

RAINING DATA CORP
Form PRER14A
October 18, 2005
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant x
Filed by a Party other than the Registrant o
Check the appropriate box:

- x Preliminary Proxy Statement
- o **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- o Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Pursuant to §240.14a-12

Raining Data Corporation

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
- o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
 - (1) Title of each class of securities to which transaction applies:
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 - (4) Proposed maximum aggregate value of transaction:
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RAINING DATA CORPORATION

17500 Cartwright Road

Irvine, California 92614

Notice of Annual Meeting of Stockholders

November 28, 2005

To the Stockholders of Raining Data Corporation:

NOTICE IS HEREBY GIVEN that the Annual Meeting of Stockholders of Raining Data Corporation, a Delaware corporation (the Company), will be held at the Cupertino Inn located at 10889 North De Anza Boulevard, Cupertino, California 95104, on Monday, November 28, 2005 at 10:00 a.m. local time for the following purposes, as more fully described in the Proxy Statement accompanying this Notice:

1. To elect two (2) Class I directors of the Company to serve a term of three (3) years or until their successors are duly elected and qualified;
2. To ratify the appointment of KPMG LLP as independent auditors of the Company for the fiscal year ending March 31, 2006;
3. To amend the Company's Restated Certificate of Incorporation to increase the authorized number of shares of Common Stock from 60,000,000 to 100,000,000 shares and to increase the authorized number of shares of Preferred Stock from 300,000 to 5,000,000 shares;
4. To amend the Company's Restated Certificate of Incorporation to remove the provision requiring the affirmative vote of the holders of two-thirds (2/3) of the outstanding voting shares to amend, alter, modify or repeal provisions of the Company's Restated Certificate of Incorporation which (i) set the authorized number of directors, (ii) provide for a classified Board of Directors, and (iii) provide for directors to be removed with or without cause;
5. To approve amendments to Section 3.1 and Article XI of the Company's Amended and Restated Bylaws to remove the requirement of the affirmative vote of two-thirds (2/3) of the then-outstanding shares of stock entitled to vote to amend, change or repeal provisions which (i) set the authorized number of directors and (ii) provide for a classified Board of Directors;
6. To approve amendments to the Company's 1999 Stock Option Plan (the Plan) to:
 - increase the number of shares authorized for issuance under the plan by 1,500,000 shares to a total of 6,500,000 shares available for issuance under the Plan;
 - provide for automatic annual increases in the number of shares reserved under the Plan by an amount equal to the lesser of (i) 3% of the Company's then outstanding shares, (ii) 2,000,000 shares or (iii) such lesser amount as determined by the Board; and
 - to add restricted stock purchase rights as a new award type and add net exercise as an acceptable form of consideration upon exercise of stock options.

and

7. To transact such other business as may properly come before the meeting or any adjournment thereof.

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Only stockholders of record at the close of business on September 29, 2005 are entitled to notice of and to vote at the Annual Meeting or any adjournment thereof. A list of such stockholders will be available for examination by any stockholder at the Annual Meeting, or at the office of the Secretary of the Company, 17500 Cartwright Road, Irvine, California 92614, for a period of ten (10) days prior to the Annual Meeting.

A copy of the Company's Annual Report for the fiscal year ended March 31, 2005, containing consolidated financial statements, is included with this mailing. Your attention is directed to the accompanying Proxy Statement for the text of the matters to be proposed at the Annual Meeting and further information regarding each proposal to be made.

STOCKHOLDERS UNABLE TO ATTEND THE ANNUAL MEETING IN PERSON ARE ASKED TO COMPLETE, DATE AND SIGN THE ENCLOSED PROXY AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE. IF YOU ATTEND THE ANNUAL MEETING, YOU MAY REVOKE YOUR PROXY AND VOTE IN PERSON IF YOU WISH.

By Order of the Board of Directors,

Richard W. Koe
Chairman of the Board

Irvine, California
October 20, 2005

RAINING DATA CORPORATION

17500 Cartwright Road

Irvine, California 92614

PROXY STATEMENT

INFORMATION CONCERNING SOLICITATION AND VOTING

This Proxy Statement is furnished by the Board of Directors of Raining Data Corporation, a Delaware corporation (the Board and the Company, respectively), in connection with the solicitation of proxies to be voted at the Annual Meeting of Stockholders (the Annual Meeting) of the Company to be held on Monday, November 28, 2005, at 10:00 a.m. local time, at the Cupertino Inn located at 10889 North De Anza Boulevard, Cupertino, California 95104, and at any adjournments or postponements thereof. Our principal executive office is located at 17500 Cartwright Road, Irvine, California 92614 and our telephone number is (949) 442-4400. The purposes of the Annual Meeting are set forth in the accompanying Notice of Annual Meeting of Stockholders.

This Proxy Statement and the Notice of Annual Meeting and proxy are being mailed on or about October 20, 2005, to all stockholders entitled to vote at the Annual Meeting. **ANY PROXY IN WHICH NO DIRECTION IS SPECIFIED WILL BE VOTED IN FAVOR OF EACH OF THE MATTERS FOR WHICH NO DIRECTION IS SPECIFIED.**

GENERAL INFORMATION ABOUT THE MEETING

The close of business on September 29, 2005 has been fixed as the record date for the determination of stockholders entitled to receive notice of and to vote at the Annual Meeting. On that date, the Company's outstanding voting securities consisted of 20,355,086 shares of Common Stock and 300,000 shares of Series A Convertible Preferred Stock, which were held by approximately 140 stockholders of record.

Holders of a majority of the Company's outstanding securities entitled to vote must be present, in person or by proxy, at the Annual Meeting in order to have the required quorum for the transaction of business. If the shares present, in person or by proxy, at the Annual Meeting do not constitute the required quorum, the Annual Meeting may be adjourned to a subsequent date for the purpose of obtaining a quorum. If a broker, bank or other nominee holds your shares, you will receive instructions from them that you must follow in order to have your shares voted.

Shares that are voted FOR, AGAINST, WITHHOLD AUTHORITY or ABSTAIN will be treated as being present at the Annual Meeting for purposes of establishing a quorum. Accordingly, if you have returned a valid proxy or attend the Annual Meeting in person, your shares will be counted for the purpose of determining whether there is a quorum, even if you wish to abstain from voting on some or all matters at the Annual Meeting. Broker non-votes (i.e., votes from shares held of record by brokers as to which the beneficial owners have given no voting instructions) will also be counted as present for purposes of determining the presence of a quorum.

Abstentions are included in determining the number of shares voted on the proposals submitted to stockholders (other than the election of directors) and will have the same effect as a vote against such proposals. Because directors are elected by a plurality of the votes of the shares represented at the Annual Meeting, abstentions will have no effect on the outcome of the election of directors. Although broker

non-votes will be counted for the purpose of determining the presence of a quorum, broker non-votes will not be counted for the purpose of determining the number of shares voted on the proposals submitted to stockholders. Accordingly, broker non-votes will have no effect on the outcome of a vote on any of the proposals.

Whether or not you are able to attend the Annual Meeting, the Company urges you to submit your proxy, which is solicited by the Board. You are urged to give instructions as to how to vote your shares. All properly executed proxies delivered pursuant to this solicitation and not revoked will be voted at the Annual Meeting in accordance with the directions given. Any proxy for which no instructions are given will be voted in accordance with the following recommendations of our Board of Directors:

- FOR the election of Douglass G. Marshall and Richard W. Smith as a Class I directors to serve a term of three (3) years expiring at the Annual Meeting of Stockholders in 2008 or until their successors are duly elected and qualified;
- FOR ratification of KPMG LLP as our independent auditors for the fiscal year ending March 31, 2006;
- FOR amendment of the Company's Restated Certificate of Incorporation to increase the authorized number of shares of Common Stock from 60,000,000 to 100,000,000 shares and to increase the authorized number of shares of Preferred Stock from 300,000 to 5,000,000 shares;
- FOR amendment of the Company's Restated Certificate of Incorporation to remove the provision requiring the affirmative vote of the holders of two-thirds (2/3) of the outstanding voting shares to amend, alter, modify or repeal provisions of the Company's Restated Certificate of Incorporation which (i) set the authorized number of directors, (ii) provide for a classified Board of Directors, and (iii) provide for directors to be removed with or without cause;
- FOR amendment of the Company's Amended and Restated Bylaws to amend Section 3.1 and Article XI of the Bylaws to remove the requirement of the affirmative vote of two-thirds of the then-outstanding shares of stock entitled to vote to amend, change or repeal provisions which (i) set the authorized number of directors and (ii) provide for a classified Board of Directors; and
- FOR amendment of the Company's 1999 Stock Option Plan as described in Proposal Six.

We are not aware of any matters to be presented other than those described in this Proxy Statement. If any matters not described in the Proxy Statement are properly presented at the Annual Meeting, the persons designated in the enclosed proxy (the Proxy Agents) will use their own judgment to determine how to vote your shares. If the Annual Meeting is adjourned, the Proxy Agents can vote your shares on the new meeting date as well, unless you have revoked your proxy.

You may revoke your proxy at any time prior to its use by (i) delivering a written notice of revocation to the chief financial officer of the Company, (ii) filing a duly executed proxy bearing a later date with the Company or (iii) attending the Annual Meeting and voting in person.

The costs of this solicitation, including the preparation, assembly, printing and mailing of this Proxy Statement and the proxy, will be borne by the Company. The Company will request brokerage houses and other nominees, custodians and fiduciaries to forward soliciting material to beneficial owners of the Company's voting securities. The Company may reimburse brokerage firms and other persons representing beneficial owners for their expenses in forwarding solicitation materials to beneficial owners. Proxies may also be solicited by certain of the Company's directors, officers and regular employees, without additional compensation, either personally or by telephone or facsimile. Except as described above, the Company does not intend to solicit proxies other than by mail.

PROPOSAL ONE

ELECTION OF DIRECTORS

General

The Amended and Restated Bylaws of the Company provide that the Board is to be composed of no less than five (5) and no more than nine (9) directors divided into Classes I, II and III, each with as nearly equal a number of directors as possible. The exact number of directors is currently set at five (5) by resolution of the Board. The directors are elected to serve staggered three-year terms, with the term of one class of directors expiring each year at the Annual Meeting of Stockholders.

At the Annual Meeting, two (2) individuals will be elected as Class I directors, to serve for three (3) year terms or until their successors are duly elected and qualified. The Board has nominated Douglas G. Marshall and Richard W. Smith for election as Class I directors at the Annual Meeting. Mr. Marshall is standing for re-election and Mr. Smith was recommended by a non-management director and nominated for election by our Nominating and Corporate Governance Committee.

The Board knows of no reason why the nominees would be unable or unwilling to serve, but if either nominee should, for any reason, be unable or unwilling to serve, the proxies will be voted for the election of such other person to the office of director as the Board may recommend in the place of such nominee.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR APPROVAL OF THE NOMINEES FOR ELECTION AS MEMBERS OF THE BOARD OF DIRECTORS.

Voting Information

Proxies solicited by the Board will, unless otherwise directed, be voted to elect the nominees proposed by the Board. A stockholder submitting a proxy may vote for the nominees for election to the Board or may withhold his or her vote from such nominees. The Series A Convertible Preferred Stock will be treated as though it had been converted into 500,100 shares of the Company's Common Stock for purposes of voting on this proposal and will be voted together with the Common Stock as a single class. Each stockholder will be entitled to one (1) vote for each share of Common Stock held by the stockholder on the record date. Directors are elected by a plurality of votes, and, therefore, if a quorum is present and voting, the two nominees receiving the highest number of affirmative votes will be elected to the Board. Abstentions and broker non-votes, while included for the purpose of determining the presence of a quorum at the Annual Meeting, will have no effect on the vote. The Proxy Agents will vote your shares **FOR** the nominee unless instructions to the contrary are indicated in the enclosed proxy.

Each nominee has agreed to serve the Company as a director if elected. However, should a nominee become unwilling or unable to serve if elected, the Proxy Agents will exercise their voting power in favor of such other person as the Board may recommend. The Company's Restated Certificate of Incorporation does not provide for cumulative voting in the election of directors.

Nominees and Current Directors

The following table sets forth the names, ages, as of August 31, 2005, and committee memberships of the current directors of the Company, the dates they joined the Board of Directors and the years in which their terms expire:

Name of Director	Age	Director Since	Term Expires
Richard W. Koe(1,3,4)	48	2003	2006
Carlton H. Baab	47	2001	2007
Gerald F. Chew(2)	45	1998	2007
Richard W. Smith(2)	44	2005	2005
Douglas G. Marshall(1,2,3)	49	1998	2005

- (1) Member of the Compensation Committee
- (2) Member of the Audit Committee
- (3) Member of the Nominating and Corporate Governance Committee
- (4) Member of the Stock Committee, a subcommittee of the Compensation Committee

The following is a brief summary of the background of each director:

Mr. Koe joined the Board in January 2003. Since 1991, Mr. Koe has served as Managing General Partner for Astoria Capital Partners, L.P. (Astoria), a significant stockholder of ours, and Montavilla Partners, L.P., both of which are investment partnerships, and as President of Astoria Capital Management (ACM). Mr. Koe has served as Chairman of the Board since December 2004. Mr. Koe holds a B.A. in History from the University of Oregon. Mr. Koe serves as Chairman of the Compensation Committee and the Nominating and Corporate Governance Committee and is the sole member of the Stock Committee, a subcommittee of the Compensation Committee.

Mr. Baab joined us as the President and, Chief Executive Officer in August 2001 and was appointed as a member of the Board in December 2001. From May 2001 to August 2001, Mr. Baab served as a Managing Principal of ACM; a Securities and Exchange Commission (the SEC) registered investment advisor and a General Partner of Astoria, a significant stockholder of ours. In August 2001, Mr. Baab took a formal leave of absence from ACM to join us. From March 2000 to April 2001, Mr. Baab was the Vice President of Finance and Chief Financial Officer of Certive, Inc., a web-based small-business services firm. From January 1999 to March 2000, Mr. Baab was the Chief Operating Officer and Chief Financial Officer of RemarQ Communities, Inc., a web-based provider of discussion group services. Mr. Baab served as Chief Financial Officer of the CKS Group (CKS), a marketing communications company, from February 1994 through December 1998. In addition, Mr. Baab served as an Executive Vice President and the Secretary of CKS from August 1995 through December 1998 and as CKS 's Chief Operating Officer from August 1995 through May 1996. Mr. Baab also served on the Board of Directors of Momentum Business Applications, Inc. (Nasdaq: MMTM), which provided research and development expertise on a contract basis, until it was acquired by PeopleSoft (Nasdaq: PSFT) in April 2002. Mr. Baab also serves on the University of Southern California, School of Engineering Board of Councilors. Mr. Baab holds a B.S. in Electrical Engineering, with honors, from the University of Southern California and an M.B.A. from the Harvard Graduate School of Business Administration.

Mr. Chew joined the Board in July 1998. Mr. Chew most recently served as the President and Chief Operating Officer of MDSI Mobile Data Solutions Inc. (MDSI) from April 2001 to March 2002 and served as a director of MDSI from 1995 until April 2001. Mr. Chew served as Executive Vice President of Ancora Capital & Management Group, LLC, an investment firm, from June 1998 to January 2001. Since February 1997, Mr. Chew has served as Managing Director of The Cairn Group. Mr. Chew holds a B.S. in

Electrical Engineering from the University of California, Davis and an M.B.A. from the Amos Tuck School of Business Administration at Dartmouth College. Mr. Chew serves as Chairman of the Audit Committee.

Mr. Marshall joined the Board in July 1998. Mr. Marshall is Senior Vice President of Deposit Strategy and Product Management at Washington Mutual (NYSE: WM), a financial services company. Mr. Marshall joined Washington Mutual in November 2001. From August 1994 to November 2001, Mr. Marshall held a number of marketing positions at Bank of America (NYSE: BAC), most recently as Vice President of Advertising and Marketing Communications. Mr. Marshall holds a B.A. in English from Seattle Pacific University and an M.B.A. from the University of Washington. Mr. Marshall serves on the Audit Committee, Compensation Committee and the Nominating and Corporate Governance Committee.

Mr. Smith joined the Board in August 2005. Mr. Smith currently serves as a sales and business development consultant for global technology and semiconductor organizations. From 1997 through 2004, Mr. Smith held various management positions with Intel Corporation, most recently as Business Development Manager for Intel Capital. Prior to Intel, Mr. Smith held positions with Cummins Engine Company and General Electric and served in various Officer roles with the United States Army. Mr. Smith received his Bachelor of Science Degree in Civil Engineering from the United States Military Academy at West Point and his Masters of Business Administration from the Darden Graduate School of Business Administration at the University of Virginia. Mr. Smith serves on the Audit Committee.

To the Company's knowledge, with the exception of Mr. Chew and Mr. Koe, who are cousins, there are no family relationships between any of our directors and executive officers.

Meetings and Committees of the Board of Directors

The Board currently has three (3) committees and one (1) subcommittee: an Audit Committee, a Compensation Committee, a Stock Committee, which is a subcommittee of the Compensation Committee, and a Nominating and Corporate Governance Committee. The following describes each committee, its current membership, the number of meetings held during fiscal 2004, and its function. All members of these committees are non-employee directors.

The Board held twelve (12) meetings during the fiscal year ended March 31, 2005. Each director attended all of the meetings of the Board, and each director attended all meetings of the committees and subcommittees on which he served during his term, except that Carlton H. Baab did not participate in one Board meeting approving his annual bonus and Richard W. Koe did not participate in two Board meetings as the subject matter related to Astoria. The Board has determined that all of its directors, other than Mr. Baab and Mr. Koe, are independent for purposes of the applicable rules and regulations of the Securities and Exchange Commission and the applicable rules of the National Association of Securities Dealers listing standards. The Company relies on the Controlled Company exemption set forth in Rule 4350(c)(5) of the National Association of Securities Dealers listing standards because Mr. Koe serves on both the Compensation Committee and the Nominating and Corporate Governance Committee. The Company is a Controlled Company as defined in such Rule because more than 50% of the voting power of the Company is held by Astoria.

The members of the Audit Committee are Gerald F. Chew, Douglas G. Marshall and Richard W. Smith. The Audit Committee held thirteen (13) meetings during the fiscal year ended March 31, 2005. The functions of the Audit Committee include reviewing and supervising the financial controls of the Company, appointing, compensating and overseeing the work of the independent auditors, reviewing the books and accounts of the Company, meeting with the officers of the Company regarding the Company's financial controls, acting upon recommendations of the independent auditors and taking such further actions as the Audit Committee deems necessary to complete an audit of the books and accounts of the Company. The Board has adopted a written charter for the Audit Committee which is posted on our Internet website at www.rainingdata.com. The Board has determined that the members of the Audit Committee are

independent for purposes of the applicable rules and regulations of the Securities and Exchange Commission and the applicable rules of the National Association of Securities Dealers listing standards.

The members of the Compensation Committee are Richard W. Koe and Douglas G. Marshall. The Compensation Committee held four (4) meetings during the fiscal year ended March 31, 2005. The Compensation Committee's functions include reviewing with management cash and other compensation policies for employees, making recommendations to the Board regarding compensation matters and determining compensation for the Chief Executive Officer. In addition, the Compensation Committee administers the Company's stock plans and, within the terms of each stock plan, determines the terms and conditions of issuances of awards thereunder. The Board has adopted a written charter for the Compensation Committee, which is posted on our Internet website at www.rainingdata.com

The members of the Nominating and Corporate Governance Committee are Richard W. Koe and Douglas G. Marshall. The Nominating and Corporate Governance Committee held two (2) meetings during the fiscal year ended March 31, 2005. The Nominating and Corporate Governance Committee makes recommendations to the Board regarding the size and composition of the Board, establishes procedures for the nomination process, recommends candidates for election to the Board and nominates officers for election by the Board. In addition, the Nominating and Corporate Governance Committee reviews and reports to the Board on a periodic basis with regard to matters of corporate governance. The Board has adopted a written charter for the Nominating and Corporate Governance Committee, which is posted on our Internet website at www.rainingdata.com. The Board has determined that the members of the Corporate Governance and Nominating Committee, other than Mr. Koe, are independent for purposes of the applicable rules and regulations of the Securities and Exchange Commission and the applicable rules of the National Association of Securities Dealers listing standards.

The Nominating and Corporate Governance Committee will consider recommendations for candidates to the Board from stockholders holding no less than 2% of the outstanding shares of the Company's voting securities continuously for at least 12 months prior to the date of the submission of the recommendation for nomination. If the Nominating and Corporate Governance Committee wishes to identify new independent director candidates for Board membership, it is authorized to retain, and to approve the fees of, third party executive search firms to help identify prospective director nominees. A stockholder that desires to recommend a candidate for election to the Board shall direct the recommendation in writing to Raining Data Corporation, attention Corporate Secretary, 17500 Cartwright Road, Irvine, California 92614, and must include the candidate's name, home and business contact information, detailed biographical data and qualifications, information regarding any relationships between the candidate and the Company within the last three years and evidence of the nominating person's ownership of Company stock, a statement from the recommending stockholder in support of the candidate, references, particularly within the context of the criteria for Board membership, including issues of character, diversity, skills, judgment, age, independence, industry experience, expertise, corporate experience, length of service, other commitments and the like, and a written indication by the candidate of her/his willingness to serve, if elected. The Nominating and Corporate Governance Committee has not formally adopted any specific, minimum qualifications that must be met by each candidate for the Board, nor are there specific qualities or skills that are necessary for one or more of the members of the Board to possess. The Nominating and Corporate Governance Committee believes that candidates and nominees must reflect a Board that is comprised of directors who (i) are predominantly independent, (ii) are of high integrity, (iii) have or have had experience in positions with a high degree of responsibility, (iv) are or were leaders in the companies or institutions with which they are or were affiliated, (v) have qualifications that will increase overall Board effectiveness and (vi) meet other requirements as may be required by applicable rules, such as financial literacy or financial expertise with respect to audit committee members. In order to identify and evaluate nominees for director, the Nominating and Corporate Governance Committee regularly reviews the current composition and size of the Board, reviews qualifications of

nominees, evaluates the performance of the Board as a whole, evaluates the performance and qualifications of individual members of the Board eligible for re-election at the annual meeting of stockholders, considers such factors as character; diversity; skills; judgment; age; independence; industry experience; expertise; corporate experience; length of service; other commitments and the like; and the general needs of the Board, including applicable independence requirements. The Nominating and Corporate Governance Committee considers each individual candidate in the context of the current perceived needs of the Board as a whole. The Nominating and Corporate Governance Committee uses the same process for evaluating all nominees, regardless of the original source of the nomination.

The Company encourages all incumbent directors and nominees for election as director to attend the annual meeting of stockholders. All of the Company's directors attended the annual meeting of stockholders on December 15, 2004, except for Mr. Smith who did not join the Board until August 2005.

Stockholder Communications with the Board

A stockholder that desires to communicate directly with the Board or one or more of its members concerning the affairs of the Company shall direct the communication in written correspondence by letter to Raining Data Corporation, attention Corporate Secretary, 17500 Cartwright Road, Irvine, California 92614. If such communication is intended for some but not all of the members of the Board, the intended recipients shall be clearly indicated in bold type at the beginning of the letter. Alternatively, a stockholder may communicate anonymously with the non-employee members of the Board via the Internet website www.mysafeworkplace.com.

**PROPOSAL TWO
RATIFICATION
OF THE APPOINTMENT OF INDEPENDENT AUDITORS**

The Audit Committee has selected the accounting firm of KPMG LLP to serve as the Company's independent auditors for the fiscal year ending March 31, 2006. KPMG LLP were the independent auditors for the year ended March 31, 2005. A proposal to ratify the appointment of KPMG LLP for the current year will be presented at the Annual Meeting. Representatives of KPMG LLP are expected to be present at the Annual Meeting. They will have an opportunity to make a statement if they desire to do so and will be available to respond to appropriate questions from stockholders.

The decision of the Audit Committee to appoint KPMG LLP was based on a careful consideration of the firm's qualifications as independent auditors. This included a review of the qualifications of the engagement team, the quality control procedures the firm has established, the issues, if any, raised by the most recent quality control review, and the reputation for integrity and competence of the firm in the fields of accounting and auditing. The Audit Committee's review also included matters required to be considered under the SEC's Rules on Auditor Independence, including the nature and extent of non-audit services, to ensure that such services will not impair the independence of the auditors.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE RATIFICATION OF THE APPOINTMENT OF INDEPENDENT AUDITORS.

Voting Information

Although ratification by stockholders is not required by law, the Board has determined that it is desirable to request ratification of this selection by the stockholders. For purposes of this Proposal Two, the Series A Convertible Preferred Stock will be treated as though it has been converted into 500,100 shares of the Company's Common Stock and will be voted together with the Common Stock as a single class. Ratification of the selection requires the affirmative vote by a majority of the shares entitled to vote present in person or represented by proxy at the Annual Meeting. Abstentions, while included for the purpose of determining the presence of a quorum at the Annual Meeting, will have the effect of a vote against the ratification of KPMG LLP as our independent auditors. Broker non-votes, while included for the purpose of determining the presence of a quorum at the Annual Meeting, will have no effect on the vote. The Proxy Agents will vote your shares **FOR** approval of the ratification of the appointment of KPMG LLP as our independent auditors for the fiscal year ending March 31, 2006 unless instructions to the contrary are indicated in the enclosed proxy. Notwithstanding its selection, the Audit Committee, in its discretion, may appoint new independent auditors at any time during the year if the Audit Committee believes that such a change would be in the best interests of the Company and its stockholders. If the stockholders do not ratify the appointment of KPMG LLP, the Audit Committee may reconsider its selection.

Fees Paid to Principal Accountants

The following table presents the aggregate fees billed for the indicated services performed by KPMG LLP during the 2005 and 2004 fiscal years.

Description of Services	2005	2004
Audit Fees	\$ 416,551	\$ 395,136
Audit-Related Fees	\$	\$
Tax Fees	\$ 67,616	\$ 65,062
All Other Fees	\$	\$
Total	\$ 484,167	\$ 460,198

Audit Fees. Audit Fees relate to professional services rendered in connection with the audit of our annual financial statements, quarterly review of financial statements included in our 10-QSB, and audit services provided in connection with other statutory and regulatory filings.

Tax Fees. Tax Fees include professional services related to tax compliance, tax advice and tax planning and transfer pricing consultation, including but not limited to the preparation of federal and state tax returns.

The Audit Committee approved all of the services provided by KPMG LLP in fiscal years 2005 and 2004. Pursuant to the Audit Committee Charter, the Audit Committee must pre-approve audit and non-audit services to be provided to the Company by the independent auditor, or subsequently approve non-audit services in those circumstances where a subsequent approval is necessary and permissible.

PROPOSAL THREE

APPROVE AMENDMENT TO THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF COMMON STOCK AND PREFERRED STOCK

Our Board of Directors has adopted, subject to stockholder approval, amendments to our Restated Certificate of Incorporation which would (i) increase our authorized number of shares of Common Stock from 60,000,000 shares to 100,000,000 shares and (ii) increase our authorized number of shares of Preferred Stock from 300,000 shares to 5,000,000 shares. Please see Appendix A for a copy Amended and Restated Certificate of Incorporation as it is proposed to be amended by this Proposal Three and by Proposal Four.

Reasons to Increase the Authorized Shares of Common Stock

As of September 29, 2005, of the 60,000,000 shares of Common Stock presently authorized, 20,355,086 shares were issued and outstanding. After taking into account shares reserved for issuance pursuant to our 1999 Stock Option Plan, outstanding warrants, debt conversion, preferred stock conversion and PIK notes, approximately 29,713,861 shares remained available for issuance on such date.

The Board recommends an increase in the number of authorized shares of Common Stock to provide flexibility for our business and financial purposes in the future. We may issue the additional shares of Common Stock for various purposes including, without limitation, expanding our business through the acquisition of other businesses, raising capital, issuing stock options to officers, directors or employees, establishing strategic relationships with other companies, and issuing stock dividends. Unless required to do so by applicable law, a regulatory authority or a third party, further stockholder approval for the issuance of the authorized Common Stock is not required. The Company has no present commitments, agreements, or intent to issue additional shares of Common Stock, other than with respect to currently reserved shares, in connection with transactions in the ordinary course of the Company's business, or shares that may be issued under the Company's stock option, stock purchase, and other existing employee benefit plans.

The Board believes the proposed increases in the authorized Common Stock and Preferred Stock will make a sufficient number of shares available for the foreseeable future should we decide to use our shares of Common Stock for one or more of the purposes identified above or otherwise.

Principal Effects of the Increase of the Authorized Shares of Common Stock

If this Proposal Three is approved, the additional shares of Common Stock would have rights identical to our currently outstanding Common Stock. Increasing the number of authorized shares of Common Stock and the issuance of the Common Stock would not affect the rights of the holders of our currently outstanding Common Stock, except for effects incidental to increasing the number of shares of our Common Stock outstanding, such as dilution of the earnings per share and voting rights of current holders of Common Stock.

The additional shares of Common Stock that would become available for issuance if this proposal is adopted could also be used by us to oppose a hostile takeover attempt or delay or prevent changes in control or our management. Although the proposal to increase the authorized Common Stock has been prompted by business and financial considerations and not by the threat of any hostile takeover attempt (nor are we currently aware of any such attempts directed at us), stockholders should be aware that approval of this proposal could facilitate future efforts by us to deter or prevent changes in control, including transactions in which the stockholders might otherwise receive a premium for their shares over then current market prices.

Reasons to Increase the Authorized Shares of Preferred Stock

The Company currently has 300,000 authorized shares of blank check Preferred Stock pursuant to the current Restated Certificate of Incorporation. The term blank check refers to Preferred Stock, the creation and issuance of which is authorized in advance by the stockholders of the Company and the terms, rights and features of which are determined by the Board of Directors of the Company upon issuance. As of September 29, 2005, of the 300,000 shares of Preferred Stock presently authorized, all such shares had been designated Series A Convertible Preferred Stock and all of such shares of Series A Preferred Stock were issued and outstanding.

The Board recommends an increase in the number of authorized shares of Preferred Stock to provide flexibility for our business and financial purposes in the future. We may issue the additional shares of Preferred Stock for various purposes including, without limitation, expanding our business through the acquisition of other businesses, raising capital, establishing strategic relationships with other companies, and issuing stock dividends. Unless required to do so by applicable law, a regulatory authority or a third party, further stockholder approval for the issuance of the authorized Preferred Stock is not required. The Company has no present commitments, agreements, or intent to issue additional shares of Preferred Stock.

Principal Effects of the Increase of the Authorized Shares of Preferred Stock

If this Proposal Three is adopted, the authorized number of shares of blank check Preferred Stock would be increased from 300,000 to 5,000,000 shares. Subject to the provisions of the Company's Amended and Restated Certificate of Incorporation and the limitations prescribed by law, the Board would be expressly authorized, in its discretion, to adopt resolutions to issue shares from time to time, to fix the number of shares and to change the number of shares constituting any series, and to provide for or change the voting powers, designations, preferences and relative, participating, optional or other special rights, qualifications, limitations or restrictions thereof, including dividend rights (including whether the dividends are cumulative), dividend rates, terms of redemption (including sinking fund provisions), redemption prices, conversion rights and liquidation preferences of the shares constituting any series of the Preferred Stock, in each case without any further action or vote by the stockholders. The Board would be required to make any determination to issue shares of Preferred Stock based on its judgment as to the best interests of the Company and its stockholders.

In addition to the effects incidental to increasing the number of shares of our Preferred Stock outstanding, such as dilution of the earnings per share and voting rights of current holders of Preferred Stock, the additional shares of Preferred Stock that would become available for issuance if this proposal is adopted could also be used by us to oppose a hostile takeover attempt or delay or prevent changes in control or our management. Although the proposal to increase the authorized Preferred Stock has been prompted by business and financial considerations and not by the threat of any hostile takeover attempt (nor are we currently aware of any such attempts directed at us), stockholders should be aware that approval of this proposal could facilitate future efforts by us to deter or prevent changes in control, including transactions in which the stockholders might otherwise receive a premium for their shares over then current market prices.

THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR THE APPROVAL OF THE AMENDMENT TO OUR RESTATED CERTIFICATE OF INCORPORATION TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF COMMON STOCK FROM 60,000,000 TO 100,000,000 AND TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF PREFERRED STOCK FROM 300,000 TO 5,000,000.

Voting Information

The approval of Proposal Three requires the affirmative vote of (i) a majority of the issued and outstanding shares of Common Stock and Preferred Stock voting together as a single class on an as-converted to Common Stock basis, (ii) a majority of the issued and outstanding shares of Preferred Stock, voting as a separate class, and (iii) a majority of the issued and outstanding shares of Common Stock, voting as a separate class. If the Amended and Restated Certificate of Incorporation is approved, it will become effective upon filing with the Secretary of State of Delaware.

The Board is of the opinion that approval of Proposal Three is in the best interests of the Company and its stockholders and recommends a vote for the approval of Proposal Three. All Proxies will be voted to approve Proposal Three unless a contrary vote is indicated on the enclosed Proxy card.

12

PROPOSAL FOUR

APPROVE AMENDMENT TO THE RESTATED CERTIFICATE OF INCORPORATION TO REMOVE SUPER MAJORITY STOCKHOLDER APPROVAL REQUIREMENT FOR CERTAIN AMENDMENTS AND CHANGES TO THE CERTIFICATE OF INCORPORATION

Our Board of Directors has adopted, subject to stockholder approval, an amendment to our Restated Certificate of Incorporation which would remove the requirement that holders of at least two-thirds (2/3) of the outstanding shares approve any amendment, alteration, modification to or repeal of Article Six of the Company's Restated Certificate of Incorporation. Please see Appendix A for a copy of the Amended and Restated Certificate of Incorporation as it is proposed to be amended by Proposal Three and this Proposal Four.

Our current Restated Certificate of Incorporation can generally be amended by the affirmative vote of a majority of the Board or the affirmative vote of a majority of the shares outstanding, except with regard to the provisions in the Restated Certificate of Incorporation that (i) set the authorized number of directors, (ii) provide for a classified Board, and (iii) provide for directors to be removed with or without cause. Any amendment, alteration, modification to or repeal of Article Six of the Company's Restated Certificate of Incorporation currently requires the affirmative vote of stockholders holding at least two-thirds (2/3) of the outstanding shares. If the proposed amendment is approved, the Board would have the authority to amend, alter, modify or repeal these provisions without stockholder approval. In addition, the stockholders would retain the authority to amend the Restated Certificate of Incorporation with the affirmative vote of stockholders holding a majority of the outstanding shares unless applicable law required a different vote. The only modification to the stockholders' ability to amend, alter, modify or repeal these provisions if this Proposal Four is approved is that the stockholders would be able to take such action with the affirmative vote of holders holding a majority of the outstanding shares rather than the affirmative vote of the holders holding at least two-thirds (2/3) of the outstanding shares.

The Company is publicly-held and it is anticipated that the base of stockholders holding outstanding shares of capital stock will continue to broaden. Even if the Board determines that an amendment to Article Six is advisable and in the best interests of the Company and its stockholders, as the stockholder base continues to broaden, it may become more difficult to obtain a super majority vote of stockholders to approve such an amendment. The Board believes that the flexibility that would be provided by this Proposal Four to amend these provisions is in the best interests of the Company and its stockholders.

Relationship of this Proposal Four to Proposal Five

The benefit of increased flexibility for the Board if this Proposal Four is approved depends on whether Proposal Five to approve a similar amendment to the Company's Amended and Restated Bylaws is approved. If Proposal Four is approved and Proposal Five is not approved, the effect will be the same as if this Proposal Four were not approved because the parallel provisions in the Company's Amended and Restated Bylaws will require the affirmative vote of stockholders holding at least two-thirds (2/3) of the outstanding shares. For example, if the Board amends Article Six to increase the size of the Board, as it would be permitted to do if this Proposal Four is approved, the Board's action would have no practical effect unless and until two-thirds (2/3) of the stockholders approved an amendment to the Amended and Restated Bylaws to effect the increase because, while the Board would have authority to amend the applicable provision in the Amended and Restated Certificate of Incorporation, it would not have authority to amend the parallel provision in the Amended and Restated Bylaws. If Proposal Four and Proposal Five are approved, the Board would have authority to, among other things, increase the size of the Board without stockholder consent.

THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE **FOR** THE APPROVAL OF THE AMENDMENT TO OUR RESTATED CERTIFICATE OF INCORPORATION TO REMOVE THE SUPER MAJORITY STOCKHOLDER APPROVAL REQUIREMENT FOR CERTAIN AMENDMENTS AND CHANGES TO THE CERTIFICATE OF INCORPORATION.

Voting Information

The approval of this Proposal Four requires the affirmative vote of two-thirds (2/3) of the issued and outstanding shares of Common Stock and Preferred Stock, voting together as a single class on an as-converted to Common Stock basis. The Board is of the opinion that approval of this Proposal Four is in the best interests of the Company and its stockholders and recommends a vote for the approval of this Proposal Four. All Proxies will be voted to approve this Proposal Four unless a contrary vote is indicated on the enclosed Proxy card.

14

PROPOSAL FIVE

APPROVE AMENDMENT TO THE AMENDED AND RESTATED BYLAWS TO REMOVE SUPER MAJORITY STOCKHOLDER APPROVAL REQUIREMENT FOR CERTAIN AMENDMENTS AND CHANGES TO THE BYLAWS

Our Board of Directors has adopted, subject to stockholder approval, an amendment to our Amended and Restated Bylaws that would remove the requirement that holders of at least two-thirds (2/3) of the outstanding shares approve any amendment, alteration, modification to or repeal of Section 3.1 of the Company's Amended and Restated Bylaws. Please see Appendix B for a copy of the Amended and Restated Bylaws as they are proposed to be amended.

Our Amended and Restated Bylaws can generally be amended by the affirmative vote of a majority of the Board or the affirmative vote of a majority of the shares outstanding, except with regard to the provisions in the Amended and Restated Bylaws which (i) set the authorized number of directors (at least 5 and not more than 9), and (ii) provide for a classified Board. Any amendment, alteration, modification to or repeal of Section 3.1 of the Company's Amended and Restated Bylaws currently requires the affirmative vote of stockholders holding at least two-thirds (2/3) of the outstanding shares. If this Proposal Five is approved, the Board would have the authority to amend, alter, modify or repeal these provisions without stockholder approval. In addition, the stockholders would retain the authority to amend the Amended and Restated Bylaws with the affirmative vote of stockholders holding a majority of the outstanding shares. The only modification to the stockholders' ability to amend, alter, modify or repeal these provisions if this Proposal Five is approved is that the stockholders would be able to take such action with the affirmative vote of holders holding a majority of the outstanding shares rather than the affirmative vote of the holders holding at least two-thirds (2/3) of the outstanding shares. The Board believes that the flexibility that would be provided by this Proposal Five to amend these provisions is in the best interests of the Company and its stockholders for reasons that are similar to those set forth in Proposal Four with regard to amending the Restated Certificate of Incorporation.

Relationship of this Proposal Five to Proposal Four

The benefit of increased flexibility for the Board if this Proposal Five is approved depends on whether Proposal Four to approve a similar amendment to the Company's Restated Certificate of Incorporation is approved. For more information about the relationship of this Proposal Five to Proposal Four, see "Relationship of this Proposal Four to Proposal Five" in Proposal Four.

THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR THE APPROVAL OF THE AMENDMENT TO OUR AMENDED AND RESTATED BYLAWS TO REMOVE THE SUPER MAJORITY STOCKHOLDER APPROVAL REQUIREMENT FOR CERTAIN AMENDMENTS AND CHANGES TO THE BYLAWS.

Voting Information

The approval of this Proposal Five requires the affirmative vote of two-thirds (2/3) of the issued and outstanding shares of Common Stock and Preferred Stock, voting together as a single class on an as-converted to Common Stock basis. The Board is of the opinion that approval of this Proposal Five is in the best interests of the Company and its stockholders and recommends a vote for the approval of this Proposal Five. All Proxies will be voted to approve this Proposal Five unless a contrary vote is indicated on the enclosed Proxy card.

PROPOSAL SIX
APPROVAL OF THE AMENDED AND RESTATED 1999 STOCK PLAN

The stockholders are being asked to approve the Company's amended and restated 1999 Stock Plan (formerly known as the 1999 Stock Option Plan and hereinafter the Plan). The Company's Board believes that the fundamental objectives of a long-term incentive compensation program are to align the interests of management and the stockholders and to create long-term shareholder value. The Board believes that the Plan increases the Company's ability to achieve these objectives by allowing for several different forms of long-term incentive awards, which will help the Company recruit, reward, motivate and retain talented personnel. In light of required changes in the financial accounting of equity compensation, the Board would like to expand the types of awards which may be granted under the Plan in order to provide greater flexibility under the Plan. Other than shares which may be issued under the Plan in the ordinary course of business, the Company has no present commitments, agreements, or intent to issue awards under the Plan. In August 2005, the Board approved certain amendments to the Plan (as described in further detail below), subject to stockholder approval. If the stockholders approve the Amended and Restated Plan, it will replace the current version of the Plan. If however, the stockholders do not approve the Amended and Restated Plan, the current version of the Plan will remain in effect.

Proposed Amendments to the Plan

The following is a summary of the amendments being proposed for stockholder approval to the Plan:

- The stockholders are being asked to approve an increase to the number of shares of Common Stock authorized for issuance under the Plan from five million (5,000,000) shares to six and a half million (6,500,000) shares, an increase of one million five hundred thousand (1,500,000) shares.
- The Plan would provide for automatic, annual increases in the number of shares of Common Stock reserved under the Plan by an amount equal to the lesser of (1) 3% of the Company's total outstanding shares on the last day of the Company's fiscal year beginning March 31, 2006 through and including March 31, 2009, (2) two million (2,000,000) or (3) such lesser amount as determined in the sole and absolute discretion of the Board.
- The Plan currently only allows for the grant of stock options. In addition to awards of stock options, the Amended and Restated Plan would permit the award of restricted stock purchase rights, which would include, as an acceptable form of consideration to be received by the Company upon exercise of such purchase rights, (1) cash or check, (2) the past service of the awardee or (3) a combination of such methods.
- The Plan currently only accepts as consideration for the exercise of stock options (1) cash or check, (2) shares of the Company's Common Stock having a fair market value on the exercise date equal to the option price and held for more than 6 months or (3) a combination of such shares of the Company's Common Stock and cash or check. In addition to such payment methods, the Amended and Restated Plan would permit optionees to pay the stock option exercise price (1) through a broker-dealer sale and remittance procedure or (2) by a net exercise procedure, which would allow the optionee to pay the applicable exercise price for such stock option, and associated tax withholding, by canceling a portion of the shares subject to the stock option. By paying the exercise price through a net exercise procedure, the optionee would only receive the number of shares that remain after payment of the exercise price and applicable tax withholding. Similar to a stock appreciation right, the optionee would only receive a number of shares equal to the appreciation in the value of the shares since the grant date of the option less applicable tax withholding.

The Amended and Restated Plan does not differ from the current version of the Plan in any other material respect.

The Company believes that the approval of the Amended and Restated Plan is important to the Company's continued success. Stock options and other awards such as those provided under the Amended and Restated Plan are vital to the Company's ability to attract and retain outstanding and highly skilled individuals in the extremely competitive labor markets in which the Company must compete. Such awards also are crucial to our ability to motivate employees to achieve the Company's goals. For the reasons stated above, the stockholders are being asked to approve the Amended and Restated Plan.

Summary of the amended and restated 1999 Stock Plan

The following paragraphs provide a summary of the principal features of the Plan and its operation. The following summary is qualified in its entirety by reference to the Plan as set forth in Appendix C.

The Plan provides for the grant of the following types of incentive awards: (i) stock options; and (ii) restricted stock purchase rights, which are referred to individually as an Award. Those who will be eligible for Awards under the Plan include employees, directors and consultants who provide services to the Company and its parent and subsidiary companies.

As of September 29, 2005, approximately 168 employees, directors and consultants were eligible to participate in the Plan.

Number of Shares of Common Stock Available Under the Plan. If stockholders approve Proposal 6, a total of six and a half million (6,500,000) shares of the Company's Common Stock will be reserved for issuance under the Plan. As of September 29, 2005, 4,384,758 shares were subject to outstanding Awards granted under the Plan, and 233,303 shares remained available for any new Awards to be granted in the future. In addition, the share reserve will annually increase until the termination of the Plan by an amount of shares equal to the lesser of (i) 3% of the Company's total outstanding shares on the last day of the Company's fiscal year beginning March 31, 2006 through and including March 31, 2009, (ii) 2,000,000 or (iii) such lesser amount as determined in the sole and absolute discretion of the Board.

If the Company experiences a merger, consolidation, recapitalization, reorganization, reclassification, stock split, reverse stock split, stock dividend, combination or other comparable change in the corporate structure of the Company effected without the Company's receipt of consideration (except for certain conversions of convertible securities), appropriate adjustments will be made to the number of shares available for issuance under the Plan, the number of shares covered by each outstanding Award, the price per share covered by each outstanding Award, and the class of shares covered by each outstanding Award, as appropriate to reflect the stock dividend or other change.

Administration of the Plan. The Plan is administered by the Board or a duly appointed committee of the Board (the Committee). To make grants to certain officers and key employees of the Company, the members of the Committee must qualify as non-employee directors under Rule 16b-3 of the Securities Exchange Act of 1934. Subject to the terms of the Plan, the Board has the sole discretion to select the employees, consultants, and directors who will receive Awards, determine the terms and conditions of Awards, and interpret the provisions of the Plan and outstanding Awards. The Board may delegate any part of its authority and powers under the Plan to the Committee. The Board and the Committee, if so appointed, are hereinafter collectively referred to as the Plan Administrator.

Options. The Plan Administrator is able to grant nonqualified stock options and incentive stock options under the Plan. The Plan Administrator will select the employees, consultants, and directors who will be granted options and determine the number of shares subject to each option. The Plan Administrator will determine the exercise price of options granted under the Plan subject to the following conditions: (i) the exercise price of a nonqualified stock option must at least be equal to 85% of the fair market value of the Company's Common Stock on the date of grant; (ii) the exercise price of an incentive stock option must at least be equal to 100% of the fair market value of the Company's Common Stock on

the date of grant; and (iii) the exercise price of an incentive stock option granted to any participant who owns more than 10% of the total voting power of all classes of the Company's outstanding stock must be at least 110% of the fair market value of the Company's Common Stock on the grant date.

Options will vest at such times as determined by the Plan Administrator and set forth in the Award agreement. Generally, options vest over a four-year period with 25% of the option shares vesting after one year and the remainder vesting in equal monthly installments thereafter. An option is exercised by delivery of written notice to the Company specifying the number of full shares of Common Stock to be purchased and tendering payment of the option exercise price to the Company. The acceptable methods of payment for shares issued upon exercise of an option are set forth in the Award agreement and may consist of (1) cash or check, (2) shares of the Company's Common Stock having a fair market value on the exercise date equal to the option price and held for more than 6 months, (3) payment through a broker-dealer sale and remittance procedure, (4) payment through a net exercise procedure, which would allow the optionee to pay the applicable exercise price for such option, and associated tax withholding, by canceling a portion of the shares subject to the option, or (5) a combination of such methods. By paying the exercise price through a net exercise procedure, the optionee would only receive the number of shares that remain after payment of the exercise price and applicable tax withholding. Similar to a stock appreciation right, the optionee would only receive a number of shares equal to the appreciation in the value of the shares since the grant date of the option less applicable tax withholding.

The term of an option may not exceed ten years, except that with respect to any participant who owns 10% of the total voting power of all classes of the Company's outstanding stock, the term of an incentive stock option may not exceed five years.

After termination of service with the Company, a participant will be able to exercise the vested portion of his or her option for the period of time stated in the Award agreement. If no such period of time is stated in a participant's Award agreement, a participant will generally be able to exercise his or her option for (i) three months following his or her termination for reasons other than death or disability, and (ii) one year following his or her termination due to death or disability. In no event will an option be able to be exercised later than the expiration of its term.

Restricted Stock Purchase Rights. Awards of restricted stock purchase rights are rights to purchase shares of the Company's Common Stock. The Plan Administrator will determine the number of shares granted pursuant to an Award of restricted stock purchase rights. Awards of restricted stock may be issued either alone, in addition to, or in tandem with other Awards granted under the Plan. The Award agreement will generally grant the Company a right to repurchase or reacquire the shares upon the termination of the participant's service with the Company for any reason (including death or disability).

Restricted stock purchase rights will vest in accordance with the terms and conditions established by the Plan Administrator in its sole discretion. Upon exercise of a restricted stock purchase right, the awardee will be required to tender payment of the purchase price to the Company. The acceptable methods of payment for shares issued upon exercise of a restricted stock purchase right are set forth in the Award agreement and may consist of (1) cash or check, (2) the past service of the awardee or (3) a combination of such methods.

Transferability of Awards. In the case of an incentive stock option or restricted stock purchase right, the option or restricted stock purchase right is non-transferable by the awardee other than by will or the laws of descent and distribution, and is exercisable during the awardee's lifetime only by the awardee, or in the event of his or her death, by a person who acquires the right to exercise the option or restricted stock purchase right by will or inheritance or by reason of the death of an awardee. In the case of a nonstatutory stock option, the option is also transferable to a trust to be passed to beneficiaries upon the death of the optionee or by gift to immediate family members as defined by the relevant federal securities law.

Merger or Sale of Assets. In the event of the Company's merger with or into another corporation, or the sale of all or substantially all of the Company's assets, each outstanding Award will be assumed by the successor corporation (or a parent or subsidiary or such successor corporation). If there is no assumption of outstanding Awards, the Awards shall terminate effective as of the merger or sale.

Amendment and Termination of the Plan. The Board may from time to time amend or terminate the Plan in any respect whatsoever except that, without the approval of a majority of the Company's stockholders, no such amendment shall: (a) increase the number of shares subject to the Plan; or (b) change the designation of the class of persons eligible to receive options. Any amendment or termination will not, without the consent of the participant, adversely affect any rights or obligations under any Award previously granted.

Federal Tax Aspects

The following paragraphs are a summary of the general federal income tax consequences to U.S. taxpayers and the Company of Awards granted under the Plan. Tax consequences for any particular individual may be different.

Nonqualified Stock Options. No taxable income is reportable when a nonqualified stock option with an exercise price equal to the fair market value of the Company's stock is granted to a participant. Upon exercise, the participant will recognize ordinary income in an amount equal to the excess of the fair market value (on the exercise date) of the shares purchased over the exercise price of the option. Any additional gain or loss recognized upon any later disposition of the shares would be capital gain or loss.

Incentive Stock Options. No taxable income is reportable when an incentive stock option is granted or exercised (except for purposes of the alternative minimum tax, in which case taxation is the same as for nonqualified stock options). If the participant exercises the option and then later sells or otherwise disposes of the shares more than two years after the grant date and more than one year after the exercise date, the difference between the sale price and the exercise price will be taxed as capital gain or loss. If the participant exercises the option and then later sells or otherwise disposes of the shares before the end of the two- or one-year holding periods described above, he or she generally will have ordinary income at the time of the sale equal to the fair market value of the shares on the exercise date (or the sale price, if less) minus the exercise price of the option.

Restricted Stock Purchase Rights. A participant generally will not have taxable income at the time an Award of restricted stock purchase rights. Instead, he or she will recognize ordinary income in the first taxable year in which his or her interest in the shares underlying the Award becomes either (i) freely transferable or (ii) no longer subject to substantial risk of forfeiture. However, the recipient of a restricted stock Award may elect to recognize income at the time he or she receives the Award in an amount equal to the fair market value of the shares underlying the Award (less any cash paid for the shares) on the date the Award is granted.

Tax Effect for the Company. The Company generally will be entitled to a tax deduction in connection with an Award under the Plan in an amount equal to the ordinary income realized by a participant and at the time the participant recognizes such income (for example, the exercise of a nonqualified stock option). Special rules may limit the deductibility of compensation paid to the Company's Chief Executive Officer and to each of its four most highly compensated executive officers.

THE FOREGOING IS ONLY A SUMMARY OF THE EFFECT OF FEDERAL INCOME TAXATION UPON PARTICIPANTS AND THE COMPANY WITH RESPECT TO THE GRANT AND EXERCISE OF AWARDS UNDER THE PLAN. IT DOES NOT PURPORT TO BE COMPLETE, AND DOES NOT DISCUSS THE TAX CONSEQUENCES OF A SERVICE PROVIDER'S DEATH OR THE PROVISIONS OF THE INCOME TAX LAWS OF ANY

MUNICIPALITY, STATE OR FOREIGN COUNTRY IN WHICH THE SERVICE PROVIDER MAY RESIDE.

THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE **FOR** THE APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE 1999 STOCK PLAN

Voting Information

The Series A Convertible Preferred Stock will be treated as though it is converted into 500,100 shares of the Company's Common Stock for purposes of voting on this Proposal Six and will be voted together with the Common Stock as a single class. Each stockholder will be entitled to one (1) vote for each share of Common Stock and Preferred Stock on an as-converted to Common Stock basis held by the stockholder on the record date. A majority of the issued and outstanding shares of Common Stock and Preferred Stock on an as-converted to Common Stock basis voting together as a single class is required to approve Proposal Six.

20

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of August 31, 2005, certain information with respect to the beneficial ownership of the Company's voting securities by (i) any person (including any group as set forth in Section 13(d) (3) of the Securities Exchange Act of 1934, as amended (the Exchange Act)) known by us to be the beneficial owner of more than five percent (5%) of any class of our voting securities, (ii) each director, (iii) each of the Named Executive Officers (defined below), and (iv) all of our current directors and executive officers as a group. As of August 31, 2005, there were 300,000 and 19,832,027 shares of issued and outstanding Series A Convertible Preferred Stock and Common Stock, respectively.

Name and Address(1)	Number of Shares of Series A Convertible Preferred Stock(2)	Percent of Total Series A Convertible Preferred Stock	Number of Shares of Common Stock	Percent of Total Common Stock
5% Stockholders				
Carlton H. Baab(3)			16,188,507	61 %
Richard W. Koe(4)			15,203,107	59 %
Astoria Capital Partners, L.P.(5)	300,000	100 %	15,138,507	59 %
Rockport Group, L.P.(6)			1,444,174	7 %
Philip and Debra Barrett Charitable Trust(7)			1,348,168	7 %
Philip Barrett(8)			1,368,168	7 %
Debra Barrett(9)			1,367,730	7 %
Directors and Officers				
Gwyneth M. Gibbs(10)			221,132	1 %
Soheil Raissi(11)			192,499	*
Brian C. Bezdek(12)			161,875	*
Gerald F. Chew(13)			126,825	*
Douglas G. Marshall(14)			120,655	*
Richard W. Smith(15)			50,250	*
Mario I. Barrenechea(16)			39,493	*
All Directors and Executive Officers as a group (13 persons)(17)			17,237,205	61 %

* Represents less than 1%

(1) Except as otherwise indicated below, we believe the persons whose names appear in the table above have sole voting and investment power with respect to all shares of stock shown as beneficially owned by them, subject to applicable community property laws.

(2) Series A Convertible Preferred Stock refers to the Series A Convertible Preferred Stock, which is convertible into shares of Common Stock at a conversion rate of 1 to 1.667. The conversion rate may increase upon our issuance of additional shares of capital stock, as set forth in Section 5(c) of our Certificate of Designations of Series A Convertible Preferred Stock.

(3) Represents options to purchase 1,050,000 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Baab. Also includes the following shares beneficially owned by Astoria Capital Partners L.P. (Astoria): 14,938,407 shares of Common Stock, which includes warrants to purchase 500,000 shares of Common Stock exercisable within 60 days of August 31, 2005, 4,427,941 shares of Common Stock which may be acquired upon the conversion of a subordinated convertible note payable to Astoria for \$22,139,705 convertible at \$5.00 per share plus 118,254 shares of Common Stock issued as a payment in kind (PIK) to cover accrued interest on the note on a quarterly basis and 500,100 shares of Common Stock which may be acquired upon conversion of 300,000 shares of Series A Convertible Preferred Stock. Mr. Baab is an employee of ACM, which is a general partner of Astoria. As a general partner of Astoria, ACM has a special profit interest in Astoria's realized and

unrealized gains and income in excess of a specified hurdle rate, subject to certain additional conditions. As an employee of ACM, Mr. Baab is entitled to an annual bonus equal to a fixed percentage of any special profit allocation Astoria receives for the year in question. Mr. Baab, who is on formal leave of absence from ACM, disclaims beneficial ownership of the securities held by Astoria as he does not hold voting or investment power over the holdings of Astoria.

(4) Includes the following shares beneficially owned by Astoria: 14,938,407 shares of Common Stock, which includes warrants to purchase 500,000 shares of Common Stock exercisable within 60 days of August 31, 2005, 4,427,941 shares of Common Stock which may be acquired upon the conversion of a subordinated convertible note payable to Astoria for \$22,139,705 convertible at \$5.00 per share plus 118,254 shares of Common Stock issued as a PIK to cover accrued interest on the note on a quarterly basis and 500,100 shares of Common Stock which may be acquired upon conversion of 300,000 shares of Series A Convertible Preferred Stock. Also includes 64,600 shares beneficially owned by Mr. Koe and ACM through an investment fund managed by ACM. Mr. Koe is the President and sole stockholder of ACM and Mr. Koe and ACM are the General Partners of Astoria.

(5) The principal address of Astoria is 1675 SW Marlow Avenue, Suite 315 Portland, Oregon 97225. Includes warrants to purchase 500,000 shares of Common Stock exercisable within 60 days of August 31, 2005, 4,427,941 shares of Common Stock which may be acquired upon the conversion of a subordinated convertible note payable to Astoria for \$22,139,705 convertible at \$5.00 per share plus 118,254 shares of Common Stock issued as a PIK to cover accrued interest on the note on a quarterly basis and 500,100 shares of Common Stock issuable upon conversion of the Series A Convertible Preferred Stock.

(6) The principal address of Rockport is 1675 SW Marlow Avenue, Suite 315 Portland, Oregon 97225.

(7) The principal address of the Philip and Debra Barrett Charitable Trust is P.O. Box 1033, Vancouver, Washington 98666. The Philip and Debra Barrett Charitable Trust has shared voting and dispositive power over the 1,348,168 shares of Common Stock with Philip Barrett and Debra Barrett.

(8) The principal address for Mr. Barrett is P.O. Box 1033, Vancouver, Washington 98666. Includes 1,348,168 shares of Common Stock owned by the Philip and Debra Barrett Charitable Trust.

(9) The principal address for Ms. Barrett is P.O. Box 1033, Vancouver, Washington 98666. Includes 1,348,168 shares of Common Stock owned by the Philip and Debra Barrett Charitable Trust.

(10) Includes options to purchase 121,000 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mrs. Gibbs.

(11) Includes options to purchase 172,499 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Raissi.

(12) Includes options to purchase 140,625 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Bezdek.

(13) Includes options to purchase 96,825 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Chew.

(14) Includes options to purchase 96,825 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Marshall.

(15) Includes 47,000 shares of Common Stock owned by Mr. Smith directly and 3,250 shares of Common Stock held

by his children. Mr. Smith disclaims beneficial ownership of the shares owned by his children.

(16) Includes options to purchase 30,000 shares of Common Stock exercisable within 60 days of August 31, 2005, held by Mr. Barrenechea.

22

(17) Includes an aggregate of 2,559,250 shares of Common Stock issuable upon exercise of options and warrants exercisable within 60 days of August 31, 2005, 4,427,941 shares of Common Stock which may be acquired upon the conversion of a subordinated convertible note payable to Astoria for \$22,139,705 convertible at \$5.00 per share plus 118,254 shares of Common Stock issued as a PIK to cover accrued interest on the note on a quarterly basis and 500,100 shares of Common Stock issuable upon conversion of the Series A Convertible Preferred Stock.

EXECUTIVE COMPENSATION AND OTHER INFORMATION

Executive Officers

The following sets forth certain information regarding our executive officers as of August 31, 2005:

Name	Age	Position(s)
Carlton H. Baab	47	President, Chief Executive Officer and Director
Brian C. Bezdek	34	Chief Financial Officer and Secretary
Mark Allen	61	Vice President, Worldwide Customer Support & Training
Gwyneth M. Gibbs	62	Vice President, European Operations
Soheil Raissi	49	Vice President, Product Development & Professional Services

Mr. Baab joined us as the President and Chief Executive Officer in August 2001 and was appointed as a member of the Board in December 2001. From May 2001 to August 2001, Mr. Baab served as a Managing Principal of ACM; a Securities and Exchange Commission (the SEC) registered investment advisor and a General Partner of Astoria, a significant stockholder of ours. In August 2001, Mr. Baab took a formal leave of absence from ACM to join us. From March 2000 to April 2001, Mr. Baab was the Vice President of Finance and Chief Financial Officer of Certive, Inc., a web-based small-business services firm. From January 1999 to March 2000, Mr. Baab was the Chief Operating Officer and Chief Financial Officer of RemarQ Communities, Inc., a web-based provider of discussion group services. Mr. Baab served as Chief Financial Officer of the CKS Group (CKS), a marketing communications company, from February 1994 through December 1998. In addition, Mr. Baab served as an Executive Vice President and the Secretary of CKS from August 1995 through December 1998 and as CKS's Chief Operating Officer from August 1995 through May 1996. Mr. Baab also served on the Board of Directors of Momentum Business Applications, Inc. (Nasdaq: MMTM), which provided research and development expertise on a contract basis, until it was acquired by PeopleSoft (Nasdaq: PSFT) in April 2002. Mr. Baab also serves on the University of Southern California, School of Engineering Board of Councilors. Mr. Baab holds a B.S. in Electrical Engineering, with honors, from the University of Southern California and an M.B.A. from the Harvard Graduate School of Business Administration.

Mr. Bezdek has served as our Chief Financial Officer since January 2003 and has served as Secretary since April 2002. Mr. Bezdek joined us as Vice President, Finance, Corporate Controller and Secretary in April 2002. From May 1996 to April 2002, Mr. Bezdek held various corporate finance positions, most recently as Vice President of Finance, at Activision Publishing Inc. (Nasdaq: ATVI), a worldwide publisher, developer and distributor of video games and interactive entertainment products. Mr. Bezdek holds a B.S. in Business Administration from Bowling Green State University and is a Certified Public Accountant as well as a Certified Treasury Professional.

Mr. Allen joined us as Vice President, Worldwide Customer Support and Training in August 2001. From January 2000 to August 2001, Mr. Allen served as Vice President, Service and Support at Bay Logics, a computer software company. From July 1998 to December 1999, Mr. Allen served as Director, Software Services at SGI (formally Silicon Graphics Computer Systems). In addition, from June 1997 to June 1998, Mr. Allen served as Director, Research and Development at CoCreate Software, Inc. Mr. Allen attended the University of Massachusetts where he majored in Business Administration.

Mrs. Gibbs has served as our Vice President, European Operations from our offices in the United Kingdom since December 2000. Mrs. Gibbs served as President and Interim Chief Executive Officer of Omnis, Inc. from October 1998 until our merger with PickAx in December 2000. Mrs. Gibbs joined us in October 1994 and was initially responsible for Research and Development in Europe. Mrs. Gibbs holds a B.S. in Astronomy from the University of London.

Mr. Raissi has served as our Vice President, Product Development and Professional Services since September 2001. From March 2001 to September 2001, Mr. Raissi performed independent software and management consulting services. From September 2000 to March 2001, Mr. Raissi served as Vice President, Product Development for Equative, Inc., a computer software company providing web-based enterprise resource management applications to medium and larger enterprises. From September 1999 to August 2000, Mr. Raissi served as Vice President, Technical Services for Zland.com, an application service provider supplying hosted web-based applications through the Internet. From February 1996 to September 1999, Mr. Raissi served as the founding President of the Information Technology Group, which provided record and information management and retention scheduling software services to Fortune 1000 companies. Mr. Raissi holds a B.S. in Computer Science from California State University, Dominguez Hills and a B.A. in Literature from Pars University in Tehran, Iran.

Compensation of Executive Officers

The following table sets forth the compensation of our Named Executive Officers, which consist of (i) all persons serving as the chief executive officer during the fiscal year and (ii) the four most highly compensated executive officers serving as such at the end of the fiscal year, in addition to the chief executive officer:

Summary Compensation Table

Name and Principal Position	Year	Annual Compensation		Long Term Compensation Awards Securities Underlying Options(#)	All Other Compensation
		Salary(\$)	Bonus(\$)		
Carlton H. Baab(1) President and Chief Executive Officer	2005	\$ 248,000	\$ 150,888		\$ 14,322
	2004	\$ 248,000	\$ 150,702		\$ 11,510
	2003	\$ 124,000	\$ 150,527		\$ 7,639
Soheil Raissi Vice President, Product Development & Professional Services	2005	\$ 200,000	\$ 70,773	70,000	\$
	2004	\$ 200,000	\$ 70,673		\$
	2003	\$ 196,410	\$ 25,527	60,000	\$
Gwyneth Gibbs(2) Vice President, European Operations & Professional Services	2005	\$ 212,159	\$		\$ 31,853
	2004	\$ 181,631	\$		\$ 27,670
	2003	\$ 143,242	\$		\$ 23,228
Brian C. Bezdek Chief Financial Officer and Secretary	2005	\$ 175,000	\$ 61,954	75,000	\$
	2004	\$ 175,000	\$ 61,933		\$
	2003	\$ 142,491	\$ 16,184	175,000	\$
Mario I. Barrenechea(3) Senior Vice President, Worldwide Sales and Marketing	2005	\$ 180,000	\$ 48,408		\$ 5,146
	2004	\$ 180,000	\$ 19,716		\$ 4,956
	2003	\$ 180,000	\$ 15,547		\$ 4,956

(1) All Other Compensation reflects payments to a continuing medical plan Mr. Baab had in place at the time he joined us.

- (2) All Other Compensation reflects pension contributions paid by us on behalf of Mrs. Gibbs.
- (3) All Other Compensation reflects premiums paid by us on a life insurance policy owned by Mr. Barrenechea.

Option grants table

The following table shows, as to the Named Executive Officers, the total options granted during the year ended March 31, 2005.

Option Grants in Last Fiscal Year		Exercise or base
Number of securities underlying options granted	Percent of total options granted to employees in	