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

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2009

or

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

For the transition period from to .

Commission File Number 000-50658

Marchex, Inc.
(Exact name of Registrant as specified in its charter)

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)

Registrant's telephone number, including area code: (206) 331-3300

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities and Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its Corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one)

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☐

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

Class	Outstanding at August 6, 2009
Class A common stock, par value $.01 per share	10,869,216
Class B common stock, par value $.01 per share	25,305,925

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Marchex, Inc.

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Part I—Financial Information

Item 1. Condensed Consolidated Financial Statements (unaudited)

MARCHEX, INC. AND SUBSIDIARIES
Condensed Consolidated Balance Sheets
(unaudited)

	December 31, 2008	June 30, 2009
Assets		
Current assets:		
Cash and cash equivalents	$ 27,418,396	$ 28,731,261
Trade accounts receivable, net	21,734,291	11,920,607
Prepaid expenses and other current assets	2,642,607	2,295,272
Refundable taxes	3,042,288	4,710,416
Deferred tax assets	1,088,872	952,076
Total current assets	55,926,454	48,609,632
Property and equipment, net	5,615,396	4,425,097
Deferred tax assets	56,784,228	55,328,727
Intangible and other assets, net	6,665,562	5,661,742
Goodwill	35,475,782	35,456,610
Intangible assets from acquisitions, net	9,802,365	6,332,777
Total assets	$ 170,269,787	$ 155,814,585
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 12,351,123	$ 7,138,620
Accrued expenses and other current liabilities	6,331,709	4,187,790
Deferred revenue	2,255,906	2,027,410
Total current liabilities	20,938,738	13,353,820
Other non-current liabilities	23,297	9,700
Total liabilities	20,962,035	13,363,520
Stockholders' equity:		
Class A common stock	112,217	111,317
Class B common stock	286,736	255,519
Treasury stock	(15,392,921)	(1,000,832)
Additional paid-in capital	299,925,762	281,550,297
Accumulated deficit	(135,624,042)	(138,465,236)
Total stockholders' equity	149,307,752	142,451,065
Total liabilities and stockholders' equity	$ 170,269,787	$ 155,814,585

See accompanying notes to condensed consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Operations
(unaudited)

	Six Months Ended June, 30		Three Months Ended June 30,	
	2008	2009	2008	2009
Revenue	$74,406,214	$47,652,022	$37,363,887	$21,081,073
Expenses:				
Service costs (1), (2)	36,301,616	22,886,210	17,414,301	11,024,516
Sales and marketing (1), (2)	14,867,783	11,271,267	7,896,035	3,682,352
Product development (1), (2)	8,439,573	7,600,517	4,252,469	3,446,317
General and administrative (1), (2)	10,033,984	8,057,735	5,074,875	3,987,195
Amortization of intangible assets from acquisitions (3)	7,713,637	3,469,551	3,661,275	1,334,585
Total operating expenses	77,356,593	53,285,280	38,298,955	23,474,965
Gain on sales and disposals of intangible assets, net	2,155,267	1,784,855	2,010,576	854,616
Income (loss) from operations	(795,112)	(3,848,403)	1,075,508	(1,539,276)
Other income (expense):				
Interest income	449,782	28,670	162,633	12,516
Interest and line of credit expense	(34,231)	(45,493)	(30,907)	(31,581)
Other	1,855	13,041	1,354	126
Total other income (expense)	417,406	(3,782)	133,080	(18,939)
Income (loss) before provision for income taxes	(377,706)	(3,852,185)	1,208,588	(1,558,215)
Income tax (benefit) expense	393,276	(1,010,991)	733,229	(390,058)
Net income (loss)	(770,982)	(2,841,194)	475,359	(1,168,157)
Convertible preferred stock dividends and discount on preferred stock redemption, net	(44,585)	—	(33,697)	—
Net income (loss) applicable to common stockholders	$ (726,397)	$ (2,841,194)	$ 509,056	$ (1,168,157)
Basic and diluted net income (loss) per share applicable to Class A and Class B common stockholders	$ (0.02)	$ (0.09)	$ 0.01	$ (0.04)
Dividends paid per share	$ 0.04	$ 0.04	$ 0.02	$ 0.02
Shares used to calculate basic net income (loss) per share applicable to common stockholders				
Class A	10,968,282	10,899,547	10,959,216	10,869,216
Class B	26,153,567	23,094,703	25,621,394	22,454,956
Shares used to calculate diluted net income (loss) per share applicable to common stockholders				
Class A	10,968,282	10,899,547	10,959,216	10,869,216
Class B	37,130,260	33,994,250	37,504,686	33,324,172
(1) Excludes amortization of intangible assets from acquisitions				
(2) Includes stock-based compensation as follows:				
Service costs	$ 225,658	$ 197,056	$ 86,087	$ 102,546
Sales and marketing	856,714	982,509	326,004	524,655
Product development	806,998	298,432	396,289	115,027
General and administrative	3,847,338	3,512,111	1,860,856	1,795,853
Total	$ 5,736,708	$ 4,990,108	$ 2,669,236	$ 2,538,081
(3) Components of amortization of intangible assets from acquisitions:				
Service costs	$ 6,558,715	$ 3,425,107	$ 3,179,686	$ 1,323,474
Sales and marketing	954,444	—	406,111	—
General and administrative	200,478	44,444	75,478	11,111
Total	$ 7,713,637	$ 3,469,551	$ 3,661,275	$ 1,334,585

See accompanying notes to condensed consolidated financial statements.

MARCHEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Cash Flows
(unaudited)

	Six Months Ended June 30,	
	2008	2009
Cash flows from operating activities:		
Net loss	$ (770,982)	$ (2,841,194)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Amortization and depreciation	12,937,704	6,690,386
Facility relocation costs	2,972	—
Gain on sales of fixed assets, net	(1,855)	(565)
Gain on sales and disposals of intangible assets, net	(2,155,267)	(1,784,855)
Allowance for doubtful accounts and merchant advertiser credits	1,578,076	382,486
Stock-based compensation	5,736,708	4,990,108
Deferred income taxes	(2,294,219)	1,592,297
Excess tax benefit related to stock options	(53,541)	(49,477)
Change in certain assets and liabilities, net of acquisition:		
Trade accounts receivable, net	(5,678,151)	9,431,197
Refundable taxes	315,299	(2,644,998)
Prepaid expenses, other current assets and restricted cash	(1,296,458)	90,186
Accounts payable	1,962,988	(5,159,858)
Accrued expenses and other current liabilities	1,228,830	(2,127,210)
Deferred revenue	(290,940)	(229,301)
Other non current liabilities	(11,637)	(8,158)
Net cash provided by operating activities	11,209,527	8,331,044
Cash flows from investing activities:		
Purchases of property and equipment	(1,749,203)	(859,067)
Cash paid for acquisitions	(127,522)	—
Proceeds from sales of property and equipment	37,024	565
Proceeds from sales of intangible assets	1,945,520	1,785,155
Increase in other non current assets	(188,862)	(5,545)
Net cash provided by (used in) investing activities	(83,043)	921,108
Cash flows from financing activities:		
Deferred financing costs paid	(71,150)	—
Capital lease obligation principal payments	(21,939)	(21,584)
Excess tax benefit related to stock options	53,541	49,477
Preferred stock dividends	(31,387)	—
Repurchase of redeemable preferred stock	(408,964)	—
Common stock dividend payments	(1,625,339)	(1,457,415)
Repurchase of Class B common stock	(17,195,150)	(6,569,830)
Proceeds from exercises of stock options	674,433	35,417
Proceeds from employee stock purchase plan	22,122	24,648
Net cash used in financing activities	(18,603,833)	(7,939,287)
Net increase (decrease) in cash and cash equivalents	(7,477,349)	1,312,865
Cash and cash equivalents at beginning of period	36,456,307	27,418,396
Cash and cash equivalents at end of period	$ 28,978,958	$28,731,261

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

Marchex, Inc. (the "Company") was incorporated in the state of Delaware on January 17, 2003. The Company is a local search and performance advertising company. The Company's search- and call-based marketing solutions enable tens of thousands of local and national advertisers to reach consumers searching for products and services through a mix of search engines, vertical publisher Web sites and the Company's Local Search Network.

The accompanying unaudited condensed consolidated financial statements of Marchex, Inc. and its wholly-owned subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"). Accordingly, they do not include all of the information and notes 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 three and six months ended June 30, 2009 are not necessarily indicative of the results that may be expected for the year ending December 31, 2009, or for any other period. The balance sheet at December 31, 2008 has been derived from the audited consolidated financial statements at that date but does not include all of the information and notes required by accounting principles generally accepted in the United States of America for complete financial statements. These condensed consolidated financial statements and notes should be read in conjunction with the Company's audited consolidated financial statements and accompanying notes included in the Annual Report on Form 10-K for the year ended December 31, 2008 filed with the SEC.

The condensed consolidated financial statements include the accounts of Marchex and its wholly-owned subsidiaries. Acquisitions are included in the Company's consolidated financial statements as of and from the date of acquisition. The Company's purchase accounting resulted in all assets and liabilities of acquired businesses being recorded at their estimated fair values on the acquisition dates. All significant inter-company transactions and balances have been eliminated in consolidation. Certain reclassifications have been made to the condensed consolidated financial statements in the prior year to conform to the current year presentation.

The Company's condensed consolidated financial statements presented include the condensed consolidated balance sheets as of December 31, 2008 and June 30, 2009, the condensed consolidated statements of operations for the three and six months ended June 30, 2008 and 2009 and the condensed consolidated statements of cash flows for the six months ended June 30, 2008 and 2009.

(2) Significant Accounting Policies

The preparation of financial statements in conformity with generally accepted accounting principles ("GAAP") in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. These judgments are difficult as matters that are inherently uncertain directly impact their valuation and accounting. Actual results may vary from management's estimates and assumptions.

There have been no changes to the Company's significant accounting policies as disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 filed with the SEC, except for the adoption of FSP EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* ("FSP EITF 03-6-1"), FSP SFAS 142-3, *Determination of the Useful Life of Intangible Assets* ("FSP SFAS 142-3"), and SFAS No. 165, *Subsequent Events* ("SFAS 165"), as further discussed below.

Recently Issued Accounting Pronouncements

In September 2006, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 157, *Fair Value Measurements* ("SFAS 157"), which clarifies the definition of fair value, establishes a framework for measuring fair value and expands the related disclosure requirements. In February 2008, the FASB issued a FASB Staff Position ("FSP") SFAS 157-2, *Effective Date of FASB Statement No. 157*, which delays the effective date of SFAS 157 to fiscal years beginning after November 15, 2008, for all non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). Accordingly, the Company adopted the required provisions of SFAS 157 on January 1, 2008 and the remaining provisions have been adopted by the Company at the beginning of fiscal year 2009. The 2008 fiscal year adoption of the required provisions did not result in a material impact to the Company's financial statements. The remaining aspects of SFAS 157 for which the effective date was deferred under FSP SFAS 157-2 did not result in a material impact to the Company's financial statements.

In December 2007, the FASB issued SFAS No. 141R, *Business Combinations* ("SFAS 141R"), which replaces SFAS 141. SFAS 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed and any resulting goodwill. The pronouncement also provides for disclosures to enable users of the financial statements to evaluate the nature and financial effects of the business combination. SFAS 141R is effective for the Company beginning on January 1, 2009. For any business combination that takes place subsequent to January 1, 2009, SFAS 141R may have a material impact on the Company's financial statements. The nature and extent of any such impact will depend upon the terms and conditions of the transaction. On April 1, 2009 the FASB issued FSP FAS 141(R)-1, *Accounting for Assets Acquired and Liabilities Assumed in a Business Combination that Arise from Contingencies* ("FSP FAS 141(R)-1"). FSP FAS 141(R)-1 amends and clarifies SFAS 141R to address application issues on initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. This FSP is effective for assets and liabilities arising from contingencies in business combinations for which the acquisition date is on or after January 1, 2009.

In April 2008, the FASB issued FSP SFAS 142-3, which amends the factors that should be considered in developing renewal or extension assumptions used in determining the useful life of a recognized intangible asset. FSP SFAS 142-3 also adds additional disclosures to be included in the footnotes to the financial statements. FSP SFAS 142-3 is effective for fiscal years beginning after December 15, 2008 and interim periods within those years. The adoption of FSP SFAS 142-3 did not have a material impact on the Company's financial statements.

In June 2008, the FASB issued FSP EITF 03-6-1, which addresses whether instruments granted in unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents, whether paid or unpaid are participating securities prior to vesting and would need to be included in the earnings allocation in computing earnings per share under the two-class method of SFAS No. 128, *Earnings per Share*. Under the two-class method required by EITF 03-6-1, a portion of net income (loss) is allocated to these participating securities and therefore is excluded from the calculation of EPS allocated to common stock. FSP EITF 03-6-1 is effective for fiscal years beginning after December 15, 2008 and interim periods within those years. The Company adopted this FSP on January 1, 2009 and retrospectively adjusted its earnings per share data to conform with the provisions in EITF 03-6-1. The retrospective application of this method did not have a material impact on the Company's financial statements.

In May 2009, the FASB issued SFAS No. 165, *Subsequent Events* ("SFAS 165"), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. SFAS 165 applies prospectively to both interim and annual financial periods ending after June 15, 2009. The Company adopted these requirements for the quarter ending June 30, 2009.

Revenues

The following table presents the Company's revenues, by revenue source, for the periods presented:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Proprietary Traffic Sources	$ 31,266,435	$ 18,280,765	$ 16,599,077	$ 6,510,360
Partner and Other Revenue Sources	43,139,779	29,371,257	20,764,810	14,570,713
Total Revenue	$ 74,406,214	$ 47,652,022	$ 37,363,887	$ 21,081,073

The Company's proprietary traffic revenues are generated from the Company's portfolio of owned Web sites which are monetized with pay-per-click, cost-per-action listings and graphical ad units that are relevant to the Web sites. When an online user navigates to one of the Company's owned and operated Web sites and clicks on a particular listing or completes the specified action, the Company receives a fee.

The Company's partner network revenues are primarily generated using third-party distribution networks to deliver the advertisers' listings. The distribution network includes search engines, shopping engines, directories, destination sites, third-party Internet domains or Web sites and other targeted Web-based content. The Company generates revenue upon delivery of qualified and reported click-throughs or phone calls to the Company's advertisers or to advertising services providers' listings. The Company pays a revenue share to the distribution partners to access their online user traffic. Other revenues include the Company's pay-per-phone-call and call-tracking services, bid management services, natural search optimization services and outsourced search marketing platforms.

(3) Stock-based Compensation Plans

Under SFAS 123R, *Share-Based Payment*, the Company recognizes stock-based compensation expense using the straight-line method for all stock awards issued after January 1, 2006.

The per share fair value of stock options granted during the three and six months ended June 30, 2008 and 2009 was determined on the date of grant using the Black Scholes option-pricing model with the following weighted average assumptions:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Expected life (in years)	4.0	4.0	4.0	4.0
Risk-free interest rate	2.26%	1.52%	3.13%	2.09%
Expected volatility	54%	65%	52%	65%
Expected dividend yield	0.6%	1.1%	0.6%	1.1%

Stock option activity during the six months ended June 30, 2009 is summarized as follows:

	Shares	Weighted average exercise price	Weighted average remaining contractual term (in years)	Aggregate intrinsic value
Balance at December 31, 2008	4,517,154	$ 12.21	6.79	$ 1,065,144
Options granted	363,400	3.54		
Options exercised	(18,000)	1.44		
Options canceled	(348,704)	11.38		
Options forfeited	(555,140)	13.94		
Balance at June 30, 2009	3,958,710	$ 11.29	6.70	$ 142,437

Restricted stock activity during the six months ended June 30, 2009 is summarized as follows:

	Shares	Weighted average grant date fair value
Unvested balance at December 31, 2008	2,348,968	$ 12.55
Granted	953,850	3.63
Vested	(441,688)	11.87
Forfeited	(10,250)	6.57
Unvested balance at June 30, 2009	2,850,880	$ 9.69

The following table summarizes stock-based compensation expense related to all stock-based awards under SFAS 123R during the three and six months ended June 30, 2008 and 2009:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Total stock-based compensation included in net income (loss)	$ 5,737,000	$ 4,990,000	$ 2,669,000	$ 2,538,000
Income tax benefit related to stock-based compensation included in net income (loss)	$ 1,520,000	$ 388,000	$ 666,000	$ 660,000

In August 2009, vesting of approximately 118,000 restricted shares were fully accelerated in connection with separation agreements.

(4) Net Income (Loss) Per Share

We compute net income (loss) per share of Class A and Class B common stock in accordance with SFAS No. 128, *Earnings per Share* ("SFAS 128") using the two class method. Under the provisions of SFAS 128, 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 year. 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. The computation of the diluted net income (loss) per share of Class B common stock assumes the conversion of Class A common stock to Class B common stock, while the diluted net income (loss) per share of Class A common stock does not assume the conversion of those shares.

In accordance with EITF 03-06, *Participating Securities and the Two Class Method under FASB Statement No. 128*, the undistributed earnings for each year are allocated based on the contractual participation rights of the Class A and Class B common shares as if the earnings for the year had been distributed. Considering the terms of the Company's charter which provides that, if and when dividends are declared on our common stock in accordance with Delaware General Corporation Law, equivalent dividends shall be and have been paid with respect to the shares of Class A common stock and Class B common stock and that both classes of common stock have identical dividend rights and would share equally in our net assets in the event of liquidation, we have allocated undistributed earnings (losses) on a proportionate basis. Additionally, the Company has paid dividends equally to both classes of common stock since it initiated a quarterly cash dividend in November 2006.

FSP EITF 03-6-1 became effective for the Company on January 1, 2009, under this FSP instruments granted in unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents, whether paid or unpaid are participating securities prior to vesting. As such the Company's restricted stock awards are considered participating securities for purposes of calculating earnings per share. Under FSP EITF 03-6-1 a portion of net income (loss) is allocated to these participating securities and therefore is excluded from the calculation of EPS allocated to common stock.

The following table reconciles the Company's reported net income (loss) to net income (loss) applicable to common stockholders used to compute basic net income (loss) per share for the periods ended:

	Six Months June 30, 2008		Six Months June 30, 2009	
	Class A	Class B	Class A	Class B
Numerator:				
Allocation of net loss	$ (265,755)	$ (633,686)	$ (939,974)	$ (1,991,680)
Convertible preferred stock dividends	(8,393)	(20,012)	—	—
Discount on redemption of preferred stock, net	21,566	51,424	—	—
Net loss applicable to common stockholders	$ (252,582)	$ (602,274)	$ (939,974)	$ (1,991,680)
Denominator:				
Weighted average number of shares outstanding used to calculate basic net loss per share	10,968,282	26,153,567	10,899,547	23,094,703
Basic net loss per share applicable to common stockholders	$ (0.02)	$ (0.02)	$ (0.09)	$ (0.09)

	Three Months June 30, 2008		Three Months June 30, 2009	
	Class A	Class B	Class A	Class B
Numerator:				
Allocation of net income (loss)	$ 123,551	$ 288,848	$ (397,271)	$ (820,732)
Convertible preferred stock dividends	(3,951)	(9,236)	—	—
Discount on redemption of preferred stock, net	14,046	32,838	—	—
Net income (loss) applicable to common stockholders	$ 133,646	$ 312,450	$ (397,271)	$ (820,732)
Denominator:				
Weighted average number of shares outstanding used to calculate basic net income (loss) per share	10,959,216	25,621,394	10,869,216	22,454,956
Basic net income (loss) per share applicable to common stockholders	$ 0.01	$ 0.01	$ (0.04)	$ (0.04)

The following table reconciles the Company's reported net income (loss) to diluted net income (loss) applicable to common stockholders used to compute diluted net income (loss) per share for the periods ended:

	Six Months June 30, 2008		Six Months June 30, 2009	
	Class A	Class B	Class A	Class B
Numerator:				
Allocation of net loss	$ (265,755)	$ (633,686)	$ (939,974)	$ (1,991,680)
Convertible preferred stock dividends	(8,393)	(20,012)	—	—
Reallocation of net loss for Class A shares as a result of conversion of Class A to Class B shares	—	(274,148)	—	(939,974)
Net loss applicable to common stockholders	$ (274,148)	$ (927,846)	$ (939,974)	$ (2,931,654)
Denominator:				
Weighted average number of shares outstanding used to calculate basic net loss per share	10,968,282	26,153,567	10,899,547	23,094,703
Weighted average number of shares from assumed conversion of preferred stock redeemed	—	8,411	—	—
Conversion of Class A to Class B common shares outstanding	—	10,968,282	—	10,899,547
Weighted average number of shares outstanding used to calculate diluted net loss per share	10,968,282	37,130,260	10,899,547	33,994,250
Diluted net loss per share applicable to common stockholders	$ (0.02)	$ (0.02)	$ (0.09)	$ (0.09)

	Three Months June 30, 2008		Three Months June 30, 2009	
	Class A	Class B	Class A	Class B
Numerator:				
Allocation of net income (loss)	$ 123,551	$ 288,848	$ (397,271)	$ (820,732)
Convertible preferred stock dividends	(3,951)	(9,236)	—	—
Reallocation of net income (loss) for Class A shares as a result of conversion of Class A to Class B shares	—	119,600	—	(397,271)
Net income (loss) applicable to common stockholders	$ 119,600	$ 399,212	$ (397,271)	$ (1,218,003)
Denominator:				
Weighted average number of shares outstanding used to calculate basic net loss per share	10,959,216	25,621,394	10,869,216	22,454,956
Weighted average stock options and warrants and common shares subject to repurchase or cancellation	—	915,749	—	—
Weighted average number of shares from assumed conversion of preferred stock redeemed	—	8,327	—	—
Conversion of Class A to Class B common shares outstanding	—	10,959,216	—	10,869,216
Weighted average number of shares outstanding used to calculate diluted net loss per share	10,959,216	37,504,686	10,869,216	33,324,172
Diluted net income (loss) per share applicable to common stockholders	$ 0.01	$ 0.01	$ (0.04)	$ (0.04)

For the three and six months ended June 30, 2008, respectively, the net income (loss) applicable to common stockholders used in computing basic net income (loss) per share applicable to common stockholders included the preferred stock dividends and the discount on the redemption of 1,408 and 2,008 shares of the Company's 4.75% convertible exchangeable preferred stock of approximately $47,000 and $73,000. The diluted net loss applicable to common stockholders excluded the discount on the preferred stock redemption and any convertible stock dividends paid during the period on the redeemed shares. The discount on the preferred stock redemption is the difference between the carrying value per share of the redeemed preferred shares and the $206.72 per share (plus commissions) paid by the Company to the preferred stockholders. Total cash consideration paid to the preferred stockholders was approximately $291,000 and $409,000, respectively, for the three and six months ended June 30, 2008. The weighted average number of shares used to calculate the diluted net income (loss) per share includes the weighted average number of shares from the assumed conversion of Class A common stock to Class B common stock.

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

- For the three and six months ended June 30, 2008 and 2009, respectively, 53,285 shares and 0 shares issuable upon conversion of the 4.75% convertible preferred stock issued in connection with the February 2005 follow-on public offering.
- For the three months ended June 30, 2008, outstanding options to acquire 4,457,195 shares of Class B common stock with a weighted average exercise price of $13.80 per share. For the six months ended June 30, 2008, outstanding options to acquire 5,189,142 shares of Class B common stock with a weighted average exercise price of $12.43 per share. For the three months ended June 30, 2009, outstanding options to acquire 3,728,018 shares of Class B common stock with a weighted average exercise price of $12.33 per share. For the six months ended June 30, 2009, outstanding options to acquire 3,958,710 shares of Class B common stock with a weighted average exercise price of $11.29 per share.
- For the three and six months ended June 30, 2008, 17,354 and 2,988,924 shares, respectively, of unvested Class B restricted common shares at June 30, 2008 issued to employees and in connection with acquisitions. For the three and six months ended June 30, 2009, 2,850,880 shares of unvested Class B restricted common shares at June 30, 2009 issued to employees and in connection with acquisitions. Unvested shares were excluded from the denominator of the computation of basic net loss per share.
- For the six months ended June 30, 2008, warrants to acquire 6,500 shares of Class B common stock at an exercise price of $8.45 per share.

(5) Concentrations

The Company maintains substantially all of their cash and cash equivalents with one financial institution.

A significant portion of the Company's revenue earned from 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 or advertisers on commercially acceptable terms. In addition, several of these distribution partners or advertisers may be considered potential competitors.

There were no distribution partners representing more than 10% of consolidated revenue for the three and six months ended June 30, 2008 and 2009.

The advertisers representing more than 10% of consolidated revenue are as follows:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Advertiser A	14%	10%	11%	11%
Advertiser B	14%	20%	14%	21%
Advertiser C	10%	*	15%	*
Advertiser D	10%	11%	11%	13%

* Less than 10% of revenue.

Advertiser A is also a distribution partner.

The outstanding receivable balance for each advertiser representing more than 10% of accounts receivable is as follows:

	At December 31, 2008	At June 30, 2009
Advertiser A	*	13%
Advertiser B	22%	41%
Advertiser C	11%	*
Advertiser D	17%	*

* Less than 10% of accounts receivable.

(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 management. For all periods presented the Company operated as a single segment. The Company operates in a single operating segment principally in domestic markets providing Internet advertiser transaction services to enterprises.

Revenues from advertisers by geographical areas are tracked on the basis of the location of the advertiser. The vast majority of the Company'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):

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
United States	97%	99%	97%	98%
Canada	1%	less than 1%	1%	less than 1%
Other countries	2%	less than 1%	2%	1%
	100%	100%	100%	100%

(7) Property and Equipment

Property and equipment consisted of the following:

	December 31, 2008	June 30, 2009
Computer and other related equipment	$ 8,501,740	$ 9,221,267
Purchased and internally developed software	6,168,087	6,232,392
Furniture and fixtures	498,530	502,591
Leasehold improvements	305,073	305,073
	15,473,430	16,261,323
Less: accumulated depreciation and amortization	(9,858,034)	(11,836,226)
Property and equipment, net	$ 5,615,396	$ 4,425,097

The Company has capitalized certain costs of internally developed software for internal use. The estimated useful life of costs capitalized is evaluated for each specific project. Amortization begins in the period in which the software is ready for its intended use.

Depreciation and amortization expense, incurred by the Company, related to property and equipment was approximately $1.1 million and $1.0 million for the three months ended June 30, 2008 and 2009, respectively, and $2.1 million and $2.0 million for the six months ended June 30, 2008 and 2009, respectively.

(8) Commitments

The Company has commitments for future payments related to office facilities leases, equipment and furniture leases, and other contractual obligations. The Company leases its office facilities under operating lease agreements expiring through 2018. The equipment and furniture leases are financed through capital lease arrangements and are included in property and equipment and the related depreciation is recorded as depreciation expense. The Company also has other contractual obligations expiring over varying time periods through 2012. Other contractual obligations primarily relate to minimum contractual payments due to distribution partners and other service providers.

In June 2009, the Company entered into a lease agreement for office facilities in Seattle, Washington which commences on January 1, 2010 and expires on March 31, 2018. Future minimum payments related to these new facilities are approximately as follows: $700,000 in 2010, $1.2 million in 2011, $1.4 million in 2012, $1.5 million in 2013, $1.6 million in each of 2014 and 2015, and a total of $3.8 million from 2016 to 2018.

Future minimum payments are approximately as follows:

	Equipment and furniture capital leases	Facilities operating leases	Other contractual obligations	Total
Remainder of 2009	$ 20,015	$ 807,817	$ 984,504	$ 1,812,336
2010	7,695	916,904	832,626	1,757,225
2011	—	1,200,206	230,778	1,430,984
2012	—	1,350,833	14,514	1,365,347
2013	—	1,521,260	—	1,521,260
2014 and after		6,986,504		6,986,504
Total minimum payments	$ 27,710	$12,783,524	$2,062,422	$14,873,656
Less: amounts representing interest	(4,152)			
Present value of lease obligation	23,558			
Less current portion	(22,014)			
Long-term portion	$ 1,544			

Rent expense incurred by the Company was approximately $402,000 and $379,000 for the three months ended June 30, 2008 and 2009, respectively, and $732,000 and $797,000 for the six months ended June 30, 2008 and 2009, respectively.

(9) Credit Agreement

In April 2008, the Company entered into a credit agreement providing for a senior secured $30 million revolving credit facility (“Credit Agreement”). The Credit Agreement matures and all outstanding borrowings are due in April 2011. Interest on outstanding balances under the Credit Agreement will accrue at LIBOR plus an applicable margin rate, as determined under the agreement and has an unused commitment fee. The Credit Agreement contains certain customary representations and warranties, financial covenants, events of default and is secured by substantially all of the assets of the Company. As of June 30, 2009, the Company had $30 million of availability under the Credit Agreement.

(10) Contingencies and Taxes

(a) 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, the Company is not aware of any legal proceedings or claims which are pending that the Company believes, based on current knowledge, will have, individually or taken together, a material adverse effect on the Company’s financial condition or results of operations or liquidity.

(b) Taxes

From time to time, various state, federal and other jurisdictional tax authorities undertake reviews of the Company and its tax filings. In evaluating the exposure associated with various tax filing positions, the Company on occasion accrues for uncertain tax positions. The Company believes any adjustments that may ultimately be required as a result of any of these reviews will not be material to the financial statements.

The Company did not have any material amounts of unrecognized tax benefits as of December 31, 2008 and June 30, 2009. Also, the Company did not have any material amounts of unrecognized tax benefits that, if recognized, would affect the Company's effective tax rate.

The Company files U.S. federal, certain U.S. states, and certain foreign tax returns. Generally, U.S. federal, U.S. state, and foreign tax returns filed for years after 2003 are within the statue of limitations and remain subject to examination.

(11) Intangible Assets from Acquisitions

Intangible assets from acquisitions consisted of the following:

	December 31, 2008		
	Gross Carrying Amount	Accumulated Amortization	Net
Advertiser relationships	$ 11,340,000	$ (10,462,278)	$ 877,722
Distribution partner relationships	$ 3,100,000	$ (3,100,000)	—
Non-compete agreements	$ 10,360,000	$ (10,150,083)	$ 209,917
Trademarks/domains	$ 42,570,556	$ (35,342,994)	$7,227,562
Acquired technology	$ 16,900,000	$ (15,412,836)	$1,487,164
	$ 84,270,556	$ (74,468,191)	$9,802,365

	June 30, 2009		
	Gross Carrying Amount	Accumulated Amortization	Net
Advertiser relationships	$ 11,340,000	$ (11,072,278)	$ 267,722
Distribution partner relationships	$ 3,100,000	$ (3,100,000)	—
Non-compete agreements	$ 10,360,000	$ (10,309,528)	$ 50,472
Trademarks/domains	$ 42,508,691	$ (37,233,654)	$5,275,037
Acquired technology	$ 16,900,000	$ (16,160,454)	$ 739,546
	$ 84,208,691	$ (77,875,914)	$6,332,777

Amortizable intangible assets are amortized on a straight-line basis over their useful lives. Amortization expense incurred by the Company for the three months ended June 30, 2008 and 2009, was approximately $3.7 million and $1.3 million, respectively, and for the six months ended June 30, 2008 and 2009 was approximately $7.7 million and $3.5 million, respectively. Based upon the current amount of intangible assets subject to amortization, the estimated amortization expense for the next five years is as follows: $2.0 million for the remainder of 2009, $2.6 million in 2010, $1.2 million in 2011, $478,000 in 2012, and $0 in 2013 and thereafter.

(12) Goodwill

Changes in the carrying amount of goodwill for the six months ended June 30, 2009 are as follows:

Balance as of December 31, 2008	$35,475,782
Other	(19,172)
Balance as of June 30, 2009	$35,456,610

Goodwill is tested annually for impairment and is tested for impairment more frequently if events and circumstances indicate that the asset is more likely than not impaired. Events and circumstances considered in determining whether the carrying value of goodwill may not be recoverable include, but are not limited to: significant changes in performance relative to expected operating results; significant changes in the use of the assets; significant negative industry or economic trends; or a significant decline in the Company's stock price and/or market capitalization for a sustained period of time. At various points during the three and six months ended June 30, 2009, the Company's stock price approached or dropped below the then book value per share. If the Company's stock price were to trade below book value per share for an extended period of time and/or the Company continues to experience adverse effects of a continued downward trend in the overall economic environment, changes in the business itself, including changes in projected earnings and cash flows, the Company may have to recognize an impairment of all or some portion of its goodwill.

(13) Intangible and other assets, net

Intangible and other assets, net consisted of the following:

	December 31, 2008	June 30, 2009
Internet domain names	$ 16,146,804	$ 16,152,529
Less accumulated amortization	(10,649,766)	(11,698,106)
Internet domain names, net	5,497,038	4,454,423
Other assets:		
Restricted cash	20,000	—
Registration fees, net	865,361	814,227
Other	283,163	393,092
Total intangibles and other assets, net	$ 6,665,562	$ 5,661,742

The Company capitalizes costs incurred to acquire domain names or URLs, which include the initial registration fees, to other intangible assets which excludes intangible assets acquired through business combinations. The capitalized costs are amortized over the expected useful life of the domain names on a straight-line basis.

The Company also capitalizes costs incurred to renew or extend the term of the domain names or URLs to prepaid expenses and other current assets or registration fees, net. The capitalized costs are amortized over the renewal or extended period on a straight-line basis. The total amount of costs incurred for the three and six months ended June 30, 2009 to renew or extend the term for domain names was $279,000 and $528,000, respectively. The weighted average renewal period for registration fees as of June 30, 2009 was approximately one year.

Amortization expense for internet domain names for the three months ended June 30, 2008 and 2009, was approximately $1.1 million and $528,000, respectively, and for the six months ended June 30, 2008 and 2009, was approximately $2.2 million and $1.1 million, respectively. Based upon the current amount of domains subject to amortization, the estimated expense for the next five years is as follows: $1.0 million for the remainder of 2009, $1.6 million in 2010, $1.1 million in 2011, $433,000 in 2012, and $218,000 in 2013 and thereafter.

(14) Common Stock

In April 2009, the Company's board of directors declared a quarterly dividend in the amount of $0.02 per share on the Company's Class A common stock and Class B common stock which was paid on May 15, 2009 to the holders of record as of the close of business on May 4, 2009. The aggregate quarterly dividend paid was approximately $721,000.

In November 2006, the Company's board of directors authorized a share repurchase program for the Company to repurchase up to 3 million shares of the Company's Class B common stock as well as the initiation of a quarterly cash dividend for the holders of the Class A and Class B common stock. The Company's board of directors have authorized increases to the share repurchase program for the Company to repurchase up to 9 million shares in the aggregate (less shares previously repurchased under the share repurchase program) of the Company's Class B common stock. Under the share repurchase program, repurchases may take place in the open market and in privately negotiated transactions and at times and in such amounts as the Company deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements, capital availability, and other market conditions. This stock repurchase program does not have an expiration date and may be limited or terminated at any time without prior notice.

During the six months ended June 30, 2009, the Company repurchased 1.8 million shares of Class B common stock for approximately $6.6 million at an average stock price of $3.57 per share. The 1.8 million shares have been recorded as treasury stock in the condensed consolidated balance sheet as of June 30, 2009.

During the six months ended June 30, 2009, the Company's board of directors approved the retirement of approximately 4.2 million shares of treasury stock. The excess of purchase price over par value of $21.0 million was recorded as a deduction to additional paid in capital on the condensed consolidated balance sheet.

(15) Subsequent Events

In July 2009, the Company's board of directors declared a regular quarterly dividend in the amount $0.02 per share on the Company's Class A and Class B common stock. The Company will pay these dividends on August 17, 2009 to the holders of record as of the close of business on August 7, 2009. The Company expects to pay approximately $716,000 for these quarterly dividends.

The Company has evaluated subsequent events and transactions for potential recognition or disclosure in the financial statements through August 7, 2009, the day the financial statements were issued.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. We use words such as "believes", "intends", "expects", "anticipates", "plans", "may", "will" and similar expressions to identify forward-looking statements. All forward-looking statements, including, but not limited to, statements regarding 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 inherently uncertain as they are based on our expectations and assumptions concerning future events. Any or all of our forward-looking statements in this report 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 but not limited to the risks, uncertainties and assumptions described in this report, in Part II, Item 1A. under the caption "Risk Factors" and elsewhere in this report and in our Annual Report on Form 10-K for the year ended December 31, 2008 and those described from time to time in our future reports filed with the SEC. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this report may not occur as contemplated, and actual results could differ materially from those anticipated or implied by the forward-looking statements. All forward-looking statements in this report are made as of the date hereof, based on information available to us as of the date hereof, and we assume no obligation to update any forward-looking statement.

The following discussion and analysis provides information that we believe is relevant to an assessment and understanding of our results of operation and financial condition. You should read this analysis in conjunction with the attached condensed consolidated financial statements and related notes thereto, and with our audited consolidated financial statements and the notes thereto, included in our Annual Report on Form 10-K for the year ended December 31, 2008.

Overview

We are a local search and advertising company. Our advertising platforms deliver search- and call-based marketing products and services for local and national advertisers. We believe our Local Search Network helps consumers make better, more informed local decisions through its content-rich Web sites that reach millions of consumers each month.

We have a suite of technology-based products and services that facilitate the efficient and cost-effective marketing and selling of goods and services for local and national advertisers who want to sell their products online; and a proprietary, locally-focused Web site network where we help consumers find local information, as well as fulfill our advertiser marketing campaigns:

- ***Local Search Network.*** We believe that our Local Search Network is a significant source of local information online. It includes more than 200,000 of our owned and operated Web sites focused on helping users find and make informed decisions about where to get local products and services. It features listings from more than 10 million local businesses in the U.S and millions of expert and user-generated reviews on local businesses. The more than 200,000 Web sites in our network include more than 75,000 U.S. ZIP code sites, such as 98102.com and 90210.com, covering ZIP code areas nationwide, as well as tens of thousands of other locally-focused sites such as Yellow.com, OpenList.com and geo-targeted sites such as chicagodoctors.com, seattleautorepairs.com, bostonmortgage.com and others. Traffic to our Local Search Network is primarily monetized with pay-per-click listings that are relevant to the Web sites, as well as other forms of advertising, including call-based ad units, banner placements and sponsorships.
- ***Private-Label Search Marketing Platform.*** Marchex Connect Enterprise, our private-label local online advertising platform enables resellers of local advertisers, such as Yellow Pages providers and vertical marketing service providers, to sell search marketing and/or call advertising packages through their existing sales channels, which are then fulfilled by us across our distribution network, including leading search engines and our own Local Search Network. By creating a solution for aggregators who have relationships with local advertisers, it makes it easy for local businesses to participate in online advertising. The search marketing services we offer to local advertisers through the Marchex Connect Enterprise include services typically available only to national advertisers, including ad creation, keyword selection, geo-targeting, call tracking, pay-for-call, advertising campaign management, reporting and analytics. Marchex Connect Enterprise has the capacity to support hundreds of thousands of advertiser accounts. In addition, we offer a private-label platform for publishers, separate and distinct from the Marchex Connect Enterprise platform, which enables them to monetize their Web sites with contextual advertising from their own customers or from our advertising relationships. Resellers and publishers generally pay us an agency fee for our platform and services in the form of a percentage of the cost of every click or call delivered to their advertisers.
- ***Pay-Per-Click Advertising.*** We deliver pay-per-click advertisements to online users in response to their keyword search queries or on pages they visit throughout our distribution network of search engines, shopping engines, certain third party vertical and local Web sites, mobile distribution and our own Local Search Network. In addition to distributing their ads, we offer account management services to help our advertisers optimize their pay-per-click campaigns, including editorial and keyword selection recommendations and report analysis. The pay-per-click advertisements are generally ordered based on the amount our advertisers choose to pay for a placement and the relevancy of their ads to the keyword search. Advertisers pay us when a user clicks on their advertisements in our distribution network and we pay publishers or distribution partners a percentage of the revenue generated by the click-throughs on their site(s). In addition, we generate revenue from cost-per-action events that take place on our distribution network. Cost-per-action revenue occurs when the user is redirected from one of our Web sites or a third-party Web site in our distribution network to an advertiser's Web site and completes a specified action. Additionally, we sell pay-per-click contextual advertising placements on specialized vertical and branded partner Web sites, on a pay-per-click basis. Advertisers can target the placements by category, site- or page-specific basis. We believe our site- and page-specific approach provides publishers with an opportunity to generate revenue from their traffic while protecting their brand. Our approach gives advertisers greater transparency into the source of the traffic and relevancy for their ads and enables them to optimize the return on investment from their advertising campaign. The contextual advertisement placements are generally ordered based on the amount our advertisers choose to pay for a placement and the relevance of the advertisement, based on historic click-through rates. Advertisers pay us when a user clicks on their advertisements in our network and we pay publishers a percentage of the revenue generated by the click-throughs on their site.
- ***Call-Based Advertising Services.*** We deliver a variety of call-based advertising services to local advertiser resellers, national advertisers and advertising agencies. These services include phone number provisioning, call tracking, call analytics, click-to-call, Web site proxying, pay-for-call and other phone call-based services which enable resellers and advertisers to utilize online advertising to drive calls into their businesses as well as clicks and to use call tracking to measure the effectiveness of both their online and offline advertising campaigns. Resellers and advertisers pay us a flat fee for each phone number provisioned, and a pre-negotiated rate per minute for each call they receive from call-based ads we distribute on our distribution network.

- ***Feed Management Services.*** We use our proprietary technology to crawl and extract relevant product content from advertisers' databases and Web sites to create automated and highly-targeted product and service listings, which we deliver into a network of search and shopping engines. When an advertiser's Web site is crawled by a search engine (usually every 7 to 14 days), many product and service listings can be excluded or quickly become outdated due to the nature of most advertisers' product databases, which contain complex structures and are dynamically updated. Because we have feed relationships with our distribution partners, we are able to deliver our advertiser's product listings directly into our partners' distribution and provide updated content in frequent intervals. This is a significant benefit for our advertisers as it maximizes the number of selling opportunities and for our distribution partners as it increases the accuracy and relevance of their search results. Advertisers generally pay us a fixed price for each click they receive on an advertisement or listing included in the feed.
- ***Local Campaign Management Services.*** We offer local advertising campaign management services. Our campaign management services enable our advertisers to consolidate the purchasing, management, optimization and reporting from their local, search and vertical-advertising campaigns across a large number of search engines, local Web sites and pay-per-click networks into one centralized place. Through our partnerships with leading search engines, directories, vertical Web sites and mobile applications, we are able to place and manage our clients' paid listings directly within their account management systems and provide detailed reporting and conversion tracking that enables advertisers to track the effectiveness of their online advertising campaigns across the different channels. With our campaign management services, we may suggest additional channels, search engines or pay-per-click networks as well as editorial guidance that may broaden the reach and improve the effectiveness of our advertisers' campaigns. Advertisers pay us a pre-negotiated rate for each click they receive on their advertisement placed or managed as part of our campaign management services.

We were incorporated in Delaware on January 17, 2003. Acquisition initiatives have played an important part in our corporate history to date. We have completed the following acquisitions since our inception:

- On February 28, 2003, we acquired eFamily together with its direct wholly-owned subsidiary, formerly known as Enhance Interactive. eFamily was incorporated in Utah on November 29, 1999 under the name FocusFilter.com, Inc. Enhance Interactive was recently renamed Marchex Adhere PPC.
- On October 24, 2003, we acquired TrafficLeader which was incorporated in Oregon on January 24, 2000 under the name Sitewise Marketing, Inc. TrafficLeader was recently renamed Marchex Connect NA.
- On July 27, 2004, we acquired goClick which was incorporated in Connecticut on October 25, 2000.
- On February 14, 2005, we acquired certain assets of Name Development which was incorporated in the British Virgin Islands in July 2000.
- On April 26, 2005, we acquired certain assets of Pike Street Industries, which was incorporated in Washington on March 6, 2002.
- On July 27, 2005, we acquired IndustryBrains, which was incorporated in New York on January 31, 2002 and which was recently renamed Marchex Adhere SSC.
- On May 1, 2006, we acquired certain assets of AreaConnect, which was formed in Delaware on June 5, 2002.
- On May 26, 2006, we acquired certain assets of Open List, which was incorporated in Delaware on November 18, 2003.
- On September 19, 2007, we acquired VoiceStar, which was incorporated in Pennsylvania on March 21, 1999 under the name TL Solutions, Inc. VoiceStar was recently renamed Marchex Voice Services.

We currently have offices in Seattle, Washington; Eugene, Oregon; Las Vegas, Nevada; Philadelphia, Pennsylvania; New York, New York; and Highlands Ranch, Colorado.

Consolidated Statements of Operations

The assets, liabilities and operations of our acquisitions are included in our consolidated financial statements as of and from the date of the respective acquisitions.

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 being recorded at their estimated fair values on the respective acquisition dates. All goodwill, intangible assets and liabilities resulting from the acquisitions have been recorded in our financial statements.

Presentation of Financial Reporting Periods

The comparative periods presented are for the three and six months ended June 30, 2008 and 2009.

Revenue

We currently generate revenue through our suite of services, including our local search network, private-label search marketing platform, pay-per-click advertising and related services, call-based advertising, feed management and local campaign management.

Our primary sources of revenue are the performance-based advertising services, which include pay-per-click services, pay-per-phone-call services, cost-per-action services and feed management services. These primary sources amounted to greater than 77% of our revenues in all periods presented. Our secondary sources of revenue are our bid campaign management services, natural search optimization services and outsourced search marketing platforms. These secondary sources amounted to less than 23% 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.

In certain cases, we record revenue based on available and reported preliminary information from third parties. Collection on the related receivables may vary from reported information based upon third-party refinement of the estimated and reported amounts owing that occurs subsequent to period ends.

Performance-Based Advertising Services

In providing pay-per-click and pay-for-call advertising services, we generate revenue upon our delivery of qualified and reported click-throughs or phone calls to our advertisers or advertising service providers' listings. These advertisers and advertising service providers pay us a designated transaction fee for each click-through or phone call, which occurs when an online user clicks or makes a phone call 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, third-party Internet domains or Web sites, our portfolio of owned Web sites and other targeted Web-based content. We also generate revenue from cost-per-action services, which occurs when the online user is redirected from one of our Web sites or a third-party Web site in our distribution network to a advertiser Web site and completes the specified action, such as when a phone number is provisioned or a call is placed.

In providing pay-per-click contextual based advertising, advertisers purchase keywords or keyword strings, based on an amount they choose for a targeted placement on vertically-focused Web sites or specific pages of a Web site that are specific to their products or services and their marketing objectives. The contextual results distributed by our services are prioritized for users by the amount the advertiser is willing to pay each time a user clicks on the advertisement and the relevance of the advertisement, which is dictated by historical click-through rates. Advertisers pay us when a click-through occurs on their advertisement.

In providing feed management services, 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 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 advertiser pays 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

Advertisers pay us additional fees for services such as local campaign management and natural search engine optimization. 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 advertisers. We may also charge initial set-up, account, service or inclusion fees as part of our services.

Banner advertising revenue may be based on a fixed fee per click and is generated and recognized on click-through activity. In other 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 advertisers and are recognized ratably over the longer of the term of the contract or the average expected advertiser relationship period, which generally ranges from twelve months to more than two years. Other account and service fees are recognized in the month or period the account fee or services relate to.

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

Outsourced Search Marketing Platforms

We generate revenue from super-aggregator partners and publishers utilizing our Web-based technologies. We are paid a management or agency fee based on the total amount of the purchase made by the advertiser. The partners or publishers engage the advertisers and are the primary obligor, and we, in certain instances, are only financially liable to the publishers in our capacity as a collection agency for the amount collected from the advertisers. We recognize revenue for these fees under the net revenue recognition method.

Industry and Market Factors

We enter into agreements with various distribution partners to provide distribution for the URL strings and advertisement listings of our 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. If we do not add new distribution partners, renew our current 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 ability to grow will be impacted by our ability to increase our distribution, which impacts the number of Internet users who have access to our advertisers' listings and the rate at which our advertisers are able to convert clicks from these Internet users into completed transactions, such as a purchase or sign up. Our ability to grow also depends on our ability to continue to increase the number of advertisers who use our services and the amount these 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 advertisers and how much advertisers will spend with us, and it is even more difficult to anticipate the average revenue per click-through. It is also difficult to anticipate the impact of worldwide economic conditions on advertising budgets, including due to the economic uncertainty resulting from recent disruptions in global financial markets.

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 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. Additionally, the current deterioration in the economic conditions has generally resulted in advertisers and resellers reducing advertising and marketing services budgets, which we expect will impact our quarterly results of operations in addition to the typical seasonality seen in our industry.

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;
- license and content fees;
- credit card processing fees;
- network operations;
- telecommunication costs, including provisioning of telephone numbers;
- serving our search results;
- maintaining our Web sites;
- domain name registration renewal fees;
- network fees;
- fees paid to outside service providers;
- delivering customer service;

- depreciation of our Web sites, network equipment and internally developed software;
- colocation service charges of our Web site equipment;
- bandwidth and software license fees;
- payroll and related expenses of related personnel; and
- stock-based compensation of related personnel.

User Acquisition Costs

For the periods presented the largest component of our service costs consists of user acquisition costs that relate primarily to payments made to 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 Web sites and indexes. The primary payment 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 payment 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 that may be paid in advance.

We expense user acquisition costs based on whether the agreement provides for fixed or variable payments. Agreements with fixed payments with minimum guaranteed amounts of usage are expensed as the greater of the pro-rata amount over the term of arrangement or the actual usage delivered to date based on the contractual revenue share. Agreements with variable payments 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.

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 including online and outside marketing activities;
- cost of systems used to sell to and serve advertisers; and
- stock-based compensation of related personnel.

Product Development

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

Our research and development expenses include:

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

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;
- other general corporate expenses; and
- stock-based compensation of related personnel.

Stock-Based Compensation

We follow Statement of Financial Accounting Standards (SFAS) No. 123R, *Share-Based Payment* (SFAS 123R) and account for stock-based compensation under the fair value method. As a result, stock-based compensation consists of the following:

- all share-based compensation arrangements granted after January 1, 2006 (adoption date of SFAS 123R) and for any such arrangements that are modified, cancelled, or repurchased after that date; and
- the portion of previous share-based awards for which the requisite service was not rendered as of January 1, 2006.

Stock-based compensation expense has been included in the same lines as compensation paid to the same employees in the consolidated statement of operations in accordance with SEC Accounting Bulletin No. 107, *Share-based Payment*.

Amortization of Intangible Assets from Acquisitions

Amortization of intangible assets excluding goodwill relates to intangible assets acquired in connection with our business acquisitions.

The intangible assets have been identified as:

- non-competition agreements;
- trade and Internet domain names;
- distributor partner relationships;
- advertising relationships;
- patents; and
- acquired technology.

These assets are amortized over useful lives ranging from 12 to 84 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.

Each reporting period we must assess the likelihood that our deferred tax assets will be recovered from future taxable income, and to the extent that realization is not more likely than not, a valuation allowance must be established. The establishment of a valuation allowance and increases to such an allowance result in either increases to income tax expense or reduction of income tax benefit in the statement of operations. Although realization is not assured, we believe it is more likely than not, based on operating performance and projections of future taxable income, that our net deferred tax assets, excluding certain state net operating loss carryforwards, will be realized. In determining that it is more likely than not that we will realize the deferred tax assets, factors considered include: historical taxable income, historical trends related to advertiser usage rates and projected revenues and expenses, macroeconomic conditions and issues facing our industry, existing contracts, our ability to project future results and any appreciation of our other assets. Additionally, the majority of our deferred tax assets are from goodwill and intangible assets recorded in connection with various acquisitions that are tax-deductible over 15 year periods. Based on projections of future taxable income the Company expects to be able to recover these assets. The amount of the net deferred tax assets considered realizable, however, could be reduced in the near term if our projections of future taxable income are reduced or if we do not perform at the levels we are projecting. This could result in increases to the valuation allowance for deferred tax assets and a corresponding increase to income tax expense of up to the entire net amount of deferred tax assets.

From time to time, various state, federal, and other jurisdictional tax authorities undertake reviews of us and our filings. We believe any adjustments that may ultimately be required as a result of any of these reviews will not be material to the financial statements.

As of June 30, 2009, we have net deferred tax assets of $56.3 million, relating to the impairment of goodwill, amortization of intangibles assets, net operating loss carryforwards and certain other temporary differences. As of June 30, 2009, based upon both positive and negative evidence available, we have determined it is not more likely than not that certain deferred tax assets primarily relating to net operating loss carryforwards in state and foreign jurisdictions will be realizable and accordingly, have recorded a valuation allowance of $1.7 million against these deferred tax assets. Should we determine in the future that we will be able to realize these deferred tax assets, or not be able to realize all or part of our remaining net deferred tax assets recorded as of June 30, 2009, an adjustment to the net deferred tax assets would impact our statement of operations or stockholders' equity in the period such determination was made.

As of June 30, 2009, we had federal net operating loss (NOL) carryforwards of $1.7 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 $1.7 million of NOL carryforwards is limited such that substantially all of these federal NOL carryforwards will never be utilized.

As of June 30, 2009, we had certain tax effected state NOL carryforwards of approximately $4.0 million. We do not have a history of taxable income in the relevant state and the state NOL carryforwards will more likely than not expire unutilized. Therefore, we have recorded a 100% valuation allowance on the state NOL carryforwards as of June 30, 2009.

Results of Operations

The following table presents certain financial data, derived from our unaudited consolidated statements of operations, as a percentage of total revenue for the periods indicated. The operating results for the three and six months ended June 30, 2008 and 2009 and are not necessarily indicative of the results that may be expected for the full year or any future period.

	Six Months Ended June 30,		Three Months Ended June 30,	
	2008	2009	2008	2009
Revenue	100.0%	100.0%	100.0%	100.0%
Expenses:				
Service costs	48.8%	48.0%	46.6%	52.3%
Sales and marketing	20.0%	23.7%	21.1%	17.5%
Product development	11.3%	16.0%	11.4%	16.3%
General and administrative	13.5%	16.9%	13.6%	18.9%
Amortization of intangible assets from acquisitions	10.4%	7.3%	9.8%	6.3%
Total operating expenses	104.0%	111.9%	102.5%	111.3%
Gain on sales and disposals of intangible assets, net	2.9%	3.7%	5.4%	4.1%
Income (loss) from operations	(1.1)%	(8.2)%	2.9%	(7.2)%
Other income (expense):				
Interest income	0.6%	0.1%	0.4%	0.1%
Interest expense	0.0%	(0.1)%	(0.1)%	(0.1)%
Other	0.0%	0.0%	0.0%	0.0%
Total other income, net	0.6%	0.0%	0.3%	0.0%
Income (loss) before provision for income taxes	(0.5)%	(8.2)%	3.2%	(7.2)%
Income tax benefit (expense)	0.5%	(2.1)%	2.0%	(1.9)%
Net income (loss)	(1.0)%	(6.1)%	1.2%	(5.3)%
Convertible preferred stock dividend and discount on preferred stock redemption, net	(0.1)%	0.0%	(0.1)%	0.0%
Net income (loss) applicable to common stockholders	(0.9)%	(6.1)%	1.3%	(5.3)%

Comparison of the Three months ended June 30, 2008 to the Three months ended June 30, 2009 and of the Six months ended June 30, 2008 to the Six months ended June 30, 2009

Revenue

The following table presents our revenues, by revenue source, for the periods presented:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Proprietary Traffic Sources	$ 31,266,435	$ 18,280,765	$ 16,599,077	$ 6,510,360
Partner and Other Revenue Sources	43,139,779	29,371,257	20,764,810	14,570,713
Total Revenue	$ 74,406,214	$ 47,652,022	$ 37,363,887	$ 21,081,073

Our proprietary traffic revenues are generated from our portfolio of Web sites which are monetized with pay-per-click and cost-per-action listings and graphical ad units that are relevant to the Web sites. When an online user navigates to one of our owned and operated Web sites and clicks on a particular listing or completes the specified action, we receive a fee. Our partner network revenues are primarily generated using third-party distribution networks to deliver the advertisers' listings. The distribution network includes search engines, shopping engines, directories, destination sites, third-party Internet domains or Web sites, and other targeted Web-based content. We generate revenue upon delivery of qualified and reported click-throughs or phone calls to our advertisers or to advertising services providers' listings. We pay a revenue share to the distribution partners to access their online user traffic. Other revenues include our call-tracking services, bid management services, natural search optimization services and outsourced search marketing platforms.

Revenue decreased 44%, from $37.4 million for the three months ended June 30, 2008 to $21.1 million in the same period in 2009. The decrease in partner network and other revenues was primarily attributable to a more than $4.5 million decrease in pay-per-click revenues due in part to more than 3,000 fewer advertisers spending on our partner network and lower advertiser spend budgets. Additionally there was a $2.1 million decrease attributable to less traffic volume from domain name owners who are distribution partners utilizing our third-party content platform including a net decline of more than 5 distribution partners comparing the three months ended June 30, 2009 to the same period in 2008. These decreases were partially offset by our adding more than $600,000 in revenue from our call-based advertising platforms during this period which were primarily attributable to an increase in the revenues we generated from advertiser resellers related to our call-based advertising services. Proprietary traffic revenue decreased primarily due to $1.9 million lower revenues from our arrangement with Yahoo! whereby we receive payment upon click-throughs on pay-per-click listings presented on our Web sites. This decrease was principally due to fewer click-throughs on pay-per-click listings from Yahoo! The remainder of such decrease was largely due to lower revenues for cost-per-actions from resellers such as AT&T, R.H. Donnelley Corporation, Idearc Media Corp., Yellowbook USA Inc., WhitePages, Inc., Vantage Media, LLC and Intelius, Inc., particularly related to our local search and directory Web sites.

Revenue decreased 36%, from $74.4 million for the six months ended June 30, 2008 to $47.7 million in the same period in 2009. The decrease in partner network and other revenues was primarily attributable to a more than $10 million decrease in pay-per-click revenues due in part to more than 8,000 fewer advertisers spending on our partner network and lower advertiser spend budgets. Additionally there was a $4.1 million decrease attributable to less traffic volume from domain name owners who are distribution partners utilizing our third-party content platform including a net decline of more than 5 distribution partners comparing the six months ended June 30, 2009 to the same period in 2008. These decreases were partially offset by our adding more than $1 million in revenue from our call-based advertising platforms which were primarily attributable to an increase in the revenues we generated from advertiser resellers related to our call-based advertising services.

Proprietary traffic revenue decreased primarily due to $5.8 million lower revenues from our arrangement with Yahoo! whereby we receive payment upon click-throughs on pay-per-click listings presented on our Web sites. This decrease was principally due to fewer click-throughs on pay-per-click listings from Yahoo! The remainder of such decrease was largely due to lower revenues for cost-per-actions from resellers such as AT&T, R.H. Donnelley Corporation, Idearc Media Corp., Yellowbook USA Inc., WhitePages, Inc., Vantage Media, LLC and Intelius, Inc., particularly related to our local search and directory Web sites. The six months ended June 30, 2009 were also impacted by $1.6 million of revenue we did not recognize for services, in part because of limited collectability assurance from certain advertiser resellers, including due to the recent bankruptcy filings of Idearc Media Corp. and R.H. Donnelley Corporation. We expect to recognize these amounts, if any, upon cash collection.

Under our arrangement with AT&T, we generate revenues from our local online advertising platform to sell search marketing packages and or call advertising packages through their existing sales channels, which are then fulfilled by us across our distribution network. We are paid accounts fees and also agency fees for our services in the form of a percentage of the cost of every click or call delivered to their advertisers. AT&T and Yahoo! for the six months ended June 30, 2008 both accounted for 14% of our total revenues compared to 20% and 10%, respectively, for the six months ended June 30, 2009. As noted above, revenues from Idearc and Intelius are primarily related to our local search and directory Web sites and revenues decreased for both from $7.6 million for the six months ended June 30, 2008, to $5.2 million and $2.4 million for the six months ended June 30, 2009, respectively. We expect revenues to decrease from domain name owners who are distribution partners utilizing our third-party content platform as we have reduced the development and sales resources focused on those services. In the near term, given the current deterioration in economic conditions, we expect advertisers and resellers to generally reduce their advertising and marketing services budgets. Certain of our large advertisers and resellers are experiencing financial challenges, including issues stemming from the current deterioration in economic conditions and we expect our revenues from such advertisers and resellers to trend lower in the near term as these advertisers may spend less, particularly on our proprietary traffic sources. Our ability to maintain and grow our revenues will depend in part on maintaining and increasing the number of click-throughs and calls performed by users of our service through our distribution partners and proprietary traffic sources and maintaining and increasing the number and volume of transactions and favorable variable payment terms with advertisers and advertising services providers, which we believe is dependent in part on marketing our Web sites and delivering high quality traffic that ultimately results in purchases or conversions for our advertisers and advertising services providers. We may increase our direct monetization of our proprietary traffic sources which may not be at the same rate levels as other advertising providers and could adversely affect our revenues and results of operations. If we do not add new distribution partners, renew our current 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. If revenue grows and the volume of transactions and traffic increases, we will need to expand our network infrastructure. Inefficiencies in our network infrastructure to scale and adapt to higher traffic volumes could materially and adversely affect our revenue and results of operations.

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 advertisers and how much advertisers will spend with us, and it is even more difficult to anticipate the average revenue per click-through. It is also difficult to anticipate the impact of worldwide economic conditions on advertising budgets, including due to the economic uncertainty resulting from recent disruptions in global financial markets, although in the near term, we believe advertisers may limit their total advertising budgets.

Expenses

Expenses were as follows:

	Six months ended June 30,				Three months ended June 30,			
	2008	% of revenue	2009	% of revenue	2008	% of revenue	2009	% of revenue
Service costs	$36,301,616	49%	$22,886,210	48%	$17,414,301	47%	$11,024,516	52%
Sales and marketing	14,867,783	20%	11,271,267	24%	7,896,035	21%	3,682,352	17%
Product development	8,439,573	11%	7,600,517	16%	4,252,469	11%	3,446,317	16%
General and administrative	10,033,984	14%	8,057,735	17%	5,074,875	14%	3,987,195	19%
Amortization of intangible assets from acquisitions	7,713,637	10%	3,469,551	7%	3,661,275	10%	1,334,585	6%

Stock-based compensation expense was included in the following operating expense categories as follows:

	Six months ended June 30,		Three months ended June 30,	
	2008	2009	2008	2009
Service costs	$ 225,658	$ 197,056	$ 86,087	$ 102,546
Sales and marketing	856,714	982,509	326,004	524,655
Product development	806,998	298,432	396,289	115,027
General and administrative	3,847,338	3,512,111	1,860,856	1,795,853
Total stock-based compensation	$5,736,708	$4,990,108	$2,669,236	$2,538,081

See Note 3—"Stock-based Compensation Plans" of the condensed consolidated statements as well as our Critical Accounting Policies for additional information about stock-based compensation.

Service Costs. Service costs decreased 37% from $17.4 million in the three months ended June 30, 2008 to $11.0 million in the same period in 2009. The decrease was primarily attributable to a decrease in distribution partner payments of $5.3 million and a decrease in royalty costs, Internet domain amortization, personnel costs, and credit card processing fees of $1.2 million partially offset by increases in stock compensation, fees paid to outside service providers, depreciation and amortization, and other costs of $173,000.

Service costs represented 47% of revenue in the three months ended June 30, 2008 as compared to 52% in 2009. The 2009 increase as a percentage of revenue in service costs as compared to 2008 was primarily a result of an increase in the proportion of revenue attributable to our partner and other revenue sources for which there are related distribution partner payments as compared to our proprietary traffic revenue. Payments to feed management and pay-per-click distribution partners account for higher user acquisition costs as a percentage of revenue relative to our overall service cost percentage.

Service costs decreased 37% from $36.3 million in the six months ended June 30, 2008 to $22.9 million in the same period in 2009. The decrease was primarily attributable to a decrease in distribution partner payments of $11.5 million and a decrease in royalty costs, Internet domain amortization, personnel costs, stock compensation and credit card processing fees of $2.6 million partially offset by increases in fees paid to outside service providers, depreciation and amortization, and other costs of $667,000.

Service costs represented 49% of revenue in the six months ended June 30, 2008 as compared to 48% in 2009. The 2009 decrease as a percentage of revenue in service costs as compared to the same period in 2008 was primarily due to lower distribution partner payments. We expect that user acquisition costs and revenue shares to distribution partners are likely to increase prospectively given the competitive landscape for distribution partners. To the extent that payments to feed management and pay-per-click services distribution partners make up a larger percentage of future operations, or the addition or renewal of existing distribution partner agreements are on terms less favorable to us, we expect that service costs will increase as a percentage of revenue. To the extent of revenue declines in these areas, we expect revenue shares to distribution partners to decrease in absolute dollars. Our proprietary traffic sources have a lower service cost as a percentage of revenue relative to our overall service cost percentage. Our proprietary traffic sources have no corresponding distribution partner payments. To the extent our proprietary traffic sources make up a larger percentage of our future operations, we expect that service costs will decrease as a percentage of revenue. We also expect that in the longer term service costs will increase in absolute dollars as a result costs associated with the expansion of our operations and network infrastructure as we scale and adapt to increases in the volume of transactions and traffic and invest in our platforms.

Sales and Marketing. Sales and marketing expenses decreased 53%, from $7.9 million for the three months ended June 30, 2008 to $3.7 million in the same period in 2009. As a percentage of revenue, sales and marketing expenses were 21% and 17% for the three months ended June 30, 2008 and 2009, respectively. The net decrease in dollars was related primarily to a decrease in online and outside marketing activities. Although online and outside marketing activities have been lower, we expect some volatility in sales and marketing expenses in the near term based on the timing of marketing initiatives and therefore such expenses may be higher in absolute dollars. We expect that sales and marketing expenses will increase in connection with any revenue increase to the extent that we also increase our marketing activities and correspondingly could increase as a percentage of revenue. We also expect fluctuations in marketing expenditures as we redirect our online marketing efforts towards more of our updated Web sites and direct monetization of our proprietary traffic sources but expect expenditures related to these efforts to increase in absolute dollars in the long term.

Sales and marketing expenses decreased 24%, from $14.9 million for the six months ended June 30, 2008 to $11.3 million in the same period in 2009. As a percentage of revenue, sales and marketing expenses were 20% and 24% for the six months ended June 30, 2008 and 2009, respectively. The 2009 increase as a percentage of revenue in sales and marketing as compared to 2008 was primarily a result of an increase in the proportion of variable personnel costs relative to revenue.

Product Development. Product development expenses decreased 19%, from $4.3 million for the three months ended June 30, 2008 to $3.4 million in the same period in 2009. The decrease in dollars was primarily due to a decrease in fees paid to outside service providers, stock compensation and personnel costs of $809,000. As a percentage of revenue, product development expenses were 11% and 16% for the three months ended June 30, 2008 and 2009, respectively. The 2009 increase as a percentage of revenue in product development expense as compared to 2008 was primarily a result of an increase in the proportion of personnel costs relative to revenue. In the near term, we do not expect significant changes to our product development expenditures. In the longer term, 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 and as a result of additional stock-based compensation expense.

Product development expenses decreased 10%, from $8.4 million in the six months ended June 30, 2008 to $7.6 million in the same period in 2009. As a percentage of revenue, product development expenses were 11% and 16% for the six months ended June 30, 2008 and 2009, respectively. The decrease in dollars was primarily due to a decrease in fees paid to outside service providers and stock compensation of $1.2 million, offset by an increase in personnel costs, depreciation and facility costs of $430,000.

General and Administrative. General and administrative expenses decreased 21%, from $5.1 million in the three months ended June 30, 2008 to $4.0 million in the same period in 2009. The decrease in dollars was primarily due to a decrease in personnel costs, fees paid to outside service providers, facility costs, stock compensation, bad debt and other costs of $1.0 million. As a percentage of revenue, general and administrative expenses was 14% and 19% for the three months ended June 30, 2008 and 2009, respectively. We do not expect significant changes to our general and administrative expenses in the near term. We expect that our general and administrative expenses will increase in the longer term 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.

General and administrative expenses decreased 20%, from $10.0 million in the six months ended June 30, 2008 to $8.1 million in the same period in 2009. The decrease in dollars was primarily due to a decrease in personnel costs, fees paid to outside service providers, facility costs, stock compensation, bad debt and other costs of $1.9 million. As a percentage of revenue, general and administrative expenses were 14% and 17% for the six months ended June 30, 2008 and 2009, respectively.

Amortization of Intangible Assets from Acquisitions. Intangible amortization expense decreased 64%, from $3.7 million in the three months ended June 30, 2008 to $1.3 million in the same period in 2009. The decrease was associated with certain intangible assets from acquisitions being fully amortized in 2008 and 2009. During the three months ended June 30, 2009, the components of amortization of intangibles were service costs of $1.3 million and general and administrative of $11,000.

Intangible amortization expense decreased 55%, from $7.7 million in the six months ended June 30, 2008 to $3.5 million in the same period in 2009. The decrease was associated with certain intangible assets from acquisitions being fully amortized in 2008 and 2009. During the six months ended June 30, 2009, the components of amortization of intangibles were service costs of $3.4 million and general and administrative of $44,000.

Our purchase accounting resulted in all assets and liabilities from our acquisitions being recorded at their estimated fair values on their respective acquisition dates. All goodwill, identifiable intangible assets and liabilities resulting from our acquisitions have been recorded in our financial statements. The identified intangibles amounted to $84.2 million and are being amortized over a range of useful lives of 12 to 84 months. 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. Events and circumstances considered in determining whether the carrying value of amortizable intangible assets and goodwill may not be recoverable include, but are not limited to: significant changes in performance relative to expected operating results; significant changes in the use of the assets; significant negative industry or economic trends; or a significant decline in the Company’s stock price and/or market capitalization for a sustained period of time. At various points during the six months ended June 30, 2009, our stock price approached or dropped below the then book value per share. If the our stock price were to trade below book value per share for an extended period of time and/or we experienced continued downward trends in the overall economic environment, changes in the business itself, including changes in projected earnings and cash flows, we may need to recognize an impairment of all or some portion of our goodwill and other intangible assets.

Gain on sales and disposals of intangible assets, net. The gain on sales and disposals of intangible assets, net was $2.0 million and $2.2 million for the three and six months ended June 30, 2008, respectively, as compared to $855,000 and $1.8 million for the three and six months ended June 30, 2009, respectively, and was primarily attributable to the sales and disposals of Internet domain names and other intangible assets.

Other Income, net. Other income, net was $133,000 in the three months ended June 30, 2008 compared to ($19,000) in the same period in 2009. Other income, net was $417,000 in the six months ended June 30, 2008 compared to ($4,000) in the same period in 2009. The decrease in other income, net during the three and six months ended June 30, 2009 was primarily due to lower interest income as a result of the lower average cash balances, resulting from the Class B common stock repurchases, and lower interest rates.

Income Taxes. The income tax expense in the three months ended June 30, 2008 was $733,000 as compared to an income tax benefit of $390,000 in the same period in 2009. In the six months ended June 30, 2008, income tax expense was $393,000 compared to a $1.1 million income tax benefit in the same period in 2009. In the three and six months ended June 30, 2009, the effective tax rate of (25%) and (26%), respectively, differed from the expected effective tax rate of 35% due to state income taxes, non-deductible stock-based compensation related to restricted stock and incentive stock options recorded under the fair-value method as prescribed by SFAS 123R and other amounts. The effective tax rate of 61% and (104%) in the three and six months ended June 30, 2008 differed from the expected tax rate of 35% due to state income taxes, non-deductible stock-based compensation related to restricted stock and incentive stock options recorded under the fair-value method as prescribed by SFAS 123R and other amounts.

During the three months ended June 30, 2008 and 2009, as a result of tax deductions from stock option exercises and restricted stock awards, we recognized excess (shortfall) tax benefits of approximately $81,000 and ($50,000), respectively, which were recorded to additional paid in capital. During the six months ended June 30, 2008 and 2009, as a result of tax deductions from stock option exercises, we recognized excess (shortfall) tax benefits of approximately $140,000 and ($996,000), respectively, which were recorded to additional paid in capital.

Convertible Preferred Stock Dividends and Discount on Preferred Stock Redemption, net. The convertible preferred stock dividends and discount on preferred stock redemption, net, decreased from $34,000 in the three months ended June 30, 2008 to $0 in the same period in 2009. The decrease was due to the redemption of all outstanding preferred stock in October 2008. Preferred stock dividends were based upon a dividend rate of 4.75%. The convertible preferred stock dividends and discount on preferred stock redemption, net, decreased from $45,000 in the six months ended June 30, 2008 to $0 in the same period in 2009. The decrease was due to the redemption of all outstanding preferred stock in October 2008. Preferred stock dividends were based upon an annual dividend rate of 4.75%.

Net Income (Loss) Applicable to Common Stockholders. Net income (loss) applicable to common stockholders decreased from net income of $509,000 for the three months ended June 30, 2008 to a net loss of $1.2 million in the same period in 2009. The decrease was primarily attributable to a decrease in revenues partially offset by lower operating expenses. Net loss applicable to common stockholders increased from a net loss of $726,000 for the six months ended June 30, 2008 to $2.8 million for the six months ended June 30, 2009.

Liquidity and Capital Resources

As of June 30, 2009, we had cash and cash equivalents of $28.7 million and we had current and long term contractual obligations of $14.9 million, of which $12.8 million is for rent under our facility leases.

Cash provided by operating activities primarily consists of net loss adjusted for certain non-cash items such as depreciation and amortization, deferred income taxes, stock-based compensation, excess tax benefit related to stock options, facility relocation and changes in working capital. Cash provided by operating activities for the six months ended June 30, 2009 of approximately $8.3 million consisted primarily of net loss of $2.8 million adjusted for non-cash items of $13.6 million, including depreciation, amortization of intangible assets, allowance for doubtful accounts and advertiser credits, stock-based compensation, deferred income taxes, and excess tax benefit related to stock options and approximately $2.4 million used for working capital and other activities. Cash provided by operating activities for the six months ended June 30, 2008 of approximately $11.2 million consisted primarily of net loss of $771,000 adjusted for non-cash items of $17.9 million, including depreciation, amortization of intangible assets, allowance for doubtful accounts and advertiser credits, stock-based compensation, deferred income taxes, and excess tax benefit related to stock options, and approximately $5.9 million used for working capital and other activities.

With respect to a significant portion of our pay-per-click advertising services, we have no corresponding payments to distribution partners related to our proprietary revenues or we receive payment from advertisers prior to our delivery of related click-throughs with the corresponding payments to the distribution partners who provide placement for the listings made only after delivery of related click-throughs. 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 advertisers and the later payment to the distribution partners. These services constituted the majority of revenue in the six months ended June 30, 2008 and 2009. In certain cases, payments to distribution partners are paid in advance or are fixed in advance based on a guaranteed minimum amount of usage delivered. Nearly all of the feed management services and advertising services provider arrangements 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, advertiser’s payments are generally received one to three weeks following payment to the distribution partners. We expect that in the future periods, if the feed management services or amounts from our advertising services provider arrangements account for a greater percentage of our operating activity, working capital requirements will increase as a result.

We have payment arrangements with resellers particularly related to our proprietary traffic sources or local online advertising platforms, such as AT&T, R.H. Donnelley Corporation, Idearc Media Corp., Yellowbook USA Inc., The Cobalt Group, WhitePages, Inc., Vantage Media LLC and Intelius, Inc., whereby we receive payment between 30 and 60 days following the delivery of services. Certain of these partners have recently had debt-rating agencies downgrade their debt instruments and have capital structures that are creating liquidity uncertainty and challenges. We believe certain of these resellers are reviewing approaches to restructuring and streamlining their operations, including the recent bankruptcy filings as discussed below. For the six months ended June 30, 2009 amounts from these partners along with Yahoo! totaled 60% of revenue and $8.3 million in accounts receivable, respectively. Based

on the timing of payments, we generally have this level of amounts in outstanding accounts receivable at any given time from these partners. There can be no assurances that these partners or other advertisers will not experience further financial difficulty, curtail operations, reduce or eliminate spend budgets, delay payments or otherwise forfeit balances owed. Net accounts receivable balances outstanding at June 30, 2009 from Yahoo!, AT&T, Idearc and Intelius totaled $1.6 million, $4.9 million, $75,000 and $823,000, respectively.

Idearc Media Corp. and R.H. Donnelley Corporation and its subsidiaries filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code on March 30, 2009 and May 28, 2009, respectively. With respect to Idearc, while a plan of reorganization has not yet been filed, according to Idearc, the purpose of the filing is to implement a debt restructuring with its banks and bondholders, and with respect to R.H. Donnelley, a joint plan of reorganization was filed on July 27, 2009 and the purpose of such plan is to implement a balance sheet restructuring and to reduce debt with lenders and bondholders. Throughout the restructuring process, each of Idearc and R.H. Donnelley expect to operate business as usual, to maintain substantial cash balances and to continue to generate positive cash flow. Idearc and R.H. Donnelley accounted for $2.4 million and $1.1 million of revenue, respectively, for the six months ended June 30, 2009. We did not recognize an aggregate of $1.6 million in revenue related to services delivered to Idearc and R.H. Donnelley in light of collectibility considerations for the six months ended June 30, 2009. Since payment timing remains uncertain and requires the confirmation of the plan of reorganization of each of Idearc and R.H. Donnelley by the respective Bankruptcy Court, we expect to recognize such revenue only upon cash collection and the extent of our future business relationships with Idearc and R.H. Donnelley is uncertain.

Cash provided by investing activities for the six months ended June 30, 2009 of approximately $921,000 was primarily attributable to net purchases for property and equipment of $859,000 which were more than offset by proceeds from the sales of intangible assets of approximately $1.8 million. Cash used in investing activities for the six months ended June 30, 2008 of approximately $83,000 was primarily attributable to net purchases for property and equipment of $1.7 million, payments for the Voice Services acquisition totaling approximately $128,000, and purchases for Internet domain names or Web sites of approximately $189,000, offset by proceeds from the sales of intangible assets of approximately $1.9 million. We expect property and equipment purchases will increase as we continue to invest in equipment and software. To the extent our operations increase, we expect to increase expenditures for our systems and personnel. Additionally, we have expended amounts for product development initiatives as well as amounts recorded as part of property and equipment for internally developed software. We expect our expenditures for product development initiatives and internally developed software will increase in the longer term in absolute dollars as our development activities accelerate and we increase the number of personnel and consultants to enhance our service offerings.

Cash used in financing activities for the six months ended June 30, 2009 of approximately $7.9 million was primarily attributable to the repurchase of 1.8 million shares of Class B common stock for treasury stock totaling approximately $6.6 million, and common stock dividend payments of $1.5 million, partially offset by net proceeds of approximately $60,000 from the sale of stock through employee stock options and employee stock plan purchases and $49,000 of excess tax benefits related to stock options. Cash used in financing activities for the six months ended June 30, 2008 of approximately $18.6 million was primarily attributable to the repurchase of 1.8 million shares of Class B common stock for treasury stock and 2,008 shares of preferred stock totaling approximately $17.2 million and $409,000, respectively, and common stock and preferred stock dividend payments of $1.7 million, partially offset by net proceeds of approximately $697,000 from the sale of stock through employee stock options and employee stock plan purchases and $54,000 of excess tax benefit related to stock options.

The following table summarizes our contractual obligations as of June 30, 2009, 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	thereafter
Contractual Obligations:					
Operating leases	$12,783,524	$ 807,817	$2,117,110	$2,872,093	$6,986,504
Capital leases	27,710	20,015	7,695	—	—
Other contractual obligations	2,062,421	984,504	1,063,404	14,514	—
Total contractual obligations (1) (2)	$14,873,655	$ 1,812,336	$3,188,209	$2,886,607	$6,986,504

(1) In February 2005 we entered into agreements with an advertising partner pursuant to which we paid $4.5 million, in an upfront payment 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. The upfront license fee has been capitalized and has been amortized ratably over 42 months. The royalty payment is recognized as incurred in service costs and is not included in the above schedule.

(2) In June 2009, we entered into a lease agreement for office facilities in Seattle, Washington which commences on January 1, 2010 and expires on March 31, 2018. Future minimum payments related to these new facilities are approximately as follows: $700,000 in 2010, $1.2 million in 2011, $1.4 million in 2012, $1.5 million in 2013, $1.6 million in each of 2014 and 2015, and a total of $3.8 million from 2016 to 2018.

We expect to continue acquiring Internet domains or Web sites in the normal course of business as we grow our proprietary network of Web sites.

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. On April 1, 2008, we entered into a three year credit agreement which provides us with a $30 million senior secured revolving credit line, which may be used for various corporate purposes including financing permitted acquisitions, subject to compliance with applicable covenants. As of June 30, 2009, we had $30 million of availability under the credit agreement. Furthermore, we expect that capital expenditures may increase in future periods, particularly if our operating activity increases.

In November 2006, our Board of Directors authorized a share repurchase program to repurchase up to 3 million shares of our Class B common stock as well as the initiation of a quarterly cash dividend for the holders of the Class A common stock and Class B common stock. The Board of Directors have authorized increases in the share repurchase program to provide for the repurchase up to 9 million shares in the aggregate (less shares previously repurchased under the share repurchase program) of our Class B common stock. Under the revised share repurchase program, repurchases may take place in the open market and in privately negotiated transactions and at times and in such amounts as we deem appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements, capital availability, and other market conditions. This stock repurchase program does not have an expiration date and may be limited or terminated at any time without prior notice. During the six months ended June 30, 2009, approximately 1.8 million shares of Class B common stock were repurchased. The quarterly cash dividend was initiated at $0.02 per share of Class A common stock and Class B common stock. For 2008, quarterly dividends were paid on February 15, May 15, August 15 and November 17 to Class A and Class B common stockholders of record as of the close of business on February 2, May 4, August 4 and November 6, respectively. For 2009, quarterly dividends were paid on February 17 and May 15 to Class A and Class B common stockholders of record as of the close of business of February 6 and May 4, respectively. The aggregate quarterly dividend paid in May 2009 was approximately $721,000. 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.

In July 2009, our Board of Directors declared a regular quarterly dividend of $0.02 per share on our Class A common stock and Class B common stock. Marchex will pay these dividends on August 17, 2009 to the holders of record as of the close of business on August 7, 2009. Although we expect that the annual cash dividend, subject to capital availability, will be $0.08 per common share or approximately $2.9 million for the foreseeable future, there can be no assurance that we will continue to pay dividends at such a rate or at all.

Based on our operating plans we believe that our existing credit availability, 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.

Critical Accounting Policies

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

Our consolidated financial statements have been prepared using accounting principles generally accepted in the United States of America. 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;
- Allowance for doubtful accounts, advertiser and incentive program credits; and
- Provision for income taxes.

Revenue

We currently generate revenue through our operating businesses by delivering performance-based and search marketing services to advertisers and advertising service providers. The primary revenue driver has been performance-based advertising, which includes pay-per-click listings, pay-per-phone-call services, cost-per-action services and feed management services. For pay-per-click listing and feed management services, revenue is recognized upon our delivery of qualified and reported click-throughs to our advertisers or advertising service providers' listing which occurs when an online user clicks on any of their advertisements after it has been placed by us or by our distribution partners. Each click-through on an advertisement listing represents a completed transaction. For cost-per-action services, revenue is recognized when the online user is redirected from one of our Web sites or a third-party Web site in our distribution network to an advertiser Web site and completes the specified action, such as when a phone number is provisioned or call is placed. In certain cases, we record revenue based on available and reported preliminary information from third parties. Collection on the related receivables may vary from reported information based upon third-party refinement of the estimated and reported amounts owing that occurs subsequent to period ends.

We have entered into agreements with various distribution partners in order to expand our distribution network, which includes search engines, directories, product shopping engines, certain third-party Web sites and our portfolio of Web sites, on which we include our 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 advertiser. In accordance with Emerging Issues Task Force Issue (EITF) No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, the revenue derived from advertisers who receive paid introductions through us as supplied by distribution partners is reported gross based upon the amounts received from the advertiser. We also recognize revenue for certain agency contracts with advertisers under the net revenue recognition method. Under these specific agreements, we purchase listings on behalf of 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 advertisers. Under these agreements, our advertisers are primarily responsible for choosing the publisher and determining pricing, and the Company, in certain instances, is only financially liable to the publisher for the amount collected from our advertisers. This creates a sequential liability for media purchases made on behalf of advertisers. In certain instances, the Web publishers engage the advertisers directly and we are paid an agency fee based on the total amount of the purchase made by the advertiser.

We apply EITF Issue No. 00-21, *Accounting for Revenue Arrangements with Multiple Deliverables* (EITF 00-21), to account for revenue arrangements with multiple deliverables. EITF 00-21 addresses certain aspects of accounting by a vendor for arrangements under which the vendor will perform multiple revenue-generating activities. When an arrangement involves multiple elements, the entire fee from the arrangement is allocated to each respective element based on its relative fair value and recognized when revenue recognition criteria for each element are met. Fair value for each element is established based on the sales price charged when the same element is sold separately.

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) 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 is tested annually for impairment and is tested for impairment more frequently if events and circumstances indicate that the asset is more likely than not impaired. Events and circumstances considered in determining whether goodwill is impaired include, but are not limited to: significant changes in performance relative to expected operating results; significant changes in the use of the assets; significant negative industry or economic trends; and a significant decline in the Company's stock price and/or market capitalization for a sustained period of time. At various points during the three and six months ended June 30, 2009, the Company's stock price approached or dropped below the then book value per share. If our stock price were to trade below book value per share for an extended period of time and/or we continue to experience adverse effects of a continued downward trend in the overall economic environment, changes in the business itself, including changes in projected earnings and cash flows, we may have to recognize an impairment of all or some portion of our goodwill. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value. If the fair value is lower than the carrying value, a material impairment charge may be reported in our financial results. We exercise judgment in the assessment of the related useful lives of intangible assets, the fair values and the recoverability. In certain instances, the fair value is determined in part based on cash flow forecasts and discount rate estimates. 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 group 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, amortization expense is increased or decreased. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset group to estimated undiscounted future cash flows expected to be generated by the asset group. If such asset group is 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. We cannot accurately predict the amount and timing of any impairment of goodwill or other intangible assets. Should goodwill or other intangible assets become impaired, we would record the appropriate charge, which could have an adverse effect on our financial condition and results of operations.

In the fourth quarter of 2008, we performed our annual impairment testing in accordance with SFAS 142 and in light of the then current macroeconomic environment and significant decrease in market capitalization. We also performed a review of certain of our intangible assets under SFAS 144. As a result of this testing, we recorded a $176.7 million pre-tax impairment charge on goodwill and intangible assets in the fourth quarter of 2008. The impairment charge resulted in part from adverse equity and credit market conditions that caused a sustained decrease in current market multiples and the company's stock price, a decrease in valuations of U.S. public companies and corresponding increased costs of capital created by the weakness in the U.S. financial markets and decreases in cash flow forecasts for us and the markets in which we operate. Certain technology and domain assets were written-down due to the decreased cash flow forecasts and planned utilization of the assets. The impairment charges will not result in any current or future cash expenditures.

For the three and six months ended June 30, 2009, the U.S. financial markets and our stock price have been impacted by continued deterioration in economic conditions. Should economic conditions and other indicators further deteriorate or impact our ability to achieve levels of forecasted operating results and cash flows, or should other events occur indicating the remaining carrying value of goodwill might be impaired, we would test our intangible assets for impairment and may recognize an additional impairment loss to the extent that the carrying amount exceeds such asset's fair value.

Any future additional impairment charges or changes to the estimated amortization periods could have a material adverse effect on our financial results.

Stock-Based Compensation

SFAS 123R requires the measurement and recognition of compensation for all stock-based awards made to employees and directors including stock options and restricted stock issuances based on estimated fair values. Under the fair value recognition provisions of SFAS 123R, we recognize stock-based compensation net of an estimated forfeiture rate and therefore only recognize compensation cost for those shares expected to vest over the service period of the award.

Under SFAS 123R, we use the Black-Scholes option pricing model as our method of valuation for stock-based awards. Our determination of the fair value of stock-based awards on the date of grant using an option pricing model is affected by our stock price as well as assumptions regarding a number of highly complex and subjective variables. These variables include, but are not limited to the expected life of the award, volatility over the term of the award, the risk-free interest rate, and projected exercise behaviors. Although the fair value of stock-based awards is determined in accordance with SFAS 123R, the assumptions used in calculating fair value of stock-based awards and the Black-Scholes option pricing model are highly subjective, and other reasonable assumptions could provide differing results. As a result, if factors change and we use different assumptions, our stock-based compensation expense could be materially different in the future. In addition, we are required to estimate the expected forfeiture rate and only recognize expense for those shares expected to vest. We estimate the forfeiture rate based on historical experience of our stock-based awards that are granted, exercised and cancelled. If our actual forfeiture rate is materially different from our estimate, the stock-based compensation expense could be significantly different from what we have recorded in the current period. See Note 3—"Stock-based Compensation Plans" in the condensed consolidated financial statements for additional information.

Allowance for Doubtful Accounts and Advertiser and Incentive Program Credits

Accounts receivable balances are presented net of allowance for doubtful accounts and 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 advertiser credits and adjustments based upon our analysis of historical credits. Under the advertiser incentive program, we grant advertisers credits depending upon the individual amounts of prepayments made. The incentive program allowance is determined based on the historical rate of incentives earned and used by 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.

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.

Each reporting period we must assess the likelihood that our deferred tax assets will be recovered from future taxable income, and to the extent that realization is not more likely than not, a valuation allowance must be established. The establishment of a valuation allowance and increases to such an allowance result in either increases to income tax expense or reduction of income tax benefit in the statement of operations. Although realization is not assured, we believe it is more likely than not, based on operating performance and projections of future taxable income, that our net deferred tax assets, excluding certain state net operating loss carryforwards, will be realized. In determining that it was more likely than not that we would realize the deferred tax assets, factors considered included: historical taxable income, historical trends related to advertiser usage rates, projected revenues and expenses, macroeconomic conditions, issues facing our industry, existing contracts, our ability to project future results and any appreciation of our other assets. Additionally, the majority of our deferred tax assets have arisen due to deductions taken in our financial statements related to the impairment of goodwill and amortization of intangible assets recorded in connection with various acquisitions that are tax-deductible over 15 year periods. Based on projections of future taxable income the Company expects to be able to recover these assets. The amount of the net deferred tax assets considered realizable, however, could be reduced in the near term if our projections of future taxable income are reduced or if we do not perform at the levels we are projecting. This could result in increases to the valuation allowance for deferred tax assets and a corresponding increase to income tax expense of up to the entire net amount of deferred tax assets.

From time to time, various state, federal, and other jurisdictional tax authorities undertake reviews of us and our filings. We believe any adjustments that may ultimately be required as a result of any of these reviews will not be material to the financial statements.

In July 2006, the FASB issued FIN No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48), which clarifies the accounting for uncertainty in income taxes recognized in the financial statements in accordance with FASB Statement No. 109, *Accounting for Income Taxes.* This pronouncement prescribes a recognition threshold and measurement process for recording in the financial statements uncertain tax positions taken or expected to be taken in the our tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods and disclosure requirements for uncertain tax positions.

As of June 30, 2009, we have net deferred tax assets of $56.3 million, relating to the impairment of goodwill, amortization of intangible assets, net operating loss carryforwards and certain other temporary differences. As of June 30, 2009, based upon both positive and negative evidence available, we have determined it is not more likely than not that certain deferred tax assets primarily relating to net operating loss carryforwards in state and foreign jurisdictions will be realized and accordingly, have recorded a valuation allowance of $1.7 million against these deferred tax assets. Should we determine in the future that we will be able to realize these deferred tax assets, or not be able to realize all or part of our remaining net deferred tax assets recorded as of June 30, 2009, an adjustment to the net deferred tax assets would impact net income or stockholders' equity in the period such determination was made.

As of June 30, 2009, we had federal net operating loss, or NOL, carryforwards of $1.7 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 $1.7 million of NOL carryforwards is limited such that substantially all of these federal NOL carryforwards will never be utilized.

As of June 30, 2009, we had certain tax effected state net operating loss carryforwards of approximately $4.0 million. We do not have a history of taxable income in the relevant state and the state net operating loss carryforwards will more likely than not expire unutilized. Therefore, we have recorded a 100% valuation allowance on the state net operating loss carryforwards as of June 30, 2009.

Recent Accounting Pronouncements

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurement* (SFAS 157), which clarifies the definition of fair value, establishes a framework for measuring fair value and expands the related disclosure requirements. In February 2008, the FASB issued a FASB Staff Position FSP SFAS 157-2, *Effective Date of FASB Statement No. 157*, which delays the effective date of SFAS 157 for all non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The FSP defers the effective date of SFAS 157 to fiscal years beginning after November 15, 2008. Accordingly, we adopted the required provisions of SFAS 157 on January 1, 2008 and the remaining provisions will be adopted by us at the beginning of fiscal year 2009. The 2008 fiscal year adoption of the required provisions did not result in a material impact to our financial statements. The remaining aspects of SFAS 157 for which the effective date was deferred under FSP SFAS 157-2 did not result in a material impact to our financial statements.

In December 2007, the FASB issued SFAS No. 141R, *Business Combinations* (SFAS 141R), which replaces SFAS 141. SFAS 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed and any resulting goodwill. The pronouncement also provides for disclosures to enable users of the financial statements to evaluate the nature and financial effects of the business combination. SFAS 141R will be effective for us on January 1, 2009. For any business combination that takes place subsequent to January 1, 2009, SFAS 141R may have a material impact on our financial statements. The nature and extent of any such impact will depend upon the terms and conditions of the transaction. On April 1, 2009 the FASB issued FSP FAS 141(R)-1, *Accounting for Assets Acquired and Liabilities Assumed in a Business Combination that Arise from Contingencies* (“FSP FAS 141(R)-1”). FSP FAS 141(R)-1 amends and clarifies SFAS 141R to address application issues on initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. This FSP is effective for assets and liabilities arising from contingencies in business combinations for which the acquisition date is on or after January 1, 2009. In April 2008, the FASB issued FSP SFAS 142-3, *Determination of the Useful Life of Intangible Assets* (FSP SFAS 142-3), which amends the factors that should be considered in developing renewal or extension assumptions used in determining the useful life of a recognized intangible asset. FSP SFAS 142-3 also adds additional disclosures to be included in the footnotes to the financial statements. FSP SFAS 142-3 is effective for fiscal years beginning after December 15, 2008 and interim periods within those years. The adoption of FSP SFAS 142-3 did not have a material impact on our financial statements.

In June 2008, the FASB issued FSP EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* (FSP EITF 03-6-1), which addresses whether instruments granted unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents, whether paid or unpaid are participating securities prior to vesting and would need to be included in the earnings allocation in computing earnings per share under the two-class method of SFAS No. 128, *Earnings per Share.* Under the two-class method required by EITF 03-6-1, a portion of net income (loss) is allocated to these participating securities and therefore is excluded from the calculation of EPS allocated to common stock. FSP EITF 03-6-1 is effective for fiscal years beginning after December 15, 2008 and interim periods within those years. We adopted this FSP on January 1, 2009 and retrospectively adjusted our earnings per share data to conform with the provisions in EITF 03-6-1. The retrospective application of this method did not result in a change to our three and six months ended June 30, 2008 earnings per share.

In May 2009, the FASB issued SFAS No. 165, *Subsequent Events* (“SFAS 165”), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. SFAS 165 applies prospectively to both interim and annual financial periods ending after June 15, 2009. We adopted these requirements for the quarter ending June 30, 2009.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Our exposure to market risk is limited to interest income sensitivity, which is affected by changes in the general level of U.S. interest rates, particularly because the majority of our investments are in short-term, money market funds. Due to the nature of our short-term investments, we believe that we are not subject to any material market risk exposure. We do not have any material foreign currency or other derivative financial instruments.

Our existing credit facility bears interest at a rate which will be, at our option, either: (i) the applicable margin rate (depending on our leverage) plus the one-month LIBOR rate reset daily, or (ii) the applicable margin rate plus the 1, 2, 3, or 6-month LIBOR rate. This facility is exposed to market rate fluctuations and may impact the interest paid on any borrowings under the credit facility. Currently, we have no borrowings under this facility; however, an increase in interest rates would impact interest expense on future borrowings.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our chief executive officer and our chief financial officer, of the effectiveness of our "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934). Based on this evaluation, our chief executive officer and our chief financial officer have concluded that, as of the date of the evaluation, our disclosure controls and procedures were effective.

Changes in Internal Controls

During the quarter ended June 30, 2009, no change was made to our internal controls over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls

In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can not provide absolute assurance of achieving the desired control objectives.

In addition, because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Part II—Other Information

Item 1. Legal Proceedings

We are not a party to any material legal proceedings. 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.

Item 1A. Risk Factors

We have updated the risk factors previously disclosed in Part I, Item 1A. under the caption "Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on March 16, 2009. We do not believe any of the changes constitute material changes to the risk factors.

An investment in our Class B common stock involves various risks, including those mentioned below and those that are discussed from time to time in our other periodic filings with the SEC. Investors should carefully consider these risks, along with the other information contained in this report, before making an investment decision regarding our stock. There may be additional risks of which we are currently unaware, or which we currently consider immaterial. All of these risks could have a material adverse effect on our financial condition, our results of operations, and the value of our stock.

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 which was recently renamed Marchex Adhere PPC, TrafficLeader in October 2003, which was recently renamed Marchex Connect NA, and goClick in July 2004. In February and April 2005, we completed the acquisitions of certain assets of Name Development and Pike Street Industries, respectively. In July 2005 we completed the acquisition of IndustryBrains, which was recently renamed Marchex Adhere SSC. In May 2006 we completed the acquisition of certain assets of AreaConnect and Open List. In September 2007, we completed the acquisition of VoiceStar, which was recently renamed Marchex Voice Services.

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 largely incurred net losses since our inception, and we may incur net losses in the foreseeable future.

We had an accumulated deficit of $138.5 million as of June 30, 2009. Our net expenses may increase based on the initiatives we undertake which for instance, may include increasing our sales and marketing activities, hiring additional personnel, incurring additional costs as a result of being a public company, acquiring additional businesses and making additional equity grants to our employees.

We may continue to increase our direct monetization of our proprietary traffic sources, which could adversely affect our revenues.

Our strategic plan has been to increase our direct monetization of our proprietary traffic sources by using more of the advertising listings on our Local Search Network to display the advertisements of advertisers who are on our direct technology platform and those with whom we have direct relationships, as opposed to advertisers from third parties. This monetization may not be of the same rate levels as other advertising providers and as a result could adversely affect our revenues.

We are dependent on certain distribution partners 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 advertiser listings. Yahoo! is our largest distribution partner and delivers traffic to our advertiser listings which collectively represents approximately 8% of our total revenue for the six months ended June 30, 2009. Separately, Yahoo! was responsible for 10% of our total revenue during the same period principally in respect of the revenues associated with our portfolio of domains.

Our existing agreements with many of our other 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. Yahoo! and Microsoft recently announced a new partnership which if ultimately consummated may impact Yahoo!'s service offering and therefore their distribution of our services in the future. 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 or that we will be able to maintain the applicable variable payment terms at their current levels. A loss of any of these distribution partners or a decrease in revenue due to lower traffic or less favorable variable payment terms from any one of these distribution relationships could have an adverse effect on our revenue, and the loss of Yahoo! or any other 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 the comScore Media Metrix Search report for December 2007, Yahoo! Search accounted for 23% of the online searches in the United States and Google accounted for 58%. As a result, the larger distribution partners have greater control over determining the market terms of distribution, including placement of 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.

We rely on certain advertiser resellers and agencies, including AT&T, Idearc Media Corp., Yellowbook USA Inc., The Cobalt Group, WhitePages, Inc., Vantage Media, LLC and Intelius, Inc., for the purchase of various advertising and marketing services, as well as to provide us with a large number of advertisers. A loss of certain advertiser resellers and agencies or a decrease in revenue from these advertiser resellers could adversely affect our business. Such advertiser resellers are subject to varying terms and conditions which may result in claims or credit risks to us.

We benefit from the established relationships and national sales teams that certain of our advertiser resellers, who are leading aggregators of advertisers and advertising agencies, have in place throughout the country and in local markets. These advertiser resellers and agencies refer or bring advertisers to us for the purchase of various advertising products and services. We derive a sizeable portion of our total revenue through these advertiser resellers and agencies. A loss of certain advertiser resellers and agencies or a decrease in revenue from these advertiser resellers could adversely affect our business.

These advertisers may in certain cases be subject to negotiated terms and conditions separate from those applied to online clients accepted and processed through our automated advertiser management platform. In some cases, the applicable contract terms may be the result of legacy or industry association documentation or simply customized advertising solutions for large advertiser resellers and agencies. In any case, as a consequence of such varying terms and conditions, we may be subject to claims or credit risks that we may otherwise mitigate more efficiently across our automated advertiser management platform.

These claims and risks may vary depending on the nature of the aggregated client base. Among other claims, we may be subject to disputes based on third party tracking information or analysis. We may also be subject to differing credit profiles and risks based on the agency relationship associated with these advertisers. For such advertisers, payment may be made on an invoice basis, unlike our retail platform which in many instances is paid in advance of the service. In some limited circumstances we may also have accepted individual advertiser payment liability in place of liability of the advertising agency or media advisor.

We received approximately 55% and 54% of our revenue from our five largest customers for the year ended December 31, 2008 and for the six months ended June 30, 2009, respectively, and the loss of one or more of these customers could adversely impact our results of operations and financial condition.

Our five largest customers (which includes Idearc discussed below) accounted for approximately 55% of our total revenues for the year ended December 31, 2008 and 54% for the six months ended June 30, 2009, respectively. Certain of these customers are not subject to long term contracts with us and are generally able to reduce advertising spending at any time and for any reason. A significant reduction in advertising spending by our largest customers, or the loss of one or more of these customers, if not replaced by new customers or an increase in business from existing customers, would adversely affect revenues. This could have a material adverse effect on our results of operations and financial condition.

If some of our customers experience financial distress, their weakened financial position could negatively affect our own financial position and results.

We have a diverse customer base and, at any given time, one or more customers may experience financial distress, file for bankruptcy protection or go out of business. If a customer with whom we do a substantial amount of business experiences financial difficulty, it could delay or jeopardize the collection of accounts receivable, result in significant reductions in services provided by us and may have a material adverse effect on our results of operations and liquidity.

Idearc Media Corp. and R.H. Donnelley Corporation and its subsidiaries filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code on March 30, 2009 and May 28, 2009, respectively. With respect to Idearc, while a plan of reorganization has not yet been filed, according to Idearc, the purpose of the filing is to implement a debt restructuring with its banks and bondholders, and with respect to R.H. Donnelley, a joint plan of reorganization was filed on July 27, 2009 and the purpose of such plan is to implement a balance sheet restructuring and to reduce debt with lenders and bondholders. Throughout the restructuring process, each of Idearc and R.H. Donnelley expect to operate business as usual, to maintain substantial cash balances and to continue to generate positive cash flow. Idearc and R.H. Donnelley accounted for $2.4 million and $1.1 million of revenue, respectively, for the six months ended June 30, 2009. We did not recognize an aggregate of $1.6 million in revenue related to services delivered to Idearc and R.H. Donnelley in light of collectibility considerations for the six months ended June 30, 2009. Since payment timing remains uncertain and requires the confirmation of the plan of reorganization of each of Idearc and R.H. Donnelley by the respective Bankruptcy Court, we expect to recognize such revenue only upon cash collection and the extent of our future business relationships with Idearc and R.H. Donnelley is uncertain.

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

Many of our advertisement generation and distribution processes are automated. In most cases, advertisers use our online tools and account management systems to create and submit advertiser listings. These advertiser listings are submitted in a bulk data feed to our distribution partners. Although we monitor our distribution partners on an ongoing basis primarily for traffic quality, these partners control the distribution of the advertiser listings provided in the data feed.

As a result, we do not conduct a manual editorial review of a substantial number of the advertiser listings directly submitted by advertisers online, nor do we manually review the display of the vast majority of the advertiser listings by our distribution partners submitted to us by XML data feeds or data dumps. In cases where we provide editorial or value-added services for our large aggregator clients or agencies, such as ad creation and optimization for local advertisers or landing pages and micro-sites for pay-per-phone call customers, we may rely on the content and information provided to us by these agents on behalf of their individual advertisers. We may not investigate the individual business activities of these advertisers other than the information provided to us or in some cases review of advertiser Web sites. We may not successfully avoid liability for unlawful activities carried out by our advertisers and other users of our services or unpermitted uses of our advertiser listings by distribution partners and their affiliates.

Our potential liability for unlawful activities of our advertisers and other users of our services or unpermitted uses of our advertiser listings and advertising services and platform by distribution partners and advertiser aggregators and agencies could require us to implement measures to reduce our exposure to such liability, which may require us, among other things, to spend substantial resources, to discontinue certain service offerings or to terminate certain distribution partner relationships. For example, as a result of the actions of advertisers in our network, we may be subject to private or governmental actions relating to a wide variety of issues, such as privacy, gambling, promotions, and intellectual property ownership and infringement. Under agreements with certain of our larger distribution partners, we may be required to indemnify these distribution partners against liabilities or losses resulting from the content of our advertiser listings. Although our advertisers indemnify us with respect to claims arising from these listings, we may not be able to recover all or any of the liabilities or losses incurred by us as a result of the activities of our advertisers.

We have a large number of distribution partners who display our advertiser listings on their networks. Our advertiser listings are predominantly delivered to our distribution partners in an automated fashion through an XML data feed or data dump. Our distribution partners are contractually required to use the advertiser listings that we provide in accordance with applicable laws and regulations and in conformity with the publication restrictions included in our agreements, which are intended to promote the quality and validity of the traffic provided to our advertisers. Nonetheless, we do not operationally control or manage these distribution partners and any breach of these agreements on the part of any distribution partner or its affiliates could result in liability for our business. These agreements include indemnification obligations on the part of our distribution partners, but there is no assurance that we would be able to collect against offending distribution partners or their affiliates in the event of a claim under these indemnification provisions.

Our insurance policies may not provide coverage for liability arising out of activities of users of our services. In addition, our reliance on some content and information provided to us by our large advertiser resellers and agencies may expose us to liability not covered by our insurance policies. 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.

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

Our success depends, in large part, on the maintenance and growth of a critical mass of advertisers and distribution partners and a continued interest in our performance-based advertising and search marketing services. Advertisers will generally seek the most competitive return on investment from advertising and marketing services. Distribution partners will also seek the most favorable payment terms available in the market. Advertisers and distribution partners may change providers or the volume of business with a provider, unless the product and terms are competitive. In this environment, we must compete to acquire and maintain our network of advertisers and distribution partners.

If our business is unable to maintain and grow our base of 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. Our business also in part depends on certain of our large advertiser resellers and agencies to grow their base of advertisers, as these advertisers become increasingly important to our business and our ability to attract additional distribution partners and opportunities. Similarly, if our distribution network does not grow and does not continue to improve over time, current and prospective advertisers and large advertiser resellers and agencies may reduce or terminate this portion of their business with us. Any decline in the number of 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 advertisers and the advertisers of our partners, and any failure in our quality control could have a material adverse effect on the value of our services to our advertisers and adversely affect our revenues.

We utilize certain monitoring processes with respect to the quality of the traffic that we deliver to our advertisers. Among the factors we seek to monitor are sources and causes of low quality clicks such as non-human processes, including robots, spiders or other software, the mechanical automation of clicking, and other types of invalid clicks, click fraud, or click spam, the purpose of which is something other than to view the underlying content. Additionally, we also seek to identify other indicators which may suggest that a user may not be targeted by or desirable to our advertisers. 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 advertisers will be delivered to such advertisers, which may be detrimental to those relationships. We have regularly refunded fees that our advertisers had paid to us which were attributed to low quality traffic. If we are unable to stop or reduce low quality traffic, these refunds may increase. Low-quality traffic may further prevent us from growing our base of advertisers and cause us to lose relationships with existing advertisers, or become the target of litigation, both of which would adversely affect our revenues.

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 our acquisition of previously-owned Internet domain names and claims of copyright infringement with respect to certain of our proprietary Web sites that would be costly to defend and could limit our ability to use certain critical technologies.

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 prevent us from using critical technologies which could have a material adverse effect on our business.

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 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. There can be no assurance that if we were to need additional funds to meet these obligations that additional financing arrangements would be available in amounts or on terms acceptable to us, if at all. Furthermore, 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;
- 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; and
- We may be exposed to investigations and/or audits by federal, state or other taxing authorities.

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 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 customers and employees under our standard confidentiality agreement.

Further, as of June 30, 2009, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister together controlled 92% of the combined voting power of our outstanding capital 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 retaining current personnel as well as attracting and retaining additional qualified, experienced, highly skilled personnel, which could adversely affect the implementation of our business plan.

Our performance is largely dependent upon the talents and efforts of highly skilled individuals. In order to fully implement our business plan, we will need to retain our current qualified personnel, as well as attract and retain additional qualified personnel. Thus, our success will in significant part depend upon our retention of current personnel as well as 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. If we are unable to maintain sufficient insurance as a public company to cover liability claims made against 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.

It may be 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 Global 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 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. Further, applicable rules and regulations of the Securities and Exchange Commission and the Nasdaq Stock Market 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 Global 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 effectiveness of our controls over financial reporting. Our current and future compliance with the annual internal control report requirement 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. Inadequate 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.

Accounting for employee stock options using the fair value method has significantly reduced and will likely continue to significantly reduce our net income.

We adopted the provisions of SFAS 123R on January 1, 2006. Thus, our consolidated financial statements reflect the fair value of stock options granted to employees as a compensation expense, which has had, and will in the future likely continue to have, a significant adverse impact on our results of operations and net income per share. We rely heavily on stock options to compensate existing employees and to attract new employees. If we reduce or alter our use of stock-based compensation to minimize the recognition of these expenses, our ability to recruit, motivate and retain employees may be impaired, which could put us at a competitive disadvantage in the employee marketplace. In order to prevent any net decrease in their overall compensation packages, we may choose to make corresponding increases in the cash compensation or other incentives we pay to existing and new employees. Any increases in employee wages and salaries would diminish our cash available for marketing, product development and other uses and might cause our GAAP profits to decline. Any of these effects might cause the market price of our Class B common stock to decline.

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. Events and circumstances considered in determining whether the carrying value of amortizable intangible assets and goodwill may not be recoverable include, but are not limited to: significant changes in performance relative to expected operating results; significant changes in the use of the assets; significant negative industry or economic trends; or a significant decline in our stock price and/or market capitalization for a sustained period of time. 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 recorded a substantial non-cash impairment charge for goodwill and intangible assets during the fourth quarter of 2008 as a result of the impact of current adverse economic environment including the deterioration in the equity and credit markets. We may be required to record future charge to earnings in our financial statements during the period in which any additional 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.

We may not be able to realize the intended and anticipated benefits from our acquisitions of Internet domain names, which could affect the value of these acquisitions to our business 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 our acquisitions of Internet domain names. These intended and anticipated benefits include increasing our cash flow from operations, broadening our distribution offerings and delivering services that strengthen our advertiser relationships.

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

- A significant amount of revenue attributed to our network of Web sites comes through our agreement with Yahoo! and its subsidiaries. Under our agreement, Yahoo! has certain limited exclusive and preferential rights with respect to the commercialization of many of these Web sites through paid listings. Yahoo! controls the delivery of a portion of the paid listings to many of these Web sites. As a result, the monetization of these Web sites is presently largely dependent on the revenue from the paid listings allocated by Yahoo! and its subsidiaries to these Web sites. This allocation may depend on Yahoo!'s advertiser base, internal policies in effect from time to time, perceived quality of traffic, origin of traffic, history of performance and conversion, technical and network changes made by Yahoo!, among many factors and determinations which may or may not be controlled by us or known to us. In addition to the aforementioned factors, if our business relationship with Yahoo! is terminated we may not be able to replace it with another large-scale provider of paid listings under terms which allow us to increase or maintain the amount of revenue attributable to our network of Web sites.
- Our revenue will also depend on the levels of traffic that our network of Web sites is able to achieve in any period. Traffic levels will increase and decrease based upon a number of factors not entirely within our control, including the extent of indexing of our Web sites within search engines and directories, placement within search results and success of marketing efforts. Traffic levels may also be affected by service interruptions or other technical outages. Our ability to meet the traffic demands of our network of Web sites is also dependent on a number of third party vendors and our technical teams to manage the operations effectively. Any downtime of our servers or other outages will negatively impact the revenue from our Local Search Network.

- We will need to continue to acquire commercially valuable Internet domain names to grow our proprietary network of Web sites. 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 and/or maintenance efforts.
- Some of our existing distribution partners may perceive our Local Search Network as a competitive threat and therefore may decide to terminate their agreements with us.
- We intend to apply our technology and expertise to geography-specific Web sites 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 anticipate.

If the acquired assets are not integrated into our business as we anticipate, we may not be able to achieve these benefits or realize the value paid for our acquisitions of Internet domain names, which could materially harm our business, financial condition and results of operations.

We do not control the means by which users access our Web sites, and material changes to current navigation practices or technologies or marketing practices or significant increases in our marketing costs could result in a material adverse effect on our business.

The success of our Local Search Network depends in large part upon consumer access to our Web sites. Consumers access our Web sites primarily through the following methods: directly accessing our Web sites by typing descriptive keywords or keyword strings into the uniform resource locator (URL) address box of an Internet browser; accessing our Web sites by clicking on bookmarked Web sites; and accessing our Web sites through search engines and directories.

Each of these methods requires the use of a third party product or service, such as an Internet browser or search engine or directory. Internet browsers may provide alternatives to the URL address box to locate Web sites, and search engines may from time to time change and establish rules regarding the indexing and optimization of Web sites. We also market certain Web sites through search engines. Historically, we have limited our search engine marketing to less than five leading search engines.

Product developments and market practices for these means of access to our Web sites are not within our control. We may experience a decline in traffic to our Web sites if third party browser technologies or search engine methodologies and rules are changed to our disadvantage. We have experienced abrupt search engine algorithm and policy changes in the past. We expect the search engines we utilize to market and drive users to our Web sites to continue to periodically change their algorithms, policies and technologies. These changes may result in an interruption in users ability to access our Web sites or impair our ability to maintain and grow the number of users who visit our Web sites. We may also be forced to significantly increase marketing expenditures in the event that market prices for online advertising and paid-listings escalate. Any of these changes could have a material adverse effect on our business.

We may experience unforeseen liabilities in connection with our acquisitions of Internet domain names or arising out of third party domain names included in our distribution network, which could negatively impact our financial results.

The Name Development, Pike Street and AreaConnect asset acquisitions involved 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. Additionally, we display paid listings on third party domain names and third party Web sites that are part of our distribution network, which also could subject us to a wide variety of civil claims including intellectual property ownership and infringement.

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.

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 the following areas:

- sales to advertisers of pay-per-click services;
- sales to 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;
- provision of local and vertical Web sites containing information and user feedback designed to attract users and help consumers make better, more informed local decisions, while providing targeted advertising inventory for advertisers;
- delivery of online advertising to end users or customers of advertisers through destination Web sites or other distribution outlets;
- delivery of pay-per-phone call advertising to end users or customers of advertisers through destination Web sites or other distribution outlets;
- local search sales training;
- services and outsourcing of technologies that allow advertisers to manage their advertising campaigns across multiple networks and track the success of these campaigns; and
- third party domain monetization.

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 Google, IAC/InterActiveCorp, Microsoft, Miva and Yahoo!. Many of these actual or perceived competitors also currently or may in the future have business relationships with us, particularly in distribution. However, such 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.

We face competition from traditional media companies, and we may not be included in the advertising budgets of large advertisers, which could harm our operating results.

In addition to Internet companies, we face competition from companies that offer traditional media advertising opportunities. Most large advertisers have set advertising budgets, a very small portion of which is allocated to Internet advertising. We expect that large advertisers will continue to focus most of their advertising efforts on traditional media. If we fail to convince these companies to spend a portion of their advertising budgets with us, or if our existing advertisers reduce the amount they spend on our programs, our operating results would be harmed.

If we are not able to respond to the rapid technological change characteristic of our industry, our products and services may cease to 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 new and competitive products and services. If we are unable to ensure that our users, advertisers, and distribution partners have a high-quality experience with our products and services, then they may become dissatisfied and move to competitors' products and services. Accordingly, our future success will depend, in part, upon our ability to develop and offer competitive 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 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, platforms, carriers, communications providers, and 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 are unable to handle current or higher volumes of use, 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 colocation providers.

We also rely on a select group of third party providers for components of our technology platform and support for our advertising and call-based services, such as hardware and software providers, telephone carriers and communications providers, credit card processors and domain name registrars. As a result, key operational resources of our business are concentrated with a limited number of third party providers. A failure or limitation of service or available capacity by any of these third party providers could adversely affect our business and reputation. Furthermore, if any of these significant providers are unable to provide the levels of service and dedicated resources over time that we required in our business, we may not be able to replace certain of these providers in a manner that is efficient, cost-effective or satisfactory to our customers, and as a result our business could be materially and adversely affected.

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 acquired U.S. Patent Number 6,822,663 titled “Transform Rule Generator for Web-Based Markup Languages” through our Voice Services transaction. We also own nonprovisional U.S. Patent Application Number 10/947,384 titled “Performance-Based Online Advertising System and Method,” nonprovisional U.S. Patent Application Number 10/992,366 titled “Online Advertising System and Method,” nonprovisional U.S. Patent Application Number 11/868,398 titled “System and Method for Classifying Search Queries” and nonprovisional U.S. Patent Application Number 11/985,188 titled “Method and System for Tracking Telephone Calls.” 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. We may decide not to protect certain intellectual properties or business methods which may later turn out to be significant to us. 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 trademarks, trade names 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.

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 advertisers. If we are unable to protect our intellectual property rights from unauthorized use, our competitive position could be adversely affected.

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

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

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

Our quarterly results of operations might fluctuate due to seasonality, which could adversely affect our growth rate and in turn the market price of our 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. Additionally, the current deterioration in the economic conditions has resulted in many advertisers and resellers reducing advertising and marketing services budgets, which we expect will impact our quarterly results of operations in addition to the typical seasonality seen in our industry.

We are susceptible to general economic conditions, and a downturn in advertising and marketing spending by advertisers 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 advertiser-consumer transactions. Recent disruptions in the global financial markets and the resulting deterioration in economic conditions has caused and could cause additional decreases in or delays in advertising spending and is likely to reduce and/or negatively impact our short term ability to grow our revenues. Further, any decreased collectability of accounts receivable or early termination of agreements due to the current deterioration in economic conditions could negatively impact our results of operations.

We depend on the growth of the Internet and Internet infrastructure for our future growth and any decrease in growth or 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 advertisers and distribution partners to alleviate potential overloading and delayed response times;
- a decision by advertisers and consumers to spend more of their marketing dollars on offline programs;
- 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, including the risk of identity theft, may inhibit the growth of Internet usage, especially online commercial transactions. 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 in anticipated Internet growth and 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 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 and negatively impact our standing with applicable credit card authorization agencies. In addition, under limited circumstances, we extend credit to 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.

Online search, e-commerce and related businesses face uncertainty related to future government regulation of the Internet through the application of new or existing federal, state and international laws. Due to the rapid growth and widespread use of the Internet, legislatures at the federal and state level have enacted and may continue to enact various laws and regulations relating to the Internet. Individual states may also enact consumer protection laws that are more restrictive than the ones that already exist.

Furthermore, the application of existing laws and regulations to Internet companies remains somewhat unclear. For example, as a result of the actions of advertisers in our network, we may be subject to existing laws and regulations relating to a wide variety of issues such as consumer privacy, gambling, sweepstakes, advertising, promotions, defamation, pricing, taxation, financial market regulation, quality of products and services, computer trespass, spyware, adware, child protection and intellectual property ownership and infringement. In addition, it is not clear whether existing laws that require licenses or permits for certain of our advertisers' lines of business apply to us, including those related to insurance and securities brokerage, law offices and pharmacies. Existing federal and state laws that may impact the growth and profitability of our business include, among others:

- the Digital Millennium Copyright Act (DMCA) provides protection from copyright liability for online service providers that list or link to third party Web sites. We currently qualify for the safe harbor under the DMCA, however, if it were determined that we did not meet the safe harbor requirements, we could be exposed to copyright infringement litigation, which could be costly and time-consuming.
- the Children's Online Privacy Protection Act (COPPA) restricts the distribution of certain materials deemed harmful to children and impose limitations on the Web sites' ability to collect personal information from minors. COPPA allows the Federal Trade Commission (FTC) to impose fines and penalties upon Web site operators whose sites do not fully comply with the law's requirements. Another child protection law, the Child Online Protection Act (COPA), was intended to restrict the distribution of certain materials deemed harmful to children. This law was struck down as unconstitutional, but a similar federal or state law might be reintroduced in the future.
- the Protection of Children from Sexual Predators Act requires online service providers to report evidence of violations of federal child pornography laws under certain circumstances.
- the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN SPAM) Act of 2003 establishes requirements for those who send commercial e-mail, spells out penalties for entities that transmit noncompliant commercial e-mail and/or whose products are advertised in noncompliant commercial e-mail and gives consumers the right to opt-out of receiving commercial e-mails. The FTC is authorized to enforce the CAN SPAM Act. This law also gives the Department of Justice the authority to enforce its criminal sanctions. Other federal and state agencies can enforce the law against organizations under their jurisdiction, and companies that provide Internet access may sue violators as well.
- the Electronic Communications Privacy Act prevents private entities from disclosing Internet subscriber records and the contents of electronic communications, subject to certain exceptions.
- the Computer Fraud and Abuse Act and other federal and state laws protect computer users from unauthorized computer access/hacking, and other actions by third parties which may be viewed as a violation of privacy. Michigan and Utah child protection laws, designed to protect children under the age of 18 from receiving adult content via e-mail and other electronic forms of communication (e.g., cell phones and IM). Both Michigan and Utah have developed lists of minors' e-mail addresses based on parents' and guardians' submissions. Once an address has been on a list for 30 days, Web publishers are prohibited from sending the address anything containing, or even linking to, advertising for a product or service that a minor is legally prohibited from purchasing or using, even if the owner of that address previously requested to receive the information. In addition, senders need to match their own mailing lists against the state registries on at least a monthly basis, for which they must pay both Michigan and Utah a per-address fee.

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 for the use of certain types of software applications or downloads and the use of "cookies." These proposed laws are intended to target specific types of software applications often referred to as "spyware," "invasiveware" or "adware," although they may also cover certain applications currently used in the online advertising industry to serve and distribute advertisements. Thus, if passed, these laws would impose new obligations for companies that use such software applications or technologies.

Many Internet services are automated, and companies such as ours may be unknowing conduits for illegal or prohibited materials. It is possible that some courts may impose a strict liability standard or require such companies to monitor their customers' conduct. Although we would not be responsible or involved in any way in such illegal conduct, it is possible that we would somehow be held responsible for the actions of our advertisers or distribution partners.

We may also be subject to costs and liabilities with respect to privacy issues. Several Internet companies have incurred penalties for failing to abide by the representations made in their privacy policies. In addition, several states have adopted legislation that requires businesses to implement and maintain reasonable security procedures and practices to protect sensitive personal information and to provide notice to consumers in the event of a security breach. Further, it is anticipated that additional federal and state privacy-related legislation will be enacted. Such legislation could negatively affect our business.

In addition, foreign governments may pass laws which could negatively impact our business and/or may prosecute us for violating existing laws. Such laws might include EU member country conforming legislation under applicable EU Privacy and Data Protection Directives. Any costs incurred in addressing foreign laws could negatively affect the viability of our business.

Federal and state regulation of telecommunications may adversely affect our business and operating results.

Subsidiaries of the Company provide information and analytics services to certain advertisers and aggregators that may include the enhanced transmission of voice services. In connection therewith, the Company, through its subsidiaries, obtains certain telecommunications products and services from carriers in order to deliver these packages of information and analytic services.

Although the Company believes that these information and analytics services in the form provided by the Company are not currently subject to federal and state telecommunications laws and regulations, those laws and regulations (and interpretations thereof) are evolving in response to rapid changes in the telecommunications industry. Nonetheless, if our carrier vendors were to be subject to any changes in applicable law or regulation (or interpretations thereof), then we in turn may be subject to increased costs for their products and services or receive products and services that may be of less value to our customers, which in turn could adversely affect our business and operating results. Furthermore, in the event that any federal or state regulators were to expand the scope of the applicable law and regulation or their application to include the businesses or certain endusers and information service providers, then our business and operating results could also be adversely affected.

The following existing federal and state laws could impact the growth and profitability of our business if changed or interpreted to be applicable to our business:

- The Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the “Act”), and the regulations promulgated by the Federal Communications Commission under Title II of the Act, may impose federal licensing, reporting and other regulatory obligations on the Company.
- The Communications Assistance for Law Enforcement Act may require that the Company undertake material modifications to its platforms and processes to permit wiretapping and other access for law enforcement personnel.
- Under various Orders of the Federal Communications Commission, including its Report and Order and Further Notice of Proposed Rulemaking in Docket Number WC 04-36, dated June 27, 2006, the Company may be required to make material retroactive and prospective contributions to funds intended to support Universal Service, Telecommunications Relay Service, Local Number Portability, the North American Numbering Plan and the budget of the Federal Communications Commission.
- Laws in most states of the United States of America may require registration or licensing of one or more subsidiaries of the Company, and may impose additional taxes, fees or telecommunications surcharges on the provision of the Company’s services which the Company may not be able to pass through to customers.

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

The FTC has 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. In addition, we may be required to pay additional income, sales, or other taxes.

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. On October 31, 2007, this ban was extended for another seven years. Unless the ban is further 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 2014. An increase in taxes may make electronic commerce transactions less attractive for advertisers and businesses, which could result in a decrease in the level of usage of our services. Additionally, from time to time, various state, federal and other jurisdictional tax authorities undertake reviews of the Company and the Company’s filings. In evaluating the exposure associated with various tax filing positions, the Company on occasion accrues charges for probable exposures. We cannot predict the outcome of any of these reviews.

Risks Relating to Ownership of our Common Stock

Our Class B common prices have been and are likely to continue to be highly volatile.

The trading prices of our Class B common stock have been and are 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 Global Market (formerly, the Nasdaq National Market) ranged from $3.00 to $26.14 per share through June 30, 2009. Our stock prices 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 acquisitions;
- 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 advertisers;
- changes in earnings estimates or recommendations by analysts;
- changes in the market valuations of similar companies;
- changes in our industry and the overall economic environment;
- volume of shares of Class B common stock available for public sale, including upon conversion of Class A common stock or upon exercise of stock options;
- Class B common stock repurchases under our previously announced share repurchase program;
- sales and purchases of stock by us or by our stockholders, including sales by certain of our executive officers and directors pursuant to written pre-determined selling and purchase plans under Rule 10b5-1 of the Securities Exchange Act of 1934; and
- short sales, hedging and other derivative transactions on shares of our Class B common stock.

In addition, the stock market in general, and the Nasdaq Global 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.

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 June 30, 2009, Russell C. Horowitz, Ethan A. Caldwell, Peter Christothoulou and John Keister, our founding executive officers control 92% of the combined voting power of all outstanding shares of our capital stock primarily through their ownership of 100% of the outstanding shares of our Class A common 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 all or a majority of our 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 such stock 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 may not be able to continue to pay dividends on our common stock in the future which could impair the value of such 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 or the fiscal year before which the dividend is declared. We have initiated and paid a quarterly dividend on our common stock since November 2006. However, there is no assurance that we will be able to pay dividends in the future. Our ability to pay dividends in the future will depend on our financial results, liquidity and financial condition.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

During the second quarter of 2009, share repurchase activity was as follows:

Period	Total number of shares purchased	Average price paid per share	Total number of shares purchased as part of publicly announced plans or programs	Maximum number of shares (or approximate dollar value) that may yet be purchased under the plans or programs (1)
April 1, 2009 – April 30, 2009	245,978	$ 4.09	245,978	1,158,050
May 1, 2009 – May 31, 2009	—	—	—	1,158,050
June 1, 2009 – June 30, 2009	5,750(2)	$ 0.01	—	1,158,050
Total Class B Common Shares	251,728	$ 4.00	245,978	1,158,050

(1) In November 2006, the Company's board of directors authorized a share repurchase program for the Company to repurchase up to 3 million shares of the Company's Class B common stock. The Company's board of directors have authorized increases to the share repurchase program for the Company to repurchase up to 9 million shares in the aggregate (less shares previously repurchased under the share repurchase program) of the Company's Class B common stock. Under the share repurchase program, repurchases may take place in the open market and in privately negotiated transactions and at times and in such amounts as the Company deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements, capital availability, and other market conditions. This stock repurchase program does not have an expiration date and may be limited or terminated at any time without prior notice.

(2) Includes 5,750 shares of restricted equity subject to vesting which were issued to a board member. The Company repurchased the shares which were not already vested upon such individual's resignation from the board in June of 2009.

Item 4. Submission of Matters to a Vote of Security Holders

On May 8, 2009, the Company held its Annual Meeting of Stockholders. At the meeting, the stockholders elected as directors Russell C. Horowitz (with shares representing 293,062,039 votes voting for and 243,947 votes withheld), Dennis Cline (with shares representing 292,073,719 votes voting for and 1,232,267 votes withheld), Anne Devereux (with shares representing 293,081,221 votes voting for and 224,765 votes withheld), Jonathan Fram (with shares representing 292,077,437 votes voting for and 1,228,549 withheld), Nicolas Hanauer (with shares representing 293,080,614 votes voting for and 225,372 withheld), John Keister (with shares representing 293,068,991 votes voting for and 236,995 votes withheld) and M. Wayne Wisehart (with shares representing 292,076,637 votes voting for and 1,229,349 withheld).

The stockholders also ratified the appointment of KPMG LLP as the independent registered public accounting firm for the Company for the fiscal year ending December 31, 2009 (with shares representing 292,243,054 votes voting for 1,052,311 votes against and 10,621 votes abstaining).

Item 6. Exhibits

Exhibits:

*†10.28	Form of Retention Agreement Amendment.
*†10.29	Revised Form of Retention Agreement.
*†10.30	Form of Restricted Stock Agreement Amendment.
*†10.31	First Amendment to Executive Employment Agreement effective as of May 8, 2009, by and between Michael A. Arends and the Registrant.
*†10.32	Revised Form of Executive Restricted Stock Agreement.
*†10.33	Form of Director Restricted Stock Agreement.
†10.34	Amended and Restated Lease effective as of June 5, 2009, between 520 Pike Street, Inc. and the Registrant.

31(i)†	Certification of CEO pursuant to Rule 13a-14(a)/15(d)-14(a).
31(ii)†	Certification of CFO pursuant to Rule 13a-14(a)/15d-14(a).
32.1††	Certification of CEO pursuant to Section 1350.
32.2††	Certification of CFO pursuant to Section 1350.

* Management contract or compensatory plan or arrangement.
† Filed herewith.
†† Furnished herewith.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

MARCHEX, INC.

By: /s/ MICHAEL A. ARENDS
Name: **Michael A. Arends**
Title: **Chief Financial Officer**
(Principal Accounting Officer)

August 7, 2009

Exhibit 10.28

FORM OF FIRST AMENDMENT TO RETENTION AGREEMENT

This Form of First Amendment to Retention Agreement (the "Amendment") is made effective as of May 8, 2009, by and between Marchex, Inc., a Delaware corporation (the "Company"), and ("Executive"), in order to amend the Retention Agreement entered into between the Company and Executive effective as of October 2, 2006 (the "Retention Agreement").

WHEREAS, the parties desire to enter into this Amendment to confirm the parties' understanding of the intent of Section 1 of the Retention Agreement and to otherwise bring the provisions of the Retention Agreement into documentary compliance with the applicable requirements of Section 409A of the Internal Revenue Code, as amended (the "Code"), and the Treasury Regulations issued thereunder ("Section 409A").

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Executive hereby agree as follows:

1. Section 1 of the Retention Agreement is amended in its entirety to read as follows:

> 1. Payment Upon a Change of Control. In the event of a Change of Control (as defined below) and provided that Executive remains employed by the Company until the date of the Change of Control, the Company shall, within thirty (30) days of such Change of Control or such later date as is required by Section 409A(a)(2)(B)(i) of the Code, make a lump sum cash payment to Executive equal to two (2) times the product of the Executive's Annual Salary (as defined below) plus the greater of the aggregate amount of any bonuses paid to or earned by the Executive with respect to the Company's immediately prior fiscal year or such Executive's pro rata portion of the aggregate bonus pool under the Company's Annual Incentive Plan (the "Plan") for the then current fiscal year assuming achievement under the Plan of the maximum performance targets for such fiscal year.

2. Section 3(a) of the Retention Agreement is amended in its entirety to read as follows:

> (a) "Annual Salary" shall mean Executive's annualized base salary (including Executive's monthly car allowance, if any) in effect immediately prior to the date of the Change of Control.

3. Section 4 of the Retention Agreement is amended by adding at the end thereof the following:

> The Company shall pay the Gross-Up Payment to Executive no later than the last day of Executive's taxable year following the taxable year in which Executive remits the Excise Tax.

4. Section 6 of the Retention Agreement is amended by adding at the end thereof the following:

Except as otherwise permitted by Section 409A, any reimbursement to which Executive is entitled pursuant to this Section 6 shall (a) be paid no later than the last day of Executive's taxable year following the taxable year in which the expense was incurred, (b) not be affected by the amount of expenses eligible for reimbursement in any other taxable year, and (c) not be subject to liquidation or exchange for another benefit.

5. A new Section 15 is added to the Retention Agreement to read as follows:

15. Separation from Service; Delay in Payment to Specified Employee. Notwithstanding anything set forth in this Agreement to the contrary, no amount payable pursuant to this Agreement on account of Executive's termination of employment with the Company which constitutes a "deferral of compensation" within the meaning of Section 409A shall be paid unless and until Executive has incurred a "separation from service" within the meaning of Section 409A. Furthermore, if Executive is a "specified employee" within the meaning of Section 409A as of the date of the Executive's separation from service, no amount that constitutes a deferral of compensation which is payable on account of Executive's separation from service shall be paid to Executive before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of Executive's separation from service or, if earlier, the date of Executive's death following such separation from service. All such amounts that would, but for this Section 15, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

6. A new Section 16 is added to the Retention Agreement to read as follows:

16. Compliance with Section 409A. The Company intends that income provided to Executive pursuant to this Agreement will not be subject to taxation under Section 409A. The provisions of this Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. However, the Company does not guarantee any particular tax effect for income provided to Executive pursuant to this Agreement. In any event, except for the responsibility of the Company to withhold applicable income and employment taxes from compensation paid or provided to Executive, the Company shall not be responsible for the payment of any applicable taxes incurred by Executive on compensation paid or provided to Executive pursuant to this Agreement.

7. Except as set forth herein, all other terms and conditions of the Retention Agreement will remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as a sealed instrument as of the day and year first above written.

MARCHEX, INC.

By: _____

Name:
Title:

EXECUTIVE:

_____

Name:

Exhibit 10.29

REVISED FORM OF RETENTION AGREEMENT

This Revised Form of Retention Agreement (the "Agreement") is entered into effective this 8th day of May 2009, between Marchex, Inc., a Delaware corporation (the "Company") and (the "Executive").

WITNESSETH:

WHEREAS, Executive is employed by the Company or one of its wholly-owned subsidiaries (referred to collectively as the "Company") and the Company desires to provide certain security to Executive in connection with any potential change in control of the Company; and

NOW, THEREFORE, it is hereby agreed by and between the parties, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, as follows:

1. Payment Upon a Change of Control. In the event of a Change of Control (as defined below) and provided that Executive remains employed by the Company until the date of the Change of Control, the Company shall, within thirty (30) days of such Change of Control or such later date as is required by Section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986, as amended (the "Code), make a lump sum cash payment to Executive equal to two (2) times the product of the Executive's Annual Salary (as defined below) plus the greater of the aggregate amount of any bonuses paid to or earned by the Executive with respect to the Company's immediately prior fiscal year or such Executive's pro rata portion of the aggregate bonus pool under the Company's Annual Incentive Plan (the "Plan") for the then current fiscal year assuming achievement under the Plan of the maximum performance targets for such fiscal year.

2. Benefits Upon a Change of Control. If within twelve (12) months following a Change of Control (as defined below): (i) the Company shall terminate the Executive's employment with the Company without Cause (as defined below), or (ii) the Executive shall voluntarily terminate such employment with Good Reason (as defined below), the Company shall provide reimbursement of health care premiums for Executive and his dependents, for a period of eighteen (18) months from the date of Executive's Employment Termination (as defined below), to the extent that Executive is eligible for and elects continuation coverage under COBRA (provided that such reimbursement shall terminate upon commencement of new employment by an employer that offers health care coverage to its employees).

3. Definitions. For purposes of this Agreement:

(a) "Annual Salary" shall mean Executive's annualized base salary (including Executive's monthly car allowance, if any) in effect immediately prior to the date of the Change of Control.

(b) "Cause" shall mean that the Company's Board of Directors (the "Board") has reasonably determined in good faith that any one or more of the following has occurred:

(i) the Executive shall have been convicted of, or shall have pleaded guilty or nolo contendere to, any felony;

(ii) the Executive shall have willfully failed or refused to carry out the reasonable and lawful instructions of the Board (other than as a result of illness or disability) concerning duties or actions consistent with the Executive's then current position in a timely manner and otherwise in a manner reasonable acceptable to the Board and such failure or refusal shall have continued for a period of ten (10) days following written notice from the Board describing such failure or refusal in reasonable detail;

(iii) the Executive shall have breached any material provision of his confidentiality and assignment of inventions agreement; or

(iv) the Executive shall have committed any material fraud, embezzlement, misappropriation of funds, breach of fiduciary duty or other act of dishonesty against the Company.

(c) "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition (other than directly from the Company) of any voting securities of the Company (the "Voting Securities") by any "Person" or "Group" (as such terms are used for the purposes of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) immediately after which such Person or Group has Beneficial Ownership (within the meaning of Rule l3d-3 promulgated under the Exchange Act) of fifty percent (50%) or more of the combined voting power of the Company's then-outstanding Voting Securities; provided, however, in determining whether or not a Change of Control has occurred, Voting Securities which are acquired in a "Non-Control Acquisition" (as hereinafter defined) shall not constitute an acquisition which would constitute a Change of Control. A "Non-Control Acquisition" shall mean an acquisition by (i) any employee benefit plan (or related trust) sponsored or maintained by the Company or any affiliate of the Company, (ii) the Company, (iii) any Person in connection with a Non-Control Transaction (as hereinafter defined), or (iv) any holder of the Company's Class A Common Stock as of the date hereof;

(ii) individuals who, as of the date hereof, constitute the Board (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) the consummation of:

(a) A merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued, unless such merger, consolidation or reorganization is a "Non-Control Transaction". A "Non-Control Transaction" is a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued where:

A. the shareholders of the Company immediately before such merger, consolidation, or reorganization, own, directly or indirectly, at least fifty-one percent (51%) of the combined voting power of the outstanding voting securities of the corporation resulting form such merger, consolidation or reorganization (the "Surviving Corporation") in substantially the same

proportion as their ownership of the Voting Securities immediately before such merger, consolidation or reorganization,

B. the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such merger, consolidation or reorganization constitute at least a majority of the members of the board of directors of the Surviving Corporation or a corporation owning directly or indirectly fifty-one percent (51%) or more of the Voting Securities of the Surviving Corporation, and

C. no Person or Group, other than (i) the Company, (ii) any subsidiary of the Company, (iii) any employee benefit plan (or any trust forming a part thereof) maintained by the Company immediately prior to such merger, consolidation, or reorganization, or (iv) any holder of the Company's Class A Common Stock as of the date hereof, owns twenty percent (20%) or more of the combined voting power of the Surviving Corporation's then-outstanding voting securities; or

(b) a complete liquidation or dissolution of the Company; or

(c) the sale of disposition of all or substantially all of the assets of the Company to any Person.

Notwithstanding the foregoing, a Change of Control shall not be deemed to occur solely because any Person (the "Subject Person") acquired Beneficial Ownership of more than the permitted amount of the outstanding Voting Securities as a result of the acquisition of Voting Securities by the Company which, by reducing the number of Voting Securities outstanding, increases the proportional number of shares Beneficially Owned by the Subject Person, provided that if a Change of Control would occur (but for the operation of this sentence) and after such acquisition of Voting Securities by the Company, the Subject Person becomes the Beneficial Owner of any additional Voting Securities, then a Change of Control shall occur.

(d) "Employment Termination" shall mean the effective date of: (i) Executive's voluntary termination of employment with the Company with Good Reason, or (ii) the termination of Executive's employment by the Company without Cause.

(e) "Good Reason" shall exist if, without Executive's express written consent, the following occurs:

(i) a material diminution in the nature or scope of the Executive's duties, responsibilities, authority, powers or functions as compared to the Executive's duties, responsibilities, authority, powers or functions immediately prior to the Change of Control;

(ii) if the Executive is no longer (a) an executive officer of a publicly-traded company, or (b) a Section 16 reporting person under the 1934 Act;

(iii) a reduction in the Executive's Annual Salary; or

(iv) the relocation of Executive's office at which he is to perform his duties and responsibilities hereunder to a location more than sixty (60) miles from Seattle, Washington.

4. Certain Additional Payments by the Company. In the event it shall be determined at any time that as a result, directly or indirectly, of any payment or distribution by the Company to or for the benefit of the Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (a "Payment"), the Executive would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax), then the Executive shall be entitled to promptly receive from the Company an additional payment (a "Gross-Up Payment") in an amount such that after payment by the Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, but excluding any income taxes on the Payment, the Executive is in the same after-tax position as if no Excise Tax had been imposed upon the Executive. The Company shall pay the Gross-Up Payment to Executive no later than the last day of Executive's taxable year following the taxable year in which Executive remits the Excise Tax.

5. Mitigation and Set-Off. Executive shall not be required to mitigate Executive's damages by seeking other employment or otherwise, and except as expressly provided in Section 2 of this Agreement, the Company's obligations under this Agreement shall not be reduced in any way by reason of any compensation or benefits received (or foregone) by Executive from sources other than the Company after Executive's employment termination, or any amounts that might have been received by Executive in other employment had Executive sought other employment.

6. Attorney's Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. Except as otherwise permitted by Section 409A, any reimbursement to which Executive is entitled pursuant to this Section 6 shall (a) be paid no later than the last day of Executive's taxable year following the taxable year in which the expense was incurred, (b) not be affected by the amount of expenses eligible for reimbursement in any other taxable year, and (c) not be subject to liquidation or exchange for another benefit.

7. Assignment and Transfer. This Agreement shall not be terminated by the merger or consolidation of the Company with any corporate or other entity or by the transfer of all or substantially all of the assets of the Company to any other person, corporation, firm or entity. In the event of a sale of all or substantially all of the assets of the Company and in connection with such sale the person or entity purchasing such assets does not assume this Agreement, the Executive shall have the right to terminate his employment hereunder for Good Reason. The provisions of this Agreement shall be binding on and shall inure to the benefit of any such successor in interest to the Company. Neither this Agreement nor any of the rights, duties or obligations of the Executive shall be assignable by the Executive, nor shall any of the payments required or permitted to be made to the Executive by this Agreement be encumbered, transferred or in any way anticipated, except as required by applicable laws.

8. Severable Provisions. The provisions of this Agreement are severable and the invalidity of any one or more provisions shall not affect the validity of any other provision.

9. Withholding. The Company may withhold from any payment that it is required to make under this Agreement amounts sufficient to satisfy applicable withholding requirements under any federal, state or local law.

10. Amendment. This Agreement may be amended at any time by written agreement between the Company and Executive.

11. Financing. Cash and benefit payments under this Agreement shall constitute general obligations of the Company. Executive shall have only an unsecured right to payment thereof out of the general assets of the Company. Notwithstanding the foregoing, the Company may, by agreement with one or more trustees to be selected by the Company, create a trust on such terms, as the Company shall determine, to make payments to Executive in accordance with the terms of this Agreement.

12. Notices. All notices hereunder shall be in writing and shall be deemed to have been duly given on the date of personal delivery; or on the date of electronic confirmation of receipt, if sent by telecopier; or three (3) days after deposit in the United States mail, if mailed by certified or registered mail, return receipt requested (postage prepaid); or one (1) day after delivery by a reputable overnight courier (delivery charges prepaid), as follows:

If to the Company:
Marchex, Inc.
413 Pine Street, Suite 500
Seattle, WA 98101
Telephone No.: (206) 331-3310
Facsimile No: (206) 331-3696
Attention: General Counsel

Copy to:
Francis J. Feeney, Jr., Esq.
DLA Piper LLP (US)
33 Arch Street, 26th floor
Boston, MA 02110
Telephone No: (617) 406-6063
Facsimile No: (617) 406-6163

If to the Executive:

Telephone No.:
Facsimile No.:

or to such other address as a party may notify the other pursuant to a notice given in accordance with this Section 12.

13. Governing Law. This Agreement shall be construed under and enforced in accordance with the internal substantive laws of the State of Washington. Any litigation arising out of or incidental to this Agreement shall be initiated only in a court of competent jurisdiction located within the State of Washington. Each party hereby consents to the personal jurisdiction of the State of Washington, acknowledges that venue is proper in any state or Federal court in the State of Washington, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Washington and waives any objection that may exist, now or in the future, with respect to any of the foregoing.

14. Employment. This Agreement shall not be construed as creating an express or implied contract of employment and, except as otherwise agreed to in writing between the Executive and the Company, the Executive shall not have any right to be retained in the employ of the Company.

15. Separation from Service; Delay in Payment to Specified Employee. Notwithstanding anything set forth in this Agreement to the contrary, no amount payable pursuant to this Agreement on account of Executive's termination of employment with the Company which constitutes a "deferral of compensation" within the meaning of Section 409A shall be paid unless and until Executive has incurred a "separation from service" within the meaning of Section 409A. Furthermore, if Executive is a "specified employee" within the meaning of Section 409A as of the date of the Executive's separation from service, no amount that constitutes a deferral of compensation which is payable on account of Executive's separation from service shall be paid to Executive before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of Executive's separation from service or, if earlier, the date of Executive's death following such separation from service. All such amounts that would, but for this Section 15, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

16. Compliance with Section 409A. The Company intends that income provided to Executive pursuant to this Agreement will not be subject to taxation under Section 409A. The provisions of this Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. However, the Company does not guarantee any particular tax effect for income provided to Executive pursuant to this Agreement. In any event, except for the responsibility of the Company to withhold applicable income and employment taxes from compensation paid or provided to Executive, the Company shall not be responsible for the payment of any applicable taxes incurred by Executive on compensation paid or provided to Executive pursuant to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as an instrument under seal on the day and year first written above.

MARCHEX, INC.

By: _____
Name:
Title:

EMPLOYEE:

_____
Name:

Exhibit 10.30

FORM OF FIRST AMENDMENT TO RESTRICTED STOCK AGREEMENT

This Form of First Amendment to Restricted Stock Agreement (the "Amendment") is made effective as of May 8, 2009, by and between Marchex, Inc., a Delaware corporation (the "Company"), and ("Participant"), in order to amend the Restricted Stock Agreement entered into between the Company and Participant effective as of January 1, 2007 (the "Restricted Stock Agreement").

WHEREAS, the parties desire to enter into this Amendment to otherwise bring the provisions of the Restricted Stock Agreement into documentary compliance with the applicable requirements of Section 409A of the Internal Revenue Code, as amended (the "Code"), and the Treasury Regulations issued thereunder ("Section 409A").

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Participant hereby agree as follows:

1. Section 7 of the Restricted Stock Agreement shall be amended and restated in its entirety to read as follows:

7. Taxes; Section 83(b) Election. The Participant acknowledges that (i) no later than the date on which any Restricted Stock shall have become vested or upon the filing of an election under Section 83(b) as provided below, the Participant shall pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested; and (ii) the Company shall, to the extent permitted by law, have the right to deduct from any payment of any kind otherwise due to the Participant any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested or other withholding taxes that are required by law, including that the Company may, but shall not be required to, sell a number of Shares sufficient to cover applicable withholding taxes. Subject to the Participant's compliance with the Company's policy on Insider Trading (as in effect from time to time), the Participant may elect to pay the Company his or her obligations for the payment of such taxes through a special sale and remittance procedure commonly referred to as a *"cashless exercise" or "sell to cover"* transaction pursuant to which the Participant shall concurrently provide irrevocable written instructions: (i) to the Company's designated stock plan administrator to effect the immediate sale of a sufficient number of the Shares acquired upon the vesting of the Shares to enable the Company's designated stock plan administrator to remit, out of the sales proceeds available upon the settlement date, sufficient funds to the Company to cover all applicable federal, state and local income and employment taxes required to be withheld by the Company by reason of such vesting and/or sale; and (ii) to the Company to deliver any certificate(s) or other evidence of ownership for such sold Shares directly to the Company's designated stock plan

administrator in order to complete the sale transaction. The Participant also acknowledges that it is his or her sole responsibility, and not the Company's, to file timely and properly any election under Section 83(b) of the Code, and any corresponding provisions of state tax laws, if the Participant wishes to utilize such election.

2. Section 9 of the Restricted Stock Agreement is amended by adding at the end thereof the following:

The Company shall pay the Gross-Up Payment to Participant no later than the last day of Participant's taxable year following the taxable year in which Participant remits the Excise Tax.

3. Section 17 of the Restricted Stock Agreement is amended by adding at the end thereof the following:

Except as otherwise permitted by Section 409A, any reimbursement to which Participant is entitled pursuant to this Section 17 shall (a) be paid no later than the last day of Participant's taxable year following the taxable year in which the expense was incurred, (b) not be affected by the amount of expenses eligible for reimbursement in any other taxable year, and (c) not be subject to liquidation or exchange for another benefit.

4. A new Section 22 is added to the Restricted Stock Agreement to read as follows:

22. Compliance with Section 409A. The Company intends that income provided to Participant pursuant to this Agreement will not be subject to taxation under Section 409A. The provisions of this Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. However, the Company does not guarantee any particular tax effect for income provided to Participant pursuant to this Agreement. In any event, except for the responsibility of the Company to withhold applicable income and employment taxes from compensation paid or provided to Participant, the Company shall not be responsible for the payment of any applicable taxes incurred by Participant on compensation paid or provided to Participant pursuant to this Agreement.

5. Except as set forth herein, all other terms and conditions of the Restricted Stock Agreement will remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as a sealed instrument as of the day and year first above written.

COMPANY:

MARCHEX, INC.

By: _____
Name:
Title:

PARTICIPANT:

_____
Name:
Address: _____

_____

Exhibit 10.31

FIRST AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT

This First Amendment to Executive Employment Agreement (the "Amendment") is made effective as of May 8, 2009, by and between Marchex, Inc., a Delaware corporation ("Marchex"), and Michael A. Arends ("Executive"), in order to amend the Executive Employment Agreement entered into between Marchex and Executive effective as of May 1, 2003 (the "Executive Employment Agreement").

WHEREAS, the parties desire to enter into this Amendment to bring the provisions of the Executive Employment Agreement into documentary compliance with the applicable requirements of Section 409A of the Internal Revenue Code, as amended, and the Treasury Regulations issued thereunder ("Section 409A").

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Marchex and Executive hereby agree as follows:

1. Section 5.02(b) the Executive Employment Agreement is amended in its entirety to read as follows:

(b) Termination Other than for Cause, or for Death, Disability or Good Reason. If (i) Executive ceases to be a Marchex employee on account of (A) Marchex's termination of Executive's employment other than for Cause, (B) Disability, (C) Executive's death, or (ii) Executive resigns his employment with Marchex after giving Marchex notice of the occurrence of one or more events that constitute Good Reason within a reasonable period (but not more than ninety (90) days after such occurrence) and Marchex fails to correct such occurrence within a reasonable time (but not more than sixty (60) days) and Executive's resignation occurs within ten (10) days after the expiration of that cure period, then in addition to the amounts payable under Section 5.02(a):

(A) The stock options held by Executive shall become fully vested, and

(B) If Executive ceases to be an employee within the first three (3) years of his employment, Marchex shall pay Executive, an amount equal to one fourth (1/4) of the amount that is Executive's Salary. For each additional year after three (3) full years of employment, Executive shall be entitled to an additional amount equal to one twelfth (1/12) of the amount that is Executive's Salary; provided, however, that in no event shall Executive be entitled to an amount equal to more than one (1) year's Salary. Except as otherwise provided by Section 5.02(e), payment pursuant to this subsection (B) shall made on the tenth (10th) day following the date on which Executive ceases to be a Marchex employee.

2. Section 5.02 Executive Employment Agreement is amended to add at the end thereof the following new subsection (e):

(e) Separation from Service; Delay in Payment to Specified Employee. Notwithstanding anything set forth in this Section 5.02 to the contrary, no amount payable pursuant to this Section 5.02 on account of Executive's termination of employment with Marchex which constitutes a "deferral of compensation" within the meaning of Section 409A shall be paid unless and until Executive has incurred a

"separation from service" within the meaning of Section 409A. Furthermore, if Executive is a "specified employee" within the meaning of Section 409A as of the date of the Executive's separation from service, no amount that constitutes a deferral of compensation which is payable on account of Executive's separation from service shall be paid to Executive before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of Executive's separation from service or, if earlier, the date of Executive's death following such separation from service. All such amounts that would, but for this Section 5.02(e), become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

3. A new Section 9.09 is added to the Executive Employment Agreement to read as follows:

9.09 Compliance with Section 409A. Marchex intends that income provided to Executive pursuant to this Agreement will not be subject to taxation under Section 409A. The provisions of this Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. However, Marchex does not guarantee any particular tax effect for income provided to Executive pursuant to this Agreement. In any event, except for the responsibility of Marchex to withhold applicable income and employment taxes from compensation paid or provided to Executive, Marchex shall not be responsible for the payment of any applicable taxes incurred by Executive on compensation paid or provided to Executive pursuant to this Agreement.

4. Except as set forth herein, all other terms and conditions of the Executive Employment Agreement will remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as a sealed instrument as of the day and year first above written.

MARCHEX, INC.

By: /s/ RUSSELL C. HOROWITZ
Name: Russell C. Horowitz
Title: Chief Executive Officer

EXECUTIVE:

/s/ MICHAEL A. ARENDS
Name: Michael A. Arends

Exhibit 10.32

REVISED FORM OF EXECUTIVE RESTRICTED STOCK AGREEMENT

This Revised Form of Executive Restricted Stock Agreement (the "Agreement") is entered into this 8th day of May, 2009 between Marchex, Inc., a Delaware corporation (the "Company") and (the "Participant").

WITNESSETH:

WHEREAS, the Compensation Committee of the Company has agreed to grant to the Participant, shares of the Company's Class B common stock, par value $0.01 per share (the "Shares" or "Common Stock") in accordance with the terms and conditions of the Company's 2003 Amended and Restated Stock Incentive Plan (the "Plan"); and

WHEREAS, the Shares are subject to certain restrictions; and

WHEREAS, a condition to the grant of the Shares to the Participant is that the Participant execute this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Shares. Subject to the terms, conditions and restrictions of the Plan and this Agreement, the Company hereby awards to the Participant, Shares on May 8, 2009 (the "Grant Date"). To the extent required by law, the Participant shall pay the Company the par value ($0.01) (the "Purchase Price") for each Share awarded to the Participant simultaneously with the execution of this Agreement in cash or cash equivalents payable to the order of the Company. Pursuant to the Plan and Section 4 of this Agreement, the Shares are subject to certain restrictions, which restrictions shall expire in accordance with the provisions of the Plan and Section 4 hereof. While such restrictions are in effect, the Shares subject to such restrictions shall be referred to herein as "Restricted Stock", and Shares as to which such restrictions have expired shall be referred to herein as "Vested Shares."

2. Right to Repurchase Upon Termination of Employment Relationship. In the event Participant's employment relationship with the Company terminates, for any reason whatsoever, whether due to voluntary or involuntary action, death, disability or otherwise, the Company shall have the right to repurchase at the original price paid therefor all or any portion of the Restricted Stock, which right may be exercised at any time and from time to time within ninety (90) days after the date of such termination.

3. Exercise of Right of Repurchase. The Company may exercise its right of repurchase by providing written notice to the Participant stating the number of Shares of Restricted Stock to be repurchased, the aggregate price to be paid (the "Repurchase Price") and the date (the "Repurchase Date") such repurchase shall occur (which shall be a date not fewer than ten (10) and not more than thirty (30) days from the date of such notice). On the Repurchase Date, the Company shall deliver the Repurchase Price to the Participant, by check or

wire of immediately available funds, against delivery of the certificate or certificates representing the Shares to be repurchased and duly endorsed stock powers.

4. Vesting of Shares. So long as the Participant continues to remain as an employee of the Company, the Shares will be deemed to become "Vested Shares" as follows: 25% of the total Shares shall vest on each of the first, second, third and fourth anniversaries, respectively, of the Grant Date such that the Shares shall be vested in full on the fourth anniversary of the Grant Date. One hundred percent (100%) of the Shares not already vested as of the date of a Change of Control, shall become immediately vested upon such Change of Control. For the purposes hereof, "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition (other than directly from the Company) of any voting securities of the Company (the "Voting Securities") by any "Person" or "Group" (as such terms are used for the purposes of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) immediately after which such Person or Group has Beneficial Ownership (within the meaning of Rule l3d-3 promulgated under the Exchange Act) of fifty percent (50%) or more of the combined voting power of the Company's then-outstanding Voting Securities; provided, however, in determining whether or not a Change of Control has occurred, Voting Securities which are acquired in a "Non-Control Acquisition" (as hereinafter defined) shall not constitute an acquisition which would constitute a Change of Control. A "Non-Control Acquisition" shall mean an acquisition by (i) any employee benefit plan (or related trust) sponsored or maintained by the Company or any affiliate of the Company, (ii) the Company, (iii) any Person in connection with a Non-Control Transaction (as hereinafter defined), or (iv) any holder of the Company's Class A Common Stock as of the date hereof;

(ii) individuals who, as of the date hereof, constitute the Board (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) the consummation of:

(a) A merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued, unless such merger, consolidation or reorganization is a "Non-Control Transaction". A

"Non-Control Transaction" is a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued where:

A. the shareholders of the Company immediately before such merger, consolidation, or reorganization, own, directly or indirectly, at least fifty-one percent (51%) of the combined voting power of the outstanding voting securities of the corporation resulting form such merger, consolidation or reorganization (the "Surviving Corporation") in substantially the same proportion as their ownership of the Voting Securities immediately before such merger, consolidation or reorganization,

B. the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such merger, consolidation or reorganization constitute at least a majority of the members of the board of directors of the Surviving Corporation or a corporation owning directly or indirectly fifty-one percent (51%) or more of the Voting Securities of the Surviving Corporation, and

C. no Person or Group, other than (i) the Company, (ii) any subsidiary of the Company, (iii) any employee benefit plan (or any trust forming a part thereof) maintained by the Company immediately prior to such merger, consolidation, or reorganization, or (iv) any holder of the Company's Class A Common Stock as of the date hereof, owns twenty percent (20%) or more of the combined voting power of the Surviving Corporation's then-outstanding voting securities; or

(b) a complete liquidation or dissolution of the Company; or

(c) the sale of disposition of all or substantially all of the assets of the Company to any Person.

Notwithstanding the foregoing, a Change of Control shall not be deemed to occur solely because any Person (the "Subject Person") acquired Beneficial Ownership of more than the permitted amount of the outstanding Voting Securities as a result of the acquisition of Voting Securities by the Company which, by reducing the number of Voting Securities outstanding, increases the proportional number of shares Beneficially Owned by the Subject Person, provided that if a Change of Control would occur (but for the operation of this sentence) and after such acquisition of Voting Securities by the Company, the Subject Person becomes the Beneficial Owner of any additional Voting Securities, then a Change of Control shall occur.

There shall be no proportionate or partial vesting in the periods prior to the applicable vesting dates and all vesting shall occur only on the appropriate vesting date. The Compensation Committee may, in its sole discretion, provide for accelerated vesting of the Restricted Stock at

any time. Fractional shares of Common Stock resulting from any vesting hereunder shall be aggregated until, and eliminated at, the time of vesting by rounding-down for fractions less than one-half and rounding-up for fractions equal to or greater than one-half. Cash settlements shall be made with respect to fractional shares of Common Stock eliminated by rounding in accordance with the Plan.

5. Transfers. No Participant shall, directly or indirectly, sell, assign, transfer, pledge, hypothecate, mortgage, encumber or dispose of (either voluntarily or by operation of law or otherwise) all or any of his Restricted Stock (or any interest therein or any option, warrant or other right with respect thereto).

6. Rights as a Holder of Restricted Stock. From and after the Grant Date, the Participant shall have, with respect to the Restricted Stock, all of the rights of a holder of shares of Common Stock, including, without limitation, the right to receive and retain all regular cash dividends payable to holders of shares of record on and after the Grant Date (although such dividends will be treated, to the extent required by applicable law, as additional compensation for tax purposes), voting rights and to exercise all other rights, powers and privileges of a holder of shares with respect to the Restricted Stock, with the exceptions that (i) the Participant shall not be entitled to delivery of the stock certificate or certificates representing the Restricted Stock until such shares are no longer Restricted Stock; and (ii) the Company (or its designated agent) will retain custody of the stock certificate or certificates representing the Restricted Stock.

7. Taxes; Section 83(b) Election. The Participant acknowledges that (i) no later than the date on which any Restricted Stock shall have become vested or upon the filing of an election under Section 83(b) as provided below, the Participant shall pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested; and (ii) the Company shall, to the extent permitted by law, have the right to deduct from any payment of any kind otherwise due to the Participant any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested or other withholding taxes that are required by law, including that the Company may, but shall not be required to, sell a number of Shares sufficient to cover applicable withholding taxes. Subject to the Participant's compliance with the Company's policy on Insider Trading (as in effect from time to time), the Participant may elect to pay the Company his or her obligations for the payment of such taxes through a special sale and remittance procedure commonly referred to as a *"cashless exercise" or "sell to cover"* transaction pursuant to which the Participant shall concurrently provide irrevocable written instructions: (i) to the Company's designated stock plan administrator to effect the immediate sale of a sufficient number of the Shares acquired upon the vesting of the Shares to enable the Company's designated stock plan administrator to remit, out of the sales proceeds available upon the settlement date, sufficient funds to the Company to cover all applicable federal, state and local income and employment taxes required to be withheld by the Company by reason of such vesting and/or sale; and (ii) to the Company to deliver any certificate(s) or other evidence of ownership for such sold Shares directly to the Company's designated stock plan administrator in order to complete the sale transaction. The Participant also acknowledges that it is his or her sole responsibility, and not the Company's, to file timely and properly any election under Section 83(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and any corresponding provisions of state tax

laws, if the Participant wishes to utilize such election.

8. Legend. In the event that a certificate evidencing Restricted Stock is issued, the certificate representing the Shares shall have endorsed thereon the following legend:

"THE ANTICIPATION, ALIENATION, ATTACHMENT, SALE, TRANSFER, ASSIGNMENT, PLEDGE, ENCUMBRANCE OR CHARGE OF THE SHARES OF STOCK REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS (INCLUDING FORFEITURE) OF THE MARCHEX, INC. (THE "COMPANY") 2003 AMENDED AND RESTATED STOCK INCENTIVE PLAN (THE "PLAN") AND AN AGREEMENT ENTERED INTO BETWEEN THE REGISTERED OWNER AND THE COMPANY DATED AS OF THE 8th DAY OF MAY, 2009. COPIES OF SUCH PLAN AND AGREEMENT ARE ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY."

9. Certain Additional Payments by the Company. In the event it shall be determined at any time that as a result, directly or indirectly, of the Shares or payment or distribution by the Company to or for the benefit of the Participant in connection therewith, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (a "Payment"), the Participant would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Participant with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Participant shall be entitled to promptly receive from the Company an additional payment (a "Gross-Up Payment") in an amount such that after payment by the Participant of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, but excluding any income taxes on the Payment, the Participant is in the same after-tax position as if no Excise Tax had been imposed upon the Participant. The Company shall pay the Gross-Up Payment to Participant no later than the last day of Participant's taxable year following the taxable year in which Participant remits the Excise Tax.

10. Recapitalizations, Reorganizations, Changes in Control and the Like. Adjustments and certain other matters relating to recapitalizations, reorganizations, sale of the assets of the Company, changes in control and the like shall be made and determined in accordance with Section 16 of the Plan, as in effect on the date of this Agreement.

11. Failure to Deliver Shares. If the Participant becomes obligated to sell any Shares to the Company under this Agreement and fails to deliver such Shares in accordance with the terms of this Agreement, the Company may, at its option, in addition to all other remedies it may have, send to the defaulting Participant the Purchase Price for such Shares as is herein specified. Thereupon, the Company, upon written notice to the defaulting Participant, shall cancel on its books the certificate or certificates representing the Shares to be sold, and all of the defaulting Participant's rights in and to such Shares shall terminate.

12. Specific Enforcement. The Participant expressly agrees that the Company may be irreparably damaged if this Agreement is not specifically enforced. Upon a breach or threatened breach of the terms, covenants and/or conditions of this Agreement by Participant, the Company

shall, in addition to all other remedies, each be entitled to apply for a temporary or permanent injunction, and/or a decree for specific performance, in accordance with the provisions hereof.

13. No Special Employment or Other Contract Rights. Nothing contained in this Agreement shall be construed or deemed by any person under any circumstances to bind the Company to continue the employment relationship of the Participant for the period within which the Shares shall vest.

14. Attorneys-in-Fact. Each Participant hereby irrevocably appoints each person who may from time to time serve as Chief Executive Officer, Chief Financial Officer or General Counsel of the Company as his or her attorney-in-fact with specific authority to execute, acknowledge, swear to, file, and deliver all consents, elections, instruments, certificates, and other documents and to take any other action requisite to carrying out the intention and purpose of this Agreement.

15. Provisions of Plan Control. This Agreement is subject to all the terms, conditions and provisions of the Plan, including, without limitation, the amendment provisions thereof, and to such rules, regulations and interpretations relating to the Plan as may be adopted by the Compensation Committee and as may be in effect from time to time. The Plan is incorporated herein by reference. A copy of the Plan has been delivered to the Participant. If and to the extent that this Agreement conflicts or is inconsistent with the terms, conditions and provisions of the Plan, the Plan shall control, and this Agreement shall be deemed to be modified accordingly. Unless otherwise indicated, any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Plan. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof (other than any other documents expressly contemplated herein or in the Plan) and supersedes any prior agreements between the Company and the Participant.

16. Governing Law; Successors and Assigns. This Agreement shall be governed by the internal and substantive laws of the State of Delaware without giving effect to the conflicts of laws principles thereof and, except as otherwise provided herein, shall be binding upon the heirs, personal representatives, executors, administrators, successors and assigns of the parties. Each party hereby consents to the personal jurisdiction of the State of Delaware, acknowledges that venue is proper in any state or Federal court in the State of Delaware, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Delaware and waives any objection that may exist, now or in the future, with respect to any of the foregoing.

17. Attorney's Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. Except as otherwise permitted by the requirements of Section 409A of the Code, and the Treasury Regulations issued thereunder ("Section 409A"), any reimbursement to which Participant is entitled pursuant to this Section 17 shall (a) be paid no later than the last day of Participant's taxable year following the taxable year in which the expense was incurred, (b)

not be affected by the amount of expenses eligible for reimbursement in any other taxable year, and (c) not be subject to liquidation or exchange for another benefit.

18. Notices. Any notices or other communications required to be given hereunder shall be given by hand delivery or by first class mail with all fees prepaid and addressed, if to the Company, to it at its principal place of business, Attn: General Counsel, and if to Participant, to him, her or it at the address set forth in the signature page hereto.

19. Severability. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and this Agreement shall be carried out as if any such illegal, invalid or unenforceable provision were not contained herein.

20. Captions. Captions are for convenience only and are not deemed to be part of this Agreement.

21. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. Compliance with Section 409A. The Company intends that income provided to Participant pursuant to this Agreement will not be subject to taxation under Section 409A. The provisions of this Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. However, the Company does not guarantee any particular tax effect for income provided to Participant pursuant to this Agreement. In any event, except for the responsibility of the Company to withhold applicable income and employment taxes from compensation paid or provided to Participant, the Company shall not be responsible for the payment of any applicable taxes incurred by Participant on compensation paid or provided to Participant pursuant to this Agreement.

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MARCHEX, INC.

Restricted Stock Agreement

Counterpart Signature Page

IN WITNESS WHEREOF, this Agreement has been executed as an instrument under seal of the date and year first above written.

COMPANY:

MARCHEX, INC.

By: _____

Name:
Title:

PARTICIPANT:

_____

Name:
Address: _____

_____

Exhibit 10.33

FORM OF DIRECTOR RESTRICTED STOCK AGREEMENT

This Form of Director Restricted Stock Agreement (the "Agreement") is entered into this 8th day of May, 2009 between Marchex, Inc., a Delaware corporation (the "Company") and (the "Participant").

WITNESSETH:

WHEREAS, the Board of Directors of the Company has agreed to grant to the Participant, shares of the Company's Class B common stock, par value $0.01 per share (the "Shares" or "Common Stock") in accordance with the terms and conditions of the Company's 2003 Amended and Restated Stock Incentive Plan (the "Plan"); and

WHEREAS, the Shares are subject to certain restrictions; and

WHEREAS, a condition to the grant of the Shares to the Participant is that the Participant execute this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Shares. Subject to the terms, conditions and restrictions of the Plan and this Agreement, the Company hereby awards to the Participant, Shares on May 8, 2009 (the "Grant Date"). To the extent required by law, the Participant shall pay the Company the par value ($0.01) (the "Purchase Price") for each Share awarded to the Participant simultaneously with the execution of this Agreement in cash or cash equivalents payable to the order of the Company. Pursuant to the Plan and Section 4 of this Agreement, the Shares are subject to certain restrictions, which restrictions shall expire in accordance with the provisions of the Plan and Section 4 hereof. While such restrictions are in effect, the Shares subject to such restrictions shall be referred to herein as "Restricted Stock", and Shares as to which such restrictions have expired shall be referred to herein as "Vested Shares."

2. Right to Repurchase Upon Termination of Director Relationship. In the event Participant's relationship with the Company as a director terminates, for any reason whatsoever, whether due to voluntary or involuntary action, death, disability or otherwise, the Company shall have the right to repurchase at the original price paid therefor all or any portion of the Restricted Stock, which right may be exercised at any time and from time to time within ninety (90) days after the date of such termination.

3. Exercise of Right of Repurchase. The Company may exercise its right of repurchase by providing written notice to the Participant stating the number of Shares of Restricted Stock to be repurchased, the aggregate price to be paid (the "Repurchase Price") and the date (the "Repurchase Date") such repurchase shall occur (which shall be a date not fewer than ten (10) and not more than thirty (30) days from the date of such notice). On the Repurchase Date, the Company shall deliver the Repurchase Price to the Participant, by check or

wire of immediately available funds, against delivery of the certificate or certificates representing the Shares to be repurchased and duly endorsed stock powers.

4. Vesting of Shares. So long as the Participant continues as a director of the Company, the Shares will be deemed to become "Vested Shares" as follows: one hundred percent (100%) of the Shares shall vest on the one (1) year anniversary of the Grant Date. One hundred percent (100%) of the Shares not already vested as of the date of a Change of Control, shall become immediately vested upon such Change of Control. For the purposes hereof, "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition (other than directly from the Company) of any voting securities of the Company (the "Voting Securities") by any "Person" or "Group" (as such terms are used for the purposes of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) immediately after which such Person or Group has Beneficial Ownership (within the meaning of Rule l3d-3 promulgated under the Exchange Act) of fifty percent (50%) or more of the combined voting power of the Company's then-outstanding Voting Securities; provided, however, in determining whether or not a Change of Control has occurred, Voting Securities which are acquired in a "Non-Control Acquisition" (as hereinafter defined) shall not constitute an acquisition which would constitute a Change of Control. A "Non-Control Acquisition" shall mean an acquisition by (i) any employee benefit plan (or related trust) sponsored or maintained by the Company or any affiliate of the Company, (ii) the Company, (iii) any Person in connection with a Non-Control Transaction (as hereinafter defined), or (iv) any holder of the Company's Class A Common Stock as of the date hereof;

(ii) individuals who, as of the date hereof, constitute the Board (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) the consummation of:

(a) A merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued, unless such merger, consolidation or reorganization is a "Non-Control Transaction". A

"Non-Control Transaction" is a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued where:

A. the shareholders of the Company immediately before such merger, consolidation, or reorganization, own, directly or indirectly, at least fifty-one percent (51%) of the combined voting power of the outstanding voting securities of the corporation resulting form such merger, consolidation or reorganization (the "Surviving Corporation") in substantially the same proportion as their ownership of the Voting Securities immediately before such merger, consolidation or reorganization,

B. the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such merger, consolidation or reorganization constitute at least a majority of the members of the board of directors of the Surviving Corporation or a corporation owning directly or indirectly fifty-one percent (51%) or more of the Voting Securities of the Surviving Corporation, and

C. no Person or Group, other than (i) the Company, (ii) any subsidiary of the Company, (iii) any employee benefit plan (or any trust forming a part thereof) maintained by the Company immediately prior to such merger, consolidation, or reorganization, or (iv) any holder of the Company's Class A Common Stock as of the date hereof, owns twenty percent (20%) or more of the combined voting power of the Surviving Corporation's then-outstanding voting securities; or

(b) a complete liquidation or dissolution of the Company; or

(c) the sale of disposition of all or substantially all of the assets of the Company to any Person.

Notwithstanding the foregoing, a Change of Control shall not be deemed to occur solely because any Person (the "Subject Person") acquired Beneficial Ownership of more than the permitted amount of the outstanding Voting Securities as a result of the acquisition of Voting Securities by the Company which, by reducing the number of Voting Securities outstanding, increases the proportional number of shares Beneficially Owned by the Subject Person, provided that if a Change of Control would occur (but for the operation of this sentence) and after such acquisition of Voting Securities by the Company, the Subject Person becomes the Beneficial Owner of any additional Voting Securities, then a Change of Control shall occur.

There shall be no proportionate or partial vesting in the periods prior to the applicable vesting dates and all vesting shall occur only on the appropriate vesting date. Fractional shares of Common Stock resulting from any vesting hereunder shall be aggregated until, and eliminated

at, the time of vesting by rounding-down for fractions less than one-half and rounding-up for fractions equal to or greater than one-half. Cash settlements shall be made with respect to fractional shares of Common Stock eliminated by rounding in accordance with the Plan.

5. Transfers. No Participant shall, directly or indirectly, sell, assign, transfer, pledge, hypothecate, mortgage, encumber or dispose of (either voluntarily or by operation of law or otherwise) all or any of his or her Restricted Stock (or any interest therein or any option, warrant or other right with respect thereto).

6. Rights as a Holder of Restricted Stock. From and after the Grant Date, the Participant shall have, with respect to the Restricted Stock, all of the rights of a holder of shares of Common Stock, including, without limitation, the right to receive and retain all regular cash dividends payable to holders of shares of record on and after the Grant Date (although such dividends will be treated, to the extent required by applicable law, as additional compensation for tax purposes), voting rights and to exercise all other rights, powers and privileges of a holder of shares with respect to the Restricted Stock, with the exceptions that (i) the Participant shall not be entitled to delivery of the stock certificate or certificates representing the Restricted Stock until such shares are no longer Restricted Stock; and (ii) the Company (or its designated agent) will retain custody of the stock certificate or certificates representing the Restricted Stock.

7. Taxes; Section 83(b) Election. The Participant acknowledges that (i) no later than the date on which any Restricted Stock shall have become vested or upon the filing of an election under Section 83(b) as provided below, the Participant shall pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested; and (ii) the Company shall, to the extent permitted by law, have the right to deduct from any payment of any kind otherwise due to the Participant any federal, state or local taxes of any kind required by law to be withheld with respect to any Restricted Stock which shall have become so vested or other withholding taxes that are required by law, including that the Company may, but shall not be required to, sell a number of Shares sufficient to cover applicable withholding taxes. Subject to the Participant's compliance with the Company's policy on Insider Trading (as in effect from time to time), the Participant may elect to pay the Company his or her obligations for the payment of such taxes through a special sale and remittance procedure commonly referred to as a *"cashless exercise" or "sell to cover"* transaction pursuant to which the Participant shall concurrently provide irrevocable written instructions: (i) to the Company's designated stock plan administrator to effect the immediate sale of a sufficient number of the Shares acquired upon the vesting of the Shares to enable the Company's designated stock plan administrator to remit, out of the sales proceeds available upon the settlement date, sufficient funds to the Company to cover all applicable federal, state and local income and employment taxes required to be withheld by the Company by reason of such vesting and/or sale; and (ii) to the Company to deliver any certificate(s) or other evidence of ownership for such sold Shares directly to the Company's designated stock plan administrator in order to complete the sale transaction. The Participant also acknowledges that it is his or her sole responsibility, and not the Company's, to file timely and properly any election under Section 83(b) of the Internal Revenue Code of 1986, as amended, and any corresponding provisions of state tax laws, if the Participant wishes to utilize such election.

8. Legend. In the event that a certificate evidencing Restricted Stock is issued, the certificate representing the Shares shall have endorsed thereon the following legend:

"THE ANTICIPATION, ALIENATION, ATTACHMENT, SALE, TRANSFER, ASSIGNMENT, PLEDGE, ENCUMBRANCE OR CHARGE OF THE SHARES OF STOCK REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS (INCLUDING FORFEITURE) OF THE MARCHEX, INC. (THE "COMPANY") 2003 AMENDED AND RESTATED STOCK INCENTIVE PLAN (THE "PLAN") AND AN AGREEMENT ENTERED INTO BETWEEN THE REGISTERED OWNER AND THE COMPANY DATED AS OF THE 8th DAY OF MAY, 2009. COPIES OF SUCH PLAN AND AGREEMENT ARE ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY."

9. Recapitalizations, Reorganizations, Changes in Control and the Like. Adjustments and certain other matters relating to recapitalizations, reorganizations, sale of the assets of the Company, changes in control and the like shall be made and determined in accordance with Section 16 of the Plan, as in effect on the date of this Agreement.

10. Failure to Deliver Shares. If the Participant becomes obligated to sell any Shares to the Company under this Agreement and fails to deliver such Shares in accordance with the terms of this Agreement, the Company may, at its option, in addition to all other remedies it may have, send to the defaulting Participant the Purchase Price for such Shares as is herein specified. Thereupon, the Company, upon written notice to the defaulting Participant, shall cancel on its books the certificate or certificates representing the Shares to be sold, and all of the defaulting Participant's rights in and to such Shares shall terminate.

11. Specific Enforcement. The Participant expressly agrees that the Company may be irreparably damaged if this Agreement is not specifically enforced. Upon a breach or threatened breach of the terms, covenants and/or conditions of this Agreement by Participant, the Company shall, in addition to all other remedies, each be entitled to apply for a temporary or permanent injunction, and/or a decree for specific performance, in accordance with the provisions hereof.

12. No Special Relationship or Other Contract Rights. Nothing contained in this Agreement shall be construed or deemed by any person under any circumstances to bind the Company to continue the relationship of the Participant as a director for the period within which the Shares shall vest.

13. Attorneys-in-Fact. Each Participant hereby irrevocably appoints each person who may from time to time serve as Chief Executive Officer, Chief Financial Officer or General Counsel of the Company as his or her attorney-in-fact with specific authority to execute, acknowledge, swear to, file, and deliver all consents, elections, instruments, certificates, and other documents and to take any other action requisite to carrying out the intention and purpose of this Agreement.

14. Provisions of Plan Control. This Agreement is subject to all the terms, conditions and provisions of the Plan, including, without limitation, the amendment provisions thereof, and to such rules, regulations and interpretations relating to the Plan as may be adopted by the Compensation Committee and as may be in effect from time to time. The Plan is incorporated

herein by reference. A copy of the Plan has been delivered to the Participant. If and to the extent that this Agreement conflicts or is inconsistent with the terms, conditions and provisions of the Plan, the Plan shall control, and this Agreement shall be deemed to be modified accordingly. Unless otherwise indicated, any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Plan. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof (other than any other documents expressly contemplated herein or in the Plan) and supersedes any prior agreements between the Company and the Participant.

15. Governing Law; Successors and Assigns. This Agreement shall be governed by the internal and substantive laws of the State of Delaware without giving effect to the conflicts of laws principles thereof and, except as otherwise provided herein, shall be binding upon the heirs, personal representatives, executors, administrators, successors and assigns of the parties. Each party hereby consents to the personal jurisdiction of the State of Delaware, acknowledges that venue is proper in any state or Federal court in the State of Delaware, agrees that any action related to this Agreement must be brought in a state or Federal court in the State of Delaware and waives any objection that may exist, now or in the future, with respect to any of the foregoing.

16. Attorney's Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

17. Notices. Any notices or other communications required to be given hereunder shall be given by hand delivery or by first class mail with all fees prepaid and addressed, if to the Company, to it at its principal place of business, Attn: General Counsel, and if to Participant, to him, her or it at the address set forth in the signature page hereto.

18. Severability. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and this Agreement shall be carried out as if any such illegal, invalid or unenforceable provision were not contained herein.

19. Captions. Captions are for convenience only and are not deemed to be part of this Agreement.

20. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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MARCHEX, INC.

Restricted Stock Agreement

Counterpart Signature Page

IN WITNESS WHEREOF, this Agreement has been executed as an instrument under seal of the date and year first above written.

COMPANY:

MARCHEX, INC.

By: _____
Name:
Title:

PARTICIPANT:

_____
Name:
Address: _____

_____

EXHIBIT 10.34

AMENDED AND RESTATED LEASE

520 PIKE STREET, INC.,

a Delaware corporation,

Landlord

and

Marchex, Inc.

a Delaware corporation,

Tenant

for

Suites 1700, 1800, 1900 and 2000

520 Pike Tower

Seattle, Washington

June 5, 2009

TABLE OF CONTENTS

Schedule of Exhibits

AMENDED AND RESTATED LEASE

THIS AMENDED AND RESTATED LEASE is made as of the 5th day of June, 2009, between 520 Pike Street, Inc., a Delaware corporation (**"Landlord"**), and Marchex, Inc., a Delaware corporation (**"Tenant"**).

RECITALS: Landlord and Tenant are now parties to that certain Lease dated October 2, 2006 (the "Lease"), as amended by Amendment No. 1 to Lease dated January 31, 2008 (collectively the "Lease"), whereby Landlord leased to Tenant and Tenant leased from Landlord certain premises commonly known as Suites 1700 and 1800 of the 520 Pike Tower located at 520 Pike Street in the City of Seattle, County of King, State of Washington. Landlord and Tenant desire to expand the Premises by the addition of Suite 1900 containing approximately 17,302 rentable square feet of space, the portion for the 20th floor of the Building referred to as Suite 2000 containing approximately 8,400 rentable square feet of space, and the remainder of the 20th floor of the Building referred to as Suite 2050 containing approximately 8,936 rentable square feet of space; to extend the Term by a period of approximately eight (8) years, to make certain other changes to the Lease and to set forth all of such changes in this Amended and Restated Lease. The terms and provisions of this Amended and Restated Lease shall be legally binding upon execution of this Amended and Restated Lease by both parties, but shall be effective as of January 1, 2010 (the "**Effective Date**"). The terms and provisions of the Lease, without giving effect to this Amended and Restated Lease, including without limitation, the provisions relating to the Premises, Base Rent, Additional Rent, and the Base Year, shall remain effective for all purposes as to all periods prior to the Effective Date. These Recitals form a contractual part of this Amended and Restated Lease.

Landlord and Tenant hereby agree as follows:

ARTICLE 1

BASIC LEASE PROVISIONS

PREMISES	From the Commencement Date to March 31, 2010, the Premises shall consist of the entire 18th floor of the Building ("**Suite 1800**") and Suite 1700 ("**Suite 1700**"), both as more particularly shown on **Exhibit A** attached hereto. From April 1, 2010 to March 31, 2012, the Premises shall consist of Suite 1700, Suite 1800, and Suite 1900 ("**Suite 1900**"), all as more particularly shown on **Exhibit A** attached hereto, and the portions (which need not be contiguous) of the 20th floor of the Building comprising Suite 2000 ("**Suite 2000**"), as provided in Article 31; provided that Suite 1700 shall cease to be included in the Premises upon the earlier to occur of (i) Tenant taking actual occupancy of Suite 1900 and giving notice to Landlord that Tenant has vacated Suite 1700, and (ii) the date three (3) months after the date Landlord makes Suite 1900 available to Tenant in the form and manner required under this Amended and Restated Lease (including the Work Letter) but in no event prior to the Effective Date. Landlord shall endeavor to allow Tenant access to Suite 1900 and Suite 2000 as of January 1, 2010 for purposes of constructing the Initial Installations.

	From April 1, 2012 to the Expiration Date, the Premises shall consist of Suite 1800, Suite 1900, Suite 2000, and the remaining portions (which need not be contiguous) of the 20th floor of the Building indicated on **Exhibit A** as comprising Suite 2050 ("**Suite 2050**"), all as more particularly shown on **Exhibit A** attached hereto.
BUILDING	The building, fixtures, equipment and other improvements and appurtenances now located or hereafter erected, located or placed upon the land known as the 520 Pike Tower, Seattle, Washington, as more particularly described on **Exhibit A** attached hereto.
REAL PROPERTY	The Building, together with the plot of land upon which it stands.
COMMENCEMENT DATE	January 1, 2010 as to Suite 1800 and Suite 1700. The date which is the later to occur of (a) the date ninety (90) days after Landlord tenders possession of Suite 1900 and Suite 2000 to Tenant for the purpose of constructing the Initial Installations, and (b) April 1, 2010, as to Suite 1900 and Suite 2000. April 1, 2012 as to Suite 2050.
RENT COMMENCEMENT DATE	The Commencement Date as to each of the Suites comprising the Premises from time to time. Tenant may occupy Suite 1900 and Suite 2000 upon substantial completion of the Initial Installations in such Suites, and, if Tenant does so, Tenant shall not be required to pay Fixed Rent during the period prior to April 1, 2010.
EXPIRATION DATE	March 31, 2018, or the last day of any renewal or extended term, if the Term of this Amended and Restated Lease is extended in accordance with any express provision hereof.
TERM	The period commencing on the Commencement Date as to Suite 1800 and Suite 1700 and ending on the Expiration Date.
PERMITTED USES	Executive and general offices.
BASE YEAR	Calendar year 2010.

TENANT'S PROPORTIONATE SHARE	The Proportionate Shares with respect to the various Suites comprising the Premises are as follows:

Suite 1700:	2.24%
Suite 1800:	4.62%
Suite 1900:	4.62%
Suite 2000	2.24%
Suite 2050	2.39%

Accordingly, from January 1, 2010 to March 31, 2010 Tenant's Proportionate Share shall be 6.86%; from April 1, 2010 to March 31, 2012 Tenant's Proportionate Share shall be 11.48%, and from April 1, 2012 to the Expiration Date Tenant's Proportionate Share shall be 13.87%, provided that during any period from and after April 1, 2010 that Suite 1700 is included in the Premises Tenant's Proportionate Share shall be increased by 2.24%.

AGREED AREA OF BUILDING	374,225 rentable square feet, as mutually agreed by Landlord and Tenant.
AGREED AREA OF PREMISES	17,302 rentable square feet as to Suite 1800, 8,373 rentable square feet as to Suite 1700, 17,302 rentable square feet as to Suite 1900, 8,400 rentable square feet as to Suite 2000, and 8,936 as to Suite 2050, all as mutually agreed by Landlord and Tenant.
FIXED RENT	Fixed Rent as to the Premises shall be the following amounts per month during the following periods:

During the period from January 1, 2010 to March 31, 2010, Fixed Rent as to the Premises shall be $57,768.75 per month.

During the eight (8) year period from April 1, 2010 to the Expiration Date, Fixed Rent as to the Premises shall be the following amounts per month during the following periods:

Period	Per Annum	Per Month
Months 1-3, Year 1	$ 0.00	$ 0.00
Months 4-12, Year 1	$1,161,108.00	$ 96,759.00
Year 2	$1,195,941.24	$ 99,661.77
Months 1-3, Year 3	$1,231,819.48	$102,651.62
Months 4-12, Year 3	$1,487,784.94	$123,982.08
Year 4	$1,532,418.49	$127,701.54
Year 5	$1,578,391.04	$131,532.59
Year 6	$1,625,742.78	$135,478.56
Year 7	$1,674,515.06	$139,542.92
Year 8	$1,724,750.51	$143,729.21

Notwithstanding the foregoing, during any period from and after April 1, 2010 that Suite 1700 is included in the Premises the Fixed Rent shall be increased by $18,839.25.

The term "Year" for purposes of the foregoing rent schedule only means a period of one (1) year commencing on April 1, 2010, and on each subsequent anniversary of such date during the Term.

ADDITIONAL RENT — All sums other than Fixed Rent payable by Tenant to Landlord under this Amended and Restated Lease, including Tenant's Tax Payment, Tenant's Operating Payment, late charges, overtime or excess service charges, damages, and interest and other costs related to Tenant's failure to perform any of its obligations under this Amended and Restated Lease.

RENT — Fixed Rent and Additional Rent, collectively.

INTEREST RATE — The lesser of (i) 4% per annum above the then-current Base Rate, and (ii) the maximum rate permitted by applicable Requirements.

SECURITY DEPOSIT — $143,729.21. Tenant's existing Security Deposit of $40,371.33 as to the 18th Floor and $25,872.57 as to Suite 1700 shall be credited against such Security Deposit and Tenant shall deposit the balance of such Security Deposit with Landlord upon the execution of this Amended and Restated Lease in cash.

TENANT'S ADDRESS FOR NOTICES — Marchex, Inc.
520 Pike Street, Suite 1800
Seattle, Washington 98101
Attn: General Counsel

LANDLORD'S ADDRESS FOR NOTICES	520 Pike Street, Inc. c/o Tishman Speyer Properties, L.P. 520 Pike Street, Suite 1210 Seattle, Washington 98101 Attn: Property Manager Copies to: 520 Pike Street, Inc. Tishman Speyer Properties, L.P. 45 Rockefeller Plaza New York, New York 10011 Attn: Chief Financial Officer and: 520 Pike Street, Inc. Tishman Speyer Properties, L.P. 45 Rockefeller Plaza New York, New York 10011 Attn: Chief Legal Officer
TENANT'S BROKER	Jones Lang LaSalle Americas, Inc.
LANDLORD'S AGENT	Washington Partners, Inc. and Tishman Speyer Properties, L.P. or any other person or entity designated at any time and from time to time by Landlord as Landlord's Agent.
LANDLORD'S CONTRIBUTION	$779,100.00.

All capitalized terms used in this Amended and Restated Lease without definition are defined in Exhibit B.

ARTICLE 2

PREMISES; TERM; RENT

Section 2.1 Amended and Restated Lease of Premises. Subject to the terms of this Amended and Restated Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises for the Term. In addition, Landlord grants to Tenant the right to use, on a non-exclusive basis and in common with others, the Common Areas.

Section 2.2 Commencement Date. Upon the Effective Date, the terms and provisions hereof shall be fully binding on Landlord and Tenant prior to the occurrence of the Commencement Date. The Term of this Amended and Restated Lease shall commence on the Commencement Date. Unless sooner terminated or extended as hereinafter provided, the Term shall end on the Expiration Date. If Landlord does not tender possession of the Premises to Tenant on or before the Commencement Date or any other particular date, for any reason whatsoever, Landlord shall not be liable for any damage thereby, this Amended and Restated

Lease shall not be void or voidable thereby, and the Term shall not commence until the Commencement Date. Landlord shall be deemed to have tendered possession of the relevant portion of the Premises to Tenant upon the giving of notice by Landlord to Tenant stating that such portion of the Premises is vacant, in the condition required by this Amended and Restated Lease and available for construction of Tenant's improvement and alterations. No failure to tender possession of the Premises to Tenant on or before the Commencement Date shall affect any other obligations of Tenant hereunder. There shall be no postponement of the Commencement Date (or the Rent Commencement Date) for any delay in the tender of possession to Tenant which results from any Tenant Delay. Once the Commencement Date is determined, Landlord and Tenant shall execute an agreement stating the Commencement Date, Rent Commencement Date and Expiration Date, but the failure to do so will not affect the determination of such dates.

Section 2.3 Payment of Rent. Tenant shall pay to Landlord, without notice or demand, and without any set-off, counterclaim, abatement or deduction whatsoever, except as may be expressly set forth in this Amended and Restated Lease, in lawful money of the United States by check or wire transfer of funds, (i) Fixed Rent in equal monthly installments, in advance, on the first day of each month during the Term, commencing on the Rent Commencement Date, and (ii) Additional Rent, at the times and in the manner set forth in this Amended and Restated Lease.

Section 2.4 First Month's Rent. Tenant shall pay one month's Fixed Rent as to Suites 1900 and 2000 upon the execution of this Amended and Restated Lease (**"Suites 1900 and 2000 Advance Rent"**). The Suites 1900 and 2000 Advance Rent shall be credited towards the first month's Fixed Rent payment as to Suites 1900 and 2000, after application of three months of free rent on the Premises (then consisting of Suites 1800, 1900 and 2000). If the Rent Commencement Date is not the first day of a month, then on the Rent Commencement Date Tenant shall pay Fixed Rent for the period from the Rent Commencement Date through the last day of such month, and the Advance Rent shall be credited towards Fixed Rent for the next succeeding calendar month.

Section 2.5 Unused Landlord Contribution. Tenant shall have the right to request that up to $259,700 of the Landlord Contribution, to the extent not expended for the completion of the Initial Installations, be credited towards amounts owed with respect to Fixed Rent; provided that: (i) such request shall not be made prior to the later of April 1, 2012 or the date upon which the Commencement Date for Suite 2050 occurs and shall be made within two months of such later date, (ii) such credit shall not commence until all of the Initial Installations contemplated for the Premises by the Final Plans have been completed and final payments made in accordance with Section 3 of the Work Letter and (iii) such amounts shall be applied in consecutive months until such time as the full amount of Landlord Contribution available for credit towards Fixed Rent has been so applied.

Section 2.6 Lunchroom Fee. In addition to the payment of Rent, from the Commencement Date for Suite 2000 through April 1, 2012, Tenant shall pay to Landlord, at the time for payment of Fixed Rent, one hundred dollars ($100) per month, in consideration for Tenant's access to and right to use the lunchroom located within Suite 2050 during such period. Notwithstanding the foregoing or anything to the contrary contained in this Amended and Restated Lease, Suite 2050 shall not be deemed included in the Premises until April 1, 2012.

ARTICLE 3

USE AND OCCUPANCY

Tenant shall use and occupy the Premises for the Permitted Uses and for no other purpose. Tenant shall not use or occupy or permit the use or occupancy of any part of the Premises in a manner constituting a Prohibited Use. If Tenant uses the Premises for a purpose constituting a Prohibited Use, violating any Requirement, or causing the Building to be in violation of any Requirement, then Tenant shall promptly discontinue such use upon notice of such violation. Tenant, at its expense, shall procure and at all times maintain and comply with the terms and conditions of all licenses and permits required for the lawful conduct of the Permitted Uses in the Premises.

ARTICLE 4

CONDITION OF THE PREMISES

Tenant has inspected the Premises and agrees (a) to accept possession of the various portions of the Premises in their condition existing on the date hereof "as is", and (b) that except for Landlord's Contribution Landlord has no obligation to provide any allowances, perform any work, supply any materials, incur any expense or make any alterations or improvements to prepare the Premises for Tenant's occupancy. Any work to be performed by Tenant in connection with Tenant's initial occupancy of the Premises shall be hereinafter referred to as the **"Initial Installations**,**"** and shall be Substantially Completed by Tenant within 120 days following the Commencement Date as to each of the Suites comprising the Premises. Tenant's occupancy of any part of the Premises shall be conclusive evidence, as against Tenant, that Tenant has accepted possession of the Premises in its then current condition and at the time such possession was taken, the Premises and the Building were in a good and satisfactory condition as required by this Amended and Restated Lease. The requirements and conditions for Alterations contained in Article 5 of the Lease shall not apply to the Initial Installations, and the process and requirements with respect to such Initial Installations shall be governed by the Work Letter.

ARTICLE 5

ALTERATIONS

Section 5.1 Tenant's Alterations. (a) Tenant shall not make any alterations, additions or other physical changes in or about the Premises (collectively, **"Alterations"**) other than decorative Alterations such as painting, wall coverings and floor coverings (collectively, **"Decorative Alterations"**), without Landlord's prior consent, which consent shall not be unreasonably withheld if such Alterations (i) are non-structural and do not affect any Building Systems, (ii) affect only the Premises and are not visible from outside of the Premises, (iii) do not affect the certificate of occupancy issued for the Building or the Premises, and (iv) do not violate any Requirement.

(b) Plans and Specifications. Prior to making any Alterations, Tenant, at its expense, shall (i) submit to Landlord for its approval, detailed plans and specifications (**"Plans"**) of each proposed Alteration (other than Decorative Alterations), and with respect to any Alteration affecting any Building System, evidence that the Alteration has been designed by, or reviewed and approved by, Landlord's designated engineer for the affected Building System,

(ii) obtain all permits, approvals and certificates required by any Governmental Authorities, (iii) furnish to Landlord duplicate original policies or certificates of worker's compensation (covering all persons to be employed by Tenant, and Tenant's contractors and subcontractors in connection with such Alteration), commercial general liability (including property damage coverage) and business auto insurance and Builder's Risk coverage (as described in Article 11) all in such form, with such companies, for such periods and in such amounts as Landlord may reasonably require, naming Landlord, Landlord's Agent, any Lessor and any Mortgagee as additional insureds, and (iv) furnish to Landlord reasonably satisfactory evidence of Tenant's ability to complete and to fully pay for such Alterations (other than Decorative Alterations). Landlord shall have ten (10) Business Days after receipt of the Plans within which to approve or disapprove of the Plans. If Landlord disapproves any Plans, Landlord will provide reasonably detailed grounds for such disapproval. Tenant shall give Landlord not less than 5 Business Days' notice prior to performing any Decorative Alteration, which notice shall contain a description of such Decorative Alteration.

(c) Governmental Approvals. Tenant, at its expense, shall, as and when required, promptly obtain certificates of partial and final approval of such Alterations required by any Governmental Authority and shall furnish Landlord with copies thereof, together with "as-built" Plans for such Alterations prepared on an AutoCAD Computer Assisted Drafting and Design System (or such other system or medium as Landlord may accept), using naming conventions issued by the American Institute of Architects in June, 1990 (or such other naming conventions as Landlord may accept) and computer media of such record drawings and specifications translated in DFX format or another format acceptable to Landlord.

Section 5.2 Manner and Quality of Alterations. All Alterations shall be performed (a) in a good and workmanlike manner and free from defects, (b) substantially in accordance with the Plans, and by contractors approved by Landlord, (c) in compliance with all Requirements, the terms of this Amended and Restated Lease and all construction procedures and regulations then prescribed by Landlord, and (d) at Tenant's expense. All materials and equipment shall be of first quality and at least equal to the applicable standards for the Building then established by Landlord, and no such materials or equipment (other than Tenant's Property) shall be subject to any lien or other encumbrance. Upon completion of any Alterations hereunder, Tenant shall provide Landlord with copies of all construction contracts, proof of payment for all labor and materials, and final unconditional waivers of lien from all contractors, subcontractors, materialmen, suppliers and others having lien rights with respect to such Alterations, in the form prescribed by Washington law.

Section 5.3 Removal of Tenant's Property. Tenant's Property shall remain the property of Tenant and Tenant may remove the same at any time on or before the Expiration Date. On or prior to the Expiration Date, Tenant shall, unless otherwise directed by Landlord, at Tenant's expense, remove any Tenant's Property and Specialty Alterations and close up any slab penetrations in the Premises made by Tenant (but excluding any Specialty Alterations or slab penetrations existing in the Premises as of the Commencement Date as to the various Suites comprising the Premises and not made by Tenant). Tenant shall repair and restore, in a good and workmanlike manner, any damage to the Premises or the Building caused by Tenant's removal of any Alterations or Tenant's Property or by the closing of any slab penetrations (as required above), and upon default thereof, Tenant shall reimburse Landlord for Landlord's cost of repairing and restoring such damage. Any Specialty Alterations or Tenant's Property not so removed shall be deemed abandoned and Landlord may retain or remove and dispose of same, and repair and restore any damage caused thereby, at Tenant's cost and without accountability to Tenant. All other Alterations shall become Landlord's property upon

termination of this Amended and Restated Lease. All cabling for voice and data shall remain in the Building and Premises, and Tenant shall not be liable to Landlord or any other party for any cost or expense relating to such cabling incurred after the Expiration Date.

Section 5.4 Mechanic's Liens. Tenant, at its expense, shall discharge any lien or charge recorded or filed against the Real Property in connection with any work done or claimed to have been done by or on behalf of, or materials furnished or claimed to have been furnished to, Tenant, within 30 days after Tenant's receipt of notice thereof by payment, by procuring and recording a lien release bond issued by a responsible corporate surety in an amount sufficient to satisfy statutory requirements therefor in the State of Washington or otherwise in accordance with law.

Section 5.5 Labor Relations. Tenant shall not employ, or permit the employment of, any contractor, mechanic or laborer, or permit any materials to be delivered to or used in the Building, if, in Landlord's sole judgment, such employment, delivery or use will interfere or cause any conflict with other contractors, mechanics or laborers engaged in the construction, maintenance or operation of the Building by Landlord, Tenant or others. If such interference or conflict occurs, upon Landlord's request, Tenant shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Building immediately.

Section 5.6 Tenant's Costs. Tenant shall pay to Landlord, upon demand, all out-of-pocket costs actually incurred by Landlord in connection with Tenant's Alterations, including costs incurred in connection with (a) Landlord's review of the Alterations (including review of requests for approval thereof) and (b) the provision of Building personnel during the performance of any Alteration, to operate elevators or otherwise to facilitate Tenant's Alterations. In addition, if Tenant's Alterations (excluding Decorative Alterations) cost more than $25,000, Tenant shall pay to Landlord, upon demand, an administrative fee in an amount equal to three percent (3%) of the total cost of such Alterations, excluding costs of the types identified as "soft costs" under the Work Letter. At Landlord's request, Tenant shall deliver to Landlord reasonable supporting documentation evidencing the hard and soft costs incurred by Tenant in designing and constructing any Alterations.

Section 5.7 Tenant's Equipment. Tenant shall provide notice to Landlord prior to moving any heavy machinery, heavy equipment, freight, bulky matter or fixtures (collectively, **"Equipment"**) into or out of the Building and shall pay to Landlord any costs actually incurred by Landlord in connection therewith. If such Equipment requires special handling, Tenant agrees (a) to employ only persons holding all necessary licenses to perform such work, (b) all work performed in connection therewith shall comply with all applicable Requirements and (c) such work shall be done only during hours designated by Landlord.

Section 5.8 Legal Compliance. The approval of Plans, or consent by Landlord to the making of any Alterations, does not constitute Landlord's representation that such Plans or Alterations comply with any Requirements. Landlord shall not be liable to Tenant or any other party in connection with Landlord's approval of any Plans, or Landlord's consent to Tenant's performing any Alterations. If any Alterations made by or on behalf of Tenant require Landlord to make any alterations or improvements to any part of the Building in order to comply with any Requirements, Tenant shall pay all costs and expenses incurred by Landlord in connection with such alterations or improvements.

Section 5.9 Floor Load. Tenant shall not place a load upon any floor of the Premises that exceeds 50 pounds per square foot "live load". Landlord reserves the right to reasonably

designate the position of all Equipment which Tenant wishes to place within the Premises, and to place limitations on the weight thereof.

ARTICLE 6

REPAIRS

Section 6.1 Landlord's Repair and Maintenance. Landlord shall operate, maintain and, except as provided in Section 6.2 hereof, make all necessary repairs (both structural and nonstructural) to (i) the Building Systems and (ii) the Common Areas, in conformance with standards applicable to Comparable Buildings.

Section 6.2 Tenant's Repair and Maintenance. Tenant shall promptly, at its expense and in compliance with Article 5 including, without limitation, the requirement that any repairs affecting any Building System be reviewed and approved by Landlord's designated engineer for the affected Building System, make all nonstructural repairs to the Premises and the fixtures, equipment and appurtenances therein (including all electrical, plumbing, heating, ventilation and air conditioning, sprinklers and life safety systems in and serving the Premises from the point of connection to the Building Systems) (collectively, **"Tenant Fixtures"**) as and when needed to preserve the Premises in good working order and condition, except for reasonable wear and tear and damage which is Landlord's obligation to repair pursuant to the express provisions of this Amended and Restated Lease. All damage to the Building or to any portion thereof, or to any Tenant Fixtures, requiring structural or nonstructural repair caused by or resulting from any act, omission, neglect or improper conduct of a Tenant Party or the moving of Tenant's Property or Equipment into, within or out of the Premises by a Tenant Party, shall be repaired at Tenant's expense by (i) Tenant, if the required repairs are nonstructural in nature and do not affect any Building System, or (ii) Landlord, if the required repairs are structural in nature, involve replacement of exterior window glass or affect any Building System. All Tenant repairs shall be of good quality utilizing new construction materials.

Section 6.3 Reserved Rights. Landlord reserves the right to make all changes, alterations, additions, improvements, repairs or replacements to the Building and Building Systems, including changing the arrangement or location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets or other Common Areas (collectively, **"Work of Improvement"**), as Landlord deems necessary or desirable, and to take all materials into the Premises required for the performance of such Work of Improvement, provided that (a) the level of any Building service shall not decrease in any material respect from the level required of Landlord in this Amended and Restated Lease as a result thereof (other than temporary changes in the level of such services during the performance of any such Work of Improvement), and (b) Tenant is not deprived of access to the Premises. Landlord shall use reasonable efforts to minimize interference with Tenant's use and occupancy of the Premises during the performance of such Work of Improvement. Provided that Landlord complies with the provisions of this Lease, there shall be no Rent abatement or allowance to Tenant for a diminution of rental value, no actual or constructive eviction of Tenant, in whole or in part, no relief from any of Tenant's other obligations under this Amended and Restated Lease, and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to business arising from Landlord, Tenant or others performing, or failing to perform, any Work of Improvement except as hereinafter provided. If (i) Landlord undertakes any such Work of Improvement in the Premises pursuant to this Section 6.3 which is not required by any Governmental Authority or required as a result of any act or omission of Tenant, (ii) as a direct result of such renovation or other work, the Premises or any substantial part thereof are

rendered unusable for seven (7) consecutive Business Days, and (iii) Tenant actually ceases to conduct its business therein (or in the unusable portion thereof), then the Fixed Rent which the Tenant is obligated to pay hereunder shall abate proportionately (based on the number of rentable square feet rendered unusable) for the period beginning on the first (1st) Business Day that the Premises are unusable and such abatement shall continue until use of such portion of the Premises is restored to Tenant.

ARTICLE 7

INCREASES IN TAXES AND OPERATING EXPENSES

Section 7.1 Definitions. For the purposes of this Article 7, the following terms shall have the meanings set forth below:

(a) "Assessed Valuation" shall mean the amount for which the Real Property is assessed by the County Assessor of King County, Washington for the purpose of imposition of Taxes.

(b) "Base Operating Expenses" shall mean the Operating Expenses for the Base Year.

(c) "Base Taxes" shall mean the Taxes payable for the Base Year.

(d) "Comparison Year" shall mean each calendar year commencing subsequent to the Base Year.

(e) "Operating Expenses" shall mean the aggregate of all costs and expenses paid or incurred by or on behalf of Landlord in connection with the ownership, operation, repair and maintenance of the Real Property, as such costs and expenses are allocated by Landlord in its reasonable judgment between the Building, which costs and expenses may include, without limitation, the following: (i) the rental value of Landlord's Building office, (ii) the cost of insurance premiums and related charges, including premiums for coverage with respect to terrorist acts and occurrences, and (iii) capital improvements incurred after the Base Year only if such capital improvement either (A) is reasonably intended to result in a reduction in Operating Expenses (as for example, a labor-saving improvement), provided the amount included in Operating Expenses in any Comparison Year shall not exceed an amount equal to the savings reasonably anticipated to result from the installation and operation of such improvement, and/or (B) is made during any Comparison Year in compliance with Requirements which became effective (whether through adoption, promulgation, application, interpretation by the applicable Governmental Authority or otherwise) after the date of this Amended and Restated Lease. Such capital improvements shall be amortized (with interest at the Base Rate) on a straight-line basis over such period as Landlord shall reasonably determine, and the amount included in Operating Expenses in any Comparison Year shall be equal to the annual amortized amount. Operating Expenses shall not include any Excluded Expenses. If during all or part of the Base Year or any Comparison Year, Landlord shall not furnish any particular item(s) of work or service (which would otherwise constitute an Operating Expense) to any leasable portions of the Building for any reason and the cost of such item(s) of work or service vary with the Building's occupancy level, then, for purposes of computing Operating Expenses for such period, the amount included in Operating Expenses for such period shall be increased by an amount equal to the costs and expenses that Landlord reasonably determines would have been incurred by Landlord during such period if Landlord had furnished such item(s) of work or

service to such portion of the Building; provided, however, if the result of such computation would be to have Landlord's recoveries for such items exceed the actual cost of such items, then the foregoing amount shall be reduced by such excess. If Landlord eliminates from Operating Expenses for any Comparison Year a recurring category of expenses previously included in Operating Expenses for the Base Year, Landlord may subtract such category from Operating Expenses for the Base Year commencing with such Comparison Year, and if Landlord introduces to Operating Expenses for any Comparison Year a new recurring category of expenses previously excluded from the Operating Expenses for the Base Year, Landlord shall add an appropriate entry as a category of expense to Operating Expenses for the Base Year commencing with such Comparison Year. Without limiting the generality of the foregoing, if Landlord eliminates from Operating Expenses for any Comparison Year any particular type of insurance included in Operating Expenses for the Base Year, or if Landlord reduces the level of insurance coverage during any Comparison Year from that carried during the Base Year, then Landlord may adjust the amount of any insurance premium included in Operating Expenses for the Base Year to equal that amount which Landlord reasonably estimates it would have incurred had Landlord maintained similar types and levels of insurance during the Base Year as maintained by Landlord during such Comparison Year. In determining the amount of Operating Expenses for the Base Year or any Comparison Year, if less than 95% of the Building rentable area is occupied by tenants at any time during any such Base Year or Comparison Year, Operating Expenses which vary with the Building's occupancy level shall be determined for such Base Year or Comparison Year to be an amount equal to the like expenses which would normally be expected to be incurred had such occupancy been 95% throughout the Base Year or such Comparison Year; provided, however, if the result of such computation would be to have Landlord's recoveries for such items exceed the actual cost of such items, then the foregoing amount shall be reduced by such excess. Without limiting the foregoing, in calculating the Base Operating Expenses, Landlord shall include the cost of premiums for insurance coverages with respect to terrorist acts and occurrences (collectively, "Terrorist Coverage Insurance Premiums") payable with respect to the Base Year; provided, however, thereafter Landlord may elect to reduce the Base Operating Expenses by an amount equal to the Terrorism Risk Insurance Premium Reduction (as hereinafter defined); provided, further, if the Terrorism Risk Insurance Act of 2002 (the "Terrorism Act") expires or is repealed, or the benefits intended to be provided by the Terrorism Act are no longer available to Landlord in any material respect, then commencing with the first Comparison Year in which the Terrorism Coverage Insurance Premiums are affected by such expiration, repeal or material unavailability (the "Expiration Year"), Landlord shall readjust the calculation of Base Operating Expenses to include the lesser of (i) Terrorism Coverage Insurance Premiums payable with respect to the Base Year, or (ii) the Terrorism Coverage Insurance Premiums payable with respect to the Expiration Year, without regard to the Terrorism Risk Insurance Premium Reduction. The "Terrorism Risk Insurance Premium Reduction" shall mean the amount by which the Terrorism Coverage Insurance Premiums for the Base Year exceed the Terrorism Coverage Insurance Premiums for the next succeeding Comparison Year with respect to which the benefits intended to be provided by the Terrorism Act are available to Landlord. Notwithstanding the foregoing, in no event shall Landlord recover from all tenants of the Building in any Comparison Year more than one hundred percent (100%) of the actual Operating Expenses incurred by Landlord for such Comparison Year.

(f) "Statement" shall mean a statement containing a comparison of (i) Base Taxes and the Taxes for any Comparison Year, or (ii) Base Operating Expenses and the Operating Expenses for any Comparison Year.

(g) "Taxes" shall mean (i) all real estate taxes, assessments, sewer and water rents, rates and charges and other governmental levies, impositions or charges, whether general, special, ordinary, extraordinary, foreseen or unforeseen, which may be assessed, levied or imposed upon all or any part of the Real Property, and (ii) all expenses (including reasonable attorneys' fees and disbursements and experts' and other witnesses' fees) incurred in contesting any of the foregoing or the Assessed Valuation of the Real Property (but such expenses will not be included in Base Taxes if incurred during the Base Year). Taxes shall not include (x) interest or penalties incurred by Landlord as a result of Landlord's late payment of Taxes, or (y) franchise, transfer, gift, inheritance, estate or net income taxes imposed upon Landlord. If Landlord elects to pay any assessment in annual installments, then (i) such assessment shall be deemed to have been so divided and to be payable in the maximum number of installments permitted by law, and (ii) there shall be deemed included in Taxes for each Comparison Year the installments of such assessment becoming payable during such Comparison Year, together with interest payable during such Comparison Year on such installments and on all installments thereafter becoming due as provided by law, all as if such assessment had been so divided. If at any time the methods of taxation prevailing on the Effective Date shall be altered so that in lieu of or as an addition to the whole or any part of Taxes, there shall be assessed, levied or imposed (1) a tax, assessment, levy, imposition or charge based on the income or rents received from the Real Property whether or not wholly or partially as a capital levy or otherwise, (2) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon all or any part of the Real Property and imposed upon Landlord, (3) a license fee measured by the rents, or (4) any other tax, assessment, levy, imposition, charge or license fee however described or imposed, including business improvement district impositions, then all such taxes, assessments, levies, impositions, charges or license fees or the part thereof so measured or based shall be deemed to be Taxes; provided, that Washington State business and occupation tax assessed against Landlord on rental receipts pursuant to this Amended and Restated Lease shall not be included as "Taxes" for purposes of this Section 7.1.

Section 7.2 Tenant's Tax Payment. (a) If the Taxes payable for any Comparison Year exceed the Base Taxes, Tenant shall pay to Landlord Tenant's Proportionate Share of such excess (**"Tenant's Tax Payment"**). For each Comparison Year, Landlord shall furnish to Tenant a statement setting forth Landlord's reasonable estimate of Tenant's Tax Payment for such Comparison Year (the **"Tax Estimate"**). Tenant shall pay to Landlord on the 1st day of each month during such Comparison Year an amount equal to 1/12 of the Tax Estimate for such Comparison Year. If Landlord furnishes a Tax Estimate for a Comparison Year subsequent to the commencement thereof, then (i) until the 1st day of the month following the month in which the Tax Estimate is furnished to Tenant, Tenant shall pay to Landlord on the 1st day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Section 7.2 during the last month of the preceding Comparison Year, (ii) promptly after the Tax Estimate is furnished to Tenant or together therewith, Landlord shall give notice to Tenant stating whether the installments of Tenant's Tax Estimate previously made for such Comparison Year were greater or less than the installments of Tenant's Tax Estimate to be made for such Comparison Year in accordance with the Tax Estimate, and (x) if there shall be a deficiency, Tenant shall pay the amount thereof within 20 Business Days after demand therefor, or (y) if there shall have been an overpayment, Landlord shall credit the amount thereof against subsequent payments of Rent due hereunder, and (iii) on the 1st day of the month following the month in which the Tax Estimate is furnished to Tenant, and on the 1st day of each month thereafter throughout the remainder of such Comparison Year, Tenant shall pay to Landlord an amount equal to 1/12 of the Tax Estimate. Landlord shall have the right, upon not less than 30

days prior written notice to Tenant, to reasonably adjust the Tax Estimate from time to time during any Comparison Year.

(b) As soon as reasonably practicable after Landlord has determined the Taxes for a Comparison Year, Landlord shall furnish to Tenant a Statement for such Comparison Year. If the Statement shall show that the sums paid by Tenant under Section 7.2(a) exceeded the actual amount of Tenant's Tax Payment for such Comparison Year, Landlord shall credit the amount of such excess against subsequent payments of Rent due hereunder (and/or shall refund such excess to Tenant by check to the extent the excess is greater than the rental due for the remaining term of the Amended and Restated Lease or if the Amended and Restated Lease has expired). If the Statement for such Comparison Year shall show that the sums so paid by Tenant were less than Tenant's Tax Payment for such Comparison Year, Tenant shall pay the amount of such deficiency within 20 Business Days after delivery of the Statement of Tenant.

(c) Only Landlord may institute proceedings to reduce the Assessed Valuation of the Real Property and the filings of any such proceeding by Tenant without Landlord's consent shall constitute an Event of Default. If the Taxes payable for the Base Year are reduced, the Base Taxes shall be correspondingly revised, the Additional Rent previously paid or payable on account of Tenant's Tax Payment hereunder for all Comparison Years shall be recomputed on the basis of such reduction, and Tenant shall pay to Landlord within 20 Business Days after being billed therefor, any deficiency between the amount of such Additional Rent previously computed and paid by Tenant to Landlord, and the amount due as a result of such recomputations. If Landlord receives a refund of Taxes for any Comparison Year, Landlord shall credit against subsequent payments of Rent due hereunder, an amount equal to Tenant's Proportionate Share of the refund, net of any expenses incurred by Landlord in achieving such refund, which amount shall not exceed Tenant's Tax Payment paid for such Comparison Year. Landlord shall not be obligated to file any application or institute any proceeding seeking a reduction in Taxes or the Assessed Valuation. The benefit of any exemption or abatement relating to all or any part of the Real Property shall accrue solely to the benefit of Landlord and Taxes shall be computed without taking into account any such exemption or abatement.

(d) Tenant shall be responsible for any applicable occupancy or rent tax now in effect or hereafter enacted and, if such tax is payable by Landlord, Tenant shall promptly pay such amounts to Landlord, upon Landlord's demand.

(e) Tenant shall be obligated to make Tenant's Tax Payment regardless of whether Tenant may be exempt from the payment of any Taxes as the result of any reduction, abatement or exemption from Taxes granted or agreed to by any Governmental Authority, or by reason of Tenant's diplomatic or other tax-exempt status.

Section 7.3 Tenant's Operating Payment. (a) If the Operating Expenses payable for any Comparison Year exceed the Base Operating Expenses, Tenant shall pay to Landlord Tenant's Proportionate Share of such excess (**"Tenant's Operating Payment"**). For each Comparison Year, Landlord shall furnish to Tenant a statement setting forth Landlord's reasonable estimate of Tenant's Operating Payment for such Comparison Year (the **"Expense Estimate"**). Tenant shall pay to Landlord on the 1st day of each month during such Comparison Year an amount equal to 1/12 of the Expense Estimate. If Landlord furnishes an Expense Estimate for a Comparison Year subsequent to the commencement thereof, then (i) until the 1st day of the month following the month in which the Expense Estimate is furnished to Tenant,

Tenant shall pay to Landlord on the 1st day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Section 7.3 during the last month of the preceding Comparison Year, (ii) promptly after the Expense Estimate is furnished to Tenant or together therewith, Landlord shall give notice to Tenant stating whether the installments of Tenant's Operating Payment previously made for such Comparison Year were greater or less than the installments of Tenant's Operating Payment to be made for such Comparison Year in accordance with the Expense Estimate, and (x) if there shall be a deficiency, Tenant shall pay the amount thereof within 20 Business Days after demand therefor, or (y) if there shall have been an overpayment, Landlord shall credit the amount thereof against subsequent payments of Rent due hereunder, and (iii) on the 1st day of the month following the month in which the Expense Estimate is furnished to Tenant, and on the 1st day of each month thereafter throughout the remainder of such Comparison Year, Tenant shall pay to Landlord an amount equal to 1/12 of the Expense Estimate. Landlord shall have the right, upon not less than 30 days prior written notice to Tenant, to reasonably adjust the Expense Estimate from time to time during any Comparison Year.

(b) On or before May 1st of each Comparison Year, Landlord shall furnish to Tenant a Statement for the immediately preceding Comparison Year. If the Statement shows that the sums paid by Tenant under Section 7.3(a) exceeded the actual amount of Tenant's Operating Payment for such Comparison Year, Landlord shall credit the amount of such excess against subsequent payments of Rent due hereunder (and/or shall refund such excess to Tenant by check to the extent the excess is greater than the rental due for the remaining term of the Amended and Restated Lease or if the Amended and Restated Lease has expired). If the Statement shows that the sums so paid by Tenant were less than Tenant's Operating Payment for such Comparison Year, Tenant shall pay the amount of such deficiency within 20 Business Days after delivery of the Statement to Tenant.

Section 7.4 Non-Waiver; Disputes. (a) Landlord's failure to render any Statement on a timely basis with respect to any Comparison Year shall not prejudice Landlord's right to thereafter render a Statement with respect to such Comparison Year or any subsequent Comparison Year, nor shall the rendering of a Statement prejudice Landlord's right to thereafter render a corrected Statement for that Comparison Year.

(b) Each Statement sent to Tenant shall be conclusively binding upon Tenant unless Tenant (i) pays to Landlord when due the amount set forth in such Statement, without prejudice to Tenant's right to dispute such Statement, and (ii) within 120 days after such Statement is sent, sends a notice to Landlord objecting to such Statement and specifying the reasons therefor, in which case Tenant and its accountants shall have the right to review Landlord's books and records applicable to such Statement. With respect to each Statement, Landlord will maintain its applicable books and records for a period of at least three (3) years after such Statement is delivered to Tenant and thereafter during the pendency of any review thereof by Tenant pursuant to the terms of this Lease. Tenant agrees that Tenant will not employ, in connection with any dispute under this Amended and Restated Lease, any person or entity who is to be compensated, in whole or in part, on a contingency fee basis. If the parties are unable to resolve any dispute as to the correctness of such Statement within 30 days following such notice of objection, either party may refer the issues raised to one of the nationally recognized public accounting firms selected by Landlord and reasonably acceptable to Tenant, and the decision of such accountants shall be conclusively binding upon Landlord and Tenant. In connection therewith, Tenant and such accountants shall execute and deliver to Landlord a confidentiality agreement, in form and substance reasonably satisfactory to Landlord, whereby such parties agree not to disclose to any third party any of the information

obtained in connection with such review. Tenant shall pay the fees and expenses relating to such procedure, unless such accountants determine that Landlord overstated Operating Expenses by more than 3% for such Comparison Year, in which case Landlord shall pay such fees and expenses. Except as provided in this Section 7.4, Tenant shall have no right whatsoever to dispute, by judicial proceeding or otherwise, the accuracy of any Statement.

(c) In addition, if the accounting firm selected by Landlord and Tenant as set forth above concludes that Landlord has overstated any item or items of Operating Expenses and/or Taxes for such year in excess of three percent (3%), Tenant may, within one hundred-eighty (180) days following receipt of such firm's written report, review Landlord's books and records for the two (2) prior years whether or not theretofore reviewed, solely to determine whether any such item or items have also been overstated in any of such two (2) prior years. All such review activities shall also be subject to the confidentiality agreement described above.

Section 7.5 Proration. If the Rent Commencement Date is not January 1, and provided that the Rent Commencement Date does not occur in the Base Year, Tenant's Tax Payment and Tenant's Operating Payment for the Comparison Year in which the Rent Commencement Date occurs shall be apportioned on the basis of the number of days in the year from the Rent Commencement Date to the following December 31. If the Expiration Date occurs on a date other than December 31st, Tenant's Tax Payment and Tenant's Operating Payment for the Comparison Year in which such Expiration Date occurs shall be apportioned on the basis of the number of days in the period from January 1st to the Expiration Date. Upon the expiration or earlier termination of this Amended and Restated Lease, any Additional Rent under this Article 7 shall be adjusted or paid within 30 days after submission of the Statement for the last Comparison Year. Landlord shall have the right, from time to time, to equitably allocate some or all of the Taxes and/or Operating Expenses for the Real Property among different portions or occupants of the Real Property (the "Cost Pools"), in Landlord's reasonable discretion. Such Cost Pools may include, but shall not be limited to, the office space tenants of the Real Property and the retail space tenants of the Real Property. The Taxes and/or Operating Expenses allocable to each such Cost Pool shall be allocated to such Cost Pool and charged to the tenants within such Cost Pool in an equitable manner.

Section 7.6 No Reduction in Rent. In no event shall any decrease in Operating Expenses or Taxes in any Comparison Year below the Base Operating Expenses or Base Taxes, as the case may be, result in a reduction in the Fixed Rent or any component of Additional Rent payable hereunder.

ARTICLE 8

REQUIREMENTS OF LAW

Section 8.1 Compliance with Requirements.

(a) Tenant's Compliance. Tenant, at its expense, shall comply with all Requirements applicable to the Premises and/or Tenant's use or occupancy thereof; provided, however, that Tenant shall not be obligated to comply with any Requirements requiring any structural alterations to the Building unless the application of such Requirements arises from (i) the specific manner and/or nature of Tenant's use or occupancy of the Premises, as distinct from general office use, (ii) Alterations made by Tenant, or (iii) a breach by Tenant of any provisions of this Amended and Restated Lease. Any repairs or alterations required for compliance with applicable Requirements shall be made at Tenant's expense (1) by Tenant in

compliance with Article 5 if such repairs or alterations are nonstructural and do not affect any Building System, and to the extent such repairs or alterations do not affect areas outside the Premises, or (2) by Landlord if such repairs or alterations are structural or affect any Building System, or to the extent such repairs or alterations affect areas outside the Premises. If Tenant obtains knowledge of any failure to comply with any Requirements applicable to the Premises, Tenant shall give Landlord prompt notice thereof.

(b) Hazardous Materials. Tenant shall not cause or permit (i) any Hazardous Materials to be brought into the Building, (ii) the storage or use of Hazardous Materials in or about the Building or Premises (subject to the second sentence of this Section 8.1(b)), or (iii) the escape, disposal or release of any Hazardous Materials within or in the vicinity of the Building. Nothing herein shall be deemed to prevent Tenant's use of any Hazardous Materials customarily used in the ordinary course of office work, provided such use is in accordance with all Requirements. Tenant shall be responsible, at its expense, for all matters directly or indirectly based on, or arising or resulting from the presence of Hazardous Materials in the Building which is caused or permitted by a Tenant Party. Tenant shall provide to Landlord copies of all communications received by Tenant with respect to any Requirements relating to Hazardous Materials, and/or any claims made in connection therewith. Landlord or its agents may perform environmental inspections of the Premises at any time.

(c) Landlord's Compliance. Landlord shall comply with (or cause to be complied with) all Requirements applicable to the Building which are not the obligation of Tenant, to the extent that non-compliance would materially impair Tenant's use and occupancy of the Premises for the Permitted Uses.

(d) Landlord's Insurance. Tenant shall not cause or permit any action or condition that would (i) invalidate or conflict with Landlord's insurance policies, (ii) violate applicable rules, regulations and guidelines of the Fire Department, Fire Insurance Rating Organization or any other authority having jurisdiction over the Building, (iii) cause an increase in the premiums of insurance for the Building over that payable with respect to Comparable Buildings, or (iv) result in Landlord's insurance companies' refusing to insure the Building or any property therein in amounts and against risks as reasonably determined by Landlord. If insurance premiums increase as a result of Tenant's failure to comply with the provisions of this Section 8.1, Tenant shall promptly cure such failure and shall reimburse Landlord for the increased insurance premiums paid by Landlord as a result of such failure by Tenant.

Section 8.2 Fire and Life Safety. Landlord shall maintain in good order and repair the sprinkler, fire-alarm and life-safety system in the Premises. If the Fire Insurance Rating Organization or any Governmental Authority or any of Landlord's insurers requires or recommends any modifications and/or alterations be made or any additional equipment be supplied in connection with the sprinkler system or fire alarm and life-safety system serving the Building by reason of Tenant's business, any Alterations performed by Tenant or the location of the partitions, Tenant's Property, or other contents of the Premises, Landlord shall make such modifications and/or Alterations, and supply such additional equipment, at Tenant's expense.

ARTICLE 9

SUBORDINATION

Section 9.1 Subordination and Attornment. (a) This Amended and Restated Lease is subject and subordinate to all Mortgages and Superior Leases, and, at the request of

any Mortgagee or Lessor, Tenant shall attorn to such Mortgagee or Lessor, its successors in interest or any purchaser in a foreclosure sale.

(b) If a Lessor or Mortgagee or any other person or entity shall succeed to the rights of Landlord under this Amended and Restated Lease, whether through possession or foreclosure action or the delivery of a new lease or deed, then at the request of the successor landlord and upon such successor landlord's written agreement to accept Tenant's attornment and to recognize Tenant's interest under this Amended and Restated Lease, Tenant shall be deemed to have attorned to and recognized such successor landlord as Landlord under this Amended and Restated Lease. The provisions of this Section 9.1 are self-operative and require no further instruments to give effect hereto; provided, however, that Tenant shall promptly execute and deliver any instrument that such successor landlord may reasonably request (i) evidencing such attornment, (ii) setting forth the terms and conditions of Tenant's tenancy, and (iii) containing such other terms and conditions as may be reasonably required by such Mortgagee or Lessor, provided such terms and conditions do not increase the Rent, increase any of Tenant's other obligations under this Amended and Restated Lease or adversely affect any of Tenant's rights under this Amended and Restated Lease. Upon such attornment this Amended and Restated Lease shall continue in full force and effect as a direct lease between such successor landlord and Tenant upon all of the terms, conditions and covenants set forth in this Amended and Restated Lease except that such successor landlord shall not be

(i) liable for any act or omission of Landlord (except to the extent such act or omission continues beyond the date when such successor landlord succeeds to Landlord's interest and Tenant gives notice of such act or omission);

(ii) bound by any prepayment of more than one month's Rent to any prior landlord; or

(iii) liable for the repayment of any security deposit or surrender of any letter of credit, unless and until such security deposit actually is paid or such letter of credit is actually delivered to such successor landlord.

(c) Tenant shall from time to time within 10 days of request from Landlord execute and deliver any documents or instruments that may be reasonably required by any Mortgagee or Lessor to confirm any subordination; provided, however, that any obligation of Tenant to enter into any written subordination agreement in favor of a Mortgagee or Lessor with respect to this Amended and Restated Lease shall be subject to the written agreement of the Mortgagee or Lessor to not disturb Tenant's right of possession of the Premises and other rights hereunder upon a foreclosure of the subject Mortgage or upon the taking of any action under a Superior Lease such that the Lessor shall succeed to the rights of Landlord under this Amended and Restated Lease.

Section 9.2 Mortgage or Superior Lease Defaults. Any Mortgagee may elect that this Amended and Restated Lease shall have priority over the Mortgage and, upon notification to Tenant by such Mortgagee, this Amended and Restated Lease shall be deemed to have priority over such Mortgage, regardless of the date of this Amended and Restated Lease.

Section 9.3 Tenant's Termination Right. As long as any Superior Lease or Mortgage exists, Tenant shall not seek to terminate this Amended and Restated Lease by reason of any act or omission of Landlord until (a) Tenant shall have given notice of such act or omission to all Lessors and/or Mortgagees, and (b) a reasonable period of time shall have

elapsed following the giving of notice of such default and the expiration of any applicable notice or grace periods (unless such act or omission is not capable of being remedied within a reasonable period of time), but in all events not to exceed one hundred eighty (180) days, during which period such Lessors and/or Mortgagees shall have the right, but not the obligation, to remedy such act or omission and thereafter diligently proceed to so remedy such act or omission. If any Lessor or Mortgagee elects to remedy such act or omission of Landlord, Tenant shall not seek to terminate this Amended and Restated Lease so long as such Lessor or Mortgagee is proceeding with reasonable diligence to effect such remedy.

Section 9.4 Provisions. The provisions of this Article 9 shall (a) inure to the benefit of Landlord, any future owner of the Building or the Real Property, Lessor or Mortgagee and any sublessor thereof and (b) apply notwithstanding that, as a matter of law, this Amended and Restated Lease may terminate upon the termination of any such Superior Lease or Mortgage.

Section 9.5 Future Condominium Declaration. This Amended and Restated Lease and Tenant's rights hereunder are and will be subject and subordinate to any condominium declaration, by-laws and other instruments (collectively, the **"Declaration"**) which may be recorded in order to permit a condominium form of ownership of the Building pursuant to the Washington Condominium Act, RCW 64.34.005-950, or any successor Requirement, provided that the Declaration does not increase the Rent, increase any of Tenant's other obligations under this Amended and Restated Lease or adversely affect any of Tenant's rights under this Amended and Restated Lease. At Landlord's request, and subject to the foregoing proviso, Tenant will execute and deliver to Landlord an amendment of this Amended and Restated Lease confirming such subordination and modifying this Amended and Restated Lease to conform to such condominium regime.

ARTICLE 10

SERVICES

Section 10.1 Electricity. Subject to any Requirements or any public utility rules or regulations governing energy consumption, Landlord shall make or cause to be made, customary arrangements with utility companies and/or public service companies to furnish electric current to the Premises for Tenant's use in accordance with the Design Standards. If Landlord reasonably determines by the use of an electrical consumption survey or by other reasonable means that Tenant is using electric current (including overhead fluorescent fixtures) in excess of .60 kilowatt hours per square foot of usable area in the Premises per month, as determined on an annualized basis (**"Excess Electrical Usage"**), then Landlord shall have the right to charge Tenant an amount equal to Landlord's reasonable estimate of Tenant's Excess Electrical Usage, and shall have the further right to install an electric current meter, sub-meter or check meter in the Premises (a **"Meter"**) to measure the amount of electric current consumed in the Premises. The cost of such Meter, special conduits, wiring and panels needed in connection therewith and the installation, maintenance and repair thereof shall be paid by Tenant. Tenant shall pay to Landlord, from time to time, but no more frequently than monthly, for its Excess Electrical Usage at the Premises, plus Landlord's charge equal to 15% of Tenant's Excess Electrical Usage for Landlord's costs of maintaining, repairing and reading such Meter. The rate to be paid by Tenant for submetered electricity shall include any taxes or other charges in connection therewith.

Section 10.2 Excess Electricity. Tenant shall at all times comply with the rules and regulations of the utility company supplying electricity to the Building. Tenant shall not use any

electrical equipment which, in Landlord's reasonable judgment, would exceed the capacity of the electrical equipment serving the Premises. If Landlord determines that Tenant's electrical requirements necessitate installation of any additional risers, feeders or other electrical distribution equipment (collectively, **"Electrical Equipment"**), or if Tenant provides Landlord with evidence reasonably satisfactory to Landlord of Tenant's need for excess electricity and requests that additional Electrical Equipment be installed, Landlord shall, at Tenant's expense, install such additional Electrical Equipment, provided that Landlord, in its sole judgment, determines that (a) such installation is practicable and necessary, (b) such additional Electrical Equipment is permissible under applicable Requirements, and (c) the installation of such Electrical Equipment will not cause permanent damage to the Building or the Premises, cause or create a hazardous condition, entail excessive or unreasonable alterations, interfere with or limit electrical usage by other tenants or occupants of the Building or exceed the limits of the switchgear or other facilities serving the Building, or require power in excess of that available from the utility company serving the Building.

Section 10.3 Elevators. Landlord shall provide passenger elevator service to the Premises 24 hours per day, 7 days per week; provided, however, Landlord may limit passenger elevator service during times other than Ordinary Business Hours. Landlord shall provide at least one freight elevator serving the Premises, available upon Tenant's prior request, on a non-exclusive "first come, first serve" basis with other Building tenants, on all Business Days from 8:00 a.m. to 5:00 p.m., excluding Tuesdays from 1:00 pm to 3:00 pm, which hours of operation are subject to change.

Section 10.4 Heating. Ventilation and Air Conditioning. Landlord shall furnish to the Premises heating, ventilation and air-conditioning (**"HVAC"**) in accordance with the Design Standards set forth in **Exhibit D** during Ordinary Business Hours. Landlord shall have access to all air-cooling, fan, ventilating and machine rooms and electrical closets and all other mechanical installations of Landlord (collectively, **"Mechanical Installations"**), and Tenant shall not construct partitions or other obstructions which may interfere with Landlord's access thereto or the moving of Landlord's equipment to and from the Mechanical Installations. No Tenant Party shall at any time enter the Mechanical Installations or tamper with, adjust, or otherwise affect such Mechanical Installations. Landlord shall not be responsible if the HVAC System fails to provide cooled or heated air, as the case may be, to the Premises in accordance with the Design Standards by reason of (i) any equipment installed by, for or on behalf of Tenant, which has an electrical load in excess of the average electrical load and human occupancy factors for the HVAC System as designed, or (ii) any rearrangement of partitioning or other Alterations made or performed by, for or on behalf of Tenant. Tenant shall install, if missing, blinds or shades on all windows, which blinds and shades shall be subject to Landlord's approval, and shall keep operable windows in the Premises closed, and lower the blinds when necessary because of the sun's position, whenever the HVAC System is in operation or as and when required by any Requirement. Tenant shall cooperate with Landlord and shall abide by the rules and regulations which Landlord may reasonably prescribe for the proper functioning and protection of the HVAC System. Tenant acknowledges that the server room in the Premises currently has three heat pumps installed, being two 4-ton units, and one 2.5-ton unit (the **"Existing Heat Pumps"**). The 2.5-ton unit is currently connected and operational. Tenant shall determine whether it is satisfied with the condition of the Existing Heat Pumps and Landlord shall not have any responsibility or liability for the condition, operation, maintenance, repair or replacement of the Existing Heat Pumps. Tenant may operate the Existing Heat Pumps. Tenant shall be responsible for, and pay directly for, all necessary maintenance and repairs to the Existing Heat Pumps. Tenant shall reimburse Landlord monthly for the cost of all utility services used to operate the Existing Heat Pumps within 10 Business

Days after receipt of Landlord's invoice for such amount. Landlord may measure Tenant's usage of such utility services by either a sub-meter or by other reasonable methods such as by temporary check meters or by survey. Tenant, at its cost, may replace the Existing Heat Pumps with one or more new heat pumps, provided, however, that the capacity of such replacement heat pump(s) shall not exceed the 10.5-ton capacity cooling capacity of the Existing Heat Pumps.

Section 10.5 Overtime Freight Elevators and HVAC. The Fixed Rent does not include any charge to Tenant for the furnishing of any freight elevator service or HVAC to the Premises during any periods other than as set forth in Section 10.3 and Section 10.4 (**"Overtime Periods"**). If Tenant desires any such services during Overtime Periods, Tenant shall deliver notice to the Building office requesting such services at least 24 hours prior to the time Tenant requests such services to be provided; provided, however, that Landlord shall use reasonable efforts to arrange such service on such shorter notice as Tenant shall provide. On a single weekend during which Tenant initially moves into the Premises for the conduct of its business, upon 5 days' prior notice from Tenant to Landlord, Landlord shall make available to Tenant freight elevator service in accordance with Landlord's then current rules and regulations applicable thereto from 8:00 p.m. on the "move-in" Friday until 7:00 p.m. on Sunday at no cost to Tenant. If Landlord furnishes freight elevator or HVAC service during Overtime Periods, Tenant shall pay to Landlord the cost thereof at the then established rates for such services in the Building.

Section 10.6 Cleaning. Landlord shall cause the Premises (excluding any portions thereof used for the storage, preparation, service or consumption of food or beverages, as an exhibition area or classroom, for storage, as a shipping room, mail room or similar purposes, for private bathrooms, showers or exercise facilities, as a trading floor, or primarily for operation of computer, data processing, reproduction, duplicating or similar equipment) to be cleaned, substantially in accordance with the standards set forth in **Exhibit E**. Any areas of the Premises which Landlord is not required to clean hereunder or which require additional cleaning shall be cleaned, at Tenant's expense, by Landlord's cleaning contractor, at rates which shall be competitive with rates of other cleaning contractors providing comparable services to Comparable Buildings. Landlord's cleaning contractor and its employees shall have access to the Premises at all times except between 8:00 a.m. and 5:30 p.m. on weekdays which are not Observed Holidays.

Section 10.7 Water. Landlord shall provide water in the core lavatories and existing kitchens on each floor of the Building. If Tenant requires water for any additional purposes, Tenant shall pay for the cost of bringing water to the Premises and Landlord may install a meter to measure the water. Tenant shall pay the cost of such installation, and for all maintenance, repairs and replacements thereto, and for the reasonable charges of Landlord for the water consumed.

Section 10.8 Refuse Removal. Landlord shall provide refuse removal services at the Building for ordinary office refuse and rubbish. Tenant shall pay to Landlord, Landlord's reasonable charge for such removal to the extent that the refuse generated by Tenant exceeds the refuse customarily generated by general office tenants. Tenant shall not dispose of any refuse in the Common Areas, and if Tenant does so, Tenant shall be liable for Landlord's reasonable charge for such removal.

Section 10.9 Directory. The lobby shall contain a directory wherein the Building's tenants shall be listed. Tenant shall be entitled to a proportionate share of such listings, based on the rentable square footage of the Premises.

Section 10.10 Telecommunications. If Tenant requests that Landlord grant access to the Building to a telecommunications service provider designated by Tenant for purposes of providing telecommunications services to Tenant, Landlord shall use its good faith efforts to respond to such request within 10 days. Tenant acknowledges that nothing set forth in this Section 10.10 shall impose any affirmative obligation on Landlord to grant such request and that Landlord, in its sole discretion, shall have the right to determine which telecommunications service providers shall have access to Building facilities.

Section 10.11 Service Interruptions. Landlord reserves the right to suspend any service when necessary, by reason of Unavoidable Delays, accidents or emergencies, or for any Work of Improvement which, in Landlord's reasonable judgment, is necessary or appropriate, until such Unavoidable Delay, accident or emergency shall cease or such Work of Improvement is completed and Landlord shall not be liable for any interruption, curtailment or failure to supply services. Landlord shall use reasonable efforts to minimize interference with Tenant's use and occupancy of the Premises as a result of any such interruption, curtailment or failure of or defect in such service, or change in the supply, character and/or quantity of, electrical service, and to restore any such services, remedy such situation and minimize any interference with Tenant's business. The exercise of any such right or the occurrence of any such failure by Landlord shall not constitute an actual or constructive eviction, in whole or in part, entitle Tenant to any compensation, abatement or diminution of Rent, relieve Tenant from any of its obligations under this Amended and Restated Lease, or impose any liability upon Landlord or any Indemnified Party by reason of inconvenience to Tenant, or interruption of Tenant's business, or otherwise. Landlord shall not be liable in any way to Tenant for any failure, defect or interruption of, or change in the supply, character and/or quantity of, electric service furnished to the Premises for any reason except if attributable to the gross negligence or willful misconduct of Landlord. Notwithstanding the foregoing and any other provision of this Lease to the contrary (other than in the event of a casualty or a Taking, for which the provisions of Articles 11 and 12 of this Lease shall govern), if (i) any services to the Premises or any utilities to the Premises are interrupted due to a cause within Landlord's reasonable control, or Tenant's ability to use and occupy part or all of the Premises is impaired due to the foregoing activities of Landlord, its agents, employees or contractors, in the performance of any such Work of Improvement, (ii) Tenant is unable to, and does not, use such part or all of the Premises as a result of such interruption or impairment, (iii) Tenant shall have given notice respecting such interruption or impairment to Landlord, and (iv) Landlord shall have failed to cure such interruption or impairment within five (5) consecutive days after receiving such notice, then Rent hereunder as to such part or all of the Premises shall thereafter be abated beginning on the first (1st) day of such interruption or impairment until such time as such interruption is restored or such impairment shall cease, or Tenant begins using such part or all of the Premises again, whichever shall first occur. Such abatement of Rent shall be Tenant's sole recourse in the event of such interruption or impairment. In the event of a casualty or a Taking, the applicable provisions of this Lease shall prevail over the provisions of this Section 10.11.

Section 10.12 Level of Service. Landlord shall manage or cause the Building to be managed in a manner substantially consistent with the manner in which Comparable Buildings are managed and Landlord will endeavor to maintain Operating Expenses at a level that is reasonably commensurate with those of Comparable Buildings, but with due consideration

being given to whether the services that Landlord provides from time to time are in excess of, or less than, those normally provided by the landlords of Comparable Buildings.

Section 10.13 No Double Charges. Notwithstanding anything herein to the contrary, in no event shall Tenant be required to pay more than once for any charge permitted to be charged to Tenant under this Lease, or for Tenant's Proportionate Share thereof, as the case may be. In addition, in the event that more than one tenant of the Building requires additional services simultaneously with those provided to Tenant (e.g. HVAC to a shared office floor), the charges for such services shall be equitably apportioned between such tenant and Tenant.

ARTICLE 11

INSURANCE; PROPERTY LOSS OR DAMAGE

Section 11.1 Tenant's Insurance. (a) Tenant, at its expense, shall obtain and keep in full force and effect during the Term:

(i) a policy of commercial general liability insurance on an occurrence basis against claims for personal injury, bodily injury, death and/or property damage occurring in or about the Building, under which Tenant is named as the insured and Landlord, Landlord's Agent and any Lessors and any Mortgagees whose names have been furnished to Tenant are named as additional insureds (the **"Insured Parties"**). Such insurance shall provide primary coverage without contribution from any other insurance carried by or for the benefit of the Insured Parties, and Tenant shall obtain blanket broad-form contractual liability coverage to insure its indemnity obligations set forth in Article 25. The minimum limits of liability applying exclusively to the Premises shall be a combined single limit with respect to each occurrence in an amount of not less than $5,000,000; provided, however, that Landlord shall retain the right to require Tenant to increase such coverage from time to time to that amount of insurance which in Landlord's reasonable judgment is then being customarily required by landlords for similar office space in Comparable Buildings. The self insured retention for such policy shall not exceed $10,000. Tenant may satisfy the limits of liability required herein with a combination of umbrella and/or excess policies of insurance, provided that such policies comply with all of the provisions hereof (including, without limitation, with respect to scope of coverage and naming of the Insured Parties);

(ii) insurance against loss or damage by fire, and such other risks and hazards as are insurable under then available standard forms of "Special Form Causes of Loss" or "All Risk" property insurance policies, insuring Tenant's Property and all Alterations and improvements to the Premises (including the initial installations) to the extent such Alterations and improvements exceed the cost of the improvements typically performed in connection with the initial occupancy of tenants in the Building (**"Building Standard Installations"**), for the full insurable value thereof or replacement cost thereof, having a deductible amount, if any, not in excess of $25,000;

(iii) during the performance of any Alteration, until completion thereof, Builder's Risk insurance on an "all risk" basis and on a completed value form including a Permission to Complete and Occupy endorsement, for full replacement value covering the interest of Landlord and Tenant (and their respective contractors and subcontractors) in all work incorporated in the Building and all materials and equipment in or about the Premises to the extent such Alteration activities are not covered by Tenant's then-existing property insurance policies;

(iv) Workers' Compensation Insurance, as required by law;

(v) Business Interruption Insurance covering a minimum of one year of anticipated gross income;

(vi) if the Building or Real Property includes a parking garage or surface parking lot that is utilized by Tenant, Commercial Automobile Liability Insurance for any owned, non-owned or hired vehicles with a combined single limit with respect to each occurrence in an amount of not less than $1,000,000; and

(vii) such other insurance in such amounts as the Insured Parties may reasonably require from time to time.

(b) All insurance required to be carried by Tenant (i) shall contain a provision that (x) no act or omission of Tenant shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, and (y) shall be noncancellable and/or no material change in coverage shall be made thereto unless the Insured Parties receive 30 days' prior notice of the same, by certified mail, return receipt requested (except that 10 days' notice shall be sufficient in the case of cancelation for nonpayment of premiums), and (ii) shall be effected under valid and enforceable policies issued by reputable insurers admitted to do business in the State of Washington and rated in Best's Insurance Guide, or any successor thereto as having a "Best's Rating" of "A-" or better and a "Financial Size Category" of at least "X" or better, or, if such ratings are not then in effect, the equivalent thereof or such other financial rating as Landlord may at any time consider appropriate.

(c) On or prior to the Commencement Date, Tenant shall deliver to Landlord appropriate policies of insurance required to be carried pursuant to this Article 11, including evidence of waivers of subrogation and that the Insured Parties are named as additional insureds (the **"Policies"**). Evidence of each renewal or replacement of the Policies shall be delivered by Tenant to Landlord at least 10 days prior to the expiration of the Policies. In lieu of the Policies, Tenant may deliver to Landlord a certification from Tenant's insurance company, on the form currently designated "Acord 27" (Evidence of Property Insurance) and "Acord 25-S" (Certificate of Liability Insurance), or the equivalent, provided that attached thereto is an endorsement to Tenant's commercial general liability policy naming the Insured Parties as additional insureds, which endorsement is at least as broad as ISO policy form "CG 20 11 Additional Insured – Managers or Lessors of Premises" (pre-1999 edition) and which endorsement expressly provides coverage for the negligence of the additional insureds, which certification shall be binding on Tenant's insurance company, and which shall expressly provide that such certification (i) conveys to the Insured Parties all the rights and privileges afforded under the Policies as primary insurance, and (ii) contains an unconditional obligation of the insurance company to advise all Insured Parties in writing by certified mail, return receipt requested, at least 30 days in advance of any termination or change to the Policies that would affect the interest of any of the Insured Parties (except that 10 days' notice shall be sufficient in the case of cancelation for nonpayment of premiums).

Section 11.2 Waiver of Subrogation. Landlord and Tenant shall each procure an appropriate clause in or endorsement to any property insurance covering the Real Property and personal property, fixtures and equipment located therein, wherein the insurer waives subrogation or consents to a waiver of right of recovery, and Landlord and Tenant agree not to make any claim against, or seek to recover from, the other for any loss or damage to its property or the property of others resulting from fire or other hazards to the extent covered by

the property insurance that was required to be carried by that party under the terms of this Amended and Restated Lease. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for, (i) damage to any Above Building Standard Installations, (ii) Tenant's Property, and (iii) any loss suffered by Tenant due to interruption of Tenant's business.

Section 11.3 Restoration. (a) If the Premises are damaged by fire or other casualty, or if the Building is damaged such that Tenant is deprived of reasonable access to the Premises, the damage shall be repaired by Landlord, to substantially the condition of the Premises prior to the damage, subject to the provisions of any Mortgage or Superior Lease, but Landlord shall have no obligation to repair or restore (i) Tenant's Property or (ii) except as provided in Section 11.3(b), any Alterations or improvements to the Premises to the extent such Alterations or improvements exceed Building Standard Installations (**"Above Building Standard Installations"**). So long as Tenant is not in default beyond applicable grace or notice provisions in the payment or performance of its obligations under this Section 11.3, and provided Tenant timely delivers to Landlord either Tenant's Restoration Payment (as hereinafter defined) or the Restoration Security (as hereinafter defined) or Tenant expressly waives any obligation of Landlord to repair or restore any of Tenant's Above Building Standard Installations, then until the restoration of the Premises is Substantially Completed or would have been Substantially Completed but for Tenant Delay, Fixed Rent, Tenant's Tax Payment and Tenant's Operating Payment shall be reduced in the proportion by which the area of the part of the Premises which is not usable (or accessible) and is not used by Tenant bears to the total area of the Premises.

(b) As a condition precedent to Landlord's obligation to repair or restore any Above Building Standard Installations, Tenant shall (i) pay to Landlord upon demand a sum (**"Tenant's Restoration Payment"**) equal to the amount, if any, by which (A) the cost, as estimated by a reputable independent contractor designated by Landlord, of repairing and restoring all Alterations and Initial Installations in the Premises to their condition prior to the damage, exceeds (B) the cost of restoring the Premises with Building Standard Installations, or (ii) furnish to Landlord security (the **"Restoration Security"**) in form and amount reasonably acceptable to Landlord to secure Tenant's obligation to pay all costs in excess of restoring the Premises with Building Standard Installations. If Tenant shall fail to deliver to Landlord either (1) Tenant's Restoration Payment or the Restoration Security, as applicable, or (2) a waiver by Tenant, in form satisfactory to Landlord, of all of Landlord's obligations to repair or restore any of the Above Building Standard Installations, in either case within 15 days after Landlord's demand therefor, Landlord shall have no obligation to restore any Above Building Standard Installations and Tenant's abatement of Fixed Rent, Tenant's Tax Payment and Tenant's Operating Payment shall cease when the restoration of the Premises (other than any Above Building Standard Installations) is Substantially Complete.

Section 11.4 Landlord's Termination Right. Notwithstanding anything to the contrary contained in Section 11.3, (a) if the Premises are totally damaged or are rendered wholly untenantable, (b) if the Building shall be so damaged that, in Landlord's reasonable opinion, substantial alteration, demolition, or reconstruction of the Building shall be required (whether or not the Premises are so damaged or rendered untenantable), (c) if any Mortgagee shall require that the insurance proceeds or any portion thereof be used to retire the Mortgage debt or any Lessor shall terminate the Superior Lease, as the case may be, or (d) if the damage is not fully covered, except for deductible amounts, by Landlord's insurance policies, then in any of such events, Landlord may, not later than 60 days following the date of the damage, terminate this Amended and Restated Lease by notice to Tenant. If this Amended and Restated Lease is so

terminated, (a) the Term shall expire upon the 30th day after such notice is given, (b) Tenant shall vacate the Premises and surrender the same to Landlord, (c) Tenant's liability for Rent shall cease as of the date of the damage, and (d) any prepaid Rent for any period after the date of the damage shall be refunded by Landlord to Tenant.

Section 11.5 Tenant's Termination Right. If the Premises are totally damaged and are thereby rendered wholly untenantable, or if the Building shall be so damaged that Tenant is deprived of reasonable access to the Premises, and if Landlord elects to restore the Premises, Landlord shall, within 60 days following the date of the damage, cause a contractor or architect selected by Landlord to give notice (the **"Restoration Notice"**) to Tenant of the date by which such contractor or architect estimates the restoration of the Premises (excluding any Above Building Standard Installations) shall be Substantially Completed. If such date, as set forth in the Restoration Notice, is more than 18 months from the date of such damage, then Tenant shall have the right to terminate this Amended and Restated Lease by giving notice (the **"Termination Notice"**) to Landlord not later than 30 days following delivery of the Restoration Notice to Tenant. If Tenant delivers a Termination Notice, this Amended and Restated Lease shall be deemed to have terminated as of the date of the giving of the Termination Notice, in the manner set forth in the second sentence of Section 11.4.

Section 11.6 Final 18 Months. Notwithstanding anything to the contrary in this Article 11, if any damage during the final 18 months of the Term renders the Premises wholly untenantable, either Landlord or Tenant may terminate this Amended and Restated Lease by notice to the other party within 30 days after the occurrence of such damage and this Amended and Restated Lease shall expire on the 30th day after the date of such notice. For purposes of this Section 11.6, the Premises shall be deemed wholly untenantable if Tenant shall be precluded from using more than 50% of the Premises for the conduct of its business and Tenant's inability to so use the Premises is reasonably expected to continue for more than 90 days.

Section 11.7 Landlord's Liability. Any Building employee to whom any property shall be entrusted by or on behalf of Tenant shall be deemed to be acting as Tenant's agent with respect to such property and neither Landlord nor its agents shall be liable for any damage to such property, or for the loss of or damage to any property of Tenant by theft or otherwise. None of the Insured Parties shall be liable for any injury or damage to persons or property or interruption of Tenant's business resulting from fire or other casualty, any damage caused by other tenants or persons in the Building or by construction of any private, public or quasi-public work, or any latent defect in the Premises or in the Building (except that Landlord shall be required to repair the same to the extent provided in Article 6). No penalty shall accrue for delays which may arise by reason of adjustment of casualty insurance on the part of Landlord or Tenant, or for any Unavoidable Delays arising from any repair or restoration of any portion of the Building, provided that Landlord shall use reasonable efforts to minimize interference with Tenant's use and occupancy of the Premises during the performance of any such repair or restoration.

ARTICLE 12

EMINENT DOMAIN

Section 12.1 Taking.

(a) Total Taking. If all or substantially all of the Real Property, the Building or the Premises shall be acquired or condemned for any public or quasi-public purpose (a **"Taking"**), this Amended and Restated Lease shall terminate and the Term shall end as of the date of the vesting of title and Rent shall be prorated and adjusted as of such date.

(b) Partial Taking. Upon a Taking of only a part of the Real Property, the Building or the Premises then, except as hereinafter provided in this Article 12, this Amended and Restated Lease shall continue in full force and effect, provided that from and after the date of the vesting of title, Fixed Rent and Tenant's Proportionate Share shall be modified to reflect the reduction of the Premises and/or the Building as a result of such Taking.

(c) Landlord's Termination Right. Whether or not the Premises are affected, Landlord may, by notice to Tenant, within 60 days following the date upon which Landlord receives notice of the Taking of all or a portion of the Real Property, the Building or the Premises, terminate this Amended and Restated Lease as of the date immediately prior to the date of vesting of title, provided that Landlord elects to terminate leases (including this Lease) affecting at least 50% of the rentable area of the Building.

(d) Tenant's Termination Right. If the part of the Real Property so Taken contains more than 20% of the total area of the Premises occupied by Tenant immediately prior to such Taking, or if, by reason of such Taking, Tenant no longer has reasonable means of access to the Premises, Tenant may terminate this Amended and Restated Lease by notice to Landlord given within 30 days following the date upon which Tenant is given notice of such Taking. If Tenant so notifies Landlord, this Amended and Restated Lease shall end and expire upon the 30th day following the giving of such notice. If a part of the Premises shall be so Taken and this Amended and Restated Lease is not terminated in accordance with this Section 12.1 Landlord, without being required to spend more than it collects as an award, shall, subject to the provisions of any Mortgage or Superior Lease, restore that part of the Premises not so Taken to a self-contained rental unit substantially equivalent (with respect to character, quality, appearance and services) to that which existed immediately prior to such Taking, excluding Tenant's Property and any Above Building Standard Installations.

(e) Apportionment of Rent. Upon any termination of this Amended and Restated Lease pursuant to the provisions of this Article 12, Rent shall be apportioned as of, and shall be paid or refunded up to and including, the earlier of the date the taking is effective or the date of such termination of this Amended and Restated Lease.

Section 12.2 Awards. Upon any Taking, Landlord shall receive the entire award for any such Taking, and Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term or Tenant's Alterations; and Tenant hereby assigns to Landlord all of its right in and to such award. Nothing contained in this Article 12 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the then value of any Tenant's Property or Above Building Standard Installations included in such Taking and for any moving expenses, provided any such award is in addition to, and does not result in a reduction of, the award made to Landlord.

Section 12.3 Temporary Taking. If all or any part of the Premises is Taken temporarily during the Term for any public or quasi-public use or purpose, Tenant shall give prompt notice to Landlord and the Term shall not be reduced or affected in any way and Tenant shall continue to pay all Rent payable by Tenant without reduction or abatement and to perform all of its other obligations under this Amended and Restated Lease, except to the extent prevented from doing so by the condemning authority, and Tenant shall be entitled to receive any award or payment from the condemning authority for such use, which shall be received, held and applied by Tenant as a trust fund for payment of the Rent falling due.

ARTICLE 13

ASSIGNMENT AND SUBLETTING

Section 13.1 Consent Requirements.

(a) No Transfers. Except as expressly set forth herein, Tenant shall not assign, mortgage, pledge, encumber, or otherwise transfer this Amended and Restated Lease, whether by operation of law or otherwise, and shall not sublet, or permit, or suffer the Premises or any part thereof to be used or occupied by others (whether for desk space, mailing privileges or otherwise), without Landlord's prior consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed as provided in Section 13.3. Any assignment, sublease, mortgage, pledge, encumbrance or transfer in contravention of the provisions of this Article 13 shall be void and shall constitute an Event of Default.

(b) Collection of Rent. If, without Landlord's consent, this Amended and Restated Lease is assigned, or any part of the Premises is sublet or occupied by anyone other than Tenant or this Amended and Restated Lease is encumbered (by operation of law or otherwise), Landlord may collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved. No such collection shall be deemed a waiver of the provisions of this Article 13, an acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the performance of Tenant's covenants hereunder, and in all cases Tenant shall remain fully liable for its obligations under this Amended and Restated Lease.

(c) Further Assignment/Subletting. Landlord's consent to any assignment or subletting shall not relieve Tenant from the obligation to obtain Landlord's consent to any further assignment or subletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet any portion of its sublet space, or otherwise suffer or permit any portion of the sublet space to be used or occupied by others.

Section 13.2 Tenant's Notice. If Tenant desires to assign this Amended and Restated Lease or sublet all or any portion of the Premises (sometimes referred to herein as a **"Transfer"**), Tenant shall give notice thereof to Landlord, which shall be accompanied by (a) with respect to an assignment of this Amended and Restated Lease, the date Tenant desires the assignment to be effective, and (b) with respect to a sublet of all or a part of the Premises, a description of the portion of the Premises to be sublet and the commencement date of such sublease. If Tenant has vacated all or substantially all of the Premises or is in the process of making arrangements to do so (with no intention of returning to the Premises during the Term), and if the proposed transaction is either an assignment of this Amended and Restated Lease, or a sublease of the entire Premises, such notice shall be deemed an offer from Tenant to Landlord of the right, at Landlord's option, to terminate this Amended and Restated Lease with

respect to the entire Premises. If the proposed transaction is a sublease of a portion of the Premises, which, together with all other presently existing subleases, comprises a subletting of more than 1/3rd of the rentable square footage of the Premises, and such sublease is for a term substantially equal to the then remaining Term of this Amended and Restated Lease, such notice shall be deemed an offer from Tenant to Landlord of the right, at Landlord's option to terminate this Amended and Restated Lease with respect to such space as Tenant then proposes to sublease (the **"Partial Space"**), but not any other previously subleased space, upon the terms and conditions hereinafter set forth. Such option may be exercised by notice from Landlord to Tenant within 20 days after delivery of Tenant's notice. If Landlord exercises its option to terminate this Amended and Restated Lease, (a) Tenant shall have the right within 7 days to revoke the request to assign or sublease thereby extinguishing Landlord's right to terminate this Amended and Restated Lease, or (b) if the Tenant does not give such notice within 7 days, (i) this Amended and Restated Lease shall end and expire with respect to all or a portion of the Premises, as the case may be, on the date that such assignment or sublease was to commence, provided that such date is in no event earlier than 90 days after the date of the above notice unless Landlord agrees to such earlier date, (ii) Rent shall be apportioned, paid or refunded as of such date, (iii) Tenant, upon Landlord's request, shall enter into an amendment of this Amended and Restated Lease ratifying and confirming such total or partial termination, and setting forth any appropriate modifications to the terms and provisions hereof, and (iv) Landlord shall be free to lease the Premises (or any part thereof) to Tenant's prospective assignee or subtenant or to any other party. Landlord shall pay all costs to make the Partial Space a self-contained rental unit and to install any required Building corridors.

Section 13.3 Intentionally Omitted.

Section 13.4 Conditions to Assignment/Subletting. (a) If Landlord does not exercise Landlord's termination option provided under Section 13.2, or if Landlord does not have a termination option under Section 13.2, then provided that no Event of Default then exists, Landlord's consent to the proposed assignment or subletting shall not be unreasonably withheld, conditioned or delayed. Such consent shall be granted or denied within 15 days after delivery to Landlord of (i) a true and complete statement reasonably detailing the identity of the proposed assignee or subtenant (**"Transferee"**), the nature of its business and its proposed use of the Premises, (ii) current financial information with respect to the Transferee, including its most recent financial statements, (iii) all of the terms of the proposed Transfer and the consideration therefor, together with a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be executed to evidence such Transfer or the agreements incidental or related to such Transfer, provided that Landlord shall have the right to require Tenant to utilize Landlord's standard Transfer documents in connection with the documentation of such Transfer, and (iv) any other information Landlord may reasonably request. Landlord shall consent to the requested Transfer, provided that:

(i) in Landlord's reasonable judgment, the Transferee is engaged in a business or activity, and the Premises will be used in a manner, which (1) is in keeping with the then standards of the Building, (2) is for a Permitted Use, and (3) does not violate any restrictions set forth in this Amended and Restated Lease, any Mortgage or Superior Lease or any negative covenant as to use of the Premises required by any other lease in the Building;

(ii) in Landlord's reasonable judgment the Transferee is reputable with sufficient financial means to perform all of its obligations under this Amended and Restated Lease or the sublease, as the case may be;

(iii) there shall be not more than 2 subtenants (excluding Tenant or any Related Entities) in each floor of the Premises;

(iv) with respect to any assignment or subletting for which Landlord's consent is required under this Lease, Tenant shall, upon demand, reimburse Landlord for all reasonable expenses incurred by Landlord in connection with such assignment or sublease, including any investigations as to the acceptability of the Transferee and all legal costs reasonably incurred in connection with the granting of any requested consent, which legal costs shall not exceed $3,000 for a normal sublease consent (as reasonably determined by Landlord) that does not present any special issues such as the subtenant's request for a non-disturbance agreement from Landlord, the subtenant's request for significant alterations to the Premises or unusually protracted discussions with the potential subtenant or its counsel; and;

(v) the proposed Transfer is either a sublease or a non-collateral complete assignment;

(vi) the proposed Transfer would not cause Landlord to be in violation of any Requirements or any other lease, Mortgage, Superior Lease or agreement to which Landlord is a party and would not give a tenant of the Real Property a right to cancel its lease; provided, however, that Tenant shall be entitled to review the relevant portions of any such agreement that is the basis of a refusal of Landlord to grant consent to a Transfer under this item (vi) so long as Tenant agrees to keep such information strictly confidential; and

(vii) the Transferee shall not be either a governmental agency or an instrumentality thereof, nor shall the Transferee be entitled, directly or indirectly, to diplomatic or sovereign immunity, regardless of whether the Transferee agrees to waive such diplomatic or sovereign immunity, and shall be subject to the service of process in, and the jurisdiction of the courts of, the County of King and State of Washington.

The parties hereby agree, without limitation as to other reasonable grounds for withholding consent, that it shall be reasonable under this Amended and Restated Lease and under applicable law for Landlord to withhold consent to any proposed Transfer based upon any of the foregoing criteria.

(b) With respect to each and every subletting and/or assignment approved by Landlord under the provisions of this Amended and Restated Lease:

(i) the form of the proposed assignment or sublease shall be reasonably satisfactory to Landlord;

(ii) no sublease shall be for a term ending later than one day prior to the Expiration Date;

(iii) no Transferee shall take possession of any part of the Premises until an executed counterpart of such sublease or assignment has been delivered to Landlord and approved by Landlord as provided in Section 13.4(a);

(iv) if an Event of Default occurs after Landlord has given its consent but prior to the effective date of such assignment or subletting and such Event of Default is not cured prior to such effective date of such assignment or subletting, then Landlord's consent thereto, if previously granted, shall be immediately deemed revoked without further notice to

Tenant (other than any notice required prior to the effectiveness of such Event of Default), and if such assignment or subletting would have been permitted without Landlord's consent pursuant to Section 13.8, such permission shall be void and without force and effect, and in either such case, any such assignment or subletting shall constitute a further Event of Default hereunder; and

(v) each sublease shall be subject and subordinate to this Amended and Restated Lease and to the matters to which this Amended and Restated Lease is or shall be subordinate; and Tenant and each Transferee shall be deemed to have agreed that upon the occurrence and during the continuation of an Event of Default hereunder, Tenant has hereby assigned to Landlord, and Landlord may, at its option, accept such assignment of, all right, title and interest of Tenant as sublandlord under such sublease, together with all modifications, extensions and renewals thereof then in effect and such Transferee shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not be (A) liable for any previous act or omission of Tenant under such sublease, (B) subject to any counterclaim, offset or defense not expressly provided in such sublease or which theretofore accrued to such Transferee against Tenant, (C) bound by any previous modification of such sublease not consented to by Landlord (unless such modification memorializes the subtenant's exercise of a right or option granted in the initial sublease or a prior amendment approved by Landlord) or by any prepayment of more than one month's rent, (D) bound to return such Transferee's security deposit, if any, except to the extent Landlord shall receive actual possession of such deposit and such Transferee shall be entitled to the return of all or any portion of such deposit under the terms of its sublease, or (E) obligated to make any payment to or on behalf of such Transferee, or to perform any work in the sublet space or the Building, or in any way to prepare the subleased space for occupancy, beyond Landlord's obligations under this Amended and Restated Lease. The provisions of this Section 13.4(b)(v) shall be self-operative, and no further instrument shall be required to give effect to this provision, provided that the Transferee shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such subordination and attornment.

Section 13.5 Binding on Tenant; Indemnification of Landlord. Notwithstanding any assignment or subletting or any acceptance of rent by Landlord from any Transferee, Tenant and any guarantor shall remain fully liable for the payment of all Rent due and for the performance of all the covenants, terms and conditions contained in this Amended and Restated Lease on Tenant's part to be observed and performed, and any default under any term, covenant or condition of this Amended and Restated Lease by any Transferee or anyone claiming under or through any Transferee shall be deemed to be a default under this Amended and Restated Lease by Tenant. Tenant shall indemnify, defend, protect and hold harmless Landlord from and against any and all Losses resulting from any claims that may be made against Landlord by the Transferee or anyone claiming under or through any Transferee or by any brokers or other persons or entities claiming a commission or similar compensation in connection with the proposed assignment or sublease, irrespective of whether Landlord shall give or decline to give its consent to any proposed assignment or sublease, or if Landlord shall exercise any of its options under this Article 13.

Section 13.6 Tenant's Failure to Complete. If Landlord consents to a proposed assignment or sublease and Tenant fails to execute and deliver to Landlord such assignment or sublease within 180 days after the giving of such consent, or the amount of space subject to any such sublease varies by more than 10% from that specified in the notice given by Tenant to Landlord pursuant to Section 13.2, or if there are any changes in the terms and conditions of the

proposed assignment or sublease such that Landlord would initially have been entitled to refuse its consent to such Transfer under Section 13.4, then Tenant shall again comply with all of the provisions and conditions of Sections 13.2 and 13.4 before assigning this Amended and Restated Lease or subletting all or part of the Premises.

Section 13.7 Profits. If Tenant enters into any assignment or sublease permitted hereunder or consented to by Landlord, Tenant shall, within 60 days of Landlord's consent to such assignment or sublease (or if such assignment or sublease is permitted hereunder without Landlord's prior consent, within 60 days of the effective date of such assignment or sublease), deliver to Landlord a list of Tenant's reasonable third-party brokerage fees, legal fees and architectural fees paid or to be paid in connection with such transaction and, in the case of any sublease, any actual costs incurred by Tenant in separately demising the sublet space (collectively, **"Transaction Costs"**), together with a list of all of Tenant's Property to be transferred to such Transferee. The Transaction Costs shall be amortized, on a straight-line basis, over the term of any sublease. Tenant shall deliver to Landlord evidence of the payment of such Transaction Costs promptly after the same are paid. In consideration of such assignment or subletting, Tenant shall pay to Landlord:

(a) In the case of an assignment, on the effective date of the assignment, 50% of all sums and other consideration paid to Tenant by the Transferee for or by reason of such assignment (including key money, bonus money and any sums paid for services rendered by Tenant to the Transferee in excess of fair market value for such services and sums paid for the sale or rental of Tenant's Property, less the then fair market or rental value thereof, as reasonably determined by Landlord) after first deducting the Transaction Costs; or

(b) In the case of a sublease, 50% of any consideration payable under the sublease to Tenant by the Transferee which exceeds on a per square foot basis the Fixed Rent, Tenant's Tax Payment and Tenant's Operating Payment accruing during the term of the sublease in respect of the sublet space (together with any sums paid for services rendered by Tenant to the Transferee in excess of fair market value for such services and sums paid for the sale or rental of Tenant's Property, less the then fair market or rental value thereof, as reasonably determined by Landlord) after first deducting the monthly amortized amount of Transaction Costs. The sums payable under this clause shall be paid by Tenant to Landlord monthly as and when paid by the subtenant to Tenant.

The amount payable under this Section 13.7 with respect to any particular Transfer is sometimes referred to herein as the **"Transfer Premium**.**"** Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated by more than three percent (3%), such event shall, at Landlord's option, be deemed to be an uncurable Event of Default (as such term is defined in Section 15.1 below) and Tenant shall, within thirty (30) days after demand, pay the deficiency, and Tenant shall pay Landlord's costs of such audit.

Section 13.8 Transfers.

(a) Generally. If Tenant is a legal entity, the transfer (by one or more transfers), directly or indirectly, by operation of law or otherwise, of a majority of the stock or other beneficial ownership interest in Tenant or of all or substantially all of the assets of Tenant (collectively, **"Ownership Interests"**) shall be deemed a voluntary assignment of this Amended and Restated Lease. For purposes of this Article the term "transfers" shall be deemed to

include (x) the issuance of new Ownership Interests which results in a majority of the Ownership Interests in Tenant being held by a person or entity which does not hold a majority of the Ownership Interests in Tenant on the Effective Date, and (y) except as provided below, the sale or transfer of all or substantially all of the assets of Tenant in one or more transactions or the merger, consolidation or conversion of Tenant into or with another business entity.

(b) Notwithstanding the foregoing or anything else to the contrary contained in this Amended and Restated Lease, the provisions of this Article 13 shall not apply to the transfer of Ownership Interests in Tenant if and so long as Tenant is publicly traded on a nationally recognized stock exchange

(c) Permitted Assignees. The provisions of Sections 13.1, 13.2 and 13.6 shall not apply to transactions with a business entity into or with which Tenant is merged, consolidated or converted or to which all or substantially all of Tenant's assets are transferred (a "**Permitted Assignee**") so long as (i) such transfer was made for a legitimate independent business purpose and not for the purpose of transferring this Amended and Restated Lease, (ii) if Tenant is merging into or with another business entity such that Tenant will no longer exist, the successor to Tenant has a tangible net worth computed in accordance with generally accepted accounting principles consistently applied (and excluding goodwill, organization costs and other intangible assets) that is at least equal to the net worth of Tenant on the Effective Date, (iii) proof satisfactory to Landlord of such net worth is delivered to Landlord at least 10 days prior to the effective date of any such transaction, (iv) any such transfer shall be subject and subordinate to all of the terms and provisions of this Amended and Restated Lease, and the transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord upon or prior to the effective date of such transfer, all the obligations of Tenant under this Amended and Restated Lease, (v) unless the successor to Tenant has a tangible net worth computed in accordance with generally accepted accounting principles consistently applied (and excluding goodwill, organization costs and other intangible assets) that is at least equal to the net worth of Tenant on the Effective Date, Tenant and any guarantor shall remain fully liable for all obligations to be performed by Tenant under this Amended and Restated Lease, provided that where such condition is satisfied Tenant and any guarantor shall be released from such obligations, and (vi) such transfer does not cause Landlord to be in default under any existing lease at the Real Property.

(d) Related Entities. Tenant may also, upon prior notice to Landlord, assign this Lease to, or permit any business entity which controls, is controlled by, or is under common control with the original Tenant (a **"Related Entity"**) to sublet all or part of the Premises for any Permitted Uses, provided the Related Entity is in Landlord's reasonable judgment of a character and engaged in a business which is in keeping with the standards for the Building and for so long as such entity remains a Related Entity. Such assignment or sublease shall not be subject to the provisions of Sections 13.1, 13.2 and 13.6. Such sublease shall not be deemed to vest in any such Related Entity any right or interest in this Amended and Restated Lease nor shall it relieve, release, impair or discharge any of Tenant's obligations hereunder. For the purposes hereof, "control" shall be deemed to mean ownership of not less than 50% of all of the Ownership Interests of such corporation or other business entity.

(e) Further Transfers. Notwithstanding the foregoing, Tenant shall have no right to assign this Amended and Restated Lease or sublease all or any portion of the Premises without Landlord's consent pursuant to this Section 13.8 if Tenant is not the initial Tenant herein named, a Permitted Assignee, a Related Entity, or a person or entity who acquired Tenant's

interest in this Amended and Restated Lease in a transaction approved by Landlord, or if an Event of Default by Tenant exists under this Amended and Restated Lease.

(f) Applicability. The limitations set forth in this Section 13.8 shall apply to Transferee(s) and guarantor(s) of this Amended and Restated Lease, if any, and any transfer by any such entity in violation of this Section 13.8 shall be a transfer in violation of Section 13.1.

(g) Modifications, Takeover Agreements. Any modification, amendment or extension of a sublease and/or any other agreement by which a landlord of a building other than the Building or its affiliate agrees to assume the obligations of Tenant under this Amended and Restated Lease shall be deemed a sublease for the purposes of Section 13.1 hereof.

Section 13.9 Assumption of Obligations. No assignment or transfer shall be effective unless and until the Transferee executes, acknowledges and delivers to Landlord an agreement in form and substance reasonably satisfactory to Landlord whereby the Transferee (a) assumes Tenant's obligations under this Amended and Restated Lease and (b) agrees that, notwithstanding such assignment or transfer, the provisions of Section 13.1 hereof shall be binding upon it in respect of all future assignments and transfers.

Section 13.10 Tenant's Liability. The joint and several liability of Tenant and any successors-in-interest of Tenant and the due performance of Tenant's obligations under this Amended and Restated Lease shall not be discharged, released or impaired by any agreement or stipulation made by Landlord, or any grantee or assignee of Landlord, extending the time, or modifying any of the terms and provisions of this Amended and Restated Lease, or by any waiver or failure of Landlord, or any grantee or assignee of Landlord, to enforce any of the terms and provisions of this Amended and Restated Lease.

Section 13.11 Listings in Building Directory. The listing of any name other than that of Tenant on the doors of the Premises, the Building directory or elsewhere shall not vest any right or interest in this Amended and Restated Lease or in the Premises, nor be deemed to constitute Landlord's consent to any assignment or transfer of this Amended and Restated Lease or to any sublease of the Premises or to the use or occupancy thereof by others. Any such listing shall constitute a privilege revocable in Landlord's discretion by notice to Tenant. Any subtenants approved by Landlord or otherwise permitted hereunder shall, upon Tenant's request, be listed in the Building directory.

ARTICLE 14

ACCESS TO PREMISES

Section 14.1 Landlord's Access. (a) Landlord, Landlord's agents and utility service providers servicing the Building may erect, use and maintain concealed ducts, pipes and conduits in and through the Premises provided such use does not cause the usable area of the Premises to be reduced beyond a *de minimis* amount. Landlord shall promptly repair any damage to the Premises caused by any work performed pursuant to this Article 14.

(b) Landlord, any Lessor or Mortgagee and any other party designated by Landlord and their respective agents shall have the right to enter the Premises at all reasonable times, upon reasonable notice (which notice may be oral) except in the case of emergency (in which event no notice shall be required), to examine the Premises, to show the Premises to

prospective purchasers, Mortgagees, Lessors or tenants and their respective agents and representatives or others and to perform Work of Improvement to the Premises or the Building.

All parts (except surfaces facing the interior of the Premises) of all walls, windows and doors bounding the Premises, all balconies, terraces and roofs adjacent to the Premises, all space in or adjacent to the Premises used for shafts, stacks, stairways, mail chutes, conduits and other mechanical facilities, Building System, Building facilities and Common Areas are not part of the Premises, and Landlord shall have the use thereof and access thereto through the Premises for the purposes of Building operation, maintenance, alteration and repair.

Section 14.2 Building Name. Landlord has the right at any time to change the name, number or designation by which the Building is commonly known.

Section 14.3 Light and Air. If at any time any windows of the Premises are temporarily darkened or covered over by reason of any Work of Improvement, any of such windows are permanently darkened or covered over due to any Requirement or there is otherwise a diminution of light, air or view by another structure which may hereafter be erected (whether or not by Landlord), Landlord shall not be liable for any damages and Tenant shall not be entitled to any compensation or abatement of any Rent, nor shall the same release Tenant from its obligations hereunder or constitute an actual or constructive eviction, provided, however, that Landlord shall use reasonable efforts to cause the duration of any such darkening or covering to be as short as possible.

ARTICLE 15

DEFAULT

Section 15.1 Tenant's Defaults. Each of the following events shall be an **"Event of Default"** hereunder:

(a) Tenant fails to pay when due any installment of Rent, if the failure continues for a period of three (3) days after notice of failure has been given by Landlord to Tenant; or

(b) Tenant fails to observe or perform any other term, covenant or condition of this Amended and Restated Lease and such failure continues for more than 30 days (10 days with respect to a default under Article 3, Article 9 or Section 26.10) after notice by Landlord to Tenant of such default, or if such default (other than a default under Article 3, Article 9 or Section 26.10) is of a nature that it cannot be completely remedied within 30 days, failure by Tenant to commence to remedy such failure within said 30 days, and thereafter diligently prosecute to completion all steps necessary to remedy such default, provided in all events the same is completed within 90 days; or

(c) if Landlord applies or retains any part of the security held by it hereunder, and Tenant fails to deposit with Landlord the amount so applied or retained by Landlord, or if Landlord draws on any Letter of Credit (as hereinafter defined), in part or in whole, and Tenant fails to provide Landlord with a replacement Letter of Credit, within 5 days after notice by Landlord to Tenant stating the amount applied, retained or drawn, as applicable; or

(d) Tenant files a voluntary petition in bankruptcy or insolvency, or is adjudicated a bankrupt or insolvent, or files any petition or answer seeking any reorganization, liquidation, dissolution or similar relief under any present or future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or makes an assignment for the benefit of creditors or seeks or consents to or acquiesces in the appointment of any trustee, receiver, liquidator or other similar official for Tenant or for all or any part of Tenant's property; or

(e) A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a trustee, receiver or liquidator of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of entry thereof.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law.

Section 15.2 Landlord's Remedies. (a) Upon the occurrence of an Event of Default, Landlord, at its option, and without limiting the exercise of any other right or remedy Landlord may have on account of such Event of Default, and without any further demand or notice, may give to Tenant 3 days' notice of termination of this Amended and Restated Lease, in which event this Amended and Restated Lease and the Term shall come to an end and expire (whether or not the Term shall have commenced) upon the expiration of such 3 day period with the same force and effect as if the date set forth in the notice was the Expiration Date stated herein; and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable for damages as provided in this Article 15, and/or, to the extent permitted by law, Landlord may remove all persons and property from the Premises, which property shall be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant.

(b) If Landlord elects to terminate this Amended and Restated Lease, then Landlord shall be entitled to recover from Tenant the aggregate of:

(i) The worth at the time of award of the unpaid rent earned as of the date of the termination hereof;

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of termination hereof until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(iv) Any other amount necessary to compensate Landlord for the detriment proximately caused by Tenant's failure to perform its obligations under this Amended and Restated Lease or which, in the ordinary course of things, would be likely to result therefrom; and

(v) Any other amount which Landlord may hereafter be permitted to recover from Tenant to compensate Landlord for the detriment caused by Tenant's default.

For the purposes of this Section 15.2(b), "rent" shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Amended and Restated Lease, whether to Landlord or to others, the "time of award" shall mean the date upon which the judgment in any action brought by Landlord against Tenant by reason of such Event of Default is entered or such earlier date as the court may determine; the "worth at the time of award" of the amounts referred to in Sections 15.2(b)(i) and 15.2(b)(ii) shall be computed by allowing interest on such amounts at the Interest Rate; and the "worth at the time of award" of the amount referred to in Section 15.2(b)(iii) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1% per annum.

Section 15.3 Recovering Rent as It Comes Due. Upon any Event of Default, in addition to any other remedies available to Landlord at law or in equity or under this Amended and Restated Lease, Landlord may elect to continue this Amended and Restated Lease in effect after Tenant's default and recover rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Amended and Restated Lease, Landlord may, from time to time, enforce all of its rights and remedies under this Amended and Restated Lease, including the right to recover all Rent as it becomes due. Such remedy may be exercised by Landlord without prejudice to its right thereafter to terminate this Amended and Restated Lease in accordance with the other provisions contained in this Article 15. Landlord's reentry to perform acts of maintenance or preservation of, or in connection with efforts to relet, the Premises, or any portion thereof, or the appointment of a receiver upon Landlord's initiative to protect Landlord's interest under this Amended and Restated Lease shall not terminate Tenant's right to possession of the Premises or any portion thereof and, until Landlord elects to terminate this Amended and Restated Lease, this Amended and Restated Lease shall continue in full force and Landlord may pursue all its remedies hereunder. Nothing in this Article 15 shall be deemed to affect Landlord's right to indemnification, under the indemnification clauses contained in this Amended and Restated Lease, for Losses arising from events occurring prior to the termination of this Amended and Restated Lease.

Section 15.4 Reletting on Tenant's Behalf. If Tenant abandons the Premises or if Landlord elects to reenter or takes possession of the Premises pursuant to any legal proceeding or pursuant to any notice provided by Requirements, and until Landlord elects to terminate this Amended and Restated Lease, Landlord may, from time to time, without terminating this Amended and Restated Lease, recover all Rent as it becomes due pursuant to Section 15.3 and/or relet the Premises or any part thereof for the account of and on behalf of Tenant, on any terms, for any term (whether or not longer than the Term), and at any rental as Landlord in its reasonable discretion may deem advisable, and Landlord may make any Work of Improvement to the Premises in connection therewith. Tenant hereby irrevocably constitutes and appoints Landlord as its attorney-in-fact, which appointment shall be deemed coupled with an interest and shall be irrevocable, for purposes of reletting the Premises pursuant to the immediately preceding sentence. If Landlord elects to so relet the Premises on behalf of Tenant, then rentals received by Landlord from such reletting shall be applied:

(a) First, to reimburse Landlord for the costs and expenses of such reletting (including costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and, if Landlord maintains and operates the Premises, the costs thereof) and necessary or reasonable Work of Improvement.

(b) Second, to the payment of any indebtedness of Tenant to Landlord other than Rent due and unpaid hereunder.

(c) Third, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of other or future obligations of Tenant to Landlord as the same may become due and payable.

Should the rentals received from such reletting, when applied in the manner and order indicated above, at any time be less than the total amount owing from Tenant pursuant to this Amended and Restated Lease, then Tenant shall pay such deficiency to Landlord, and if Tenant does not pay such deficiency within 5 days of delivery of notice thereof to Tenant, Landlord may bring an action against Tenant for recovery of such deficiency or pursue its other remedies hereunder or under Washington law.

Section 15.5 General. (a) All rights, powers and remedies of Landlord hereunder and under any other agreement now or hereafter in force between Landlord and Tenant shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Landlord at law or in equity. The exercise of any one or more of such rights or remedies shall not impair Landlord's right to exercise any other right or remedy including any and all rights and remedies of Landlord under Washington law.

(b) If, after Tenant's abandonment of the Premises, Tenant leaves behind any of Tenant's Property, then Landlord shall store such Tenant's Property at a warehouse or any other location at the risk, expense and for the account of Tenant, and such property shall be released only upon Tenant's payment of such charges, together with moving and other costs relating thereto and all other sums due and owing under this Amended and Restated Lease. If Tenant does not reclaim such Tenant's Property within the period permitted by law, Landlord may sell such Tenant's Property in accordance with law and apply the proceeds of such sale to any sums due and owing hereunder, or retain said Property, granting Tenant credit against sums due and owing hereunder for the reasonable value of such Property.

(c) To the extent permitted by law, Tenant hereby waives all provisions of, and protections under, any Requirement to the extent same are inconsistent and in conflict with specific terms and provisions hereof.

Section 15.6 Interest. If any payment of Rent is not paid when due, interest shall accrue on such payment, from the date such payment became due until paid at the Interest Rate. Tenant acknowledges that late payment by Tenant of Rent will cause Landlord to incur costs not contemplated by this Amended and Restated Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any note secured by a Mortgage covering the Premises. Therefore, in addition to interest, if any amount is not paid when due, a late charge equal to 5% of such amount shall be assessed; provided, however, that on 2 occasions during any calendar year of the Term, Landlord shall give Tenant notice of such late payment and Tenant shall have a period of 5 days thereafter in which to make such payment before any late charge is assessed. Such interest and late charges are separate and cumulative and are in addition to and shall not diminish or represent a substitute for any of Landlord's rights or remedies under any other provision of this Amended and Restated Lease.

Section 15.7 Other Rights of Landlord. If Tenant fails to pay any Additional Rent when due, Landlord, in addition to any other right or remedy, shall have the same rights and remedies as in the case of a default by Tenant in the payment of Fixed Rent. If Tenant is in arrears in the payment of Rent, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited, and Landlord may apply any payments made by Tenant to any items Landlord sees fit, regardless of any request by Tenant. Landlord reserves the right, without liability to Tenant and without constituting any claim of constructive eviction, to suspend furnishing or rendering to Tenant any property, material, labor, utility or other service, whenever Landlord is obligated to furnish or render the same at the expense of Tenant, in the event that (but only for so long as) Tenant is in arrears in paying Landlord for such items for more than 5 days after notice from Landlord to Tenant demanding the payment of such arrears.

Section 15.8 Landlord Defaults and Tenant Remedies.

(a) In the event of any default under this Lease by Landlord, Landlord shall have thirty (30) days after written notice from Tenant of such default to cure such default, unless such default shall be of a nature that it cannot reasonably be cured within such thirty (30) day period, in which event Landlord shall have a reasonable period of time to cure such default provided that Landlord commences to cure such default within such thirty (30) day period and shall thereafter diligently prosecute such cure to completion. If Landlord fails to cure any default within the cure period specified above, Tenant shall have its rights and remedies permitted at law or in equity.

(b) Tenant shall have the right to offset against Fixed Rent hereunder and no other Rent under this Lease (unless the amount of such offset exceeds six (6) months of Fixed Rent in which event Tenant shall have the right to offset against all Rent hereunder) the amount of any final (nonappealable) judgment or arbitration award (if the parties elect to resolve such dispute by arbitration) in favor of Tenant for amounts that Landlord is obligated to pay Tenant pursuant to this Lease, or as otherwise ordered or decreed by judicial order, to the extent not fully paid by Landlord within thirty (30) days of the date such final judgment or award was entered, together with interest at the Interest Rate from the due date thereof and interest at the Interest Rate from the date that such judgment or arbitration award is entered, or the payment obligation of Landlord arises, as the case may be.

(c) If Landlord fails to fund all or any portion of Landlord's Contribution within 30 days of the date when due (a "**Funding Failure**"), and provided the Offset Conditions (as hereinbelow defined) are fully satisfied, Tenant shall be entitled to offset the amounts owed including interest thereon, calculated from the date required to be paid, at the Interest Rate against Fixed Rent and Additional Rent under the Lease, until all such amounts owed have been recouped. The "**Offset Conditions**" are: (i) the Initial Installations, or portions thereof applicable to such Funding Failure, have been substantially completed in substantial conformity with the Final Plans; (ii) no Event of Default then exists; (iii) no unresolved dispute exists between Landlord and Tenant with respect to performance of the work or Tenant's satisfaction of the disbursement conditions; and (iv) Tenant has advised Landlord's Mortgagee in writing of the Funding Failure.

(d) Except for the offset rights set forth in Subsection 15.8(b) permitting Tenant to credit against Rent amounts owed by Landlord to Tenant as specifically provided thereunder, or as otherwise provided in the Work Letter, or as otherwise ordered or decreed by judicial order, Tenant may not offset against Rent any sums owed by Landlord to Tenant.

ARTICLE 16

LANDLORD'S RIGHT TO CURE; FEES AND EXPENSES

If Tenant defaults in the performance of its obligations under this Amended and Restated Lease, Landlord, without waiving such default, may perform such obligations at Tenant's expense: (a) immediately, and without notice, in the case of emergency or if the default (i) materially interferes with the use by any other tenant of the Building, (ii) materially interferes with the efficient operation of the Building, (iii) results in a violation of any Requirement, or (iv) results or will result in a cancellation of any insurance policy maintained by Landlord, and (b) in any other case if such default continues after 10 days from the date Landlord gives notice of Landlord's intention to perform the defaulted obligation. All costs and expenses incurred by Landlord in connection with any such performance by it and all costs and expenses, including reasonable counsel fees and disbursements, incurred by Landlord in any action or proceeding (including any unlawful detainer proceeding) brought by Landlord to enforce any obligation of Tenant under this Amended and Restated Lease and/or right of Landlord in or to the Premises or as a result of any default by Tenant under this Amended and Restated Lease, shall be paid by Tenant to Landlord on demand, with interest thereon at the Interest Rate from the date incurred by Landlord. Except as expressly provided to the contrary in this Amended and Restated Lease, all costs and expenses which, pursuant to this Amended and Restated Lease are incurred by Landlord and payable to Landlord by Tenant, and all charges, amounts and sums payable to Landlord by Tenant for any property, material, labor, utility or other services which, pursuant to this Amended and Restated Lease, are attributable directly to Tenant's use and occupancy of the Premises or presence at the Building, or at the request and for the account of Tenant, are provided, furnished or rendered by Landlord, shall become due and payable by Tenant to Landlord within 10 Business Days after receipt of Landlord's invoice for such amount.

ARTICLE 17

NO REPRESENTATIONS BY LANDLORD; LANDLORD'S APPROVAL

Section 17.1 No Representations. Except as expressly set forth herein, Landlord and Landlord's agents have made no warranties, representations, statements or promises with respect to the Building, the Real Property or the Premises and no rights, easements or licenses are acquired by Tenant by implication or otherwise. Tenant is entering into this Amended and Restated Lease after full investigation and is not relying upon any statement or representation made by Landlord not embodied in this Amended and Restated Lease.

Section 17.2 Limitation on Damages.

(a) Wherever in this Amended and Restated Lease Landlord's consent or approval is required for any assignment of this Lease or sublease of part or all of the Premises, if Landlord refuses to grant such consent or approval, whether or not Landlord expressly agreed that such consent or approval would not be unreasonably withheld, Tenant shall not make or exercise, and Tenant hereby waives, any claim for money damages (including any claim by way of set-off, counterclaim or defense) and/or any right to terminate this Amended and Restated Lease based upon Tenant's claim or assertion that Landlord unreasonably withheld or delayed its consent or approval to such assignment or sublease. Tenant's sole remedy in such event shall be an action or proceeding to enforce such provision, by specific performance, injunction

or declaratory judgment, including through the rapid arbitration procedures outlined in subsection 17.2(b) below.

(b) If the parties are unable to resolve any outstanding disagreement or dispute as to any matter relating to Landlord's consent or approval of any assignment of this Lease or sublease of part or all of the Premises, then the parties agree that such outstanding disagreement or dispute will be settled by binding arbitration. The arbitration shall be conducted in accordance with the Rules of Practice & Procedure for Arbitration of JDR in effect when the arbitration begins, except that the parties shall select an arbitrator within 20 days after either party gives notice that it requests arbitration; such arbitration shall be conducted by a single arbitrator experienced in the matters at issue and selected by the parties (or, failing agreement as to an arbitrator with such period, then an arbitrator appointed by JDR from its panel within 10 days after the end of such period), such arbitration shall (i) be held within 30 days after the appointment of the arbitrator, (ii) be held and completed in not more than one (1) day, and (iii) include a requirement that the arbitrator provide its decision within no more than 10 days. The substantially prevailing party at any such arbitration shall have the right to recover from the other party its reasonable expenses and attorneys' fees incurred at the arbitration and in any effort to have the award enforced. The judgment or award rendered by the arbitrator may be entered in any court having competent jurisdiction in accordance with RCW Chapter 7.04. The arbitration shall be held in Seattle, Washington.

(c) Notwithstanding anything to the contrary contained in this Lease, including without limitation, Article 25 below: (a) in no event shall Landlord be liable for, and Tenant, on behalf of itself and all other Tenant Parties, hereby waives any claim for, any indirect, consequential or punitive damages, including loss of profits or business opportunity, arising under or in connection with this Amended and Restated Lease, and, (b) except as set forth in Section 18.2, in no event shall Tenant be liable for, and Landlord on behalf of itself and all other Landlord Parties, hereby waives any claim for, any indirect, consequential or punitive damages, including loss of profits or business opportunity arising under or in connection with this Lease.

Section 17.3 Reasonable Efforts. For purposes of this Amended and Restated Lease, "reasonable efforts" by Landlord shall not include an obligation to employ contractors or labor at overtime or other premium pay rates or to incur any other overtime costs or additional expenses whatsoever.

ARTICLE 18

END OF TERM

Section 18.1 Expiration. Upon the expiration or other termination of this Amended and Restated Lease, Tenant shall quit and surrender the Premises to Landlord vacant, broom clean and in good order and condition, ordinary wear and tear and damage for which Tenant is not responsible under the terms of this Amended and Restated Lease excepted, and Tenant shall remove all of Tenant's Property and Specialty Alterations (but excluding any Specialty Alterations existing in the Premises as of the Commencement Date as to the various Suites comprising the Premises and not made by Tenant).

Section 18.2 Holdover; Holdover Rent. Landlord and Tenant recognize that Landlord's damages resulting from Tenant's failure to timely surrender possession of the Premises may be substantial, may exceed the amount of the Rent payable hereunder, and will

be impossible to accurately measure. Accordingly, if possession of the Premises is not surrendered to Landlord on the Expiration Date or sooner termination of this Amended and Restated Lease, and if Landlord has given or then gives Tenant written notice that Landlord has entered into a lease with a third party for all or any part of the Premises and requires immediate possession of the Premises, or if possession of the Premises is not surrendered to Landlord within 60 days of the Expiration Date or sooner termination of this Amended and Restated Lease, then in addition to any other rights or remedies Landlord may have hereunder or at law, (a) Tenant shall be liable to Landlord for (1) any payment or rent concession which Landlord may be required to make to any tenant obtained by Landlord for all or any part of the Premises (a **"New Tenant"**) in order to induce such New Tenant not to terminate its lease by reason of the holding-over by Tenant, and (2) the loss of the benefit of the bargain if any New Tenant shall terminate its lease by reason of the holding-over by Tenant, and (b) Tenant shall indemnify Landlord against all claims for damages by any New Tenant. In addition, if possession of the Premises is not surrendered to Landlord on the Expiration Date or sooner termination of this Amended and Restated Lease, Tenant shall pay to Landlord for each month (or any portion thereof) during which Tenant holds over in the Premises after the Expiration Date or sooner termination of this Lease, a sum equal to the 125% of the Rent payable under this Lease for the last full calendar month of the Term as to the first 60 days of such holdover period, and a sum equal to 150% of the Rent payable under this Lease for the last full calendar month of the Term as to the remainder of such holdover period. No holding-over by Tenant, nor the payment to Landlord of the amounts specified above, shall operate to extend the Term hereof. Nothing herein contained shall be deemed to permit Tenant to retain possession of the Premises after the Expiration Date or sooner termination of this Amended and Restated Lease, and no acceptance by Landlord of payments from Tenant after the Expiration Date or sooner termination of this Amended and Restated Lease shall be deemed to be other than on account of the amount to be paid by Tenant in accordance with the provisions of this Section 18.2.

ARTICLE 19

QUIET ENJOYMENT

Provided this Amended and Restated Lease is in full force and effect and no Event of Default then exists, Tenant may peaceably and quietly enjoy the Premises without hindrance by Landlord or any person lawfully claiming through or under Landlord, subject to the terms and conditions of this Amended and Restated Lease and to all Superior Leases and Mortgages. Notwithstanding anything in this Lease to the contrary, Landlord shall supply the basic services required by this Lease to the Premises so long as Tenant is in possession of the Premises and Tenant has not been served with an order by a sheriff or equivalent to vacate the Premises.

ARTICLE 20

NO SURRENDER; NO WAIVER

Section 20.1 No Surrender or Release. No act or thing done by Landlord or Landlord's agents or employees during the Term shall be deemed an acceptance of a surrender of the Premises, and no provision of this Amended and Restated Lease shall be deemed to have been waived by Landlord or Tenant, unless such waiver is in writing and is signed by Landlord or Tenant as applicable, except to the extent expressly provided otherwise in this Lease.

Section 20.2 No Waiver. The failure of either party to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Amended and Restated Lease, or any of the Rules and Regulations, shall not be construed as a waiver or relinquishment for the future performance of such obligations of this Amended and Restated Lease or the Rules and Regulations, or of the right to exercise such election but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt by Landlord of any Rent payable pursuant to this Amended and Restated Lease or any other sums with knowledge of the breach of any covenant of this Amended and Restated Lease shall not be deemed a waiver of such breach. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than a payment on account of the earliest stipulated Rent, or as Landlord may elect to apply such payment, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Amended and Restated Lease.

ARTICLE 21

WAIVER OF TRIAL BY JURY; COUNTERCLAIM

Section 21.1 Jury Trial Waiver. THE PARTIES HEREBY AGREE THAT THIS AMENDED AND RESTATED LEASE CONSTITUTES A WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY PURSUANT TO THE PROVISIONS OF WASHINGTON CODE OF CIVIL PROCEDURE SECTION 631 AND EACH PARTY DOES HEREBY CONSTITUTE AND APPOINT THE OTHER PARTY ITS TRUE AND LAWFUL ATTORNEY-IN-FACT, WHICH APPOINTMENT IS COUPLED WITH AN INTEREST, AND EACH PARTY DOES HEREBY AUTHORIZE AND EMPOWER THE OTHER PARTY, IN THE NAME, PLACE AND STEAD OF SUCH PARTY, TO FILE THIS AMENDED AND RESTATED LEASE WITH THE CLERK OR JUDGE OF ANY COURT OF COMPETENT JURISDICTION AS A STATUTORY WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY.

LANDLORD'S INITIALS:  **TENANT'S INITIALS:** 

Section 21.2 Waiver of Counterclaim. If Landlord commences any summary proceeding against Tenant, Tenant will not interpose any counterclaim of any nature or description in any such proceeding (unless failure to interpose such counterclaim would preclude Tenant from asserting in a separate action the claim which is the subject of such counterclaim), and will not seek to consolidate such proceeding with any other action which may have been or will be brought in any other court by Tenant.

ARTICLE 22

NOTICES

Except as otherwise expressly provided in this Amended and Restated Lease, all consents, notices, demands, requests, approvals or other communications given under this Amended and Restated Lease shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (provided a signed receipt is obtained) or if sent by registered or certified mail (return receipt requested) or by a nationally recognized overnight delivery service

making receipted deliveries, addressed to Landlord and Tenant as set forth in Article 1, and to any Mortgagee or Lessor who shall require copies of notices and whose address is provided to Tenant, or to such other address(es) as Landlord, Tenant or any Mortgagee or Lessor may designate as its new address(es) for such purpose by notice given to the other in accordance with the provisions of this Article 22. Any such approval, consent, notice, demand, request or other communication shall be deemed to have been given on the date of receipted delivery, refusal to accept delivery or when delivery is first attempted but cannot be made due to a change of address for which no notice is given or 3 Business Days after it shall have been mailed as provided in this Article 22, whichever is earlier.

ARTICLE 23

RULES AND REGULATIONS

All Tenant Parties shall observe and comply with the Rules and Regulations, as supplemented or amended from time to time. Landlord reserves the right, from time to time, to adopt additional Rules and Regulations and to amend the Rules and Regulations then in effect, provided, however, that no such additional Rule and Regulation, or amendment to a Rule and Regulation, shall be (i) applicable only to the Premises or the Tenant, (ii) inconsistent with an express provision of this Lease, or (iii) binding on Tenant until ten (10) Business Days after Landlord has given to Tenant notice and a copy thereof. Nothing contained in this Amended and Restated Lease shall impose upon Landlord any obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease against any other Building tenant, and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its employees, agents, visitors or licensees, provided that Landlord shall enforce the Rules or Regulations against Tenant in a non-discriminatory fashion.

ARTICLE 24

BROKER

Landlord has retained Landlord’s Agent as leasing agent in connection with this Amended and Restated Lease and Landlord will be solely responsible for any fee that may be payable to Landlord’s Agent. Landlord agrees to pay a commission to Tenant’s Broker pursuant to a separate agreement. Each of Landlord and Tenant represents and warrants to the other that neither it nor its agents have dealt with any broker in connection with this Amended and Restated Lease other than Landlord’s Agent and Tenant’s Broker. Each of Landlord and Tenant shall indemnify, defend, protect and hold the other party harmless from and against any and all Losses which the indemnified party may incur by reason of any claim of or liability to any broker, finder or like agent (other than Landlord’s Agent and Tenant’s Broker) arising out of any dealings claimed to have occurred between the indemnifying party and the claimant in connection with this Amended and Restated Lease, and/or the above representation being false.

ARTICLE 25

INDEMNITY

Section 25.1 Tenant’s Indemnity. Tenant shall not do or permit to be done any act or thing upon the Premises or the Building which may subject Landlord to any liability or responsibility for injury, damages to persons or property or to any liability by reason of any

violation of any Requirement, and shall exercise such control over the Premises as to fully protect Landlord against any such liability. Except to the extent of any such injury or damage resulting from the negligence or willful misconduct of Landlord or Landlord's agents or employees, Tenant shall indemnify, defend, protect and hold harmless each of the Indemnitees from and against any and all Losses, resulting from any claims (i) against the Indemnitees arising from any act, omission or negligence of any Tenant Parties, (ii) against the Indemnitees arising from any accident, injury or damage to any person or to the property of any person and occurring in or about the Premises, and (iii) against the Indemnitees resulting from any breach, violation or nonperformance of any covenant, condition or agreement of this Amended and Restated Lease on the part of Tenant to be fulfilled, kept, observed or performed.

Section 25.2 Landlord's Indemnity. Except to the extent of any such injury or damage resulting from the negligence or willful misconduct of Tenant or Tenant's agents or employees, Landlord shall indemnify, defend, protect and hold harmless each of the Tenant Parties from and against any and all Losses, resulting from any claims (i) against the Tenant Parties arising from any act, omission or negligence of any of Landlord or Landlord's employees, agents or contractors, and (ii) against the Tenant Parties resulting from any breach, violation or nonperformance of any covenant, condition or agreement of this Amended and Restated Lease on the part of Landlord to be fulfilled, kept, observed or performed.

Section 25.3 Defense and Settlement.

(a) If any claim, action or proceeding set forth in Section 25.1 is made or brought against any Indemnitee, then upon demand by an Indemnitee, Tenant, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Indemnitee's name (if necessary), by attorneys approved by the Indemnitee, which approval shall not be unreasonably withheld, conditioned or delayed (attorneys for Tenant's insurer shall be deemed approved for purposes of this Section 25.3). Notwithstanding the foregoing, an Indemnitee may retain its own attorneys to participate or assist in defending any claim, action or proceeding involving potential liability in excess of the amount available under Tenant's liability insurance carried under Section 11.1 for such claim and Tenant shall pay the reasonable fees and disbursements of such attorneys; provided, however, that, notwithstanding anything in this Lease to the contrary, Tenant shall only be responsible for paying for one such attorney for any and all of the Landlord Parties. If Tenant fails to diligently defend or if there is a legal conflict or other conflict of interest, then Landlord may retain separate counsel at Tenant's expense. The obligations of Tenant under any indemnity herein shall be conditioned upon the Landlord Parties being reasonable in approving a settlement of any indemnified claim. Notwithstanding anything herein contained to the contrary, Tenant may direct the Indemnitee to settle any claim, suit or other proceeding provided that (a) such settlement shall involve no obligation on the part of the Indemnitee other than the payment of money, (b) any payments to be made pursuant to such settlement shall be paid in full exclusively by Tenant at the time such settlement is reached, (c) such settlement shall not require the Indemnitee to admit any liability, and (d) the Indemnitee shall have received an unconditional release from the other parties to such claim, suit or other proceeding.

(b) If any claim, action or proceeding set forth in Section 25.2 is made or brought against any Tenant Party, then upon demand by a Tenant Party, Landlord, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Tenant Party's name (if necessary), by attorneys approved by the Tenant Party, which approval shall not be unreasonably withheld, conditioned or delayed (attorneys for Landlord's insurer shall be deemed approved for purposes of this Section 25.3). Notwithstanding the foregoing, a Tenant

Party may retain its own attorneys to participate or assist in defending any claim, action or proceeding involving potential liability in excess of the amount available under any liability insurance carried by Landlord for such claim and Landlord shall pay the reasonable fees and disbursements of such attorneys; provided, however, that, notwithstanding anything in this Lease to the contrary, Landlord shall only be responsible for paying for one such attorney for any and all of the Tenant Parties. If Landlord fails to diligently defend or if there is a legal conflict or other conflict of interest, then Tenant may retain separate counsel at Landlord's expense. The obligations of Landlord under any indemnity herein shall be conditioned upon the Tenant Parties being reasonable in approving a settlement of any indemnified claim. Notwithstanding anything herein contained to the contrary, Landlord may direct the Tenant Party to settle any claim, suit or other proceeding provided that (a) such settlement shall involve no obligation on the part of the Tenant Party other than the payment of money, (b) any payments to be made pursuant to such settlement shall be paid in full exclusively by Landlord at the time such settlement is reached, (c) such settlement shall not require the Tenant Party to admit any liability, and (d) the Tenant Party shall have received an unconditional release from the other parties to such claim, suit or other proceeding.

ARTICLE 26

MISCELLANEOUS

Section 26.1 Delivery. This Amended and Restated Lease shall not be binding upon Landlord or Tenant unless and until Landlord shall have executed and delivered a fully executed copy of this Amended and Restated Lease to Tenant.

Section 26.2 Transfer of Real Property. Landlord's obligations under this Amended and Restated Lease shall not be binding upon the Landlord named herein after the sale, conveyance, assignment or transfer (collectively, a **"Landlord Transfer"**) by such Landlord (or upon any subsequent landlord after the Landlord Transfer by such subsequent landlord) of its interest in the Building or the Real Property, as the case may be, and in the event of any such Landlord Transfer, Landlord (and any such subsequent Landlord) shall be entirely freed and relieved of all covenants and obligations of Landlord hereunder arising from and after the date of the Landlord Transfer, and the transferee of Landlord's interest (or that of such subsequent Landlord) in the Building or the Real Property, as the case may be, shall be deemed to have assumed all obligations under this Amended and Restated Lease arising from and after the date of the Landlord Transfer.

Section 26.3 Limitation on Liability. The liability of Landlord for Landlord's obligations under this Lease, and with respect to Landlord's liability to Tenant under any and all documents, instruments or agreements relating to this Lease, including without limitation, any subordination, non-disturbance and attornment agreements and consents to sublease, shall be limited to Landlord's interest in the Real Property and Tenant shall not look to any other property or assets of Landlord or the property or assets of any direct or indirect partner, member, manager, shareholder, director, officer, principal, employee or agent of Landlord (collectively, the **"Parties"**) in seeking either to enforce Landlord's obligations under this Lease or to satisfy a judgment for Landlord's failure to perform such obligations; and none of the Parties shall be personally liable for the performance of Landlord's obligations under this Lease.

Section 26.4 Rent. All amounts payable by Tenant to or on behalf of Landlord under this Amended and Restated Lease, whether or not expressly denominated Fixed Rent, Tenant's

Tax Payment, Tenant's Operating Payment, Additional Rent or Rent, shall constitute rent for the purposes of Section 502(b)(6) of the United States Bankruptcy Code.

Section 26.5 Entire Document. This Amended and Restated Lease (including any Schedules and Exhibits referred to herein and all supplementary agreements provided for herein) contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Amended and Restated Lease. All of the Schedules and Exhibits attached hereto are incorporated in and made a part of this Amended and Restated Lease, provided that in the event of any inconsistency between the terms and provisions of this Amended and Restated Lease and the terms and provisions of the Schedules and Exhibits hereto, the terms and provisions of this Amended and Restated Lease shall control.

Section 26.6 Governing Law. This Amended and Restated Lease shall be governed in all respects by the laws of the State of Washington.

Section 26.7 Unenforceability. If any provision of this Amended and Restated Lease, or its application to any person or entity or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Amended and Restated Lease or the application of such provision to any other person or entity or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

Section 26.8 Lease Disputes. (a) Tenant agrees that all disputes arising, directly or indirectly, out of or relating to this Amended and Restated Lease, and all actions to enforce this Amended and Restated Lease, shall be dealt with and adjudicated in the state courts of the State of Washington or the United States District Court for the Western District of Washington and for that purpose hereby expressly and irrevocably submits itself to the jurisdiction of such courts. Tenant agrees that so far as is permitted under applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action, other than service of process in one of the manners specified in this Amended and Restated Lease, or as otherwise permitted by law, shall be necessary in order to confer jurisdiction upon it in any such court.

(b) To the extent that Tenant has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, Tenant irrevocably waives such immunity in respect of its obligations under this Amended and Restated Lease.

Section 26.9 Landlord's Agent. Unless Landlord delivers notice to Tenant to the contrary, Landlord's Agent is authorized to act as Landlord's agent in connection with the performance of this Amended and Restated Lease, and Tenant shall be entitled to rely upon correspondence received from Landlord's Agent. Tenant acknowledges that Landlord's Agent is acting solely as agent for Landlord in connection with the foregoing; and neither Landlord's Agent nor any of its direct or indirect partners, members, managers, officers, shareholders, directors, employees, principals, agents or representatives shall have any liability to Tenant in connection with the performance of this Amended and Restated Lease, and Tenant waives any and all claims against any and all of such parties arising out of, or in any way connected with, this Amended and Restated Lease, the Building or the Real Property.

Section 26.10 Estoppel. Within 7 days following request from Landlord, any Mortgagee or any Lessor, Tenant shall deliver to Landlord a statement executed and

acknowledged by Tenant, in form reasonably satisfactory to Landlord, (a) stating the Commencement Date, the Rent Commencement Date and the Expiration Date, and that this Amended and Restated Lease is then in full force and effect and has not been modified (or if modified, setting forth all modifications), (b) setting forth the date to which the Fixed Rent and any Additional Rent have been paid, together with the amount of monthly Fixed Rent and Additional Rent then payable, (c) stating whether or not, to the best of Tenant's knowledge, Landlord is in default under this Amended and Restated Lease, and, if Landlord is in default, setting forth the specific nature of all such defaults, (d) stating the amount of the Letter of Credit, if any, under this Amended and Restated Lease, (e) stating whether there are any subleases or assignments affecting the Premises, (f) stating the address of Tenant to which all notices and communications under the Amended and Restated Lease shall be sent, and (g) responding to any other matters reasonably requested by Landlord, such Mortgagee or such Lessor. Tenant acknowledges that any statement delivered pursuant to this Section 26.10 may be relied upon by any purchaser or owner of the Real Property or the Building, or all or any portion of Landlord's interest in the Real Property or the Building or any Superior Lease, or by any Mortgagee, or assignee thereof or by any Lessor, or assignee thereof.

Section 26.11 Certain Interpretational Rules. For purposes of this Amended and Restated Lease, whenever the words "include", "includes", or "including" are used, they shall be deemed to be followed by the words "without limitation" and, whenever the circumstances or the context requires, the singular shall be construed as the plural, the masculine shall be construed as the feminine and/or the neuter and *vice versa*. This Amended and Restated Lease shall be interpreted and enforced without the aid of any canon, custom or rule of law requiring or suggesting construction against the party drafting or causing the drafting of the provision in question. The captions in this Amended and Restated Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Amended and Restated Lease or the intent of any provision hereof.

Section 26.12 Parties Bound. The terms, covenants, conditions and agreements contained in this Amended and Restated Lease shall bind and inure to the benefit of Landlord and Tenant and, except as otherwise provided in this Amended and Restated Lease, to their respective legal representatives, successors, and assigns.

Section 26.13 Memorandum of Lease. This Amended and Restated Lease shall not be recorded; however, at Landlord's request, Landlord and Tenant shall promptly execute, acknowledge and deliver a memorandum with respect to this Amended and Restated Lease sufficient for recording and Landlord may record the memorandum. Within 10 days after the end of the Term, Tenant shall enter into such documentation as is reasonably required by Landlord to remove the memorandum of record.

Section 26.14 Counterparts. This Amended and Restated Lease may be executed in 2 or more counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one instrument.

Section 26.15 Survival. All obligations and liabilities of Landlord or Tenant to the other which accrued before the expiration or other termination of this Amended and Restated Lease, and all such obligations and liabilities which by their nature or under the circumstances can only be, or by the provisions of this Amended and Restated Lease may be, performed after such expiration or other termination, shall survive the expiration or other termination of this Amended and Restated Lease. Without limiting the generality of the foregoing, the rights and obligations of the parties with respect to any indemnity under this

Amended and Restated Lease, and with respect to any Rent and any other amounts payable under this Amended and Restated Lease, shall survive the expiration or other termination of this Amended and Restated Lease.

Section 26.16 Inability to Perform. This Amended and Restated Lease and the obligation of Tenant to pay Rent and to perform all of the other covenants and agreements of Tenant hereunder shall not be affected, impaired or excused by any Unavoidable Delays. Landlord shall use reasonable efforts to promptly notify Tenant of any Unavoidable Delay which prevents Landlord from fulfilling any of its obligations under this Amended and Restated Lease.

Section 26.17 Tax Status of Beneficial Owner. Tenant recognizes and acknowledges that Landlord and/or certain beneficial owners of Landlord may from time to time qualify as real estate investment trusts pursuant to Sections 856 et seq. of the Code and that avoiding (a) the loss of such status, (b) the receipt of any income derived under any provision of this Lease that does not constitute "rents from real property" (in the case of real estate investment trusts), and (c) the imposition of income, penalty or similar taxes (each an "Adverse Event") is of material concern to Landlord and such beneficial owners. In the event that this Lease or any document contemplated hereby could, in the opinion of counsel to Landlord, result in or cause an Adverse Event, Tenant agrees to reasonably cooperate with Landlord in negotiating an amendment or modification thereof and shall at the request of Landlord execute and deliver such documents reasonably required to effect such amendment or modification; provided Landlord shall reimburse Tenant for its reasonable costs and expenses, including attorney's fees, associated with the negotiation and preparation of an amendment or modification to the Lease as may be required under this Section. Any amendment or modification pursuant to this Section shall be structured so that the economic results to Landlord and Tenant shall be substantially similar to those set forth in this Lease without regard to such amendment or modification and shall neither increase Tenant's obligations under this Lease nor adversely affect Tenant's rights under this Lease. Without limiting any of Landlord's other rights under this Section, Landlord may waive the receipt of any amount payable to Landlord hereunder and such waiver shall constitute an amendment or modification of this Lease with respect to such payment. Tenant expressly covenants and agrees not to enter into any sublease or assignment which provides for rental or other payment for such use, occupancy, or utilization based in whole or in part on the net income or profits derived by any person from the property leased, used, occupied, or utilized (other than an amount based on a fixed percentage or percentages of receipts or sales), and that any such purported sublease or assignment shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, occupancy, or utilization of any part of the Premises.

ARTICLE 27

SECURITY DEPOSIT

Section 27.1 Security Deposit. Tenant shall deposit the Security Deposit with Landlord upon the execution of this Amended and Restated Lease in cash as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Amended and Restated Lease.

Section 27.2 Application of Security. If (a) an Event of Default by Tenant occurs in the payment or performance of any of the terms, covenants or conditions of this Amended and Restated Lease, including the payment of Rent, or (b) Tenant fails to make any installment of Rent as and when due, Landlord may apply or retain the whole or any part of the Security

Deposit, to the extent required for the payment of any Fixed Rent or any other sum as to which Tenant is in default including (i) any sum which Landlord may expend or may be required to expend by reason of Tenant's default, and/or (ii) any damages to which Landlord is entitled pursuant to this Amended and Restated Lease, whether such damages accrue before or after summary proceedings or other reentry by Landlord. If Landlord applies or retains any part of the Security Deposit, Tenant, upon demand, shall deposit with Landlord the amount so applied or retained so that Landlord shall have the full Security Deposit on hand at all times during the Term. If Tenant shall comply with all of the terms, covenants and conditions of this Amended and Restated Lease, the Security Deposit shall be returned to Tenant after the Expiration Date and after delivery of possession of the Premises to Landlord in the manner required by this Amended and Restated Lease.

Section 27.3 Transfer. Upon a sale or other transfer of the Real Property or the Building, or any financing of Landlord's interest therein, Landlord shall have the right to transfer the Security Deposit to its transferee or lender. Upon receipt of written notice from Landlord that it has so transferred the Security Deposit to its transferee or lender, Tenant shall look solely to the new landlord or lender for the return of such Security Deposit and the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new landlord. Tenant shall not assign or encumber or attempt to assign or encumber the Security Deposit and neither Landlord nor its successors or assigns shall be bound by any such action or attempted assignment, or encumbrance.

ARTICLE 28

OPTION TO EXTEND

Tenant shall, provided this lease is in full force and effect and Tenant is not then in default under any of the terms and conditions of this Lease beyond applicable notice and cure periods, have one (1) option to extend this Lease for a period of five (5) years following the expiration of the Lease (the "**Extension Period**") at the then-current Fair Market Value. The term "Fair Market Value" shall mean the then prevailing market rate for full service base rent for tenants of comparable quality for renewal leases in comparable Class A office buildings of comparable age, use, location and quality in the Central Business District of Seattle, Washington taking into consideration the extent of the availability of space as large as the Premises in the marketplace and all other economic terms then customarily prevailing in such renewal leases in such marketplace, including any economic concessions such as additional tenant improvement allowances, "free" or reduced rent periods, and/or real estate commissions. The terms and conditions of the Extension Period will be on the same terms and conditions set forth in this Lease, except as modified by the terms and conditions set forth below:

(a) The Tenant must give Landlord binding notice of Tenant's election to exercise the option by written notice (the "Extension Notice") no earlier than twelve months and no later than nine (9) months prior to the Expiration Date, time being of the essence. If the Tenant fails to timely provide the Extension Notice, Tenant shall have no further or additional right to extend the Lease.

(b) The Fixed Rent in effect at the expiration of the then current term of this Lease shall be adjusted to reflect the then-current Fair Market Value for comparable Class A office buildings in the Seattle Central Business District office market determined as provided in this Article 28.

(c) Landlord shall advise Tenant of the new Fixed Rent for the Extension Period no later than sixty (60) days from the date of receipt by Landlord of Tenant's Extension Notice. Tenant and Landlord will have sixty (60) days from Landlord's notice of the new Fixed Rent (the "**Negotiation Period**") to negotiate a mutually agreeable rental rate.

(d) If Tenant and Landlord are unable to agree on a mutually acceptable Fixed Rent for the Extension Period during the Negotiation Period, then within ten (10) days following the expiration of the Negotiation Period, Landlord and Tenant shall each appoint a licensed real estate broker with at least ten (10) year's experience in leasing office space in the Seattle Central Business District office market to act as arbitrators. The two (2) arbitrators so appointed shall determine the Fair Market Value for the Premises for the Extension Period based on the above criteria and such other reasonable factors as may be raised by Tenant or Landlord and each shall submit his or her determination of the Fair Market Value to Landlord and Tenant in writing, within sixty (60) days after their appointment (the "**Final Offers**"). If the Fair Market Value as determined by the lower of the two (2) proposed Final Offers is not more than ten percent (10%) below the higher, then the Fair Market Value shall be determined by averaging the two (2) Final Offers.

(e) If the two (2) arbitrators so appointed cannot agree on the Fair Market Value for the Extension Period within ten percent (10%) of each other within such 60-day period, the two (2) arbitrators shall within five (5) days thereafter appoint a third arbitrator who shall be a licensed real estate broker with at least ten (10) year's experience in leasing office space in the Seattle Central Business District office market. The third arbitrator so appointed shall independently determine the Fair Market Value for the Premises for the Extension Period within thirty (30) days after appointment, by selecting from the proposals submitted by each of the first two arbitrators the one that most closely approximates the third arbitrator's determination of the Fair Market Value. The third arbitrator shall have no right to adopt a compromise or middle ground or any modification of either of the Final Offers submitted by the first two arbitrators. The Final Offer chosen by the third arbitrator as most closely approximating the third arbitrator's determination of the Fair Market Value for the Extension Period shall constitute the decision and award of the arbitrators and shall be final and binding on the parties.

(f) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half (1/2) of the fees and expenses of the third arbitrator.

(g) If either party fails to appoint an arbitrator, or if either of the first two arbitrators fails to submit his or her Final Offer of Fair Market Value to the other party, in each case within the time periods set forth above, then the decision of the other party's arbitrator shall be considered final and binding.

This Option to Extend shall not be available to a subtenant of all or a portion of the Premises or an assignee (other than a Permitted Assignee, a Related Entity or a person or entity who acquired Tenant's interest in this Amended and Restated Lease in a transaction approved by Landlord) unless otherwise agreed in writing by Landlord. Except as provided in the preceding sentence, this option is intended to be personal to the specific Tenant entity named in the Lease.

ARTICLE 29

OPTION TO TERMINATE

Tenant shall have the right, at its option, to terminate this Lease as of April 1, 2015, (the "Termination Date") by giving Landlord notice to such effect (the "**Termination Notice**") not less than nine (9) months before the Termination Date and paying the Termination Payment to Landlord on or before the Termination Date. The Termination Payment shall be $1,367,844.41. This option to terminate shall not be available to a subtenant of all or a portion of the Premises or an assignee (other than a Permitted Assignee, a Related Entity or a person or entity who acquired Tenant's interest in this Amended and Restated Lease in a transaction approved by Landlord) unless otherwise agreed in writing by Landlord. Except as provided in the preceding sentence, this option is intended to be personal to the specific Tenant entity named in the Lease.

ARTICLE 30

PARKING

Section 30.1 General. Tenant shall have the right to use one (1) parking stall in the parking garage of the Building per each 1,450 rentable square feet of space in the Premises from time to time. All such parking stalls shall be on a non-exclusive and unreserved basis. Tenant shall pay Landlord's then current rates from time to time for such parking stalls as Tenant elects to use during the Term. Landlord's current rate of each such parking stall is $320.00 per month.

Section 30.2 Change in Utilization. From time to time, or upon any change in the aggregate rentable square feet of space in the Premises, Tenant may give Landlord not less than sixty (60) days prior notice of Tenant's desire to obtain all or a specified number of the parking contracts out of the above referenced parking allocation, and upon Landlord's request, Tenant or its designated users shall execute the parking garage operator's standard form of parking agreement. To the extent that Tenant or users fail to execute monthly parking contracts for any portion of the parking allocation within the aforementioned periods, or if Tenant or users subsequently fail to continuously maintain all requested parking contracts, Tenant shall have a continuing right to claim such unused parking contracts in the parking allocation, by giving Landlord not less than sixty (60) days prior notice of Tenant's desire to do so, and, thereby to reclaim such lapsed parking contracts, at any time and from time to time upon such prior written notice to Landlord.

ARTICLE 31

SPECIAL PROVISION AS TO SUITE 2050

As provided in this Amended and Restated Lease, Suite 2050, consisting of the remaining 8,936 rentable square feet of space on the 20th floor not occupied by Tenant shall be added to, and become a part of, the Premises on April 1, 2012. Tenant shall have the right to determine in its sole discretion and without prior review or approval of Landlord, which 8,400 square feet on the 20th floor of the Building it shall occupy prior to April 1, 2012. Additionally, Landlord acknowledges that Tenant may make incidental and non-continuous use of space included in Suite 2050 from time to time (excluding the designated lunchroom for which a separate fee is being paid pursuant to Section 2.6) and that such incidental and non-continuous use shall not trigger any acceleration of the Commencement Date for Suite 2050 set forth above; provided that, notwithstanding the foregoing, the insurance requirements of Article 11, the Rules and Regulations requirements of Article 23 and the indemnity requirements of Article 25 shall apply with respect to the lunchroom and any space included in Suite 2050 for which such incidental or non-continuous use occurs.

ARTICLE 32

LANDLORD'S HOLDOVER PAYMENTS

Commencing upon written request of Tenant, Landlord shall pay to Fifth & Pine LLC, a Delaware limited liability company ("**Fifth**"), on behalf of Tenant, the additional rent charged by Fifth with respect to Tenant's holding over of its existing lease of space in the building commonly known as the Fifth & Pine Building, located 413 Pine Street, Seattle, WA; provided that such additional rent shall only include amounts charged by Fifth in excess of the current rate of seventeen dollars ($17) per square foot; and provided, further, that Landlord's obligation to pay such amounts to Fifth shall only be effective for a period of three (3) months. The written request of Tenant shall indicate the amount of such additional rent, the date on which each such payment is due and location to which payment shall be made by Landlord. In the event for any reason Landlord is unable to make payment directly to Fifth, or Fifth refuses to accept such payment, then Landlord shall instead make such payments to Tenant.

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

LANDLORD:

520 PIKE STREET, INC., a Delaware corporation

By: /s/ Steven R. Wechsler

Its: Senior Managing Director

TENANT:

Marchex, Inc., a Delaware corporation

By: /s/ Russell C. Horowitz

Its: Chief Executive Officer

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On this day personally appeared before me Steven Wechsler, to me known to be the SMD of **520 Pike Street, Inc.,** a Delaware corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the same instrument.

GIVEN under my hand and official seal this 10th day of June, 2009.

/s/ Jessica L. Iburg
Jessica L. Iburg
(print notary's name)

Notary Public in and for the State of New York, residing at Brooklyn, NY.
My commission expires: March 20, 2012.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Russell Horowitz, to me known to be the CEO of **Marchex, Inc.**, a Delaware corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the same instrument.

GIVEN under my hand and official seal this 5th day of June, 2009.

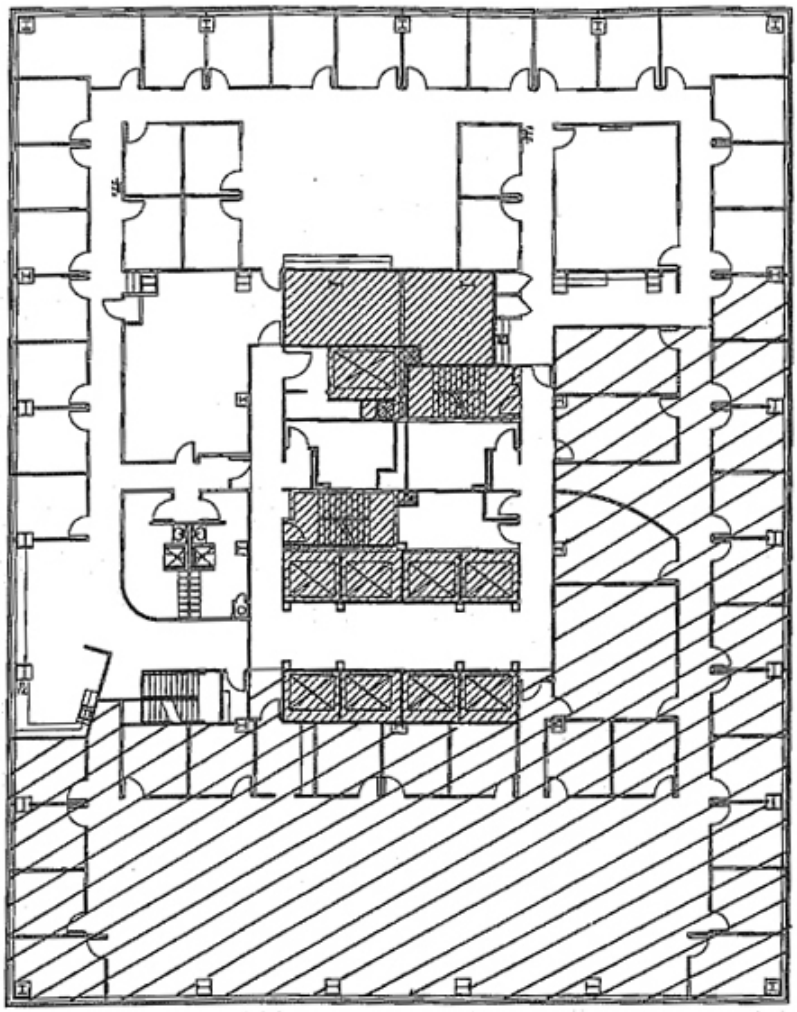
/s/ Elizabeth Hennick
Elizabeth Hennick
(print notary's name)

Notary Public in and for the State of Washington, residing at Kenmore, WA.
My commission expires: 06/20/2011.

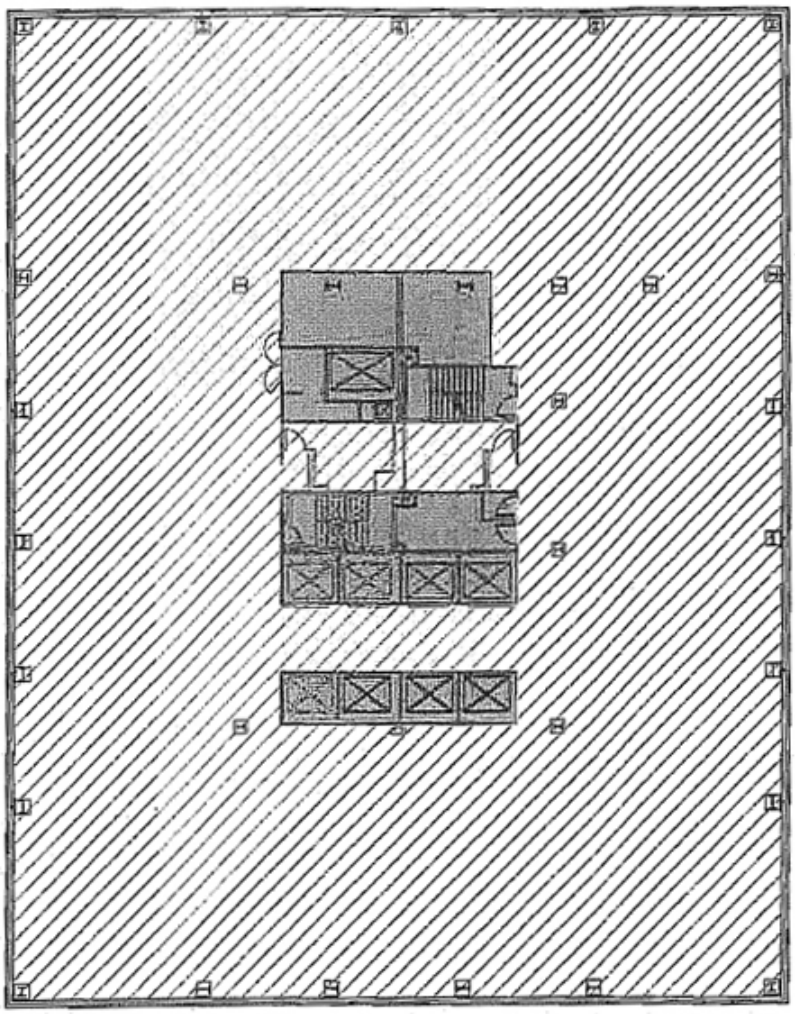
EXHIBIT A-1

Floor Plan

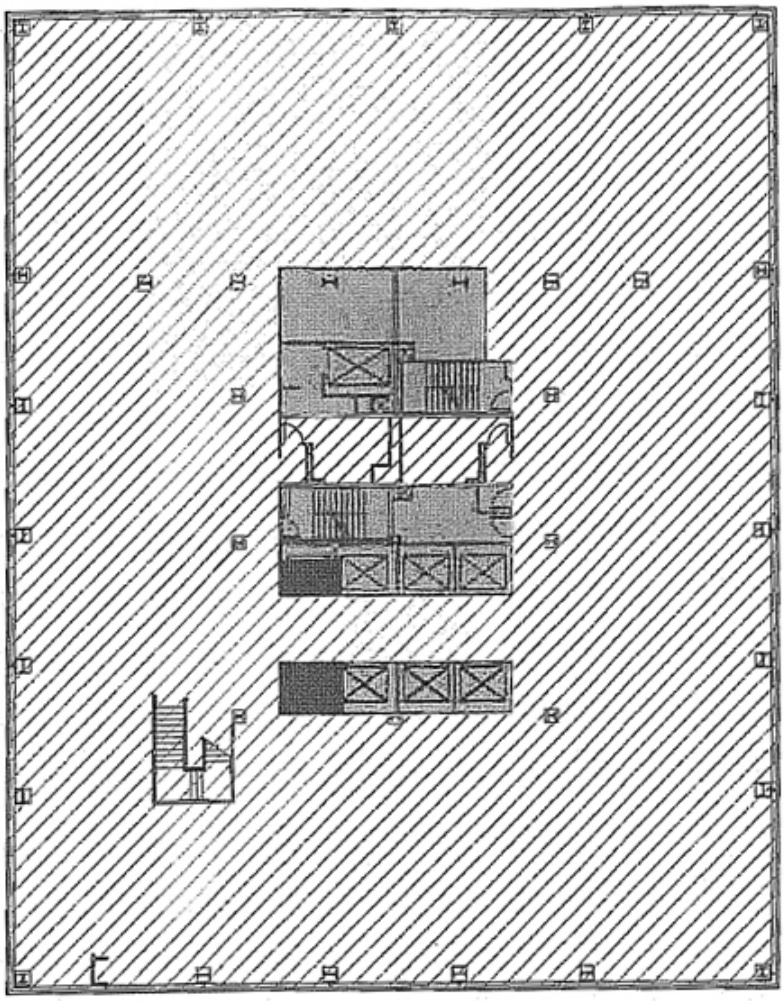
The floor plan which follows is intended solely to identify the general location of the Premises, and should not be used for any other purpose. All areas, dimensions and locations are approximate, and any physical conditions indicated may not exist as shown.



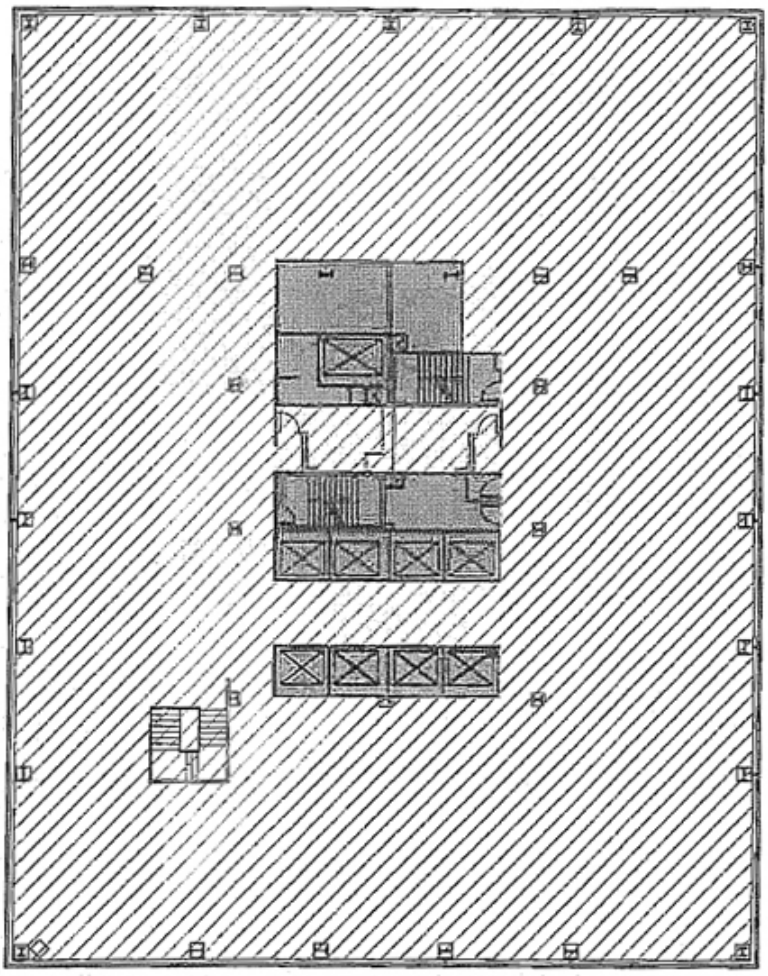
CONTACT:	ISSUED TO:	DATE: 19AUG04
1520 KEY TOWER	SCALE:	NORTH:
	TITLE: FLOORPLATE SEVENTEENTH FLOOR	PLAN PREPARED BY: bw burgess.weaver



BUILDING:	ISSUED TO:	DATE: 04JUN09
520 PIKE TOWER	SCALE:	NORTH:
	TITLE: MARKETING SHEET EIGHTEENTH FLOOR	



BULDING:	ISSUED TO:	DATE: 04JUN09
520 PIKE TOWER	SCALE:	NORTH:
	TITLE: MARKETING SHEET NINETEENTH FLOOR	



CONTACT:	ISSUED TO:	DATE: 04JUN09
	SCALE:	NORTH:
	TITLE: MARKETING SHEET TWENTIETH FLOOR	PLAN PREPARED BY:

520 PIKE TOWER

EXHIBIT A-2

Legal Description

Lots 10 and 11, Block 18, Addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 3rd Addition to the City of Seattle), according to the plat thereof recorded in Volume 1 of Plats, page 33, in King County, Washington, EXCEPT the southerly 10 feet of said Lot 11, condemned in King County Superior Court Cause No. 41394 for the widening of Pike Street, as provided by Ordinance No. 10051 of the City of Seattle.

SUBJECT TO AND TOGETHER WITH all rights and obligations granted and undertaken pursuant to: (a) Development and Parking Rights Agreement dated April 8, 1982 recorded under King County, Washington recording number 8204080464, as amended by agreements recorded under King County, Washington recording numbers 8208240318 and 8208240316, and as it may be further amended from time to time, and (b) Development Rights Agreement dated May 30, 1982 recorded under King County, Washington recording number 8208240314, as amended by agreement recorded under King County, Washington recording number 8208240316, and a Memorandum dated December 5, 1988 recorded under King County, Washington recording number 8812051221, and as it may be further amended from time to time.

EXHIBIT B

Definitions

Base Rate: The annual rate of interest publicly announced from time to time by Citibank, N.A., or its successor, in New York, New York as its "base rate" (or such other term as may be used by Citibank, N.A., from time to time, for the rate presently referred to as its "base rate").

Building Systems: The mechanical, electrical, plumbing, sanitary, sprinkler, heating, ventilation and air conditioning, security, life-safety, elevator and other service systems or facilities of the Building up to the point of connection of localized distribution to the Premises (excluding, however, supplemental HVAC systems of tenants, sprinklers and the horizontal distribution systems within and servicing the Premises and by which mechanical, electrical, plumbing, sanitary, heating, ventilating and air conditioning, security, life-safety and other service systems are distributed from the base Building risers, feeders, panelboards, etc. for provision of such services to the Premises).

Business Days: All days, excluding Saturdays, Sundays and Observed Holidays.

Code: The Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, as amended.

Common Areas: The lobby, plaza and sidewalk areas, parking garage, and other similar areas of general access and the areas on individual multi-tenant floors in the Building devoted to corridors, elevator lobbies, restrooms, and other similar facilities serving the Premises.

Comparable Buildings: First-class office buildings of comparable age and quality in the central business district of Seattle, Washington.

Excluded Expenses: (a) Taxes; (b) franchise or income taxes imposed upon Landlord; (c) mortgage amortization and interest; (d) leasing commissions; (e) the cost of tenant installations and decorations incurred in connection with preparing space for any Building tenant, including workletters and concessions; (f) fixed rent under Superior Leases, if any; (g) management fees to the extent in excess of the greater of (A) five percent (5%) of the gross rentals and other revenues collected for the Real Property (plus reimbursable expenses payable in connection with property management services), and (B) fees charged by Landlord or related entities for the management by any of them of other first class properties in the area of the Building; (h) wages, salaries and benefits paid to any persons above the grade of property manager or chief engineer and their immediate supervisor; (i) legal and accounting fees relating to (A) disputes with tenants, prospective tenants or other occupants of the Building, (B) disputes with purchasers, prospective purchasers, mortgagees or prospective mortgagees of the Building or the Real Property or any part of either, or (C) negotiations of leases, contracts of sale or mortgages; (j) costs of services provided to other tenants of the Building on a "rent-inclusion" basis which are not provided to Tenant on such basis; (k) costs that are reimbursed out of insurance, warranty or condemnation proceeds, or which are reimbursed by Tenant or other tenants other than pursuant to an expense escalation clause; (l) costs in the nature of penalties or fines; (m) costs for services, supplies or repairs paid to any related entity in excess of costs that would be payable in an "arm's length" or unrelated situation for comparable services, supplies or repairs; (n) allowances, concessions or other costs and expenses of improving or decorating any demised or demisable space in the Building; (o) advertising and promotional expenses in connection with leasing of the Building; (p) the costs of installing, operating and

maintaining a specialty improvement, including a cafeteria, lodging or private dining facility, or an athletic, luncheon or recreational club unless Tenant is permitted to make use of such facility without additional cost (other than payments for key deposits, use of towels, or other incidental items) or on a subsidized basis consistent with other users; (q) any costs or expenses (including fines, interest, penalties and legal fees) arising out of Landlord's failure to timely pay Operating Expenses or Taxes; (r) costs incurred in connection with the removal, encapsulation or other treatment of asbestos or any other Hazardous Materials (classified as such on the Effective Date) existing in the Premises in violation of applicable Requirements as of the date hereof; and (s) the cost of capital improvements other than those expressly included in Operating Expenses pursuant to Section 7.1.

Governmental Authority: The United States of America, the City of Seattle, County of King, or State of Washington, or any political subdivision, agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Real Property.

Hazardous Materials: Any substances, materials or wastes currently or in the future deemed or defined in any Requirement as "hazardous substances," "toxic substances," "contaminants," "pollutants" or words of similar import.

HVAC System: The Building System designed to provide heating, ventilation and air conditioning.

Indemnitees: Landlord, Landlord's Agent, each Mortgagee and Lessor, and each of their respective direct and indirect partners, officers, shareholders, directors, members, managers, trustees, beneficiaries, employees, principals, contractors, servants, agents, and representatives.

Lease Year: The first Lease Year shall commence on the Commencement Date and shall end on the last day of the calendar month preceding the month in which the first anniversary of the Commencement Date occurs. Each succeeding Lease Year shall commence on the day following the end of the preceding Lease Year and shall extend for 12 consecutive months; provided, however, that the last Lease Year shall expire on the Expiration Date.

Lessor: A lessor under a Superior Lease.

Losses: Any and all losses, liabilities, damages, claims, judgments, fines, suits, demands, costs, interest and expenses of any kind or nature (including reasonable attorneys' fees and disbursements) incurred in connection with any claim, proceeding or judgment and the defense thereof, and including all costs of repairing any damage to the Premises or the Building or the appurtenances of any of the foregoing to which a particular indemnity and hold harmless agreement applies.

Mortgage(s): Any mortgage, trust indenture or other financing document which may now or hereafter affect the Premises, the Real Property, the Building or any Superior Lease and the leasehold interest created thereby, and all renewals, extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder.

Mortgagee(s): Any mortgagee, trustee or other holder of a Mortgage.

Observed Holidays: New Years Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, plus days observed by the State of Washington, the City of Seattle and/or the labor unions servicing the Building as holidays.

Ordinary Business Hours: 8:00 a.m. to 6:00 p.m. on Business Days.

Prohibited Use: Any use or occupancy of the Premises that in Landlord's reasonable judgment would: (a) cause damage to the Building or any equipment, facilities or other systems therein; (b) impair the appearance of the Building; (c) interfere with the efficient and economical maintenance, operation and repair of the Premises or the Building or the equipment, facilities or systems thereof; (d) adversely affect any service provided to, and/or the use and occupancy by, any Building tenant or occupants; (e) violate the certificate of occupancy issued for the Premises or the Building; (f) materially and adversely affect the first-class image of the Building or (g) result in protests or civil disorder or commotions at, or other disruptions of the normal business activities in, the Building. Prohibited Use also includes the use of any part of the Premises for: (i) a restaurant or bar; (ii) the preparation, consumption, storage, manufacture or sale of food or beverages (except in connection with vending machines (provided that each machine, where necessary, shall have a waterproof pan thereunder and be connected to a drain) and/or warming kitchens installed for the use of Tenant's employees only), liquor, tobacco or drugs; (iii) the business of photocopying, multilith or offset printing (except photocopying in connection with Tenant's own business); (iv) a school or classroom; (v) lodging or sleeping; (vi) the operation of retail facilities (meaning a business whose primary patronage arises from the generalized solicitation of the general public to visit Tenant's offices in person without a prior appointment) of a savings and loan association or retail facilities of any financial, lending, securities brokerage or investment activity; (vii) a payroll office; (viii) a barber, beauty or manicure shop; (ix) an employment agency or similar enterprise; (x) offices of any Governmental Authority, any foreign government, the United Nations, or any agency or department of the foregoing; (xi) the manufacture, retail sale, storage of merchandise or auction of merchandise, goods or property of any kind to the general public which could reasonably be expected to create a volume of pedestrian traffic substantially in excess of that normally encountered in the Premises; (xii) the rendering of medical, dental or other therapeutic or diagnostic services; or (xiii) any illegal purposes or any activity constituting a nuisance.

Requirements: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary and ordinary of (i) all Governmental Authorities, including, without limitation, (A) the Americans With Disabilities Act, 42 U.S.C. §12101 (et seq.), and any law of like import, and all rules, regulations and government orders with respect thereto, and (B) any of the foregoing relating to Hazardous Materials, environmental matters, public health and safety matters and landmarks protection, (ii) any applicable fire rating bureau or other body exercising similar functions, affecting the Real Property or the maintenance, use or occupation thereof, or any street, avenue or sidewalk comprising a part of or in front thereof or any vault in or under the same, (iii) all requirements of all insurance bodies affecting the Premises, (iv) utility service providers, and (v) Mortgagees or Lessors. "Requirements" shall also include the terms and conditions of any certificate of occupancy issued for the Premises or the Building, and any other covenants, conditions or restrictions affecting the Building and/or the Real Property from time to time.

Rules and Regulations: The rules and regulations annexed to and made a part of this Amended and Restated Lease as **Exhibit F**, as they may be modified from time to time by Landlord.

Specialty Alterations: Alterations which are not standard office installations such as kitchens, executive bathrooms, raised computer floors, computer room installations, supplemental HVAC equipment, safe deposit boxes, vaults, libraries or file rooms requiring reinforcement of floors, internal staircases, slab penetrations, conveyors, dumbwaiters, and other Alterations of a similar character. All Specialty Alterations are Above-Building Standard Installations.

Substantial Completion: As to any construction performed by any party in the Premises, "Substantial Completion" or "Substantially Completed" means that such work has been completed, as reasonably determined by Landlord's architect, in accordance with (a) the provisions of this Amended and Restated Lease applicable thereto, (b) the plans and specifications for such work, and (c) all applicable Requirements, except for minor details of construction, decoration and mechanical adjustments, if any, the noncompletion of which does not materially interfere with Tenant's use of the Premises or which in accordance with good construction practices should be completed after the completion of other work in the Premises or Building.

Superior Lease(s): Any ground or underlying lease of the Real Property or any part thereof heretofore or hereafter made by Landlord and all renewals, extensions, supplements, amendments, modifications, consolidations, and replacements thereof.

Tenant Party: Tenant and any subtenants or occupants of the Premises and their respective agents, contractors, subcontractors, employees, invitees or licensees.

Tenant's Property: Tenant's movable fixtures and movable partitions, telephone and other equipment, computer systems, telecommunications, data and other cabling, trade fixtures, furniture, furnishings, and other items of personal property which are removable without material damage to the Building.

Unavoidable Delays: Landlord's inability to fulfill or delay in fulfilling any of its obligations under this Amended and Restated Lease expressly or impliedly to be performed by Landlord or Landlord's inability to make or delay in making any repairs, additions, alterations, improvements or decorations or Landlord's inability to supply or delay in supplying any equipment or fixtures, if Landlord's inability or delay is due to or arises by reason of strikes, labor troubles or by accident, or by any cause whatsoever beyond Landlord's reasonable control, including governmental preemption in connection with a national emergency, Requirements or shortages, or unavailability of labor, fuel, steam, water, electricity or materials, or delays caused by Tenant or other tenants, mechanical breakdown, acts of God, enemy action, civil commotion, fire or other casualty; provided, however, that such Unavoidable Delay shall last no longer than the time period and be of no greater scope than is necessary for Landlord to overcome the same with exercise of commercially reasonable efforts.

EXHIBIT C

WORKLETTER

1. Proposed and Final Plans.

(a) On or before September 30, 2009, Tenant shall cause to be prepared and delivered to Landlord, for Landlord's approval, the following proposed drawings (**"Proposed Plans")** for all improvements Tenant desires to complete or have completed in all or a portion of the Premises which portion may consist of Suite 1800, Suite 1900, Suite 2000 or Suite 2050, whether or not at such time such suite is included in the Premises (each such suite where work is to be performed is referred to as an "Applicable Suite") prior to the Suite 2050 Commencement Date (the **"Initial Installations"):**

(i) Architectural drawings (consisting of demolition plans, floor construction plan, ceiling lighting and layout, power, and telephone plan).

(ii) Mechanical drawings (consisting of HVAC, sprinkler, electrical, telephone, and plumbing). Mechanical drawings shall include a tabulation of connected electrical load and an analysis of anticipated electrical demand load.

(iii) Finish schedule (consisting of wall finishes and floor finishes and miscellaneous details).

(b) All architectural drawings shall be prepared at Tenant's sole expense by a licensed architect employed by Tenant and approved by Landlord. Tenant shall deliver two sets of reproducible architectural drawings to Landlord. All mechanical drawings shall be prepared at Tenant's sole expense by a licensed engineer designated by Landlord, whom Tenant shall employ. Tenant shall reimburse Landlord for all reasonable out-of-pocket costs incurred by Landlord in reviewing the Proposed Plans.

(c) Within 15 days after Landlord's receipt of the architectural drawings, Landlord shall approve or disapprove such drawings, and if disapproved, Landlord shall advise Tenant of any changes or additional information required to obtain Landlord's approval,

(d) Within 15 days after receipt of mechanical drawings, Landlord shall approve or disapprove such drawings, and if disapproved, Landlord shall advise Tenant of any changes required to obtain Landlord's approval.

(e) If Landlord disapproves of, or requests additional information regarding the Proposed Plans, Tenant shall, within 20 days thereafter, revise the Proposed Plans disapproved by Landlord and resubmit such plans to Landlord or otherwise provide such additional information to Landlord. Landlord shall, within 15 days after receipt of Tenant's revised plans, approve or disapprove such drawings, and if disapproved, Landlord shall advise Tenant of any additional changes which may be required to obtain Landlord's approval. If Landlord disapproves the revised plans specifying the reason therefor, or requests further additional information, Tenant shall, within 20 days of receipt of Landlord's required changes, revise such plans and resubmit them to Landlord or deliver to Landlord such further information as Landlord has requested. Landlord shall, again within 15 days after receipt of Tenant's revised plans, approve or disapprove such drawings, and if disapproved, Landlord shall advise

Tenant of further changes, if any, required for Landlord's approval. This process shall continue until Landlord has approved Tenant's revised Proposed Plans. "Final Plans" shall mean the Proposed Plans, as revised, which have been approved by Landlord and Tenant in writing. Landlord agrees not to withhold or delay its approval unreasonably so long as such initial Installations (i) are non-structural and do not affect any Building Systems, (ii) affect only the Premises (including any Applicable Suite not yet part of the Premises) and are not visible from outside of the Premises (including any Applicable Suite not yet part of the Premises), (iii) do not affect the certificate of occupancy issued for the Building or the Premises, (iv) do not violate any Requirement, and (v) utilize Building Standard (as hereafter defined) or better quality materials and finishes.

(f) Tenant may submit Proposed Plans for any Applicable Suite(s) in series or together as a complete set. If Proposed Plans for the Applicable Suites are submitted in multiple series then the procedures set forth in Sections 1(a) through (e) above shall apply to each such series. Tenant is not required to make Initial installation in each Applicable Suite and may select which Applicable Suites the Initial Installation will be performed; provided that Tenant will make Initial Installation in each of Suite 1900, Suite 2000 and Suite 2050 sufficient for Tenant to begin occupancy of such space as contemplated by the Amended and Restated Lease.

(g) All Proposed Plans and Final Plans shall comply with all applicable Requirements. Neither review nor approval by Landlord of the Proposed Plans and resulting Final Plans shall constitute a representation or warranty by Landlord that such plans either (i) are complete or suitable for their intended purpose, or (ii) comply with applicable Requirements, it being expressly agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability or compliance. Tenant shall not make any material changes in the Final Plans without Landlord's prior approval, which shall not be unreasonably withheld or delayed; provided that Landlord may, in the exercise of its sole and absolute discretion, disapprove any proposed changes adversely affecting the Building's structure, Building Systems (including intrabuilding network telephone cable), equipment or the appearance of the Building visible from outside of the Premises; provided, further, that Landlord's approval shall not be required for any changes affecting items constituting Decorative Alterations.

2. Performance of the Initial Installations.

(a) Filing of Final Plans, Permits. Tenant, at its sole cost and expense, shall file the Final Plans with the Governmental Authorities having jurisdiction over the initial Installations. Tenant shall furnish Landlord with copies of all documents submitted to all such Governmental Authorities and with the authorizations to commence work and the permits for the initial Installations issued by such Governmental Authorities. Tenant shall not commence the Initial Installations until the required governmental authorizations for such work are obtained and delivered to Landlord.

(b) Landlord Approval of Contractors. No later than 5 days following Landlord's approval of the Final Plans, Tenant shall solicit bids for construction of the Initial Installations and shall promptly thereafter enter into a contract with a general contractor selected by Tenant (the **"General Contractor"**). Tenant's construction contract with the General Contractor, including the identity of the General Contractor, shall be subject to Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. The General Contractor shall be responsible for all required construction,

management and supervision with respect to the Initial Instillation. Tenant shall cause the Initial Installation with respect to each Applicable Suite to be performed in an expeditious manner and shall be substantially completed as soon as reasonably practical. Tenant shall have the right to elect to pursue completion of the Initial Installation with respect to any Applicable Suite prior to beginning work on any other Applicable Suite, so long as work is being conducted as promptly as reasonably practical with respect to at least one Applicable Suite (with a reasonable amount of time permitted for a transition between work on Applicable Suites). In addition, Tenant shall only utilize for purposes of mechanical, electrical, structural, sprinkler, fire and life safety and those contractors as specifically designated by Landlord (collectively, the "Essential Subs"), which list of Essential Subs shall be provided no later than the time Landlord provides its first response pursuant to Section 1(c) or 1(d) and shall include 3 names each for those Essential Subs engaged in mechanical, electrical or structural contracting and 1 Essential Sub for fire alarm and life safety. Tenant shall submit to Landlord not less than 10 days prior to commencement of construction the following information and items:

(i) The names and addresses of the other subcontractors, and sub-subcontractors (collectively, together with the General Contractor and Essential Subs, the "Tenant's Contractors") Tenant intends to employ in the construction of the Initial Installations. Landlord shall have the right to approve or disapprove Tenant's Contractors, which approval shall not be unreasonably withheld, conditioned or delayed, and Tenant shall employ, as Tenant's Contractors, only those persons or entities approved by Landlord. All contractors and subcontractors engaged by or on behalf of Tenant for any Applicable Suite shall be licensed contractors, possessing good labor relations, capable of performing quality workmanship and working in harmony with Landlord's contractors and subcontractors and with other contractors and subcontractors on the job site. All work shall be coordinated with any general construction work in the Building.

(ii) The scheduled commencement date of construction, the estimated date of completion of construction work, fixturing work, and date of occupancy of the Applicable Suite, if not currently occupied by Tenant.

(iii) Itemized statement of estimated construction cost, including permits and fees, architectural, engineering, and contracting fees.

(iv) Certified copies of insurance policies or certificates of insurance as hereinafter described. Tenant shall not permit Tenant's Contractors to commence work until the required insurance has been obtained and certified copies of policies or certificates have been delivered to Landlord.

(c) Access to Premises. Tenant, its employees, designers, contractors and workmen shall have access to each Applicable Suite (including prior to the applicable Commencement Date) as provided in the Amended and Restated Lease to construct the Initial Installations, provided that Tenant and its employees, agents, contractors, and suppliers only access the Applicable Suite via the Building freight elevator, work in harmony and do not interfere with the performance of other work in the Building by Landlord, Landlord's contractors, other tenants or occupants of the Building (whether or not the terms of their respective leases have commenced) or their contractors. If at any time such entry shall cause, or in Landlord's reasonable judgment threaten to cause, such disharmony or interference, Landlord may terminate such permission upon 48 hours' notice to-Tenant, and thereupon, Tenant's agents, contractors, and suppliers causing such disharmony or interference shall immediately withdraw

from the Applicable Suite and the Building until Landlord determines such disturbance no longer exists.

(d) Landlord's Right to Perform. Landlord shall have the right, but not the obligation, to perform, on behalf of and for the account of Tenant, subject to reimbursement by Tenant, any of the Initial installations which (i) Landlord reasonably deems necessary to be done on an emergency basis for the safety or security of the Building or any tenant of the Building, (ii) pertains to structural components or the general Building Systems, or (iii) pertains to the erection of temporary safety barricades or signs during construction. Except in case of emergency, Landlord shall give at least 5 days written notice to Tenant of its intention to perform such work and shall permit Tenant to conduct such work and so long as Tenant has commenced such work and is reasonably proceeding to remedy such condition Landlord shall not perform such work pursuant to this Section 2(d).

(e) Warranties. On completion of the initial installations, Tenant shall provide Landlord with copies of all warranties of at least one year duration on all the Initial Installations. At Landlord's reasonable request, Tenant shall enforce, at Landlord's expense, ail guarantees and warranties made and/or furnished to Tenant with respect to the Initial Installations.

(f) Protection of Building. All work performed by Tenant shall be performed with a minimum of interference with other tenants and occupants of the Building and shall conform to the Rules and Regulations and those rules and regulations governing construction in the Building as Landlord or Landlord's Agent may reasonably impose. Tenant will take all reasonable and customary precautionary steps to protect its facilities and the facilities of others affected by the Initial Installations and to properly police same and Landlord shall have no responsibility for any loss by theft or otherwise. Construction equipment and materials are to be located in confined areas and delivery and loading of equipment and materials shall be done at such reasonable locations and at such time as Landlord shall reasonably direct so as not to burden the operation of the Building. Landlord shall advise Tenant in advance of any special delivery and loading dock requirements. Tenant shall at all times keep the Premises (including any Applicable Suite not yet included in the Premises but for which work has commenced) and adjacent areas free from accumulations of waste materials or rubbish caused by its suppliers, contractors or workmen. Landlord may require daily clean-up if required for fire prevention and life safety reasons or applicable laws and reserves the right to do clean-up at the expense of Tenant if Tenant fails to comply with Landlord's cleanup requirements upon 48 hours notice. At the completion of the Initial installations, Tenant's Contractors shall forthwith remove all rubbish and all tools, equipment and surplus materials from and about the Applicable Suite and Building. Any damage caused by Tenant's Contractors to any portion of the Building or to any property of Landlord or other tenants shall be repaired forthwith after written notice from Landlord to its condition prior to such damage by Tenant's Contractors at Tenant's expense.

(g) Compliance by all Tenant Contractors. Tenant shall impose and enforce all terms hereof on Tenant's Contractors and its designers, architects and engineers. Landlord shall have the right to order Tenant or any of Tenant's Contractors, designers, architects or engineers who willfully violate the provisions of this Workletter to cease work and remove himself or itself and his or its equipment and employees from the Building.

(h) Accidents, Notice to Landlord. Tenant's Contractors shall assume responsibility for the prevention of accidents to its agents and employees and shall take all

reasonable safety precautions with respect to the work to be performed and shall comply with all reasonable safety measures initiated by the Landlord and with all applicable Requirements for the safety of persons or property. Tenant shall advise the Tenant's Contractors to report to Landlord any injury to any of its agents or employees and shall furnish Landlord a copy of the accident report filed with its insurance carrier within 3 days of its occurrence.

(i) Required Insurance. Tenant shall cause Tenant's Contractors to secure, pay for, and maintain during the performance of the construction of the Initial Installations, insurance in the following minimum coverages and limits of liability:

(i) Workmen's Compensation and Employer's Liability Insurance as required by Requirements.

(ii) Commercial General Liability Insurance (including Owner's and Contractors' Protective Liability) in an amount not less than $2,000,000 per occurrence, whether involving bodily injury liability (or death resulting therefrom) or property damage liability or a combination thereof with a minimum aggregate limit of $2,000,000, and with umbrella coverage with limits not less than $10,000,000 (with respect to the General Contractor and $2,000,000 for the other Tenant Contractors). Such insurance shall provide for explosion and collapse, completed operations coverage with a two-year extension after completion of the work, and broad form blanket contractual liability coverage and shall insure Tenant's Contractors against any and all claims for bodily injury, including death resulting therefrom and damage to the property of others and arising from its operations under the contracts whether such operations are performed by Tenant's Contractors, or by anyone directly or indirectly employed by any of them.

(iii) Business Automobile Liability Insurance, including the ownership, maintenance, and operation of any automotive equipment, owned, hired, or non-owned in an amount not less than $500,000 for each person in one accident, and $1,000,000 for injuries sustained by two or more persons in any one accident and property damage liability in an amount not less than $1,000,000 for each accident. Such insurance shall insure Tenant's Contractors against any and all claims for bodily injury, including death resulting therefrom, and damage to the property of others arising from its operations under the contracts, whether such operations are performed by Tenant's Contractors, or by anyone directly or indirectly employed by any of them.

(iv) "All-risk" builder's risk insurance upon the entire Initial Installations to the full insurance value thereof. Such insurance shall include the interest of Landlord and Tenant (and their respective contractors and subcontractors of any tier to the extent of any insurable interest therein) in the Initial Installations and shall insure against the perils of fire and extended coverage and shall include "all-risk" builder's risk insurance for physical loss or damage including, without duplication of coverage, theft, vandalism, and malicious mischief. Any loss insured under such "ail-risk" builder's risk insurance is to be adjusted with Landlord and Tenant and made payable to Landlord as trustee for the insureds, as their interest may appear, subject to the agreement reached by such parties in interest, or in the absence of any such agreement, then in accordance with a final, nonappealable order of a court of competent jurisdiction. If after such loss no other special agreement is made, the decision to replace or not replace any such damaged the Initial Installations shall be made in accordance with the terms and provisions of the Amended and Restated Lease including, this Workletter. If Tenant obtains "all risk" builder's risk insurance, then the waiver of subrogation

provisions contained in the Amended and Restated Lease shall apply to such "all risk" builder's risk insurance policy.

All policies (except the Workmen's Compensation policy) shall be endorsed to include as additional named insureds Landlord and its officers, employees, and agents, Tishman Speyer Properties, L.P., any Mortgagees and Superior Lessors (to the extent Tenant has been notified by Landlord of such parties) and such additional persons as Landlord may designate. Such endorsements shall also provide that all additional insured parties shall be given 30 days' prior written notice of any reduction, cancellation, or nonrenewal of coverage by certified mail, return receipt requested (except that 10 days' notice shall be sufficient in the case of cancellation for nonpayment of premium) and shall provide that the insurance coverage afforded to the additional insured parties thereunder shall be primary to any insurance carried independently by such additional insured parties. At Tenants request, Landlord shall furnish a list of names and addresses of parties to be named as additional insureds and such list shall constitute the exclusive list of parties required to be included unless and until updated by written notice from Landlord. The insurance policies required hereunder shall be considered as the primary insurance and shall not call into contribution any insurance then maintained by Landlord. Additionally, where applicable, such policy shall contain a cross liability and severability of interest clause.

To the fullest extent permitted by law, Tenant (and Tenant's Contractors) shall indemnify and hold harmless the Indemnitees from and against all Losses necessitated by activities of the indemnifying party's contractors, bodily injury to persons or damage to property of the Indemnitees arising out of or resulting from the performance of work related to the Initial Installment by the indemnifying party or its contractors. The foregoing indemnity shall be in addition to the insurance requirements set forth above and shall not be in discharge or substitution of the same, and shall not be limited in any way by any limitations on the amount or type of damages, compensation or benefits payable by or for Tenant's Contractors under Workers' or Workmen's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

(j) Quality of Work. The Initial Installations shall be constructed in a first-class workmanlike manner using only good grades of material and in material compliance with the Final Plans, all insurance requirements, applicable laws and ordinances and rules and regulations of governmental departments or agencies and the rules and regulations adopted by Landlord for the Building. The quality of the Initial Installation shall be equal to or of greater quality than those Building Standard Materials and' Finishes as more particularly described on Schedule 1 attached hereto (the **"Building Standards"**); provided that Landlord shall have the right to require that Tenant not deviate from certain of the Building Standards by providing notice of such requirement prior to the adoption of the Final Plans. If Tenant requests that it not be required to install a Building Standard suspended ceiling in all or any portion of the Premises, and in lieu thereof employ an "open" ceiling, Landlord reserves the right to require that Tenant install a Building Standard ceiling upon the expiration or earlier termination of the Term; provided that Landlord shall notify Tenant of such requirement prior to the adoption of the Final Plans.

(k) "As-Built" Plans. Upon completion of the Initial Installations, Tenant shall furnish Landlord with "as built" plans and air balance reports for the Premises, final waivers of lien for the Initial Installations, a detailed breakdown of the costs of the Initial Installations (which may be in the form of an owner's affidavit) and evidence of payment reasonably satisfactory to Landlord, and an occupancy permit for the Applicable Suite. The "as-built" plans

shall be prepared on an AutoCAD Computer Assisted Drafting and Design System (or such other system or medium as Landlord may accept), using naming conventions issued by the American Institute of Architects in June, 1990 (or such other naming conventions as Landlord may accept) and computer media of such record drawings and specifications translated in DFX format or another format acceptable to Landlord.

(l) Mechanics' Liens. Tenant shall not permit any of the Tenant's Contractors to place any lien upon the Building, and if any such lien is placed upon the Building, Tenant shall within 10 days of notice thereof, cause such lien to be discharged of record, by bonding or otherwise. If Tenant shall fail to cause any such lien to be discharged, Landlord shall have the right to have such lien discharged and Landlord's expense in so doing, including bond premiums, reasonable legal fees and fifing fees, shall be immediately due and payable by Tenant.

3. Payment of Costs of the Initial Installations.

(a) Subject to Landlord's Contribution as provided in Paragraph 3(b) below, the Initial Installations shall be installed by Tenant at Tenant's sole cost and expense. The cost of the Initial Installations shall include, and Tenant agrees to pay Landlord for, the following costs (**"Landlord's Costs"**): (i) the cost of all work performed by Landlord on behalf of Tenant at Tenant's request or otherwise pursuant to this Workletter and for all materials and labor furnished on Tenant's behalf at Tenants request or otherwise pursuant lo this Workletter, (ii) the cost of any services provided to Tenant or Tenant's Contractors including but not limited to the cost for rubbish removal, hoisting, and utilities to the extent not included in general conditions charges by the general contractor, and (iii) a supervision fee equal to *2%* of the cost of the Initial Installations excluding the costs of preparing the Proposed Plans and Final Plans and any "soft costs" as defined below. Landlord may render bills to Tenant monthly for Landlord's Costs (provided that the supervision fee shall be billed based on the total cost of the Initial installations upon the completion of the last of the Initial Installations). All bills shall be due and payable no later than the 30th day after delivery of such bills to Tenant.

(b) Landlord shall pay to Tenant an amount not to exceed $779,100 (**"Landlord's Contribution"**) toward the cost of the initial Installations, provided as of the date on which Landlord is required to make payment thereof, (i) the Amended and Restated Lease is in full force and effect and (ii) no Event of Default then exists. Tenant shall pay all costs of the Initial Installations in excess of Landlord's Contribution. Landlord's Contribution shall be payable solely on account of labor directly related to the Initial Installations and materials delivered to the Premises in connection with the Initial Installations, except that Tenant may apply up to 50% of Landlord's Contribution to pay "soft costs", consisting of architectural, consulting, engineering, permitting and legal fees, and furniture and equipment (exclusive of computer equipment) acquired for use in the Premises (including any Applicable Suite not yet added to the Premises), incurred in connection with the Initial Installations. Tenant shall not be entitled to receive any portion of Landlord's Contribution not actually expended by Tenant in the performance of the Initial Installations in accordance with this Workletter, provided that Tenant have any right to apply up to one-third (1/3) of Landlord's Contribution (to the extent not used to pay for the Initial Installations) as a credit against Rent under the Amended and Restated Lease in accordance with Section 2.5 thereof. Thirty (30) days after the completion of the Initial Installations and satisfaction of the conditions set forth below, or upon the occurrence of the date which is twelve months after the Suite 2050 Commencement Date (which date shall be extended by reason of strikes, labor trouble or any other similar cause beyond Tenant's control in performing the Initial Installations), whichever first occurs, any amount of Landlord's

Contribution which has not been previously disbursed, or requested by Tenant to be disbursed in accordance with Section 3(c) or applied against Fixed Rent in accordance with Section 2.5 of the Amended and Restated Lease, shall be retained by Landlord; provided, however, that notwithstanding anything contained herein to the contrary, such retained amounts shall continue to be held for the benefit of Tenant by Landlord if Tenant delivers a notice to Landlord prior to satisfaction of the conditions set forth below that it is in dispute with any contractors, subcontractors, vendors or other providers of service and refuses to make payments at such time or if any contracts provide for retainage which has not then been finally paid.

(c) Landlord shall pay Landlord's Contribution with respect to the work done on an Applicable Suite to Tenant following commencement of Tenant's business operations at the Applicable Suite and the substantial completion of the Initial Installations for such Applicable Suite, within 30 days after submission by Tenant to Landlord of a written requisition therefor, signed by the chief financial officer of Tenant and accompanied by (i) copies of paid invoices covering all of the Initial Installations, (ii) a written certification from Tenant's architect stating that the Initial Installations described on such invoices have been completed in accordance with the Final Plans, and evidence that such work has been paid in full by Tenant and that all contractors, subcontractors and material suppliers have delivered to Tenant final, unconditional waivers and releases of lien in the form prescribed by the Requirements with respect to such work (copies of which shall be included with such architect's certification), (iii) proof of the satisfactory completion of all required inspections and the issuance of any required approvals and sign-offs by Governmental Authorities with respect thereto, (iv) final "as-built" plans and specifications for the Initial Installations as required pursuant to Section 2(k) and (v) such other documents and information as Landlord may reasonably request, including in connection with title drawdowns and endorsements.

(d) If Tenant elects to perform the Initial Installation in two or more stages, then any portion or all of the entire remaining amount of Landlord's Contribution will be made available to Tenant in connection with each such stage and for each succeeding stage until such time as the aggregate amount of Landlord's Contribution has been paid in full, after which point Tenant shall be responsible for all additional costs of completing the Initial Installation.

4. Miscellaneous.

(a) All defined terms as used herein shall have the meanings ascribed to them in the Amended and Rested Lease.

(b) Tenant agrees that, in connection with the Initial Installations and its use of any Applicable Suite prior to the related Commencement Date for such Applicable Suite, Tenant shall have those duties and obligations with respect thereto that it has pursuant to the Amended and Restated Lease during the Term, except the obligation for payment of Rent.

(c) Except as expressly set forth herein or in the Amended and Restated Lease, Landlord has no other agreement with Tenant and Landlord has no other obligation to do any other work or pay any amounts with respect to the Premises. Any other work in the Premises which may be permitted by Landlord pursuant to the terms and conditions of the Amended and Restated Lease shall be done at Tenant's sole cost and expense and in accordance with the terms and conditions of the Amended and Restated Lease.

(d) This Workletter shall not be deemed applicable to any additional space added to the original Premises at any time or from time to time, whether by any options under the Amended and Restated Lease or otherwise, or to any portion of the original Premises or any additions thereto in the event of a renewal or extension of the initial term of the Amended and Restated Lease, whether by any options under the Amended and Restated Lease or otherwise, unless expressly so provided in the Amended and Restated Lease or any amendment or supplement thereto.

(e) The failure by Tenant to pay any monies due Landlord pursuant to this Workletter within the time period herein stated shall be deemed a default under the terms of the Amended and Restated Lease for which Landlord shall be entitled to exercise all remedies available to Landlord for nonpayment of Rent. All late payments shall bear interest pursuant to Section 15.6 of the Amended and Restated Lease

EXHIBIT D

Design Standards

(a) HVAC. The Building HVAC System serving the Premises is designed to maintain average temperatures within the Premises during Ordinary Business Hours of (i) not less than 68º F. during the heating season when the outdoor temperature is 5º F. or more and (ii) not more than 78º F. and 50% humidity + 5% during the cooling season, when the outdoor temperatures are at 89º F. dry bulb and 73º F. wet bulb, with, in the case of clauses (i) and (ii), a population load per floor of not more than one person per 100 square feet of useable area, other than in dining and other special use areas per floor for all purposes, and shades fully drawn and closed, including lighting and power, and to provide at least .15 CFM of outside ventilation per square foot of rentable area. Use of the Premises, or any part thereof, in a manner exceeding the foregoing design conditions or rearrangement of partitioning after the initial preparation of the Premises which interferes with normal operation of the air-conditioning service in the Premises may require changes in the air-conditioning system serving the Premises at Tenant's expense.

(b) Electrical. The Building Electrical system serving the Premises is designed to provide:

(i) 1.5 watts per rentable square foot of high voltage (480/277 volt) connected power for lighting, and

(ii) 2.5 watts per rentable square foot of low voltage (120/208 volt) connected power for convenience receptacles.

EXHIBIT E

Cleaning Specifications

GENERAL CLEANING

NIGHTLY

General Offices:

1. All hard surfaced flooring to be swept using approved dustdown preparation.
2. Carpet sweep all carpets, moving only light furniture (desks, file cabinets, etc. not to be moved).
3. Hand dust and wipe clean all furniture, fixtures and window sills.
4. Empty all waste receptacles and remove wastepaper.
5. Wash clean all Building water fountains and coolers.
6. Sweep all private stairways.

Lavatories:

1. Sweep and wash all floors, using proper disinfectants.
2. Wash and polish all mirrors, shelves, bright work and enameled surfaces.
3. Wash and disinfect all basins, bowls and urinals.
4. Wash all toilet seats.
5. Hand dust and clean all partitions, tile walls, dispensers and receptacles in lavatories and restrooms.
6. Empty paper receptacles, fill receptacles from tenant supply and remove wastepaper.
7. Fill toilet tissue holders from tenant supply.
8. Empty and clean sanitary disposal receptacles.

WEEKLY

1. Vacuum all carpeting and rugs.
2. Dust all door louvers and other ventilating louvers within a person’s normal reach.
3. Wipe clean all brass and other bright work.

NOT MORE THAN 3 TIMES PER YEAR

High dust premises complete including the following:

1. Dust all pictures, frames, charts, graphs and similar wall hangings not reached in nightly cleaning.
2. Dust all vertical surfaces, such as walls, partitions, doors, door frames and other surfaces not reached in nightly cleaning.
3. Dust all venetian blinds.
4. Wash all windows.

EXHIBIT F

Rules and Regulations

1. Nothing shall be attached to the outside walls of the Building. Other than Building standard blinds, no curtains, blinds, shades, screens or other obstructions shall be attached to or hung in or used in connection with any exterior window or entry door of the Premises, without the prior consent of Landlord.

2. No sign, advertisement, notice or other lettering visible from the exterior of the Premises shall be exhibited, inscribed, painted or affixed to any part of the Premises without the prior written consent of Landlord. All lettering on doors shall be inscribed, painted or affixed in a size, color and style acceptable to Landlord.

3. The grills, louvers, skylights, windows and doors that reflect or admit light and/or air into the Premises or Common Areas shall not be covered or obstructed by Tenant, nor shall any articles be placed on the window sills, radiators or convectors.

4. Landlord shall have the right to prohibit any advertising by any Tenant which, in Landlord's opinion, tends to impair the reputation of the Building, and upon written notice from Landlord, Tenant shall refrain from or discontinue such advertising.

5. Common Areas shall not be obstructed or encumbered by any Tenant or used for any purposes other than ingress of egress to and from the Premises and for delivery of merchandise and equipment in a prompt and efficient manner, using elevators and passageways designated for such delivery by Landlord.

6. Except in those areas designated by Tenant as "security areas," all locks or bolts of any kind shall be operable by the Building's Master Key. No locks shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in locks or the mechanism thereof which shall make such locks inoperable by the Building's Master Key. Tenant shall, upon the termination of this Amended and Restated Lease, deliver to Landlord all keys of stores, offices and lavatories, either furnished to or otherwise procured by Tenant and in the event of the loss of any keys furnished by Landlord, Tenant shall pay to Landlord the cost thereof.

7. Tenant shall keep the entrance door to the Premises closed at all times.

8. All movement in or out of any freight, furniture, boxes, crates or any other large object or matter of any description must take place during such times and in such elevators as Landlord may prescribe. Landlord reserves the right to inspect all articles to be brought into the Building and to exclude from the Building all articles which violate any of these Rules and Regulations or this Amended and Restated Lease. Landlord may require that any person leaving the public areas of the Building with any article to submit a pass, signed by an authorized person, listing each article being removed, but the establishment and enforcement of such requirement shall not impose any responsibility on Landlord for the protection of any Tenant against the removal of property from the Premises.

9. All hand trucks shall be equipped with rubber tires, side guards and such other safeguards as Landlord may require.

10. No Tenant Party shall be permitted to have access to the Building's roof, mechanical, electrical or telephone rooms without permission from Landlord.

11. Tenant shall not permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors, vibrations or interfere in any way with other tenants or those having business therein.

12. Tenant shall not employ any person or persons other than the janitor of Landlord for the purpose of cleaning the Premises, unless otherwise agreed to by Landlord. Tenant shall not cause any unnecessary labor by reason of such Tenant's carelessness or indifference in the preservation of good order and cleanliness.

13. Tenant shall store all its trash and recyclables within its Premises. No material shall be disposed of which may result in a violation of any Requirement. All refuse disposal shall be made only though entryways and elevators provided for such purposes and at such times as Landlord shall designate. Tenant shall use the Building's hauler.

14. Tenant shall not deface any part of the Building. No boring, cutting or stringing of wires shall be permitted, except with prior consent of Landlord, and as Landlord may direct.

15. The water and wash closets, electrical closets, mechanical rooms, fire stairs and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed and no sweepings, rubbish, rags, acids or other substances shall be deposited therein. All damages resulting from any misuse of the fixtures shall be borne by Tenant where a Tenant Party caused the same.

16. Tenant, before closing and leaving the Premises at any time, shall see that all lights, water faucets, etc. are turned off. All entrance doors in the Premises shall be kept locked by Tenant when the Premises are not in use.

17. No bicycles, in-line roller skates, vehicles or animals of any kind (except for seeing eye dogs) shall be brought into or kept by any Tenant in or about the Premises or the Building.

18. Canvassing or soliciting in the Building is prohibited.

19. Employees of Landlord or Landlord's Agent shall not perform any work or do anything outside of the regular duties, unless under special instructions from the office of Landlord or in response to any emergency condition.

20. Tenant is responsible for the delivery and pick up of all mail from the United States Post Office.

21. Landlord reserves the right to exclude from the Building during other than Ordinary Business Hours all persons who do not present a valid Building pass. Tenant shall be responsible for all persons for whom a pass shall be issued at the request of Tenant and shall be liable to Landlord for all acts of such persons.

22. Tenant shall not use the Premises for any purpose that may be dangerous to persons or property, nor shall Tenant permit in, on or about the Premises or Building items that

may be dangerous to persons or property, including, without limitation, firearms or other weapons (whether or not licensed or used by security guards) or any explosive or combustible articles or materials.

23. No smoking shall be permitted in, on or about the Premises, the Building or the Real Property.

24. Landlord shall not be responsible to Tenant or to any other person or entity for the non-observance or violation of these Rules and Regulations by any other tenant or other person or entity. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition to its occupancy of the Premises.

25. The review/alteration of Tenant drawings and/or specifications by Landlord's Agent and any of its representatives is not intended to verify Tenant's engineering or design requirements and/or solutions. The review/alteration is performed to determine compatibility with the Building Systems and lease conditions. Tenant renovations must adhere to the Building's applicable Standard Operating Procedures and be compatible with all Building Systems.

Exhibit 31(i)

CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a),
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

Principal Executive Officer

I, Russell C. Horowitz, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Marchex, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2009

/s/ RUSSELL C. HOROWITZ

Russell C. Horowitz
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31(ii)

CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a),
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

Principal Financial Officer

I, Michael A. Arends, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Marchex, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2009

/s/ MICHAEL A. ARENDS

Michael A. Arends
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Russell C. Horowitz, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report on Form 10-Q of Marchex, Inc. for the quarter ended June 30, 2009 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Quarterly Report on Form 10-Q fairly presents in all material respects the financial condition and results of operations of Marchex, Inc.

Date: August 7, 2009

By: /s/ RUSSELL C. HOROWITZ
Name: **Russell C. Horowitz**
Title: **Chief Executive Officer**

Exhibit 32.2

**CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael A. Arends, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report on Form 10-Q of Marchex, Inc. for the quarter ended June 30, 2009 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Quarterly Report on Form 10-Q fairly presents in all material respects the financial condition and results of operations of Marchex, Inc.

Date: August 7, 2009

By: /s/ MICHAEL A. ARENDS
Name: **Michael A. Arends**
Title: **Chief Financial Officer**