C., or such other location as may be mutually acceptable.

(b) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company hereby grants to the several Underwriters an option to purchase all or any portion of the Option Shares at the same purchase price as the Firm Shares, for use solely in covering any over-allotments made by the Underwriters in the sale and distribution of the Firm Shares. The option granted hereunder may be exercised in whole or in part at any time (but not more than once) within 30 days after the effective date of this Agreement upon notice (confirmed in writing) by the Representatives to the Company setting forth the aggregate number of Option Shares as to which the several Underwriters are exercising the option, the names and denominations in which the certificates for the Option Shares are to be registered and the date and time, as determined by you, when the Option Shares are to be delivered, such time and date being herein referred to as the "*Second Closing*" and "*Second Closing Date*," respectively; provided, however, that the Second Closing Date shall not be earlier than the First Closing Date nor earlier than the second business day after the date on which the option shall have been exercised. If the option is exercised, the number of Option Shares to be purchased by each Underwriter shall be the same percentage of the total number of Option Shares to be purchased by the several Underwriters as the number of Firm Shares to be purchased by such Underwriter is of the total number of Firm Shares to be purchased by the several Underwriters, as adjusted by the Representatives in such manner as the Representatives deem advisable to avoid fractional shares. No Option Shares shall be sold and delivered unless the Firm Shares previously have been, or simultaneously are, sold and delivered.

The Option Shares will be delivered by the Company to you for the accounts of the several Underwriters against payment of the purchase price therefor by same day funds payable to the order of the Company at the offices of Wilson Sonsini Goodrich & Rosati, P.C., 701 Fifth Avenue, Suite 5100, Seattle, Washington 98104, or such other location as may be mutually acceptable at 7:00 a.m., Pacific time, on the Second Closing Date. If the Representatives so elect, delivery of the Option Shares may be made by credit through full fast transfer to the accounts at The Depository Trust Company designated by the Representatives. Certificates representing the Option Shares in definitive form and in such denominations and registered in such names as you have set forth in your notice of option exercise, will be made available for checking and packaging not later than 10:30 a.m., Pacific time, on the business day next preceding the Second Closing Date at the above-mentioned offices of Wilson Sonsini Goodrich & Rosati, P.C., or such other location as may be mutually acceptable.

(c) It is understood that you, individually and not as Representatives of the several Underwriters, may (but shall not be obligated to) make payment to the Company on behalf of any Underwriter for the Securities to be purchased by such Underwriter. Any such payment by you shall not relieve any such Underwriter of any of its obligations hereunder. Nothing herein contained shall constitute any of the Underwriters an unincorporated association or partner with the Company.

4. ***Covenants***. The Company covenants and agrees with the several Underwriters as follows:

(a) If the Registration Statement has not already been declared effective by the Commission, the Company will use its best efforts to cause the Registration Statement and any post-effective amendments thereto to become effective as promptly as possible; the Company will notify you promptly of the time when the Registration Statement or any post-effective amendment to the Registration Statement has become effective or any supplement to the Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or additional information; if the Company has elected to rely on Rule 430A of the Rules and Regulations, the Company will prepare and file a Prospectus (or term sheet within the meaning of Rule 434 of the Rules and Regulations) containing the information omitted therefrom pursuant to Rule 430A of the Rules and Regulations with the Commission within the time period required by, and otherwise in accordance with the provisions of, Rules 424(b), 430A and 434, if applicable, of the Rules and Regulations; if the Company has elected to rely upon Rule 462(b) of the Rules and Regulations to increase the size of the offering registered under the Securities Act, the Company will prepare and file a registration statement with respect to such increase with the Commission within the time period required by, and otherwise in accordance with the provisions of, Rule 462(b); the Company will prepare and file with the Commission, promptly upon your request, any amendments or supplements to the Registration Statement or Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) that, in your opinion, may be necessary or advisable in

connection with the distribution of the Securities by the Underwriters; and the Company will not file any amendment or supplement to the Registration Statement or Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) to which you shall reasonably object by notice to the Company after having been furnished a copy a reasonable time prior to the filing.

(b) The Company will advise you, promptly after it shall receive notice or obtain knowledge thereof, of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any such purpose; and the Company will promptly use its best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued.

(c) Within the time during which a prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) relating to the Securities is required to be delivered under the Securities Act, the Company will comply as far as it is able with all requirements imposed upon it by the Securities Act, as now and hereafter amended, and by the Rules and Regulations, as from time to time in force, so far as necessary to permit the continuance of sales of or dealings in the Securities as contemplated by the provisions hereof and the Prospectus. If during such period any event occurs as a result of which the Prospectus would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during such period it is necessary to amend the Registration Statement or supplement the Prospectus to comply with the Securities Act, the Company will promptly notify you and will amend the Registration Statement or supplement the Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance.

(d) The Company shall cooperate with you to qualify the Securities for sale under the securities laws of such jurisdictions as you reasonably designate or as is necessary to effect the distribution of the Reserved Shares and to continue such qualifications in effect so long as required for the distribution of the Securities, except that the Company shall not be required in connection therewith to qualify as a foreign corporation or to execute a general consent to service of process in any state.

(e) The Company will furnish to the Underwriters and counsel for the Underwriters copies of the Registration Statement (three of which will be signed and will include all consents and exhibits filed therewith), each Preliminary Prospectus, the Prospectus, and all amendments and supplements (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) to such documents, in each case as soon as available and in such quantities as you may from time to time reasonably request; provided, however, that the expense of the preparation and delivery of any prospectus required for use nine (9) months or more after the effective date of the Registration Statement shall be borne by the Underwriters required to deliver such prospectus.

(f) During a period of three years commencing with the date hereof, the Company will furnish to the Representatives, and to each Underwriter who may so request in writing, copies of all periodic and special reports furnished to the stockholders of the Company and all information, documents and reports filed with the Commission, the National Association of Securities Dealers, Inc., Nasdaq or any securities exchange (other than any such information, documents and reports that are filed with the Commission electronically via EDGAR or any successor system).

(g) The Company will make generally available to its security holders as soon as practicable, but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement (which need not be audited) covering a 12-month period beginning after the effective date of the Registration Statement that shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 of the Rules and Regulations.

(h) The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is prevented from becoming effective under the provisions of Section 9(a) hereof or is terminated, will pay or cause to be paid (i) all expenses (including transfer taxes allocated to the respective transferees) incurred in connection with the delivery to the Underwriters of the Securities, (ii) all expenses and fees (including, without limitation, fees and expenses of the Company's accountants and counsel but, except as otherwise provided below, not including fees of the Underwriters' counsel) in connection with the preparation, printing, filing, delivery, and shipping of the Registration Statement (including the financial statements therein and all amendments, schedules, and exhibits thereto), the Securities, each Preliminary Prospectus, the Prospectus, and any amendment thereof or supplement thereto, and the printing, delivery, and shipping of this Agreement and other underwriting documents, including Blue Sky Memoranda (covering the states and other applicable jurisdictions), (iii) all stamp duties or other taxes, if any, incurred by the Underwriters in connection with the Directed Share Program, (iv) all filing fees and fees and disbursements of the Underwriters' counsel incurred in connection with the qualification of the Securities for offering and sale by the Underwriters or by dealers under the securities or blue sky laws of the states and other jurisdictions which you shall designate or are necessary to distribute the Reserved Shares, (v) the fees and expenses of any transfer agent or registrar, (vi) the filing fees incident to any required review by the National Association of Securities Dealers, Inc. of the terms of the sale of the Securities, (vii) listing fees, if any, and (viii) all other costs and expenses incident to the performance of its obligations hereunder that are not otherwise specifically provided for herein; provided, however, that the Underwriters (x) shall bear their own expenses for travel and lodging, (y) shall bear the Company's expenses for any non-commercial travel, and (z) shall advance the Company's expenses for commercial travel and lodging (subject to full reimbursement by the Company whether or not the sale of Securities provided for herein is consummated), all in connection with the investor presentations on any "road show" undertaken in connection with the marketing and/or offering of the Securities. If the sale of the Securities provided for herein is not consummated by reason of any failure, refusal or inability on the part of the Company to perform any agreement on its part to be performed, or because any other condition of the

Underwriters' obligations hereunder required to be fulfilled by the Company is not fulfilled, unless directly attributable to the default of any Underwriter, the Company will reimburse the several Underwriters for fifty percent (50%) of the Company's non-commercial travel expenses as previously agreed among the parties. The Company shall not in any event be liable to any of the Underwriters for loss of anticipated profits from the transactions covered by this Agreement. For clarification purposes, as a result of this Section 4(h), in the event that the transactions contemplated hereunder are not consummated or this Agreement is prevented from becoming effective under the provisions of Section 9(a) hereof or is terminated, the Company will be required to reimburse the Underwriters for no more than the out-of-pocket expenses incurred by the Underwriters; provided, however, that such out-of-pocket expenses shall be limited as described above.

(i) The Company will apply the net proceeds from the sale of the Securities to be sold by it hereunder for the purposes set forth in the Prospectus and will file such reports with the Commission with respect to the sale of the Securities and the application of the proceeds therefrom as may be required in accordance with Rule 463 of the Rules and Regulations.

(j) The Company will not, without the prior written consent of Piper Jaffray & Co., from the date of execution of this Agreement and continuing to and including the date 90 days after the date of the Prospectus (the "*Lock-Up Period*") offer for sale; sell; contract to sell; pledge; grant any option for the sale of; or otherwise issue or dispose of, directly or indirectly (or publicly disclose the intention to make any such offer, sale, pledge, grant, issuance or other disposition), any Common Stock or any securities convertible into or exchangeable for, or any options or rights to purchase or acquire, Common Stock, except (i) to the Underwriters pursuant to this Agreement, (ii) in the ordinary course to employees, directors or consultants pursuant to its 2003 Amended and Restated Stock Incentive Plan or to eligible employees pursuant to its 2004 Employee Stock Purchase Plan, (iii) for the issuance of shares of convertible preferred stock and debentures upon exchange thereof as contemplated by the Registration Statement, and (iv) in connection with the acquisition of any businesses, assets or technologies provided that the recipients of such securities agree not to transfer them during the Lock-Up Period. The Company agrees not to accelerate the vesting of any option or warrant or the lapse of any repurchase right prior to the expiration of the Lock-Up Period.

(k) The Company either has caused to be delivered to you or will cause to be delivered to you prior to the effective date of the Registration Statement a letter from each of the Company's directors, officers and certain stockholders as mutually agreed between the parties stating that such person agrees that he or she will not, without your prior written consent, offer for sale, sell, contract to sell or otherwise dispose of, as set forth in such letter, any shares of Common Stock or rights to purchase Common Stock, except to the Underwriters pursuant to this Agreement, for a period of 90 days after commencement of the public offering of the Securities by the Underwriters (the "*Lock-Up Agreement*"). The Company will enforce the terms of each Lock-Up Agreement and issue stop-transfer instructions to the transfer agent for the Common Stock with respect to any transaction or contemplated transaction that would constitute a breach of or default under the applicable Lock-Up Agreement.

(l) The Company has not taken and will not take, directly or indirectly, any action designed to or which might reasonably be expected to cause or result in, or which has

constituted, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities, and has not effected any sales of Common Stock which are required to be disclosed in response to Item 701 of Regulation S-B under the Securities Act which have not been so disclosed in the Registration Statement.

(m) During the period of three years after the date hereof, the Company will use its best efforts to file with the Commission such periodic and special reports as required by the Rules and Regulations.

(n) The Company and its subsidiaries will maintain such controls and other procedures, including without limitation those required by Sections 302 and 906 of the Sarbanes-Oxley Act and the applicable regulations thereunder, that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer and its principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure, to ensure that material information relating to the Company, including its subsidiaries, is made known to them by others within those entities.

(o) The Company and its subsidiaries will comply with all effective applicable provisions of the Sarbanes-Oxley Act to which the Company will be, at such time, required to be in compliance.

(p) The Company will comply with all applicable securities and other applicable laws, rules and regulations in each jurisdiction in which the Reserved Shares are offered in connection with the Directed Share Program.

5. ***Conditions of Underwriters' Obligations***. The obligations of the several Underwriters hereunder are subject to the accuracy, as of the date hereof and at each of the First Closing Date and the Second Closing Date (as if made at such Closing Date), of and compliance with all representations, warranties and agreements of the Company contained herein, to the performance by the Company of its obligations hereunder and to the following additional conditions:

(a) The Registration Statement shall have become effective not later than 5:00 p.m., Pacific time, on the date of this Agreement, or such later time and date as you, as Representatives of the several Underwriters, shall approve and all filings required by Rules 424, 430A and 434 of the Rules and Regulations shall have been timely made; no stop order suspending the effectiveness of the Registration Statement or any amendment thereof shall have been issued; no proceedings for the issuance of such an order shall have been initiated or threatened; and any request of the Commission for additional information (to be

included in the Registration Statement or the Prospectus or otherwise) shall have been complied with to your satisfaction.

(b) Neither the Registration Statement nor the Prospectus, nor any amendment thereof or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), contains an untrue statement of fact which, in your opinion, is material, or omits to state a fact which, in your opinion, is material and is required to be stated therein or necessary to make the statements therein not misleading.

(c) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries shall have incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock (other than intra corporate dividends or capital contributions made in the ordinary course); and there shall not have been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt of the Company, or any issuance of options, warrants, convertible securities or other rights to purchase the capital stock of the Company or any of its subsidiaries, or any Material Adverse Change or any development reasonably likely to result in a prospective Material Adverse Change that, in your judgment, makes it impractical or inadvisable to offer or deliver the Securities on the terms and in the manner contemplated in the Prospectus.

(d) On or after the date hereof (i) no downgrading shall have occurred in the rating accorded the Company's debt securities or preferred stock by any "nationally recognized statistical organization," as that term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities or preferred stock.

(e) On each Closing Date, there shall have been furnished to you, as Representatives of the several Underwriters, the opinion of Nixon Peabody LLP, counsel for the Company, dated such Closing Date and addressed to you, to the effect that:

(i) Each of the Company and its subsidiaries has been duly organized and is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation. Each of the Company and its subsidiaries has full corporate power and authority to own its properties and conduct its business as currently being carried on and as described in the Registration Statement and Prospectus, and is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which it owns or leases real property or in which the conduct of its business makes such qualification necessary and in which the failure to so qualify would have a Material Adverse Effect.

(ii) The capital stock of the Company conforms as to legal matters to the description thereof contained in the Prospectus under the caption "Description of Capital Stock." All of the issued and outstanding shares of the capital stock of the Company have been duly authorized and validly issued and are fully paid and nonassessable. The Securities to be issued and sold by the Company hereunder have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will be validly issued and will be fully paid and nonassessable and will not have been issued in violation of or subject to any statutory or to such counsel's knowledge, contractual preemptive right, co-sale right, registration right or right of first refusal. Except as otherwise stated in the Registration Statement and Prospectus, there are no preemptive rights or other rights to subscribe for or to purchase, or any restriction upon the voting or transfer of, any shares of Common Stock pursuant to the Company's charter, by-laws or any agreement or other instrument known to such counsel to which the Company is a party or by which the Company is bound. Except as otherwise stated in the Registration Statement and Prospectus or as otherwise expressly waived in writing, to such counsel's knowledge, neither the filing of the Registration Statement nor the offering or sale of the Securities as contemplated by this Agreement gives rise to any rights for or relating to the registration of any shares of Common Stock or other securities of the Company, except as described in the Registration Statement under the caption, "Description of Capital Stock – Registration Rights."

(iii) The Common Stock currently outstanding is quoted, and the Firm Shares are duly authorized for quotation, on the Nasdaq National Market.

(iv) To such counsel's knowledge, except as otherwise described in the Registration Statement and Prospectus, the Company owns of record and beneficially, free and clear of any security interests, claims, liens, proxies, equities or other encumbrances, all of the issued and outstanding shares of the capital stock of the Company or any subsidiary of the Company. To such counsel's knowledge, except as described in the Registration Statement and Prospectus, there are no options, warrants, agreements, contracts or other rights in existence to purchase or acquire from the Company or any subsidiary any shares of the capital stock of the Company or any subsidiary of the Company.

(v) The Registration Statement has been declared effective under the Securities Act and, to such counsel's knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been instituted or, to the knowledge of such counsel, threatened by the Commission, and all filings required by Rule 424(b) pursuant to the Securities Act have been made.

(vi) The descriptions in the Registration Statement and Prospectus of statutes, regulations, legal and governmental proceedings, contracts and other documents are accurate in all material respects and fairly present the information

required to be shown; and such counsel does not know of any statutes, regulations, legal or governmental proceedings or contracts or other documents required to be described in the Prospectus or included as exhibits to the Registration Statement that are not described or included as required.

(vii) The Company has full corporate power and authority to enter into this Agreement, and this Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid, legal and binding obligation of the Company enforceable in accordance with its terms (except as rights to indemnity hereunder may be limited by federal or state securities laws and except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the rights of creditors generally and subject to general principles of equity); the execution, delivery and performance of this Agreement, the Registration Statement and the Prospectus and the consummation of the transactions contemplated by this Agreement do not and will not result in a breach or violation of any of the terms and provisions of, or constitute a default (or an event that with notice or lapse of time or both, would constitute an event of default) under, or result in the creation or imposition of any lien, charge or encumbrance on any properties or assets of the Company or its subsidiaries under, (a) the Company's charter or by-laws, (b) any order or decree known to such counsel of any court or governmental agency or body having jurisdiction over the Company, any of its subsidiaries, or any of their respective properties or (c) any agreement or instrument required to be filed as an exhibit to the Registration Statement pursuant to Item 601(b)(4) and (10) of Regulation S-B to which the Company is a party or by which the Company is bound; and no consent, approval, authorization, order, registration or qualification of, or filing with, any court or governmental agency or body is required for the execution, delivery and performance of this Agreement or for the consummation of the transactions contemplated hereby, including the issuance or sale of the Securities by the Company, except such as may be required under the Securities Act or the Exchange Act, and except any consents, approvals, authorizations or orders of, or filing with, any state or foreign regulatory authority (for which such counsel offers no opinion).

(viii) The Company is not an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

(ix) The statements in the Registration Statement under the captions "Capitalization," "Description of Capital Stock," "Description of Preferred Securities" and "Description of Debentures", insofar as such statements constitute summaries of the legal matters, documents or proceedings referred to therein, as of the date of the Registration Statement and as of the date hereof, fairly summarize the matters referred to therein in all material respects.

(x) The statements in the Registration Statement under the caption "Certain U.S. Federal Income Tax Considerations," while not purporting to address

all possible United States federal income tax consequences of acquiring, owning or disposing of the Securities, the Preferred Stock and the Debentures, insofar as they purport to constitute summaries of matters of the United States federal tax laws referred to therein or legal conclusions with respect thereto, constitute accurate summaries of the matters described therein in all material respects.

(xi) The Registration Statement and the Prospectus, and any amendment thereof or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), comply as to form in all material respects with the requirements of the Securities Act and the Rules and Regulations; it being understood that such counsel need express no opinion as to the financial statements, notes, schedules or other financial, statistical and accounting data included in or omitted from any of the documents mentioned in this clause.

On the basis of conferences with officers and other representatives of the Company, representatives of the independent public accountants for the Company and representatives of and counsel for the Underwriters and examination of documents referred to in the Registration Statement and Prospectus and such other procedures as such counsel deemed appropriate (although such counsel does not assume any responsibility for accuracy, completeness or fairness of the statements contained in the Registration Statement or Prospectus except for those referred to in paragraph (ix) and (x) above), nothing has come to the attention of such counsel that causes such counsel to believe that the Registration Statement or any amendment thereof (except for the financial statements, notes, schedules and other financial, statistical and accounting data included therein or omitted therefrom as to which such counsel need make no statement), at the time the Registration Statement became effective and as of such Closing Date (including any Registration Statement filed under Rule 462(b) of the Rules and Regulations), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that the Prospectus, as amended or supplemented (except for the financial statements, notes, schedules and other financial, statistical and accounting data included therein or omitted therefrom as to which such counsel need make no statement), on the date it was filed with the Commission and as of such Closing Date, includes any untrue statement of material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

In rendering such opinion such counsel may (i) opine subject to standard conditions and qualifications, (ii) rely as to matters of law other than Delaware and federal law, upon the opinion or opinions of local counsel provided that the extent of such reliance is specified in such opinion and (iii) as to matters of fact, to the extent such counsel deems reasonable upon certificates of officers of the Company and its subsidiaries provided that the extent of such reliance is specified in such opinion.

(f) On each Closing Date, there shall have been furnished to you, as Representatives of the several Underwriters, such opinion or opinions from Wilson Sonsini

Goodrich & Rosati, Professional Corporation, counsel for the several Underwriters, dated such Closing Date and addressed to you, with respect to the formation of the Company, the validity of the Securities, the Registration Statement, the Prospectus and other related matters as you reasonably may request, and such counsel shall have received such papers and information as they reasonably request to enable them to pass upon such matters.

(g) On each Closing Date you, as Representatives of the several Underwriters, shall have received a letter of KPMG LLP, dated such Closing Date and addressed to you, confirming that they are independent public accountants within the meaning of the Securities Act, the conclusions and findings of said firm with respect to the financial information and other matters covered by its letter delivered to you concurrently with the execution of this Agreement, and the effect of the letter so to be delivered on such Closing Date shall be to confirm the conclusions and findings set forth in such prior letter.

(h) On each Closing Date, there shall have been furnished to you, as Representatives of the Underwriters, a certificate, dated such Closing Date and addressed to you, signed by the chief executive officer and by the chief financial officer of the Company, to the effect that:

(i) The representations and warranties of the Company in this Agreement are true and correct, in all material respects, as if made at and as of such Closing Date, and the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such Closing Date;

(ii) No stop order or other order suspending the effectiveness of the Registration Statement or any amendment thereof or the qualification of the Securities for offering or sale has been issued, and no proceeding for that purpose has been instituted or, to the best of their knowledge, is contemplated by the Commission or any state or regulatory body; and

(iii) The signers of said certificate have carefully examined the Registration Statement and the Prospectus, and any amendments thereof or supplements thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), and (A) such documents contain all statements and information required to be included therein, the Registration Statement, or any amendment thereof, does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and the Prospectus, as amended or supplemented, does not include any untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, (B) since the effective date of the Registration Statement, there has occurred no event required to be set forth in an amended or supplemented prospectus which has not been so set forth, (C) subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has incurred any material

liabilities or obligations, direct or contingent, or entered into any material transactions, not in the ordinary course of business, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock, and except as disclosed in the Prospectus, there has not been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt, or any issuance of options, warrants, convertible securities or other rights to purchase the capital stock, of the Company, or any of its subsidiaries, or any Material Adverse Change or any development reasonably likely to result in a prospective Material Adverse Change, and (D) except as stated in the Registration Statement and the Prospectus, there is not pending, or, to the knowledge of the Company, threatened, any action, suit or proceeding to which the Company or any of its subsidiaries is a party before or by any court or governmental agency, authority or body, or any arbitrator, which might result in any Material Adverse Change.

(i) The Company shall have furnished to you and counsel for the Underwriters such additional documents, certificates and evidence as you or they may have reasonably requested.

(j) Prior to the commencement of the Offering, the Securities shall have been approved for quotation on the Nasdaq National Market, subject to official notice of issuance.

(k) Each of the Lock-Up Agreements referenced in Section 4(k) hereof shall have been duly executed by each person required to execute such agreement and shall have been delivered to the Underwriters.

(l) The Company shall contemporaneously consummate the acquisition of certain of the assets of Name Development Ltd. ("NDL") in accordance with that certain Asset Purchase Agreement dated as of November 19, 2004 by and between the Company, NDL and the Sole Stockholder of NDL (as defined therein).

6. ***Indemnification and Contribution***.

(a) The Company agrees to indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Securities Act or otherwise (including in settlement of any litigation if such settlement is effected with the written consent of the Company), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, including the information deemed to be a part of the Registration Statement at the time of effectiveness pursuant to Rules 430A and 434(d) of the Rules and Regulations, if applicable, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules

and Regulations), or contained in any audio or visual materials provided by the Company or based upon written information furnished by or on behalf of the Company including, without limitation, slides, videos, films or tape recordings used in connection with the marketing of the Common Stock ("*Marketing Materials*") or in connection with the Directed Share Program (other than losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the bad faith or gross negligence of the Underwriters) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by it in connection with investigating or defending against such loss, claim, damage, liability or action; *provided, however,* that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any such amendment or supplement, or in any Marketing Materials, in reliance upon and in conformity with written information furnished to the Company by you, or by any Underwriter through you, specifically for use in the preparation thereof.

In addition to its other obligations under this Section 6(a), the Company agrees that, as an interim measure during the pendency of any claim, action, investigation, inquiry or other proceeding arising out of or based upon any statement or omission, or any alleged statement or omission, described in this Section 6(a), it will reimburse each Underwriter on a monthly basis for all reasonable legal fees or other expenses incurred in connection with investigating or defending any such claim, action, investigation, inquiry or other proceeding, notwithstanding the absence of a judicial determination as to the propriety and enforceability of the Company's obligation to reimburse the Underwriters for such expenses and the possibility that such payments might later be held to have been improper by a court of competent jurisdiction. To the extent that any such interim reimbursement payment is so held to have been improper, the Underwriter that received such payment shall promptly return it to the party or parties that made such payment, together with interest, compounded daily, determined on the basis of the prime rate (or other commercial lending rate for borrowers of the highest credit standing) announced from time to time by _____ (the "*Prime Rate*"). Any such interim reimbursement payments which are not made to an Underwriter within 30 days of a request for reimbursement shall bear interest at the Prime Rate from the date of such request. This indemnity agreement shall be in addition to any liabilities which the Company may otherwise have.

(b) Each Underwriter will indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendment or supplement

thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any such amendment or supplement, in reliance upon and in conformity with written information furnished to the Company by you, or by such Underwriter through you, specifically for use in the preparation thereof, and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending against any such loss, claim, damage, liability or action.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve the indemnifying party from any liability that it may have to any indemnified party except to the extent such indemnifying party has been materially prejudiced by such failure. In case any such action shall be brought against any indemnified party, and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in, and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of the indemnifying party's election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that if, in the sole judgment of the Representatives, it is advisable for the Underwriters to be represented as a group by separate counsel, the Representatives shall have the right to employ a single counsel to represent the Representatives and all Underwriters who may be subject to liability arising from any claim in respect of which indemnity may be sought by the Underwriters under subsection (a) of this Section 6, in which event the reasonable fees and expenses of such separate counsel shall be borne by the indemnifying party or parties and reimbursed to the Underwriters as incurred (in accordance with the provisions of the second paragraph in subsection (a) above). An indemnifying party shall not be obligated under any settlement agreement relating to any action under this Section 6 to which it has not agreed in writing.

(d) If the indemnification provided for in this Section 6 is unavailable or insufficient to hold harmless an indemnified party under subsection (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a) or (b) above, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the

Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relevant intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this subsection (d) were to be determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the first sentence of this subsection (d). The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending, settling or compromising any action or claim which is the subject of this subsection (d). Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 6 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of the Securities Act; and the obligations of the Underwriters under this Section 6 shall be in addition to any liability that the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each director of the Company (including any person who, with his consent, is named in the Registration Statement as about to become a director of the Company), to each officer of the Company who has signed the Registration Statement and to each person, if any, who controls the Company within the meaning of the Securities Act.

(f) The Underwriters severally confirm and the Company acknowledges that the statements with respect to the public offering of the Securities by the Underwriters set forth on the cover page of, and the concession and reallowance figures appearing under the caption "Underwriting" in, the Prospectus are correct and constitute the only information concerning such Underwriters furnished in writing to the Company by or on behalf of the Underwriters specifically for inclusion in the Registration Statement and the Prospectus.

(g) In connection with the offer and sale of the Reserved Shares and subject to the Underwriter's compliance with its obligations contained in the introductory section of this Agreement, the Company agrees, promptly upon a request in writing, to indemnify and hold harmless the Underwriters from and against any and all losses, liabilities, claims, damages and expenses reasonably incurred by them as a result of the failure of the Directed Share Participants to affirmatively reconfirm the Reserved Shares for purchase as of the date of this Agreement or to pay for and accept delivery of the Reserved Shares that the Directed Share Participant has agreed to purchase.

7. ***Representations and Agreements to Survive Delivery***. All representations, warranties, and agreements of the Company herein or in certificates delivered pursuant hereto, and the agreements of the several Underwriters and the Company contained in Section 6 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any Underwriter or any controlling person thereof, or the Company or any of its officers, directors, or controlling persons and shall survive delivery of, and payment for, the Securities to and by the Underwriters hereunder.

8. ***Substitution of Underwriters***.

(a) If any Underwriter or Underwriters shall fail to take up and pay for the amount of Firm Shares agreed by such Underwriter or Underwriters to be purchased hereunder, upon tender of such Firm Shares in accordance with the terms hereof, and the amount of Firm Shares not purchased does not aggregate more than 10% of the total amount of Firm Shares set forth in Schedule I hereto, the remaining Underwriters shall be obligated to take up and pay for (in proportion to their respective underwriting obligations hereunder as set forth in Schedule I hereto except as may otherwise be determined by you) the Firm Shares that the withdrawing or defaulting Underwriters agreed but failed to purchase.

(b) If any Underwriter or Underwriters shall fail to take up and pay for the amount of Firm Shares agreed by such Underwriter or Underwriters to be purchased hereunder, upon tender of such Firm Shares in accordance with the terms hereof, and the amount of Firm Shares not purchased aggregates more than 10% of the total amount of Firm Shares set forth in Schedule I hereto, and arrangements satisfactory to you for the purchase of such Firm Shares by other persons are not made within 36 hours thereafter, this Agreement shall terminate. In the event of any such termination the Company shall not be under any liability to any Underwriter (except to the extent provided in Section 4(h) and Section 6 hereof) nor shall any Underwriter (other than an Underwriter who shall have failed,

otherwise than for some reason permitted under this Agreement, to purchase the amount of Firm Shares agreed by such Underwriter to be purchased hereunder) be under any liability to the Company (except to the extent provided in Section 6 hereof).

If Firm Shares to which a default relates are to be purchased by the non-defaulting Underwriters or by any other party or parties, the Representatives or the Company shall have the right to postpone the First Closing Date for not more than seven business days in order that the necessary changes in the Registration Statement, Prospectus and any other documents, as well as any other arrangements, may be effected. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or the other Underwriters for damages occasioned by its default hereunder. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 8.

9. ***Effective Date of this Agreement and Termination***.

(a) This Agreement shall become effective at 9:00 a.m., Pacific time, on the first full business day following the effective date of the Registration Statement, or at such earlier time after the effective time of the Registration Statement as you in your discretion shall first release the Securities for sale to the public; *provided*, that if the Registration Statement is effective at the time this Agreement is executed, this Agreement shall become effective at such time as you in your discretion shall first release the Securities for sale to the public. For the purpose of this Section, the Securities shall be deemed to have been released for sale to the public upon release by you of an electronic communication authorizing commencement of the offering the Securities for sale by the Underwriters or other securities dealers. By giving notice as hereinafter specified before the time this Agreement becomes effective, you, as Representatives of the several Underwriters, or the Company, may prevent this Agreement from becoming effective without liability of any party to any other party, except that the provisions of Section 4(h) and Section 6 hereof shall at all times be effective.

(b) You, as Representatives of the several Underwriters, shall have the right to terminate this Agreement by giving notice as hereinafter specified at any time at or prior to the First Closing Date, and the option referred to in Section 3(b), if exercised, may be cancelled at any time prior to the Second Closing Date, if (i) the Company shall have failed, refused or been unable, at or prior to such Closing Date, to perform any agreement on its part to be performed hereunder, (ii) any other condition of the Underwriters' obligations hereunder is not fulfilled, (iii) trading on the Nasdaq National Market, New York Stock Exchange or the American Stock Exchange shall have been wholly suspended, (iv) minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required, on the Nasdaq National Market, New York Stock Exchange or the American Stock Exchange, by such Exchange or by order of the Commission or any other governmental authority having jurisdiction, (v) a banking moratorium shall have been declared by federal or state authorities, or (vi) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis that, in your judgment, is material and adverse and makes it impractical or

inadvisable to proceed with the completion of the sale of and payment for the Securities. Any such termination shall be without liability of any party to any other party except that the provisions of Section 4(h) and Section 6 hereof shall at all times be effective.

(c) If you elect to prevent this Agreement from becoming effective or to terminate this Agreement as provided in this Section, the Company shall be notified promptly by you by telephone, confirmed by letter. If the Company elects to prevent this Agreement from becoming effective, you shall be notified by the Company by telephone, confirmed by letter.

10. ***Default by the Company.*** If the Company shall fail at the First Closing Date to sell and deliver the number of Securities which it is obligated to sell hereunder, then this Agreement shall terminate without any liability on the part of any nondefaulting party.

No action taken pursuant to this Section shall relieve the Company from liability, if any, in respect of such default.

11. ***Notices***. Except as otherwise provided herein, all communications hereunder shall be in writing and, if to the Underwriters, shall be mailed or delivered to the Representatives c/o Piper Jaffray & Co., 800 Nicollet Mall, Minneapolis, Minnesota 55402, except that notices given to an Underwriter pursuant to Section 6 hereof shall be sent to such Underwriter at the address stated in the Underwriters' Questionnaire furnished by such Underwriter in connection with this offering; if to the Company, shall be mailed or delivered to it at 413 Pine Street, Suite 500, Seattle, Washington 98101 Attention: Chief Executive Officer, with a copy to Francis J. Feeney, Jr., Esq., Nixon Peabody LLP, 100 Summer Street, Boston, MA 02110. Any party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose.

12. ***Persons Entitled to Benefit of Agreement***. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns and the controlling persons, officers and directors referred to in Section 6. Nothing in this Agreement is intended or shall be construed to give to any other person, firm or corporation any legal or equitable remedy or claim under or in respect of this Agreement or any provision herein contained. The term "successors and assigns" as herein used shall not include any purchaser, as such purchaser, of any of the Securities from any of the several Underwriters.

13. ***Governing Law***. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

14. ***Counterparts***. This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original and all such counterparts shall together constitute one and the same instrument.

[*Signature Page Follows*]

Please sign and return to the Company the enclosed duplicates of this letter whereupon this letter will become a binding agreement between the Company and the several Underwriters in accordance with its terms.

Very truly yours,

MARCHEX, INC.

By _____
Russell C. Horowitz
Chairman and Chief Executive Officer

Confirmed as of the date first
above mentioned, on behalf of
themselves and the other several
Underwriters named in Schedule I
hereto.

PIPER JAFFRAY & CO.

By _____
Managing Director

SCHEDULE I

Underwriter	Number of Firm Shares (1)
Piper Jaffray & Co.	
RBC Capital Markets	
Thomas Weisel Partners LLC	
Sanders Morris Harris	
Total	

(1) The Underwriters may purchase up to an additional [1,050,000] Option Shares, to the extent the option described in Section 3(b) of the Agreement is exercised, in the proportions and in the manner described in the Agreement.

Exhibit 1.2

200,000 Shares[1]

MARCHEX, INC.

_____% Convertible Exchangeable Preferred Stock

(Cumulative Dividend, Liquidation Preference $250 per share)

PURCHASE AGREEMENT

February __, 2005

PIPER JAFFRAY & CO.
RBC CAPITAL MARKETS
THOMAS WEISEL PARTNERS LLC
As Representatives of the several
Underwriters named in Schedule A hereto
c/o Piper Jaffray & Co.
800 Nicollet Mall
Minneapolis, Minnesota 55402

Ladies and Gentlemen:

Marchex, Inc., a Delaware corporation (the "*Company*") proposes to sell to the several Underwriters named in Schedule A hereto (the "*Underwriters*") an aggregate of 200,000 shares (the "*Firm Shares*") of its authorized and unissued ____% Convertible Exchangeable Preferred Stock, $0.01 par value per share (the "*Preferred Stock*"), of the Company. The Company has also granted to the several Underwriters an option to purchase up to 30,000 additional shares of Preferred Stock on the terms and for the purposes set forth in Section 3 hereof (the "*Option Shares*"). The Firm Shares and any Option Shares purchased pursuant to this Purchase Agreement are herein collectively called the "*Shares*."

The Preferred Stock is convertible into shares of the Company's Class B Common Stock, par value $0.01 per share (the "*Common Stock*"), upon the terms and subject to the conditions set forth in the Certificate of the Powers, Designations, Preferences and Rights thereto (the "*Certificate of Designations*"), the form of which is attached as Schedule B to this Agreement. The Preferred Stock is exchangeable at the Company's option on any dividend payment date beginning February __, 2006 (the "*Exchange Date*") for the Company's ____% Convertible Subordinated Debentures due on the twenty-fifth anniversary

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[1] Plus an option to purchase up to 30,000 additional shares to cover over-allotments.

of the Exchange Date (the "*Debentures*"). The Debentures, if issued, will be issued pursuant to an indenture (the "*Indenture*) between the Company and U.S. Bank National Association, as trustee (the "*Trustee*"), the form of which is attached as Schedule C to this Agreement. In accordance with their respective terms, the Preferred Stock and the Debentures, if issued, will be convertible at the option of the holder into newly issued shares (the "*Conversion Shares*") of the Company's Common Stock. The Shares, the Debentures and the Conversion Shares are sometimes referred to herein as the "*Securities*," and are more fully described in the Registration Statement referred to below.

The Company hereby confirms its agreement with respect to the sale of the Shares to the several Underwriters, for whom you are acting as representatives (the "*Representatives*").

1. ***Registration Statement and Prospectus***. A registration statement on Form SB-2 (File No. 333-121213) with respect to the Securities, including a preliminary form of prospectus, has been prepared by the Company in conformity with the requirements of the Securities Act of 1933, as amended (the "*Securities Act*"), and the rules and regulations ("*Rules and Regulations*") of the Securities and Exchange Commission (the "*Commission*") thereunder and has been filed with the Commission; one or more amendments to such registration statement have also been so prepared and have been, or will be, so filed; and, if the Company has elected to rely upon Rule 462(b) of the Rules and Regulations to increase the size of the offering registered under the Securities Act, the Company will prepare and file with the Commission a registration statement with respect to such increase pursuant to Rule 462(b). Copies of such registration statement(s) and amendments and each related preliminary prospectus have been delivered to you.

If the Company has elected not to rely upon Rule 430A of the Rules and Regulations, the Company has prepared and will promptly file an amendment to the registration statement and an amended prospectus (including a term sheet meeting the requirements of Rule 434 of the Rules and Regulations). If the Company has elected to rely upon Rule 430A of the Rules and Regulations, it will prepare and file a prospectus (or a term sheet meeting the requirements of Rule 434) pursuant to Rule 424(b) that discloses the information previously omitted from the prospectus in reliance upon Rule 430A. Such registration statement as amended at the time it is or was declared effective by the Commission, and, in the event of any amendment thereto after the effective date and prior to the First Closing Date (as hereinafter defined), such registration statement as so amended (but only from and after the effectiveness of such amendment), including a registration statement (if any) filed pursuant to Rule 462(b) of the Rules and Regulations increasing the size of the offering registered under the Securities Act and information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rules 430A(b) and 434(d) of the Rules and Regulations, is hereinafter called the "*Registration Statement*." The prospectus included in the Registration Statement at the time it is or was declared effective by the Commission is hereinafter called the "*Prospectus*," except that if any prospectus (including any term sheet meeting the requirements of Rule 434 of the Rules and Regulations provided by the Company for use with a prospectus subject to completion within the meaning of Rule 434 in order to meet the requirements of Section 10(a) of the Rules and Regulations) filed by the Company with the Commission pursuant to Rule 424(b) (and Rule 434, if applicable) of the Rules and Regulations or any other such prospectus provided to the

Underwriters by the Company for use in connection with the offering of the Securities (whether or not required to be filed by the Company with the Commission pursuant to Rule 424(b) of the Rules and Regulations) differs from the prospectus on file at the time the Registration Statement is or was declared effective by the Commission, the term "*Prospectus*" shall refer to such differing prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) from and after the time such prospectus is filed with the Commission or transmitted to the Commission for filing pursuant to such Rule 424(b) (and Rule 434, if applicable) or from and after the time it is first provided to the Underwriters by the Company for such use. The term "*Preliminary Prospectus*" as used herein means any preliminary prospectus included in the Registration Statement prior to the time it becomes or became effective under the Securities Act and any prospectus subject to completion as described in Rule 430A or 434 of the Rules and Regulations.

2. ***Representations and Warranties of the Company***.

(a) The Company represents and warrants to, and agrees with, the several Underwriters as follows:

(i) No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission and each Preliminary Prospectus, at the time of filing thereof, did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; except that the foregoing shall not apply to statements in or omissions from any Preliminary Prospectus in reliance upon, and in conformity with, written information furnished to the Company by you, or by any Underwriter through you, specifically for use in the preparation thereof. The parties acknowledge and agree that such information provided by you, or by any underwriter through you, consists solely of the disclosures, including but not limited to disclosure regarding "Lock-Up Agreements," "Indemnification," and "Stabilizing Transactions, Short Positions and Penalty Bids," under the caption "Underwriting" in the Prospectus.

(ii) As of the time the Registration Statement (or any post-effective amendment thereto, including a registration statement (if any) filed pursuant to Rule 462(b) of the Rules and Regulations increasing the size of the offering registered under the Securities Act) is or was declared effective by the Commission, upon the filing or first delivery to the Underwriters of the Prospectus (or any supplement to the Prospectus (including any term sheet meeting the requirements of Rule 434 of the Rules and Regulations)) and at the First Closing Date and Second Closing Date (as hereinafter defined), (A) the Registration Statement and Prospectus (in each case, as so amended and/or supplemented) conformed or will conform in all material respects to the requirements of the Securities Act and the Trust Indenture Act of 1939, as amended (the "*Trust Indenture Act*"), and the Rules and Regulations thereunder, (B) the Registration Statement (as so amended) did not or will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein

or necessary to make the statements therein not misleading, and (C) the Prospectus (as so supplemented) did not or will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they are or were made, not misleading; except that the foregoing shall not apply to statements in or omissions from the Registration Statement or Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you, specifically for use therein. The parties acknowledge and agree that such information provided by you, or by any underwriter through you, consists solely of the disclosures, including but not limited to disclosure regarding "Lock-up Agreements," "Indemnification," and "Stabilizing Transactions, Short Positions and Penalty Bids," under the caption "Underwriting" in the Prospectus. If the Registration Statement has been declared effective by the Commission, no stop order suspending the effectiveness of the Registration Statement has been issued, and no proceeding for that purpose has been initiated or, to the Company's knowledge, threatened by the Commission.

(iii) The financial statements of the Company, together with the related notes thereto, set forth in the Registration Statement and Prospectus comply in all material respects with the requirements of the Securities Act and fairly present the financial condition of the Company as of the dates indicated and the results of operations and changes in financial position, stockholders' equity and cash flows for the periods therein specified in conformity with generally accepted accounting principles in the United States consistently applied throughout the periods involved; and the supporting schedules included in the Registration Statement present fairly the information required to be stated therein. The summary financial and statistical data included in the Registration Statement and Prospectus present fairly the information shown therein and such data have been prepared on a basis consistent with the financial statements contained therein. The pro forma financial statements and information set forth in the Registration Statement and Prospectus, together with the related notes thereto, present fairly the information contained therein, have been prepared in accordance with the Securities Act and the rules and guidelines of the Commission with respect to pro forma financial information, have been prepared on a basis consistent with the historical financial statements of the Company and have been compiled on the pro forma bases described therein, and (A) the assumptions underlying the pro forma adjustments are reasonable, (B) such adjustments are appropriate to give effect to the transactions or circumstances referred to therein and have been properly applied to the historical amounts in the compilation of such statements and information and (C) such statements and information fairly present the pro forma results of operations and information purported to be shown therein for the respective periods therein specified based on the assumptions identified therein. No other financial statements or schedules are required to be included in the Registration Statement or Prospectus. To the Company's knowledge, KPMG LLP, which has expressed its opinion with respect to the financial statements filed as a part of the Registration Statement and included in the Registration Statement

and Prospectus, is an independent public accounting firm within the meaning of the Securities Act and the Rules and Regulations. The Company has no reason to believe that such accountants, in the performance of their work for the Company, are in violation of the auditor independence requirements of the Sarbanes-Oxley Act of 2002 (the "*Sarbanes-Oxley Act*") and the rules and regulations promulgated in connection therewith. All "non-GAAP financial measures" (as described in Item 10 of Regulation S-B ("*Item 10*") promulgated pursuant to the Securities Act and Regulation G promulgated pursuant to the Securities Exchange Act of 1934, as amended ("*Regulation G*")) set forth in the Registration Statement and Prospectus comply in all material respects with Regulation G.

(iv) eFamily.com, Inc.; Enhance Interactive, Inc.; TrafficLeader, Inc.; goClick.com, Inc.; and MDNH, Inc. are the Company's only significant subsidiaries within the meaning of Rule 1-02(w) of Regulation S-X promulgated pursuant to the Securities Act. Each of the Company and its subsidiaries has been duly organized and is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation. Each of the Company and its subsidiaries has full corporate power and authority to own, lease and operate its properties and conduct its business as currently being carried on and as described in the Registration Statement and Prospectus, and is duly qualified to do business as a foreign corporation in good standing in each jurisdiction in which it owns or leases real property or in which the conduct of its business makes such qualification necessary, except where the failure to so qualify or be in good standing would not have a material adverse effect upon the business, prospects, properties, operations, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole ("*Material Adverse Effect*").

(v) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock; and there has not been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt, or any issuance of options (other than issuances made in the ordinary course pursuant to the Company's 2003 Amended and Restated Stock Incentive Plan and 2004 Employee Stock Purchase Plan), warrants, convertible securities or other rights to purchase the capital stock, of the Company or any of its subsidiaries, or any material adverse change in the business, properties, operations, condition (financial or otherwise), prospects, or results of operations of the Company and its subsidiaries, taken as a whole ("*Material Adverse Change*") or any development that could reasonably be expected to result in a Material Adverse Change.

(vi) Except as set forth in the Prospectus, there is not pending or, to the knowledge of the Company, threatened by a third party or contemplated by the

Company, any action, suit or proceeding to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company is the subject before or by any court or governmental agency, authority or body, or any arbitrator, which, individually or in the aggregate, could reasonably be expected to result in any Material Adverse Change or could reasonably be expected to materially and adversely affect the ability of the Company to perform its obligations under the Certificate of Designations, the Indenture, the Debentures or this Agreement. Neither the Company nor any of its subsidiaries is a party or subject to the provisions of any material injunction, judgment, decree or order of any court, regulatory body or governmental agency.

(vii) There are no statutes, regulations, contracts or documents that are required to be described in the Registration Statement and Prospectus or be filed as exhibits to the Registration Statement by the Securities Act or the Trust Indenture Act, or by the Rules and Regulations thereunder, that have not been so described or filed.

(viii) Each of this Agreement and the Indenture has been duly authorized, executed and delivered by the Company, and constitutes a valid, legal and binding obligation of the Company, enforceable in accordance with its terms, except as rights to indemnity hereunder may be limited by federal or state securities laws and except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the rights of creditors generally and subject to general principles of equity. The execution, delivery and performance of this Agreement, the Indenture, and the Debentures and the consummation of the transactions herein and therein contemplated will not result in a breach or violation of any of the terms and provisions of, or constitute a default under, (A) any statute, indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company is a party or by which it is bound or to which any of its property is subject, (B) the Company's charter or by-laws or other organizational document of the Company or (C) any of its subsidiaries, or any order, rule, regulation or decree of any court or governmental agency or body having jurisdiction over the Company or any of its properties except in the case of subsections 2(a)(ix)(A) and (C) where such breach, violation or default individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect on the Company's ability to perform its obligation under this Agreement, the Indenture or the Debentures or consummate the transactions contemplated hereby and thereby; no consent, approval, authorization or order of, or filing with, any court or governmental agency or body is required for the execution, delivery and performance of this Agreement, the Indenture and the Debentures, the execution and filing of the Certificate of Designations or for the consummation of the transactions contemplated hereby and thereby, including the issuance or sale of the Shares by the Company, except such as may be required under the Securities Act, the Trust Indenture Act or state securities or blue sky laws; and the Company has full power and authority to enter into this Agreement and the Indenture, to authorize, issue, sell and deliver the Shares as contemplated herein and therein, and to otherwise perform all of its obligations hereunder and thereunder and to

complete the transactions contemplated by this Agreement, the Indenture, and the Debentures.

(ix) All of the issued and outstanding shares of capital stock of the Company are duly authorized and validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, were not issued in violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities that have not been waived in writing (a copy of which has been delivered to counsel to the Representatives); the Shares which may be sold hereunder by the Company have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will have been validly issued, will be fully paid and nonassessable and free of any preemptive or similar right, and will have been issued in compliance with all applicable state, federal and foreign securities laws; the Conversion Shares have been duly authorized and reserved for issuance upon such conversion and, when issued and delivered in accordance with the terms of the Certificate of Designations or Indenture, as applicable, will have been validly issued, will be fully paid and nonassessable, and will have been issued in compliance with all applicable state, federal and foreign securities laws; the Debentures have been duly authorized and reserved for issuance upon the exchange by the Company of the Shares and, when issued and delivered in exchange for the Shares in accordance with the terms of the Certificate of Designations and the Indenture, and when, executed authenticated and issued in accordance with the terms of the Indenture, will be valid and binding obligations of the Company, entitled to the benefits of the Indenture, and enforceable in accordance with their terms; and the capital stock of the Company, including the Preferred Stock and the Common Stock, and the Debentures conform to the description thereof in the Registration Statement and Prospectus. Except as otherwise stated in the Registration Statement and Prospectus, there are no preemptive rights or other rights to subscribe for or to purchase, or any restriction upon the voting or transfer of, any shares of Common Stock pursuant to the Company's charter, by-laws or any agreement or other instrument to which the Company is a party or by which the Company is bound. Except as otherwise stated in the Registration Statement and Prospectus, neither the filing of the Registration Statement nor the offering or sale of the Securities as contemplated by this Agreement gives rise to any rights for or relating to the registration of any shares of Preferred Stock, Common Stock or other securities of the Company. All of the issued and outstanding shares of capital stock of each of the Company's subsidiaries have been duly and validly authorized and issued and are fully paid and nonassessable, and, except as otherwise described in the Registration Statement and Prospectus and except for any directors' qualifying shares, the Company owns of record and beneficially, free and clear of any security interests, claims, liens, proxies, equities or other encumbrances, all of the issued and outstanding shares of such stock. Except as described in the Registration Statement and the Prospectus, there are no options, warrants, agreements, contracts or other rights in existence to purchase or acquire from the Company or any subsidiary of the Company any shares of the capital stock of the Company or any subsidiary of the Company. The Company has an

authorized and outstanding capitalization as set forth in the Registration Statement and the Prospectus as of the respective dates specified therein.

(x) The Indenture will, when filed with the Commission, be qualified under the Trust Indenture Act and conform in all material respects to the requirements of the Trust Indenture Act. The Indenture will conform, when executed and delivered, in all material respects, to the description thereof contained in the Prospectus. The Indenture, when duly executed and delivered by the Company, assuming due authorization, execution and delivery of the Indenture by the Trustee, will constitute the legal, valid and binding obligation of the Company, enforceable in accordance with its terms.

(xi) The Certificate of Designations has been duly authorized by all necessary corporate action on the part of the Company and has been duly executed and filed with the Secretary of State of the State of Delaware.

(xii) Each of the Company and its subsidiaries has all necessary consents, approvals, authorizations, orders, registrations, qualifications, licenses, filings and permits of, with and from all judicial, regulatory and other legal or governmental agencies and bodies and all third parties, foreign and domestic (each, a "*Consent*" and collectively, the "*Consents*"), to own, lease and operate its properties and conduct its business as it is now being conducted and as disclosed in the Registration Statement and the Prospectus, and each such Consent is valid and in full force and effect except for such failures as could not reasonably be expected to have a Material Adverse Effect, and neither the Company nor any subsidiaries have received notice of any proceedings which results in or, if decided adversely to the Company or the subsidiaries, could reasonably be expected to result in, the revocation of, or imposition of a materially burdensome restriction on, any Consent.

(xiii) The Company and each subsidiary owns or leases all such properties as are necessary to the conduct of its business as presently operated and as proposed to be operated as described in the Registration and the Prospectus. The Company and its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all Liens (as defined below) except such as are described in the Registration Statement and the Prospectus or such as do not (individually or in the aggregate) materially affect the value of such property or materially interfere with the use made or proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease or sublease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material to, and do not materially interfere with, the use made and proposed to be made of such property and buildings by the Company and its subsidiaries. Neither the Company nor any subsidiary has received any notice of any claim adverse to its ownership of any domain name which is reasonably likely to result in a Material Adverse Effect.

(xiv) The Company and its subsidiaries own or possess all patents, trademarks, trademark registrations, service marks, service mark registrations, tradenames, copyrights, licenses, inventions, trade secrets and rights described in the Prospectus as being owned by them or described in the Prospectus as being necessary for the conduct of their business (collectively, "*Company Intellectual Property*"), and neither the Company nor any of its subsidiaries is aware of any claim against the Company or its subsidiaries to the contrary or any challenge by any other person to the rights of the Company or its subsidiaries with respect to the foregoing. No claim has been made against the Company or its subsidiaries alleging the infringement by the Company or its subsidiaries of any patent, trademark, service mark, tradename, copyright, trade secret, license in or other intellectual property right or franchise right of any person. To the knowledge of the Company, no person is infringing or misappropriating any Company Intellectual Property, which is material to the conduct of its business. To the knowledge of the Company, no current or former employee, officer, director, shareholder, consultant or independent contractor of the Company or any subsidiary has any valid right, claim or interest in or with respect to any Company Intellectual Property which would materially impair or which could give rise to the material impairment of the use, distribution, license or other exploitation of the Company Intellectual Property by the Company or any such subsidiary. The Company and each of its subsidiaries have taken reasonable measures and precautions necessary to protect, preserve and maintain the confidentiality and secrecy of all trade secrets and other confidential information used in the business of the Company and such subsidiaries and otherwise to maintain and protect the value of all Company Intellectual Property.

(xv) Neither the Company nor any subsidiary (i) is in violation of its certificate or articles of incorporation, by-laws, certificate of formation, limited liability company agreement, partnership agreement or other organizational documents, (ii) is in default under, and no event has occurred which, with notice or lapse of time or both, would constitute a default under or result in the creation or imposition of any lien, charge or encumbrance upon any of its property or assets pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject or (iii) is in violation in any respect of any law, rule, regulation, ordinance, directive, judgment, decree or order of any judicial, regulatory or other legal or governmental agency or body, foreign or domestic, except (in the case clauses (ii) and (iii) above) violations or defaults that could not (individually or in the aggregate) reasonably be expected to have a Material Adverse Effect and except for any lien, charge or encumbrance disclosed in the Registration Statement and the Prospectus. To the knowledge of the Company, otherwise than as set forth in the Registration Statement and the Prospectus, no prospective change in any of such federal or state laws, rules or regulations has been adopted which, when made effective, would have a Material Adverse Effect with respect to its ownership of domain names.

(xvi) The Company and its subsidiaries have timely filed all federal, state, local and foreign income and franchise tax returns required to be filed and are not in default in the payment of any taxes which were payable pursuant to said returns or any assessments with respect thereto, other than any which the Company or any of its subsidiaries is contesting in good faith.

(xvii) The Company has not distributed and will not distribute any prospectus or other offering material in connection with the offering and sale of the Shares other than any Preliminary Prospectus or the Prospectus or other materials permitted by the Securities Act to be distributed by the Company.

(xviii) The Company is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, (the "*Exchange Act*") and files reports with the Commission on the EDGAR System. The Common Stock is registered pursuant to Section 12(g) of the Exchange Act and the outstanding shares of Common Stock (including the shares of Common Stock issuable upon conversion of the Shares or the Debentures) are listed for quotation on the Nasdaq National Market and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or de-listing the Common Stock from the Nasdaq, nor has the Company received any notification that the Commission or the Nasdaq is contemplating terminating such registration or listing.

(xix) The subsidiaries listed in Exhibit 21 to the Registration Statement are the only subsidiaries of the Company within the meaning of Rule 405 under the Securities Act. Except for the subsidiaries and as otherwise disclosed in the Registration Statement and the Prospectus, the Company holds no ownership or other interest, nominal or beneficial, direct or indirect, in any corporation, partnership, joint venture or other business entity. The Company owns, directly or indirectly through other subsidiaries, 100% of the outstanding capital stock or other securities evidencing equity ownership of each subsidiary free and clear of any lien, charge, mortgage, pledge, security interest, claim, equity, trust or other encumbrance, preferential arrangement, defect or restriction of any kind whatsoever (any "*Lien*"); and all of such securities have been duly and validly authorized and issued and are fully paid and non-assessable and were not issued in violation of any preemptive or similar rights that does or will entitle any person, upon the issuance or sale of any security, to acquire from the Company or any subsidiary any Securities, except for such rights as may have been fully satisfied or waived prior to the effectiveness of the Registration Statement.

(xx) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with

existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(xxi) Other than as contemplated by this Agreement, the Company has not incurred any liability for any finder's or broker's fee or agent's commission in connection with the execution and delivery of this Agreement or the Indenture or the consummation of the transactions contemplated hereby and thereby.

(xxii) The Company and each of its subsidiaries carries, or is covered by, insurance in such amounts and covering such risks as is adequate for the conduct of its business and the value of its properties and as is customary for companies engaged in similar businesses in similar industries, all of which is in full force and effect. There are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause. The Company and each of its subsidiaries reasonably believes that it will be able to renew its existing insurance as and when such coverage expires or will be able to obtain replacement insurance adequate for the conduct of the business and the value of its properties at a cost that could not reasonably be expected to have a Material Adverse Effect.

(xxiii) The Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company," as such term is defined in the Investment Company Act of 1940, as amended, or an entity "controlled" by an "investment company" and will conduct its business in a manner so that it will not become subject to the Investment Company Act.

(xxiv) Nothing has come to the attention of the Company that has caused the Company to believe that the statistical, industry-related and market-related data, if any, included in the Registration Statement and the Prospectus is not based on or derived from sources that are credible and generally recognized as authoritative in the Company's industry, and the Company has no reason to believe that such data does not agree with the sources from which they are derived.

(xxv) Neither the Company nor any of its officers, directors or affiliates (within the meaning of Rule 144 under the Securities Act) has taken or may take, directly or indirectly, any action which constitutes or is designed to cause or result in, or which could reasonably be expected to constitute, cause or result in, the stabilization or manipulation of the price of any security to facilitate the sale or resale of the Securities or otherwise.

(xxvi) No relationship, direct or indirect, exists between or among any of the Company or any affiliate of the Company, on the one hand, and any director, officer, stockholder, customer or supplier of the Company or any affiliate of the Company, on the other hand, which is required by the Securities Act, the Exchange Act or the Rules and Regulations to be described in the Registration Statement or the

Prospectus which is not so described and described as required. There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company to or for the benefit of any of the officers or directors of the Company or any of their respective family members, except as disclosed in the Registration Statement and the Prospectus. The Company has not, in violation of the Sarbanes-Oxley Act, directly or indirectly, including through a subsidiary, extended or maintained credit, arranged for the extension of credit, or renewed an extension of credit, in the form of a personal loan to or for any director or executive officer of the Company.

(xxvii) There is no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any applicable provisions of the Sarbanes-Oxley Act, and the rules and regulations promulgated in connection therewith that would have a Material Adverse Effect.

(xxviii) The Company has established and maintains "disclosure controls and procedures" (as defined in Rules 13a-14(c) and 15d-14(c) of the Exchange Act); such "disclosure controls and procedures" are reasonably designed to ensure that material information relating to the Company, including its subsidiaries, is made known to the Company's chief executive officer and its chief financial officer by others within those entities, and such disclosure controls and procedures are effective to perform the functions for which they were established.

(xxix) The Company's auditors and the audit committee of the board of directors of the Company (or persons fulfilling the equivalent function) have not been advised of (i) any significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data nor any material weaknesses in internal controls; (ii) any known fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

(xxx) Since the date of the filing of the Company's Quarterly Report on Form 10-QSB for the quarter ended September 30, 2004, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.

(xxxi) No event or circumstance has occurred or arisen which, had the Debentures been issued on the date hereof, would constitute a default or event of default under the Indenture as summarized in the Prospectus.

(xxxii) The statements set forth in the Prospectus under the captions "Description of Debentures," "Description of Preferred Stock" and "Description of Capital Stock" fairly summarize the terms of the Shares, the Indenture and the Common Stock in all material respects.

(xxxiii) Neither the Company nor any agent acting on behalf of the Company has taken or will take any action that might cause the transactions contemplated by this Agreement (including, without limitation, the application of the proceeds from the sale of the Securities by the Company as described in the Registration Statement and Prospectus) to violate or result in a violation of Section 7 of the Exchange Act, or any regulation promulgated thereunder, including, without limitation, Regulations T, U, and X of the Board of Governors of the Federal Reserve System, if applicable.

(xxxiv) Neither the Company nor to the Company's knowledge any director, officer, agent, employee or other person associated with or acting on behalf of the Company has used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provisions of the Foreign Corrupt Practices Act of 1972; or made any bribe, rebate, payoff, influence, payment, kickback or other unlawful payment.

(b) Any certificate signed by any officer of the Company and delivered to you or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

3. ***Purchase, Sale and Delivery of Shares.***

(a) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell the Firm Shares to the several Underwriters, and each Underwriter agrees, severally and not jointly, to purchase from the Company the number of Firm Shares set forth opposite the name of such Underwriter in Schedule I hereto. The purchase price for each Firm Share shall be $__ per share. In making this Agreement, each Underwriter is contracting severally and not jointly; except as provided in paragraph (c) of this Section 3 and in Section 8 hereof, the agreement of each Underwriter is to purchase only the respective number of Firm Shares specified in Schedule I.

The Firm Shares to be purchased by each Underwriter hereunder will be represented by one or more definitive global certificates (the "*Global Securities*") in book-entry form which will be deposited by or on behalf of the Company with The Depository Trust Company ("*DTC*") or its designated custodian. The Company will deliver the Global Securities to the Representatives, for the account of each Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least forty-eight hours in advance, by causing DTC or other appropriate depository to credit the Global Securities to the account of the Representatives at DTC or other appropriate depository. The Company will cause the certificates representing the Global Securities to be made available to the Representatives for checking at least twenty-four hours prior to the

First Time of Delivery (as defined below) at the office of DTC or its designated custodian (the "*Designated Office*") or at another place designated by the Representatives. The time and date of such delivery and payment shall be, with respect to the Firm Shares, 7:00 a.m., Pacific time, on February __, 2005 or such other time and date as the Representatives and the Company may agree upon in writing. Such time and date for delivery of the Firm Shares is herein called the "*First Time of Delivery*."

(b) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company hereby grants to the several Underwriters an option to purchase all or any portion of the Option Shares at the same purchase price as the Firm Shares, for use solely in covering any over-allotments made by the Underwriters in the sale and distribution of the Firm Shares. The option granted hereunder may be exercised in whole or in part at any time (but not more than once) within 30 days after the effective date of this Agreement upon notice (confirmed in writing) by the Representatives to the Company setting forth the aggregate number of Option Shares as to which the several Underwriters are exercising the option, the names and denominations in which the certificates for the Option Shares are to be registered and the date and time, as determined by you, when the Option Shares are to be delivered, such time and date being herein referred to as the "*Second Closing*" and "*Second Closing Date*," respectively; provided, however, that the Second Closing Date shall not be earlier than the First Closing Date nor earlier than the second business day after the date on which the option shall have been exercised. If the option is exercised, the number of Option Shares to be purchased by each Underwriter shall be the same percentage of the total number of Option Shares to be purchased by the several Underwriters as the number of Firm Shares to be purchased by such Underwriter is of the total number of Firm Shares to be purchased by the several Underwriters, as adjusted by the Representatives in such manner as the Representatives deem advisable to avoid fractional shares. No Option Shares shall be sold and delivered unless the Firm Shares previously have been, or simultaneously are, sold and delivered.

The Option Shares to be purchased by each Underwriter hereunder will be represented by one or more Global Securities in book-entry form which will be deposited by or on behalf of the Company with DTC or its designated custodian. The Company will deliver the Global Securities to the Representatives, for the account of each Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least forty-eight hours in advance, by causing DTC or other appropriate depository to credit the Global Securities to the account of the Representatives at DTC or other appropriate depository. The Company will cause the certificates representing the Global Securities to be made available to the Representatives for checking at least twenty-four hours prior to the Time of Delivery at the Designated Office or at another place designated by the Representatives. The time and date of such delivery and payment shall be 7:00 a.m., Pacific time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters' election to purchase such Option Shares, or such other time and date as the Representatives and the Company may agree upon in

writing. Such time and date for delivery of the Option Shares, if not the First Time of Delivery, is herein called the "*Second Time of Delivery*," and each such time and date for delivery is herein called a "*Time of Delivery*."

(c) It is understood that you, individually and not as Representatives of the several Underwriters, may (but shall not be obligated to) make payment to the Company on behalf of any Underwriter for the Shares to be purchased by such Underwriter. Any such payment by you shall not relieve any such Underwriter of any of its obligations hereunder. Nothing herein contained shall constitute any of the Underwriters an unincorporated association or partner with the Company.

(d) The documents to be delivered at the Time of Delivery by or on behalf of the parties hereto pursuant to Section 5 hereof, including the cross-receipt for the Global Securities and any additional documents requested by the Underwriters pursuant to Section 5 hereof, will be delivered at the offices of Wilson Sonsini Goodrich & Rosati, Professional Corporation, 701 Fifth Avenue, Suite 5100, Seattle, Washington 98104 (the "*Closing Location*"), and the Global Securities will be delivered at the Designated Office, all at the Time of Delivery. A meeting will be held at the Closing Location at 6:00 p.m., Pacific time, on the business day next preceding the Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto.

4. ***Covenants***. The Company covenants and agrees with the several Underwriters as follows:

(a) If the Registration Statement has not already been declared effective by the Commission, the Company will use its best efforts to cause the Registration Statement and any post-effective amendments thereto to become effective as promptly as possible; the Company will notify you promptly of the time when the Registration Statement or any post-effective amendment to the Registration Statement has become effective or any supplement to the Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or additional information; if the Company has elected to rely on Rule 430A of the Rules and Regulations, the Company will prepare and file a Prospectus (or term sheet within the meaning of Rule 434 of the Rules and Regulations) containing the information omitted therefrom pursuant to Rule 430A of the Rules and Regulations with the Commission within the time period required by, and otherwise in accordance with the provisions of, Rules 424(b), 430A and 434, if applicable, of the Rules and Regulations; if the Company has elected to rely upon Rule 462(b) of the Rules and Regulations to increase the size of the offering registered under the Securities Act, the Company will prepare and file a registration statement with respect to such increase with the Commission within the time period required by, and otherwise in accordance with the provisions of, Rule 462(b); the Company will prepare and file with the Commission, promptly upon your request, any amendments or supplements to the Registration Statement or Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) that, in your opinion, may

be necessary or advisable in connection with the distribution of the Securities by the Underwriters; and the Company will not file any amendment or supplement to the Registration Statement or Prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) to which you shall reasonably object by notice to the Company after having been furnished a copy a reasonable time prior to the filing.

(b) The Company will advise you, promptly after it shall receive notice or obtain knowledge thereof, of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any such purpose; and the Company will promptly use its best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued.

(c) Within the time during which a prospectus (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) relating to the Securities is required to be delivered under the Securities Act, the Company will comply as far as it is able with all requirements imposed upon it by the Securities Act, as now and hereafter amended, and by the Rules and Regulations, as from time to time in force, so far as necessary to permit the continuance of sales of or dealings in the Securities as contemplated by the provisions hereof and the Prospectus. If during such period any event occurs as a result of which the Prospectus would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during such period it is necessary to amend the Registration Statement or supplement the Prospectus to comply with the Securities Act, the Company will promptly notify you and will amend the Registration Statement or supplement the Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance.

(d) The Company shall cooperate with you to qualify the Securities for sale under the securities laws of such jurisdictions as you reasonably designate or as is necessary and to continue such qualifications in effect so long as required for the distribution of the Securities, except that the Company shall not be required in connection therewith to qualify as a foreign corporation or to execute a general consent to service of process in any state.

(e) The Company will furnish to the Underwriters and counsel for the Underwriters copies of the Registration Statement (three of which will be signed and will include all consents and exhibits filed therewith), each Preliminary Prospectus, the Prospectus, and all amendments and supplements (including any term sheet within the meaning of Rule 434 of the Rules and Regulations) to such documents, in each case as soon as available and in such quantities as you may from time to time reasonably request; provided, however, that the expense of the preparation and delivery of any prospectus required for use nine (9) months or more after the effective date of the Registration Statement shall be borne by the Underwriters required to deliver such prospectus.

(f) During a period of three years commencing with the date hereof, the Company will furnish to the Representatives, and to each Underwriter who may so request in

writing, copies of all periodic and special reports furnished to the stockholders of the Company and all information, documents and reports filed with the Commission, the National Association of Securities Dealers, Inc., Nasdaq or any securities exchange (other than any such information, documents and reports that are filed with the Commission electronically via EDGAR or any successor system).

(g) The Company will make generally available to its security holders as soon as practicable, but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement (which need not be audited) covering a 12-month period beginning after the effective date of the Registration Statement that shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 of the Rules and Regulations.

(h) The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is prevented from becoming effective under the provisions of Section 9(a) hereof or is terminated, will pay or cause to be paid (i) all expenses (including transfer taxes allocated to the respective transferees) incurred in connection with the delivery to the Underwriters of the Shares, (ii) all expenses and fees (including, without limitation, fees and expenses of the Company's accountants and counsel but, except as otherwise provided below, not including fees of the Underwriters' counsel) in connection with the preparation, printing, filing, delivery, and shipping of the Registration Statement (including the financial statements therein and all amendments, schedules, and exhibits thereto), the Securities, each Preliminary Prospectus, the Prospectus, and any amendment thereof or supplement thereto, and the printing, delivery, and shipping of this Agreement, the Indenture and other documents, including Blue Sky Memoranda (covering the states and other applicable jurisdictions), (iii) all expenses and fees (including fees and expenses of counsel) of the Company, the Trustee and the costs and charges of any registrar and paying agent under the Indenture; (iv) all filing fees and fees and disbursements of the Underwriters' counsel incurred in connection with the qualification of the Securities for offering and sale by the Underwriters or by dealers under the securities or blue sky laws of the states and other jurisdictions which you shall designate, (v) the fees and expenses of any transfer agent or registrar, (vi) the filing fees incident to any required review by the National Association of Securities Dealers, Inc. of the terms of the sale of the Securities, (vii) all fees and expenses in connection with the listing of the Shares and the Conversion Shares and in connection with any rating of the Debentures, and (viii) all other costs and expenses incident to the performance of its obligations hereunder that are not otherwise specifically provided for herein; provided, however, that the Underwriters (x) shall bear their own expenses for travel and lodging, (y) shall bear the Company's expenses for any non-commercial travel, and (z) shall advance the Company's expenses for commercial travel and lodging (subject to full reimbursement by the Company whether or not the sale of Securities provided for herein in consummated), all in connection with the investor presentations on any "road show" undertaken in connection with the marketing and/or offering of the Securities. If the sale of the Shares provided for herein is not consummated by reason of any failure, refusal or inability on the part of the Company to perform any agreement on its part to be performed, or because any other condition of the Underwriters' obligations hereunder required to be fulfilled by the Company is not fulfilled, unless directly attributable to the default of any Underwriter, the Company will

reimburse the several Underwriters for fifty-percent (50%) of the Company's non-commercial travel expenses as previously agreed among the parties. The Company shall not in any event be liable to any of the Underwriters for loss of anticipated profits from the transactions covered by this Agreement. For clarification purposes, as a result of this Section 4(h), in the event that the transactions contemplated hereunder are not consummated or this Agreement is prevented from becoming effective under the provisions of Section 9(a) hereof or is terminated, the Company will be required to reimburse the Underwriters for no more than the out-of-pocket expenses incurred by the Underwriters; provided, however, that such out-of-pocket expenses shall be limited as described above.

(i) The Company will at all times reserve and keep available, free of any preemptive rights, co-sale rights, registration rights, rights of first refusal, other rights to subscribe for or purchase securities or other right of security holders similar to any of the foregoing, out of its authorized but unissued Common Stock, for the purpose of effecting the exchange of the Shares, or the conversion of the Debentures, into Common Stock, the full number of shares of Common Stock issuable upon the exchange of all outstanding Shares or the conversion of all outstanding Debentures, if any.

(j) The Company will apply the net proceeds from the sale of the Shares to be sold by it hereunder for the purposes set forth in the Prospectus and will file such reports with the Commission with respect to the sale of the Shares and the application of the proceeds therefrom as may be required in accordance with Rule 463 of the Rules and Regulations.

(k) The Company will not, without the prior written consent of Piper Jaffray & Co., from the date of execution of this Agreement and continuing to and including the date 90 days after the date of the Prospectus (the "*Lock-Up Period*") offer for sale; sell; contract to sell; pledge; grant any option for the sale of; or otherwise issue or dispose of, directly or indirectly (or publicly disclose the intention to make any such offer, sale, pledge, grant, issuance or other disposition), any Common Stock or any securities convertible into or exchangeable for, or any options or rights to purchase or acquire, Common Stock, except (i) to the Underwriters pursuant to this Agreement, (ii) in the ordinary course to employees, directors or consultants pursuant to its 2003 Amended and Restated Stock Incentive Plan or to eligible employees pursuant to its 2004 Employee Stock Purchase Plan, (iii) for the issuance of shares of Common Stock as contemplated by the Registration Statement pursuant to the concurrent offering by the Company of such Common Stock, (iv) in connection with the acquisition of any businesses, assets or technologies provided that the recipients of such securities agree not to transfer such securities during the Lock-Up Period, and (v) for the issuance of Conversion Shares upon conversion of the Shares or the Debentures. The Company agrees not to accelerate the vesting of any option or warrant or the lapse of any repurchase right prior to the expiration of the Lock-Up Period.

(l) The Company either has caused to be delivered to you or will cause to be delivered to you prior to the effective date of the Registration Statement a letter from each of the Company's directors, officers and certain stockholders as mutually agreed between the parties stating that such person agrees that he or she will not, without your prior written consent, offer for sale, sell, contract to sell or otherwise dispose of, as set forth in such letter, any shares of Common Stock or rights to purchase Common Stock, except to the Underwriters pursuant to this Agreement, for a period of 90 days after commencement of the public offering of the Securities by the Underwriters (the "*Lock-Up Agreement*"). The Company will enforce

the terms of each Lock-Up Agreement and issue stop-transfer instructions to the transfer agent for the Common Stock with respect to any transaction or contemplated transaction that would constitute a breach of or default under the applicable Lock-Up Agreement.

(m) The Company has not taken and will not take, directly or indirectly, any action designed to or which might reasonably be expected to cause or result in, or which has constituted, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities, and has not effected any sales of Common Stock which are required to be disclosed in response to Item 701 of Regulation S-B under the Securities Act which have not been so disclosed in the Registration Statement.

(n) During the period of three years after the date hereof, the Company will use its best efforts to file with the Commission such periodic and special reports as required by the Rules and Regulations.

(o) The Company and its subsidiaries will maintain such controls and other procedures, including without limitation those required by Sections 302 and 906 of the Sarbanes-Oxley Act and the applicable regulations thereunder, that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer and its principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure, to ensure that material information relating to the Company, including its subsidiaries, is made known to them by others within those entities.

(p) The Company will execute and deliver the Indenture in the form and substance satisfactory to the Underwriters.

(q) The Company will use its best efforts to cause the Securities to be accepted for clearance and settlement through the facilities of DTC.

(r) The Company and its subsidiaries will comply with all effective applicable provisions of the Sarbanes-Oxley Act to which the Company will be, at such time, required to be in compliance.

5. ***Conditions of Underwriters' Obligations***. The obligations of the several Underwriters hereunder are subject to the accuracy, as of the date hereof and at each of the First Closing Date and the Second Closing Date (as if made at such Closing Date), of and compliance with all representations, warranties and agreements of the Company contained herein, to the performance by the Company of its obligations hereunder and to the following additional conditions:

(a) The Registration Statement shall have become effective not later than 5:00 p.m., Pacific time, on the date of this Agreement, or such later time and date as you, as Representatives of the several Underwriters, shall approve and all filings required by Rules 424, 430A and 434 of the Rules and Regulations shall have been timely made; no stop order suspending the effectiveness of the Registration Statement or any amendment thereof shall have been issued; no proceedings for the issuance of such an order shall have been initiated or threatened; and any request of the Commission for additional information (to be included in the Registration Statement or the Prospectus or otherwise) shall have been complied with to your satisfaction.

(b) Neither the Registration Statement nor the Prospectus, nor any amendment thereof or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), contains an untrue statement of fact which, in your opinion, is material, or omits to state a fact which, in your opinion, is material and is required to be stated therein or necessary to make the statements therein not misleading.

(c) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries shall have incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock (other than intra corporate dividends or capital contributions made in the ordinary course); and there shall not have been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt of the Company, or any issuance of options, warrants, convertible securities or other rights to purchase the capital stock of the Company or any of its subsidiaries, or any Material Adverse Change or any development reasonably likely to result in a prospective Material Adverse Change, that, in your judgment, makes it impractical or inadvisable to offer or deliver the Shares on the terms and in the manner contemplated in the Prospectus.

(d) On or after the date hereof (i) no downgrading shall have occurred in the rating accorded the Company's debt securities or preferred stock by any "nationally recognized statistical organization," as that term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities or preferred stock.

(e) On each Closing Date, there shall have been furnished to you, as Representatives of the several Underwriters, the opinion of Nixon Peabody LLP, counsel for the Company, dated such Closing Date and addressed to you, to the effect that:

(i) Each of the Company and its subsidiaries has been duly organized and is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation. Each of the Company and its subsidiaries has full corporate power and

authority to own its properties and conduct its business as currently being carried on and as described in the Registration Statement and Prospectus, and is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which it owns or leases real property or in which the conduct of its business makes such qualification necessary and in which the failure to so qualify would have a Material Adverse Effect.

(ii) The capital stock of the Company conforms as to legal matters to the description thereof contained in the Prospectus under the caption "Description of Capital Stock." All of the issued and outstanding shares of the capital stock of the Company have been duly authorized and validly issued and are fully paid and nonassessable. The Shares to be issued and sold by the Company hereunder have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will be validly issued and will be fully paid and nonassessable, and will not have been issued in violation of or subject to any statutory or, to such counsel's knowledge, contractual preemptive right, co-sale right, registration right or right of first refusal. Except as otherwise stated in the Registration Statement and Prospectus, there are no preemptive rights or other rights to subscribe for or to purchase, or any restriction upon the voting or transfer of, any shares of Common Stock pursuant to the Company's charter, by-laws or any agreement or other instrument known to such counsel to which the Company is a party or by which the Company is bound. Except as otherwise stated in the Registration Statement and Prospectus or as otherwise expressly waived in writing, to such counsel's knowledge, neither the filing of the Registration Statement nor the offering or sale of the Securities as contemplated by this Agreement gives rise to any rights for or relating to the registration of any shares of Common Stock or other securities of the Company, except as described in the Registration Statement under the caption, "Description of Capital Stock – Registration Rights."

(iii) The Common Stock currently outstanding is quoted, and the Firm Shares are duly authorized for quotation, on the Nasdaq National Market.

(iv) To such counsel's knowledge, except as otherwise described in the Registration Statement and Prospectus, the Company owns of record and beneficially, free and clear of any security interests, claims, liens, proxies, equities or other encumbrances, all of the issued and outstanding shares of the capital stock of the Company or any subsidiary of the Company. To such counsel's knowledge, except as described in the Registration Statement and Prospectus, there are no options, warrants, agreements, contracts or other rights in existence to purchase or acquire from the Company or any subsidiary any shares of the capital stock of the Company or any subsidiary of the Company.

(v) The Conversion Shares have been duly and validly authorized and reserved for the issuance upon conversion and, where issued and delivered in accordance with the provisions of the Certificate of Designations or the Indenture, as the case may

be, will be duly and validly issued and fully paid and non-assessable, and the issuance of such Conversion Shares are not subject to any statutory or, to such counsel's knowledge, contractual preemptive right, co-sale right, registration right or right of first refusal; the Conversion Shares, if issued on the date of such opinion, would conform to the description of the Common Stock contained in the Prospectus.

(vi) The Registration Statement has been declared effective under the Securities Act and, to such counsel's knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been instituted or, to the knowledge of such counsel, threatened by the Commission, and all filings required by Rule 424(b) pursuant to the Securities Act have been made.

(vii) The descriptions in the Registration Statement and Prospectus of statutes, regulations, legal and governmental proceedings, contracts and other documents are accurate in all material respects and fairly present the information required to be shown; and such counsel does not know of any statutes, regulations, legal or governmental proceedings or contracts or other documents required to be described in the Prospectus or included as exhibits to the Registration Statement that are not described or included as required.

(viii) The Company has full corporate power and authority to enter into this Agreement and the Indenture, to issue the Debentures and to execute and file the Certificate of Designations with the Secretary of State of the State of Delaware, and this Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid, legal and binding obligation of the Company enforceable in accordance with its terms (except as rights to indemnity hereunder may be limited by federal or state securities laws and except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the rights of creditors generally and subject to general principles of equity); the execution, delivery and performance of this Agreement, the Indenture, the Registration Statement and the Prospectus, the execution and filing of the Certificate of Designations with the Secretary of State of the State of Delaware and the consummation of the transactions contemplated hereunder and thereunder do not and will not result in a breach or violation of any of the terms and provisions of, or constitute a default (or an event that with notice or lapse of time or both, would constitute an event of default) under, or result in the creation or imposition of any lien, charge or encumbrance on any properties or assets of the Company or its subsidiaries under, (a) the Company's charter or by-laws, (b) any order or decree known to such counsel of any court or governmental agency or body having jurisdiction over the Company, any of its subsidiaries, or any of their respective properties or (c) any agreement or instrument required to be filed as an exhibit to the Registration Statement pursuant to Items 601(b)(4) and 601(b)(10) of Regulation S-B to which the Company is a party or by which the Company is bound; and no consent, approval, authorization, order, registration or qualification of, or filing with, any court or governmental agency or

body is required for the execution, delivery and performance of this Agreement and the Indenture, the execution and filing of the Certificate of Designations with the Secretary of State of the State of Delaware or for the consummation of the transactions contemplated hereby and thereby, including the issuance or sale of the Securities by the Company, except such as may be required under the Securities Act or the Exchange Act, and except any consents, approvals, authorizations or orders of, or filing with, any state or foreign regulatory authority (for which such counsel offers no opinion).

(ix) The Shares have been duly authorized, executed and delivered by the Company and are validly issued and fully paid and nonassessable, and will have been issued in compliance with all applicable state, federal and foreign securities laws.

(x) The Certificate of Designations has been duly authorized by all necessary corporate acts on the part of the Company and has been duly executed and filed with the Secretary of State of the State of Delaware.

(xi) The Debentures, when issued, executed, and delivered in exchange for the Shares in accordance with the terms of the Certificate of Designations and the Indenture, and when authenticated and delivered by the Trustee in accordance with the Indenture and assuming no change in the law from the date of such opinion, will be valid and binding obligations of the Company, entitled to the benefits of the Indenture, and enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting the rights of creditors generally (including applicable fraudulent transfer laws) or by equitable principles of general applicability (regardless of whether enforceability is considered in a proceeding at law or in equity) and the discretion of the court before which any proceeding therefor may be brought; the Debentures, if issued in conformity with the Indenture as in effect on the date of such opinion, would conform in all material respects to the description of Debentures in the Prospectus.

(xii) The Indenture has been duly authorized by all necessary corporate action on the part of the Company and has been duly executed and delivered by the Company, and, when duly qualified under the Trust Indenture Act, and when duly executed and delivered by the Trustee, will be a valid and binding agreement of the Company, and will be enforceable in accordance with its terms, except insofar as indemnification, contribution and waiver provisions may be limited by applicable law, equitable principles or public policy and except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting rights of creditors generally (including applicable fraudulent transfer laws) or by equitable principles of general applicability (regardless of whether enforceability is considered in a proceeding at law or in equity) and the discretion of the court before which any proceeding therefor may

be brought; the Indenture conforms in all material respects to the description of the Indenture in the Prospectus.

(xiii) The Company is not an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

(xiv) The statements in the Registration Statement under the captions "Capitalization," "Description of Capital Stock," "Description of Preferred Stock" and "Description of Debentures," insofar as such statements constitute summaries of the legal matters, documents or proceedings referred to therein, as of the date of the Registration Statement and as of the date hereof, fairly summarize the matters referred to therein in all material respects.

(xv) The statements in the Registration Statement under the caption "Certain U.S. Federal Income Tax Considerations," while not purporting to address all possible United States federal income tax consequences of acquiring, owning or disposing of the Preferred Stock and the Debentures, insofar as they purport to constitute summaries of matters of the United States federal tax laws referred to therein or legal conclusions with respect thereto, constitute accurate summaries of the matters described therein in all material respects.

(xvi) The Registration Statement and the Prospectus, and any amendment thereof or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), comply as to form in all material respects with the requirements of the Securities Act and the Rules and Regulations; it being understood that such counsel need express no opinion as to the financial statements notes, schedules or other financial, statistical and accounting data included in or omitted from any of the documents mentioned in this clause.

On the basis of conferences with officers and other representatives of the Company, representatives of the independent public accountants for the Company and representatives of and counsel for the Underwriters and examination of documents referred to in the Registration Statement and Prospectus and such other procedures as such counsel deemed appropriate (although such counsel does not assume any responsibility for accuracy, completeness or fairness of the statements contained in the Registration Statement or Prospectus except for those referred to in paragraphs (xiv) and (xv) above), nothing has come to the attention of such counsel that causes such counsel to believe that the Registration Statement or any amendment thereof (except for the financial statements, notes, schedules and other financial, statistical and accounting data included therein or omitted therefrom as to which such counsel need make no statement), at the time the Registration Statement became effective and as of such Closing Date (including any Registration Statement filed under Rule 462(b) of the Rules and Regulations), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that the Prospectus, as amended or supplemented (except for the financial

statements, notes, schedules and other financial, statistical and accounting data included therein or omitted therefrom as to which such counsel need make no statement), on the date it was filed with the Commission and as of such Closing Date, includes any untrue statement of material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

In rendering such opinion such counsel may (i) opine subject to standard conditions and qualifications, (ii) rely as to matters of law other than Delaware and federal law, upon the opinion or opinions of local counsel provided that the extent of such reliance is specified in such opinion and (iii) as to matters of fact, to the extent such counsel deems reasonable upon certificates of officers of the Company and its subsidiaries provided that the extent of such reliance is specified in such opinion.

(f) On each Closing Date, there shall have been furnished to you, as Representatives of the several Underwriters, such opinion or opinions from Wilson Sonsini Goodrich & Rosati, Professional Corporation, counsel for the several Underwriters, dated such Closing Date and addressed to you, with respect to the formation of the Company, the validity of the Securities, the Registration Statement, the Prospectus and other related matters as you reasonably may request, and such counsel shall have received such papers and information as they reasonably request to enable them to pass upon such matters.

(g) On each Closing Date you, as Representatives of the several Underwriters, shall have received a letter of KPMG LLP, dated such Closing Date and addressed to you, confirming that they are independent public accountants within the meaning of the Securities Act; the conclusions and findings of said firm with respect to the financial information and other matters covered by its letter delivered to you concurrently with the execution of this Agreement, and the effect of the letter so to be delivered on such Closing Date, shall be to confirm the conclusions and findings set forth in such prior letter.

(h) On each Closing Date, there shall have been furnished to you, as Representatives of the Underwriters, a certificate, dated such Closing Date and addressed to you, signed by the chief executive officer and by the chief financial officer of the Company, to the effect that:

(i) The representations and warranties of the Company in this Agreement are true and correct, in all material respects, as if made at and as of such Closing Date, and the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such Closing Date;

(ii) No stop order or other order suspending the effectiveness of the Registration Statement or any amendment thereof or the qualification of the Securities for offering or sale has been issued, and no proceeding for that purpose has been instituted or, to the best of their knowledge, is contemplated by the Commission or any state or regulatory body; and

(iii) The signers of said certificate have carefully examined the Registration Statement and the Prospectus, and any amendments thereof or supplements thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), and (A) such documents contain all statements and information required to be included therein, the Registration Statement, or any amendment thereof, does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and the Prospectus, as amended or supplemented, does not include any untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, (B) since the effective date of the Registration Statement, there has occurred no event required to be set forth in an amended or supplemented prospectus which has not been so set forth, (C) subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions, not in the ordinary course of business, or declared or paid any dividends or made any distribution of any kind with respect to its capital stock, and except as disclosed in the Prospectus, there has not been any change in the capital stock (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants), or any material change in the short-term or long-term debt, or any issuance of options, warrants, convertible securities or other rights to purchase the capital stock, of the Company, or any of its subsidiaries, or any Material Adverse Change or any development reasonably likely to result in a prospective Material Adverse Change, and (D) except as stated in the Registration Statement and the Prospectus, there is not pending, or, to the knowledge of the Company, threatened, any action, suit or proceeding to which the Company or any of its subsidiaries is a party before or by any court or governmental agency, authority or body, or any arbitrator, which might result in any Material Adverse Change.

(i) The Company shall have furnished to you and counsel for the Underwriters such additional documents, certificates and evidence as you or they may have reasonably requested.

(j) The Indenture, in form and substance satisfactory to the Underwriters, shall have been duly executed and delivered by the Company and the Trustee, and the Debentures shall have been duly executed and delivered by the Company and duly authenticated by the Trustee.

(k) Prior to the commencement of the Offering, the Shares and the Conversion Shares shall have been approved for quotation on the Nasdaq National Market, subject to official notice of issuance.

(l) Each of the Lock-Up Agreements referenced in Section 4(l) hereof shall have been duly executed by each person required to execute such agreement and shall have been delivered to the Underwriters.

(m) The Company shall contemporaneously consummate the acquisition of certain of the assets of Name Development Ltd. ("NDL") in accordance with that certain Asset Purchase Agreement dated as of November 19, 2004 by and between the Company, NDL and the Sole Stockholder of NDL (as defined therein).

6. ***Indemnification and Contribution***.

(a) The Company agrees to indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Securities Act or otherwise (including in settlement of any litigation if such settlement is effected with the written consent of the Company), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, including the information deemed to be a part of the Registration Statement at the time of effectiveness pursuant to Rules 430A and 434(d) of the Rules and Regulations, if applicable, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), or contained in any audio or visual materials provided by the Company or based upon written information furnished by or on behalf of the Company including, without limitation, slides, videos, films or tape recordings used in connection with the marketing of the Securities ("*Marketing Materials*") or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by it in connection with investigating or defending against such loss, claim, damage, liability or action; *provided, however,* that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any such amendment or supplement, or in any Marketing Materials, in reliance upon and in conformity with written information furnished to the Company by you, or by any Underwriter through you, specifically for use in the preparation thereof.

In addition to its other obligations under this Section 6(a), the Company agrees that, as an interim measure during the pendency of any claim, action, investigation, inquiry or other proceeding arising out of or based upon any statement or omission, or any alleged statement or omission, described in this Section 6(a), it will reimburse each Underwriter on a monthly basis for all reasonable legal fees or other expenses incurred in connection with investigating or defending any such claim, action, investigation, inquiry or other proceeding, notwithstanding the absence of a judicial determination as to the propriety and enforceability of the Company's obligation to reimburse the Underwriters for such expenses and the possibility that such payments might later be held to have been improper by a court of competent jurisdiction. To the extent that any such interim reimbursement payment is so held to have been improper, the Underwriter that received such payment shall promptly return it to the party or parties that made such payment, together with interest, compounded daily, determined on the basis of the prime rate (or other commercial lending rate for borrowers of the highest credit

standing) announced from time to time by _____ (the "*Prime Rate*"). Any such interim reimbursement payments which are not made to an Underwriter within 30 days of a request for reimbursement shall bear interest at the Prime Rate from the date of such request. This indemnity agreement shall be in addition to any liabilities which the Company may otherwise have.

(b) Each Underwriter will indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto (including any term sheet within the meaning of Rule 434 of the Rules and Regulations), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any such amendment or supplement, in reliance upon and in conformity with written information furnished to the Company by you, or by such Underwriter through you, specifically for use in the preparation thereof, and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending against any such loss, claim, damage, liability or action.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve the indemnifying party from any liability that it may have to any indemnified party except to the extent such indemnifying party has been materially prejudiced by such failure. In case any such action shall be brought against any indemnified party, and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in, and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of the indemnifying party's election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that if, in the sole judgment of the Representatives, it is advisable for the Underwriters to be represented as a group by separate counsel, the Representatives shall have the right to employ a single counsel to represent the Representatives and all Underwriters who may be subject to liability arising from any claim in respect of which indemnity may be sought by the Underwriters under subsection (a) of this Section 6, in which event the reasonable fees and expenses of such separate counsel shall

be borne by the indemnifying party or parties and reimbursed to the Underwriters as incurred (in accordance with the provisions of the second paragraph in subsection (a) above). An indemnifying party shall not be obligated under any settlement agreement relating to any action under this Section 6 to which it has not agreed in writing.

(d) If the indemnification provided for in this Section 6 is unavailable or insufficient to hold harmless an indemnified party under subsection (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a) or (b) above, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relevant intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this subsection (d) were to be determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the first sentence of this subsection (d). The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, defending, settling or compromising any action or claim which is the subject of this subsection (d). Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 6 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms

and conditions, to each person, if any, who controls any Underwriter within the meaning of the Securities Act; and the obligations of the Underwriters under this Section 6 shall be in addition to any liability that the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each director of the Company (including any person who, with his consent, is named in the Registration Statement as about to become a director of the Company), to each officer of the Company who has signed the Registration Statement and to each person, if any, who controls the Company within the meaning of the Securities Act.

(f) The Underwriters severally confirm and the Company acknowledges that the statements with respect to the public offering of the Shares by the Underwriters set forth on the cover page of, and the concession and reallowance figures appearing under the caption "Underwriting" in, the Prospectus are correct and constitute the only information concerning such Underwriters furnished in writing to the Company by or on behalf of the Underwriters specifically for inclusion in the Registration Statement and the Prospectus.

7. ***Representations and Agreements to Survive Delivery***. All representations, warranties, and agreements of the Company herein or in certificates delivered pursuant hereto, and the agreements of the several Underwriters and the Company contained in Section 6 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any Underwriter or any controlling person thereof, or the Company or any of its officers, directors, or controlling persons and shall survive delivery of, and payment for, the Securities to and by the Underwriters hereunder.

8. ***Substitution of Underwriters***.

(a) If any Underwriter or Underwriters shall fail to take up and pay for the amount of Firm Shares agreed by such Underwriter or Underwriters to be purchased hereunder, upon tender of such Firm Shares in accordance with the terms hereof, and the amount of Firm Shares not purchased does not aggregate more than 10% of the total amount of Firm Shares set forth in Schedule A hereto, the remaining Underwriters shall be obligated to take up and pay for (in proportion to their respective underwriting obligations hereunder as set forth in Schedule A hereto except as may otherwise be determined by you) the Firm Shares that the withdrawing or defaulting Underwriters agreed but failed to purchase.

(b) If any Underwriter or Underwriters shall fail to take up and pay for the amount of Firm Shares agreed by such Underwriter or Underwriters to be purchased hereunder, upon tender of such Firm Shares in accordance with the terms hereof, and the amount of Firm Shares not purchased aggregates more than 10% of the total amount of Firm Shares set forth in Schedule A hereto, and arrangements satisfactory to you for the purchase of such Firm Shares by other persons are not made within 36 hours thereafter, this Agreement shall terminate. In the event of any such termination the Company shall not be under any liability to any Underwriter (except to the extent provided in Section 4(h) and Section 6 hereof) nor shall any Underwriter (other than an Underwriter who shall have failed, otherwise than for some reason permitted under this Agreement, to purchase the amount of Firm Shares agreed by such Underwriter to be

purchased hereunder) be under any liability to the Company (except to the extent provided in Section 6 hereof).

If Firm Shares to which a default relates are to be purchased by the non-defaulting Underwriters or by any other party or parties, the Representatives or the Company shall have the right to postpone the First Closing Date for not more than seven business days in order that the necessary changes in the Registration Statement, Prospectus and any other documents, as well as any other arrangements, may be effected. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or the other Underwriters for damages occasioned by its default hereunder. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 8.

9. ***Effective Date of this Agreement and Termination***.

(a) This Agreement shall become effective at 10:00 a.m., Pacific time, on the first full business day following the effective date of the Registration Statement, or at such earlier time after the effective time of the Registration Statement as you in your discretion shall first release the Shares for sale to the public; *provided*, that if the Registration Statement is effective at the time this Agreement is executed, this Agreement shall become effective at such time as you in your discretion shall first release the Shares for sale to the public. For the purpose of this Section, the Shares shall be deemed to have been released for sale to the public upon release by you of an electronic communication authorizing commencement of the offering the Shares for sale by the Underwriters or other securities dealers. By giving notice as hereinafter specified before the time this Agreement becomes effective, you, as Representatives of the several Underwriters, or the Company, may prevent this Agreement from becoming effective without liability of any party to any other party, except that the provisions of Section 4(h) and Section 6 hereof shall at all times be effective.

(b) You, as Representatives of the several Underwriters, shall have the right to terminate this Agreement by giving notice as hereinafter specified at any time at or prior to the First Closing Date, and the option referred to in Section 3(b), if exercised, may be cancelled at any time prior to the Second Closing Date, if (i) the Company shall have failed, refused or been unable, at or prior to such Closing Date, to perform any agreement on its part to be performed hereunder, (ii) any other condition of the Underwriters' obligations hereunder is not fulfilled, (iii) trading on the Nasdaq National Market, New York Stock Exchange or the American Stock Exchange shall have been wholly suspended, (iv) minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required, on the Nasdaq National Market, New York Stock Exchange or the American Stock Exchange, by such Exchange or by order of the Commission or any other governmental authority having jurisdiction, (v) a banking moratorium shall have been declared by federal or state authorities, or (vi) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis that, in your judgment, is material and adverse and makes it impractical or inadvisable to proceed with the completion of the sale of and payment for the Shares. Any such termination shall be without liability of any party to any other party except that the provisions of Section 4(h) and Section 6 hereof shall at all times be effective.

(c) If you elect to prevent this Agreement from becoming effective or to terminate this Agreement as provided in this Section, the Company shall be notified promptly by you by telephone, confirmed by letter. If the Company elects to prevent this Agreement from becoming effective, you shall be notified by the Company by telephone, confirmed by letter.

10. ***Default by the Company.*** If the Company shall fail at the First Closing Date to sell and deliver the number of Shares which it is obligated to sell hereunder, then this Agreement shall terminate without any liability on the part of any nondefaulting party.

No action taken pursuant to this Section shall relieve the Company from liability, if any, in respect of such default.

11. ***Notices***. Except as otherwise provided herein, all communications hereunder shall be in writing and, if to the Underwriters, shall be mailed or delivered to the Representatives c/o Piper Jaffray & Co., 800 Nicollet Mall, Minneapolis, Minnesota 55402, except that notices given to an Underwriter pursuant to Section 6 hereof shall be sent to such Underwriter at the address stated in the Underwriters' Questionnaire furnished by such Underwriter in connection with this offering; if to the Company, shall be mailed or delivered to it at 413 Pine Street, Suite 500, Seattle, Washington 98101 Attention: Chief Executive Officer, with a copy to Francis J. Feeney, Jr., Esq., Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110. Any party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose.

12. ***Persons Entitled to Benefit of Agreement***. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns and the controlling persons, officers and directors referred to in Section 6. Nothing in this Agreement is intended or shall be construed to give to any other person, firm or corporation any legal or equitable remedy or claim under or in respect of this Agreement or any provision herein contained. The term "successors and assigns" as herein used shall not include any purchaser, as such purchaser, of any of the Securities from any of the several Underwriters.

13. ***Governing Law***. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

14. ***Counterparts***. This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original and all such counterparts shall together constitute one and the same instrument.

[*Signature Page Follows*]

Please sign and return to the Company the enclosed duplicates of this letter whereupon this letter will become a binding agreement between the Company and the several Underwriters in accordance with its terms.

Very truly yours,

MARCHEX, INC.

By _____
Russell C. Horowitz
Chairman and Chief Executive Officer

Confirmed as of the date first
above mentioned, on behalf of
themselves and the other several
Underwriters named in Schedule A
hereto.

PIPER JAFFRAY & CO.

By _____
Managing Director

SCHEDULE A

Underwriter	Number of Firm Shares (1)
Piper Jaffray & Co.	
RBC Capital Markets	
Thomas Weisel Partners LLC	
Total	200,000

(1) The Underwriters may purchase up to an additional 30,000 Option Shares, to the extent the option described in Section 3(b) of the Agreement is exercised, in the proportions and in the manner described in the Agreement.

SCHEDULE B

Certificate of Designations

SCHEDULE C

Indenture

Exhibit 3.3

**CERTIFICATE OF THE POWERS, DESIGNATIONS,
PREFERENCES AND RIGHTS OF THE**

**____% CONVERTIBLE EXCHANGEABLE PREFERRED STOCK
($0.01 PAR VALUE)
(CUMULATIVE DIVIDEND, LIQUIDATION PREFERENCE $250 PER SHARE)**

OF

MARCHEX, INC.

**PURSUANT TO SECTION 151(g) OF THE GENERAL CORPORATION LAW
OF THE STATE OF DELAWARE**

THE UNDERSIGNED, being the Secretary of Marchex, Inc., a Delaware corporation (the "**Company**"), DOES HEREBY CERTIFY that, pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware, the following resolutions were duly adopted by the Board of Directors of the Company, and pursuant to authority conferred upon the Board of Directors by the provisions of the Certificate of Incorporation of the Company, as amended (the "**Certificate of Incorporation**"), the Board of Directors of the Company adopted resolutions fixing the designation and the relative powers, preferences, rights, qualifications, limitations and restrictions of such stock. These composite resolutions are as follows:

RESOLVED, that pursuant to authority expressly granted to and vested in the Board of Directors of the Company by the provisions of the Certificate of Incorporation, the issuance of a series of preferred stock, par value $0.01 per share, which shall consist of up to _____ of the 1,000,000 shares of preferred stock which the Company now has authority to issue, be, and the same hereby is, authorized, and the Board hereby fixes the powers, designations, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof (in addition to the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, set forth in the Certificate of Incorporation which may be applicable to the preferred stock of this series) as follows:

1. **Number of Shares and Designation**. _____ shares of the preferred stock, par value $0.01 per share, of the Company are hereby constituted as a series of the preferred stock designated as _____% Convertible Exchangeable Preferred Stock (the "**Preferred Stock**").

2. **Definitions**. For purposes of the Preferred Stock, in addition to those terms otherwise defined herein, the following terms shall have the meanings indicated:

"**Additional Common Stock**" shall have the meaning specified in Section 7(j).

"**Additional Payment**" shall have the meaning specified in Section 7(l).

"**Affiliate**" of any specified person shall mean any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, "control," when used with respect to any specified person means the power to direct or cause the direction of the management and policies of such person, directly or indirectly, whether through

the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Applicable Price**" shall have the meaning specified in Section 7(k).

"**Automatic Conversion**" shall have the meaning specified in Section 7(l).

"**Automatic Conversion Date**" shall have the meaning specified in Section 7(l).

"**Automatic Conversion Notice**" shall have the meaning specified in Section 7(l).

"**Board of Directors**" shall mean the Board of Directors of the Company or a committee of such Board duly authorized to act for it hereunder.

"**Board Resolution**" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Transfer Agent.

"**Business Day**" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which the banking institutions in The City of New York, New York are authorized or obligated by law or executive order to close or be closed.

"**Closing Price**" has the meaning specified in Section 7(d)(viii).

"**Commission**" shall mean the Securities and Exchange Commission.

"**Common Equity**" shall mean both the Company's Common Stock and the class of capital stock of the Company designated as Class A Common Stock, par value $0.01 per share, at the date hereof, including shares of such class or shares of any class or classes resulting from any reclassification or reclassifications thereof.

"**Common Stock**" shall mean the class of capital stock of the Company designated as Class B Common Stock, par value $0.01 per share, at the date hereof. Subject to the provisions of Section 7(e), shares issuable on conversion of the Preferred Stock shall include only shares of such class or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which are not subject to redemption by the Company; provided that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"**Common Stock Fundamental Change**" shall have the meaning specified in Section 7(k).

"**Company**" shall mean Marchex, Inc., a Delaware corporation, and shall include its successors and assigns.

"**Conversion Notice**" has the meaning specified in Section 7(a).

"**Conversion Price**" shall have the meaning specified in Section 7(a) and shall be adjusted, without limitation, as a result of any adjustment to the Conversion Rate pursuant to Section 7(j) hereof.

"**Conversion Rate**" shall mean $250 divided by the Conversion Price.

"**Current Market Price**" has the meaning specified in Section 7(d)(viii).

"**Custodian**" shall mean [_____], as custodian with respect to the Global Certificate, or any successor entity thereto.

"**Debentures**" shall mean the Company's ____% Convertible Subordinated Debentures, issued under an Indenture, dated as of _____, 2005 between the Company and U.S. Bank National Association, as trustee (the "Indenture").

"**Deposit Bank**" has the meaning specified in Section 5(b).

"**Depositary**" means, with respect to the Preferred Stock issuable or issued in the form of a Global Certificate, the person specified in Section 13 as the Depositary with respect to the Preferred Stock, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Certificate, and thereafter "Depositary" shall mean or include such successor. The foregoing sentence shall likewise apply to any subsequent successor or successors.

"**Dividend Payment Date**" shall have the meaning specified in Section 3(a).

"**Dividend Payment Record Date**" shall have the meaning specified in Section 3(a).

"**Dividend Periods**" shall mean quarterly dividend periods commencing on the _____ day of _____, _____, _____ and _____ of each year and ending on and including the day preceding the day of the next succeeding Dividend Period (other than the initial Dividend Period which shall commence on the Issue Date and end on and include _____, 2005).

"**Effective Date**" shall have the meaning specified in Section 7(j).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Exchange Date**" shall have the meaning specified in Section 10(b).

"**Expiration Time**" has the meaning specified in Section 7(d)(vi).

"**fair market value**" has the meaning specified in Section 7(d)(viii).

"**Fundamental Change**" shall have the meaning specified in Section 7(k).

"**Global Certificate**" shall have the meaning specified in Section 13(a).

"**holder**," "**holder of shares of Preferred Stock**," or "**holder of the Preferred Stock**," as applied to any share of Preferred Stock, or other similar terms (but excluding the term "beneficial holder"), shall mean any person in whose name at the time a particular share of Preferred Stock is registered on the Company's stock records, which shall include the books of the Transfer Agent in respect of the Company and any stock transfer books of the Company.

"**Issue Date**" shall mean the first date on which shares of the Preferred Stock are issued.

"**Liquidation**" has the meaning specified in Section 4(a).

"**Measurement Period**" shall have the meaning specified in Section 7(d)(iv).

"**Non-Stock Fundamental Change**" shall have the meaning specified in Section 7(k).

"**Officers' Certificate**", when used with respect to the Company, shall mean a certificate signed by (a) one of the President, the Chief Executive Officer, Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word added before or after the title "Vice President") and (b) by one of the Treasurer or any Assistant Treasurer, Secretary or any Assistant Secretary or Controller of the Company, which is delivered to the Transfer Agent.

"**Preferred Stock**" has the meaning specified in Section 1.

"**Purchased Shares**" has the meaning specified in Section 7(d)(vi).

"**Purchaser Stock Price**" shall have the meaning specified in Section 7(k).

"**person**" shall mean a corporation, an association, a partnership, an individual, a joint venture, a joint stock company, a trust, a limited liability company, an unincorporated organization or a government or an agency or a political subdivision thereof.

"**Record Date**" has the meaning specified in Section 7(d)(viii).

"**Reference Period**" has the meaning specified in Section 7(d)(iv).

"**Rights Plan**" has the meaning specified in Section 7(d)(iv).

"**Securities**" has the meaning specified in Section 7(d)(iv).

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Spin-off**" shall have the meaning specified in Section 7(d)(iv).

"**Stock Price**" shall have the meaning specified in Section 7(j).

"**Subsidiary**" means a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For the purposes of this definition, "**voting stock**" means stock which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

"**Tender Expiration Time**" has the meaning specified in Section 7(d)(vii).

"**Tender Purchased Shares**" has the meaning specified in Section 7(d)(vii).

"**Trading Day**" has the meaning specified in Section 7(d)(viii).

"**Transfer Agent**" means Mellon Investor Services LLC or such other agent or agents of the Company as may be designated by the Board of Directors of the Company as the transfer agent for the Preferred Stock.

"**Trigger Event**" has the meaning specified in Section 7(d)(iv).

3. **Dividends**.

(a) Holders of the Preferred Stock are entitled to receive, when, as and if declared by the Board of Directors, out of the funds of the Company legally available therefor, cash dividends at the annual rate of ____% of the liquidation preference for each share of Preferred Stock, payable in equal quarterly installments on _____, _____, _____ and _____ (each a "**Dividend Payment Date**"), commencing _____, 2005 (and, in the case of any accrued but unpaid dividends, at such additional times and for such interim periods, if any, as determined by the Board of Directors). If _____, 2005 or any other Dividend Payment Date shall be on a day other than a Business Day, then the Dividend Payment Date shall be on the next succeeding Business Day. Dividends on the Preferred Stock will be cumulative from the Issue Date, whether or not in any Dividend Period or Periods there shall be funds of the Company legally available for the payment of such dividends and whether or not such dividends are declared, and will be payable to holders of record as they appear on the stock books of the Company on such record dates (each such date, a "**Dividend Payment Record Date**"), which shall be not more than 60 days nor less than 10 days preceding the Dividend Payment Dates thereof, as shall be fixed by the Board of Directors. Dividends on the Preferred Stock shall accrue (whether or not declared) on a daily basis from the Issue Date subject to the terms of Section 3(b) hereof, and accrued dividends for each Dividend Period shall accumulate to the extent not paid on the Dividend Payment Date first following the Dividend Period for which they accrue. As used herein, the term "accrued" with respect to dividends includes both accrued and accumulated dividends.

(b) The amount of dividends payable per share for each full Dividend Period for the Preferred Stock shall be computed by dividing the annual dividend rate by four (rounded down to the nearest one one-hundredth (1/100) of one cent). The amount of dividends payable for the initial Dividend Period on the Preferred Stock, or any other period shorter or longer than a full Dividend Period on the Preferred Stock, shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Holders of shares of Preferred Stock called for redemption on a redemption date falling between the close of business on a Dividend Payment Record Date and the opening of business on the corresponding Dividend Payment Date shall, in lieu of receiving such dividend on the Dividend Payment Date fixed therefor, receive such dividend payment together with all other accrued and unpaid dividends on the date fixed for redemption (unless such holders convert such shares in accordance with Section 7 hereof). Holders of shares of Preferred Stock shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative dividends, as herein provided. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock which may be in arrears.

(c) So long as any shares of Preferred Stock are outstanding, no dividends, except as described in the next succeeding sentence, shall be declared or paid or set apart for payment on any class or series of stock of the Company ranking, as to dividends, on a parity with the Preferred Stock, for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for such payment on the Preferred Stock for all Dividend Periods terminating on or prior to the applicable Dividend Payment Date. When dividends are not paid in full or a sum sufficient for such payment is not set apart, as aforesaid, upon the shares of Preferred Stock and any other class or series of stock ranking on a parity as to dividends with Preferred Stock, all dividends declared upon shares of Preferred Stock and all dividends declared upon such other stock shall be declared pro rata so that the amounts of dividends per share declared on the Preferred Stock and such other stock shall in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the shares of Preferred Stock and on such other stock bear to each other.

(d) So long as any shares of the Preferred Stock are outstanding, no other stock of the Company ranking on a parity with the Preferred Stock as to dividends or upon liquidation, dissolution

or winding up shall be redeemed, purchased or otherwise acquired for any consideration (or any monies be paid to or made available for a sinking fund or otherwise for the purchase or redemption of any shares of any such stock) by the Company or any Subsidiary unless (i) the full cumulative dividends, if any, accrued on all outstanding shares of Preferred Stock shall have been paid or set apart for payment for all past Dividend Periods and (ii) sufficient funds shall have been set apart for the payment of the dividend for the current Dividend Period with respect to the Preferred Stock.

(e) So long as any shares of the Preferred Stock are outstanding, no dividends (other than dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, Common Stock or other stock ranking junior to the Preferred Stock, as to dividends and upon liquidation, dissolution or winding up) shall be declared or paid or set apart for payment and no other distribution shall be declared or made or set apart for payment, in each case upon the Common Stock or any other stock of the Company ranking junior to the Preferred Stock as to dividends or upon liquidation, dissolution or winding up, nor shall any Common Stock nor any other such stock of the Company ranking junior to the Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased or otherwise acquired for any consideration (or any monies be paid to or made available for a sinking fund or otherwise for the purchase or redemption of any shares of any such stock) by the Company or any Subsidiary (except (A) by conversion into or exchange for stock of the Company ranking junior to the Preferred Stock as to dividends and upon liquidation, dissolution or winding up; or (B) repurchases of unvested shares of the Company's capital stock at cost upon termination of employment or consultancy of the holder thereof, provided such repurchases are approved by the Board of Directors of the Company in good faith) unless, in each case (i) the full cumulative dividends, if any, accrued on all outstanding shares of Preferred Stock and any other stock of the Company ranking on a parity with the Preferred Stock as to dividends shall have been paid or set apart for payment for all past Dividend Periods and all past dividend periods with respect to such other stock and (ii) sufficient funds shall have been set apart for the payment of the dividend for the current Dividend Period with respect to the Preferred Stock and for the current dividend period with respect to any other stock of the Company ranking on a parity with the Preferred Stock as to dividends.

4. **Liquidation Preference**.

(a) In the event of any voluntary or involuntary dissolution, liquidation or winding up of the Company (for the purposes of this Section 4, a "**Liquidation**"), before any distribution of assets shall be made to the holders of Common Stock or the holders of any other stock of the Company that ranks junior to the Preferred Stock upon Liquidation, the holder of each share of Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Company available for distribution to its stockholders, an amount equal to liquidation preference of $250 per share plus all dividends accrued and unpaid on such share up to the date of distribution of the assets of the Company to the holders of Preferred Stock, and the holders of any class or series of preferred stock ranking on a parity with the Preferred Stock as to Liquidation shall be entitled to receive the full respective liquidation preferences (including any premium) to which they are entitled and shall receive all accrued and unpaid dividends with respect to their respective shares through and including the date of distribution.

(b) If upon any Liquidation of the Company, the assets available for distribution to the holders of Preferred Stock and any other stock of the Company ranking on a parity with the Preferred Stock upon Liquidation which shall then be outstanding shall be insufficient to pay the holders of all outstanding shares of Preferred Stock and all other such parity stock the full amounts of the liquidating distribution to which they shall be entitled (including all dividends accrued and unpaid), then the holders of each series of such stock will share ratably in any such distribution of assets first in proportion to their respective liquidation preferences until such preferences are paid in full, and then in proportion to their respective amounts of accrued but unpaid dividends. After payment of any such liquidating preference

and accrued dividends, the holders of shares of the Preferred Stock will not be entitled to any further participation in any distribution of assets by the Company.

(c) For purposes of this Section 4, a Liquidation shall not include (i) any consolidation or merger of the Company with or into any other corporation, (ii) any liquidation, dissolution, winding up or reorganization of the Company immediately followed by reincorporation as another corporation or (iii) a sale or other disposition of all or substantially all of the Company's assets to another corporation unless in connection therewith the Liquidation of the Company is specifically approved by all requisite corporate action.

(d) The holder of any shares of Preferred Stock shall not be entitled to receive any payment owed for such shares under this Section 4 until such holder shall cause to be delivered to the Company (i) the certificate(s) representing such shares of Preferred Stock and (ii) transfer instrument(s) reasonably satisfactory to the Company and sufficient to transfer such shares of Preferred Stock to the Company free of any adverse interest. No interest shall accrue on any payment upon Liquidation after the due date thereof.

5. **Redemption at the Option of the Company**.

(a) Preferred Stock may not be redeemed by the Company prior to _____, 2008. On or after _____, 2008, the Company may, at its option, redeem the shares of Preferred Stock, in whole or in part, out of funds legally available therefor, at any time or from time to time, subject to the notice provisions and provisions for partial redemption described below, during the 12-month period beginning on _____, of the years shown below (beginning on _____, 2008 and ending on _____, 2009, in the case of the first such period), at the following redemption prices per share plus an amount equal to accrued and unpaid dividends, if any, to, but excluding, the date fixed for redemption, whether or not earned or declared:

Year	Redemption Price
2008	$
2009	
2010	
2011	
2012	
2013	
2014	

and $250 at _____, 2015 and thereafter; provided that, if the applicable redemption date is a Dividend Payment Date, the quarterly payment of dividends becoming due on such date shall be payable to the holders of such shares of Preferred Stock registered as such on the relevant record date subject to the terms and provisions of Section 3.

No sinking fund, mandatory redemption or other similar provision shall apply to the Preferred Stock.

(b) In case the Company shall desire to exercise the right to redeem the shares of Preferred Stock, in whole or in part, pursuant to Section 5(a), it shall fix a date for redemption, and it, or at its request (which must be received by the Transfer Agent at least ten (10) Business Days prior to the date the Transfer Agent is requested to give notice as described below unless a shorter period is agreed to by the Transfer Agent) the Transfer Agent in the name of and at the expense of the Company, shall mail or cause to be mailed a notice of such redemption at least twenty (20) and not more than sixty (60) days

prior to the date fixed for redemption to the holders of the shares of Preferred Stock so to be redeemed at their last addresses as the same appear on the Company's stock records (provided that if the Company shall give such notice, it shall also give such notice, and notice of the shares of Preferred Stock to be redeemed, to the Transfer Agent). Such mailing shall be by first class mail. The notice if mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the holder of any share of Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other share of Preferred Stock.

Each such notice of redemption shall specify the number of shares of Preferred Stock to be redeemed, the date fixed for redemption, the redemption price at which such shares of Preferred Stock are to be redeemed, the place or places of payment, that payment will be made upon presentation and surrender of the certificate or certificates representing such shares of Preferred Stock, that unpaid dividends accrued to, but excluding, the date fixed for redemption will be paid as specified in said notice, and that on and after said date dividends thereon or on the portion thereof to be redeemed will cease to accrue. Such notice shall also state the current Conversion Price and the date on which the right to convert such shares of Preferred Stock into Common Stock will expire.

On or prior to the redemption date specified in the notice of redemption given as provided in this Section 5(b), the Company will deposit with a bank or trust company having an office or agency in the Borough of Manhattan, The City of New York and having a combined capital and surplus of at least $50,000,000 (the "**Deposit Bank**") an amount of money sufficient to redeem on the redemption date all the shares of Preferred Stock so called for redemption (other than those theretofore surrendered for conversion into Common Stock) at the appropriate redemption price, together with accrued and unpaid dividends to, but excluding, the date fixed for redemption; provided that if such payment is made on the redemption date it must be received by the Deposit Bank by 10:00 a.m. New York City time, on such redemption date. If any shares of Preferred Stock called for redemption are converted pursuant hereto, any money deposited with the Deposit Bank or so segregated and held in trust for the redemption of such shares of Preferred Stock shall be paid to the Company upon its request, or, if then held by the Company shall be discharged from such trust. The Company shall be entitled to make any deposit of funds contemplated by this Section 5 under arrangements designed to permit such funds to generate interest or other income for the Company, and the Company shall be entitled to receive all interest and other income earned by any funds while they shall be deposited as contemplated by this Section 5, provided that the Company shall maintain on deposit funds sufficient to satisfy all payments which the deposit arrangement shall have been established to satisfy. If the conditions precedent to the disbursement of any funds deposited by the Company pursuant to this Section 5 shall not have been satisfied within two years after the establishment of such funds, then (i) such funds shall be returned to the Company upon its request, (ii) after such return, such funds shall be free of any trust which shall have been impressed upon them, (iii) the person entitled to the payment for which such funds shall have been originally intended shall have the right to look only to the Company for such payment, subject to applicable escheat laws, and (iv) the trustee which shall have held such funds shall be relieved of any responsibility for such funds upon the return of such funds to the Company.

If fewer than all the outstanding shares of Preferred Stock are to be redeemed, shares to be redeemed shall be selected by the Company from outstanding shares of Preferred Stock not previously called for redemption by lot or pro rata (as near as may be) or by any other equitable method determined by the Company in its sole discretion.

(c) If notice of redemption has been given as above provided, on and after the date fixed for redemption (unless the Company shall default in the payment of the redemption price, together with accrued and unpaid dividends to, but excluding, said date), dividends on such shares of Preferred

Stock so called for redemption shall cease to accrue and such shares of Preferred Stock shall be deemed no longer outstanding and the holders thereof shall have no right in respect of such shares of Preferred Stock except the right to receive the redemption price thereof and accrued and unpaid dividends to, but excluding, the date fixed for redemption, without interest thereon. On presentation and surrender of the certificate or certificates representing such shares of Preferred Stock at a place of payment specified in said notice, such shares of Preferred Stock to be redeemed shall be redeemed by the Company at the applicable redemption price, together with unpaid dividends accrued thereon to, but excluding, the date fixed for redemption; provided that, if the applicable redemption date is a Dividend Payment Date, the quarterly payment of dividends becoming due on such date shall be payable to the holders of such shares of Preferred Stock registered as such on the relevant record date subject to the terms and provisions of Section 3.

If fewer than all the shares of Preferred Stock represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

(d) In connection with any redemption of Preferred Stock, the Company may arrange for the purchase and conversion of any Preferred Stock by an agreement with one or more investment bankers or other purchasers to purchase such Preferred Stock by paying to the Deposit Bank in trust for the holders of Preferred Stock, on or before the date fixed for redemption, an amount not less than the applicable redemption price, together with unpaid dividends accrued to, but excluding, the date fixed for redemption, of such Preferred Stock. Notwithstanding anything to the contrary contained in this Section 5, the obligation of the Company to pay the redemption price of such Preferred Stock, together with unpaid dividends accrued to, but excluding, the date fixed for redemption, shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers. If such an agreement is entered into, a copy of which will be filed with the Deposit Bank prior to the date fixed for redemption, any certificate representing the Preferred Stock so converted not duly surrendered for conversion by the holders thereof may, at the option of the Company, be deemed, to the fullest extent permitted by law, acquired by such purchasers from such holders and (notwithstanding anything to the contrary contained in Section 7) surrendered by such purchasers for conversion, all as of immediately prior to the close of business on the date fixed for redemption (and the right to convert any such Preferred Stock shall be deemed to have been extended through such time), subject to payment of the above amount as aforesaid. At the direction of the Company, the Deposit Bank shall hold and dispose of any such amount paid to it in the same manner as it would monies deposited with it by the Company for the redemption of Preferred Stock.

6. **Shares to Be Retired**. Any share of Preferred Stock converted, redeemed or otherwise acquired by the Company shall be retired and canceled and shall upon cancellation be restored to the status of authorized but unissued shares of preferred stock, subject to reissuance by the Board of Directors as shares of preferred stock of one or more series.

7. **Conversion**. Holders of shares of Preferred Stock shall have the right to convert all or a portion of such shares into shares of Common Stock, as follows:

(a) Subject to and upon compliance with the provisions of this Section 7, a holder of any shares of Preferred Stock shall have the right, at such holder's option, at any time after the Issue Date (except that, with respect to any shares of Preferred Stock which shall be called for redemption, such right shall terminate at the close of business on the next Business Day preceding the date fixed for redemption of such shares of Preferred Stock unless the Company shall default in payment due upon redemption thereof) to convert any of such shares (provided however, that a holder may only convert whole shares of Preferred Stock, and not a fractional share of Preferred Stock) into that number of fully paid and non-assessable shares of Common Stock (as such shares shall then be constituted) obtained by multiplying the

number of shares of Preferred Stock to be converted by $250.00 and dividing the result by the Conversion Price, as adjusted in accordance with this Section 7, by surrender of the certificate or certificates representing such share of Preferred Stock so to be converted in the manner provided in Section 7(b). As used herein, the initial "**Conversion Price**" shall mean $____. A holder of the Preferred Stock is not entitled to any rights of a holder of Common Stock until such holder has converted his Preferred Stock to Common Stock, and only to the extent such Preferred Stock is deemed to have been converted to Common Stock under this Section 7.

(b) In order to exercise the conversion right, the holder of the Preferred Stock to be converted shall surrender the certificate or certificates (with the notice of conversion (the "Conversion Notice"), the form of which is set forth in Section 14(a), on the reverse of the certificate or certificates duly completed) representing the number of shares to be so converted, duly endorsed, at an office or agency of the Transfer Agent in the Borough of Manhattan, The City of New York, and shall give written notice of conversion to the office or agency that the holder elects to convert such number of shares of Preferred Stock specified in said notice. Such notice shall also state the name or names (with address) in which the certificate or certificates for shares of Common Stock which shall be of Common Stock issuable on such conversion shall be issued, and shall be accompanied by transfer taxes, if required pursuant to Section 7(f). Each such share of Preferred Stock surrendered for conversion shall, unless the shares of Common Stock issuable on conversion are to be issued in the same name in which such share of Preferred Stock is registered, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the holder or his duly authorized attorney.

As promptly as practicable, but in any event within ten (10) Business Days, after satisfaction of the requirements for conversion set forth above, the Company shall issue and shall deliver to such holder or, if shares of Common Stock issuable on conversion are to be issued in a name other than that in which such share of Preferred Stock to be converted is registered (as if such transfer were a transfer of the share of Preferred Stock so converted), to such other person, at the office or agency of the Transfer Agent in the Borough of Manhattan, The City of New York, the certificate or certificates representing the number of shares of Common Stock issuable upon the conversion of such share of Preferred Stock or a portion thereof in accordance with the provisions of this Section 7 and a check or cash in respect of any fractional interest in respect of a share of Common Stock arising upon such conversion, as provided in Section 7(c) (which payment, if any, shall be paid no later than ten (10) Business Days after satisfaction of the requirements for conversion set forth above).

Each conversion shall be deemed to have been effected on the date on which the requirements set forth above in this Section 7(b) have been satisfied as to such share of Preferred Stock so converted, and the person in whose name any certificate or certificates for the shares of Common Stock shall be issuable upon such conversion shall be deemed to have become on said date the holder of record of the shares represented thereby; provided, however, that if any such surrender occurs on any date when the stock transfer books of the Company shall be closed, the conversion shall be effected on the next succeeding day on which such stock transfer books are open, and the person in whose name the certificates are to be issued shall be the record holder thereof for all purposes, but such conversion shall be at the Conversion Price in effect on the date upon which certificate or certificates representing such shares of Preferred Stock shall be surrendered. All shares of Common Stock delivered upon conversion of the Preferred Stock will, upon delivery, be duly authorized, validly issued and fully paid and nonassessable.

In the case of any share of Preferred Stock which is converted after any record date with respect to the payment of a dividend on the Preferred Stock and prior to the close of business on the Business Day prior to the next succeeding Dividend Payment Date, the dividend due on such Dividend Payment Date shall be payable on such Dividend Payment Date to the holder of record of such share as of such preceding record date notwithstanding such conversion; provided that shares of Preferred Stock

surrendered for conversion during the period between the close of business on any record date with respect to the payment of a dividend on the Preferred Stock and prior to the close of business on the Business Day prior to the next succeeding Dividend Payment Date must (except in the case of shares of Preferred Stock which have been called for redemption or for which the Company has issued an Automatic Conversion Notice pursuant to the provisions of this Certificate) be accompanied by payment in funds acceptable to the Company of an amount equal to the dividend payable on such Dividend Payment Date on the shares of Preferred Stock being surrendered for conversion. The Transfer Agent shall not be required to accept for conversion any shares of Preferred Stock not accompanied by any payment required by the preceding sentence. Except as provided in this paragraph, no payment or adjustment shall be made upon any conversion on account of any dividends accrued on shares of Preferred Stock surrendered for conversion or on account of any dividends on the Common Stock issued upon conversion.

(c) In connection with the conversion of any shares of Preferred Stock, a portion of such shares may be converted; however, no fractional shares of Common Stock or scrip representing fractional shares shall be issued upon conversion of the Preferred Stock. If any fractional share of stock otherwise would be issuable upon the conversion of the Preferred Stock, the Company shall make a payment therefore in cash to the holder of the Preferred Stock based on the current market value of the Common Stock. The current market value of a share of Common Stock shall be the Closing Price on the first Trading Day immediately preceding the day on which the Preferred Stock (or a specified portion thereof) is deemed to have been converted and such Closing Price shall be determined as provided in Section 7(d)(viii). If more than one share shall be surrendered for conversion at one time by the same holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of Preferred Stock so surrendered.

(d) The Conversion Price shall be adjusted from time to time by the Company as follows:

(i) In case the Company shall hereafter pay a dividend or make a distribution to all holders of the outstanding Common Stock in shares of Common Stock, the Conversion Price in effect at the opening of business on the date following the date fixed for the determination of stockholders entitled to receive such dividend or other distribution shall be reduced by multiplying such Conversion Price by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the Record Date (as defined in Section 7(d)(viii)) fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such reduction to become effective immediately prior to the opening of business on the day following the Record Date. If any dividend or distribution of the type described in this Section 7(d)(i) is declared but not so paid or made, the Conversion Price shall again be adjusted to the Conversion Price which would then be in effect if such dividend or distribution had not been declared.

(ii) In case the Company shall issue rights or warrants to all holders of its outstanding shares of Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the Current Market Price (as defined in Section 7(d)(viii)) on the Record Date fixed for the determination of stockholders entitled to receive such rights or warrants, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect at the opening of business on the date after such Record Date by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the Record Date plus the number of shares which the aggregate offering price of the total number of shares so offered would purchase at such Current Market Price, and of which the denominator shall be the number of shares of Common Stock outstanding on the close of business on the Record Date plus the

total number of additional shares of Common Stock so offered for subscription or purchase. Such adjustment shall become effective immediately after the opening of business on the day following the Record Date fixed for determination of stockholders entitled to receive such rights or warrants. To the extent that shares of Common Stock are not delivered pursuant to such rights or warrants, upon the expiration or termination of such rights or warrants the Conversion Price shall be readjusted to the Conversion Price which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. In the event that such rights or warrants are not so issued, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such date fixed for the determination of stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Current Market Price, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(iii) In case the outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately reduced, and conversely, in case outstanding shares of Common Stock shall be combined into a smaller number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(iv) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock shares of any class of capital stock of the Company (other than any dividends or distributions to which Section 7(d)(i) applies) or evidences of its indebtedness, cash or other assets (including securities, but excluding (1) any rights or warrants referred to in Section 7(d)(ii) or (2) dividends and distributions paid exclusively in cash (the foregoing hereinafter in this Section 7(d)(iv) called the "**Securities**")), then, in each such case, the Conversion Price shall be reduced so that the same shall be equal to the price determined by multiplying the Conversion Price in effect immediately prior to the close of business on the Record Date (as defined in Section 7(d)(viii)) with respect to such distribution by a fraction of which the numerator shall be the Current Market Price (determined as provided in Section 7(d)(viii)) on such date less the fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) on such date of the portion of the Securities so distributed applicable to one share of Common Stock and the denominator shall be such Current Market Price, such reduction to become effective immediately prior to the opening of business on the day following the Record Date, or in the case of a Spin-off, immediately prior to the opening of business on the day following the last Trading Day of the Measurement Period; provided, however, that in the event the then fair market value (as so determined) of the portion of the Securities so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each holder of the Preferred Stock shall have the right to receive upon conversion of the Preferred Stock (or any portion thereof) the amount of Securities such holder would have received had such holder converted such Preferred Stock (or portion thereof) immediately prior to such Record Date. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines the fair market value of any distribution for purposes of this Section 7(d)(iv) by reference to the actual or when issued trading market for any securities comprising all or part of such distribution, it must in doing so consider the prices in such market over the same period

(the "**Reference Period**") used in computing the Current Market Price pursuant to Section 7(d)(viii) to the extent possible, unless the Board of Directors in a board resolution determines in good faith that determining the fair market value during the Reference Period would not be in the best interest of the holder of the Preferred Stock.

In the event the Company distributes shares of capital stock of a Subsidiary or other business unit of the Company, the Conversion Price will be adjusted, if at all, based on the market value of the Subsidiary or other business unit of the Company's stock so distributed relative to the market value of the Common Stock, as described in the remainder of this paragraph. In respect of a dividend or other distribution of shares of capital stock of a class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company which has a Subsidiary Closing Price (a "**Spin-off**"), the fair market value of the securities to be distributed shall equal the average of the daily Subsidiary Closing Price of such securities for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day of such securities after the effectiveness of the Spin-off (the "**Measurement Period**"); provided, however, that in the event that an underwritten initial public offering of the securities in the Spin-off occurs simultaneously with the Spin-off, fair market value of the securities distributed in the Spin-off shall be the initial public offering price of such securities and the market price per share of the Common Stock shall mean the Closing Price for the Common Stock on the same Trading Day.

In the event that the Company implements a stockholders' rights plan (a "**Rights Plan**"), such Rights Plan shall provide that upon conversion of the Preferred Stock the holders will receive, in addition to the Common Stock issuable upon such conversion, the rights under such Rights Plan, unless the rights have separated from the Common Stock before the time of conversion in which case the Conversion Price will be adjusted as if the Company distributed to all Holders of the Common Stock, shares of its capital stock, evidences of its indebtedness or assets as described above, subject to readjustment in the event of the expiration, termination or redemption of such rights. Any distribution of rights or warrants pursuant to the Rights Plan complying with the requirements set forth in the immediately preceding sentence of this paragraph shall not constitute a distribution of rights or warrants for purposes of this Section 7(d).

Rights or warrants distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company's capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("**Trigger Event**"): (i) are deemed to be transferred with such shares of Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 7(d)(iv) (and no adjustment to the Conversion Price under this Section 7(d)(iv) will be required) until the occurrence of the earliest Trigger Event. If such right or warrant is subject to subsequent events, upon the occurrence of which such right or warrant shall become exercisable to purchase different securities, evidences of indebtedness or other assets or entitle the holder to purchase a different number or amount of the foregoing or to purchase any of the foregoing at a different purchase price, then the occurrence of each such event shall be deemed to be the date of issuance and record date with respect to a new right or warrant (and a termination or expiration of the existing right or warrant without exercise by the holder thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto, that resulted in an adjustment to the Conversion Price under this Section 7(d)(iv), (1) in the case of any such rights or warrants which shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Price shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants all of which shall have expired or

been terminated without exercise, the Conversion Price shall be readjusted as if such rights and warrants had never been issued.

For purposes of this Section 7(d)(iv) and Sections 7(d)(i) and (ii), any dividend or distribution to which this Section 7(d)(iv) is applicable that also includes shares of Common Stock to which 7(d)(i) applies, or rights or warrants to subscribe for or purchase shares of Common Stock to which Section 7(d)(ii) applies (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets, shares of capital stock, rights or warrants other than such shares of Common Stock to which Section 7(d)(i) applies or rights or warrants to which Section 7(d)(ii) applies (and any Conversion Price reduction required by this Section 7(d)(iv) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Price reduction required by Sections 7(d)(i) and (ii) with respect to such dividend or distribution shall then be made) except (A) the Record Date of such dividend or distribution shall be substituted as "the date fixed for the determination of stockholders entitled to receive such dividend or other distribution," "Record Date fixed for such determination" and "Record Date" within the meaning of Section 7(d)(i) and as "the date fixed for the determination of stockholders entitled to receive such rights or warrants," "the Record Date fixed for the determination of the stockholders entitled to receive such rights or warrants" and "such Record Date" within the meaning of Section 7(d)(ii), and (B) any shares of Common Stock included in such dividend or distribution shall not be deemed "outstanding at the close of business on the date fixed for such determination" within the meaning of Section 7(d)(i).

(v) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock cash (excluding any cash that is distributed upon a merger or consolidation to which Section 7(e) applies or as part of a distribution referred to in Section 7(d)(iv)), then, and in each such case, immediately after the close of business on such date of distribution, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the close of business on such Record Date by a fraction (i) the numerator of which shall be equal to the Current Market Price on the Record Date less an amount equal to the quotient of (x) the amount of such cash distribution and (y) the number of shares of Common Stock outstanding on the Record Date and (ii) the denominator of which shall be equal to the Current Market Price on such date, provided, however, that in the event the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price of the Common Stock on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each holder of the Preferred Stock shall have the right to receive upon conversion of shares of Preferred Stock the amount of cash such holder would have received had such holder converted such shares immediately prior to such Record Date. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such dividend or distribution had not been declared. Any cash distribution to all holders of Common Stock as to which the Company makes the election permitted by Section 7(d)(iv) and as to which the Company has complied with the requirements of such Section shall be treated as not having been made for all purposes of this Section 7(d)(v).

(vi) In case a tender offer made by the Company or any Subsidiary for all or any portion of the Common Stock shall expire and such tender offer (as amended upon the expiration thereof) shall require the payment of consideration to the holders of Purchased Shares (as defined below), then, and in each such case, immediately prior to the opening of business on the day after the date of the last time (the "**Expiration Time**") tenders could have been made pursuant to such tender offer (as it may be amended), the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to close of business on the date of the Expiration Time by a fraction of which the numerator shall be the number of shares of Common Stock

outstanding (including any tendered shares) on the Expiration Time multiplied by the Current Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time and the denominator shall be the sum of (x) the fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a resolution of the Board of Directors) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender offer) of all shares validly tendered and not withdrawn as of the Expiration Time (the shares deemed so accepted, up to any such maximum, being referred to as the "**Purchased Shares**") and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Current Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time, such reduction (if any) to become effective immediately prior to the opening of business on the day following the Expiration Time. In the event that the Company is obligated to purchase shares pursuant to any such tender offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such tender offer had not been made. If the application of this Section 7(d)(vi) to any tender offer would result in an increase in the Conversion Price, no adjustment shall be made for such tender offer under this Section 7(d)(vi).

(vii) In case of a tender or exchange offer made by a person other than the Company or any Subsidiary for an amount which increases the offeror's ownership of Common Equity to more than 25% of the Common Equity outstanding and shall involve the payment by such person of consideration per share of Common Stock having a fair market value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) at the last time (the "**Tender Expiration Time**") tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended) that exceeds the Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time, and in which, as of the Tender Expiration Time the Board of Directors is not recommending rejection of the offer, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the Tender Expiration Time by a fraction of which the numerator shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the Tender Expiration Time multiplied by the Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time and the denominator shall be the sum of (x) the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares validly tendered or exchanged and not withdrawn as of the Tender Expiration Time (the shares deemed so accepted, up to any such maximum, being referred to as the "**Tender Purchased Shares**") and (y) the product of the number of shares of Common Stock outstanding (less any Tender Purchased Shares) on the Tender Expiration Time and the Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time, such reduction to become effective immediately prior to the opening of business on the day following the Tender Expiration Time. In the event that such person is obligated to purchase shares pursuant to any such tender or exchange offer, but such person is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such tender or exchange offer had not been made. Notwithstanding the foregoing, the adjustment described in this Section 7(d)(vii) shall not be made if, as of the Tender Expiration Time, the offering documents with respect to such offer disclose a plan or intention to cause the Company to engage in any consolidation or merger of the Company with or into any other corporation or corporations (whether or not affiliated with the Company), or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or any sale, conveyance or lease (or successive sales, conveyances or leases) of all or substantially all of the property of the Company, to any other corporation (whether or not affiliated with the Company),

authorized to acquire and operate the same and which shall be organized under the laws of the United States of America, any state thereof or the District of Columbia; provided, however, that each share of Preferred Stock shall remain outstanding, or unaffected or shall be converted into or exchanged for convertible exchangeable preferred stock of the corporation (if other than the Company) formed by such consolidation, or into which the Company shall have been merged, or by the corporation which shall have acquired or leased such property having powers, preferences and relative, participating, optional or other rights and qualifications, limitations and restrictions substantially similar to (but no less favorable than) a share of Preferred Stock.

(viii) For purposes of this Section 7, the following terms shall have the meaning indicated:

(1) "**Closing Price**" with respect to any securities on any day shall mean the closing sale price regular way on such day or, in case no such sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in each case on the Nasdaq National Market or New York Stock Exchange, as applicable, or, if such security is not listed or admitted to trading on such Nasdaq National Market or New York Stock Exchange, on the principal national security exchange or quotation system on which such security is quoted or listed or admitted to trading, or, if not quoted or listed or admitted to trading on any national securities exchange or quotation system, the average of the closing bid and asked prices of such security on the over-the-counter market on the day in question as reported by the National Quotation Bureau Incorporated, or a similar generally accepted reporting service, or if not so available, in such manner as furnished by any New York Stock Exchange member firm selected from time to time by the Board of Directors for that purpose, or a price determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution.

(2) "**Current Market Price**" shall mean the lesser of (a) the Closing Price per share of Common Stock on the date in question and (b) the average of the daily Closing Prices per share of Common Stock for the ten (10) consecutive Trading Days immediately prior to the date in question; provided, however, that (1) if the "ex" date (as hereinafter defined) for any event (other than the issuance or distribution or Fundamental Change requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 7(d)(i), (ii), (iii), (iv), (v), (vi) or (vii) occurs during such ten (10) consecutive Trading Days, the Closing Price for each Trading Day prior to the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the same fraction by which the Conversion Price is so required to be adjusted as a result of such other event, (2) if the "ex" date for any event (other than the issuance or distribution or Fundamental Change requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 7(d)(i), (ii), (iii), (iv), (v), (vi) or (vii) occurs on or after the "ex" date for the issuance or distribution or Fundamental Change requiring such computation and prior to the day in question, the Closing Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the reciprocal of the fraction by which the Conversion Price is so required to be adjusted as a result of such other event, and (3) if the "ex" date for the issuance, distribution or Fundamental Change requiring such computation is prior to the day in question, after taking into account any adjustment required pursuant to clause (1) or (2) of this proviso, the Closing Price for each Trading Day on or after such "ex" date shall be adjusted by adding thereto the amount of any cash and the fair market value (as determined by the Board of Directors in a manner consistent with any determination of such value for purposes of Section 7(d)(iv), (vi) or (vii) whose determination shall be conclusive and described in a Board Resolution) of the evidences of indebtedness, shares of capital stock or assets being distributed applicable to one share of Common Stock as of the close of business on the day before such "ex" date. For purposes of any computation under Sections 7(d)(vi) or (vii), the Current Market Price of the Common Stock on any date shall be deemed to be the average of the daily Closing Prices per share of Common Stock for such day and the next two

succeeding Trading Days; provided, however, that if the "ex" date for any event (other than the tender offer requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 7(d)(i), (ii), (iii), (iv), (v), (vi) or (vii) occurs on or after the Expiration Time or the Tender Expiration Time, as the case may be, for the tender or exchange offer requiring such computation and prior to the day in question, the Closing Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the reciprocal of the fraction by which the Conversion Price is so required to be adjusted as a result of such other event. For purposes of this paragraph, the term "ex" date, (1) when used with respect to any issuance or distribution or Fundamental Change, means the first date on which the Common Stock trades regular way on the relevant exchange or in the relevant market from which the Closing Price was obtained without the right to receive such issuance or distribution, (2) when used with respect to any subdivision or combination of shares of Common Stock, means the first date on which the Common Stock trades regular way on such exchange or in such market after the time at which such subdivision or combination becomes effective, and (3) when used with respect to any tender or exchange offer means the first date on which the Common Stock trades regular way on such exchange or in such market after the Expiration Time or Tender Expiration Time, as the case may be, of such offer. Notwithstanding the foregoing, whenever successive adjustments to the Conversion Price are called for pursuant to this Section 7(d), such adjustments shall be made to the Current Market Price as may be necessary or appropriate to effectuate the intent of this Section 7(d) and to avoid unjust or inequitable results as determined in good faith by the Board of Directors.

(3) "**fair market value**" shall mean the amount which a willing buyer would pay a willing seller in an arm's length transaction.

(4) "**Record Date**" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(5) "**Trading Day**" shall mean (x) if the applicable security is quoted on the Nasdaq National Market, a day on which trades may be made thereon or (y) if the applicable security is listed or admitted for trading on the New York Stock Exchange or another national security exchange, a day on which the New York Stock Exchange or another national security exchange is open for business or (z) if the applicable security is not so listed, admitted for trading or quoted, any day other than a Saturday or Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(ix) The Company may make such reductions in the Conversion Price, in addition to those required by Sections 7(d)(i), (ii), (iii), (iv), (v), (vi) and (vii), as the Board of Directors considers to be advisable to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

(x) To the extent permitted by applicable law, the Company from time to time may make a temporary reduction in the Conversion Price by any amount for any period of time, the reduction is irrevocable during the period and the Board of Directors shall have made a determination that such reduction would be in the best interests of the Company, which determination shall be conclusive and described in a Board Resolution. Whenever the Conversion Price is reduced pursuant to the preceding sentence, the Company shall mail to each holder of the Preferred Stock at his last address

appearing on the Company's stock records a notice of the reduction prior to the date the reduced Conversion Price takes effect, and such notice shall state the reduced Conversion Price and the period during which it will be in effect.

All calculations under Section 7 shall be made by the Company and shall be made to the nearest cent or to the nearest one hundredth of a share, as the case may be. No adjustment need be made for a change in the par value or no par value of the Common Stock.

(xi) Whenever the Conversion Price is adjusted as herein provided, the Company shall promptly file with the Transfer Agent an Officers' Certificate setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Price setting forth the adjusted Conversion Price and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Price to each holder of the Preferred Stock at his last address appearing on the Company's stock records, within ten (10) days of the effective date of such adjustment. Failure to deliver such notice shall not effect the legality or validity of any such adjustment.

(xii) In any case in which this Section 7(d) provides that an adjustment shall become effective immediately after a Record Date for an event, the Company may defer until the occurrence of such event (i) issuing to the holder of any share of Preferred Stock converted after such Record Date and before the occurrence of such event the additional shares of Common Stock issuable upon such conversion by reason of the adjustment required by such event over and above the Common Stock issuable upon such conversion before giving effect to such adjustment and (ii) paying to such holder of Preferred Stock any amount in cash in lieu of any fraction pursuant to Section 7(c).

(xiii) For purposes of this Section 7(d), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. The Company will not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

(e) In the event that the Company shall be a party to any transaction (including, without limitation (i) any recapitalization or reclassification of shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination of Common Stock), (ii) any consolidation of the Company with, or merger of the Company into, any other person, or any merger of another person into the Company (other than a merger that does not result in a reclassification, conversion, exchange or cancellation of Common Stock), (iii) any sale, transfer or lease of all or substantially all of the assets of the Company or (iv) any compulsory share exchange) pursuant to which either shares of Common Stock shall be converted into the right to receive other securities, cash or other property, or, in the case of a sale or transfer of all or substantially all of the assets of the Company, the holders of Common Stock shall be entitled to receive other securities, cash or other property, then appropriate provision shall be made so that the holder of each share of Preferred Stock then outstanding shall have the right thereafter to convert such Preferred Stock only into: (x) in the case of any such transaction that does not constitute a Common Stock Fundamental Change (as defined in Section 7(k)) and subject to funds being legally available for such purpose under applicable law at the time of such conversion, the kind and amount of the securities, cash or other property that would have been receivable upon such recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange by a holder of the number of shares of Common Stock issuable upon conversion of such share of Preferred Stock immediately prior to such recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange, after giving effect, in the case of

any Non-Stock Fundamental Change (as defined in Section 7(k)), to any adjustment in the Conversion Price in accordance with Section 7(i)(i), and (y) in the case of any such transaction that constitutes a Common Stock Fundamental Change, common stock of the kind received by holders of Common Stock as a result of such Common Stock Fundamental Change in an amount determined in accordance with Section 7(i)(ii). The company formed by such consolidation or resulting from such merger or that acquires such assets or that acquires the Company's shares, as the case may be, shall make provision in its certificate or articles of incorporation or other constituent document to establish such right. Such certificate or articles of incorporation or other constituent document shall provide for adjustments that, for events subsequent to the effective date of such certificate or articles of incorporation or other constituent document, shall be as nearly equivalent as may be practicable to the relevant adjustments provided for in this Section 7. The above provisions shall similarly apply to successive transactions of the type described in this Section 7(e).

(f) The issue of stock certificates representing the shares of Common Stock on conversions of the Preferred Stock shall be made without charge to the converting holder of the Preferred Stock for any tax in respect of the issue thereof. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of stock in any name other than the name in which the shares of Preferred Stock with respect to which such shares of Common Stock are issued are registered, and the Company shall not be required to issue or deliver any such stock certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

(g) The Company covenants that all shares of Common Stock which may be delivered upon conversion of shares of Preferred Stock will upon delivery be duly and validly issued and fully paid and non-assessable, free of all liens and charges and not subject to any preemptive rights.

The Company covenants that it will at all times reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued shares of Common Stock or its issued shares of Common Stock held in its treasury, or both, a sufficient number of shares of Common Stock for the purpose of effecting conversions of shares of Preferred Stock not theretofore converted into Common Stock. For purposes of this reservation of Common Stock, the number of shares of Common Stock which shall be deliverable upon the conversion of all outstanding shares of Preferred Stock shall be computed as if at the time of computation all outstanding shares of Preferred stock were held by a single holder. The issuance of shares of Common Stock upon conversion of shares of Preferred Stock is authorized in all respects.

The Company shall from time to time, in accordance with the laws of the State of Delaware, use its best efforts to increase the authorized number of shares of Common Stock if at any time the number of shares of authorized and unissued Common Stock shall not be sufficient to permit the conversion of all the then outstanding shares of Preferred Stock.

Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value, if any, of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Company will take all corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue shares of such Common Stock at such adjusted Conversion Price.

The Company covenants that if any shares of Common Stock to be issued or provided for pursuant to this Certificate hereunder require registration with or approval of any governmental authority under any Federal or State law before such shares may be validly issued or provided for pursuant to this

Certificate, the Company will in good faith and as expeditiously as possible endeavor to secure such registration or approval, as the case may be.

The Company further covenants that if at any time the Common Stock shall be listed on the Nasdaq National Market or any other national securities exchange or automated quotation system the Company will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all Common Stock issuable upon conversion of the Preferred Stock.

(h) In case:

(i) the Company shall declare a dividend (or any other distribution) on its Common Stock (that would require an adjustment in the Conversion Price pursuant to Section 7(d)); or

(ii) the Company shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants; or

(iii) of any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(iv) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

the Company shall cause to be filed with the Transfer Agent and to be mailed to each holder of the Preferred Stock at his address appearing on the Company's stock records, as promptly as possible but in any event at least fifteen (15) days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, 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 or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up.

(i) Notwithstanding any other provisions in this Section 7 to the contrary, if any Fundamental Change (as defined in Section 7(k)) occurs, then the Conversion Price in effect will be adjusted immediately after such Fundamental Change as described below. In addition, in the event of a Common Stock Fundamental Change, shares of Preferred Stock shall thereafter be convertible solely into common stock of the kind received by holders of Common Stock as the result of such Common Stock Fundamental Change.

For purposes of calculating any adjustment to be made pursuant to this Section 7(i) in the event of a Fundamental Change, immediately after such Fundamental Change (and for such purposes a Fundamental Change shall be deemed to occur on the earlier of (a) the occurrence of such Fundamental Change and (b) the date, if any, fixed for determination of stockholders entitled to receive the cash,

securities, property or other assets distributable in such Fundamental Change to holders of the Common Stock):

(i) in the case of a Non-Stock Fundamental Change, the Conversion Price of the Preferred Stock immediately following such Non-Stock Fundamental Change shall be the lower of (A) the Conversion Price in effect immediately prior to such Non-Stock Fundamental Change, but after giving effect to any other prior adjustments effected pursuant to this Section 7, and (B) the product of (1) the greater of the Applicable Price (as defined in Section 7(k)) or $____, and (2) a fraction, the numerator of which is $250 and the denominator of which is (x) the amount of the redemption price for one share of Preferred Stock if the redemption date were the date of such Non-Stock Fundamental Change (or the date of the period commencing on the first date of original issuance of the Preferred Stock and through _____, 2006 or the twelve-month period commencing _____, 2006, the product of ____% and ____%, respectively, times $250) plus (y) any then-accrued and unpaid distributions on one share of Preferred Stock; and

(ii) in the case of a Common Stock Fundamental Change, the Conversion Price of the Preferred Stock immediately following such Common Stock Fundamental Change shall be the Conversion Price in effect immediately prior to such Common Stock Fundamental Change, but after giving effect to any other prior adjustments effected pursuant to this Section 7, multiplied by a fraction, the numerator of which is the Purchaser Stock Price (as defined in Section 7(k)) and the denominator of which is the Applicable Price; provided, however, that in the event of a Common Stock Fundamental Change in which (1) 100% of the value of the consideration received by a holder of Common Stock is common stock of the successor, acquiror or other third party (and cash, if any, paid with respect to any fractional interests in such common stock resulting from such Common Stock Fundamental Change) and (2) all of the Common Stock shall have been exchanged for, converted into or acquired for, common stock of the successor, acquiror or other third party (and any cash with respect to fractional interests), the Conversion Price of the Preferred Stock immediately following such Common Stock Fundamental Change shall be the Conversion Price in effect immediately prior to such Common Stock Fundamental Change multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of shares of common stock of the successor, acquiror or other third party received by a holder of one share of Common Stock as a result of such Common Stock Fundamental Change.

(j) In addition to the Conversion Price adjustments described in Sections 7(i)(i) and 7(i)(ii) above, if a Fundamental Change occurs at any time prior to _____, 2008, and 10% or more of the consideration for the Common Stock in the corporate transaction that constitutes the Fundamental Change consists of cash, securities or other property that is not traded or scheduled to be traded immediately following such transaction on a U.S. national securities exchange or the Nasdaq National Market, the Company will adjust the Conversion Rate by increasing the number of shares of Common Stock issuable upon conversion of the Security by a number of additional shares of Common Stock (the "**Additional Common Stock**") as set forth below. The number of shares of Additional Common Stock will be determined by reference to the table below, based on the date on which such Fundamental Change becomes effective (the "**Effective Date**") and the price (the "**Stock Price**") paid per share for the Common Stock in such Fundamental Change. If Holders of Common Stock receive only cash in the Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Sale Prices of the Common Stock on the five Trading Days prior to but not including the Effective Date of such Fundamental Change.

The Stock Prices and number of shares of Additional Common Stock set forth in the table below will be adjusted as of any date on which the Conversion Price is adjusted. On such date, the Stock Prices shall be adjusted by multiplying:

(i) the Stock Prices applicable immediately prior to such adjustment, by

(ii) a fraction, of which

(1) the numerator shall be the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment, and

(2) the denominator shall be the Conversion Rate as so adjusted.

The number of shares of Additional Common Stock shall be correspondingly adjusted in the same manner as the adjustments described in Section 7(d) above.

The following table sets forth the Stock Price and number of shares of Additional Common Stock issuable per $250 liquidation preference of the Preferred Stock:

	Stock Price										
	$_____	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**	**$_____**
Effective Date											
_____, 2005											
_____, 2006											
_____, 2007											
_____, 2008											

The Stock Prices and Additional Common Stock amounts set forth above are based upon a Common Stock price of $_____ and an initial Conversion Price of $_____.

If the exact Stock Price and Effective Date are not set forth on the table above and the Stock Price is:

(A) between two Stock Prices on the table or the Effective Date is between two dates on the table, the number of shares of Additional Common Stock will be determined by straight-line interpolation between the number of shares of Additional Common Stock set forth for the higher and lower Stock Price and the two Effective Dates, as applicable, based on a 365-day year;

(B) equal to or in excess of $_____ per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion; or

(C) less than $_____ per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion exceed _____ per $250 liquidation preference of Preferred Stock, subject to adjustments in the same manner as the Conversion Price in Section 7(d).

The Company shall provide notice to all Holders and to the Trustee of the adjustment to the Conversion Price to include the Additional Common Stock within two (2) days of the date of

determination of the amount of Additional Common Stock to be received upon conversion. The Company must also provide notice to all Holders and to the Trustee upon the effectiveness of such Fundamental Change. Holders may surrender Preferred Stock for conversion and receive the Additional Common Stock pursuant to this Section at any time from and after the date which is 15 days prior to the anticipated Effective Date of such Fundamental Change until and including the date which is 15 days after the actual Effective Date.

(k) The following definitions shall apply to terms used in this Section 7:

(i) The term "**Applicable Price**" means (1) in the event of a Non-Stock Fundamental Change in which the holders of Common Stock receive only cash, the amount of cash received by a holder of one share of Common Stock and (2) in the event of any other Fundamental Change, the average of the daily Closing Price (determined as provided in Section 7(d)(viii)(1)) for one share of Common Stock during the 10 Trading Days (determined as provided in the Section 7(d)(viii)(5)) immediately prior to the record date for the determination of the holders of Common Stock entitled to receive cash, securities, property or other assets in connection with such Fundamental Change or, if there is no such record date, prior to the date upon which the holders of Common Stock shall have the right to receive such cash, securities, property or other assets. The Closing Price on any Trading Day may be subject to adjustment as provided in Section 7(d)(viii)(2).

(ii) The term "**Common Stock Fundamental Change**" means any Fundamental Change in which more than 50% of the value (as determined in good faith by the Board of Directors of the Company) of the consideration received by holders of Common Stock consists of common stock that, for the 10 Trading Days immediately prior to such Fundamental Change, has been admitted for listing or admitted for listing subject to notice of issuance on a national securities exchange or quoted on Nasdaq National Market, provided, however, that a Fundamental Change shall not be a Common Stock Fundamental Change unless either (1) the Company continues to exist after the occurrence of such Fundamental Change and the outstanding Preferred Stock continues to exist as outstanding Preferred Stock, or (2) not later than the occurrence of such Fundamental Change, the outstanding Preferred Stock is converted into or exchanged for shares of convertible preferred stock, which convertible preferred stock has rights, preferences and limitations substantially similar (but no less favorable) to those of the Preferred Stock.

(iii) The term "**Fundamental Change**" means the occurrence of any transaction or event or series of transactions or events pursuant to which all or substantially all of the Common Stock shall be exchanged for, converted into, acquired for or shall constitute solely the right to receive cash, securities, property or other assets (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization or otherwise); provided, however, in the case of any such series of transactions or events, for purposes of adjustment of the Conversion Price, such Fundamental Change shall be deemed to have occurred when substantially all of the Common Stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets, but the adjustment shall be based upon the consideration that the holders of the Common Stock received in the transaction or event as a result of which more than 50% of the Common Stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets.

(iv) The term "**Non-Stock Fundamental Change**" means any Fundamental Change other than a Common Stock Fundamental Change.

(v) The term "**Purchaser Stock Price**" means, with respect to any Common Stock Fundamental Change, the average of the daily Closing Price for one share of the common stock

received by holders of the Common Stock in such Common Stock Fundamental Change during the 10 Trading Days immediately prior to the date fixed for the determination of the holders of the Common Stock entitled to receive such common stock or, if there is no such date, prior to the date upon which the holders of the Common Stock shall have the right to receive such common stock.

(l) The Company may elect to automatically convert (an "**Automatic Conversion**") some or all of the shares of Preferred Stock if the Closing Price of the Common Stock has exceeded 150% of the Conversion Price for at least 20 Trading Days out of the 30 consecutive Trading Days ending within five Trading Days prior to the delivery to the holders of the notice of automatic conversion (the "**Automatic Conversion Notice**"). If the Company elects to automatically convert fewer than all the outstanding shares of Preferred Stock, shares to be automatically converted shall be selected by the Company from outstanding shares of Preferred Stock by lot or pro rata (as near as may be) or by any other equitable method determined by the Company in its sole discretion.

If the Company elects to automatically convert some or all of the Preferred Stock prior to _____, 2008, the Company will be required to make an additional payment (an "**Additional Payment**") on the Preferred Stock on the Automatic Conversion Date. The Additional Payment with respect to the Preferred Stock subject to Automatic Conversion will be payable in cash, shares of Common Stock or a combination thereof at the Company's option and shall be equal to the total value of the aggregate amount of dividends that would have accrued and become payable on such Preferred Stock from _____, 2005 through and including _____, 2008, less any dividends already paid on the Preferred Stock. On or after _____, 2008, the Company may not elect to automatically convert any or all of the Preferred Stock unless full cumulative dividends on the Preferred Stock for all past dividend payments have been paid or set aside for payment.

In order to effect an Automatic Conversion, the Company shall give to the holder of Preferred Stock to be so converted an Automatic Conversion Notice. Such Automatic Conversion Notice shall state:

(i) the date on which the Preferred Stock identified in the Automatic Conversion Notice will be converted (the "**Automatic Conversion Date**");

(ii) the CUSIP number or numbers of such Preferred Stock;

(iii) the place or places where such Preferred Stock is to be surrendered for exchange of the shares of Common Stock to be issued upon conversion thereof; and

(iv) the Conversion Price at which such Automatic Conversion is to be effected.

In each case where, in respect of any share of Preferred Stock, the Company issues an Automatic Conversion Notice pursuant to which the Automatic Conversion Date is on or prior to _____, 2008, the Automatic Conversion Notice shall also state the amount of the Additional Payment and whether the Additional Payment shall be payable in cash, shares of Common Stock or a combination of cash and shares of Common Stock and, if payable all or in part in Common Stock, the method of calculating the amount of the Common Stock to be delivered upon the Automatic Conversion Date as provided in the next paragraph.

The Company may elect to pay the Additional Payment by delivery of shares of Common Stock if and only if the following conditions shall have been satisfied:

(a) The shares of Common Stock deliverable in payment of the Additional Payment shall have a fair market value as of the Automatic Conversion Date of not less than the Additional Payment. For purposes of this Section, the fair market value of shares of Common Stock shall be determined by the Company and shall be equal to 97.5% of the average of the Closing Prices of the Common Stock for the five consecutive Trading Days immediately preceding the second Trading Day prior to the Automatic Conversion Date;

(b) Payment of the Additional Payment may not be made in Common Stock unless such stock is, or shall have been, approved for quotation on the Nasdaq National Market or listed on a national securities exchange, in either case, prior to the repurchase date; and

(c) All shares of Common Stock which may be issued upon an Automatic Conversion will be issued out of the Company's authorized but unissued Common Stock and, will upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

In connection with the Automatic Conversion, no fractional shares of Common Stock or scrip representing fractional shares shall be issued upon conversion of the Preferred Stock. If any fractional share of stock otherwise would be issuable upon the conversion of the Preferred Stock, the Company shall make a payment therefore in cash to the holder of the Preferred Stock based on the current market value of the Common Stock. The current market value of a share of Common Stock shall be the Closing Price on the first Trading Day immediately preceding the day on which the Preferred Stock (or a specified portion thereof) is deemed to have been converted and such Closing Price shall be determined as provided in Section 7(d)(viii). If more than one share is being automatically converted with respect to the same holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of Preferred Stock held by such holder.

If all of the conditions set forth in this Section are not satisfied in accordance with the terms thereof, the Additional Payment shall be paid by the Company only in cash.

If the Company elects to effect an Automatic Conversion Notice in respect of fewer than all the Preferred Stock, the Automatic Conversion Notices relating to such Automatic Conversion collectively shall identify the amount of Preferred Stock to be converted. In case any Preferred Stock is to be converted in part only, the Automatic Conversion Notice relating thereto shall state the portion of the principal amount thereof to be converted and shall state that on and after the date fixed for conversion, upon surrender of such Preferred Stock, a new certificate of Preferred Stock for the number of shares equal to the portion thereof not converted will be issued. In the case where the Company elects to effect an Automatic Conversion in respect of any portion of the Preferred Stock evidenced by the Global Certificate, the beneficial interests in the Global Certificate to be subject to such Automatic Conversion shall be selected by the Depositary in accordance with the applicable standing procedures of the Depositary's book-entry conversion program, and in connection with such Automatic Conversion the Depositary shall arrange in accordance with such procedures for appropriate endorsements and transfer documents, if required by the Company or the Transfer Agent or conversion agent, and payment of any transfer taxes if required pursuant hereunder.

The Company or, at the request and expense of the Company, the Transfer Agent, shall give to each holder of Preferred Stock to be converted in an Automatic Conversion, at its last address as listed in the Company's stock records or to such other address as the holder shall have designated by notice given

to the Company in accordance with Section 12 hereof, an Automatic Conversion Notice in respect thereof not more than 20 days but not less than 10 days prior to the Automatic Conversion Date for such Automatic Conversion. Such Automatic Conversion Notice shall be irrevocable and shall be mailed by first class mail and, if mailed in the manner herein provided, shall be conclusively presumed to have been given, whether or not the holder receives it. In any case, failure to give such notice or any defect in the notice to the holder of any Preferred Stock designated for Automatic Conversion in whole or in part shall not affect the validity of the proceedings for the Automatic Conversion of any such Preferred Stock. The Company shall also deliver a copy of each Automatic Conversion Notice give by it to the Transfer Agent.

8. **Ranking**. Any class or classes of stock of the Company shall be deemed to rank:

(a) prior to the Preferred Stock, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, if the holders of such class shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in preference or priority to the holders of Preferred Stock.

(b) on a parity with the Preferred Stock, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, Dividend Payment Dates or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, if the holders of such class of stock and the Preferred Stock shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective amounts of accrued and unpaid dividends per share or liquidation prices, without preference or priority of one over the other; and

(c) junior to the Preferred Stock, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holder of Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

9. **Voting Rights**.

(a) The holders of the Preferred Stock will not have any voting rights except as set forth below or as otherwise from time to time required by law. In connection with any right to vote, each holder of the Preferred Stock will have one vote for each share of Preferred Stock held. Any shares of Preferred Stock held by the Company or any entity controlled by the Company shall not have voting rights hereunder and shall not be counted in determining the presence of a quorum.

(b) Whenever dividends on the Preferred Stock or on any outstanding shares of preferred stock ranking on parity as to dividends with the Preferred Stock shall be in arrears in an aggregate amount equal to at least six quarterly dividends (whether or not consecutive), (i) the Company will increase the size of the Board of Directors by two, effective as of the time of election of such directors as hereinafter provided and (ii) the holders of the Preferred Stock (voting separately as a class with the holders of preferred stock ranking on parity as to dividends with the Preferred Stock on which like voting rights have been conferred and are exercisable, without regard to series) will have the exclusive right to vote for and elect such two additional directors of the Company at any meeting of stockholders of the Company at which directors are to be elected held during the period such dividends remain in arrears. The right of the holders of the Preferred Stock to vote for such two additional directors shall terminate automatically when all accrued and unpaid dividends on the Preferred Stock and all other affected classes or series of preferred stock ranking on parity as to dividends with the Preferred Stock have been declared and paid or set apart for payment. The holders of the Preferred Stock voting as a class

shall have the right to remove without cause at any time and replace any directors such holders shall have elected pursuant to this Section 9. If the office of any director elected by the holders of Preferred Stock voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by the holders of Preferred Stock (together with any other series of preferred stock ranking on a parity with the Preferred Stock and upon which like voting rights have been conferred and are exercisable) voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. The term of office of all directors so elected shall terminate immediately upon the termination of the right of the holders of the Preferred Stock to vote for such directors, and the number of directors of the Board of Directors of the Company shall immediately thereafter be reduced by two.

The foregoing right of the holders of the Preferred Stock with respect to the election of two directors may be exercised at any annual meeting of stockholders or at any special meeting of stockholders held for such purpose. If the right to elect directors shall have accrued to the holders of the Preferred Stock more than ninety (90) days preceding the date established for the next annual meeting of stockholders, the President of the Company shall, within twenty (20) days after the delivery to the Company at its principal office of a written request for a special meeting signed by the holders of at least 10% of all outstanding shares of Preferred Stock, call a special meeting of the holders of the Preferred Stock to be held within sixty (60) days after the delivery of such request for the purpose of electing such additional directors.

(c) So long as the Preferred Stock is outstanding, the Company shall not, without the affirmative vote or consent of the holders of at least a majority (unless a higher percentage shall then be required by applicable law) of all outstanding shares of Preferred Stock voting separately as a class with the holders of preferred stock ranking on parity as to dividends with the Preferred Stock on which like voting rights have been conferred and are exercisable, without regard to series, (i) amend, alter or repeal any provision of the Certificate of Incorporation (including, without limitation, these resolutions) or the Bylaws of the Company so as to affect adversely the relative rights, preferences, qualifications, limitations or restrictions of the Preferred Stock, or (ii) create, authorize or issue, or reclassify any authorized stock of the Company into, or increase the authorized amount of, any class or series of the Company's capital stock ranking senior to or on parity with the Preferred Stock as to dividends or as to distributions of assets upon liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, or any obligation or security convertible into shares of such a class or series. In addition, so long as the Preferred Stock is outstanding, the Company shall not, without the affirmative vote or consent of the holders of at least a majority (unless a higher percentage shall then be required by applicable law) of all outstanding shares of Preferred Stock voting separately as a class with the holders of preferred stock ranking on parity as to dividends with the Preferred Stock on which like voting rights have been conferred and are exercisable, without regard to series, enter into a share exchange pursuant to which the Preferred Stock would be exchanged for any other securities or merge or consolidate with or into any other person or permit any other person to merge or consolidate with or into the Company, unless in such case each share of Preferred Stock shall remain outstanding or unaffected or shall be converted into or exchanged for convertible exchangeable preferred stock of the surviving entity having voting rights, preferences, limitations or special rights thereof substantially similar (but no less favorable) to a share of Preferred Stock except for changes that do not affect the holders of the Preferred Stock adversely. A class vote on the part of the Preferred Stock shall, without limitation, specifically not be deemed to be required (except as otherwise required by law or resolution of the Company's Board of Directors) in connection with (a) the authorization, issuance or increase in the authorized amount of any shares of capital stock ranking junior to the Preferred Stock both as to the payment of dividends and as to distribution of assets upon liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, when and if issued, including Common Stock; or (b) the authorization, issuance or increase in the amount of any

bonds, mortgages, debentures or other obligations of the Company (other than those that may be covered by clause (ii) of the preceding sentence).

The holders of Preferred Stock shall also be entitled to vote on certain amendments or supplements to the Indenture establishing the Debentures, for which the Preferred Stock may be exchanged, as described in Section 10 hereof, and provided in Article XI of such Indenture.

10. **Exchange**.

(a) The Preferred Stock shall be exchangeable, in whole but not in part, at the option of the Company on any Dividend Payment Date beginning _____, 2006, for the Debentures at the rate of $250 principal amount of Debentures for each share of Preferred Stock outstanding at the time of exchange; provided that the Debentures will be issuable in denominations of $1,000 and integral multiples thereof. If the exchange results in an amount of Debentures that is not an integral multiple of $1,000, the amount in excess of the closest integral multiple of $1,000 will be paid in cash by the Company.

(b) The Company will mail to each record holder of the Preferred Stock written notice of its intention to exchange the Preferred Stock for the Debentures no less than 30 nor more than 60 days prior to the date of the exchange (the "**Exchange Date**"). The notice shall specify the Exchange Date, the place or places where certificates for shares of the Preferred Stock are to be surrendered for Debentures and shall state that dividends on Preferred Stock will cease to accrue on and after the Exchange Date.

(c) If the Company has caused the Debentures to be authenticated on or prior to the Exchange Date and has complied with the other provisions of this Section 10, then, notwithstanding that any certificates for shares of Preferred Stock have not been surrendered for exchange, on the Exchange Date dividends shall cease to accrue on the Preferred Stock and at the close of business on the Exchange Date the holders of the Preferred Stock shall cease to be stockholders with respect to the Preferred Stock and shall have no interest in or other claims against the Company by virtue thereof and shall have no voting or other rights with respect to the Preferred Stock, except the right to receive the Debentures issuable upon such exchange and the right to accumulated and unpaid dividends, without interest thereon, upon surrender (and endorsement, if required by the Company) of their certificates, and the shares evidenced thereby shall no longer be deemed outstanding for any purpose. The Company will cause the Debentures to be authenticated on or before the Exchange Date, and the Company will pay interest on the Debentures at the rate and on the dates specified in such Indenture from and after the Exchange Date.

(d) Notwithstanding the foregoing, if notice of exchange has been given pursuant to this Section 10 and any holder of shares of Preferred Stock shall, prior to the close of business on the Exchange Date, give written notice to the Company pursuant to Section 7 of the conversion of any or all of the shares held by the holder (accompanied by a certificate or certificates for such shares, duly endorsed or assigned to the Company), then the exchange shall not become effective as to the shares to be converted and the conversion shall become effective as provided in Section 7.

(e) The Debentures will be delivered to the persons entitled thereto upon surrender to the Company or its agent appointed for that purpose of the certificates for the shares of Preferred Stock being exchanged therefor.

(f) Notwithstanding the other provisions of this Section 10, if on the Exchange Date the Company has not paid full cumulative dividends on the Preferred Stock (or set aside a sum therefor) or an Event of Default under the Indenture shall have occurred and be continuing, the Company may not

exchange the Preferred Stock for the Debentures and any notice previously given pursuant to this Section 10 shall be of no effect.

(g) Prior to the Exchange Date, the Company will comply with any applicable securities and blue sky laws with respect to the exchange of the Preferred Stock for the Debentures.

(h) Dividends with respect to the shares of Preferred Stock to be exchanged which are due on the quarterly Dividend Payment Date on which the exchange is effected will be mailed to holders in the regular course.

11. **Record Holders**. The Company and the Transfer Agent may deem and treat the record holder of any shares of Preferred Stock as the true and lawful owner thereof for all purposes and neither the Company nor the Transfer Agent shall be affected by any notice to the contrary.

12. **Notice**. Except as may otherwise be provided for herein, all notices referred to herein shall be in writing, and all notices hereunder shall be deemed to have been given upon receipt, in the case of a notice of conversion given to the Company as contemplated in Section 7(b) hereof, or, in all other cases, upon the earlier of receipt of such notice or three Business Days after the mailing of such notice if sent by registered mail (unless first-class mail shall be specifically permitted for such notice under the terms of this resolution) with postage prepaid, addressed, if to the Company, to its offices at 413 Pine Street, Suite 500, Seattle, WA 98101 (Attention: Ethan A. Caldwell) or to an agent of the Company designated as permitted by this certificate, or, if to any holder of the Preferred Stock, to such holder at the address of such holder of the Preferred Stock as listed in the Company's stock records or to such other address as the Company or holder, as the case may be, shall have designated by notice similarly given.

13. **Global Preferred Stock**. So long as the shares of Preferred Stock are eligible for book-entry settlement with the Depositary, or unless otherwise required by law, all shares of Preferred Stock that are so eligible may be represented by a Preferred Stock certificate in global form (the "**Global Certificate**") registered in the name of the Depositary or the nominee of the Depositary, except as otherwise specified below. The transfer and exchange of beneficial interests in the Global Certificate shall be effected through the Depositary in accordance with this Certificate and the procedures of the Depositary therefor.

The Shares of Preferred Stock will initially be represented by one or more Global Certificates. Transfers of interests in a Global Certificate will be made in accordance with the standing instructions and procedures of the Depository and its participants. The Transfer Agent shall make appropriate endorsements to reflect increases or decreases in the Global Certificate as set forth on the face of the Global Certificate to reflect any such transfers.

Except as provided below, beneficial owners of an interest in a Global Certificate shall not be entitled to have certificates registered in their names, will not receive or be entitled to receive physical delivery of certificates in definitive form and will not be considered holders of such Global Certificates.

Notwithstanding any other provisions of this Certificate (other than the provisions set forth in this Section 13(c)), a Global Certificate may not be transferred as a whole except by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee to a successor Depositary or a nominee of such successor Depositary.

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depositary with respect to the Global

Certificates. Initially, the Global Certificate shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with a custodian for Cede & Co.

If at any time the Depositary for a Global Certificate notifies the Company that it is unwilling or unable to continue as Depositary for such Global Certificate, the Company may appoint a successor Depositary with respect to such Global Certificate. If a successor Depositary for the Preferred Stock is not appointed by the Company within 90 days after the Company receives such notice, the Company will execute, and the Transfer Agent will authenticate and deliver, Preferred Stock in certificated form, in an aggregate principal amount equal to the principal amount of the Global Certificate, in exchange for such Global Certificate.

Preferred Stock in definitive form issued in exchange for all or a part of a Global Certificate pursuant to this Section 13 shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Transfer Agent. Upon execution and authentication, the Transfer Agent shall deliver such Preferred Stock in certificated form to the Persons in whose names such Preferred Stock in definitive form are so registered.

At such time as all interests in a Global Certificate have been redeemed, converted, exchanged, repurchased or canceled for Preferred Stock in definitive form, or transferred to a transferee who receives Preferred Stock in definitive form, such Global Certificate shall be, upon receipt thereof, canceled by the Transfer Agent in accordance with standing procedures and instructions existing between the custodian and Depositary. At any time prior to such cancellation, if any interest in a Global Certificate is exchanged for Preferred Stock in certificated form, redeemed, converted, exchanged, repurchased by the Company or canceled, or transferred for part of a Global Certificate, the principal amount of such Global Certificate shall, in accordance with the standing procedures and instructions existing between the custodian and the Depositary, be reduced or increased, as the case may be, and an endorsement shall be made on such Global Certificate, by the Transfer Agent or the custodian, at the direction of the Transfer Agent, to reflect such reduction or increase.

14. **Form of Notice of Conversion; Form of Assignment**.

(a) The following is the form of Conversion Notice to be set forth on the reverse of the Preferred Stock certificate:

[FORM OF CONVERSION NOTICE]

CONVERSION NOTICE

To: _____

The undersigned registered owner of the Preferred Stock hereby irrevocably exercises the option to convert the Preferred Stock, or the portion hereof below designated, into shares of Class B Common Stock in accordance with the terms of the Certificate of Designation, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Preferred Stock representing any unconverted amount of shares hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares or any portion of the Preferred Stock not converted are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

_____
Signature(s)

_____
Signature Guarantee

_____
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Class B Common Stock are to be issued, or Preferred Stock to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Preferred Stock if to be delivered, other than to and in the name of the registered holder:

_____
Name

_____
Street Address

_____
City, State and Zip Code

Number of Shares to be converted (if less than all):
_____

Social Security or other Taxpayer Identification Number
_____

(b) The following is the form of Assignment to be set forth on the reverse of the Preferred Stock certificate:

[FORM OF ASSIGNMENT]

ASSIGNMENT

For value received, _____ hereby sell(s), assign(s) and transfer(s) unto _____
_____

PLEASE INSERT SOCIAL SECURITY OR
TAXPAYER IDENTIFICATION NUMBER OF ASSIGNEE

_____

the Preferred Stock, and hereby irrevocably constitutes and appoints _____

_____

_____ attorney to transfer the said Preferred Stock on the books of the Company with full power of substitution in the premises.

Unless the appropriate box below is checked, the undersigned confirms that such Preferred Stock is not being transferred to the Company or an "affiliate" of the Company as defined in Rule 144 under the Securities Act of 1933, as amended (an "Affiliate").

☐ The transferee is an Affiliate of the Company

☐ The transferee is the Company

Dated: _____

_____
Signature(s)

Signature Guarantee:

_____

_____
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Preferred Stock to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the conversion notice, or the assignment must correspond with the name as written upon the face of the Preferred Stock in every particular without alteration or enlargement or any change whatever.

IN WITNESS WHEREOF, the Company has caused this certificate to be signed and attested this __ day of _____, 2005.

MARCHEX, INC.

By: _____
Name: Russell C. Horowitz
Title: Chief Executive Officer

Attest:

_____
Name: Ethan A. Caldwell
Title: Secretary

PREFERRED STOCK **PREFERRED STOCK**

NUMBER **SHARES**

[MARCHEX LOGO]

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE

SEE REVERSE FOR CERTAIN DEFINITIONS

CUSIP 56624R 30 6

THIS CERTIFIES THAT [NAME]

is the record holder of [NUMBER]

FULLY PAID AND NONASSESSABLE SHARES OF % CONVERTIBLE EXCHANGEABLE PREFERRED STOCK, PAR VALUE $0.01 PER SHARE, OF

MARCHEX, INC.

transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned by the Transfer Agent and Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

/s/ ETHAN A. CALDWELL [SEAL] /s/ RUSSELL C. HOROWITZ

Secretary Chairman and Chief Executive Officer

COUNTERSIGNED AND REGISTERED:
MELLON INVESTOR SERVICES LLC
Transfer Agent and Registrar,

By: _____
Authorized Signature

MARCHEX, INC.

THE CORPORATION WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS A STATEMENT OF THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF OF THE CORPORATION, AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS, INCLUDING, WITHOUT LIMITATION, A COPY OF THE CERTIFICATE OF DESIGNATIONS RELATED THERETO. SUCH REQUEST MAY BE MADE TO THE CORPORATION OR THE TRANSFER AGENT.

CONVERSION NOTICE

To: _____

The undersigned registered owner of the Preferred Stock hereby irrevocably exercises the option to convert the Preferred Stock, or the portion hereof below designated, into shares of Class B Common Stock in accordance with the terms of the Certificate of Designation, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Preferred Stock representing any unconverted amount of shares hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares or any portion of the Preferred Stock not converted are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

_____
Signatures(s)

_____
Signature Guarantee

_____
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Class B Common Stock are to be issued, or Preferred Stock to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Preferred Stock if to be delivered, other than to and in the name of the registered holder:

_____
Name

_____
Street Address

_____
City, State and Zip Code

Number of Shares to be converted (if less than all):

_____

Social Security or other Taxpayer Identification Number

_____

ASSIGNMENT

For value received, _____ hereby sell(s), assign(s) and transfer(s) unto

_____

_____

PLEASE INSERT SOCIAL SECURITY OR
TAXPAYER IDENTIFICATION NUMBER OF ASSIGNEE

_____

the Preferred Stock, and hereby irrevocably constitutes and
appoints_____

_____

_____ attorney to transfer the said Preferred Stock on the books of the Company with full power of substitution in the premises.

Unless the appropriate box below is checked, the undersigned confirms that such Preferred Stock is not being transferred to the Company or an "affiliate" of the Company as defined in Rule 144 under the Securities Act of 1933, as amended (an "Affiliate").

☐ The transferee is an Affiliate of the Company

☐ The transferee is the Company

Dated: _____ _____

Signatures(s)

Signature Guarantee:

_____ _____

NOTICE: The signature on the conversion notice, or the assignment must correspond with the name as written upon the face of the Preferred Stock in every particular without alteration or enlargement or any change whatever.

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Preferred Stock to be delivered, other than to and in the name of the registered holder.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM- as tenants in common

TEN ENT- as tenants by the entireties

JT TEN- as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT- _____ Custodian _____
(Cust) (Minor)
under Uniform Gifts to Minors Act _____
(State)

UNIF TRF MIN ACT- _____ Custodian (until age ____)
(Cust)
_____ under Uniform Transfers to Minors
(Minor)
Act _____
(State)

Additional abbreviations may also be used though not in the above list.

Exhibit 4.5

MARCHEX, INC.

AND

U.S. BANK NATIONAL ASSOCIATION

as Trustee

INDENTURE

Dated as of _____, 2005

_____% Convertible Subordinated Debentures

CROSS REFERENCE SHEET*

Between

Reconciliation and Tie between provisions of the Trust Indenture Act of 1939 and Indenture, dated as of _____, 2005, between Marchex, Inc. and U.S. Bank National Association, as Trustee:

Section of the Act	Section of Indenture
310(a)(1) and (2)	8.9
310(a)(3) and (4)	Inapplicable
310(b)	8.8 and 8.10(b) and (d)
310(c)	Inapplicable
311(a)	8.13
311(b)	8.13
311(c)	Inapplicable
312(a)	6.1 and 6.2(a)
312(b)	6.2(b)
312(c)	6.2(c)
313(a)	6.3(a)
313(b)(1)	Inapplicable
313(b)(2)	6.3(a)
313(c)	6.3(a)
313(d)	6.3(b)
314(a)	6.4
314(b)	Inapplicable
314(c)(1) and (2)	16.5
314(c)(3)	Inapplicable
314(d)	Inapplicable
314(e)	16.5
314(f)	Inapplicable
315(a), (c) and (d)	8.1
315(b)	7.8
315(e)	7.9
316(a)(1)	7.7
316(a)(2)	Not required
316(a)(last sentence)	9.4
316(b)	11.2
317(a)	7.2
317(b)	5.4 and 13.2
318(a)	16.8

* This Cross Reference Sheet is not part of the Indenture.

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INDENTURE, dated as of _____, 2005, between Marchex, Inc., a Delaware corporation (hereinafter sometimes called the "Company," as more fully set forth in Section 1.1), and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States, as trustee (the "Trustee").

W I T N E S S E T H:

RECITALS OF THE COMPANY

The Company has duly authorized the creation and issuance of its _____% Convertible Subordinated Debentures of substantially the tenor and amount hereinafter set forth, and to provide therefor the Company has duly authorized the execution and delivery of this Indenture.

All things necessary to make the Debentures, when the Debentures are executed by the Company and authenticated and delivered hereunder, the valid obligations of the Company, and to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done. Further, all things necessary to duly authorize the issuance of the Common Stock of the Company issuable upon the conversion of the Debentures, and to duly reserve for issuance the number of shares of Common Stock issuable upon such conversion, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Debentures are to be authenticated, issued and delivered, it is mutually covenanted and agreed, for the equal and proportionate benefit of all holders of the Debentures, as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Each of the terms defined in this Section 1.1 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.1. Each of the terms used in this Indenture, which are defined in the Trust Indenture Act or which are by reference therein defined in the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires) shall have the meanings assigned to such term in said Trust Indenture Act and in said Securities Act as in force at the date of the execution of this Indenture. The words "herein," "hereof," "hereunder," and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other Subdivision. The terms defined in this Article include the plural as well as the singular.

Additional Common Stock: The term "Additional Common Stock" shall have the meaning specified in Section 15.11(b).

Additional Payment: The term "Additional Payment" shall have the meaning specified in Section 15.12.

Affiliate: The term "Affiliate" of any specified person shall mean any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person.

For the purposes of this definition, “control,” when used with respect to any specified person means the power to direct or cause the direction of the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

Applicable Price: The term “Applicable Price” shall have the meaning specified in Section 15.11(c).

Automatic Conversion: The term “Automatic Conversion” shall have the meaning specified in Section 15.12.

Automatic Conversion Date: The term “Automatic Conversion Date” shall have the meaning specified in Section 15.12.

Automatic Conversion Notice: The term “Automatic Conversion Notice” shall have the meaning specified in Section 15.12.

Board of Directors: The term “Board of Directors” shall mean the Board of Directors of the Company or a committee of such Board duly authorized to act for it hereunder.

Board Resolution: The term “Board Resolution” shall mean a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

Business Day: The term “Business Day” shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which the banking institutions in The City of New York or the city in which the Corporate Trust Office is located are authorized or obligated by law or executive order to close or be closed.

Closing Price: The term “Closing Price” shall have the meaning specified in Section 15.5(h)(1).

Commission: The term “Commission” shall mean the Securities and Exchange Commission.

Common Equity: The term “Common Equity” shall mean both the Company’s Common Stock and the class of capital stock of the Company designated as Class A Common Stock, par value $0.01 per share, at the date hereof, including shares of such class or shares of any class or classes resulting from any reclassification or reclassifications thereof.

Common Stock: The term “Common Stock” shall mean the class of capital stock of the Company designated as Class B common stock, par value $0.01 per share, at the date hereof. Subject to the provisions of Section 15.6, however, shares issuable on conversion of Debentures shall include only shares of the class designated as common stock of the Company at the date of this Indenture or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which are not subject to redemption by the Company; provided that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

Common Stock Fundamental Change: The term "Common Stock Fundamental Change" shall have the meaning specified in Section 15.11(c).

Company: The term "Company" shall mean Marchex, Inc., a Delaware corporation, and subject to the provisions of Article XII, shall include its successors and assigns.

Conversion Price: The term "Conversion Price" shall have the meaning specified in Section 15.4 and shall be adjusted, without limitation, as a result of any adjustment to the Conversion Rate pursuant to Section 15.11(b) hereof.

Conversion Rate: The term "Conversion Rate" shall mean $1,000 divided by the Conversion Price.

Corporate Trust Office: The term "Corporate Trust Office," or other similar term, shall mean the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office is, at the date as of which this Indenture is dated, located at 1420 Fifth Avenue, 7th Floor, PD-WA-T7CT, Seattle, WA 98101, Attention: Corporate Trust Department (Marchex, Inc., _____% Convertible Subordinated Debentures).

Current Market Price: The term "Current Market Price" shall have the meaning specified in Section 15.5(h)(2).

Custodian: The term "Custodian" shall mean U.S. Bank National Association, as custodian with respect to the Debentures in global form, or any successor entity thereto.

Debenture or Debentures: The terms "Debenture" or "Debentures" shall mean any Debenture or Debentures, as the case may be, authenticated and delivered under this Indenture.

Debentureholder; holder: The terms "Debentureholder" or "holder" as applied to any Debenture, or other similar terms (but excluding the term "beneficial holder"), shall mean any person in whose name at the time a particular Debenture is registered on the Debenture register.

Debenture register: The term "Debenture register" shall have the meaning specified in Section 2.5.

default: The term "default" shall mean any event that is, or after notice or passage of time, or both, would be, an Event of Default.

Defaulted Interest: The term "Defaulted Interest" shall have the meaning specified in Section 2.3.

Depositary: The term "Depositary" shall mean, with respect to the Debentures issuable or issued in whole or in part in global form, the person specified in Section 2.5(c) as the Depositary with respect to such Debentures, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, "Depositary" shall mean or include such successor.

Designated Senior Indebtedness: The term "Designated Senior Indebtedness" shall mean any particular Senior Indebtedness in which the instrument creating or evidencing the same or the assumption or guarantee thereof (or related agreements or documents to which the Company is a party) expressly provides that such Senior Indebtedness shall be "Designated Senior Indebtedness" for purposes of this Indenture (provided that such instrument, agreement or other document may place limitations and conditions on the right of such Senior Indebtedness to exercise the rights of Designated Senior Indebtedness).

Effective Date: The term "Effective Date" shall have the meaning specified in Section 15.11(b).

Event of Default: The term "Event of Default" shall mean any event specified in Section 7.1 continued for the period of time, if any, and after the giving of notice, if any, therein designated.

Exchange Act: The term "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

Exchange Date: The term "Exchange Date" shall mean the date on which the Debentures are issued in exchange for all of the outstanding shares of Preferred Stock.

Expiration Time: The term "Expiration Time shall have the meaning specified in Section 15.5(f).

Fair Market Value: The term "Fair Market Value" shall have the meaning specified in Section 15.5(h)(3).

Fundamental Change: The term "Fundamental Change" shall have the meaning specified in Section 15.11(c).

Global Debenture: The term "Global Debenture" shall have the meaning specified in Section 2.5(b).

Indebtedness: The term "Indebtedness" shall mean, with respect to any person, all obligations, whether or not contingent, of such person (i) (a) for borrowed money, whether or not evidenced by a note, debenture, bond, or other written instrument, (b) evidenced by a note, debenture, bond or other written instrument, (c) under a lease required to be capitalized on the balance sheet of the lessee under generally accepted accounting principles or under any lease or related document (including a purchase agreement) that provides that the Company is contractually obligated to purchase or cause a third party to purchase and thereby guarantee a minimum residual value of the lease property to the lessor and the obligations of the Company under such lease or related document to purchase or to cause a third party to purchase such leased property, (d) in respect of letters of credit, bank guarantees or bankers' acceptances (including reimbursement obligations with respect to any of the foregoing), (e) with respect to Indebtedness secured by a mortgage, pledge, lien, encumbrance, charge or adverse claim affecting title in an encumbrance to which the property or assets of such person are subject, whether or not the obligation secured thereby shall have been assumed by or shall otherwise be such person's legal liability, (f) in respect of the balance of deferred and unpaid purchase price of any property or assets, (g) under interest rate or currency swap agreements, cap, floor and collar agreements, spot and forward contracts and similar agreements and arrangements; (ii) with respect to any obligation of others of the type described in the preceding clause (i) or under clause (iii) below assumed by or guaranteed in any manner by such person or in effect guaranteed by such person through an agreement to purchase (including, without limitation, "take or pay" and similar arrangements), contingent or otherwise (and the obligations of such person under any such assumptions, guarantees or other such arrangements); and (iii) any and all deferrals, renewals, extensions, refinancings and refundings of, or amendments, modifications or supplements to, any of the foregoing.

Indenture: The term "Indenture" shall mean this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

Measurement Period: The term "Measurement Period" shall have the meaning specified in Section 15.5(d).

Non-Stock Fundamental Change: The term "Non-Stock Fundamental Change" shall have the meaning specified in Section 15.11(c).

Officers' Certificate: The term "Officers' Certificate", when used with respect to the Company, shall mean a certificate signed by (a) one of the President, the Chief Executive Officer, any Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word added before or after the title "Vice President") and (b) one of the Treasurer or any Assistant Treasurer, or Secretary or any Assistant Secretary of the Company, which is delivered to the Trustee. Each such certificate shall include the statements provided for in Section 16.5 if and to the extent required by the provisions of such Section.

Opinion of Counsel: The term "Opinion of Counsel" shall mean an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, or other counsel acceptable to the Trustee, which is delivered to the Trustee. Each such opinion shall include the statements provided for in Section 16.5 if and to the extent required by the provisions of such Section.

Outstanding: The term "outstanding," when used with reference to Debentures, shall, subject to the provisions of Section 9.4, mean, as of any particular time, all Debentures authenticated and delivered by the Trustee under this Indenture, except

(a) Debentures theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(b) Debentures, or portions thereof, for the payment, or redemption of which monies in the necessary amount shall have been deposited in trust pursuant hereto with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own paying agent); provided that if such Debentures are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Section 3.2, or provision satisfactory to the Trustee shall have been made for giving such notice;

(c) Debentures in lieu of which, or in substitution for which, other Debentures shall have been authenticated and delivered pursuant to the terms of Section 2.6 unless proof satisfactory to the Trustee is presented that any such Debentures are held by bona fide holders in due course; and

(d) Debentures converted into Common Stock pursuant to Article XV and Debentures deemed not outstanding pursuant to Section 3.2.

Payment Blockage Notice: The term "Payment Blockage Notice" shall have the meaning specified in Section 4.2.

Person: The term "person" shall mean a corporation, a limited liability company, an association, a partnership, an individual, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

Predecessor Debenture: The term "Predecessor Debenture" of any particular Debenture shall mean every previous Debenture evidencing all or a portion of the same debt as that evidenced by such particular Debenture; and, for the purposes of this definition, any Debenture authenticated and delivered under Section 2.6 in lieu of a lost, destroyed or stolen Debenture shall be deemed to evidence the same debt as the lost, destroyed or stolen Debenture that it replaces.

Preferred Stock: The term "Preferred Stock" shall mean the _____% Convertible Exchangeable Preferred Stock, par value $0.01 per share, of the Company.

Purchased Shares: The term "Purchased Shares" shall have the meaning specified in Section 15.5(f).

Purchaser Stock Price: The term "Purchaser Stock Price" shall have the meaning specified in Section 15.11(c).

Record Date: The term "Record Date" shall have the meaning specified in Section 15.5(h)(4).

Reference Period: The term "Reference Period" shall have the meaning specified in Section 15.5(d).

Representative: The term "Representative" shall mean (a) the indenture trustee or other trustee, agent or representative for any Senior Indebtedness or (b) with respect to any Senior Indebtedness that does not have any such trustee, agent or other representative, (i) in the case of such Senior Indebtedness issued pursuant to an agreement providing for voting arrangements as among the holders or owners of such Senior Indebtedness, any holder or owner of such Senior Indebtedness acting with the consent of the required persons necessary to bind such holders or owners of such Senior Indebtedness and (ii) in the case of all other such Senior Indebtedness, the holder or owner of such Senior Indebtedness.

Responsible Officer: The term "Responsible Officer," when used with respect to the Trustee, shall mean an officer of the Trustee assigned to the Corporate Trust Office, and any officer of the Trustee to whom such matter is referred to because of his knowledge of and familiarity with the particular subject.

Rights Plan: The term "Rights Plan" shall have the meaning specified in Section 15.5(d).

Securities: The term "Securities" shall have the meaning specified in Section 15.5(d).

Securities Act: The term "Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

Senior Indebtedness: The term "Senior Indebtedness" shall mean the principal of, premium, if any, interest on, rent under, and any other amounts payable on or in respect of any Indebtedness of the Company (including, without limitation, any interest accruing after the filing of a petition by or against the Company under any bankruptcy law, whether or not allowed as a claim after such filing in any proceeding under such bankruptcy law), whether outstanding on the date of this Indenture or thereafter created, incurred, assumed, guaranteed or in effect guaranteed by the Company (including all deferrals, renewals, extensions or refundings of, or amendments, modifications or supplements to the foregoing); provided, however, that Senior Indebtedness does not include (v) Indebtedness evidenced by the Debentures, (w) any liability for federal, state, local or other taxes owed or owing by the Company, (x) Indebtedness of the Company to any Subsidiary, (y) any trade payables of the Company incurred in the ordinary course of business, and (z) any Indebtedness in which the instrument creating or evidencing the same or the assumption or guarantee thereof (or related agreements or documents to which the Company is a party) expressly provides that such Indebtedness shall not be senior in right of payment to, or is pari passu with, or is subordinated or junior to, the Debentures.

Spin-off: The term "Spin-off" shall have the meaning specified in Section 15.5(d).

Stock Price: The term "Stock Price" shall have the meaning specified in Section 15.11(b).

Subsidiary: The term "Subsidiary" shall mean a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For the purposes of this definition, "voting stock" means stock which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

Tender Expiration Time: The term "Tender Expiration Time" shall have the meaning specified in Section 15.5(g).

Tender Purchased Shares: The term "Tender Purchased Shares" shall have the meaning specified in Section 15.5(g).

Trading Day: The term "Trading Day" shall have the meaning specified in Section 15.5(h)(5).

Trigger Event: The term "Trigger Event" shall have the meaning specified in Section 15.5(d).

Trust Indenture Act: The term "Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended, as it was in force at the date of execution of this Indenture, except as provided in Sections 11.3 and 15.6; provided, however, that in the event the Trust Indenture Act of 1939 is amended after the date hereof, the term "Trust Indenture Act" shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939 as so amended.

Trustee: The term "Trustee" shall mean U.S. Bank National Association and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

Underwriters: The term "Underwriters" shall mean Piper Jaffray & Co., RBC Capital Markets and Thomas Weisel Partners LLC.

ARTICLE II

ISSUE, DESCRIPTION, EXECUTION, REGISTRATION AND EXCHANGE OF DEBENTURES

Section 2.1 Designation, Amount and Issue of Debentures. The Debentures shall be designated as "_____% Convertible Subordinated Debentures." The aggregate principal amount of Debentures which may be authenticated and delivered under this Indenture is unlimited. Debentures may be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver said Debentures upon the written order of the Company, signed by the Company's (a) President, Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word or words added before or after the title "Vice President") and (b) Treasurer or Assistant Treasurer or its Secretary or any Assistant Secretary, without any further action by the Company hereunder, provided, however that said Debentures may not be executed, delivered or authenticated unless and until (i) the Company may legally issue said Debentures in accordance with the Delaware General Corporation Law, as amended, and (ii) the Trustee shall have received an Officer's Certificate and Opinion of Counsel in accordance with Section 16.5. The Debentures may only be issued upon the exchange of all outstanding Preferred Stock (and the Officers' Certificate furnished pursuant to Section 16.5 shall state that the Company

has complied with this restriction), and thereafter may be issued in connection with any reopening of the Debentures.

Section 2.2 Form of Debentures. The Debentures and the Trustee's certificate of authentication to be borne by such Debentures shall be substantially in the form set forth in Exhibit A, which is incorporated in and made a part of this Indenture.

Any of the Debentures may have such letters, numbers or other marks of identification and such notations, legends and endorsements as the officers executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Debentures may be listed or designated for issuance, or to conform to usage.

Any Global Debenture shall represent such of the outstanding Debentures as shall be specified therein and shall provide that it shall represent the aggregate amount of outstanding Debentures from time to time endorsed thereon and that the aggregate amount of outstanding Debentures represented thereby may from time to time be increased or reduced to reflect transfers or exchanges permitted hereby. Any endorsement of a Global Debenture to reflect the amount of any increase or decrease in the amount of outstanding Debentures represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the holder of such Debentures in accordance with this Indenture.

Payment of principal of and interest and premium, if any (including any redemption price), on any Global Debenture shall be made to the holder of such Debenture.

The terms and provisions contained in the form of Debenture attached as Exhibit A hereto shall constitute, and are hereby expressly made, a part of this Indenture and to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

Section 2.3 Date and Denomination of Debentures; Maturity; Payments of Interest. The Debentures shall be issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. Every Debenture shall be dated the date of its authentication and, except as provided in this Section, shall bear interest, payable semiannually on _____ and _____ of each year, commencing on the first such date after the Exchange Date, from the most recent date to which interest has been paid or duly provided for, or if no interest has been paid or duly provided for on the Debentures, from the Exchange Date, until payment of the principal sum has been made or fully provided for. The Debentures will mature on the twenty-five (25) year anniversary of the Exchange Date, unless earlier converted or redeemed. Notwithstanding the foregoing, when there is no existing default in the payment of interest on the Debentures, all Debentures authenticated by the Trustee after the close of business on the record date (as defined in this Section 2.3) for any interest payment date (_____ or _____, as the case may be) and prior to such interest payment date shall be dated the date of authentication but shall bear interest from such interest payment date, provided, however, that if and to the extent that the Company shall default in interest due on such interest payment date then any such Debenture shall bear interest from the _____ or the _____, as the case may be, immediately preceding the date of such Debenture to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for on the Debentures, from the Exchange Date.

The person in whose name any Debenture (or its Predecessor Debenture) is registered at the close of business on any record date with respect to any interest payment date (including any Debenture that is converted after the record date and on or before the interest payment date) shall be entitled to receive the interest payable on such interest payment date notwithstanding the cancellation of such Debenture upon any transfer, exchange or conversion subsequent to the record date and on or prior to such interest payment date. Interest may, at the option of the Company, be paid by check mailed to the address of such person on the registry kept for such purposes; provided that, with respect to any holder of Debentures with an aggregate principal amount equal to or in excess of $2,000,000, at the request of such holder in writing to the Company, interest on such holder's Debentures shall be paid by wire transfer in immediately available funds in accordance with the wire transfer instruction supplied by such holder to the Trustee and paying agent (if different from Trustee). Interest payable with respect to Debentures held in the form of a Global Debenture shall be paid to the Depositary by wire transfer in immediately available funds in accordance with the applicable procedures of the Depositary. The term "record date" with respect to any interest payment date shall mean the _____ or _____ preceding said _____ or _____.

Interest on the Debentures shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

Any interest on any Debenture which is payable, but is not punctually paid or duly provided for, on any said _____ or _____ (herein called "Defaulted Interest") shall forthwith cease to be payable to the Debentureholder on the relevant record date by virtue of his having been such Debentureholder; and such Defaulted Interest shall be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the persons in whose names the Debentures (or their respective Predecessor Debentures) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest to be paid on each Debenture and the date of the payment (which shall be not less than twenty-five (25) days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall be not more than fifteen (15) days and not less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first-class postage prepaid, to each Debentureholder as of such special record date at his address as it appears in the Debenture register, not less than ten (10) days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been so mailed, such Defaulted Interest shall be paid to the persons in whose names the Debentures (or their respective Predecessor Debentures) were registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation

system on which the Debentures may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Section 2.4 Execution of Debentures. The Debentures shall be signed in the name and on behalf of the Company by the facsimile signature of its President, its Chief Executive Officer, any of its Executive or Senior Vice Presidents, or any of its Vice Presidents (whether or not designated by a number or numbers or word or words added before or after the title "Vice President") and attested by the manual or facsimile signature of its Secretary or any of its Assistant Secretaries (which may be printed, engraved or otherwise reproduced thereon, by facsimile or otherwise). Only such Debentures as shall bear thereon a certificate of authentication substantially in the form set forth on the form of Debenture attached as Exhibit A hereto, manually executed by the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 16.11), shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Debenture executed by the Company shall be conclusive evidence that the Debenture so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture.

In case any officer of the Company who shall have signed any of the Debentures shall cease to be such officer before the Debentures so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Debentures nevertheless may be authenticated and delivered or disposed of as though the person who signed such Debentures had not ceased to be such officer of the Company; and any Debenture may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Debenture, shall be the proper officers of the Company, although at the date of the execution of this Indenture any such person was not such an officer.

Section 2.5 Exchange and Registration of Transfer of Debentures.

(a) The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office and in any other office or agency of the Company designated pursuant to Section 5.2 being herein sometimes collectively referred to as the "Debenture register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Debentures and of transfers of Debentures. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed "Debenture registrar" for the purpose of registering Debentures and transfers of Debentures as herein provided. The Company may appoint one or more co-registrars in accordance with Section 5.2. There shall be only one Debenture register.

Upon surrender for registration of transfer of any Debenture to the Debenture registrar or any co-registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.5, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Debentures of any authorized denominations and of a like aggregate principal amount.

Debentures may be exchanged for other Debentures of any authorized denominations and of a like aggregate principal amount, upon surrender of the Debentures to be exchanged at any such office or agency. Whenever any Debentures are so surrendered for exchange, the Company shall execute, and the

Trustee shall authenticate and deliver, the Debentures which the Debentureholder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Debentures presented or surrendered for registration of transfer or for exchange shall (if so required by the Company, the Trustee, the Debenture registrar or any co-registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Debentureholder thereof or his attorney duly authorized in writing.

No service charge shall be charged to the Debentureholder for any exchange or registration of transfer of Debentures, but the Company may require payment of a sum sufficient to cover any tax, assessments or other governmental charges that may be imposed in connection therewith.

None of the Company, the Trustee, the Debenture registrar or any co-registrar shall be required to exchange or register a transfer of (a) any Debentures for a period of fifteen (15) days next preceding any selection of Debentures to be redeemed or (b) any Debentures called for redemption or, if a portion of any Debenture is selected or called for redemption, such portion thereof selected or called for redemption or (c) any Debentures surrendered for conversion or, if a portion of any Debenture is surrendered for conversion, such portion thereof surrendered for conversion.

All Debentures issued upon any transfer or exchange of Debentures in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Debentures surrendered upon such registration of transfer or exchange.

(b) So long as the Debentures are eligible for book-entry settlement with the Depositary, or unless otherwise required by law, all Debentures that are so eligible may be represented by a Debenture or Debentures in global form (the “Global Debenture” or “Global Debentures”) registered in the name of the Depositary or the nominee of the Depositary, except as otherwise specified below.

Debentures upon initial issuance will be represented by one or more Global Debentures. Transfers and exchanges of beneficial interests in a Global Debenture will be made in accordance with this Indenture and the standing instructions and procedures of the Depository and its participants. The Transfer Agent shall make appropriate endorsements to reflect increases or decreases in the Global Debenture as set forth on the face of the Global Debenture to reflect any such transfers.

Except as provided below, beneficial owners of an interest in a Global Debenture shall not be entitled to have certificates registered in their names, will not receive or be entitled to receive physical delivery of certificates in definitive form and will not be considered holders of such Global Debentures.

(c) Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.5(c)), a Global Debenture may not be transferred as a whole except by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee to a successor Depositary or a nominee of such successor Depositary.

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depositary with respect to the Global Debentures.

Initially, the Global Debenture shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with the Custodian for Cede & Co.

If at any time the Depositary for a Global Debenture notifies the Company that it is unwilling or unable to continue as Depositary for such Global Debenture, the Company may appoint a successor Depositary with respect to such Global Debenture. If a successor Depositary for the Debentures is not appointed by the Company within 90 days after the Company receives such notice, the Company will execute, and the Trustee will authenticate and deliver, Debentures in certificated form, in an aggregate principal amount equal to the principal amount of the Global Debenture, in exchange for such Global Debenture.

Debentures in definitive form issued in exchange for all or a part of a Global Debenture pursuant to this Section 2.5(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Debentures in certificated form to the persons in whose names such Debentures in definitive form are so registered.

At such time as all interests in a Global Debenture have been redeemed, converted, exchanged, repurchased or canceled for Debentures in definitive form, or transferred to a transferee who receives Debentures in definitive form, such Global Debenture shall be, upon receipt thereof, canceled by the Trustee in accordance with standing procedures and instructions existing between the Custodian and Depositary. At any time prior to such cancellation, if any interest in a Global Debenture is exchanged for Debentures in certificated form, redeemed, converted, exchanged, repurchased by the Company or canceled, or transferred for part of a Global Debenture, the principal amount of such Global Debenture shall, in accordance with the standing procedures and instructions existing between the Custodian and the Depositary, be reduced or increased, as the case may be, and an endorsement shall be made on such Global Debenture, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction or increase.

Section 2.6 Mutilated, Destroyed, Lost or Stolen Debentures. In case any Debenture shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Debenture, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Debenture, or in lieu of and in substitution for the Debenture so destroyed, lost or stolen. In every case the applicant for a substituted Debenture shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Debenture and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Debenture and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company and, if applicable, such authenticating agent may require. Upon the issuance of any substituted Debenture, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. In case any Debenture which has matured or is about to mature or has been called for redemption or is about to be converted into Common Stock shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Debenture, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Debenture), as the case may be, if the applicant for such payment or

conversion shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any paying agent or conversion agent of the destruction, loss or theft of such Debenture and of the ownership thereof.

Every substitute Debenture issued pursuant to the provisions of this Section 2.6 by virtue of the fact that any Debenture is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Debenture shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Debentures duly issued hereunder. To the extent permitted by law, all Debentures shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment or conversion of mutilated, destroyed, lost or stolen Debentures and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment or conversion of negotiable instruments or other securities without their surrender.

Section 2.7 Temporary Debentures. Pending the preparation of definitive Debentures or any Global Debenture, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Debentures (printed or lithographed). Temporary Debentures shall be issuable in any authorized denomination, and substantially in the form of the definitive Debentures but with such omissions, insertions and variations as may be appropriate for temporary Debentures, all as may be determined by the Company. Every such temporary Debenture shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Debentures. Without unreasonable delay the Company will execute and deliver to the Trustee or such authenticating agent definitive Debentures and thereupon any or all temporary Debentures may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 5.2 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such temporary Debentures an equal aggregate principal amount of definitive Debentures. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Debentures shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as definitive Debentures authenticated and delivered hereunder.

Section 2.8 Cancellation of Debentures Paid, Etc. All Debentures surrendered for the purpose of payment, redemption, conversion, exchange or registration of transfer, shall, if surrendered to the Company or any paying agent or any Debenture registrar or any conversion agent, be surrendered to the Trustee and promptly canceled by it, or, if surrendered to the Trustee, shall be promptly canceled by it, and no Debentures shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. Upon written instructions of the Company, the Trustee shall destroy canceled Debentures and, after such destruction, shall, if requested by the Company, deliver a certificate of such destruction to the Company. If the Company shall acquire any of the Debentures, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Debentures unless and until the same are delivered to the Trustee for cancellation.

ARTICLE III

REDEMPTION OF DEBENTURES

Section 3.1 Redemption Prices. The Company may, at its option, on or at any time after _____, 2008, redeem all or from time to time any part of the Debentures on any date prior to maturity, upon notice as set forth in Section 3.2, and at the optional redemption prices set forth in the form of Debenture attached as Exhibit A hereto, together with accrued interest, if any, to, but excluding, the date fixed for redemption. No redemption of Debentures shall be effected prior to _____, 2008.

Section 3.2 Notice of Redemption; Selection of Debentures. In case the Company shall desire to exercise the right to redeem all or, as the case may be, any part of the Debentures pursuant to Section 3.1, it shall fix a date for redemption, and it, or at its request (which must be received by the Trustee at least ten (10) Business Days prior to the date the Trustee is requested to give notice as described below unless a shorter period is agreed to by the Trustee), the Trustee in the name of and at the expense of the Company, shall mail or cause to be mailed a notice of such redemption at least twenty (20) and not more than sixty (60) days prior to the date fixed for redemption to the holders of Debentures so to be redeemed as a whole or in part at their last addresses as the same appear on the Debenture register (provided that if the Company shall give such notice, it shall also give such notice, and notice of the Debentures to be redeemed, to the Trustee). If fewer than all the Debentures are to be redeemed, the Company will give the Trustee written notice in the form of an Officers' Certificate not fewer than thirty-five (35) days (or such shorter period of time as may be acceptable to the Trustee) prior to the redemption date as to the aggregate principal amount of Debentures to be redeemed. Such mailing shall be by first class mail. The notice if mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the holder of any Debenture designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Debenture.

Each such notice of redemption shall specify the aggregate principal amount of Debentures to be redeemed, the date fixed for redemption, the redemption price at which Debentures are to be redeemed, the CUSIP number or numbers for the Debentures to be redeemed, the place or places of payment, that payment will be made upon presentation and surrender of such Debentures, that interest accrued to, but excluding, the date fixed for redemption will be paid as specified in said notice, and that on and after said date interest thereon or on the portion thereof to be redeemed will cease to accrue. Such notice shall also state the current Conversion Price and the date on which the right to convert such Debentures or portions thereof into Common Stock will expire. If fewer than all the Debentures are to be redeemed, the notice of redemption shall identify the Debentures to be redeemed. In case any Debenture is to be redeemed in part only, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Debenture, a new Debenture or Debentures in principal amount equal to the unredeemed portion thereof will be issued.

On or prior to the redemption date specified in the notice of redemption given as provided in this Section 3.2, the Company will deposit with the Trustee or with one or more paying agents (or, if the Company is acting as its own paying agent, set aside, segregate and hold in trust as provided in Section 5.4) an amount of money sufficient to redeem on the redemption date all the Debentures (or portions thereof) so called for redemption (other than those theretofore surrendered for conversion into Common Stock) at the appropriate redemption price, together with accrued interest to, but excluding, the date fixed for redemption; provided that if such payment is made on the redemption date it must be received by the Trustee or paying agent, as the case may be, by 10:00 a.m. New York City time, on such date. If any Debenture called for redemption is converted pursuant hereto, any money deposited with the Trustee or any paying agent or so segregated and held in trust for the redemption of such Debenture shall be paid to the Company upon its request, or, if then held by the Company shall be discharged from such trust.

If fewer than all the Debentures are to be redeemed, the Trustee shall select the Debentures or portions thereof to be redeemed (in principal amounts of $1,000 or integral multiples thereof), by lot or, in its sole discretion, on a pro rata basis. If any Debenture selected for partial redemption is converted in part after such selection, the converted portion of such Debenture shall be deemed (so far as may be) to be the portion to be selected for redemption. The Debentures (or portions thereof) so selected shall be deemed duly selected for redemption for all purposes hereof, notwithstanding that any such Debenture is converted as a whole or in part before the mailing of the notice of redemption.

Upon any redemption of less than all Debentures, the Company and the Trustee may (but need not) treat as outstanding any Debentures surrendered for conversion during the period of fifteen (15) days next preceding the mailing of a notice of redemption and may (but need not) treat as not outstanding any Debenture authenticated and delivered during such period in exchange for the unconverted portion of any Debenture converted in part during such period.

Section 3.3 Payment of Debentures Called for Redemption. If notice of redemption has been given as above provided, the Debentures or portion of Debentures with respect to which such notice has been given shall, unless converted into Common Stock pursuant to the terms hereof, become due and payable on the date and at the place or places stated in such notice at the applicable redemption price, together with interest accrued to, but excluding, the date fixed for redemption, and on and after said date (unless the Company shall default in the payment of such Debentures at the redemption price, together with interest accrued to, but excluding, said date) interest on the Debentures or portion of Debentures so called for redemption shall cease to accrue and such Debentures shall cease after the close of business on the Business Day next preceding the date fixed for redemption to be convertible into Common Stock and, except as provided in Sections 8.5 and 13.4, to be entitled to any benefit or security under this Indenture, and the holders thereof shall have no right in respect of such Debentures except the right to receive the redemption price thereof and unpaid interest to, but excluding, the date fixed for redemption. On presentation and surrender of such Debentures at a place of payment in said notice specified, the said Debentures or the specified portions thereof to be redeemed shall be paid and redeemed by the Company at the applicable redemption price, together with interest accrued thereon to, but excluding, the date fixed for redemption; provided that, if the applicable redemption date is an interest payment date, the semi-annual payment of interest becoming due on such date shall be payable to the holders of such Debentures registered as such on the relevant record date subject to the terms and provisions of Section 2.3 hereof.

Upon presentation of any Debenture redeemed in part only, the Company shall execute and the Trustee shall authenticate and deliver to the holder thereof, at the expense of the Company, a new Debenture or Debentures, of authorized denominations, in principal amount equal to the unredeemed portion of the Debentures so presented.

Notwithstanding the foregoing, the Trustee shall not redeem any Debentures or mail any notice of optional redemption during the continuance of a default in payment of interest or premium on the Debentures or of any Event of Default of which, in the case of any Event of Default other than under Section 7.1(a) or (b), a Responsible Officer of the Trustee has knowledge. If any Debenture called for redemption shall not be so paid upon surrender thereof for redemption, the principal and premium, if any, shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate borne by the Debenture and such Debenture shall remain convertible into Common Stock until the principal and premium, if any, shall have been paid or duly provided for.

Section 3.4 Conversion Arrangement on Call for Redemption. In connection with any redemption of Debentures, the Company may arrange for the purchase and conversion of any Debentures by an agreement with one or more investment bankers or other purchasers to purchase such Debentures by paying to the Trustee in trust for the Debentureholders, on or before the date fixed for redemption, an amount not less than the applicable redemption price, together with interest accrued to the date fixed for redemption, of such Debentures. Notwithstanding anything to the contrary contained in this Article III, the obligation of the Company to pay the redemption price of such Debentures, together with interest accrued to, but excluding, the date fixed for redemption, shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers. If such an agreement is entered into, a copy of which will be filed with the Trustee prior to the date fixed for redemption, any Debentures not duly surrendered for conversion by the holders thereof may, at the option of the Company, be deemed, to the fullest extent permitted by law, acquired by such purchasers from such holders and (notwithstanding anything to the contrary contained in Article XV) surrendered by such purchasers for conversion, all as of immediately prior to the close of business on the date fixed for redemption (and the right to convert any such Debentures shall be deemed to have been extended through such time), subject to payment of the above amount as aforesaid. At the direction of the Company, the Trustee shall hold and dispose of any such amount paid to it in the same manner as it would monies deposited with it by the Company for the redemption of Debentures. Without the Trustee's prior written consent, no arrangement between the Company and such purchasers for the purchase and conversion of any Debentures shall increase or otherwise affect any of the powers, duties, responsibilities or obligations of the Trustee as set forth in this Indenture, and the Company agrees to indemnify the Trustee from, and hold it harmless against, any loss, liability or expense arising out of or in connection with any such arrangement for the purchase and conversion of any Debentures between the Company and such purchasers to which the Trustee has not consented in writing, including the costs and expenses incurred by the Trustee in the defense of any claim or liability arising out of or in connection with the exercise or performance of any of its powers, duties, responsibilities or obligations under this Indenture.

ARTICLE IV

SUBORDINATION OF DEBENTURES

Section 4.1 Agreement of Subordination. The Company covenants and agrees, and each holder of Debentures issued hereunder by his acceptance thereof likewise covenants and agrees, that all Debentures shall be issued subject to the provisions of this Article IV; and each person holding any Debenture, whether upon original issue or upon transfer, assignment or exchange thereof, accepts and agrees to be bound by such provisions.

The payment of the principal of, premium, if any, and interest on all Debentures (including, but not limited to, the redemption price with respect to the Debentures to be redeemed, as provided in this Indenture) issued hereunder shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full in cash or other payment satisfactory to holders of Senior Indebtedness of all Senior Indebtedness.

No provision of this Article IV shall prevent the occurrence of any default or Event of Default hereunder.

Section 4.2 Payments to Debentureholders. No payment shall be made with respect to the principal of, or premium, if any, or interest on the Debentures (including, but not limited to, the redemption

price with respect to the Debentures to be redeemed, as provided in this Indenture), except payments and distributions made by the Trustee as permitted by the first or second paragraph of Section 4.5, if:

(a) a default in the payment of principal, premium, interest, rent or other obligations due on any Senior Indebtedness occurs and is continuing (or, in the case of Senior Indebtedness for which there is a period of grace, in the event of such a default that continues beyond the period of grace, if any, specified in the instrument or lease evidencing such Senior Indebtedness), unless and until such default shall have been cured or waived or shall have ceased to exist; or

(b) a default, other than a payment default, on a Designated Senior Indebtedness occurs and is continuing that then permits holders of such Designated Senior Indebtedness to accelerate its maturity and the Trustee receives a notice of the default (a "Payment Blockage Notice") from the Company or holder or Representative of Designated Senior Indebtedness.

If the Trustee receives any Payment Blockage Notice pursuant to clause (b) above, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until (A) at least 365 days shall have elapsed since the effectiveness of the immediately prior Payment Blockage Notice, and (B) all scheduled payments of principal, premium, if any, and interest on the Debentures that have come due have been paid in full in cash. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice.

The Company may and shall resume payments on and distributions in respect of the Debentures upon the earlier of:

(1) in the case of a default referred to in clause (a) above, the date upon which such default is cured or waived or ceases to exist, or

(2) in the case of a default referred to in clause (b) above, the earlier of (x) the date on which such default is cured or waived or ceases to exist or (y) the date that is 179 days after receipt of the Payment Blockage Notice if the maturity of such Designated Senior Indebtedness has not been accelerated,

unless this Article IV otherwise prohibits the payment or distribution at the time of such payment or distribution.

Upon any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding-up or total or partial liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all amounts due or to become due upon all Senior Indebtedness shall first be paid in full, in cash or other payment satisfactory to the holders of Senior Indebtedness or payment thereof provided for in cash or other payment satisfactory to the holders of Senior Indebtedness, before any payment is made on account of the principal (and premium, if any) or interest on the Debentures (except payments made pursuant to Article XIII from monies deposited with the Trustee pursuant thereto prior to the happening of such dissolution, winding-up, liquidation or reorganization or bankruptcy, insolvency, receivership or other such proceedings); and upon any such dissolution or winding-up or liquidation or reorganization or bankruptcy, insolvency, receivership or other such proceedings, any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property

or securities, to which the holders of the Debentures or the Trustee under this Indenture would be entitled, except for the provision of this Article IV, shall (except as aforesaid) be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, or by the holders of the Debentures or by the Trustee under this Indenture if received by them or it, directly to the holders of Senior Indebtedness (pro rata to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders or as otherwise required by law or a court order) or their respective Representative or Representatives, as their respective interests may appear, to the extent necessary to pay all Senior Indebtedness in full in cash or other payment satisfactory to holders of Senior Indebtedness after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness, before any payment or distribution is made to the holders of the Debentures or to the Trustee under this Indenture.

In the event of the acceleration of the Debentures pursuant to Article VII, no payment or distribution shall be made to the Trustee or any holder of Debentures in respect of the principal of, premium, if any, or interest on the Debentures (including, but not limited to, the redemption price with respect to the Debentures called for redemption in accordance with Section 3.2), except payments and distributions made by the Trustee as permitted by the first or second paragraph of Section 4.5, until all Senior Indebtedness has been paid in full in cash or other payment satisfactory to the holders of Senior Indebtedness or such acceleration is rescinded in accordance with the terms of this Indenture. If payment of the Debentures is accelerated pursuant to Article VII, the Company shall promptly notify holders of Senior Indebtedness of such acceleration.

In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (including, without limitation, by way of set-off or otherwise), prohibited by the foregoing, shall be received by the Trustee under this Indenture or by any holders of the Debentures before all Senior Indebtedness is paid in full in cash or other payment satisfactory to holders of Senior Indebtedness, or provision is made for in cash or other payment satisfactory to holders of Senior Indebtedness, such payment or distribution shall be held by the recipient or recipients in trust for the benefit of, and shall be paid over or delivered to, the holders of Senior Indebtedness or their respective Representative or Representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full in cash or other payment satisfactory to the holders of Senior Indebtedness, after giving effect to any concurrent payment or distribution (or provision therefor) to or for the holders of such Senior Indebtedness.

For purposes of this Article IV, the words “cash, property or securities” shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated (at least to the extent provided in this Article IV with respect to the Debentures) to the payment of all Senior Indebtedness which may at the time be outstanding; provided that (i) the Senior Indebtedness is assumed by the new corporation, if any, resulting from such reorganization or adjustment, and (ii) the rights of the holders of Senior Indebtedness (other than leases which are not assumed by the Company or by the new corporation, as the case may be) are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance or transfer of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided for in Article XII shall not be deemed a dissolution, winding-up, liquidation or reorganization for the

purposes of this Section 4.2 if such other corporation shall, as a part of such consolidation, merger, conveyance or transfer, comply with the conditions stated in Article XII.

Nothing in this Section 4.2 shall apply to claims of, or payments to, the Trustee under or pursuant to Section 8.6. This Section 4.2 shall be subject to the further provisions of Section 4.5.

Section 4.3 Subrogation of Debentures. Subject to the payment in full of all Senior Indebtedness, the rights of the holders of the Debentures shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Indebtedness pursuant to the provisions of this Article IV (equally and ratably with the holders of all indebtedness of the Company which by its express terms is subordinated to other indebtedness of the Company to substantially the same extent as the Debentures are subordinated and is entitled to like rights of subrogation) to the rights of the holders of Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Indebtedness until the principal of (and premium, if any) and interest on the Debentures shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness of any cash, property or securities to which the holders of the Debentures or the Trustee would be entitled except for the provisions of this Article IV, and no payment over pursuant to the provisions of this Article IV, to or for the benefit of the holders of Senior Indebtedness by holders of the Debentures or the Trustee, shall, as between the Company, its creditors other than holders of Senior Indebtedness, and the holders of the Debentures, be deemed to be a payment by the Company to or on account of the Senior Indebtedness; and no payments or distributions of cash, property or securities to or for the benefit of the holders of the Debentures pursuant to the subrogation provisions of this Article IV, which would otherwise have been paid to the holders of Senior Indebtedness shall be deemed to be a payment by the Company to or for the account of the Debentures. It is understood that the provisions of this Article IV are and are intended solely for the purposes of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

Nothing contained in this Article IV or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as among the Company, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the principal of (and premium, if any) and interest on the Debentures as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article IV of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

Upon any payment or distribution of assets of the Company referred to in this Article IV, the Trustee, subject to the provisions of Section 8.1, and the holders of the Debentures shall be entitled to rely upon any order or decree made by any court of competent jurisdiction in which such bankruptcy, dissolution, winding-up, liquidation or reorganization proceedings are pending, or a certificate of the receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, delivered to the Trustee or to the holders of the Debentures, for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article IV.

Section 4.4 Authorization by Debentureholders. Each holder of a Debenture by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article IV and appoints the Trustee his attorney-in-fact for any and all such purposes.

Section 4.5 Notice to Trustee. The Company shall give prompt written notice in the form of an Officers' Certificate to a Responsible Officer of the Trustee and to any paying agent of any fact known to the Company which would prohibit the making of any payment of monies to or by the Trustee or any paying agent in respect of the Debentures pursuant to the provisions of this Article IV. Notwithstanding the provisions of this Article IV or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any Senior Indebtedness or of any default or event of default with respect to any Senior Indebtedness or of any other facts which would prohibit the making of any payment of monies to or by the Trustee in respect of the Debentures pursuant to the provisions of this Article IV, unless and until a Responsible Officer of the Trustee shall have received written notice thereof at the Corporate Trust Office from the Company (in the form of an Officers' Certificate) or a holder or holders or Representative of Senior Indebtedness who shall have been certified by the Company or otherwise established to the reasonable satisfaction of the Trustee to be such holder or Representative; and before the receipt of any such written notice, the Trustee, subject to the provisions of Section 8.1, shall be entitled in all respects to assume that no such facts exist; provided that if prior to the date two (2) Business Days before the date upon which by the terms hereof any such monies may become payable for any purpose (including, without limitation, the payment of the principal of, or premium, if any, or interest on any Debenture), the Trustee shall not have received with respect to such monies the notice provided for in this Section 4.5, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it on or after such second Business Day.

Notwithstanding anything to the contrary set forth above, nothing shall prevent (a) any payment by the Company or the Trustee to the Debentureholders of amounts in connection with a redemption of Debentures if (i) notice of such redemption has been given to the holders of Debentures pursuant to Article III prior to the receipt by the Trustee of written notice as aforesaid, and (ii) such notice of redemption is given not earlier than sixty (60) days before the redemption date, or (b) any payment by the Trustee to the Debentureholders of monies deposited with it pursuant to Section 13.1.

The Trustee, subject to the provisions of Section 8.1, shall be entitled to rely on the delivery to it of a written notice by a person representing himself to be a holder of Senior Indebtedness (or a Representative on behalf of such holder) to establish that such notice has been given by a holder of Senior Indebtedness or a Representative on behalf of any such holder or holders. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article IV, the Trustee may request such person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness held by such person, the extent to which such person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such person under this Article IV, and if such evidence is not furnished the Trustee may defer any payment to such person pending judicial determination as to the right of such person to receive such payment.

Section 4.6 Trustee's Relation to Senior Indebtedness. The Trustee and any agent of the Company or the Trustee in its individual capacity shall be entitled to all the rights set forth in this Article IV in respect of any Senior Indebtedness at any time held by it, to the same extent as any other holder of Senior

Indebtedness, and nothing in Section 8.13 or elsewhere in this Indenture shall deprive the Trustee or any such agent of any of its rights as such holder. Nothing in this Article IV shall apply to claims of, or payments to, the Trustee under or pursuant to Section 8.6.

With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article IV, and no implied covenants or obligations with respect to the holders of Senior Indebtedness shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness and, subject to the provisions of Sections 4.2, 4.5 and 8.1, the Trustee shall not be liable to any holder of Senior Indebtedness if it shall pay over or deliver to holders of Debentures, the Company or any other person money or assets to which any holder of Senior Indebtedness shall be entitled by virtue of this Article IV or otherwise.

Section 4.7 No Impairment of Subordination. No right of any present or future holder of any Senior Indebtedness to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or otherwise be charged with.

Section 4.8 Certain Conversions Deemed Payment. For the purposes of this Article only, (1) the issuance and delivery of junior securities upon conversion of Debentures in accordance with Article XV (including any payment of Common Stock in accordance with Section 15.12) shall not be deemed to constitute a payment or distribution on account of the principal of (or premium, if any) or interest on Debentures or on account of the purchase or other acquisition of Debentures, and (2) the payment, issuance or delivery of cash (except in satisfaction of fractional shares pursuant to Section 15.3), property or securities (other than junior securities) upon conversion of a Debenture shall be deemed to constitute payment on account of the principal of such Debenture. For the purposes of this Section, the term “junior securities” means (a) shares of any stock of any class of the Company and (b) securities of the Company which are subordinated in right of payment to all Senior Indebtedness which may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, the Debentures are so subordinated as provided in this Article. Nothing contained in this Article or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as among the Company, its creditors other than holders of Senior Indebtedness and the holders of the Debentures, the right, which is absolute and unconditional, of the holder of any Debenture to convert such Debenture in accordance with Article XV.

Section 4.9 Article Applicable to Paying Agents. If at any time any paying agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term “Trustee” as used in this Article shall (unless the context otherwise requires) be construed as extending to and including such paying agent within its meaning as fully for all intents and purposes as if such paying agent were named in this Article in addition to or in place of the Trustee; provided, however, that the first paragraph of Section 4.5 shall not apply to the Company or any Affiliate of the Company if it or such Affiliate acts as paying agent.

Section 4.10 Senior Indebtedness Entitled to Rely. The holders of Senior Indebtedness (including, without limitation, Designated Senior Indebtedness) shall have the right to rely upon this Article IV, and no amendment or modification of the provisions contained herein shall diminish the rights of such holders unless such holders shall have agreed in writing thereto.

ARTICLE V

PARTICULAR COVENANTS OF THE COMPANY

Section 5.1 Payment of Principal, Premium and Interest. The Company covenants and agrees that it will duly and punctually pay or cause to be paid the principal of and premium, if any, and interest on each of the Debentures at the places, at the respective times and in the manner provided herein and in the Debentures.

Section 5.2 Maintenance of Office or Agency. The Company will maintain in the Borough of Manhattan, The City of New York, an office or agency where the Debentures may be surrendered for registration of transfer or exchange or for presentation for payment or for conversion or redemption and where notices and demands to or upon the Company in respect of the Debentures and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency not designated or appointed by the Trustee. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office, or the office or agency of the Trustee or an Affiliate of the Trustee, in the Borough of Manhattan, The City of New York.

The Company may also from time to time designate one or more other offices or agencies where the Debentures may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, The City of New York, for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby initially designates the Trustee as paying agent, Debenture registrar, Custodian and conversion agent. The Corporate Trust Office and the office or agency of the Trustee in the Borough of Manhattan, The City of New York (which shall initially be U.S. Bank National Association, located at 100 Wall Street, Suite 1600, EX-NY-WALL, New York, NY 10005) shall be considered as one such office or agency of the Company for each of the aforesaid purposes.

So long as the Trustee is the Debenture registrar, the Trustee agrees to mail, or cause to be mailed, the notices set forth in Section 8.10(a) and the third paragraph of Section 8.11.

Section 5.3 Appointments to Fill Vacancies in Trustee's Office. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 8.10, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 5.4 Provisions as to Paying Agent.

(a) If the Company shall appoint a paying agent other than the Trustee, the Company will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 5.4:

(1) that it will hold all sums held by it as such agent for the payment of the principal of and premium, if any, or interest on the Debentures (whether such sums have been paid to it by the Company or by any other obligor on the Debentures) in trust for the benefit of the holders of the Debentures;

(2) that it will give the Trustee notice of any failure by the Company (or by any other obligor on the Debentures) to make any payment of the principal of and premium, if any, or interest on the Debentures when the same shall be due and payable; and

(3) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal of, premium, if any, or interest on the Debentures, deposit with the paying agent a sum sufficient to pay such principal, premium, if any, or interest, and (unless such paying agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action, provided that if such deposit is made on the due date, such deposit must be received by the paying agent by 10:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own paying agent, it will, on or before each due date of the principal of, premium, if any, or interest on the Debentures, set aside, segregate and hold in trust for the benefit of the holders of the Debentures a sum sufficient to pay such principal, premium, if any, or interest so becoming due and will notify the Trustee of any failure to take such action and of any failure by the Company (or any other obligor under the Debentures) to make any payment of the principal of, premium, if any, or interest on the Debentures when the same shall become due and payable.

(c) Anything in this Section 5.4 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or any paying agent hereunder as required by this Section 5.4, such sums to be held by the Trustee upon the trusts herein contained and upon such payment by the Company or any paying agent to the Trustee, the Company or such paying agent shall be released from all further liability with respect to such sums.

(d) Anything in this Section 5.4 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 5.4 is subject to Sections 13.3 and 13.4.

Section 5.5 Existence. Subject to Article XII, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

Section 5.6 Stay, Extension and Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of, premium, if any, or interest on the Debentures as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 5.7 Compliance Certificate. The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, an Officers' Certificate which shall comply with the provisions of the Trust Indenture Act, stating whether or not to the best knowledge of the signers thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and, if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge.

The Company will deliver to the Trustee, forthwith upon becoming aware of any default in the performance or observance of any covenant, agreement or condition contained in this Indenture, or any Event of Default, an Officers' Certificate which shall comply with the provisions of the Trust Indenture Act specifying with particularity such default or Event of Default and further stating what action the Company has taken, is taking or proposes to take with respect thereto.

Any notice required to be given under this Section 5.7 shall be delivered to the Trustee at its Corporate Trust Office.

Section 5.8 Further Instruments and Acts. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

ARTICLE VI

DEBENTUREHOLDERS' LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 6.1 Debentureholders' Lists. The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee, semi-annually, not more than fifteen (15) days after each _____ and _____ in each year beginning with the immediately succeeding _____ or _____, and at such other times as the Trustee may request in writing, within thirty (30) days after receipt by the Company of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form as the Trustee may reasonably require of the names and addresses of the holders of Debentures as of a date not more than fifteen (15) days (or such other date as the Trustee may reasonably request in order to so provide any such notices) prior to the time such information is furnished, except that no such list need be furnished so long as the Trustee is acting as Debenture registrar.

Section 6.2 Preservation and Disclosure of Lists.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Debentures contained in the most recent list furnished to it as provided in Section 6.1 or maintained by the Trustee in its capacity as Debenture registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 6.1 upon receipt of a new list so furnished.

(b) The rights of Debentureholders to communicate with other holders of Debentures with respect to their rights under this Indenture or under the Debentures and the corresponding rights and duties of the Trustee, shall be as provided by the Trust Indenture Act.

(c) Every Debentureholder, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to names and addresses of holders of Debentures made pursuant to the Trust Indenture Act.

Section 6.3 Reports by Trustee.

(a) Within 60 days after _____ of each year, the Trustee shall transmit to holders of Debentures such reports dated as of _____ of the year in which such reports are made concerning the Trustee and its actions under this Indenture as may be required pursuant to Section 313 of the Trust Indenture Act at the times and in the manner provided pursuant thereto.

(b) A copy of such report shall, at the time of such transmission to holders of Debentures, be filed by the Trustee with each stock exchange or automated quotation system upon which the Debentures are listed, with the Commission and with the Company. The Company will notify the Trustee when the Debentures are listed on any stock exchange or automated quotation system and when any such listing is discontinued.

Section 6.4 Reports by Company.

(a) The Company (and any obligor upon the Debentures) shall file with the Trustee and the Commission, and transmit to holders of Debentures, such information, documents and other reports and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to such Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Exchange Act shall be filed with the Trustee within 15 days after the same is so required to be filed with the Commission.

(b) The Company will deliver to the Trustee (1) as soon as available and in any event within ninety (90) days after the end of each fiscal year of the Company (i) a consolidated balance sheet of the Company and its subsidiaries as of the end of such fiscal year and the related consolidated statements of operations, stockholders' equity and cash flows for such fiscal year, all reported on by an independent public accountant of nationally recognized standing and (ii) a report containing a management's discussion and analysis of the financial condition and results of operations and a description of the business and properties of the Company and (2) as soon as available and in any event within forty-five (45) days after the end of each of the first three quarters of each fiscal year of the Company an unaudited consolidated management's discussion and analysis of the financial condition and results of operations of the Company for such quarter; provided that the foregoing statements and reports shall not be required for any fiscal year or quarter, as the case may be, with respect to which the Company files or expects to file with the Trustee an annual report or quarterly report, as the case may be, pursuant to Section 6.4(a). The Trustee shall have no liability as regards the substance of the information provided by the Company or its agents pursuant to this Section 6.4.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1 Events of Default. In case one or more of the following Events of Default (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by

operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall have occurred and be continuing:

(a) default in the payment of the principal of and premium, if any, on any of the Debentures as and when the same shall become due and payable either at maturity or in connection with any redemption, by declaration or otherwise, whether or not such payment is prohibited by the provisions of Article IV; or

(b) default in the payment of any installment of interest, upon any of the Debentures as and when the same shall become due and payable, and continuance of such default for a period of thirty (30) days, whether or not such payment is prohibited by the provisions of Article IV; or

(c) failure on the part of the Company duly to observe or perform any other of the covenants or agreements on the part of the Company in the Debentures or in this Indenture (other than a covenant or agreement a default in whose performance or whose breach is elsewhere in this Section specifically dealt with) continued for a period of forty-five (45) days after the date on which written notice of such failure, requiring the Company to remedy the same, shall have been given to the Company by the Trustee, or to the Company and a Responsible Officer of the Trustee by the holders of at least 25% in aggregate principal amount of the outstanding Debentures at the time outstanding determined in accordance with Section 9.4; or

(d) failure by the Company to make any payment at maturity, including any applicable grace period, in respect of Indebtedness, in an amount in excess of $5,000,000 or the equivalent thereof in any other currency or composite currency and such failure shall have continued for thirty (30) days after written notice thereof shall have been given to the Company by the Trustee or to the Company and a Responsible Officer of the Trustee by the holders of at least 25% in aggregate principal amount of the outstanding Debentures at the time outstanding determined in accordance with Section 9.4; or

(e) a default by the Company with respect to any Indebtedness which default results in the acceleration of Indebtedness in an amount in excess of $5,000,000 or the equivalent thereof in any other currency or composite currency without such Indebtedness having been discharged or such acceleration having been cured, waived, rescinded or annulled for a period of thirty (30) days after written notice thereof shall have been given to the Company by the Trustee or to the Company and a Responsible Officer of the Trustee by the holders of at least 25% in aggregate principal amount of the outstanding Debentures at the time outstanding determined in accordance with Section 9.4; or

(f) the Company shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(g) an involuntary case or other proceeding shall be commenced against the Company seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver,

liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of ninety (90) consecutive days;

then, and in each and every such case (other than an Event of Default specified in Section 7.1(f) or (g)), unless the principal of all of the Debentures shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Debentures then outstanding hereunder determined in accordance with Section 9.4, by notice in writing to the Company (and to the Trustee if given by Debentureholders), may declare the principal of and premium, if any, on all the Debentures and the interest accrued thereon to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Debentures contained to the contrary notwithstanding. If an Event of Default specified in Section 7.1(f) or (g) occurs and is continuing, the principal of and premium, if any, on all the Debentures and the interest accrued thereon shall be immediately due and payable. This provision, however, is subject to the conditions that if, at any time after the principal of the Debentures shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all Debentures and the principal of and premium, if any, on any and all Debentures which shall have become due otherwise than by acceleration (with interest on overdue installments of interest (to the extent that payment of such interest is enforceable under applicable law) and on such principal and premium, if any, at the rate borne by the Debentures, to the date of such payment or deposit) and amounts due to the Trustee pursuant to Section 8.6, and if any and all defaults under this Indenture, other than the nonpayment of principal of and premium, if any, and accrued interest on Debentures which shall have become due by acceleration, shall have been cured or waived pursuant to Section 7.7, then and in every such case the holders of a majority in aggregate principal amount of the Debentures then outstanding, by written notice to the Company and to the Trustee, may waive all defaults or Events of Default and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or Event of Default, or shall impair any right consequent thereon. The Company shall notify the Responsible Officer of the Trustee, promptly upon becoming aware thereof, of any Event of Default.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such waiver or rescission and annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the holders of Debentures, and the Trustee shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the holders of Debentures, and the Trustee shall continue as though no such proceeding had been instituted.

Section 7.2 Payments of Debentures on Default; Suit Therefor. The Company covenants that (a) in case default shall be made in the payment by the Company of any installment of interest upon any of the Debentures as and when the same shall become due and payable, and such default shall have continued for a period of thirty (30) days, or (b) in case default shall be made in the payment of the principal of or premium, if any, on any of the Debentures as and when the same shall have become due and payable, whether at maturity of the Debentures or in connection with any redemption, by declaration under this Indenture or otherwise, then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Debentures, the whole amount that then shall have become due and payable on all such Debentures for principal and premium, if any, or interest, or both, as the case may be, with interest upon the overdue principal and premium, if any, and (to the extent that payment of such interest is enforceable under applicable law) upon the overdue installments of interest at the rate borne by the Debentures; and, in addition

thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred by the Trustee hereunder other than through its negligence or bad faith. Until such demand by the Trustee, the Company may pay the principal of and premium, if any, and interest on the Debentures to the registered holders, whether or not the Debentures are overdue.

In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or any other obligor on the Debentures and collect in the manner provided by law out of the property of the Company or any other obligor on the Debentures wherever situated the monies adjudged or decreed to be payable.

In the case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Debentures under Title 11 of the United States Code, or any other applicable law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the case of any other judicial proceedings relative to the Company or such other obligor upon the Debentures, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Debentures shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 7.2, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal, premium, if any, and interest owing and unpaid in respect of the Debentures, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and of the Debentureholders allowed in such judicial proceedings relative to the Company or any other obligor on the Debentures, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due the Trustee under Section 8.6; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Debentureholders to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Debentureholders, to pay to the Trustee any amount due it for reasonable compensation, expenses, advances and disbursements, including counsel fees incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property which the holders of the Debentures may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or adopt on behalf of any Debentureholder any plan of reorganization or arrangement affecting the Debentures or the rights of any Debentureholder, or to authorize the Trustee to vote in respect of the claim of any Debentureholder in any such proceeding; provided, however, that the Trustee may, on behalf of the Debentureholders, vote for the election of a trustee in bankruptcy or similar official and may be a member of the creditor’s committee established with respect to such bankruptcy.

All rights of action and of asserting claims under this Indenture, or under any of the Debentures, may be enforced by the Trustee without the possession of any of the Debentures, or the production thereof on any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the holders of the Debentures.

Section 7.3 Application of Monies Collected by Trustee. Any monies collected by the Trustee pursuant to this Article VII shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies, upon presentation of the several Debentures, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First: To the payment of all amounts due the Trustee under Section 8.6;

Second: Subject to the provisions of Article IV, in case the principal of the outstanding Debentures shall not have become due and be unpaid, to the payment of interest on the Debentures in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the rate borne by the Debentures, such payments to be made ratably to the persons entitled thereto;

Third: Subject to the provisions of Article IV, in case the principal of the outstanding Debentures shall have become due, by declaration or otherwise, and be unpaid, to the payment of the whole amount then owing and unpaid upon the Debentures for principal and premium, if any, and interest, with interest on the overdue principal and premium, if any, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the rate borne by the Debentures; and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Debentures, then to the payment of such principal and premium, if any, and interest without preference or priority of principal and premium, if any, over interest, or of interest over principal and premium, if any, or of any installment of interest over any other installment of interest, or of any Debenture over any other Debenture, ratably to the aggregate of such principal and premium, if any, and accrued and unpaid interest; and

Fourth: Subject to the provisions of Article IV, with respect to the payment of the remainder, if any, to the Company or any other person lawfully entitled thereto.

Section 7.4 Proceedings by Debentureholder. No holder of any Debenture shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as provided above, and unless also the holders of not less than 25% in aggregate principal amount of the Debentures then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for sixty (60) days after its receipt of such notice, request and offer of indemnity, shall have neglected or refused to institute any such action, suit or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 7.7; it being understood and intended that no one or more holders of Debentures shall have any right in any manner whatever by virtue of, or by availing

of, any provision of this Indenture to affect, disturb or prejudice the rights of any other holders of Debentures, or to obtain or seek to obtain priority or preference over any other holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the holders of Debentures.

Notwithstanding any other provision of this Indenture and any provision of any Debenture, the right of any holder of any Debenture to receive payment of the principal of and premium, if any, and interest on such Debenture, on or after the respective due dates expressed in such Debenture, or to institute suit for the enforcement of any such payment on or after such respective dates against the Company shall not be impaired or affected without the consent of such holder.

Anything in this Indenture or the Debentures to the contrary notwithstanding, the holder of any Debenture, without the consent of either the Trustee or the holder of any other Debenture, in his own behalf and for his own benefit, may enforce, and may institute and maintain any proceeding suitable to enforce, his rights of conversion as provided herein.

Section 7.5 Proceedings by Trustee. In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 7.6 Remedies Cumulative and Continuing. Except as provided in Section 2.6, all powers and remedies given by this Article VII to the Trustee or to the Debentureholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the holders of the Debentures, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any holder of any of the Debentures to exercise any right or power accruing upon any default or Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or any acquiescence therein; and, subject to the provisions of Section 7.4, every power and remedy given by this Article VII or by law to the Trustee or to the Debentureholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Debentureholders.

Section 7.7 Direction of Proceedings and Waiver of Defaults by Majority of Debentureholders. The holders of a majority in aggregate principal amount of the Debentures at the time outstanding determined in accordance with Section 9.4 shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee; provided, however, that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction. The holders of a majority in aggregate principal amount of the Debentures at the time outstanding determined in accordance with Section 9.4 may on behalf of the holders of all of the Debentures waive any past default or Event of Default hereunder and its consequences except (i) a default in the payment of interest or premium, if any, on, or the principal of, the Debentures, (ii) a failure by the Company to convert any Debentures into Common Stock or (iii) a default in respect of a covenant or provision hereof which under Article XI cannot be modified or amended without the consent of the holders of all Debentures then

outstanding affected thereby. Upon any such waiver the Company, the Trustee and the holders of the Debentures shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon. Whenever any default or Event of Default hereunder shall have been waived as permitted by this Section 7.7, said default or Event of Default shall for all purposes of the Debentures and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 7.8 Notice of Defaults. The Trustee shall, within ninety (90) days after the occurrence of a default, mail to all Debentureholders, as the names and addresses of such holders appear upon the Debenture register, notice of all defaults known to a Responsible Officer, unless such defaults shall have been cured or waived before the giving of such notice; and provided that, except in the case of a default specified in Section 7.1(a) or 7.1(b), the Trustee shall be protected in withholding such notice if and so long as a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the best interests of the Debentureholders.

Section 7.9 Undertaking to Pay Costs. All parties to this Indenture agree, and each holder of any Debenture by his acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; provided that the provisions of this Section 7.9 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Debentureholder, or group of Debentureholders, holding in the aggregate more than 10% in principal amount of the Debentures at the time outstanding determined in accordance with Section 9.4, or to any suit instituted by any Debentureholder for the enforcement of the payment of the principal of or premium, if any, or interest on any Debenture (including, but not limited to, the redemption price with respect to the Debentures being redeemed, as provided in this Indenture) on or after the due date expressed in such Debenture or to any suit for the enforcement of the right to convert any Debenture in accordance with the provisions of Article XV.

Section 7.10 Delay or Omission Not Waiver. No delay or omission of the Trustee or of any holder of any Debenture to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or any acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the holders of Debentures may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the holders of Debentures, as the case may be.

ARTICLE VIII

CONCERNING THE TRUSTEE

Section 8.1 Duties and Responsibilities of Trustee. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture and the Trust Indenture Act, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture and the Trust Indenture Act against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be provided that the Trustee was negligent in ascertaining the pertinent facts;

(c) the Trustee shall not be liable to any Debentureholder with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Debentures at the time outstanding determined as provided in Section 9.4 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(d) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Section 8.2 Reliance on Documents, Opinions, Etc. Except as otherwise provided in Section 8.1:

(a) the Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, Debenture, coupon or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Directors may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) the Trustee may consult with counsel and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Debentureholders pursuant to the provisions of this Indenture, unless such Debentureholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby;

(e) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity from the Debentureholders against such expenses or liability as a condition to so proceeding; the reasonable expenses of every such examination shall be paid by the Company or, if paid by the Trustee or any predecessor Trustee, shall be repaid by the Company upon demand; and

(f) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it with due care hereunder. In no event shall the Trustee be liable for any consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 8.3 No Responsibility for Recitals, Etc. The recitals contained herein and in the Debentures (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Debentures. The Trustee shall not be accountable for the use or application by the Company of any Debentures or the proceeds of any Debentures authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

Section 8.4 Trustee, Paying Agents, Conversion Agents or Registrar May Own Debentures. The Trustee, any paying agent, any conversion agent or Debenture registrar, in its individual or any other capacity, may become the owner or pledgee of Debentures with the same rights it would have if it were not Trustee, paying agent, conversion agent or Debenture registrar.

Section 8.5 Monies to Be Held in Trust. Subject to the provisions of Section 13.4, all monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

Section 8.6 Compensation and Expenses of Trustee. The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or willful misconduct. The Company also covenants to indemnify the Trustee in any capacity under this Indenture and its agents and any authenticating agent for, and to hold them harmless against, any loss, liability or expense incurred without negligence or willful misconduct on the part of the Trustee or such agent or authenticating agent, as the case may be, and arising out of or in connection with the acceptance or administration of this trust or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim of liability in the premises. The obligations of the Company under this Section 8.6 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a lien prior to that of the Debentures upon all property and funds held or collected by the Trustee as such, except funds held in trust herewith for the benefit of the holders of particular Debentures prior to the date of the accrual of such unpaid compensation or indemnifiable claim. The obligation of the Company under this Section shall survive the satisfaction and discharge of this Indenture.

When the Trustee and its agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 7.1(f) or (g) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 8.7 Officers' Certificate as Evidence. Except as otherwise provided in Section 8.1 or Section 8.2, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence, willful misconduct, recklessness and bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Officers' Certificate, in the absence of negligence, willful misconduct, recklessness and bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 8.8 Conflicting Interests of Trustee.

(a) If the Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture.

(b) In the event that the Trustee shall fail to comply with Subsection (a) of this Section 8.8, the Trustee shall transmit notice of such failure to the holders of Debentures to the extent and in the manner provided by, and subject to, the provisions of the Trust Indenture Act.

Section 8.9 Eligibility of Trustee. There shall at all times be a Trustee hereunder which shall be a person that is eligible pursuant to the Trust Indenture Act to act as such and has a combined capital and surplus (together with its corporate parent) of at least $50,000,000. If such person publishes reports of

condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 8.10 Resignation or Removal of Trustee.

(a) The Trustee may at any time resign by giving written notice of such resignation to the Company and by mailing notice thereof to the holders of Debentures at their addresses as they shall appear on the Debenture register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment sixty (60) days after the mailing of such notice of resignation to the Debentureholders, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months may, subject to the provisions of Section 7.9, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(1) the Trustee shall fail to comply with Section 8.8(a) after written request therefor by the Company or by any Debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months, or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 8.9 and shall fail to resign after written request therefor by the Company or by any such Debentureholder, or

(3) the Trustee shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 7.9, any Debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Debentures at the time outstanding may at any time remove the Trustee and nominate a successor trustee which shall be deemed appointed as successor trustee unless within ten (10) days after notice to the Company of such nomination the

Company objects thereto, in which case the Trustee so removed or any Debentureholder, upon the terms and conditions and otherwise as in Section 8.10(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 8.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 8.11.

Section 8.11 Acceptance by Successor Trustee. Any successor trustee appointed as provided in Section 8.10 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 8.6, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property and funds held or collected by such trustee as such, except for funds held in trust for the benefit of holders of particular Debentures, to secure any amounts then due it pursuant to the provisions of Section 8.6.

No successor trustee shall accept appointment as provided in this Section 8.11 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 8.8 and be eligible under the provisions of Section 8.9.

Upon acceptance of appointment by a successor trustee as provided in this Section 8.11, each of the Company and the former trustee shall mail or cause to be mailed notice of the succession of such trustee hereunder to the holders of Debentures at their addresses as they shall appear on the Debenture register. If the Company fails to mail such notice within ten (10) days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

Section 8.12 Succession by Merger, Etc. Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the trust created hereunder), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that in the case of any corporation succeeding to all or substantially all of the trust business of the Trustee such corporation shall be qualified under the provisions of Section 8.8 and eligible under the provisions of Section 8.9.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Debentures shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Debentures so authenticated; and in case at that time any of the Debentures shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Debentures either in the name of any predecessor

trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Debentures or in this Indenture provided that the certificate of the Trustee shall have; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Debentures in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 8.13 Limitation on Rights of Trustee as Creditor. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Debentures and the Trust Indenture Act is applicable hereto), the Trustee shall be subject to the provisions of Section 311(a) of the Trust Indenture Act or, if applicable, Section 311(b) of the Trust Indenture Act regarding the collection of the claims against the Company (or any such other obligor).

ARTICLE IX

CONCERNING THE DEBENTUREHOLDERS

Section 9.1 Action by Debentureholders. Whenever in this Indenture it is provided that the holders of a specified percentage in aggregate principal amount of the Debentures may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by Debentureholders in person or by agent or proxy appointed in writing, or (b) by the record of the holders of Debentures voting in favor thereof at any meeting of Debentureholders duly called and held in accordance with the provisions of Article X, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Debentureholders. Whenever the Company or the Trustee solicits the taking of any action by the holders of the Debentures, the Company or the Trustee may fix in advance of such solicitation, a date as the record date for determining holders entitled to take such action. The record date shall be not more than fifteen (15) days prior to the date of commencement of solicitation of such action.

Section 9.2 Proof of Execution by Debentureholders. Subject to the provisions of Sections 8.1, 8.2 and 10.5, proof of the execution of any instrument by a Debentureholder or his agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Debentures shall be proved by the Debenture register or by a certificate of the Debenture registrar. The record of any Debentureholders' meeting shall be proved in the manner provided in Section 10.6.

Section 9.3 Who Are Deemed Absolute Owners. The Company, the Trustee, any paying agent, any conversion agent and any Debenture registrar may deem the person in whose name such Debenture shall be registered upon the Debenture register to be, and may treat him as, the absolute owner of such Debenture (whether or not such Debenture shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of, premium, if any, and interest on such Debenture, for conversion of such Debenture and for all other purposes; and neither the Company nor the Trustee nor any paying agent nor any conversion agent nor any Debenture registrar shall be affected by any notice to the contrary. All such payments so made to any holder for the time being, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for monies payable upon any such Debenture.

Section 9.4 Company-Owned Debentures Disregarded. In determining whether the holders of the requisite aggregate principal amount of Debentures have concurred in any direction, consent, waiver or other action under this Indenture, Debentures which are owned by the Company or any other obligor on the Debentures or by any Affiliate of the Company or any other obligor on the Debentures shall be disregarded and deemed not to be outstanding for the purpose of any such determination; provided that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Debentures which a Responsible Officer of the Trustee knows are so owned shall be so disregarded. Debentures so owned which have been pledged in good faith may be regarded as outstanding for the purposes of this Section 9.4 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Debentures and that the pledgee is not the Company, any other obligor on the Debentures or an Affiliate of the Company or any such other obligor. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all Debentures, if any, known by the Company to be owned or held by or for the account of any of the above described persons; and, subject to Section 8.1, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Debentures not listed therein are outstanding for the purpose of any such determination.

Section 9.5 Revocation of Consents; Future Holders Bound. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 9.1, of the taking of any action by the holders of the percentage in aggregate principal amount of the Debentures specified in this Indenture in connection with such action, any holder of a Debenture which is shown by the evidence to be included in the Debentures the holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 9.2, revoke such action so far as concerns such Debenture. Except as aforesaid, any such action taken by the holder of any Debenture shall be conclusive and binding upon such holder and upon all future holders and owners of such Debenture and of any Debentures issued in exchange or substitution therefor, irrespective of whether any notation in regard thereto is made upon such Debenture or any Debenture issued in exchange or substitution therefor.

ARTICLE X

DEBENTUREHOLDERS' MEETINGS

Section 10.1 Purpose of Meetings. A meeting of Debentureholders may be called at any time and from time to time pursuant to the provisions of this Article X for any of the following purposes:

(1) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any default or Event of Default hereunder and its consequences, or to take any other action authorized to be taken by Debentureholders pursuant to any of the provisions of Article VII;

(2) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article VIII;

(3) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 11.2;

(4) to take any other action authorized to be taken by or on behalf of the holders of any specified aggregate principal amount of the Debentures under any other provision of this Indenture or under applicable law; or

(5) to take any other action authorized by this Indenture or under applicable law.

Section 10.2 Call of Meetings by Trustee. The Trustee may at any time call a meeting of Debentureholders to take any action specified in Section 10.1, to be held at such time and at such place in the Borough of Manhattan, The City of New York, as the Trustee shall determine. Notice of every meeting of the Debentureholders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 9.1, shall be mailed to holders of Debentures at their addresses as they shall appear on the Debenture register. Such notice shall also be mailed to the Company. Such notices shall be mailed not less than twenty (20) nor more than ninety (90) days prior to the date fixed for the meeting.

Any meeting of Debentureholders shall be valid without notice if the holders of all Debentures then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the holders of all Debentures outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice.

Section 10.3 Call of Meetings by Company or Debentureholders. In case at any time the Company, pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Debentures then outstanding, shall have requested the Trustee to call a meeting of Debentureholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within twenty (20) days after receipt of such request, then the Company or such Debentureholders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 10.1, by mailing notice thereof as provided in Section 10.2.

Section 10.4 Qualifications for Voting. To be entitled to vote at any meeting of Debentureholders a person shall (a) be a holder of one or more Debentures on the record date pertaining to such meeting or (b) be a person appointed by an instrument in writing as proxy by a holder of one or more Debentures. The only persons who shall be entitled to be present or to speak at any meeting of Debentureholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 10.5 Regulations. Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Debentureholders, in regard to proof of the holding of Debentures and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Debentureholders as provided in Section 10.3, in which case the Company or the Debentureholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall

be elected by vote of the holders of a majority in principal amount of the Debentures represented at the meeting and entitled to vote at the meeting.

Subject to the provisions of Section 9.4, at any meeting each Debentureholder or proxyholder shall be entitled to one vote for each $1,000 principal amount of Debentures held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Debenture challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Debentures held by him or instruments in writing as aforesaid duly designating him as the proxy to vote on behalf of other Debentureholders. Any meeting of Debentureholders duly called pursuant to the provisions of Section 10.2 or 10.3 may be adjourned from time to time by the holders of a majority of the aggregate principal amount of Debentures represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 10.6 Voting. The vote upon any resolution submitted to any meeting of Debentureholders shall be by written ballot on which shall be subscribed the signatures of the holders of Debentures or of their representatives by proxy and the principal amount of the Debentures held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Debentureholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 10.2. The record shall show the principal amount of the Debentures voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 10.7 No Delay of Rights by Meeting. Nothing in this Article X contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Debentureholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Debentureholders under any of the provisions of this Indenture or of the Debentures.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 11.1 Supplemental Indentures Without Consent of Debentureholders. The Company, when authorized by the resolutions of the Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) to make provision with respect to the conversion rights of the holders of Debentures pursuant to the requirements of Section 15.6;

(b) subject to Article IV, to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Debentures, any property or assets;

(c) to evidence the succession of another corporation to the Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Company pursuant to Article XII;

(d) to add to the covenants of the Company such further covenants, restrictions or conditions as the Board of Directors and the Trustee shall consider to be for the benefit of the holders of Debentures, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions or conditions a default or an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, however, that in respect of any such additional covenant, restriction or condition such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such default or may limit the remedies available to the Trustee upon such default;

(e) to provide for the issuance under this Indenture of Debentures in coupon form (including Debentures registrable as to principal only) and to provide for exchange of such Debentures with the Debentures issued hereunder in fully registered form and to make all appropriate changes for such purpose;

(f) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture, in each case which shall not adversely affect the interests of the holders of the Debentures;

(g) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Debentures; or

(h) to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualifications of this Indenture under the Trust Indenture Act, or under any similar federal statute hereafter enacted.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 11.1 may be executed by the Company and the Trustee without the consent of the holders of any of the Debentures at the time outstanding, notwithstanding any of the provisions of Section 11.2.

Section 11.2 Supplemental Indentures with Consent of Debentureholders. With the consent (evidenced as provided in Article IX) of the holders of not less than a majority in aggregate principal amount of the Debentures at the time outstanding (determined in accordance with Section 9.4), the Company, when

authorized by the resolutions of the Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or any supplemental indenture or of modifying in any manner the rights of the holders of the Debentures; provided, however, that no such supplemental indenture shall (i) extend the fixed maturity of any Debenture, or reduce the rate or extend the time of payment of interest thereon, or reduce the principal amount thereof or premium, if any, thereon, or reduce any amount payable on redemption thereof, or impair or adversely affect the right of any Debentureholder to institute suit for the payment thereof, or make the principal thereof or interest or premium, if any, thereon payable in any coin or currency other than that provided in the Debentures, or change or impair the right to convert the Debentures into Common Stock subject to the terms set forth herein in any respect adverse to the holder thereof, including Section 15.6, or modify the provisions of this Indenture with respect to the subordination of the Debentures in a manner adverse to the Debentureholders, without the consent of the holder of each Debenture so affected, or (ii) reduce the aforesaid percentage of Debentures, the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of all Debentures then outstanding or reduce the percentage of Debentures, the holders of which are required to consent to any waiver or modify any of the provisions of this Section or Section 7.7, except to increase any such percentage or to provide that certain of the provisions of this Indenture cannot be modified or waived without the consent of the holder of each outstanding Debenture.

Up to and prior to the close of business on the Exchange Date, only the holders of shares of Preferred Stock shall be entitled to vote on any amendments or supplements to this Indenture as provided above.

Upon the request of the Company, accompanied by a copy of the resolutions of the Board of Directors certified by its Secretary or Assistant Secretary authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Debentureholders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in is discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Debentureholders under this Section 11.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 11.3 Effect of Supplemental Indentures. Any supplemental indenture executed pursuant to the provisions of this Article XI shall comply with the Trust Indenture Act, as then in effect. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XI, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Debentures shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 11.4 Notation on Debentures. Debentures authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XI may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Debentures so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may,

at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 16.11) and delivered in exchange for the Debentures then outstanding, upon surrender of such Debentures then outstanding.

Section 11.5 Evidence of Compliance of Supplemental Indenture to Be Furnished Trustee. The Trustee, subject to the provisions of Sections 8.1 and 8.2, may receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article XI.

ARTICLE XII

MERGER, SALE OR CONSOLIDATION

Section 12.1 Limitation on Merger, Sale or Consolidation. The Company shall not consolidate with or merge with or into another person or sell, lease, convey or transfer all or substantially all of its assets (computed on a consolidated basis), whether in a single transaction or a series of related transactions, to another person or group of affiliated persons, unless (i) either (A) in the case of a consolidation or merger, the Company is the surviving entity or (B) the resulting, surviving or transferee entity is a corporation organized under the laws of the United States, any state thereof or the District of Columbia and expressly assumes by supplemental indenture all of the obligations of the Company in connection with the Debentures and the Indenture; (ii) no default or Event of Default shall exist or shall occur immediately before or after giving effect on a pro forma basis to such transaction; and (iii) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, lease, conveyance or transfer and, if a supplemental indenture is required, such supplemental indenture comply with the Indenture and that all conditions precedent relating to such transactions have been satisfied.

Section 12.2 Successor Corporation to Be Substituted. In case of any such consolidation, merger, sale, conveyance or lease and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and premium, if any, and interest on all of the Debentures and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such successor corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such successor corporation thereupon may cause to be signed, and may issue either in its own name or in the name of Marchex, Inc. any or all of the Debentures issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such successor corporation instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Debentures which previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Debentures which such successor corporation thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Debentures so issued shall in all respects have the same legal rank and benefit under this Indenture as the Debentures theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Debentures had been issued at the date of the execution hereof. In the event of any such consolidation, merger, sale or conveyance (but not in the event of such lease), the person named as the "Company" in the first paragraph of this Indenture, or any successor which shall thereafter have become such in the manner prescribed in this Article XII and which shall have transferred its rights and obligations hereunder to another successor in the manner prescribed in this Article XII, may be dissolved, wound up and liquidated at any time

thereafter and such person shall be released from its liabilities as obligor and maker of the Debentures and from its obligations under this Indenture.

In case of any such consolidation, merger, sale, conveyance or lease, such changes in phraseology and form (but not in substance) may be made in the Debentures thereafter to be issued as may be appropriate.

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 13.1 Discharge of Indenture. When (a) the Company shall deliver to the Trustee for cancellation all Debentures theretofore authenticated (other than any Debentures which have been destroyed, lost or stolen and in lieu of or in substitution for which other Debentures shall have been authenticated and delivered) and not theretofore canceled, or (b) all the Debentures not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall irrevocably deposit with the Trustee, in trust, funds sufficient to pay at maturity or upon redemption of all of the Debentures (other than any Debentures which shall have been mutilated, destroyed, lost or stolen and in lieu of or in substitution for which other Debentures shall have been authenticated and delivered) not theretofore canceled or delivered to the Trustee for cancellation, including principal and premium, if any, and interest due or to become due to such date of maturity or redemption date, as the case may be, and if in either case the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect (except as to (i) remaining rights of registration of transfer, substitution and exchange and conversion of Debentures and maintenance of an office therefor, (ii) rights hereunder of Debentureholders to receive payments of principal of and premium, if any, and interest on, the Debentures and the other rights, duties and obligations of Debentureholders, as beneficiaries hereof with respect to the amounts, if any, so deposited with the Trustee and (iii) the rights, obligations and immunities of the Trustee hereunder), and the Trustee, on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel as required by Section 16.5 and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture; the Company, however, hereby agreeing to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred by the Trustee and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Debentures.

Section 13.2 Deposited Monies to Be Held in Trust by Trustee. Subject to Section 13.4, all monies deposited with the Trustee pursuant to Section 13.1 shall be held in trust and applied by it to the payment, notwithstanding the provisions of Article IV, either directly or through any paying agent (including the Company if acting as its own paying agent), to the holders of the particular Debentures for the payment or redemption of which such monies have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest and premium, if any.

Section 13.3 Paying Agent to Repay Monies Held. Upon the satisfaction and discharge of this Indenture, all monies then held by any paying agent of the Debentures (other than the Trustee) shall, upon demand of the Company, be repaid to it or paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such monies.

Section 13.4 Return of Unclaimed Monies. Subject to the requirements of applicable law, any monies deposited with or paid to the Trustee for payment of the principal of, premium, if any, or interest on Debentures and not applied but remaining unclaimed by the holders of Debentures for two years after the date upon which the principal of, premium, if any, or interest on such Debentures, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee on demand and all liability of the Trustee shall thereupon cease with respect to such monies; and the holder of any of the Debentures shall thereafter look only to the Company for any payment which such holder may be entitled to collect unless an applicable abandoned property law designates another person.

Section 13.5 Reinstatement. If (i) the Trustee or the paying agent is unable to apply any money in accordance with Section 13.2 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application and (ii) the holders of at least a majority in principal amount of the then outstanding Debentures so request by written notice to the Trustee, the Company's obligations under this Indenture and the Debentures shall be revived and reinstated as though no deposit had occurred pursuant to Section 13.1 until such time as the Trustee or the paying agent is permitted to apply all such money in accordance with Section 13.2; provided, however, that if the Company makes any payment of interest on or principal of any Debenture following the reinstatement of its obligations, the Company shall be subrogated to the rights of the holders of such Debentures to receive such payment from the money held by the Trustee or paying agent.

ARTICLE XIV

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 14.1 Indenture and Debentures Solely Corporate Obligations. No recourse for the payment of the principal of or premium, if any, or interest on any Debenture, or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Indenture or in any supplemental indenture or in any Debenture, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer or director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of the Debentures.

ARTICLE XV

CONVERSION OF DEBENTURES

Section 15.1 Right to Convert. Subject to and upon compliance with the provisions of this Indenture, the holder of any Debenture shall have, at his option, the right, at any time on or prior to the close of business on the twenty-five year anniversary of the Exchange Date (except that, with respect to any Debenture or portion of a Debenture which shall be called for redemption, such right shall terminate, except as provided in the fourth paragraph of Section 15.2, at the close of business on the next Business Day preceding the date fixed for redemption of such Debenture or portion of a Debenture unless the Company shall default in payment due upon redemption thereof) to convert the principal amount of any such Debenture, or any portion of such principal amount which is $1,000 or an integral multiple thereof, into that number of

fully paid and non-assessable shares of Common Stock (as such shares shall then be constituted) obtained by dividing the principal amount of the Debenture or portion thereof surrendered for conversion by the Conversion Price in effect at such time, by surrender of the Debenture so to be converted in whole or in part in the manner provided in Section 15.2. A holder of Debentures is not entitled to any rights of a holder of Common Stock until such holder has converted his Debentures to Common Stock, and only to the extent such Debentures are deemed to have been converted to Common Stock under this Article XV.

Section 15.2 Exercise of Conversion Privilege; Issuance of Common Stock on Conversion; No Adjustment for Interest or Dividends. In order to exercise the conversion privilege with respect to any Debenture, the holder of any such Debenture to be converted in whole or in part shall surrender such Debenture, duly endorsed, at an office or agency maintained by the Company pursuant to Section 5.2, accompanied by the funds, if any, required by the last paragraph of this Section 15.2, and shall give written notice of conversion in the form provided on the Debentures (or such other notice which is acceptable to the Company) to the office or agency that the holder elects to convert such Debenture or such portion thereof specified in said notice. Such notice shall also state the name or names (with address) in which the certificate or certificates for shares of Common Stock which shall be issuable on such conversion shall be issued, and shall be accompanied by transfer taxes, if required pursuant to Section 15.7. Each such Debenture surrendered for conversion shall, unless the shares issuable on conversion are to be issued in the same name as the registration of such Debenture, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the holder or his duly authorized attorney.

In order to exercise the conversion privilege with respect to any interest in a Global Debenture, the beneficial holder must complete the appropriate instruction form for conversion pursuant to the Depositary's book-entry conversion program, deliver by book-entry delivery an interest in such Global Debenture, furnish appropriate endorsements and transfer documents if required by the Company or the Trustee or conversion agent, and pay the funds, if any, required by the penultimate paragraph of this Section 15.2 and any transfer taxes, if required pursuant to Section 15.7.

As promptly as practicable, but in any event within ten (10) Business Days, after satisfaction of the requirements for conversion set forth above, the Company shall issue and shall deliver to such holder or, if shares issuable on conversion are to be issued in a name other than that of the Debentureholder (as if such transfer were a transfer of the Debenture or Debentures (or portion thereof) so converted), to such other person, at the office or agency maintained by the Company for such purpose pursuant to Section 5.2, a certificate or certificates for the number of full shares of Common Stock issuable upon the conversion of such Debenture or portion thereof in accordance with the provisions of this Article and a check or cash in respect of any fractional interest in respect of a share of Common Stock arising upon such conversion, as provided in Section 15.3 (which payment, if any, shall be paid as promptly as practicable, but in any event no later than ten (10) Business Days after satisfaction of the requirements for conversion set forth above). In case any Debenture of a denomination greater than $1,000 shall be surrendered for partial conversion, and subject to Section 2.3, the Company shall execute and the Trustee shall authenticate and deliver to the holder of the Debenture so surrendered, without charge to him, a new Debenture or Debentures in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Debenture.

Each conversion shall be deemed to have been effected as to any such Debenture (or portion thereof) on the date on which the requirements set forth above in this Section 15.2 have been satisfied as to such Debenture (or portion thereof), and the person in whose name any certificate or certificates for shares of

Common Stock shall be issuable upon such conversion shall be deemed to have become on said date the holder of record of the shares represented thereby; provided, however, that if any such surrender occurs on any date when the stock transfer books of the Company shall be closed, the conversion shall be effected on the next succeeding day on which such stock transfer books are open, and the person in whose name the certificates are to be issued shall be the record holder thereof for all purposes, but such conversion shall be at the Conversion Price in effect on the date upon which such Debenture shall be surrendered.

Upon the conversion of an interest in a Global Debenture, the Trustee, or the Custodian at the direction of the Trustee, shall make a notation on such Global Debenture as to the reduction in the principal amount represented thereby.

Any Debenture or portion thereof surrendered for conversion during the period from the close of business on the record date for any interest payment date through the close of business on the Business Day next preceding such interest payment date shall (unless such Debenture or portion thereof being converted shall have been called for redemption or the Company shall have issued an Automatic Conversion Notice pursuant to the provisions of this Indenture for such Debenture or portion thereof being converted) be accompanied by payment, in New York Clearing House funds or other funds acceptable to the Company, of an amount equal to the interest otherwise payable on such interest payment date on the principal amount being converted; provided, however, that no such payment need be made if there shall exist at the time of conversion a default in the payment of interest on the Debentures. The Trustee shall not be required to accept for conversion any Debentures not accompanied by any payment required by the preceding sentence. Except as provided above in this Section 15.2, no adjustment shall be made for interest accrued on any Debenture converted or for dividends on any shares issued upon the conversion of such Debenture as provided in this Article.

Section 15.3 Cash Payments in Lieu of Fractional Shares. No fractional shares of Common Stock or scrip representing fractional shares shall be issued upon conversion of Debentures. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of full shares which shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Debentures (or specified portions thereof to the extent permitted hereby) so surrendered for conversion. If any fractional share of stock otherwise would be issuable upon the conversion of any Debenture or Debentures, the Company shall make a payment therefor in cash to the holder of Debentures based on the current market value of the Common Stock. The current market value of a share of Common Stock shall be the Closing Price on the first Trading Day immediately preceding the day on which the Debentures (or specified portions thereof) are deemed to have been converted and such Closing Price shall be determined as provided in Section 15.5(h).

Section 15.4 Conversion Price. The conversion price shall be as specified in the form of Debenture (herein called the “Conversion Price”) attached as Exhibit A hereto, subject to adjustment as provided in this Article XV.

Section 15.5 Adjustment of Conversion Price. The Conversion Price shall be adjusted from time to time by the Company as follows:

(a) In case the Company shall hereafter pay a dividend or make a distribution to all holders of the outstanding Common Stock in shares of Common Stock, the Conversion Price in effect at the opening of business on the date following the date fixed for the determination of stockholders entitled to receive such dividend or other distribution shall be reduced by multiplying such Conversion Price by a

fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the Record Date (as defined in Section 15.5(h)) fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such reduction to become effective immediately prior to the opening of business on the day following the Record Date. If any dividend or distribution of the type described in this Section 15.5(a) is declared but not so paid or made, the Conversion Price shall again be adjusted to the Conversion Price which would then be in effect if such dividend or distribution had not been declared.

(b) In case the Company shall issue rights or warrants to all holders of its outstanding shares of Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the Current Market Price (as defined in Section 15.5(h)) on the Record Date fixed for the determination of stockholders entitled to receive such rights or warrants, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect at the opening of business on the date after such Record Date by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the Record Date plus the number of shares which the aggregate offering price of the total number of shares so offered would purchase at such Current Market Price, and of which the denominator shall be the number of shares of Common Stock outstanding on the close of business on the Record Date plus the total number of additional shares of Common Stock so offered for subscription or purchase. Such adjustment shall become effective immediately after the opening of business on the day following the Record Date fixed for determination of stockholders entitled to receive such rights or warrants. To the extent that shares of Common Stock are not delivered pursuant to such rights or warrants, upon the expiration or termination of such rights or warrants the Conversion Price shall be readjusted to the Conversion Price which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. In the event that such rights or warrants are not so issued, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such date fixed for the determination of stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Current Market Price, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) In case the outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately reduced, and conversely, in case outstanding shares of Common Stock shall be combined into a smaller number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(d) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock shares of any class of capital stock of the Company (other than any dividends or distributions to which Section 15.5(a) applies) or evidences of its indebtedness, cash or other assets (including securities, but excluding (1) any rights or warrants referred to in Section 15.5(b) or (2) dividends and distributions paid exclusively in cash (the foregoing hereinafter in this Section 15.5(d) called the “Securities”)), then, in each such case, the Conversion Price shall be reduced so that the same shall be equal to the price determined by multiplying the Conversion Price in effect immediately prior to the close of business on the Record Date (as

defined in Section 15.5(h)) with respect to such distribution by a fraction of which the numerator shall be the Current Market Price (determined as provided in Section 15.5(h)) on such date less the fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) on such date of the portion of the Securities so distributed applicable to one share of Common Stock and the denominator shall be such Current Market Price, such reduction to become effective immediately prior to the opening of business on the day following the Record Date, or in the case of a Spin-off, immediately prior to the opening of business on the day following the last Trading Day of the Measurement Period; provided, however, that in the event the then fair market value (as so determined) of the portion of the Securities so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Debentureholder shall have the right to receive upon conversion of a Debenture (or any portion thereof) the amount of Securities such holder would have received had such holder converted such Debenture (or portion thereof) immediately prior to such Record Date. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines the fair market value of any distribution for purposes of this Section 15.5(d) by reference to the actual or when issued trading market for any securities comprising all or part of such distribution, it must in doing so consider the prices in such market over the same period (the "Reference Period") used in computing the Current Market Price pursuant to Section 15.5(h) to the extent possible, unless the Board of Directors in a board resolution determines in good faith that determining the fair market value during the Reference Period would not be in the best interest of the Debentureholder.

In the event the Company distributes shares of capital stock of a Subsidiary or other business unit of the Company, the Conversion Price will be adjusted, if at all, based on the market value of the Subsidiary or other business unit of the Company's stock so distributed relative to the market value of the Common Stock, as described in the remainder of this paragraph. In respect of a dividend or other distribution of shares of capital stock of a class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company which has a Subsidiary Closing Price (a "Spin-off"), the fair market value of the securities to be distributed shall equal the average of the daily Subsidiary Closing Price of such securities for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day of such securities after the effectiveness of the Spin-off (the "Measurement Period"); provided, however, that in the event that an underwritten initial public offering of the securities in the Spin-off occurs simultaneously with the Spin-off, fair market value of the securities distributed in the Spin-off shall be the initial public offering price of such securities and the market price per share of the Common Stock shall mean the Closing Price for the Common Stock on the same Trading Day.

In the event that the Company implements a stockholders' rights plan (a "Rights Plan"), such Rights Plan shall provide that upon conversion of the Debentures the holders will receive, in addition to the Common Stock issuable upon such conversion, the rights under such Rights Plan unless the rights have separated from the Common Stock before the time of conversion in which case the Conversion Price will be adjusted as if the Company distributed to all holders of the Common Stock, shares of its capital stock, evidences of its indebtedness or assets as described above, subject to readjustment in the event of expiration, termination or redemption of such rights. Any distribution of rights or warrants pursuant to the Rights Plan complying with the requirements set forth in the immediately preceding sentence of this paragraph shall not constitute a distribution of rights or warrants for purposes of this Section 15.5(d).

Rights or warrants distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company's capital stock (either initially or under

certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("Trigger Event"): (i) are deemed to be transferred with such shares of Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 15.5(d) (and no adjustment to the Conversion Price under this Section 15.5(d) will be required) until the occurrence of the earliest Trigger Event. If such right or warrant is subject to subsequent events, upon the occurrence of which such right or warrant shall become exercisable to purchase different securities, evidences of indebtedness or other assets or entitle the holder to purchase a different number or amount of the foregoing or to purchase any of the foregoing at a different purchase price, then the occurrence of each such event shall be deemed to be the date of issuance and record date with respect to a new right or warrant (and a termination or expiration of the existing right or warrant without exercise by the holder thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto, that resulted in an adjustment to the Conversion Price under this Section 15.5(d), (1) in the case of any such rights or warrants which shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Price shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants all of which shall have expired or been terminated without exercise, the Conversion Price shall be readjusted as if such rights and warrants had never been issued.

For purposes of this Section 15.5(d) and Sections 15.5(a) and (b), any dividend or distribution to which this Section 15.5(d) is applicable that also includes shares of Common Stock to which 15.5(a) applies, or rights or warrants to subscribe for or purchase shares of Common Stock to which Section 15.5(b) applies (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets, shares of capital stock, rights or warrants other than such shares of Common Stock to which 15.5(a) applies or rights or warrants to which Section 15.5(b) applies (and any Conversion Price reduction required by this Section 15.5(d) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Price reduction required by Sections 15.5(a) and (b) with respect to such dividend or distribution shall then be made, except (A) the Record Date of such dividend or distribution shall be substituted as "the date fixed for the determination of stockholders entitled to receive such dividend or other distribution", "Record Date fixed for such determination" and "Record Date" within the meaning of Section 15.5(a) and as "the date fixed for the determination of stockholders entitled to receive such rights or warrants," "the Record Date fixed for the determination of the stockholders entitled to receive such rights or warrants" and "such Record Date" within the meaning of Section 15.5(b) and (B) any shares of Common Stock included in such dividend or distribution shall not be deemed "outstanding at the close of business on the date fixed for such determination" within the meaning of Section 15.5(a).

(e) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock cash (excluding any cash that is distributed upon a merger or consolidation to which Section 15.6 applies or as part of a distribution referred to in Section 15.5(d)), then, and in each such case, immediately after the close of business on such date of distribution, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the close of business on such Record Date by a fraction (i) the numerator of which shall be equal to the Current Market Price on the Record Date less an amount equal to the quotient of (x) the amount of such cash distribution and (y) the number of shares of Common Stock outstanding on the Record Date and (ii) the

denominator of which shall be equal to the Current Market Price on such date, provided, however, that in the event the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price of the Common Stock on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Debentureholder shall have the right to receive upon conversion of a Debenture (or any portion thereof) the amount of cash such holder would have received had such holder converted such Debenture (or portion thereof) immediately prior to such Record Date. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such dividend or distribution had not been declared. Any cash distribution to all holders of Common Stock as to which the Company makes the election permitted by Section 15.5(d) and as to which the Company has complied with the requirements of such Section shall be treated as not having been made for all purposes of this Section 15.5(e).

(f) In case a tender offer made by the Company or any of its Subsidiaries for all or any portion of the Common Stock shall expire and such tender offer (as amended upon the expiration thereof) shall require the payment of consideration to holders of Purchased Shares (as defined below), then, and in each such case, immediately prior to the opening of business on the day after the date of the last time (the "Expiration Time") tenders could have been made pursuant to such tender offer (as it may be amended), the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to close of business on the date of the Expiration Time by a fraction of which the numerator shall be the number of shares of Common Stock outstanding (including any tendered shares) on the Expiration Time multiplied by the Current Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time and the denominator shall be the sum of (x) the fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a resolution of the Board of Directors) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender offer) of all shares validly tendered and not withdrawn as of the Expiration Time (the shares deemed so accepted, up to any such maximum, being referred to as the "Purchased Shares") and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Current Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time, such reduction (if any) to become effective immediately prior to the opening of business on the day following the Expiration Time. In the event that the Company is obligated to purchase shares pursuant to any such tender offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such tender offer had not been made. If the application of this Section 15.5(f) to any tender offer would result in an increase in the Conversion Price, no adjustment shall be made for such tender offer under this Section 15.5(f).

(g) In case of a tender or exchange offer made by a person other than the Company or any Subsidiary for an amount which increases the offeror's ownership of Common Equity to more than 25% of the Common Equity outstanding and shall involve the payment by such person of consideration per share of Common Stock having a fair market value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) at the last time (the "Tender Expiration Time") tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended) that exceeds the Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time, and in which, as of the Tender Expiration Time the Board of Directors is not recommending rejection of the offer, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the Tender Expiration Time by a fraction of which the numerator shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the Tender Expiration Time multiplied by the

Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time and the denominator shall be the sum of (x) the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares validly tendered or exchanged and not withdrawn as of the Tender Expiration Time (the shares deemed so accepted, up to any such maximum, being referred to as the "Tender Purchased Shares") and (y) the product of the number of shares of Common Stock outstanding (less any Tender Purchased Shares) on the Tender Expiration Time and the Current Market Price of the Common Stock on the Trading Day next succeeding the Tender Expiration Time, such reduction to become effective immediately prior to the opening of business on the day following the Tender Expiration Time. In the event that such person is obligated to purchase shares pursuant to any such tender or exchange offer, but such person is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such tender or exchange offer had not been made. Notwithstanding the foregoing, the adjustment described in this Section 15.5(g) shall not be made if, as of the Tender Expiration Time, the offering documents with respect to such offer disclose a plan or intention to cause the Company to engage in any transaction described in Article XII.

(h) For purposes of this Section 15.5, the following terms shall have the meaning indicated:

(1) "Closing Price" with respect to any securities on any day shall mean the closing sale price regular way on such day or, in case no such sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in each case on the Nasdaq National Market or New York Stock Exchange, as applicable, or, if such security is not listed or admitted to trading on such National Market or Exchange, on the principal national security exchange or quotation system on which such security is quoted or listed or admitted to trading, or, if not quoted or listed or admitted to trading on any national securities exchange or quotation system, the average of the closing bid and asked prices of such security on the over-the-counter market on the day in question as reported by the National Quotation Bureau Incorporated, or a similar generally accepted reporting service, or if not so available, in such manner as furnished by any New York Stock Exchange member firm selected from time to time by the Board of Directors for that purpose, or a price determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution.

(2) "Current Market Price" shall mean the lesser of (a) the Closing Price per share of Common Stock on the date in question and (b) the average of the daily Closing Prices per share of Common Stock for the ten (10) consecutive Trading Days immediately prior to the date in question; provided, however, that (1) if the "ex" date (as hereinafter defined) for any event (other than the issuance or distribution or Fundamental Change requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 15.5(a), (b), (c), (d), (e), (f) or (g) occurs during such ten (10) consecutive Trading Days, the Closing Price for each Trading Day prior to the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the same fraction by which the Conversion Price is so required to be adjusted as a result of such other event, (2) if the "ex" date for any event (other than the issuance or distribution or Fundamental Change requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 15.5(a), (b), (c), (d), (e), (f) or (g) occurs on or after the "ex" date for the issuance or distribution or Fundamental Change requiring such computation and prior to the day in question, the Closing Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the reciprocal of the fraction by which the Conversion Price is so required to be adjusted as a result of such other event, and (3) if the "ex" date for the issuance, distribution or

Fundamental Change requiring such computation is prior to the day in question, after taking into account any adjustment required pursuant to clause (1) or (2) of this proviso, the Closing Price for each Trading Day on or after such "ex" date shall be adjusted by adding thereto the amount of any cash and the fair market value (as determined by the Board of Directors in a manner consistent with any determination of such value for purposes of Section 15.5(d), (f) or (g), whose determination shall be conclusive and described in a Board Resolution) of the evidences of indebtedness, shares of capital stock or assets being distributed applicable to one share of Common Stock as of the close of business on the day before such "ex" date. For purposes of any computation under Sections 15.5(f) or (g), the Current Market Price of the Common Stock on any date shall be deemed to be the average of the daily Closing Prices per share of Common Stock for such day and the next two succeeding Trading Days; provided, however, that if the "ex" date for any event (other than the tender offer requiring such computation) that requires an adjustment to the Conversion Price pursuant to Section 15.5(a), (b), (c), (d), (e), (f) or (g) occurs on or after the Expiration Time for the tender or exchange offer requiring such computation and prior to the day in question, the Closing Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Price by the reciprocal of the fraction by which the Conversion Price is so required to be adjusted as a result of such other event. For purposes of this paragraph, the term "ex" date, (1) when used with respect to any issuance or distribution or Fundamental Change, means the first date on which the Common Stock trades regular way on the relevant exchange or in the relevant market from which the Closing Price was obtained without the right to receive such issuance or distribution, (2) when used with respect to any subdivision or combination of shares of Common Stock, means the first date on which the Common Stock trades regular way on such exchange or in such market after the time at which such subdivision or combination becomes effective, and (3) when used with respect to any tender or exchange offer means the first date on which the Common Stock trades regular way on such exchange or in such market after the Expiration Time or Tender Expiration Time, as the case may be, of such offer. Notwithstanding the foregoing, whenever successive adjustments to the Conversion Price are called for pursuant to this Section 15.5, such adjustments shall be made to the Current Market Price as may be necessary or appropriate to effectuate the intent of this Section 15.5 and to avoid unjust or inequitable results as determined in good faith by the Board of Directors.

(3) "fair market value" shall mean the amount which a willing buyer would pay a willing seller in an arm's length transaction.

(4) "Record Date" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(5) "Trading Day" shall mean (x) if the applicable security is quoted on the Nasdaq National Market, a day on which trades may be made thereon or (y) if the applicable security is listed or admitted for trading on the New York Stock Exchange or another national security exchange, a day on which the New York Stock Exchange or another national security exchange is open for business or (z) if the applicable security is not so listed, admitted for trading or quoted, any day other than a Saturday or Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(i) The Company may make such reductions in the Conversion Price, in addition to those required by Sections 15.5(a), (b), (c), (d), (e), (f) and (g), as the Board of Directors considers to be

advisable to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

To the extent permitted by applicable law, the Company from time to time may make a temporary reduction in the Conversion Price by any amount for any period of time if the reduction is irrevocable during the period and the Board of Directors shall have made a determination that such reduction would be in the best interests of the Company, which determination shall be conclusive and described in a Board Resolution. Whenever the Conversion Price is reduced pursuant to the preceding sentence, the Company shall mail to the holder of each Debenture at his last address appearing on the Debenture register provided for in Section 2.5 a notice of the reduction prior to the date the reduced Conversion Price takes effect, and such notice shall state the reduced Conversion Price and the period during which it will be in effect.

(j) All calculations under this Article XV shall be made by the Company and shall be made to the nearest cent or to the nearest one hundredth of a share, as the case may be. No adjustment need be made for a change in the par value or no par value of the Common Stock.

(k) Whenever the Conversion Price is adjusted as herein provided, the Company shall promptly file with the Trustee and any conversion agent other than the Trustee an Officers' Certificate setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Price and may assume without inquiry that the last Conversion Price of which it has knowledge remains in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Price setting forth the adjusted Conversion Price and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Price to the holder of each Debenture at his last address appearing on the Debenture register provided for in Section 2.5, within ten (10) days of the effective date of such adjustment. Failure to deliver such notice shall not effect the legality or validity of any such adjustment.

(l) In any case in which this Section 15.5 provides that an adjustment shall become effective immediately after a Record Date for an event, the Company may defer until the occurrence of such event (i) issuing to the holder of any Debenture converted after such Record Date and before the occurrence of such event the additional shares of Common Stock issuable upon such conversion by reason of the adjustment required by such event over and above the Common Stock issuable upon such conversion before giving effect to such adjustment and (ii) paying to such holder any amount in cash in lieu of any fraction pursuant to Section 15.3.

(m) For purposes of this Section 15.5, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. The Company will not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

Section 15.6 Reclassification, Consolidation, Merger or Sale. If any transaction shall occur (including, without limitation (a) any recapitalization or reclassification of shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination of Common Stock), (b) any consolidation of the Company with, or merger of

the Company into, any other person, or any merger of another person into the Company (other than a merger that does not result in a reclassification, conversion, exchange or cancellation of Common Stock), (c) any sale, transfer or lease of all or substantially all of the assets of the Company or (d) any compulsory share exchange) pursuant to which either shares of Common Stock shall be converted into the right to receive other securities, cash or other property, or, in the case of a sale or transfer of all or substantially all of the assets of the Company, the holders of Common Stock shall be entitled to receive other securities, cash or other property, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such recapitalization, reclassification, change, consolidation, merger, sale, transfer or share exchange, execute and deliver to the Trustee a supplemental indenture providing that the holder of each Debenture then outstanding shall have the right thereafter, to convert such Debenture only into: (x) in the case of any such transaction that does not constitute a Common Stock Fundamental Change (as defined in Section 15.11(c)) and subject to funds being legally available for such purpose under applicable law at the time of such conversion, the kind and amount of the securities, cash or other property that would have been receivable upon such recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange by a holder of the number of shares of Common Stock issuable upon conversion of such Debentures immediately prior to such recapitalization, reclassification, consolidation, merger, sale, transfer or share exchange, after giving effect, in the case of any Non-Stock Fundamental Change (as defined in Section 15.11(c)), to any adjustment in the Conversion Price in accordance with Section 15.11(a)(i) and (y) in the case of any such transaction that constitutes a Common Stock Fundamental Change, common stock of the kind received by holders of Common Stock as a result of such Common Stock Fundamental Change in an amount determined in accordance with Section 15.11(a)(ii). Such supplemental indenture shall provide for adjustments that, for events subsequent to the effective date of such supplemental indenture shall be as nearly equivalent as may be practicable to the relevant adjustments provided for in this Article XV. If, in the case of any such consolidation, merger, transfer or lease, the capital stock and other securities and assets (including cash) receivable thereupon by a holder of Common stock includes shares of capital stock or other securities or assets of a corporation other than the successor or purchasing corporation, as the case may be, in such consolidation, merger, transfer or lease, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the holders as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

The above provisions of this Section shall similarly apply to successive recapitalizations, consolidations, mergers, sales, transfers or share exchanges.

In the event the Company shall execute a supplemental indenture pursuant to this Section 15.6, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of capital stock or securities or assets (including cash) receivable by holders upon the conversion of their Debentures after any such recapitalization, reclassification, change, consolidation, merger, sale, transfer or share exchange and any adjustment to be made with respect thereto.

Section 15.7 Taxes on Shares Issued. The issue of stock certificates on conversions of Debentures shall be made without charge to the converting Debentureholder for any tax in respect of the issue thereof. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of stock in any name other than that of the holder of any Debenture converted, and the Company shall not be required to issue or deliver any such stock certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Section 15.8 Reservation of Shares; Shares to Be Fully Paid; Listing of Common Stock. The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, sufficient shares to provide for the conversion of the Debentures from time to time as such Debentures are presented for conversion, and no Debenture shall be issued unless such sufficient number of shares has been reserved and are available for issuance upon conversion of Debentures under this Article XV.

Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value, if any, of the shares of Common Stock issuable upon conversion of the Debentures, the Company will take all corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue shares of such Common Stock at such adjusted Conversion Price.

The Company covenants that all shares of Common Stock issued upon conversion of Debentures will be fully paid and non-assessable by the Company and free from all taxes, liens and charges with respect to the issue thereof.

The Company covenants that if any shares of Common Stock to be issued or provided for pursuant to this Indenture require registration with or approval of any governmental authority under any Federal or State law before such shares may be validly issued or provided for pursuant to this Indenture, the Company will in good faith and as expeditiously as possible endeavor to secure such registration or approval, as the case may be.

The Company further covenants that if at any time the Common Stock shall be listed on the Nasdaq National Market or any other national securities exchange or automated quotation system the Company will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all Common Stock issuable upon conversion of the Debentures.

Section 15.9 Responsibility of Trustee. Except as otherwise expressly provided for in this Article XV, the Company is solely responsible for performing the duties and responsibilities contained in this Article XV. The Trustee and any other conversion agent shall not at any time be under any duty or responsibility to any holder of Debentures to determine whether any facts exist which may require any adjustment of the Conversion Price, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other conversion agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Debenture; and the Trustee and any other conversion agent make no representations with respect thereto. Subject to the provisions of Section 8.1, neither the Trustee nor any conversion agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Debenture for the purpose of conversion or to comply with any of the duties,

responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any conversion agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 15.6 relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Debentureholders upon the conversion of their Debentures after any event referred to in such Section 15.6 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 8.1, may accept as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officers' Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto.

Section 15.10 Notice to Holders Prior to Certain Actions. In case:

(a) the Company shall declare a dividend (or any other distribution) on its Common Stock (that would require an adjustment in the Conversion Price pursuant to Section 15.5); or

(b) the Company shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants; or

(c) of any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(d) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

the Company shall cause to be filed with the Trustee and to be mailed to each holder of Debentures at his address appearing on the Debenture register, provided for in Section 2.5 of this Indenture, as promptly as possible but in any event at least fifteen (15) days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, 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 or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up.

Section 15.11 Adjustments to Conversion Price in the Event of a Fundamental Change.

(a) Notwithstanding any other provision in this Article XV to the contrary, if any Fundamental Change (as defined below) occurs, then the Conversion Price in effect will be adjusted immediately following such Fundamental Change as described below. In addition, in the event of a Common Stock Fundamental Change, each Debenture shall be convertible solely into common stock of the kind received by holders of Common Stock as a result of such Common Stock Fundamental Change.

For purposes of calculating any adjustment to be made pursuant to this Section 15.11 in the event of a Fundamental Change, immediately following such Fundamental Change (and for such purposes a Fundamental Change shall be deemed to occur on the earlier of (a) the occurrence of such Fundamental Change, and (b) the date, if any, fixed for determination of stockholders entitled to receive the cash, securities, property or other assets distributable in such Fundamental Change to holders of the Common Stock):

(i) in the case of a Non-Stock Fundamental Change, the Conversion Price of the Debentures immediately following such Non-Stock Fundamental Change shall be the lower of (A) the Conversion Price in effect immediately prior to such Non-Stock Fundamental Change, but after giving effect to any other prior adjustments effected pursuant to this Article XV and (B) the product of (1) the greater of the Applicable Price (as defined in Section 15.11(c)) or $_____ and (2) a fraction, the numerator of which is $1,000 and the denominator of which is (x) the amount of the redemption price for each $1,000 principal amount of Debentures if the redemption date were the date of such Non-Stock Fundamental Change (or the date of the period commencing on the first date of original issuance of the Debentures and through _____, 2006 or the twelve-month period commencing _____, 2006, the product of _____% and _____%, respectively, times $1,000) plus (y) any accrued interest and unpaid interest thereon to, but excluding, the date of such Non-Stock Fundamental Change; and

(ii) in the case of a Common Stock Fundamental Change, the Conversion Price of the Debentures immediately following such Common Stock Fundamental Change shall be the Conversion Price in effect immediately prior to such Common Stock Fundamental Change, but after giving effect to any other prior adjustments effected pursuant to Section 15.5 multiplied by a fraction, the numerator of which is the Purchaser Stock Price (as defined in Section 15.11(c)) and the denominator of which is the Applicable Price; provided, however, that in the event of a Common Stock Fundamental Change in which (A) 100% of the value of the consideration received by a holder of Common Stock is common stock of the successor, acquiror or other third party (and cash, if any, paid with respect to any fractional interests in such common stock resulting from such Common Stock Fundamental Change) and (B) all of the Common Stock shall have been exchanged for, converted into or acquired for, common stock of the successor, acquiror or other third party (and any cash with respect to fractional interests), the Conversion Price immediately following such Common Stock Fundamental Change shall be the Conversion Price in effect immediately prior to such Common Stock Fundamental Change multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of shares of common stock of the successor, acquiror or other third party received by a holder of one share of Company Common Stock as a result of such Common Stock Fundamental Change.

(b) In addition to the Conversion Price adjustments described in Sections 15(a)(i) and 15(a)(ii) above, if a Fundamental Change occurs at any time prior to _____, 2008, and 10% or more of the consideration for the Common Stock in the corporate transaction that constitutes the Fundamental Change consists of cash, securities or other property that is not traded or scheduled to be traded immediately following such transaction on a U.S. national securities exchange or the Nasdaq National Market, the Company will adjust the Conversion Rate by increasing the number of shares of Common Stock issuable upon conversion of the Security by a number of additional shares of Common Stock (the "**Additional Common Stock**") as set forth below. The number of shares of Additional Common Stock will be determined by reference to the table below, based on the date on which such Fundamental Change becomes effective (the "**Effective Date**") and the price (the "**Stock Price**") paid per share for the Common Stock in such Fundamental Change. If Holders of Common Stock receive only cash in the Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Sale

Prices of the Common Stock on the five Trading Days prior to but not including the Effective Date of such Fundamental Change.

The Stock Prices and number of shares of Additional Common Stock set forth in the table below will be adjusted as of any date on which the Conversion Price is adjusted. On such date, the Stock Prices shall be adjusted by multiplying:

(i) the Stock Prices applicable immediately prior to such adjustment, by

(ii) a fraction, of which

(1) the numerator shall be the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment, and

(2) the denominator shall be the Conversion Rate as so adjusted.

The number of shares of Additional Common Stock shall be correspondingly adjusted in the same manner as the adjustments described in Section 15.5 above.

The following table sets forth the Stock Price and number of shares of Additional Common Stock issuable per $1,000 principal amount of Debentures:

	Stock Price										
	$	**$**	**$**	**$**	**$**	**$**	**$**	**$**	**$**	**$**	**$**
Effective Date											
_____, 2005											
_____, 2006											
_____, 2007											
_____, 2008											

The Stock Prices and Additional Common Stock amounts set forth above are based upon a Common Stock price of $_____ and an initial Conversion Price for the Debentures for each $1,000 principal amount of $_____.

If the exact Stock Price and Effective Date are not set forth on the table above and the Stock Price is:

(A) between two Stock Prices on the table or the Effective Date is between two dates on the table, the number of shares of Additional Common Stock will be determined by straight-line interpolation between the number of shares of Additional Common Stock set forth for the higher and lower Stock Price and the two Effective Dates, as applicable, based on a 365 day year;

(B) equal to or in excess of $_____ per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion; or

(C) less than $_____ per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion exceed _____ per $1,000 principal amount of Debentures, subject to adjustments in the same manner as the Conversion Price in Section 15.4.

The Company shall provide notice to all Holders and to the Trustee of the adjustment to the Conversion Price to include the Additional Common Stock within two (2) days of the date of determination of the amount of Additional Common Stock to be received upon conversion. The Company must also provide notice to all Holders and to the Trustee upon the effectiveness of such Fundamental Change. Holders may surrender Debentures for conversion and receive the Additional Common Stock pursuant to this Section at any time from and after the date which is 15 days prior to the anticipated Effective Date of such Fundamental Change until and including the date which is 15 days after the actual Effective Date.

(c) For purposes of this Section 15.11, the following terms shall have the meaning indicated:

(i) "Applicable Price" means (i) in the event of a Non-Stock Fundamental Change in which the holders of Common Stock receive only cash, the amount of cash received by a holder of one share of Common Stock and (ii) in the event of any other Fundamental Change, the average of the daily Closing Price (determined as provided in Section 15.5(h)(1)) for one share of Common Stock during the 10 Trading Days (determined as provided in Section 15.5(h)(5)) immediately prior to the record date for the determination of the holders of Common Stock entitled to receive cash, securities, property or other assets in connection with such Fundamental Change or, if there is no such record date, prior to the date upon which the holders of Common Stock shall have the right to receive such cash, securities, property or other assets. The Closing Price on any Trading Day may be subject to adjustment as provided in Section 15.5(h)(2).

(ii) "Common Stock Fundamental Change" means any Fundamental Change in which more than 50% of the value (as determined in good faith by the Board of Directors) of the consideration received by holders of Common Stock consists of common stock that, for the 10 Trading Days immediately prior to such Fundamental Change, has been admitted for listing or admitted for listing subject to notice of issuance on a national securities exchange or quoted on Nasdaq National Market, provided, however, that a Fundamental Change shall not be a Common Stock Fundamental Change unless either (i) the Company continues to exist after the occurrence of such Fundamental Change and the outstanding Debentures continue to exist as outstanding Debentures or (ii) not later than the occurrence of such Fundamental Change, the outstanding Debentures are converted into or exchanged for debentures, which debentures have terms substantially similar (but no less favorable) to those of the Debentures.

(iii) "Fundamental Change" means the occurrence of any transaction or event or series of transactions or events pursuant to which all or substantially all of the Common Stock shall be exchanged for, converted into, acquired for or shall constitute solely the right to receive cash, securities, property or other assets (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization or otherwise); provided, however, in the case of any such series of transactions or events, for purposes of adjustment of the Conversion Price, such Fundamental Change shall be deemed to have occurred when substantially all of the Common Stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets, but the adjustment shall be based upon the consideration that the holders of the Common Stock received in the transaction or event as a result of which more than 50% of the Common Stock shall have been exchanged for, converted into or acquired for, or shall constitute solely the right to receive, such cash, securities, property or other assets.

(iv) "Non-Stock Fundamental Change" means any Fundamental Change other than a Common Stock Fundamental Change.

(v) "Purchaser Stock Price" means, with respect to any Common Stock Fundamental Change, the average of the daily Closing Price for one share of the common stock received by holders of the Common Stock in such Common Stock Fundamental Change during the 10 Trading Days immediately prior to the date fixed for the determination of the holders of the Common Stock entitled to receive such common stock or, if there is no such date, prior to the date upon which the holders of the Common Stock shall have the right to receive such common stock.

Section 15.12 Automatic Conversion by the Company. The Company may elect to automatically convert (an "**Automatic Conversion**") some or all of the Debentures on or prior to maturity if the Closing Price of the Common Stock has exceeded 150% of the Conversion Price for at least 20 Trading Days out of the 30 consecutive Trading Days ending within five Trading Days prior to the delivery to the holders of the notice of automatic conversion (the "**Automatic Conversion Notice**"). If the Company elects to automatically convert fewer than all of the outstanding Debentures, Debentures to be automatically converted shall be selected by the Trustee from outstanding Debentures by lot or pro rata (as near as may be) or by any other equitable method determined by the Trustee in its sole discretion.

If the Company elects to automatically convert some or all of the Debentures prior to _____, 2008, the Company will be required to make an additional payment (an "**Additional Payment**") on the Debentures on the Automatic Conversion Date. The Additional Payment with respect to the Debentures subject to Automatic Conversion will be payable in cash, shares of Common Stock or a combination thereof at the Company's option and shall be equal to the total value of the aggregate amount of interest that would have accrued and become payable on such Debentures from the Exchange Date through and including _____, 2008, less any interest already paid on the Debentures. On or after _____, 2008, the Company may not elect to automatically convert any or all of the Debentures unless all accrued and unpaid interest on the Debentures has been paid or set aside for payment.

In order to effect an Automatic Conversion, the Company shall give to the holder of Debentures to be so converted an Automatic Conversion Notice. Such Automatic Conversion Notice shall state:

(i) the date on which the Debentures identified in the Automatic Conversion Notice will be converted (the "**Automatic Conversion Date**");

(ii) the CUSIP number or numbers of such Debentures;

(iii) the place or places where such Debentures is to be surrendered for exchange of the shares of Common Stock to be issued upon conversion thereof; and

(iv) the Conversion Price at which such Automatic Conversion is to be effected.

In each case where, in respect of any share of Debentures, the Company issues an Automatic Conversion Notice pursuant to which the Automatic Conversion Date is on or prior to _____, 2008, the Automatic Conversion Notice shall also state the amount of the Additional Payment and whether the Additional Payment shall be payable in cash, shares of Common Stock or a combination of cash and shares of Common Stock and, if payable all or in part in Common Stock, the method of calculating the amount of the Common Stock to be delivered upon the Automatic Conversion Date as provided in the next paragraph.

The Company may elect to pay the Additional Payment by delivery of shares of Common Stock if and only if the following conditions shall have been satisfied:

(a) The shares of Common Stock deliverable in payment of the Additional Payment shall have a fair market value as of the Automatic Conversion Date of not less than the Additional Payment. For purposes of this Section, the fair market value of shares of Common Stock shall be determined by the Company and shall be equal to 97.5% of the average of the Closing Prices of the Common Stock for the five consecutive Trading Days immediately preceding the second Trading Day prior to the Automatic Conversion Date;

(b) Payment of the Additional Payment may not be made in Common Stock unless such stock is, or shall have been, approved for quotation on the Nasdaq National Market or listed on a national securities exchange, in either case, prior to the repurchase date; and

(c) All shares of Common Stock which may be issued upon an Automatic Conversion will be issued out of the Company's authorized but unissued Common Stock and, will upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

In connection with the Automatic Conversion, no fractional shares of Common Stock or scrip representing fractional shares shall be issued upon conversion of the Debentures. If any fractional share of stock otherwise would be issuable upon the conversion of the Debentures, the Company shall make a payment therefore in cash to the holder of the Debentures based on the current market value of the Common Stock. The current market value of a share of Common Stock shall be the Closing Price on the first Trading Day immediately preceding the day on which the Debentures (or a specified portion thereof) are deemed to have been converted and such Closing Price shall be determined as provided in Section 15.5(h). If more than one share (or fraction thereof) is being automatically converted with respect to the same holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of Debentures held by such holder.

If all of the conditions set forth in this Section are not satisfied in accordance with the terms thereof, the Additional Payment shall be paid by the Company only in cash.

If the Company elects to effect an Automatic Conversion Notice in respect of fewer than all the Debentures, the Automatic Conversion Notices relating to such Automatic Conversion collectively shall identify the amount of Debentures to be converted. In case any Debentures are to be converted in part only, the Automatic Conversion Notice relating thereto shall state the portion of the principal amount thereof to be converted and shall state that on and after the date fixed for conversion, upon surrender of such Debentures, a new certificate for the Debentures, if they are then in certificated form, for the aggregate principal amount equal to the portion thereof not converted will be issued. In the case where the Company elects to effect an Automatic Conversion in respect of any portion of the Debentures evidenced by the Global Debenture, the beneficial interests in the Global Debenture to be subject to such Automatic Conversion shall be selected by the Depositary in accordance with the applicable standing procedures of the Depositary's book-entry conversion program, and in connection with such Automatic Conversion the Depositary shall arrange in accordance with such procedures for appropriate endorsements and transfer documents, if required by the Company or the Trustee or conversion agent, and payment of any transfer taxes if required pursuant hereunder.

The Company or, at the request and expense of the Company, the Trustee, shall give to each holder of Debentures to be converted in an Automatic Conversion, at its last address as it appears on the Debenture

register, an Automatic Conversion Notice in respect thereof not more than 20 days but not less than 10 days prior to the Automatic Conversion Date for such Automatic Conversion. Such Automatic Conversion Notice shall be irrevocable and shall be mailed by first class mail and, if mailed in the manner herein provided, shall be conclusively presumed to have been given, whether or not the holder receives it. In any case, failure to give such notice or any defect in the notice to the holder of any Debentures designated for Automatic Conversion in whole or in part shall not affect the validity of the proceedings for the Automatic Conversion of any such Debenture. The Company shall also deliver a copy of each Automatic Conversion Notice give by it to the Trustee.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Section 16.1 Provisions Binding on Company's Successors. All the covenants, stipulations, promises and agreements of the Company in this Indenture contained shall bind its successors and assigns whether so expressed or not.

Section 16.2 Official Acts by Successor Corporation. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation that shall at the time be the lawful sole successor of the Company.

Section 16.3 Addresses for Notices, Etc. Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the holders of Debentures on the Company shall be deemed to have been sufficiently given or made, for all purposes if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is filed by the Company with the Trustee) to 413 Pine Street, Suite 500, Seattle, WA 98101, Attention: Ethan A. Caldwell. Any notice, direction, request or demand hereunder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed to the Corporate Trust Office, which office is, at the date as of which this Indenture is dated, located at 1420 Fifth Avenue, 7th Floor, PD-WA-T7CT, Seattle, WA 98101, Attention: Corporate Trust Department (Marchex, Inc. _____% Convertible Subordinated Debentures).

The Trustee, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Debentureholder shall be mailed to him by first class mail, postage prepaid, at his address as it appears on the Debenture register and shall be sufficiently given to him if so mailed within the time prescribed.

Failure to mail a notice or communication to a Debentureholder or any defect in it shall not affect its sufficiency with respect to other Debentureholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

Section 16.4 Governing Law. This Indenture and each Debenture shall be deemed to be a contract made under the laws of New York, and for all purposes shall be construed in accordance with the laws of New York, without regard to the conflict of laws provisions thereof.

Section 16.5 Evidence of Compliance with Conditions Precedent; Certificates to Trustee. Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, including those actions set forth in Section 314(c) of the Trust Indenture Act, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Each certificate or opinion provided for by or on behalf of the Company in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (1) a statement that the person making such certificate or opinion has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinion contained in such certificate or opinion is based; (3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Section 16.6 Legal Holidays. In any case where the date of maturity of interest on or principal of the Debentures or the date fixed for redemption of any Debenture will not be a Business Day, then payment of such interest on or principal of the Debentures need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period from and after such date.

Section 16.7 No Security Interest Created. Nothing in this Indenture or in the Debentures, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 16.8 Trust Indenture Act. If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under the Trust Indenture Act to be a part of and govern this Indenture, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be. Until such time as this Indenture shall be qualified under the Trust Indenture Act, this Indenture, the Company and the Trustee shall be deemed for all purposes hereof to be subject to and governed by the Trust Indenture Act to the same extent as would be the case if this Indenture were so qualified on the date hereof.

Section 16.9 Benefits of Indenture. Nothing in this Indenture or in the Debentures, expressed or implied, shall give to any person, other than the parties hereto, any paying agent, any conversion agent, any authenticating agent, any Debenture registrar and their successors hereunder, the holders of Debentures and the holders of Senior Indebtedness, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 16.10 Table of Contents, Headings, Etc. The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 16.11 Authenticating Agent. The Trustee may appoint an authenticating agent which shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Debentures in connection with the original issuance thereof and transfers and exchanges of Debentures hereunder,

including under Sections 2.4, 2.5, 2.6, 2.7 and 3.3, as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Debentures. For all purposes of this Indenture, the authentication and delivery of Debentures by the authenticating agent shall be deemed to be authentication and delivery of such Debentures "by the Trustee" and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Debentures for the Trustee's certificate of authentication. Such authenticating agent shall at all times be a person eligible to serve as trustee hereunder pursuant to Section 8.9.

Any corporation into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation succeeding to the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation is otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section, the Trustee shall promptly appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall mail notice of such appointment to all holders of Debentures as the names and addresses of such holders appear on the Debenture register.

The Trustee agrees to pay to the authenticating agent from time to time reasonable compensation for its services (to the extent pre-approved by the Company in writing), and the Trustee shall be entitled to be reimbursed for such pre-approved payments, subject to Section 8.6.

The provisions of Sections 8.2, 8.3, 8.4, 9.3 and this Section 16.11 shall be applicable to any authenticating agent.

Section 16.12 Execution in Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

U.S. Bank National Association hereby accepts the trusts in this Indenture declared and provided, upon the terms and conditions hereinabove set forth.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly signed all as of the date first written above.

MARCHEX, INC.

By: _____
Name: Russell C. Horowitz
Title: Chief Executive Officer

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Name:
Title:

EXHIBIT A - FORM OF DEBENTURE

[FORM OF FACE OF DEBENTURE]

FORM OF LEGEND FOR GLOBAL NOTE: UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

No._____ $_____

MARCHEX, INC. CUSIP:_____

____% Convertible Subordinated Debenture

Marchex, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (herein called the "Company", which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on _____, and to pay interest on said principal sum semi-annually on _____ and _____ of each year, commencing on the first such date after the Exchange Date (as defined in the Indenture), at the rate per annum specified in the title of this Debenture, accrued from the _____ or _____, as the case may be, next preceding the date of this Debenture to which interest has been paid or duly provided for, unless the date of this Debenture is a date to which interest has been paid or duly provided for, in which case interest shall accrue from the date of this Debenture, or unless no interest has been paid or duly provided for on this Debenture, in which case interest shall accrue from the Exchange Date, until payment of said principal sum has been made or duly provided for. Notwithstanding the foregoing, if the date hereof is after any _____ or _____, as the case may be, and before the following _____ or _____, this Debenture shall bear interest from such _____ or _____, respectively; provided, however, that if the Company shall default in the payment of interest due on such _____ or _____, then this Debenture shall bear interest from the next preceding _____ or _____ to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for on this Debenture, from the Exchange Date. The interest so payable on any _____ or _____ will be paid to the person in whose name this Debenture (or one or more Predecessor Debentures) is registered at the close of business on the record date, which shall be the _____ or _____ (whether or not a Business Day) next preceding such _____ or _____, respectively, as provided in the Indenture; provided that any such interest not punctually paid or duly provided for shall be payable as provided in the Indenture. Payment of the principal of and interest accrued on this Debenture shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, which shall initially be the office or agency of U.S. Bank National Association, or, at the option of the holder of this Debenture, at the Corporate Trust Office, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts; provided, however, that at the option of the Company, payment of interest may be made by check mailed to the registered address of the person entitled thereto; provided further that, with respect to any holder of Debentures with an aggregate principal amount equal to or in excess of $2,000,000, at the request of such holder in writing to the Company, interest on such holder's Debentures shall be paid by wire transfer in immediately available funds in accordance with the wire transfer instruction supplied by such holder to the Trustee and paying agent (if different from Trustee).

Reference is made to the further provisions of this Debenture set forth on the reverse hereof, including, without limitation, provisions subordinating the payment of principal of and premium, if any, and interest on this Debenture to the prior payment in full of all Senior Indebtedness as defined in the Indenture and provisions giving the holder of this Debenture the right to convert this Debenture into Common Stock of the Company on the terms and subject to the limitations referred to on the reverse hereof and as more fully specified in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Debenture shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with and governed by the laws of said State.

This Debenture shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee or a duly authorized authenticating agent under the Indenture.

IN WITNESS WHEREOF, the Company has caused this Debenture to be duly executed under its corporate seal.

MARCHEX, INC.

Dated _____

By: _____
Title:

Attest:

_____
Secretary

[FORM OF CERTIFICATE OF AUTHENTICATION]

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Debentures described in the within-named Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Signatory

[FORM OF REVERSE OF DEBENTURE]

MARCHEX, INC.

____% Convertible Subordinated Debenture

This Debenture is one of a duly authorized issue of Debentures of the Company, designated as its ____% Convertible Subordinated Debentures (herein called the "Debentures"), issued or to be issued under and pursuant to an Indenture, dated as of _____, 2005 (herein called the "Indenture"), between the Company and U.S. Bank National Association (herein called the "Trustee"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Debentures.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of and accrued interest on all Debentures may be declared, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Indenture.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the holders of not less than a majority of the aggregate principal amount of the Debentures at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the holders of the Debentures; provided, however, that no such supplemental indenture shall (i) extend the fixed maturity of any Debenture, or reduce the rate or extend the time of payment of interest thereon, or reduce the principal amount thereof or premium, if any, thereon, or reduce any amount payable on redemption thereof, or impair or adversely affect the right of any Debentureholder to institute suit for the payment thereof, or make the principal thereof or interest or premium, if any, thereon payable in any coin or currency other than that provided in the Debentures, or modify the provisions of the Indenture with respect to the subordination of the Debentures in a manner adverse to the Debentureholders, or impair, or change in any respect adverse to the holders of the Debentures, the right to convert the Debentures into Common Stock subject to the terms set forth in the Indenture, including Section 15.6 thereof, without the consent of the holder of each Debenture so affected or (ii) reduce the aforesaid percentage of Debentures, the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of all Debentures then outstanding or reduce the percentage of Debentures, the holder of which are required to consent to any waiver or modify any of the provisions of Section 7.7 or Section 11.2 of the Indenture, except to increase any such percentage or to provide that certain of the provisions of the Indenture cannot be modified or waived without the consent of the holder of each outstanding Debenture. It is also provided in the Indenture that, prior to any declaration accelerating the maturity of the Debentures, the holders of a majority in aggregate principal amount of the Debentures at the time outstanding may on behalf of the holders of all of the Debentures waive any past default or Event of Default under the Indenture and its consequences except (i) a default in the payment of interest or premium, if any, on, or the principal of, any of the Debentures, (ii) a failure by the Company to convert any Debentures into Common Stock of the Company or (iii) a default in respect of a covenant or provision in the Indenture which cannot be modified or waived without the consent of the holders of all Debentures then outstanding affected thereby. Any such consent or waiver by the holder of this Debenture (unless revoked as provided in the Indenture) shall be conclusive and binding upon such holder and upon all future holders and owners of this Debenture and any Debentures which may be issued in exchange or substitution hereof, irrespective of whether or not any notation thereof is made upon this Debenture or such other Debentures.

The indebtedness evidenced by the Debentures is, to the extent and in the manner provided in the Indenture, expressly subordinate and subject in right of payment to the prior payment in full of all Senior Indebtedness of the Company, as defined in the Indenture, whether outstanding at the date of the Indenture or thereafter incurred, and this Debenture is issued subject to the provisions of the Indenture with respect to such subordination. Each holder of this Debenture, by accepting the same, agrees to and shall be bound by such provisions and authorizes the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination so provided and appoints the Trustee his attorney in fact for such purpose.

No reference herein to the Indenture and no provision of this Debenture or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Debenture at the place, at the respective times, at the rate and in the coin or currency herein prescribed.

Interest on the Debentures shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

The Debentures are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, without payment of any service charge but with payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration or exchange of Debentures, Debentures may be exchanged for a like aggregate principal amount of Debentures of other authorized denominations.

The Debentures will not be redeemable at the option of the Company prior to _____, 2008. On or after _____, 2008 and prior to maturity the Debentures may be redeemed at the option of the Company as a whole, or from time to time in part, upon mailing a notice of such redemption not less than 20 nor more than 60 days before the date fixed for redemption to the holders of Debentures at their last registered addresses, all as provided in the Indenture, at the following optional redemption prices (expressed as percentages of the principal amount), for each $1,000 principal amount of Debentures, together in each case with accrued interest to, but excluding, the date fixed for redemption.

If redeemed during the 12-month period beginning _____ (beginning _____, 2008 and ending on _____, 2009, in the case of the first such period):

Year	Percentage
2008	%
2009	
2010	
2011	
2012	
2013	
2014	

and 100% at _____, 2015 and thereafter; provided, that if the date fixed for redemption is a _____ or _____, then the interest payable on such date shall be paid to the holder of record on the next preceding _____ or _____.

The Debentures are not subject to redemption through the operation of any sinking fund.

Subject to the provisions of the Indenture, the holder hereof has, at its option, the right, at any time or on or prior to the close of business on the twenty-five year anniversary of the Exchange Date (or, as to all or any portion hereof called for redemption, prior to the close of business on the next Business Day preceding the date fixed for redemption (unless the Company shall default in payment due upon redemption)), to convert the principal hereof or any portion of such principal which is $1,000 or an integral multiple thereof, into that number of fully paid and non-assessable shares of Company's Common Stock, as said shares shall be constituted at the date of conversion, obtained by dividing the principal amount of this Debenture or portion thereof to be converted by the conversion price of $____ or such Conversion Price as adjusted from time to time in the Indenture, upon surrender of this Debenture, together with a conversion notice as provided in the Indenture and this Debenture, to the Company at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, or at the option of such holder, the Corporate Trust Office, and, unless the shares issuable on conversion are to be issued in the same name as this Debenture, duly endorsed by, or accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the holder or by his duly authorized attorney. No adjustment in respect of interest or dividends will be made upon any conversion; provided, however, that if this Debenture shall be surrendered for conversion during the period from the close of business on any record date for the payment of interest through the close of business on the Business Day next preceding the following interest payment date, this Debenture (unless it or the portion being converted shall have been called for redemption or the Company has issued an Automatic Conversion Notice pursuant to the provisions of the Indenture) must be accompanied by an amount, in funds acceptable to the Company, equal to the interest otherwise payable on such interest payment date on the principal amount being converted. No fractional shares of Common Stock will be issued upon any conversion, but an adjustment in cash will be paid to the holder, as provided in the Indenture, in respect of any fraction of a share which would otherwise be issuable upon the surrender of any Debenture or Debentures for conversion.

Subject to the provisions of the Indenture, the Company may elect to automatically convert some or all of the Debentures on or prior to maturity if the Closing Price of the Common Stock has exceeded 150% of the Conversion Price for at least 20 Trading Days out of the 30 consecutive Trading Days ending within five Trading Days prior to the delivery to the holders of the Automatic Conversion Notice.

If the Company elects to automatically convert some or all of the Debentures prior to _____, 2008, the Company will be required to make the Additional Payment on the Debentures on the Automatic Conversion Date. The Additional Payment with respect to the Debentures subject to Automatic Conversion will be payable in cash, shares of Common Stock or a combination thereof at the Company's option and shall be equal to the total value of the aggregate amount of interest that would have accrued and become payable on such Debentures from the Exchange Date through and including _____, 2008, less any interest already paid on the Debentures. On or after _____, 2008, the Company may not elect to automatically convert any or all of the Debentures unless all accrued and unpaid interest on the Debentures has been paid or set aside for payment.

Any Debentures called for redemption, unless surrendered for conversion on or before the close of business on the date fixed for redemption, may be deemed to be purchased from the holder of such Debentures at an amount equal to the applicable redemption price, together with accrued interest to the date fixed for redemption, by one or more investment bankers or other purchasers who may agree with the Company to purchase such Debentures from the holders thereof and convert them into Common Stock of the Company and to make payment for such Debentures as aforesaid to the Trustee in trust for such holders.

Upon due presentment for registration of transfer of this Debenture at the office or agency of the Company in the Borough of Manhattan, The City of New York, which shall initially be U.S. Bank National Association, or at the option of the holder of this Debenture, at the Corporate Trust Office, a new Debenture or Debentures of authorized denominations for an equal aggregate principal amount will be issued to the transferee in exchange thereof, subject to the limitations provided in the Indenture, without charge except for any tax or other governmental charge imposed in connection therewith, and bearing restrictive legends required by the Indenture.

The Company, the Trustee, any authenticating agent, any paying agent, any conversion agent and any Debenture registrar may deem and treat the registered holder hereof as the absolute owner of this Debenture (whether or not this Debenture shall be overdue and notwithstanding any notation of ownership or other writing hereon made by anyone other than the Company or any Debenture registrar), for the purpose of receiving payment hereof, or on account hereof, for the conversion hereof and for all other purposes, and neither the Company nor the Trustee nor any other authenticating agent nor any paying agent nor any other conversion agent nor any Debenture registrar shall be affected by any notice to the contrary. All payments made to or upon the order of such registered holder shall, to the extent of the sum or sums paid, satisfy and discharge liability for monies payable on this Debenture.

No recourse for the payment of the principal of or any premium or interest on this Debenture, or for any claim based hereon or otherwise in respect hereof, and no recourse under or upon any obligation, covenant or agreement of the Company in the Indenture or any indenture supplemental thereto or in any Debenture, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer, director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

Terms used in this Debenture and defined in the Indenture are used herein as therein defined.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Debenture, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM – as tenants in common
TEN ENT – as tenants by the entireties

JT TEN – as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT - _____ (Cust)

under Uniform Gifts to Minors Act _____ (State)

Additional abbreviations may also be used though not in the above list.

[FORM OF CONVERSION NOTICE]

CONVERSION NOTICE

To:_____

The undersigned registered owner of this Debenture hereby irrevocably exercises the option to convert this Debenture, or the portion hereof (which is $1,000 principal amount or an integral multiple thereof) below designated, into shares of Common Stock in accordance with the terms of the Indenture referred to in this Debenture, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Debentures representing any unconverted principal amount hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares or any portion of this Debenture not converted are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. Any amount required to be paid to the undersigned on account of interest accompanies this Debenture.

Dated:_____

_____

_____

Signature(s)

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Debentures to be delivered, other than to and in the name of the registered holder.

Signature Guarantee

Fill in for registration of shares if to be issued, and Debentures if to be delivered, other than to and in the name of the registered holder:

_____
(Name)

_____
(Street Address)

_____
(City, State and Zip Code)

Please print name and address

Principal amount to be converted (if less than all):
$_____,000

_____
Social Security or Other Taxpayer Identification Number

[FORM OF ASSIGNMENT]

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the Debenture, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said Debenture on the books of the Company, with full power of substitution in the premises.

Dated:_____

Signature(s)

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Debentures are to be delivered, other than to and in the name of the registered holder.

Signature Guarantee

NOTICE: The signature on the conversion notice, or the assignment must correspond with the name as written upon the face of the Debenture in every particular without alteration or enlargement or any change whatever.

Exhibit 5.1.1

NIXON PEABODY LLP
ATTORNEYS AT LAW

100 Summer Street
Boston, Massachusetts 02110-2131
(617) 345-1000
Fax: (617) 345-1300

February 3, 2005

Marchex, Inc.
413 Pine Street, Suite 500
Seattle, WA 98101

Re: Registration Statement on Form SB-2; Registration No. 333-121213

Ladies and Gentlemen:

This opinion is furnished to you in connection with a Registration Statement on Form SB-2 (File No. 333-121213) filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), on December 13, 2004, as amended by Amendment No. 1 filed with the Commission on January 11, 2005 and Amendment No. 2 filed with the Commission on February 3, 2005 (such registration statement as so amended, and as may be further amended or supplemented herein the "Registration Statement") for the registration of 8,050,000 shares of Class B common stock, par value $0.01 per share (the "Shares") of Marchex, Inc., a Delaware corporation (the "Company"), including 1,050,000 shares issuable upon exercise of an underwriters' over-allotment option to be granted by the Company.

The Shares are to be sold by the Company pursuant to a purchase agreement (the "Purchase Agreement") to be entered into among the Company and the several underwriters to be named in the Purchase Agreement for whom Piper Jaffray & Co., RBC Capital Markets, Thomas Weisel Partners LLC and Sanders Morris Harris are acting as representatives. The form of the Purchase Agreement has been filed as Exhibit 1.1 to the Registration Statement.

In our capacity as special counsel to the Company in connection with such registration, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the authorization, issuance and sale of the Shares, and for the purposes of this opinion, have assumed such proceedings will be timely completed in the manner presently proposed. We have examined signed copies of the Registration Statement as filed with the Commission. We have also examined and relied upon the Purchase Agreement, minutes of meetings of the stockholders and the Board of Directors of the Company as provided to us by the Company, the Certificate of Incorporation and By-Laws of the Company, each as restated and/or amended to date, and such other documents as we have deemed necessary for purposes of rendering the opinion hereinafter set forth. In addition, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this opinion.

In our examination of the foregoing documents, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as original, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such latter documents and the legal competence of all signatories to such documents.

We assume that the appropriate actions will be taken, prior to the offer and sale of the Shares in accordance with the Purchase Agreement to register and qualify the Shares for sale under all applicable state securities or "blue sky" laws.

We are opining herein as to the effect on the subject transaction only of Delaware law including the statutory provisions, all applicable provisions of the Delaware constitution and reported judicial decisions interpreting those laws, and we express no opinion with respect to the applicability thereto, or the effect thereon, of any other laws.

Subject to the foregoing, it is our opinion that as of the date hereof, (i) the Shares have been duly authorized by all necessary corporate action of the Company, and (ii) the Shares, upon issuance, delivery and payment therefor in the manner contemplated by the Registration Statement, will be validly issued, fully paid and nonassessable.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

It is understood that this opinion is to be used only in connection with the offer and sale of the Shares while the Registration Statement is in effect. We consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm contained under the heading “Legal Matters.”

Very truly yours,

/s/ Nixon Peabody LLP

Exhibit 5.1.2

NIXON PEABODY LLP
ATTORNEYS AT LAW

100 Summer Street
Boston, Massachusetts 02110-2131
(617) 345-1000
Fax: (617) 345-1300

February 3, 2005

Marchex, Inc.
413 Pine Street, Suite 500
Seattle, WA 98101

Re: Registration Statement on Form SB-2; Registration No. 333-121213

Ladies and Gentlemen:

This opinion is furnished to you in connection with a Registration Statement on Form SB-2 (File No. 333-121213) filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), on December 13, 2004, as amended by Amendment No. 1 filed with the Commission on January 11, 2005 and Amendment No. 2 filed with the Commission on February 3, 2005 (such registration statement as so amended, and as may be further amended or supplemented herein the "Registration Statement") for the registration of 230,000 shares of convertible exchangeable preferred stock, par value $0.01 per share (the "Shares"), of Marchex, Inc., a Delaware corporation (the "Convertible Preferred Stock"), including 30,000 shares issuable upon exercise of an underwriters' over-allotment option to be granted by the Company.

The shares of Convertible Preferred Stock are to be sold by the Company pursuant to a purchase agreement (the "Purchase Agreement") to be entered into among the Company and the several underwriters to be named in the Purchase Agreement for whom Piper Jaffray & Co., RBC Capital Markets and Thomas Weisel Partners LLC are acting as representatives. The form of the Purchase Agreement has been filed as Exhibit 1.2 to the Registration Statement.

In our capacity as special counsel to the Company in connection with such registration, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the authorization, issuance and sale of the shares of Convertible Preferred Stock, and for the purposes of this opinion, have assumed such proceedings will be timely completed in the manner presently proposed. We have examined signed copies of the Registration Statement as filed with the Commission. We have also examined and relied upon the Purchase Agreement, minutes of meetings of the stockholders and the Board of Directors of the Company as provided to us by the Company, the Certificate of Incorporation and By-Laws of the Company, each as restated and/or amended to date, and such other documents as we have deemed necessary for purposes of rendering the opinion hereinafter set forth. In addition, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this opinion.

In our examination of the foregoing documents, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as original, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such latter documents and the legal competence of all signatories to such documents.

We assume that the appropriate actions will be taken, prior to the offer and sale of the shares of Convertible Preferred Stock in accordance with the Purchase Agreement to register and qualify the shares of Convertible Preferred Stock for sale under all applicable state securities or "blue sky" laws.

We are opining herein as to the effect on the subject transaction only of Delaware law including the statutory provisions, all applicable provisions of the Delaware constitution and reported judicial decisions interpreting those laws, and we express no opinion with respect to the applicability thereto, or the effect thereon, of any other laws.

Subject to the foregoing, it is our opinion that as of the date hereof,

(i) The shares of Convertible Preferred Stock have been duly authorized by all necessary corporate action of the Company.

(ii) The shares of Convertible Preferred Stock, upon issuance, delivery and payment therefor in the manner contemplated by the Registration Statement, will be validly issued, fully paid and nonassessable.

(iii) The Convertible Subordinated Debentures (the "Debentures") for which the Convertible Preferred Stock is exchangeable have been duly authorized and, when and if issued upon exchange of the Convertible Preferred Stock in accordance with the Certificate of the Powers, Designations, Preferences and Rights of the Convertible Preferred Stock (the "Certificate of Designations"), will be valid and binding obligations of the Company, subject, as to enforcement, to (a) bankruptcy, insolvency, reorganization, arrangement, moratorium and other laws of general applicability relating to or affecting creditors' rights, and (b) general principles of equity (including, without limitation, standards of materiality, good faith, fair dealing and reasonableness), whether such enforceability is considered in a proceeding in equity or at law.

(iv) The shares of Class B common stock, par value $0.01 per share (the "Common Stock") issuable upon conversion of the Convertible Preferred Stock or the Debentures, together with the Common Stock issuable under certain circumstances pursuant to the "make-whole" payment provisions of the Convertible Preferred Stock and the Debentures, have been duly authorized and reserved for issuance and, when and if issued upon valid conversion of the Convertible Preferred Stock in accordance with the Certificate of Designations or upon valid conversion of the Debentures in accordance with the provisions of the Indenture, will be validly issued, fully paid and non-assessable.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

It is understood that this opinion is to be used only in connection with the offer and sale of the shares of Convertible Preferred Stock while the Registration Statement is in effect. We consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm contained under the heading "Legal Matters."

Very truly yours,

/s/ Nixon Peabody LLP

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Marchex, Inc.:

We consent to the use of our report dated February 16, 2004, except as to note 15(a), which is as of March 18, 2004, with respect to the consolidated balance sheets of the Predecessor to Marchex, Inc. as of December 31, 2002 and February 28, 2003 and of Marchex, Inc, and subsidiaries as of December 31, 2003, and the related consolidated statements of operations, stockholders' equity, and cash flows for the year ended December 31, 2002 and the period from January 1, 2003 through February 28, 2003 (Predecessor periods), and the period from January 17, 2003 (inception) through December 31, 2003 (Successor period), included herein and to the reference to our firm under the heading "Experts" in the prospectuses.

/s/ KPMG LLP

Seattle, Washington
February 1, 2005

Exhibit 23.2

Independent Auditors' Consent

The Board of Directors
Marchex, Inc.:

We consent to the use of our report dated December 1, 2003, with respect to the 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 the nine month period ended September 30, 2003, and our report dated August 25, 2004 with respect to the balance sheet of goClick.com, Inc. as of December 31, 2003 and the related statements of income, stockholder's equity, and cash flows for the year then ended, all included herein and to the reference to our firm under the heading "Experts" in the prospectuses.

/s/ KPMG LLP

Seattle, Washington
February 1, 2005

Exhibit 23.3

Independent Auditors' Consent

The Board of Directors
Name Development Ltd.:

We consent to the use of our report included herein and to the reference to our firm under the heading "Experts" in the prospectuses.

/s/ KPMG LLP

Seattle, Washington
February 1, 2005

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER
THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE
Check if an Application to Determine Eligibility of
a Trustee Pursuant to Section 305(b)(2)

U.S. BANK NATIONAL ASSOCIATION

(Exact name of Trustee as specified in its charter)

31-0841368
I.R.S. Employer Identification No.

800 Nicollet Mall
Minneapolis, Minnesota **55402**
(Address of principal executive offices) **(Zip Code)**

Shirley Young
U.S. Bank National Association
1420 5th Ave. 7th Floor
Seattle, WA 98101
(206) 344-4686
(Name, address and telephone number of agent for service)

Marchex, Inc.
(Issuer with respect to the Securities)

Delaware **35-2194038**
(State or other jurisdiction of incorporation or organization) **(I.R.S. Employer Identification No.)**

413 Pine Street Suite 500
Seattle, Washington **98101**
(Address of Principal Executive Offices) **(Zip Code)**

% Convertible Subordinated Debentures

(Title of the Indenture Securities)

FORM T-1

Item 1. **GENERAL INFORMATION.** Furnish the following information as to the Trustee.

a) *Name and address of each examining or supervising authority to which it is subject.*

Comptroller of the Currency
Washington, D.C.

b) *Whether it is authorized to exercise corporate trust powers.*

Yes

Item 2. **AFFILIATIONS WITH OBLIGOR.** *If the obligor is an affiliate of the Trustee, describe each such affiliation.*

None

Items 3-15 *Items 3-15 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.*

Item 16. **LIST OF EXHIBITS:** *List below all exhibits filed as a part of this statement of eligibility and qualification.*

1. A copy of the Articles of Association of the Trustee.*
2. A copy of the certificate of authority of the Trustee to commence business.*
3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers.*
4. A copy of the existing bylaws of the Trustee.*
5. A copy of each Indenture referred to in Item 4. Not applicable.
6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.
7. Report of Condition of the Trustee as of September 30, 2004, published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

* Incorporated by reference to Registration Number 333-67188.

NOTE

The answers to this statement insofar as such answers relate to what persons have been underwriters for any securities of the obligors within three years prior to the date of filing this statement, or what persons are owners of 10% or more of the voting securities of the obligors, or affiliates, are based upon information furnished to the Trustee by the obligors. While the Trustee has no reason to doubt the accuracy of any such information, it cannot accept any responsibility therefor.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Seattle, State of Washington on the 26th of January, 2005.

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Shirley Young
Shirley Young
Assistant Vice President

By: /s/ Dyan Huhta
Dyan Huhta
Vice President

Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: January 26, 2005

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Shirley Young
Shirley Young
Assistant Vice President

By: /s/ Dyan Huhta
Dyan Huhta
Vice President

Exhibit 7

U.S. Bank National Association
Statement of Financial Condition
As of 9/30/2004

($000's)

	9/30/2004
Assets	
Cash and Due From Depository Institutions	$ 6,973,101
Federal Reserve Stock	0
Securities	39,400,687
Federal Funds	2,842,037
Loans & Lease Financing Receivables	121,000,954
Fixed Assets	1,846,496
Intangible Assets	10,035,484
Other Assets	10,354,644
Total Assets	**$ 192,453,403**
Liabilities	
Deposits	$ 122,247,349
Fed Funds	7,346,293
Treasury Demand Notes	0
Trading Liabilities	145,128
Other Borrowed Money	30,331,854
Acceptances	146,102
Subordinated Notes and Debentures	5,535,512
Other Liabilities	6,060,066
Total Liabilities	**$ 171,812,304**
Equity	
Minority Interest in Subsidiaries	$ 1,013,889
Common and Preferred Stock	18,200
Surplus	11,792,288
Undivided Profits	7,816,722
Total Equity Capital	**$ 20,641,099**
Total Liabilities and Equity Capital	**$ 192,453,403**

To the best of the undersigned's determination, as of the date hereof, the above financial information is true and correct.

U.S. Bank National Association

By: /s/ Shirley Young
Shirley Young
Assistant Vice President

Date: January 26, 2005