FORM S-1/A

General form of registration statement for all companies including face-amount certificate companies [amend]

Filing Date: **1999-09-10**
SEC Accession No. 0000950133-99-002994

FILER

AETHER SYSTEMS INC
CIK:**1093434**| State of Incorp.:**DE** | Fiscal Year End: **1231**
Type: **S-1/A** | Act: **33** | File No.: **333-85697** | Film No.: **99709434**
SIC: **7373** Computer integrated systems design

Mailing Address
11460 CRONRIDGE DRIVE
OWINGS MILLS MD 21117

Business Address
11460 CRONRIDGE DRIVE
OWINGS MILLS MD 21117

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON SEPTEMBER 10, 1999.

REGISTRATION NO. 333-85697

SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

Amendment No. 1

to

FORM S-1/A

REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

AETHER SYSTEMS, INC.
(Exact Name of Registrant as Specified in Its Charter)

<TABLE>
<S> <C> <C>

DELAWARE	7373	52-2186634
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

</TABLE>

11460 CRONRIDGE DRIVE
OWINGS MILLS, MARYLAND 21117
(410) 654-6400
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

DAVID S. OROS
CHAIRMAN, CHIEF EXECUTIVE OFFICER AND PRESIDENT
11460 CRONRIDGE DRIVE
OWINGS MILLS, MARYLAND 21117
(410) 654-6400
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

with copies to:

<TABLE>
<S> <C>

MARK A. DEWIRE, ESQ. ROGER J. PATTERSON, ESQ. WILMER, CUTLER & PICKERING 2445 M STREET, N.W. WASHINGTON, D.C. 20037	EVE N. HOWARD, ESQ. HOGAN & HARTSON L.L.P. 555 13TH STREET, N.W. WASHINGTON, D.C. 20004 (202) 637-5600

(202) 663-6000
</TABLE>

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: As soon as practicable after the effective date of this Registration Statement.

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

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

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

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a) MAY DETERMINE.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The expenses to be paid by Aether Systems, Inc. ("Aether" or "Aether Systems") in connection with the distribution of the securities being registered, other than underwriting discounts and commission, are as follows:

<TABLE>
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	AMOUNT(1)
<S>	<C>
Securities and Exchange Commission Registration Fee.....	$ 20,850
NASD Filing Fee.....	*
Nasdaq National Market Listing Fee.....	*
Accounting Fees and Expenses.....	200,000
Blue Sky Fees and Expenses.....	10,000
Legal Fees and Expenses.....	250,000
Transfer Agent and Registrar Fees and Expenses.....	25,000
Printing and Engraving Expenses.....	250,000
Director and Officer Liability Insurance (2).....	*
Miscellaneous Fees and Expenses.....	*
Total.....	$ *

</TABLE>

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(1) All amounts are estimates except the SEC filing fee, the NASD filing fee and

the Nasdaq National Market listing fee.

(2) Represents premiums paid by Aether on policies that insure Aether' directors and officers against certain liabilities they may incur in connection with the registration, offering and sale of the securities described herein.

* To Be Provided in Amendment.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Under Section 145 of the General Corporate law of the State of Delaware, Aether Systems has broad powers to indemnify its directors and officers against liabilities they may incur in such capacities, including liabilities under the Securities Act of 1933, as amended (the "Securities Act"). Aether Systems' bylaws (Exhibit 3.2 hereto) also provide for mandatory indemnification of its directors and executive officers, and permissive indemnification of its employees and agents, to the fullest extent permissible under Delaware law.

Aether's certificate of incorporation (Exhibit 3.1 hereto) provides that the liability of its directors for monetary damages shall be eliminated to the fullest extent permissible under Delaware law. Pursuant to Delaware law, this includes elimination of liability for monetary damages for breach of the directors' fiduciary duty of care to Aether and its stockholders. These provisions do not eliminate the directors' duty of care and, in appropriate circumstances, equitable remedies such as injunctive or other forms of non-monetary relief will remain available under Delaware law. In addition, each director will continue to be subject to liability for breach of the director's duty of loyalty to Aether, for acts or omissions not in good faith or involving intentional misconduct, for knowing violations of law, for any transaction from which the director derived an improper personal benefit, and for payment of dividends or approval of stock repurchases or redemptions that are unlawful under Delaware law. The provision also does not affect a director's responsibilities under any other laws, such as the federal securities laws or state or federal environmental laws.

Prior to the effective date of the Registration Statement, Aether will have entered into agreements with its directors and certain of its executive officers that require Aether to indemnify such persons against

expenses, judgments, fines, settlements and other amounts actually and reasonably incurred (including expenses of a derivative action) in connection with any proceeding, whether actual or threatened, to which any such person may be made a party by reason of the fact that such person is or was a director or officer of Aether or any of its affiliated enterprises, provided such person acted in good father and in a manner such person reasonably believed to be in or not opposed to the best interests of Aether and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder.

Aether intends to obtain in conjunction with the effectiveness of the Registration Statement a policy of directors' and officers' liability insurance that insures Aether's directors and officers against the cost of defense, settlement or payment of a judgment under certain circumstances.

The Underwriting Agreement filed as Exhibit 1.1 to this Registration Statement provides for indemnification by the underwriters of Aether and its officers and directors for certain liabilities arising under the Securities Act or otherwise.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

Since its inception, the registrant's predecessor, Aether Technologies International, L.L.C. ("Aether LLC") has issued and sold unregistered securities in the transactions described below.

1) In January 1996, NexGen Technologies, L.L.C. contributed assets in the wireless data field to Aether LLC in exchange for 3,000,000 units and Transettlements, Inc. contributed $1,000,000 in cash in exchange for 1,000,000 units. On May 21, 1996, Transettlements contributed an additional $500,000 in exchange for an additional 500,000 units.

2) In February 1997, a subsidiary of Telcom Ventures, L.L.C. acquired 290,000 units from Transettlements and contributed $1,000,000 to Aether LLC in exchange for 625,000 units. In December 1997, Telcom Ventures and its subsidiary contributed an additional $690,369 to Aether LLC in exchange for an additional 230,123 units.

3) In January 1998, Pyramid Ventures, Inc., then a subsidiary of BT Alex. Brown, acquired 333,333 units at $3.00 per unit and 401,961 units at $3.73 per unit for total proceeds to Aether LLC of approximately $2.5 million.

In June 1998, Telcom Ventures and Pyramid each loaned us $250,000. The notes accrued interest at 8% per year and were due on demand with a stated maturity date of the earlier of December 31, 1998 or the closing of an anticipated private placement of units. The notes were convertible into units at the option of the holder at the rate of $250,000 divided by the per unit price to be paid in the anticipated private placements. In connection with the issuance of these notes, we also issued 5,656 warrants with an exercise price of $0.01 per unit to each of Telcom Ventures and Pyramid. Pyramid converted its $250,000 loan plus accrued interest in August 1998 into 57,180 units at a per unit price of $4.42 and exercised its warrant and acquired 5,656 units. In August 1998, we repaid the amount owed Telcom Ventures, including $2,520 in interest. Telcom Ventures exercised its warrant and received 5,656 units in August 1999.

4) In August 1998, Reuters MarketClip Holdings Sarl received 1,131,222 units in exchange for $4,735,020 in cash and forgiveness of $530,980 Aether LLC owed Reuters for hardware and other inventory, offset by $266,000 Reuters owed us under a license agreement we previously entered into with Reuters relating to sales of MarketClip, and related fees.

5) In October 1998, 3Com Corporation contributed $6,000,000, in exchange for 1,000,000 units. At the same time Aether LLC issued 3Com a conditional warrant to purchase 357,466 units exercisable at $0.01 per unit if the milestones described below are achieved before October 29, 2001. 3Com achieved the first milestone entitling it to exercise 57,466 units as a result of having completed a joint sales and marketing plan. 3Com may exercise an additional 150,000 units when Aether LLC receives revenue of $6 million in engineering services revenue from business opportunities introduced by 3Com. 3Com may

exercise an additional 150,000 units if Aether LLC attains 6,000 wireless service subscribers as a result of business opportunities introduced to us by 3Com. 3Com has not attained either of these last two milestones and has not exercised any of its warrants.

Aether LLC from time to time has granted options or warrants to acquire units to employees and members of the managing board. The following table sets forth certain information regarding such grants:

<TABLE>
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	NO. OF UNITS	RANGE OF EXERCISE PRICES
<S>		<C>
1996	277,375	$1.00
1997	122,625	$1.00
1998	241,875	$3.73-$4.42
1999	242,500	$4.42-$12.00

</TABLE>

The sale and issuance of securities in the transactions described above

were exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as transactions by an issuer not involving a public offering, where the purchasers were sophisticated investors who represented their intention to acquire securities for investment only and not with a view to distribution and received or had access to adequate information about the Aether LLC.

No underwriters were employed in any of the above transactions.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

Exhibits

The exhibit index is incorporated by reference.

Financial Statement Schedules

None.

Schedules other than those listed above have been omitted since they are not required or are not applicable or the required information is shown in the financial statements or related notes. Columns omitted from schedules filed have been omitted since the information is not applicable.

ITEM 17. UNDERTAKINGS

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended (the "Act") may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable.

In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this Amendment No. 1 to Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Owings Mills, State of Maryland on the 10th day of September, 1999.

Aether Systems, Inc.

By: /s/ DAVID S. OROS

David S. Oros

President and Chief Executive Officer and Chairman

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<TABLE>
<CAPTION>

SIGNATURE	TITLE	DATE
<S>	<C>	<C>
/s/ DAVID S. OROS David S. Oros	President, Chief Executive Officer and Chairman	September 10, 1999
* David C. Reymann	Chief Financial Officer (Principal Financial and Accounting Officer)	September 10, 1999
*By: /s/ DAVID S. OROS David S. Oros Attorney-in-fact		

</TABLE>

EXHIBIT INDEX

<TABLE>
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EXHIBIT NUMBER	DOCUMENT AND DESCRIPTION
<C>	<S>
*1.1	-- Form of Underwriting Agreement
*2.1	-- Agreement of Merger, dated , 1999, between Aether Technologies International, L.L.C., and Aether Systems, Inc.
2.2	-- Stock Purchase Agreement by and among Aether Technologies International, L.L.C., Mobeo, Inc. and Perter Kibler, Winston Barrett and Edward Spear dated as of August 19,

		1999.
*3.1	--	Certificate of Incorporation
*3.2	--	Bylaws
*4.1	--	Specimen Certificate for Aether Technologies Common Stock
*5.1	--	Opinion of Wilmer, Cutler & Pickering as to the legality of the shares of common Stock being registered
10.1	--	Amended and Restated License, Marketing and Distribution Agreement between Reuters America, Inc. and Aether Technologies International, L.L.C. dated August 11, 1998.
10.2	--	Contract Between Discover Brokerage Direct, Inc. and Aether Technologies International, L.L.C. dated August 5, 1999.
10.3	--	Options Price Reporting Authority Vendor Agreement between Aether Technologies and the American Stock Exchange, Inc. dated June 3, 1997.
10.4	--	Agreement between Aether Technologies International, L.L.C. and New York Stock Exchange dated July 19, 1999.
10.5	--	Vendor Agreement by and between Aether Technologies International, L.L.C. and the Nasdaq Stock Market, Inc. dated October 4, 1996.
10.6	--	Dow Jones Indexes Enterprise Distribution Agreement dated April 23, 1999.
10.7	--	Employment Agreement between Aether Technologies International, L.L.C. and David Oros dated July 7, 1999.
10.8	--	Employment Agreement between Aether Technologies International, L.L.C. and David Reymann dated May 18, 1999.
10.9	--	Series A Preferred Stock Purchase Agreement dated as of August 9, 1999.
10.10	--	Investors' Rights Agreement by and among AirWeb Corporation and each of the holder of the Series A Preferred Stock listed in Schedule A and Patrick McVeigh, Barak Berkowitz, Michael Bolbec and Andrew Simms dated August 9, 1999.
10.11	--	Right of First Refusal and Co-Sale Agreement by and among AirWeb Corporation, Inc., and those holders of the Common Stock identified in Schedule A and B dated August 9, 1999.
10.12	--	Voting Agreement by and among the holders of Common Stock set forth in Schedule A and Purchase of the Series A Preferred Stock dated August 9, 1999.
10.13	--	Aether-OpenSky Side Letter regarding development and resale services dated August 9, 1999.
10.14	--	Software License Agreement by and between Aether Technologies International, L.L.C. and AirWeb Corporation dated August 9, 1999.
10.15	--	AirWeb Corporation Warrant to Purchase 3,000,000 Shares of Series A Preferred Stock dated August 9, 1999.
*11.1	--	Statement regarding computation of per share earnings.

</TABLE>

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EXHIBIT NUMBER		DOCUMENT AND DESCRIPTION
<C>		<S>
21.1	--	Subsidiaries of Aether Systems
**23.1	--	Consent of KPMG LLP
**23.2	--	Consent of PricewaterhouseCoopers LLP
*23.3	--	Consent of Wilmer, Cutler & Pickering, included in Exhibit 5.1
**23.4	--	Consent of J. Carter Beese, Jr.
**23.5	--	Consent of Frank A. Bonsal, Jr.
**23.6	--	Consent of Mark D. Ein
**23.7	--	Consent of Rahul C. Prakash

```
        **23.8          -- Consent of Janice M. Roberts
        **23.9          -- Consent of Dr. Rajendra Singh
        **23.10         -- Consent of Devin N. Wenig
        **23.11         -- Consent of Thomas E. Wheeler
        **23.12         -- Consent of George P. Stamas
        **24.1          -- Power of Attorney, included on the signature page hereof
</TABLE>


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*  To be filed by amendment.

** Previously filed.
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EXHIBIT 2.2

EXECUTION COPY

STOCK PURCHASE AGREEMENT

BY AND AMONG

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.

MOBEO, INC.

AND

PETER KIBLER,
WINSTON BARRETT AND
EDWARD SPEAR

DATED AS OF AUGUST 19, 1999

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STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (the "Agreement") is made and entered into this 19th day of August, 1999, by and among Aether Technologies International, L.L.C., a Delaware limited liability company (the "Purchaser"), Mobeo, Inc. a Delaware corporation (the "Company"), and Peter Kibler, Winston Barrett and Edward Spear (each a "Stockholder" and collectively, the "Stockholders"). The Company and the Stockholders are referred to collectively as the "Sellers."

RECITALS

A. The Stockholders are the owners of all of the issued and outstanding

shares (the "Shares") of the capital stock of the Company.

B. The Stockholders desire to sell to Purchaser, and Purchaser desires to purchase from the Stockholders, the Shares pursuant to this Agreement.

NOW, THEREFORE, in consideration of the premises and of the representations, warranties, covenants and agreements herein contained, the parties hereto, intending to be legally bound, agree as follows:

1. STOCK PURCHASE AND RELATED MATTERS

1.1 TRANSFER OF STOCK. Upon the terms and subject to the conditions hereof, at the Closing (as defined in Section 2.1), Purchaser will purchase from the Stockholders, and the Stockholders will sell, transfer and deliver to Purchaser, all of the Shares free and clear of all Liens (defined below) in consideration of payment of the Purchase Price specified in Section 1.2. For the purposes of this Agreement, "Lien" means any security interest, pledge, encumbrance, lien (statutory or otherwise), charge, security agreement, option, right of first refusal, preemptive right, restriction on transfer (other than restrictions on transfer imposed by applicable securities laws) or preferential arrangement of any kind or nature whatsoever.

1.2 PURCHASE PRICE.

(a) Closing Payment. For purposes of this Agreement, the "Purchase Price" shall be Twelve Million One Hundred Eighty Thousand Dollars ($12,180,000), less the Adjustment Amount, if any, as calculated in Section 1.2(b), payable as set forth below:

(i) Fifty Thousand Dollars ($50,000) payable to the Stockholders and previously paid to the Company on July 13, 1999, which will be non-refundable and will be credited toward the Purchase Price;

(ii) If the Closing fails to occur by the forty-fifth (45) day after the Effective Date and such failure to close is caused by, and within the control of Purchaser, Purchaser will pay Two Hundred Thousand Dollars ($200,000) to the Sellers, which will be non-refundable and will be credited toward the Purchase Price, provided, however, that Purchaser will not be

obligated to make such payment if this Agreement has been terminated by Purchaser for any of the reasons set forth in Schedule 1.2(a)(ii); and

(iii) A payment (the "Closing Payment") equal to the difference between (A) the Purchase Price and (B) the sum of (x) all amounts previously paid by Purchasers to Sellers under this Section 1.2, plus (y) the broker's fees and commissions required under the agreement described in Schedule 3.30. The Closing Payment shall be paid on the Closing Date by wire transfer of immediately available funds to an account designated by Sellers.

(b) Purchase Price Adjustment. The "Adjustment Amount" (which will be expressed as a positive amount) will be equal to the amount, if any, by which the total stockholders' deficit set forth in the Company's audited financial statements for the year ended December 31, 1998 (the "Target Amount") increases as of the Closing Date, determined in accordance with GAAP (as defined in Section 1.3) as set forth on Section 1.2(c) below (the "Closing Amount");

provided, however, that any amounts paid pursuant to the agreement between the Company and Metrocall, Inc., dated April 30, 1999, shall not be included in determining the Closing Amount. The Adjustment Amount shall be zero if the deficit between the Target Amount and the Closing Amount remains the same or decreases (including without limitation if the stockholders' deficit becomes positive stockholders' equity).

(c) Adjustment Procedures.

(i) Purchaser will prepare consolidated financial statements ("Closing Financial Statements") of the Company as of the Closing Date and for the period from the date of the Balance Sheet through the Closing Date, including a computation of consolidated stockholders' equity (or deficit, as applicable) as of the Closing Date. Purchaser will deliver the Closing Financial Statements to Sellers within ninety (90) days after the Closing Date. If within thirty (30) days following delivery of the Closing Financial Statements, Sellers have not given Purchaser notice of its objection to the Closing Financial Statements (such notice must contain a statement of the basis of Sellers' objection), then the consolidated stockholders' equity (or deficit, as applicable) reflected in the Closing Financial Statements will be used in computing the Adjustment Amount. If Sellers give such notice of objection, then the issues in dispute will be submitted to the Washington D.C. office of Arthur Andersen LLP, certified public accountants (the "Accountants"), for resolution. If issues in dispute are submitted to the Accountants for resolution, (i) each party will furnish to the Accountants such workpapers and other documents and information relating to the disputed issues as the Accountants may request and are available to that party (or its independent public accountants), and will be afforded the opportunity to present to the Accountants any material relating to the determination and to discuss the determination with the Accountants; (ii) the determination by the Accountants, as set forth in a notice delivered to both parties by the Accountants, will be binding and conclusive on the parties; and (iii) Purchaser and Sellers will each bear 50% of the fees of the Accountants for such determination.

(d) On the tenth (10th) business day following the final determination of the Adjustment Amount (the "Adjustment Payment Date"), Sellers shall pay the Adjustment Amount, if any, by wire

transfer to an account designated by Purchaser. Payments must be made in immediately available funds in U.S. dollars.

1.3 ACCOUNTING TERMS. Except as otherwise expressly provided herein or in the Schedules hereto, all accounting terms used in this Agreement shall be interpreted, and all financial statements, Schedules, certificates and reports as to financial matters required to be delivered hereunder shall be prepared, in accordance with generally accepted accounting principles ("GAAP"), consistently applied.

1.4 EFFECTIVE DATE. This Agreement shall be effective as of the date of its execution (the "Effective Date"). The representations and warranties of the parties set forth in Sections 3 and 4 hereof shall be effective as of the Effective Date and as of the Closing Date.

2. CLOSING

2.1 LOCATION AND DATE. The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at 10:00 a.m., local time, at the offices of Wilmer, Cutler & Pickering, 2445 M Street, N.W., Washington, D.C. 20037, on a date selected by the Purchaser within forty-five (45) days from the Effective Date; provided that all conditions to Closing shall have been satisfied or waived, or at such other time and date as Purchaser, the Company and the Stockholders may mutually agree, which date shall be referred to as the "Closing Date."

2.2 DELIVERIES. The Stockholders shall deliver to Purchaser the following at the Closing: (a) stock certificates representing the Shares, accompanied by stock powers duly executed in blank or duly executed instruments of transfer and any other documents that are necessary to transfer to Purchaser good and marketable title to the Shares free and clear of all Liens; (b) resignations of directors of the Company as Purchaser may request; (c) a certification satisfying the requirements of sections 1.897-2(h) and 1.1445-2(c)(3) of the Treasury Regulations that the Shares are not United States real property interests, together with a properly executed notice suitable for filing with the Internal Revenue Service as described in section 1.897-2(h)(2) of the Treasury Regulations; (d) release(s) executed by Sellers (collectively "Sellers' Releases"); and (e) all other documents, certificates, instruments or writings required to be delivered by the Stockholders or the Company at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith. Against delivery of the Shares, Purchaser shall deliver to the Stockholders at the Closing in immediately available funds, the Closing Payment, and all other documents, certificates, instruments or writings required to be delivered by Purchaser at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

3. REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS AND THE COMPANY

To induce Purchaser to enter into this Agreement and consummate the transactions contemplated hereby, each of the Stockholders and the Company, jointly and severally, represent and warrant to Purchaser as follows (for purposes of this Agreement, the phrases "knowledge of the Company" or the "Company's knowledge," or words of similar import, mean the knowledge of the Stockholders and the other directors and officers of the Company, including facts of which the directors and officers, in the reasonably prudent exercise of their duties, should be aware):

3.1 DUE ORGANIZATION. The Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and the Company is duly authorized and qualified to do business under all applicable laws, regulations, ordinances and orders of public authorities to own, operate and lease its properties and to carry on its business in the places and in the manner as now conducted. Schedule 3.1(a) hereto contains a list of all jurisdictions in which the Company is authorized or qualified to do business. The Company is in good standing as a foreign corporation in each jurisdiction in which it does business. The Company has delivered to Purchaser true, complete and correct copies of the Certificate of

Incorporation and Bylaws of the Company. Such Certificate of Incorporation and Bylaws are collectively referred to as the "Charter Documents." The Company is not in violation of any Charter Documents. The minute books of the Company have been made available to Purchaser (and have been delivered, along with the Company's original stock ledger and corporate seal, to Purchaser) and are correct and complete in all material respects. Schedule 3.1(b) contains a complete and accurate list of the directors and officers of the Company.

3.2 AUTHORIZATION; VALIDITY. The Company has all requisite corporate power and authority to enter into and perform its obligations pursuant to the terms of this Agreement. The Company has the full legal right, corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The Stockholders have the full legal right and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Company and the performance by the Company of the transactions contemplated herein have been duly and validly authorized by the Board of Directors of the Company, and this Agreement has been duly and validly authorized by all necessary corporate action on behalf of the Company. This Agreement is a legal, valid and binding obligation of each of the Stockholders and the Company, enforceable against each of them in accordance with its terms.

3.3 NO CONFLICTS. The execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms hereof will not:

(a) conflict with, or result in a breach or violation of, any of the Charter Documents, or any resolution adopted by the board of directors or the shareholders of the Company;

(b) conflict with, or result in a default (or would constitute a default but for any requirement of notice or any of lapse of time or both) under, any document, agreement or other instrument to which the Company or any of the Stockholders is a party or by which the Company or any of the Stockholders is bound or result in the creation or imposition of any Lien on any of the Company's assets pursuant to: (i) any federal, state, local, municipal, or foreign law, statute, ordinance, treaty, rule or regulation, or other administrative order constituting regulation (collectively "Laws") to which the Company or the Stockholders or any of their respective assets are subject; or (ii) any judgment, order, writ, injunction, or decree of any court or government authority to which the Company or any of the Stockholders is bound or any of their respective assets is subject; or (iii) any act of a third party;

(c) result in termination or any impairment of any permit, license, franchise, contractual right or other authorization of the Company; or

(d) violate any Laws to which the Company or any of the Stockholders is subject or by which the Company or any of the Stockholders is bound.

3.4 CAPITAL STOCK OF THE COMPANY. The authorized capital stock of the Company consists solely of 10,000 shares of common stock, no par value, of which 1,171 shares are issued and outstanding. The Company has not issued and there

are no other outstanding equity securities of the Company (including without limitation any preferred stock) or, except for the options set forth in Schedule 3.5, securities convertible into equity securities of the Company. All of the Shares have been duly authorized and validly issued, are fully paid and nonassessable and are owned of record and beneficially by the Stockholders free and clear of all Liens, except for the Liens described in Schedule 3.4, which will be released on or before the Closing Date. All of the Shares were offered, issued, sold and delivered by the Company in compliance with all applicable state and federal laws concerning the issuance and sale of securities. Further, none of the Shares was issued in violation of any preemptive rights. No legend or other reference to any other Lien appears upon any certificate representing capital stock of the Company. There are no voting agreements or voting trusts with respect to any of the Shares. The number of Shares owned of record and beneficially by each Stockholder and the percentage interest in the Company represented by such Shares is set forth in Schedule 3.4.

3.5 TRANSACTIONS IN CAPITAL STOCK. Except for the options set forth in Schedule 3.5, no option, warrant, call, subscription right, conversion right or other contract or commitment of any kind exists of any character, written or oral, that may obligate the Company to issue or sell any shares of capital stock or by which any shares of capital stock may otherwise become outstanding. The Company has no obligation (contingent or otherwise) to purchase, redeem or otherwise acquire any of its equity securities or any interests therein or to pay any dividend or make any distribution in respect thereof. As a result of the transactions contemplated by this Agreement, Purchaser will be the record and beneficial owner of all outstanding capital stock of the Company and all rights to acquire capital stock of the Company.

3.6 ABSENCE OF CLAIMS AGAINST COMPANY. None of the Stockholders has any claims of any kind against the Company nor has any Stockholder assigned any such claims to any third party.

3.7 SUBSIDIARIES AND STOCK. The Company has no subsidiaries. The Company does not presently own, of record or beneficially, or control, directly or indirectly, any capital stock, securities convertible into capital stock or any other equity interest in any corporation, association or business entity, nor is the Company, directly or indirectly, a participant in any joint venture, partnership or other noncorporate entity.

3.8 COMPLETE COPIES OF MATERIALS. The Company has delivered to Purchaser true, complete and correct copies of each agreement, contract, commitment or other document (or summaries thereof) that is referred to in the Schedules or that has been requested by Purchaser.

3.9 COMPANY FINANCIAL CONDITION. The Company's earnings before taxes for the six month period ended June 30, 1999 were in excess of $108,000.

3.10 FINANCIAL STATEMENTS. Schedule 3.10 includes (a) true, complete and correct copies of the Company's audited balance sheets as of December 31, 1997 and December 31, 1998 (the end of its most recent completed fiscal years), and statements of operations for the years ended December 31, 1996, 1997 and 1998 and statements of changes in Stockholders' equity (deficit), and statements of cash flows (collectively, the "Audited Financials") and (b) true, complete

and correct copies of the Company's unaudited balance sheet (the "Interim Balance Sheet") as of June 30, 1999 (the "Balance Sheet Date") and unaudited statement of operations, statement of changes in Stockholders equity (deficit), and statement of cash flow, for the six month period then ended (collectively, the "Interim Financials," and together with the Audited Financials, the "Company Financial Statements"). The Company Financial Statements have been prepared from the books and records of the Company in accordance with GAAP consistently applied and present fairly the financial condition and results of operation, changes in shareholders' equity and cash flow of the Company for the periods referred to the Financial Statements. Since the dates of the Company Financial Statements and except as set forth in Schedule 3.28, there have been no material changes in the Company's accounting policies.

3.11 LIABILITIES AND OBLIGATIONS.

(a) Except as set forth in Schedule 3.11, the Company is not liable for or subject to any liabilities except for:

(i) those liabilities reflected on the Interim Balance Sheet and not previously paid or discharged;

(ii) those liabilities arising in the ordinary course of its business consistent with past practice under any contract, commitment or agreement specifically disclosed on any Schedule to this Agreement or not required to be disclosed thereon because of the term or amount involved or otherwise; and

(iii) those liabilities incurred since the Balance Sheet Date in the ordinary course of business consistent with past practice, which liabilities are not, individually or in the aggregate, material.

(b) The Company is not a guarantor or otherwise liable for any liability or obligation of any other person, entity or organization.

(c) For purposes of this Section 3.11, the term "liabilities" shall include, without limitation, any direct or indirect liability, indebtedness, guaranty, endorsement, claim, loss, damage, deficiency, cost, expense, obligation or responsibility that is accrued, absolute, contingent, mature, unmature or otherwise and whether known or unknown, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured.

3.12 BOOKS AND RECORDS. The Company has made and kept books and records and accounts that, in reasonable detail, accurately and fairly reflect its activities. The Company has not engaged in any material transaction, maintained any bank account or used any corporate funds except for transactions, bank accounts and funds that have been and are reflected in its normally maintained books and records.

3.13 BANK ACCOUNTS; POWERS OF ATTORNEY. Schedule 3.13 sets forth a complete and accurate list as of the date of this Agreement, of:

(a) the name of each financial institution in which the Company has any account or safe deposit box;

(b) the names in which such accounts or boxes are held;

(c) the types of such accounts;

(d) the name of each person authorized to draw thereon or have access thereto; and

(e) the name of each person, corporation, firm or other entity holding a general or special power of attorney from the Company and a description of the terms of such power.

3.14 ACCOUNTS AND NOTES RECEIVABLE. The Company has delivered to Purchaser a complete and accurate list, as of the Balance Sheet Date, of the accounts and notes receivable of the Company (including, without limitation, receivables from and advances to employees and the Stockholders), which includes an aging of all accounts and notes receivable showing amounts due in 30-day aging categories (collectively, the "Accounts Receivable"). All Accounts Receivable represent valid obligations arising from sales actually made or services actually performed in the ordinary course of business. The Accounts Receivable are current and collectible net of any respective reserves shown on the Company's books and records (which reserves are adequate and calculated consistent with past practice). There is no contest, claim or right of set-off under any

contract with any obligor of an Account Receivable relating to the amount or validity of such Account Receivable.

3.15 PERMITS. The Company owns or holds all licenses, franchises, permits and other governmental authorizations, including, without limitation, permits, titles, licenses and franchises necessary for the continued operation of its business as it is currently being conducted (the "Permits"). The Permits are valid, and the Company has not received any notice that any governmental authority intends to modify, cancel, terminate or fail to renew any Permit. No present or former stockholder, officer, manager, member or employee of the Company or any affiliate thereof, or any other person, firm, corporation or other entity, owns or has any proprietary, financial or other interest (direct or indirect) in any Permits. The Company has conducted and is conducting its business in compliance with the requirements, standards, criteria and conditions set forth in the Permits and other applicable orders, approvals, variances, rules and regulations and is not in violation of any of the foregoing. The transactions contemplated by this Agreement will not result in a default under, or a breach or violation of, or adversely affect the rights and benefits afforded to the Company by any Permit.

3.16 REAL PROPERTY.

(a) For purposes of this Agreement, "Real Property" means all interests in real property other than Owned Real Property including, without limitation, fee estates, leaseholds and subleaseholds, purchase options, easements, licenses, rights to access and rights of way and all buildings and other improvements thereon owned, leased, enjoyed or used by the Company, together with any additions thereto or replacements thereof. "Owned Real Property" means all Real Property owned by the Stockholders or any other person,

persons or business entities owned or controlled by the Stockholders which is used in the conduct of the business and operations of the Company.

(b) The Company does not own and never has owned any Real Property and there is no Owned Real Property. Schedule 3.16(b) contains a complete and accurate description of all leased Real Property (including street address). The Real Property listed in Schedule 3.16(b) includes all interests in real property necessary to conduct the business and operations of the Company.

(c) Except as set forth in Schedule 3.16(c):

(i) The Real Property and all present uses and operations of the Real Property comply with all applicable Laws (including, without limitation, applicable statutes, rules, regulations, orders and restrictions relating to zoning, land use, safety, health, employment and employment practices and access by the handicapped), covenants, conditions, restrictions, easements, disposition agreements and similar matters affecting the Real Property. The Company has obtained all approvals of governmental authorities (including certificates of use and occupancy, licenses and permits) required in connection with the use, occupation and operation of the Real Property.

(ii) There are no parties other than the Company in possession of any of the Real Property or any portion thereof, and there are no leases, subleases, licenses, concessions or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Real Property or any portion thereof.

(iii) All real property Taxes and assessments that are due and payable with respect to the Real Property have been paid or will be paid at or prior to the Closing Date.

(iv) All oral or written leases, subleases, licenses, concession agreements or other use or occupancy agreements pursuant to which the Company leases from any other party any Real Property, including all amendments, renewals, extensions, modifications or supplements to any of the foregoing or substitutions for any of the foregoing (collectively, the "Leases") are valid and in full force and effect. The Company has provided Purchaser with true and complete copies of all of the Leases, all amendments, renewals, extensions, modifications or supplements thereto and all material correspondence related thereto, including all correspondence pursuant to which any party to any of the Leases has declared a default thereunder or provided notice of the exercise of any operation granted to such party under such Lease. The Leases and the Company's interests thereunder are free of all Liens.

(v) None of the Leases requires the consent or approval of any party thereto in connection with the consummation of the transactions contemplated hereby.

3.17 PERSONAL PROPERTY.

(a) Schedule 3.17(a) sets forth a complete and accurate list of all personal property included on the Interim Balance Sheet and all other

personal property owned or leased by the Company with a current book value in excess of $5,000 both (i) as of the Balance Sheet Date and (ii) acquired since the Balance Sheet Date, including in each case true, complete and correct copies of leases for material equipment and an indication as to which assets are currently owned, or were formerly owned, by the Stockholders or the Company.

(b) The Company currently owns or leases all personal property necessary to conduct the business and operations of the Company as they are currently being conducted.

(c) All of the material, machinery and equipment of the Company, including that listed in Schedule 3.17(a), are in good working order and condition, ordinary wear and tear excepted. All leases set forth in Schedule 3.17(a) are in full force and effect and constitute valid and binding agreements of the Company, and the Company is not in breach of any of their terms. All fixed assets used by the Company that are material to the operation of its business are either owned by the Company or leased under an agreement listed in Schedule 3.17(a).

3.18 INTELLECTUAL PROPERTY.

(a) Except as set forth in Schedule 3.18(a), the Company is the true and lawful owner of, or is licensed or otherwise possesses legally enforceable rights to use, the registered and

unregistered Marks (defined below) listed in Schedule 3.18(a). Such Schedule lists (i) all of the Marks registered in the United States Patent and Trademark Office ("PTO") or the equivalent thereof in any state of the United States or in any foreign country, and (ii) all of the unregistered Marks that the Company now owns or uses in connection with its business. For purposes of this Section 3.18, the term "Mark" shall mean all right, title and interest in and to any United States or foreign trademarks, service marks and trade names now held by the Company, including any registration or application for registration of any trademarks and service marks in the PTO or the equivalent thereof in any state of the United States or in any foreign country, as well as any unregistered marks used by the Company and any trade dress (including logos, designs, company names, business names, fictitious names and other business identifiers) used by the Company in the United States or any foreign country.

(b) The Company is the true and lawful owner of, or is licensed or otherwise possesses legally enforceable rights to use, all rights in the Patents (defined below) listed in Schedule 3.18(b) and in the Copyrights (defined below) listed in Schedule 3.18(b). Such Patents and Copyrights constitute all of the Patents and Copyrights that the Company now owns or is licensed to use. The Company owns or is licensed to practice under all patents and copyright registrations that the Company now owns or uses in connection with its business. For purposes of this Section 3.18, the term "Patent" shall mean any United States or foreign patent to which the Company has title as of the date of this Agreement, as well as any application for a United States or foreign patent made by the Company; the term "Copyright" shall mean any United States or foreign copyright owned by the Company as of the date of this Agreement registered in the United States Copyright Office or the equivalent thereof in any foreign county, as well as any application for a United States or foreign copyright registration made by the Company.

(c) Except as set forth in Schedule 3.18(c), the Company owns or is licensed to operate under and use all trade secrets, trade names,

franchises, technology, proprietary rights, know-how or similar rights (collectively, "Other Rights"), including those set forth in Schedule 3.18(c), that it owns, uses or practices under.

(d) The Marks, Patents, Copyrights and Other Rights listed in Schedules 3.18(a), 3.18(b) and 3.18(c) are referred to collectively herein as the "Intellectual Property." The Intellectual Property owned by the Company is referred to herein collectively as the "Company Intellectual Property." All other Intellectual Property is referred to herein collectively as the "Third Party Intellectual Property." Except as indicated in Schedule 3.18(d), the Company has no obligations to compensate any person for the use of any Intellectual Property nor has the Company granted to any person any license, option or other rights to use in any manner any Intellectual Property, whether or not requiring the payment of royalties.

(e) The Company is not, nor will it be as a result of the execution and delivery of this Agreement or the performance of its obligations hereunder, in violation of any Third Party Intellectual Property license, sublicense or agreement described in Schedule 3.18(a) and Schedule 3.18(b) or Schedule 3.18(c). No claims with respect to the Company Intellectual Property or Third Party Intellectual Property are currently pending or, to the knowledge of the Company, are threatened by any person, nor, to the Company's knowledge, do any grounds for any claims exist:

(i) to the effect that the services provided by the Company or the sale, licensing or use of any product as now used, sold or licensed or proposed for use, sale or license by the Company infringes on any copyright, patent, trademark, service mark or trade secret; (ii) against the use by the Company of any trademarks, trade names, trade secrets, copyrights, patents, technology, know-how or computer software programs and applications used in the Company's business as currently conducted by the Company; (iii) challenging the ownership, validity or effectiveness of any of the Company Intellectual Property or other trade secret material to the Company; or (iv) challenging the Company's license for, or legally enforceable right to use, the Third Party Intellectual Property. To the Company's knowledge, there is no unauthorized use, infringement or misappropriation of any of the Company Intellectual Property by any third party. Except as set forth in Schedule 3.26(b), the Company has (x) not been sued or charged in writing as a defendant in any claim, suit, action or proceeding which involves a claim or infringement of trade secrets, any patents, trademarks, service marks or copyrights and which has not been finally terminated or been informed or notified by any third party that the Company may be engaged in such infringement or (y) no knowledge of any infringement liability with respect to, or infringement by, the Company of any trade secret, patent, trademark, service mark or copyright of another.

3.19 MATERIAL CONTRACTS AND COMMITMENTS.

(a) Schedule 3.19(a) sets forth a complete and accurate list of all Significant Customers and Significant Suppliers. For purposes of this Agreement, "Significant Customers" are the twenty (20) customers that have effected the most purchases, in dollar terms, from the Company during twelve months ending on the Balance Sheet Date, and "Significant Suppliers" are the twenty (20) suppliers who supplied the largest amount by dollar volume of products or services to the Company during the twelve (12) months ending on the Balance Sheet Date.

(b) Schedule 3.19(b) contains a complete and accurate list of all contracts, commitments, leases, instruments, agreements, licenses or permits, written or oral, to which the Company is a party or by which it or its properties are bound (including, without limitation, contracts with customers, joint venture or partnership agreements, contracts with any labor organizations, employment agreements, consulting agreements, loan agreements, indemnity or guaranty agreements, bonds, mortgages, options to purchase land or Liens) (i) to which the Company and the Stockholders or any affiliate of the Company, the Stockholders or any officer or director of the Company are parties ("Related Party Agreements"); (ii) that may give rise to obligations or liabilities exceeding, during the current term thereof, $10,000, or (iii) that may generate revenues or income exceeding, during the current term thereof, $10,000 (collectively with the Related Party Agreements, the "Material Contracts"). The Company has delivered to Purchaser true, complete and correct copies of the Material Contracts.

(c) Except to the extent set forth in Schedule 3.19(c), (i) none of the Company's Significant Customers has canceled or reduced or, to the knowledge of the Company, is currently attempting or threatening to cancel or reduce, any purchases from the Company, (ii) none of the Company's Significant Suppliers has canceled or reduced or, to the knowledge of the Company, is currently attempting to cancel or reduce, the supply of products or services to the Company, (iii) the Company has complied with all of its commitments and obligations and is not in default under

any of the Material Contracts, and no notice of default has been received with respect to any thereof, and (iv) there are no Material Contracts that were not negotiated at arm's length. The Company has not received any material customer complaints concerning its products and/or services.

(d) Each Material Contract is valid and binding on the Company and is in full force and effect and is not subject to any default thereunder by any party obligated to the Company pursuant thereto. The Company has obtained all necessary consents, waivers and approvals of parties to any Material Contracts which are required in connection with any of the transactions contemplated hereby, or are required by any governmental agency or other third party or are advisable in order that any such Material Contract remain in effect without modification after the Closing and without giving rise to any right to termination, cancellation or acceleration or loss of any right or benefit ("Third Party Consents"). All Third Party Consents are listed in Schedule 3.19(d).

3.20 GOVERNMENT CONTRACTS.

(a) The Company is not a party to any government contracts.

(b) The Company has not been suspended or debarred from bidding on contracts or subcontracts for any agency or instrumentality of the United States Government or any state or local government, nor, to the knowledge of the Company, has any suspension or debarment action been threatened or commenced.

3.21 INSURANCE. Schedule 3.21 sets forth a complete and accurate list,

as of the Balance Sheet Date, of all insurance policies carried by the Company and all insurance loss runs or workers' compensation claims received for the past two (2) policy years. The Company has made available to Purchaser true, complete and correct copies of all current insurance policies, all of which are in full force and effect. All premiums payable under all such policies have been paid and the Company is otherwise in full compliance with the terms of such policies. Such policies of insurance are of the type and in amounts customarily carried by persons conducting businesses similar to that of the Company. To the knowledge of the Company, there have been no threatened terminations of, or material premium increases with respect to, any of such policies.

3.22 ENVIRONMENTAL MATTERS.

(a) Hazardous Material. No underground or aboveground storage tanks and no amount of any substance that has been designated by any governmental entity or by applicable federal, state, local or other applicable law to be radioactive, toxic, hazardous or otherwise a danger to health or the environment, including, without limitation, PCBs, asbestos, petroleum, urea-formaldehyde and all substances listed as hazardous substances pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or defined as a hazardous waste pursuant to the United States Resource Conservation and Recovery Act of 1976, as amended, and the regulations promulgated pursuant to said laws, but excluding office and janitorial supplies properly and safely maintained (a "Hazardous Material"), are present in, on or under any property, including the land and the improvements, ground water and surface water

thereof, that the Company or any of its predecessors in interest has at any time owned, operated, occupied or leased. There are no underground and aboveground storage tanks, and the capacity, age, and contents of such tanks, located on Real Property leased by the Company.

(b) Hazardous Materials Activities. The Company has not transported, stored, used, manufactured, disposed of or released, or exposed its employees or others to, Hazardous Materials in violation of any law in effect on or before the Closing Date, nor has the Company disposed of, transported, sold or manufactured any product containing a Hazardous Material (collectively, "Company Hazardous Materials Activities") in violation of any rule, regulation, treaty or statute promulgated by any governmental entity in effect prior to or as of the date hereof to prohibit, regulate or control Hazardous Materials or any Hazardous Material Activity.

(c) Permits and Compliance. The Company currently holds no environmental approvals, permits, licenses, clearances and consents (the "Environmental Permits") and no such Environmental Permits is necessary for the conduct of the Company's business as it is currently being conducted or as it is proposed to be conducted. The Company is in compliance in all material respects with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the laws of all governmental entities relating to pollution or protection of health and the environment or contained in any regulation, code, plan order, decree, judgment, notice or demand letter issued, entered, promulgated or approved thereunder.

(d) Environmental Liabilities. No action, proceeding,

revocation proceeding, amendment procedure, writ, injunction or claim is pending, or to the knowledge of the Company, threatened concerning any Environmental Permit, Hazardous Material or any Company Hazardous Materials Activity. There are no past or present actions, activities, circumstances, conditions, events or incidents that could involve the Company (or any person or entity whose liability the Company has retained or assumed, either by contract or operation of law) in any environmental litigation, give rise to any environmental claim against the Company or impose upon the Company (or any person or entity whose liability the Company has retained or assumed, either by contract or operation of law) any environmental liability including, without limitation, common law tort liability.

3.23 YEAR 2000 COMPLIANCE. The Company and its information systems and software will continue to function without material impairment arising from any reliability or difficulty in processing date information accurately before, on or after January 1, 2000 (including leap years).

3.24 BENEFIT PLANS AND EMPLOYEE MATTERS.

(a) Definitions.

(i) "Benefit Arrangement" means any benefit arrangement, obligation, or practice, whether or not legally enforceable, to provide benefits (other than merely as salary or under a Benefit Plan), as compensation for services rendered, to present or former directors, employees, agents, or independent contractors, including, but not limited to, employment or consulting agreements, severance agreements or policies, stay or retention bonuses or compensation,

executive or incentive compensation programs or arrangements, sick leave, vacation pay, plant closing benefits, salary continuation for disability, workers' compensation, retirement, deferred compensation, bonus, stock option or purchase plans or programs, tuition reimbursement or scholarship programs, employee discount programs, meals, travel, or vehicle allowances, any plans subject to Code Section 125, and any plans providing benefits or payments in the event of a change of control, change in ownership or effective control or sale of a substantial portion (including all or substantially all) of the assets of any business or portion thereof, in each case with respect to any present or former employees, directors, or agents.

(ii) "Benefit Plan" has the meaning given in ERISA Section 3(3), together with plans or arrangements that would be so defined if they were not (i) otherwise exempt from ERISA by that or another section, (ii) maintained under non-U.S. law, or (iii) individually negotiated or applicable only to one person.

(iii) "Company Benefit Arrangement" means any Benefit Arrangement the Company sponsors or maintains or with respect to which the Company has or may have any current or future liability (whether actual, contingent, with respect to any of its assets or otherwise), in each case with respect to any present or former directors, officers, or employees of or service providers to the Company.

(iv) "Company Plan" means any Benefit Plan that the Company maintains or has previously maintained or to which the Company is

obligated to make payments or has or may have any liability, in each case with respect to any present or former employees of the Company.

(v) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and all regulations and rules issued thereunder, or any successor law.

(vi) "ERISA Affiliate" means any person or entity that, together with the entity referenced, would be or was at any time treated as a single employer under Code Section 414 or ERISA Section 4001 and any general partnership of which the entity is or has been a general partner.

(vii) "Multiemployer Plan" means any Benefit Plan described in ERISA Section 3(37).

(viii) "Pension Plan" means any Benefit Plan subject to Code Section 412 or ERISA Section 302 or Title IV (including any Multiemployer Plan) or any comparable plan not covered by ERISA.

(ix) "Qualified Plan" means any Benefit Plan intended to meet the requirements of Code Section 401(a), including any already terminated plan.

(b) Schedule 3.24(b) contains a complete and accurate list of all Company Plans and Company Benefit Arrangements.

(c) With respect, as applicable, to Benefit Plans and Benefit Arrangements:

(i) The Company has delivered true, correct, and complete copies of the following documents with respect to each Company Plan and Company Benefit Arrangement, to the extent applicable, to the Purchaser: (A) all plan or arrangement documents, including but not limited to, trust agreements, insurance policies, service agreements and formal and informal amendments to each; (B) the most recent Forms 5500 or 5500C/R and any attached financial statements and those for the prior three years and any related actuarial reports; (C) the last Internal Revenue Service ("IRS") determination or opinion letter, and the last IRS determination or opinion letter that covered the qualification of the entire plan (if different); (D) summary plan descriptions, summaries of material modifications, any prospectuses that describe the Company Plans or Company Benefit Arrangements, and Statement of Financial Accounting Standards Nos. 87, 106, and 112 reports; (E) the most recent written descriptions of all non-written agreements relating to any such plan or arrangement; (F) all notices the IRS, Department of Labor, or any other governmental agency or entity issued to the Company within the four years preceding the date of this Agreement; (G) employee manuals or handbooks containing personnel or employee relations policies; and (H) any other documents Purchaser has reasonably requested in writing;

(ii) The only Qualified Plans currently in operation are the Mobeo profit-sharing 401(k) plan and trust. The Company has not maintained or contributed to another Qualified Plan. The Qualified Plans qualify under Code Section 401(a), and nothing has occurred with respect to the operation of any Qualified Plans that could cause the loss of such qualification or

exemption or the imposition of any liability, Lien, penalty or tax under ERISA or the Code on the Company; each Company Plan and each Company Benefit Arrangement has been maintained substantially in accordance with its constituent documents and with all applicable provisions of domestic and foreign laws, including federal and state securities laws and any reporting and disclosure requirements; with respect to each Company Plan, no transactions prohibited by Code Section 4975 or ERISA Section 406 and no breaches of fiduciary duty described in ERISA Section 404 have occurred; and no Company Plan contains any security issued by the Company.

(iii) The Company has never sponsored or maintained or had any liability (whether actual or contingent) with respect to any Pension Plan; the Company has no liability (whether actual or contingent) with respect to any Pension Plan maintained by any predecessor entity (or any of their ERISA Affiliates); the Company neither has nor has ever had any ERISA Affiliates; the Company has no liability (whether actual or contingent) with respect to any Benefit Plan or Benefit Arrangement other than the Company Plans and Company Benefit Arrangement or with respect to any Benefit Plan maintained, now or in the past (or that should have been maintained), by any predecessor;

(iv) There are no pending claims (other than routine benefit claims) or lawsuits that have been asserted or instituted by, against, or relating to, any Company Plans or Company Benefit Arrangements, nor to the Company's Knowledge is there any basis for any such claim or lawsuit. No Company Plans or Company Benefit Arrangements are or have been under audit or examination (nor has notice been received of a potential audit or examination) by any domestic or foreign governmental agency or entity (including the IRS and Department of Labor);

and no matters are pending under the IRS's Employee Plans Compliance Resolutions System or any successor or predecessor program;

(v) Except as set forth in Schedule 3.24(c)(vi), no Company Plan or Company Benefit Arrangement contains any provision that would accelerate or vest any benefit or require severance, termination or other payments or trigger any liabilities as a result of the transactions this Agreement contemplates; the Company has not declared or paid any bonus or incentive compensation related to the transactions this Agreement contemplates; and no payments under any Company Plan or Company Benefit Arrangement would, individually or collectively, be nondeductible under Code Section 280G;

(vi) The Company has paid all amounts it is required to pay as contributions to the Company Plans as of the Balance Sheet Date to the extent due as of such Date; all benefits accrued under any unfunded Company Plan or Company Benefit Arrangement will have been paid, accrued, or otherwise adequately reserved in accordance with GAAP as of the Balance Sheet Date; all monies withheld from employee paychecks for Company Plans have been transferred to the relevant plan within the time applicable regulations specify;

(vii) The Company does not provide benefits through a voluntary employee beneficiary association as defined in Code Section 501(c)(9);

(viii) All group health plans of the Company materially comply with the requirements of Part 6 of Title I of ERISA ("COBRA"), Code Section 5000, and the Health Insurance Portability and Accountability Act; the Company has no material liability under or with respect to COBRA for its own actions or omissions or those of any predecessor; no employee or former employee

(or beneficiary of either) of the Company is entitled to receive any benefits for the Company, including, without limitation, death or medical benefits (whether or not insured) beyond retirement or other termination of employment, other than as applicable law requires.

(d) Schedule 3.24(d) contains the most recent quarterly listing of workers' compensation claims and a schedule of workers' compensation claims of the Company for the last three fiscal years.

(e) Schedule 3.24(e) sets forth an accurate list, as of the date hereof, of all employees of the Company who earned more than $50,000 in 1998 or who may earn more than $50,000 in 1999, all officers and all directors, and all employment agreements with such employees, officers, and directors and the rate of compensation (and the portions thereof attributable to salary, bonus, and other compensation respectively) of each such person as of (i) the Balance Sheet Date and (ii) the date of this Agreement. The schedule also shows totals accrued for vacation, sick leave, and incentive bonuses for all employees.

(f) With respect to employees of and services providers to the Company:

(i) The Company complies and has complied in all material respects with all applicable domestic and foreign laws respecting employment and employment practices, terms

and conditions of employment and wages and hours, including without limitation any such laws respecting employment discrimination, workers' compensation, family and medical leave, the Immigration Reform and Control Act, and occupational safety and health requirements, and no claims or investigations are pending or, to the Company's Knowledge, threatened with respect to such laws, either by private individuals or by governmental agencies; and all employees are at-will except as set forth in Schedule 3.24(f);

(ii) The Company is not nor has it been engaged in any unfair labor practice, and there is not now, nor within the past three years has there been, any unfair labor practice complaint against the Company pending or, to the Company's Knowledge, threatened, before the National Labor Relations Board or any other comparable foreign or domestic authority or any workers' council;

(iii) No labor union represents or has ever represented the Company's employees and no collective bargaining agreement is or has been binding against the Company. No grievance or arbitration proceeding arising out of or under collective bargaining agreements or employment relationships is pending, and no claims therefor exist or have, to the Company's Knowledge, been threatened; no labor strike, lock-out, slowdown, or work stoppage is or has ever been pending or threatened against or directly affecting the Company; and

(iv) All persons who are or were performing services for the Company and are or were classified as independent contractors do or did satisfy and have satisfied the requirements of law to be so classified, and the Company has fully and accurately reported their compensation on IRS Forms 1099 when required to do so.

3.25 TAXES.

(a) For purposes of this Agreement:

(i) "Tax" (including with correlative meaning the terms "Taxes") means (A) all foreign, federal, state, local and other income, gross receipts, sales, use, ad valorem, value-added, intangible, unitary, transfer, franchise, license, payroll, employment, estimated, excise, environmental, stamp, occupation, premium, property, prohibited transactions, windfall or excess profits, customs, duties or other taxes, levies, fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, (B) any liability for payment of amounts described in clause (A) as a result of transferee liability, of being a member of an affiliated, consolidated, combined or unitary group for any period, or otherwise through operation of law and (C) any liability for payment of amounts described in clause (A) or (B) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other person for Taxes; and

(ii) The term "Tax Return" shall mean any return (including any information return), report, statement, schedule, notice, form, estimate or declaration of estimated tax relating to or required to be filed with any governmental authority in connection with the determination, assessment, collection or payment of any Tax.

(b) (i) All Tax Returns required to be filed by or on behalf of the Company have been filed (or an extension of the time to file has been obtained that has not yet expired), and such Tax Returns as have been filed are true, correct, and complete in all material respects.

(ii) The Company has paid in full on a timely basis all Taxes owed by it, whether or not shown on any Tax Return, other than Taxes that are not yet due and Taxes which the Company is presently contesting in good faith in appropriate proceedings that are described in item 4 of Schedule 3.26(b).

(iii) The amount of the Company's liability for unpaid Taxes as of the dates of the Company Financial Statements did not exceed the amount of the current liability accruals for Taxes (excluding reserves for deferred Taxes) shown on such Company Financial Statements, and the amount of the Company's liability for unpaid Taxes for all periods or portions thereof ending on or before the Closing Date will not exceed the amount of the current liability accruals for Taxes (excluding reserves for deferred Taxes) shown on the Closing Financial Statements.

(iv) There is no action, suit, proceeding, investigation, audit or claim now proposed or pending against or with respect to the Company in respect of any Tax. No notice has been issued to the Company regarding any action, suit, proceeding, investigation, audit or claim with respect to any Tax.

(v) The Company has a taxable year ending on December 31, in each year commencing 1989.

(vi) The Company has not agreed to, and is not and will

not be required to, make any adjustments under Code Section 481(a) as a result of a change in accounting methods.

(vii) The Company has withheld and paid over to the proper governmental authorities all Taxes required to have been withheld and paid over and complied with all information reporting and backup withholding requirements, including maintenance of required records with respect thereto, in connection with amounts paid or owing to any employee, independent contractor, creditor or other third party.

(viii) The Company has not requested an extension of time within which to file any Tax Return or pay any Tax or been granted any extension or waiver of the statute of limitations period applicable to any Tax Return or Tax, and all Tax Returns of the Company for the preceding three years have been made available to and delivered to Purchaser.

(ix) There are (and as of immediately following the Closing there will be) no Liens on the assets of the Company relating or attributable to Taxes, other than Liens for Taxes not yet due and payable.

(x) To the Knowledge of the Company, there is no basis for the assertion of any claim relating or attributable to Taxes which, if adversely determined, would result in any

Lien on the assets of the Company or otherwise have an adverse effect on the Company or its business.

(xi) None of the Company's assets is treated as "tax exempt use property" within the meaning of Section 168(h) of the Code.

(xii) There are no contracts, agreements, plans or arrangements covering any employee or former employee of the Company that, individually or collectively, could give rise to the payment of any amount (or portion thereof) that would not be deductible pursuant to Section 280G, 404 or 162 of the Code.

(xiii) Neither the Company nor any direct or indirect shareholder of the Company has filed a consent under Section 341(f) of the Code or agreed to have Section 341(f)(2) of the Code apply to any disposition of a subsection (f) asset (as defined in Section 341(f)(4) of the Code) owned by the Company.

(xiv) The Company is not, and has not been at any time, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

(xv) The Company is not, nor has it ever been, a party to a tax sharing, tax indemnity or tax allocation agreement, and the Company has not assumed the tax liability of any other person or entity under contract.

(xvi) The Company is not, nor has it ever been, a member of an affiliated group filing a consolidated federal income Tax Return. The Company does not, and will not have up to and including the Closing Date, any interest in any other corporation with respect to which the Company owns a majority of the common stock or has the power to vote or direct the voting of

sufficient securities to elect a majority of the directors.

(xvii) The Company does not have any liability for the Taxes of any individual or entity other than the Company under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local, or foreign law), as a transferee or successor, by contract or otherwise.

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

(c) Schedule 3.25(c) contains accurate and complete descriptions of (i) the Company's basis in its assets; (ii) the amount of any net operating loss, net capital loss, unused investment or other credit, unused foreign tax or excess charitable contribution allocable to the Company; and (iii) tax elections affecting the Company. The Company has no net operating losses or other tax attributes presently subject to limitation under Section 382, 383 or 384 of the Code or the federal consolidated return regulations.

3.26 CONFORMITY WITH LAW; LITIGATION.

(a) The Company has not violated any Laws or any order of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over it.

(b) Except as set forth in Schedule 3.26(b), there are no claims, actions, suits or proceedings, pending or, to the knowledge of the Company, threatened against or affecting the Company at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over it, and no notice of any claim, action, suit or proceeding, whether pending or threatened, has been received. There are no judgments, orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency or by arbitration) against the Company or against any of its properties or business.

3.27 RELATIONS WITH GOVERNMENTS. The Company has not made, offered or agreed to offer anything of value to any governmental official, political party or candidate for government office, nor has it otherwise taken any action that would cause the Company to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, or any law of similar effect.

3.28 ABSENCE OF CHANGES. Since December 31, 1998, the Company has conducted its business in the ordinary course, and there has not been:

(a) any change, by itself or together with other changes, that has affected adversely, or is likely to affect adversely, the business, operations, affairs, prospects, properties, assets, profits or condition (financial or otherwise) of the Company;

(b) any damage, destruction or loss (whether or not covered by insurance) adversely affecting the properties or business of the Company;

(c) except as set forth in Schedule 3.28(c), any change in the

authorized capital of the Company or in its outstanding securities or any change in their ownership interests or any grant of any options, warrants, calls, conversion rights or commitments;

(d) any declaration or payment of any dividend or distribution in respect of the capital stock, or any direct or indirect redemption, purchase or other acquisition of any of the capital stock of the Company;

(e) except as set forth in Schedule 3.28(e), any increase in the compensation, bonus, sales commissions or fee arrangements payable or to become payable by the Company to any of its officers, directors, employees, consultants or agents, except for ordinary and customary bonuses and salary increases for employees in accordance with past practice, nor has the Company entered into, amended or terminated any Company Benefit Arrangement, Company Plan, employment, severance or other agreement relating to compensation or fringe benefits;

(f) any work interruptions, labor grievances or claims filed, or any similar event or condition of any character, materially adversely affecting the business or future prospects of the Company;

(g) any sale or transfer, or any agreement to sell or transfer, any material assets, property or rights of the Company to any person, including, without limitation, the Stockholders or their affiliates;

(h) except as set forth in Schedule 3.28(h), any cancellation, forgiveness or release or agreement to cancel, forgive or release any indebtedness or other obligation owing to the Company, including, without limitation, any indebtedness or obligation of the Stockholders and their affiliates;

(i) any plan, agreement or arrangement granting any preferential rights to purchase or acquire any interest in any of the assets, property or rights of the Company or requiring consent of any party to the transfer and assignment of any such assets, property or rights;

(j) any purchase or acquisition of, or agreement, plan or arrangement to purchase or acquire, any property, rights or assets outside of the ordinary course of business of the Company;

(k) any waiver of any material rights or claims of the Company;

(l) except as set forth in Schedule 3.28(l), any breach, amendment or termination of any Material Contract, agreement, license, Permit or other right to which the Company is a party;

(m) any transaction by the Company outside the ordinary course of business;

(n) except as set forth in Schedule 3.28(n), any capital commitment by the Company, either individually or in the aggregate, exceeding $10,000;

(o) except as set forth in Schedule 3.28(o), any change in

accounting methods or practices (including any change in depreciation or amortization policies or rates) by the Company or the revaluation by the Company of any of its assets;

(p) any creation or assumption by the Company of any mortgage, pledge, security interest or Lien or other encumbrance on any asset (other than Liens arising under existing lease financing arrangements which are not material and Liens for Taxes not yet due and payable);

(q) except as set forth in Schedule 3.28(q), any entry into, amendment of, relinquishment, termination or non- renewal by the Company of any contract, lease transaction, commitment or other right or obligation requiring aggregate payments by the Company in excess of $10,000;

(r) any loan by the Company to any person or entity, incurring by the Company of any indebtedness, guaranteeing by the Company of any indebtedness, issuance or sale of any debt securities of the Company or guaranteeing of any debt securities of others;

(s) the commencement or notice or, to the knowledge of the Company, threat of commencement, of any lawsuit or proceeding against, or investigation of, the Company or any of its affairs; or

(t) negotiation or agreement by the Company or any officer or employee thereof to do any of the things described in the preceding clauses (a) through (s) (other than negotiations with Purchaser and its representatives regarding the transactions contemplated by this Agreement).

3.29 DISCLOSURE. All written agreements, lists, schedules, instruments, exhibits, documents, certificates, reports, statements and other writings (including without limitation, the Discussion Memorandum prepared by Ferris, Baker Watts, Incorporated) furnished to Purchaser pursuant hereto or in connection with this Agreement or the transactions contemplated hereby, are and will be complete and accurate in all material respects. No representation or warranty by the Stockholders or the Company contained in this Agreement, in the Schedules attached hereto or in any certificate furnished or to be furnished by the Stockholders or the Company to Purchaser in connection herewith or pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary in order to make any statement contained herein or therein not misleading. There is no fact known to the Stockholders or the Company that has specific application to the Company (other than general economic or industry conditions) and that materially adversely affects or may threaten the assets, business, prospects, financial condition or results of operations of the Company that has not been set forth in this Agreement or any Schedule hereto.

3.30 BROKER. Sellers and their agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other payment in connection with this Agreement other than the obligations incurred by the Stockholders (and not the Company) to Ferris, Baker Watts, Incorporated, as set forth in Schedule 3.30.

4. REPRESENTATIONS OF PURCHASER

To induce the Stockholders and the Company to enter into this Agreement

and consummate the transactions contemplated hereby, Purchaser represents and warrants to the Stockholders and the Company as follows:

4.1 DUE ORGANIZATION. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly authorized and qualified to do business under all applicable laws, regulations, ordinances and orders of public authorities to carry on its respective businesses in the places and in the manner as now conducted, except where the failure to be so authorized or qualified would not have a material adverse effect on the business, operations, affairs, prospects, properties, assets, profits or condition (financial or otherwise) of Purchaser.

4.2 AUTHORIZATION; VALIDITY OF OBLIGATIONS. The representatives of Purchaser executing this Agreement have all requisite corporate power and authority to enter into and bind Purchaser to the terms of this Agreement. Purchaser has the full legal right, power and corporate authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement is a legal, valid and binding obligation of Purchaser enforceable in accordance with its terms.

4.3 NO CONFLICTS. The execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the terms hereof will not:

(a) conflict with, or result in a breach or violation of, the Limited Liability Company Agreement or Certificate of Limited Liability Company of Purchaser;

(b) conflict with, or result in a default (or would constitute a default but for any requirement of notice or lapse of time or both) under, any document, agreement or other instrument to which Purchaser is a party or result in the creation or imposition of any Lien on any of Purchaser's properties pursuant to (i) any law or regulation to which Purchaser or any of its property is subject or (ii) any judgment, order or decree to which Purchaser is bound or any of its property is subject; or

(c) violate any law, order, judgment, rule, regulation, decree or ordinance to which Purchaser is subject or by which Purchaser is bound.

4.4 BROKER. Purchaser and its members and agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement.

5. CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

The obligation of Purchaser to effect the transactions contemplated by this Agreement is subject to the satisfaction or waiver, on or before the Closing Date, of the following conditions:

5.1 REPRESENTATIONS AND WARRANTIES; PERFORMANCE OF OBLIGATIONS. All of the representations and warranties of the Stockholders and the Company contained in this Agreement shall be true, correct and complete on and as of the Closing Date; all of the terms, covenants, agreements and conditions of this

Agreement to be complied with, performed or satisfied by the Company and the Stockholders on or before the Closing Date shall have been duly complied with, performed or satisfied; and certificates to the foregoing effects dated the Closing Date and signed on behalf of the Stockholders and the Company shall have been delivered to Purchaser.

5.2 NO LITIGATION. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal or regulatory restraint or provision challenging Purchaser's proposed acquisition of the Company, or limiting or restricting Purchaser's conduct or operation of the business of the Company (or its own business) following the Closing shall be in effect, nor shall any proceeding brought by an administrative agency or

commission or other governmental authority or instrumentality, domestic or foreign, seeking any of the foregoing be pending. There shall be no action, suit, claim or proceeding of any nature pending or threatened against Purchaser, the Company or their respective properties or any of their officers or directors, which could materially and adversely affect the business, assets, liabilities, financial condition, results of operations or prospects of the Company.

5.3 OPINION OF COUNSEL. Purchaser shall have received an opinion from counsel to the Stockholders and the Company, dated the Closing Date, substantially in the form attached hereto as Exhibit 5.3.

5.4 CONSENTS AND APPROVALS. All necessary consents of and filings with any governmental authority or agency or third party relating to the consummation by the Company and the Stockholders of the transactions contemplated hereby shall have been obtained and made, including without limitation under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") and all Third Party Consents, if applicable. Purchaser shall have obtained all necessary consents and approvals pursuant to Purchaser's Limited Liability Company Agreement for consummating the transactions contemplated by this Agreement.

5.5 CHARTER DOCUMENTS. The Stockholders shall have delivered to Purchaser (a) true, complete and correct copies of the Certificate of Incorporation of the Company as currently in effect certified by an appropriate authority in the state of its incorporation and (b) copies of the Bylaws of the Company certified by the Secretary of the Company, and such documents shall be in form and substance reasonably acceptable to Purchaser and its counsel.

5.6 EMPLOYMENT AGREEMENT. Edward Spear shall have executed and delivered an employment agreement and non-competition agreement (the"Employment Agreement"), substantially in the form attached hereto as Exhibit 5.6.

5.7 ADVISORY SERVICES AGREEMENTS; CONFIDENTIALITY AGREEMENTS. Peter Kibler and Winston Barrett shall each have executed and delivered an advisory and non-competition agreement (each an "Advisory Services Agreement" and collectively the "Advisory Services Agreements"), substantially in the form attached hereto as Exhibit 5.7.

5.8 CLOSING DELIVERIES. The Stockholders and the Company shall have made such deliveries as are called for by this Agreement.

5.9 RESERVED.

5.10 FINANCING. Purchaser shall have obtained financing having terms reasonably satisfactory to Purchaser and in an amount at least equal to the Purchase Price and the expenses of the Purchaser incurred in connection with the negotiation, preparation, execution and delivery of this Agreement and the consummation of the transactions contemplated herein. Purchaser shall use commercially reasonable efforts to obtain such financing and has no reason to believe that it will not be able to obtain such financing.

5.11 REPAYMENT OF ALL INDEBTEDNESS.

(a) Pursuant to Section 7.6 of this Agreement, Sellers shall have repaid in full, or caused to be repaid in full, as applicable, all indebtedness owed to the Company by any Stockholder, or relative of affiliate of any Stockholder.

(b) Sellers shall have repaid in full, or caused to be repaid in full, as applicable, all indebtedness owed to any person or entity by any Stockholder, or relative of affiliate of any Stockholder, which has been secured by a pledge of any Stockholder's Shares.

5.12 RESERVED.

5.13 OPTIONS. The Sellers shall cause each person with securities convertible into capital stock of the Company (including without limitation options and warrants) have delivered all such convertible securities to Purchaser and all of those convertible securities shall have been marked "canceled."

6. CONDITIONS PRECEDENT TO OBLIGATIONS OF THE STOCKHOLDERS AND THE COMPANY

The obligations of the Stockholders and the Company to effect the transactions contemplated hereby are subject to the satisfaction or waiver, on or before the Closing Date, of the following conditions:

6.1 REPRESENTATIONS AND WARRANTIES; PERFORMANCE OF OBLIGATIONS. All of the representations and warranties of Purchaser contained in this Agreement shall be true, correct and complete on and as of the Closing Date; all of the terms, covenants, agreements and conditions of this Agreement to be complied with, performed or satisfied by Purchaser on or before the Closing Date shall have been duly complied with, performed or satisfied; and a certificate to the foregoing effects dated the Closing Date and signed by the President or any Vice President of Purchaser shall have been delivered to the Stockholders.

6.2 NO LITIGATION. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal or regulatory restraint or provision challenging Purchaser's proposed acquisition of the Company, or limiting or restricting Purchaser's conduct or operation of the business of the Company (or its own business) following the Closing shall be in effect, nor shall any proceeding brought by an administrative agency or commission or other governmental

authority or instrumentality, domestic or foreign, seeking any of the foregoing be pending. There shall be no action, suit, claim or proceeding of any nature pending or threatened against Purchaser or the Company, their respective properties or any of their officers or directors, that could materially and adversely affect the business, assets, liabilities, financial condition, results of operations or prospects of Purchaser and its subsidiaries taken as a whole.

6.3 CONSENTS AND APPROVALS. All necessary consents of and filings with any governmental authority or agency or third party relating to the consummation by Purchaser of the transactions contemplated herein shall have been obtained and made.

7. CERTAIN COVENANTS

7.1 NOTIFICATION OF CERTAIN MATTERS. Each party hereto shall give prompt notice to the other parties hereto of (a) the occurrence or non-occurrence of any event the occurrence or non-occurrence of which would be likely to cause any representation or warranty of it contained herein to be untrue or inaccurate in any material respect at or prior to the Closing and (b) any material failure of such party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by such party hereunder. The delivery of any notice pursuant to this Section 7.1 shall not, without the express written consent of the other parties, be deemed to (i) modify the representations or warranties hereunder of the party delivering such notice, (ii) modify the conditions set forth in Articles 5 and 6 or (iii) limit or otherwise affect the remedies available hereunder to the party receiving such notice.

7.2 UNPAID TAXES. The Stockholders jointly and severally covenant and agree to reimburse promptly Purchaser for any amount by which the Company's liability for unpaid Taxes for all periods or portions thereof ending on or before the Closing Date exceeds the amount of the current liability accruals for Taxes (excluding reserves for deferred Taxes) set forth on the Closing Financial Statements.

7.3 TAX RETURNS. The Company shall prepare and timely file (or obtain valid extensions with respect to the filing of) all Tax Returns required to be filed by or on behalf of the Company between the Effective Date and the Closing Date. Purchaser shall have a reasonable opportunity to review and consent to the filing of such Tax Returns, which consent shall not be unreasonably withheld or delayed. The Company shall timely pay all Taxes shown as due on the Tax Returns described in this Section 7.3.

7.4 COOPERATION ON TAX MATTERS.

(a) Purchaser, the Company and the Stockholders shall cooperate fully, as and to the extent reasonably requested by the other parties, in connection with the filing of Tax Returns pursuant to this Section and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other parties' request) the provision of records and information that are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Company and the Stockholders agree (i) to retain all books and records in their possession with respect to Tax matters

pertinent to the Company relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Purchaser or the Stockholders, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other parties reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other parties so request, the

Company or the Stockholders, as the case may be, shall allow the other parties to take possession of such books and records.

(b) Purchaser and the Stockholders further agree, upon request, to use their best efforts to obtain any certificate or other document from any governmental authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, without limitation, with respect to the transactions contemplated hereby).

7.5 CERTAIN TAXES. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement, shall be paid one-half by the Stockholders and one-half by Purchaser. The parties will, at their own expense, file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other Taxes and fees.

7.6 PAYMENT OF INDEBTEDNESS. Sellers shall cause all indebtedness owed to the Company by any Stockholder, or relative or affiliate of any Stockholder, to be paid in full prior to the Closing.

7.7 NO NEGOTIATION. Until such time, if any, as this Agreement is terminated pursuant to Section 10.4, Sellers will not, and will cause each of their representatives not to, directly or indirectly solicit, initiate, or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information to, or consider the merits of any unsolicited inquiries or proposals from, any Person (other than Purchaser) relating to any transaction involving the sale of the business or assets (other than the ordinary course of business), or any of the capital stock of the Company, or any merger, consolidation, business combination, or similar transaction.

7.8 OPERATION OF THE COMPANY. Between the Effective Date and the Closing Date, Sellers:

(a) shall conduct the business of the Company only in the ordinary course of business;

(b) shall use their best efforts to preserve intact the current business organization of the Company, keep available the services of the current officers, employees, and agents of the Company, and maintain the relations and good will with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with the Company;

(c) shall confer with Purchaser concerning operational matters of a material nature;

(d) shall otherwise report periodically to Purchaser

concerning the status of the business, operations and finances of the Company;

(e) shall not make any Tax election other than in the ordinary course of business and consistent with past practice, change any Tax election, adopt any Tax accounting method other than in the ordinary course of business and consistent with past practice, change any Tax accounting

method, enter into any closing agreement, settle any Tax claim or assessment, or consent to any Tax claim or assessment; and

(f) except as otherwise expressly permitted by this Agreement, shall not without prior consent of Purchaser, take any affirmative action, or fail to take any reasonable action within their or its control, as a result of which any of the changes or events listed in Section 3.28 is likely to occur.

7.9 ACCESS TO INFORMATION. Subject to the terms of the Confidentiality Agreements described in Section 10.2, between the date of this Agreement and the Closing Date, Sellers will, and will cause each of their respective representatives to, (a) afford Purchaser and its representatives and prospective lenders and their representatives (collectively "Purchaser's Advisors") full and free access to the Company's personnel, properties, contracts, books and records, and other documents and data, (b) furnish Purchaser and Purchaser's Advisors with copies of all such contracts, books and records, and other existing documents and data as Purchaser may reasonably request, and (c) furnish Purchaser and Purchaser's Advisors with such additional financial, operating, and other data and information as Purchaser may reasonably request.

7.10 FIRPTA CERTIFICATION. The Stockholders shall cause the Company to furnish to Purchaser at or before the Closing a certification satisfying the requirements of sections 1.897-2(h) and 1.1445-2(c)(3) of the Treasury Regulations that the Shares are not United States real property interests, together with a properly executed notice suitable for filing with the Internal Revenue Service as described in section 1.897-2(h)(2) of the Treasury Regulations.

7.11 EMPLOYMENT AGREEMENT AND ADVISORY AGREEMENTS.

(a) As consideration for the execution and delivery of acceptable Advisory Services Agreements, Purchaser will issue to Peter Kibler One Hundred Thousand (100,000) options to purchase units in the Purchaser and to Winston Barrett Twenty Five Thousand (25,000) options to purchase units in the Purchaser. Collectively, the One Hundred Twenty Five Thousand (125,000) options to purchase units in the Purchaser to be issued to Kibler and Barrett are referred to as the "Options." The Options shall be subject to the following terms and conditions:

(i) the exercise price shall be Fifteen Dollars ($15) per unit;

(ii) the Options shall vest in full at closing; and

(iii) the Options shall be exercisable at any time within five (5) years of the Closing, provided however, that if the Purchaser issues securities to the public in an initial public offering (an "IPO"), then the options will expire on the earlier to occur of eighteen months after the date of

the IPO or on the fifth anniversary following the Closing.

7.12 BROKER'S FEES. Stockholders jointly and severally will indemnify and hold Purchaser harmless from any payment alleged to be due for any brokerage or finder's fee or agents'

commission or other payment in connection with this Agreement to be due by or through Sellers as a result of the action of Sellers or its officers or agents.

7.13 OTHER DOCUMENTS. Sellers shall deliver such other documents as Purchaser may reasonably request for the purpose of evidencing the accuracy of Sellers' representations and warranties, evidencing the performance by any Seller of, or the compliance by any Seller with, any covenant or obligation required to be performed or complied with by such Seller facilitating the consummation or performance of the transactions contemplated under this Agreement.

7.14 SETTLEMENT. Following the Closing, the Purchaser will cause the Company to use commercially reasonable efforts to settle the claim by Reuters described in Schedule 3.26(b) on terms that are as favorable to the Company as can be achieved by the Company.

8. INDEMNIFICATION

8.1 GENERAL INDEMNIFICATION BY THE STOCKHOLDERS. The Stockholders jointly and severally covenant and agree to indemnify, defend, protect and hold harmless Purchaser and its respective officers, directors, employees, stockholders, assigns, successors and affiliates, including without limitation, the Company (individually, an "Aether Indemnified Party" and collectively, the "Aether Indemnified Parties") from, against and in respect of:

(a) all liabilities, losses, claims, (including, without limitation, third party claims) damages, punitive damages, causes of action, lawsuits, administrative proceedings (including informal proceedings), investigations, audits, demands, assessments, adjustments, judgments, settlement payments, deficiencies, penalties, fines, interest (including interest from the date of such damages) and costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements of every kind, nature and description) (collectively, "Damages") suffered, sustained, incurred or paid by the Aether Indemnified Parties in connection with, resulting from or arising out of, directly or indirectly:

(i) any breach of any representation or warranty of the Stockholders or the Company set forth in this Agreement or any schedule or certificate, delivered by or on behalf of any of the Stockholders or the Company in connection herewith;

(ii) any nonfulfillment of any covenant or agreement on the part of the Stockholders or, prior to the Closing Date, the Company, in this Agreement;

(iii) the business, operations or assets of the Company prior to the Closing Date or the actions or omissions of the Company's directors, officers, shareholders, employees or agents prior to the Closing Date, except as otherwise disclosed in the Company Financial Statements;

(iv) reserved;

(v) failure of the Company to collect at least 95% of its accounts receivable reflected on the Closing Financial Statements in the ordinary course of business; or

(vi) any litigation or other claims of any kind brought against the Company or Purchaser arising out of acts or omissions of the Company or the Stockholders prior to Closing, including, without limitation, those matters set forth in Schedule 3.26(b).

(b) any and all Damages incident to any of the foregoing or to the enforcement of this Section 8.1.

Provided the Closing occurs, each Stockholder waives any right of contribution, indemnification or other similar right against (a) the Company arising out of the Seller's representations, warranties, covenants and agreements contained herein; and (b) Purchaser or the Company arising out of the Charter Documents or any other contractual obligation of the Company or any Company Benefit Arrangement or Company Plan. The Stockholders agree that any (i) fraud claim of Purchaser arising out of or relating to the transactions contemplated by this Agreement or (ii) any claim of Purchaser for contribution arising out of or relating to a third party claim for which the Stockholders may be individually liable under a theory of "piercing the corporate veil" or otherwise or as fiduciaries under any Company Benefit Arrangement or Company Plan may be asserted directly and fully against the Stockholders without the need for any claim against or joinder of the Company, provided that Purchaser must prove the elements of such claim.

8.2 LIMITATION AND EXPIRATION. Notwithstanding anything in this Agreement to the contrary:

(a) there shall be no liability for indemnification under Section 8.1 unless, and solely to the extent that, the aggregate amount of Damages exceeds $50,000 (the "Indemnification Threshold"); provided, however, that no Indemnification Threshold shall apply with respect to recovery of (i) Damages arising out of any breaches of the covenants of the Stockholders set forth in this Agreement or representations made in Section 3.4 (capital stock of the Company), 3.5 (transactions in capital stock), 3.19 (significant customers; material contracts and commitments), 3.24 (benefit plans and employment matters), 3.25 (taxes) or 3.26 (conformity with law; litigation) or (ii) Damages described in items 1, 4 and 5 of Schedule 3.26(b), although the entire amount of such Damages shall be applied to the calculation of the Indemnification Threshold with respect to those Damages not exempt from the Indemnification Threshold by this proviso; and provided further that if the aggregate amount of Damages exceeds the Indemnification Threshold, then the Stockholders shall reimburse the Aether Indemnified Parties for the entirety of all Damages and the Indemnification Threshold shall be disregarded.

(b) the aggregate amount of the Stockholders' liability under this Section 8 shall not exceed the Purchase Price; provided, however, that the Stockholders' liability for Damages arising out of any breaches of the covenants of the Stockholders set forth in this Agreement or the representations made in Section 3.4 (capital stock of the Company), 3.5 (transactions in capital stock),

3.24 (benefit plans and employment matters) or 3.25 (taxes) or Damages described in Section 8.1(a)(iii) or (vi) shall not be subject to such limitation;

(c) the indemnification obligations under this Article 8 or in any certificate or writing furnished in connection herewith shall terminate on the latest to occur of the events described in the following clauses (i), (ii) and (iii) of this Section 8.2(c):

(i) (1) except as to representations, warranties and covenants specified in clause (i)(2) of this Section 8.2(c), the second anniversary of the Closing Date, or

(2) with respect to representations, warranties and covenants contained in Sections 3.24 (benefit plans and employment matters), 3.25 (taxes), 7.2, 7.3, 7.4 and 7.5 (certain tax matters) and the indemnifications set forth in Section 8.1(a)(iii) or (vi), on the date that is six (6) months after the expiration of the longest applicable federal or state statute of limitation (including extensions thereof);

(ii) the final resolution of claims or demands (a "Claim") pending as of the relevant dates described in clause (i) of this Section 8.2(c) (such claims referred to as "Pending Claims"), except that the indemnification obligation with regard to the New York state tax claim and the Reuters claim referred to in Schedule 3.26(b) shall only survive for two years following the Closing Date; and

(iii) with respect to representations and warranties contained in Section 3.4 (capital stock of the Company), there shall be no limitation.

8.3 INDEMNIFICATION PROCEDURES. All Claims for indemnification under this Section 8 shall be asserted and resolved as follows:

(a) In the event that any Aether Indemnified Party has a Claim against any party obligated to provide indemnification pursuant to Section 8.1 hereof (the "Indemnifying Party") which does not involve a Claim being asserted against or sought to be collected by a third party, the Aether Indemnified Party shall with reasonable promptness send a Claim Notice (defined below) with respect to such Claim to the Indemnifying Party. If the Indemnifying Party does not notify the Aether Indemnified Party within the Notice Period (defined below) that the Indemnifying Party disputes such Claim, the amount of such Claim shall be conclusively deemed a liability of the Indemnifying Party hereunder. In case an objection is made in writing in accordance with this Section 8.3(a), the Aether Indemnified Party shall have thirty (30) days to respond in a written statement to the objection. If after such thirty (30) day period there remains a dispute as to any Claims, the parties shall attempt in good faith for thirty (30) days to agree upon the rights of the respective parties with respect to each of such Claims. If the parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by both parties.

(b) In the event that any Claim for which the Indemnifying Party would be liable to an Aether Indemnified Party hereunder is asserted against an Aether Indemnified Party by a third party, the Aether Indemnified Party shall with reasonable promptness notify the Indemnifying Party of such

Claim, specifying the nature of such claim and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such Claim) (the "Claim Notice"). The Indemnifying Party shall have 30 days from the receipt of the Claim

Notice (the "Notice Period") to notify the Aether Indemnified Party (i) whether or not such party disputes the liability to the Aether Indemnified Party hereunder with respect to such Claim and (ii) if such party does not dispute such liability, whether or not the Indemnifying Party desires, at the sole cost and expense of the Indemnifying Party, to defend against such Claim; provided that such party is hereby authorized (but not obligated) prior to and during the Notice Period to file any motion, answer or other pleading and to take any other action that the Indemnifying Party shall deem necessary or appropriate to protect the Indemnifying Party's interests. In the event that the Indemnifying Party notifies the Aether Indemnified Party within the Notice Period that the Indemnifying Party does not dispute the Indemnifying Party's obligation to indemnify hereunder and desires to defend the Aether Indemnified Party against such Claim and except as hereinafter provided, such party shall have the right to defend by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by such party to a final conclusion; provided that, unless the Aether Indemnified Party otherwise agrees in writing, such party may not settle any matter (in whole or in part) unless such settlement includes a complete and unconditional release of the Aether Indemnified Party. If the Aether Indemnified Party desires to participate in, but not control, any such defense or settlement, the Aether Indemnified Party may do so at its sole cost and expense. If the Indemnifying Party elects not to defend the Aether Indemnified Party against such Claim, whether by failure of such party to give the Aether Indemnified Party timely notice as provided above or otherwise, then the Aether Indemnified Party, without waiving any rights against such party, may settle or defend against any such Claim in the Aether Indemnified Party's sole discretion, and the Aether Indemnified Party shall be entitled to recover from the Indemnifying Party the amount of any settlement or judgment and, on an ongoing basis, all indemnifiable costs and expenses of the Aether Indemnified Party with respect thereto, including interest from the date such costs and expenses were incurred.

(c) If at any time, in the reasonable opinion of the Aether Indemnified Party, notice of which shall be given in writing to the Indemnifying Party, any such Claim seeks material prospective or other relief which could have a materially adverse effect on the assets, liabilities, Taxes, financial condition, results of operations or business prospects of any Aether Indemnified Party or any subsidiary, the Aether Indemnified Party shall have the right to control or assume (as the case may be) the defense of any such Claim, and the amount of any judgment or settlement and the reasonable costs and expenses of defense shall be included as part of the indemnification obligations of the Indemnifying Party hereunder. If the Aether Indemnified Party should elect to exercise such right, the Indemnifying Party shall have the right to participate in, but not control, the defense of such claim or demand at the sole cost and expense of the Indemnifying Party.

(d) Nothing herein shall be deemed to prevent the Aether Indemnified Party from making a claim, and an Aether Indemnified Party may make a claim hereunder, for potential or contingent claims or demands; provided that the Claim Notice sets forth the specific basis for any such potential or

contingent claim or demand to the extent then feasible and the Aether Indemnified Party has reasonable grounds to believe that such a claim or demand may be made.

(e) The Aether Indemnified Party's failure to give reasonably prompt notice as required by this Section 8.3 of any actual, threatened or possible claim or demand which may give rise to a right of indemnification hereunder shall not relieve the Indemnifying Party of any liability

that the Indemnifying Party may have to the Aether Indemnified Party unless the failure to give such notice materially adversely prejudiced the Indemnifying Party.

(f) The parties will make appropriate adjustments for any Tax benefits, Tax detriments or insurance proceeds in determining the amount of any indemnification obligation under Section 8; provided that no Indemnifying Party shall be obligated to seek any payment pursuant to the terms of any insurance policy.

8.4 SURVIVAL OF REPRESENTATIONS WARRANTIES AND COVENANTS. All representations, warranties and covenants made by the Company, the Stockholders, Purchaser in or pursuant to this Agreement or in any document delivered pursuant hereto shall be deemed to have been made on the date of this Agreement (except as otherwise provided herein). The representations of the Company and the Stockholders will survive the Closing and will remain in effect until, and will expire upon, the termination of the relevant indemnification obligation as provided in Section 8.2. The representations of Purchaser will survive the Closing and will remain in effect until, and will expire upon, the second anniversary of the Closing Date. The covenants of the parties will survive the Closing and expire in accordance with their terms.

8.5 REMEDIES CUMULATIVE. The remedies set forth in this Article 8 are cumulative and shall not be construed to restrict or otherwise affect any other remedies that may be available to the Aether Indemnified Parties under any other agreement or pursuant to statutory or common law.

8.6 TAX CONTESTS.

(a) If any Aether Indemnified Party receives written notice from any Tax authority of any audit, examination, claim or other administrative or judicial proceeding relating to Taxes or Tax Returns (a "Tax Claim") with respect to which the Indemnifying Party is required to provide indemnification under this Agreement, the Aether Indemnified Party shall give prompt written notice of such Tax Claim to the Indemnifying Party; provided, however, that the failure to give such notice shall not affect the indemnification provided hereunder except to the extent that the failure to give such notice materially prejudices the Indemnifying Party.

(b) The Indemnifying Party shall have the right, at its own expense, to control all proceedings and may make all decisions with respect to any Tax Claim for any Taxable period ending on or before the Closing Date; provided that the Aether Indemnified Party, and counsel of its own choosing, shall have the right, at its own expense, to participate fully in all aspects of the prosecution or defense of such Tax Claim; and provided further that the

Indemnifying Party shall not take any action to settle or otherwise conclude any such Tax Claim without the prior written consent of the Aether Indemnified Party. The Indemnifying Party must notify the Aether Indemnified Party in writing within thirty (30) days after receiving notice of a Tax Claim pursuant to Section 8.6(a) that the Indemnifying Party intends to exercise its right to control the conduct of a Tax Claim described in this Section 8.6(b).

(c) If the Indemnifying Party does not exercise its right to assume control of the proceedings and make decisions with respect to a Tax Claim, the Aether Indemnified Party may,

without waiving its rights to indemnification hereunder, take any action to defend, settle or otherwise conclude the Tax Claim in such manner as it may deem appropriate in its sole and absolute discretion. Purchaser shall have the right to control and make all decisions with respect to any Tax Claim not described in Section 8.6(b).

(d) In the event that the provisions of this Section 8.6 hereof and the provisions of Section 8.3(b) and (c) conflict or otherwise each apply by their terms, this Section 8.6 shall govern all matters concerning Tax Claims.

9. NONCOMPETITION AND CONFIDENTIALITY

9.1 EMPLOYMENT AGREEMENT; ADVISORY AGREEMENTS. The noncompetition and confidentiality provisions of the Employment Agreement and Advisory Agreements constitute a material part of the purchase and sale transaction contemplated by this Agreement and are supported by adequate consideration.

10. GENERAL

10.1 SUCCESSORS AND ASSIGNS. This Agreement and the rights of the parties hereunder may not be assigned (except by operation of law) and shall be binding upon and shall inure to the benefit of the parties hereto, the successors of Purchaser or the Company and the heirs, personnel representatives and successors of the Stockholders.

10.2 ENTIRE AGREEMENT. This Agreement (which includes the Schedules and Exhibits hereto) sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by a written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement. Each of the Schedules to this Agreement is incorporated herein by reference and expressly made a part hereof. The Company and the Purchaser are also parties to the Non-Disclosure Agreement (two way) between the Company and the Purchaser dated July 30, 1999, and the Confidentiality Agreement dated July 30, 1999 among the Company, the Purchaser and certain other parties, which Agreements shall survive execution and delivery of this Agreement.

10.3 COUNTERPARTS. This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of

which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered (which deliveries may be by telefax) by the parties.

10.4 TERMINATION.

(a) Mutual Consent. This Agreement may be terminated at any time prior to the Closing Date by mutual written agreement of Purchaser and the Sellers.

(b) Termination by Sellers. This Agreement may be terminated and the stock purchase hereunder may be abandoned at any time prior to the Closing by Sellers if there has been one or more breaches by Purchaser of any representations, warranties, covenants, or agreements contained in this Agreement; provided, however, that Sellers may not terminate this Agreement pursuant to this Section 10.4(b) unless, within five (5) days of becoming aware of such breach, Sellers have given written notice of such breach to Purchaser and have provided Purchaser with fifteen (15) days to cure such breach.

(c) Termination by Purchaser. This Agreement may be terminated and the stock purchase hereunder may be abandoned at any time prior to the Closing Date by Purchaser if: (i) there has been one or more breaches by any of the Sellers of any representations, warranties, covenants, or agreements contained in this Agreement; provided, however, that Purchaser may not terminate this Agreement pursuant to this Section 10.4(c)(i) unless, within five (5) days of becoming aware of such breach, Purchaser has given written notice of such breach to Seller and has provided Seller with fifteen (15) days to cure such breach; or (ii) Purchaser fails to obtain satisfactory financing, as provided in Section 5.10.

(d) Effect of Termination. In the event of the termination of this Agreement pursuant to this Section 10.4, this Agreement shall forthwith become void, and there shall be no liability or obligation on the part of any party hereto or its officers, directors or stockholders. Notwithstanding the foregoing sentence, (i) the provisions of this Section 10.4 shall remain in full force and effect and survive any termination of this Agreement; (ii) each party shall remain liable for any breach of this Agreement prior to its termination; and (iii) in the event of termination of this Agreement pursuant to Section 10.4(c)(i), if due to(A) a material breach of a representation or warranty that any Seller knows was incorrect when made or, with the exercise of reasonable care, any Seller should have known was incorrect when made, or (B) an intentional breach of any representation, warranty, covenant or agreement in this Agreement by any Seller, then notwithstanding the provisions of Section 10.5 below, Sellers shall be liable to Purchaser to the extent of the expenses incurred by Purchaser in connection with this Agreement and the transactions contemplated hereby, as well as any damages in accordance with applicable Laws.

10.5 EXPENSES. The Stockholders (and not the Company) have and will pay the fees, expenses and disbursements of the Stockholders, the Company, and each of their agents, representatives, financial advisers, accountants and counsel incurred in connection with the subject matter of this Agreement. Purchaser has and will pay the fees, expenses and disbursements of Purchaser and

each of its agents, representatives, financial advisers, accountants and counsel incurred in connection with the subject matter of this Agreement.

10.6 SPECIFIC PERFORMANCE; REMEDIES. Each party hereto acknowledges that the other parties will be irreparably harmed and that there will be no adequate remedy at law for any violation by any of them of any of the covenants or agreements contained in this Agreement, including without limitation, the noncompetition provisions reference in Section 9.1. It is accordingly agreed that, in addition to any other remedies that may be available upon the breach of any such covenants or agreements, each party hereto shall have the right to obtain injunctive relief to restrain a breach

or threatened breach of, or otherwise to obtain specific performance of, the covenants and agreements contained in this Agreement.

10.7 NOTICES. Any notice, request, claim, demand, waiver, consent, approval or other communication that is required or permitted hereunder shall be in writing and shall be deemed given if delivered personally or sent by telefax (with confirmation of receipt), by registered or certified mail, postage prepaid, or by recognized courier service, as follows:

If to Purchaser to:

Aether Technologies International, L.L.C.
11460 Cronridge Drive
Owings Mills, MD 21117
Tel: 410-654-6400
Fax: 410-654-6554

Attention: Mr. David Oros

with a required copy to:

Wilmer, Cutler & Pickering
2445 M Street N.W.
Washington, D.C. 20037
Tel: 202-663-6000
Fax: 202-663-6363

Attention: Mark Dewire, Esq.

If to the Stockholders or the Company to:

Mobeo, inc.
7700 Wisconsin Avenue
Suite 420
Bethesda, MD 20814
Tel: 301-951-1733
Fax: 301-951-1731

Attention: Mr. Richard Gutowski

with a required copy to:

Piper & Marbury, L.L.P.
1850 Centennial Park Drive
Suite 610
Reston, VA 20191
Tel: 703-390-5240
Fax: 703-390-5299

Attention: Nancy A. Spangler, Esq.

or to such other address as the person to whom notice is to be given may have specified in a notice duly given to the sender as provided herein. Such notice, request, claim, demand, waiver, consent, approval or other communication shall be deemed to have been given as of the date so delivered, telefaxed, mailed or dispatched and, if given by any other means, shall be deemed given only when actually received by the addressees.

10.8 GOVERNING LAW. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Maryland, without regard to principles of conflicts of laws thereof.

10.9 SEVERABILITY. If any provision of this Agreement or the application thereof to any person or circumstances is held invalid or unenforceable in any jurisdiction, the remainder hereof, and the application of such provision to such person or circumstances in any other jurisdiction, shall not be affected thereby, and to this end the provisions of this Agreement shall be severable.

10.10 ABSENCE OF THIRD PARTY BENEFICIARY RIGHTS. Except as set forth in Section 8, no provision of this Agreement is intended, nor will be interpreted, to provide or to create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, shareholder, employee, partner of any party hereto or any other person or entity.

10.11 AMENDMENT; WAIVER. This Agreement may be amended by the parties hereto at any time prior to the Closing by execution of an instrument in writing signed on behalf of each of the parties hereto. Any extension or waiver by any party of any provision hereto shall be valid only if set forth in an instrument in writing signed on behalf of such party.

10.12 OPERATION OF THE COMPANY. The Stockholders recognize that Purchaser, as the owner of the Company, shall have the authority to exercise its own good faith business judgment with regard to the operations of Purchaser and its subsidiaries including, following the Closing, the Company. The Stockholders acknowledge that such authority and control shall include, without limitation, a determination of appropriate charges to the Company of charges incurred by the Company, personnel decisions, expansion decisions, the use and nature of the assets of the Company and the nature and amount of capital of the Company.

10.13 ARBITRATION.

(a) Any disputes, controversies or claims between or among any of the parties hereto arising out of, related to or in connection with this Agreement ("Disputes") shall be resolved by binding arbitration, which shall be administered by the American Arbitration Association ("AAA") and shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"), as such Rules may be amended from time to time, with the hearing locale to be the State of Maryland, unless some other location and/or arbitrator are chosen by mutual consent of the parties.

(b) A single neutral arbitrator (the "Arbitrator") shall preside over the arbitration and decide the Dispute (the "Decision"). The AAA shall use its normal procedures pursuant to the Rules for selection of the Arbitrator.

(c) The Decision shall be binding, and the prevailing party may enforce such decision in any court of competent jurisdiction.

(d) The parties shall cooperate with each other in causing the arbitration to be held in as efficient and expeditious a manner as practicable and, in this connection, to furnish such documents and make available such persons as the Arbitrator may request.

(e) The parties have selected arbitration in order to expedite the resolution of Disputes and to reduce the costs and burdens associated with litigation. The parties agree that the Arbitrator should take these concerns into account when determining whether to authorize discovery and, if so, the scope of permissible discovery and other hearing and pre-hearing procedures.

(f) Without limiting any other remedies that may be available under applicable law, the Arbitrator shall have no authority to award punitive damages.

(g) The Arbitrator shall render a Decision within ninety (90) days after accepting an appointment to serve as Arbitrator unless the parties otherwise agree or the Arbitrator makes a finding that a party has carried the burden of showing good cause for a longer period.

(h) Notwithstanding anything herein to the contrary, any of the parties may seek a temporary restraining order or a preliminary injunction from any court of competent jurisdiction in order to prevent immediate and irreparable injury, loss or damage pending the selection of an arbitrator to render a Decision on the ultimate merits of any Dispute.

(i) All proceedings and decisions of the Arbitrator shall be maintained in confidence, to the extent legally permissible, and shall not be made public by any party or any Arbitrator without the prior written consent of all parties to the arbitration, except as may be required by law.

(j) Each party shall bear its own costs and attorneys' fees, and the parties shall equally bear the fees, costs and expenses of the Arbitrator and the arbitration proceedings; provided, however, that the Arbitrator may exercise discretion to award costs and attorneys' fees to the prevailing party.

10.14 MUTUAL DRAFTING. This Agreement is the mutual product of the parties hereto, and each provision hereof has been subject to the mutual consultation, negotiation and agreement of each of the parties, and shall not be construed for or against any party hereto.

10.15 FURTHER REPRESENTATIONS. Each party to this Agreement acknowledges and represents that it has been represented by its own legal counsel in connection with the transactions contemplated by this Agreement, with the opportunity to seek advice as to its legal rights from such counsel.

10.16 FURTHER ASSURANCES. Each of the Sellers and Purchaser will upon request of the other, from time to time after the Closing, execute and deliver and use their commercially reasonable best efforts to cause other persons to execute and deliver, all such further documents and instruments and will do or use its commercially reasonable best efforts to cause or be done such other acts as a party may reasonably request more completely to consummate and make effective the transactions contemplated by this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Stock Purchase Agreement as of the day and year first above written.

AETHER TECHNOLOGIES
INTERNATIONAL, L.L.C.

By: /s/ David S. Oros

Name:
Title: President/CEO

MOBEO, INC.

By: /s/ Peter Kibler

Name:
Title: President

STOCKHOLDERS:

/s/ Peter Kibler

Peter Kibler

/s/ Winston Barrett

Winston Barrett

/s/ Edward Spear

Edward Spear

SCHEDULE 1.2(a)(ii) -- REASONS FOR REFUNDING $200,000

Failure of any of the conditions set forth in Sections 5.1 through 5.8, 5.11 or 5.13.

EXHIBIT 10.1

EXECUTION COPY

AMENDED AND RESTATED LICENSE, MARKETING AND DISTRIBUTION AGREEMENT

BETWEEN

REUTERS AMERICA INC.

AND

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.

DATED AUGUST 11, 1998

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AMENDED AND RESTATED LICENSE, MARKETING AND DISTRIBUTION AGREEMENT

THIS AMENDED AND RESTATED LICENSE, MARKETING AND DISTRIBUTION AGREEMENT (this "Agreement") is made as of the 11th day of August, 1998 (the "Effective Date") by and between Reuters America Inc., a Delaware corporation with its principal office at 1700 Broadway, New York, New York 10019 ("Reuters") and Aether Technologies International, L.L.C., a Delaware limited liability company with its principal office at 11460 Cronridge Drive, Suite 106, Owings Mills, Maryland 21117 ("Aether").

WHEREAS, Aether and Reuters are parties to that certain License, Marketing and Distribution Agreement (the "Original License Agreement") made effective as of the 10th day of March, 1998, which sets forth the obligations of each party concerning the wireless transmission and distribution of certain Reuters information services; and

WHEREAS, Aether and Reuters have determined to restructure the relationship for the transmission and distribution of the Reuters MarketClip

Service (as hereinafter defined) and to reallocate certain rights, duties and responsibilities provided for in the Original License Agreement, and in accordance therewith, have determined to amend and restate the Original License Agreement on the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed as follows:

1. DEFINITIONS.

(a) In addition to the terms defined elsewhere in this Agreement, the following terms shall have the meanings described below:

(i) "Aether MarketClip Software" shall mean the client/server software and documentation developed by Aether to be used in support of the Product and the provision of the Service. This includes all client-side software developed by Aether (software that resides on the Units) for the Service to be installed by Aether on the Units, and all server-side software developed by Aether (software that resides on the servers that comprise the Network) necessary to develop, operate, and manage delivery of the Service to the Units in connection with the Product. Aether MarketClip Software shall include all modifications, upgrades and enhancements to the client/server software, and any additional software developed and supplied by Aether during the Term of this Agreement for the purpose of delivering the Service to the Units in connection with the Product.

(ii) "Aether Subscriber" shall mean a Subscriber who has signed a MarketClip Subscription Agreement with Aether.

(iii) "Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

(iv) "Agreement" shall mean this Agreement and its Schedules, as the same may be amended

by the parties pursuant to Section 27(g) hereof.

(v) "AirBroker" shall mean the wireless financial business and market data product known as AirBroker as sold by Aether.

(vi) "AirBroker Customers" shall mean subscribers to the AirBroker service who have signed a subscription agreement directly with Aether for AirBroker.

(vii) "Basic Unit" shall mean a Unit which provides a news service which is limited to news headlines.

(viii) "Competitors" shall mean any Person, or any Affiliates of such Person, existing as at the date of this Agreement or who come into existence at any time in the future while this Agreement remains in force, the majority of the revenues of which are derived from the provision of real-time financial information to the professional market, including the following providers of financial markets data and their Affiliates: Bloomberg, L.P.; Dow Jones, Inc.; Bridge Data, Inc.; Thompson Corporation; Automatic Data Processing Inc.; and IPC Information Systems Inc.

(ix) "Control" (including with correlative meanings, the terms "Controlling", "Controlled by", and "under common Control with"), as used with respect to any Person, shall mean the possession, directly or

indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether as a general partner, member or through the ownership of 50% or more of the voting securities of such Person or otherwise.

(x) "Damages" shall mean liabilities, damages, losses, costs and expenses including reasonable attorneys' fees and expenses and costs of investigation.

(xi) "Entitlements" shall mean the Information a particular Subscriber is allowed to receive via the Service.

(xii) "Equity Investment" shall mean the purchase by Reuters of membership units in Aether.

(xiii) "Exchange" shall mean each of the following exchanges and quotation facilities and any successors thereto: the New York Stock Exchange, Inc., the American Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the Pacific Stock Exchange Incorporated, and the Philadelphia Stock Exchange, Inc. (the foregoing, collectively, sometimes referred to as the Options Price Reporting Authority or "OPRA") and the National Association of Securities Dealers Automated Quotations system.

(xiv) "Information" shall mean the market information and news that Reuters provides to Aether for the purpose of providing the Service to the Subscribers and AirBroker Customers.

(xv) "Major Customer" shall mean Reuters major customers which shall be provided to Aether within 10 days of the Effective Date and set forth on Schedule L, as such Schedule may be updated by Reuters from time to time; provided that the number of Major Customers on such Schedule shall not exceed 100 customers. As of the Effective Date, the Major Customers shall not include the "Reuters Global Customers" whose identities shall be provided to Aether within 10 days of the Effective

Date and set forth on Schedule T, but Reuters shall be entitled to amend Schedule L to make any of such customers Major Customers at any time.

(xvi) "MarketClip Subscription Agreement" shall mean, (i) in the case of a Product sold by a Reuters salesperson, a subscription agreement substantially in the form set forth on Schedule P (with such amendments or modifications as have been approved by Reuters) between Reuters and a Subscriber, pursuant to which such Subscriber receives the Product or (ii) in the case of a Product sold by an Aether salesperson, a subscription agreement substantially in the form set forth on Schedule P (substituting Aether for Reuters where appropriate), with such amendments or modifications as have been approved by Reuters, between Aether and a Subscriber, pursuant to which such Subscriber receives the Product, in each case as such form may be modified in accordance with Section 7(m).

(xvii) "Network" shall mean the computer network established by Aether on the Premises through which Aether will deliver the Information to wireless telecommunications carriers for purposes of distributing the Service to Subscribers and AirBroker Customers as described in Schedule G hereto, as may be modified or relocated by Aether from time to time, subject to Reuters written consent, such consent not to be unreasonably withheld or delayed.

(xviii) "Permissioning System" shall mean that system, developed

by Aether and approved by the Exchanges, that receives the Service from Reuters and selects which Entitlements are to be provided to Subscribers in accordance with Schedule H attached hereto.

(xix) "Person" shall mean any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, governmental body, or other entity.

(xx) "Plus Unit" shall mean a Unit which provides full text news stories.

(xxi) "Premises" shall mean the location of Aether's office at the address set forth above that contains the Network.

(xxii) "Product" shall mean the wireless financial data access product called Reuters MarketClip and more fully described in Schedule A attached hereto. The Product shall include the Units, the client-side portion of the Aether MarketClip Software and the provision of the Service.

(xxiii) "Release Date" shall mean March 9, 1998.

(xxiv) "Reuters Software" shall mean the Triarch, Reuters Trader Workstation and Selectfeed Plus server software supplied by Reuters which enable delivery of the Information to Aether, including any modifications, upgrades, or enhancements supplied by Reuters.

(xxv) "Reuters Subscriber" shall mean a Subscriber who has signed a MarketClip Subscription Agreement with Reuters.

(xxvi) "Schedule" shall mean any schedule attached to this Agreement.

(xxvii) "Service" shall mean the service to be made available to Subscribers through the

Product, including the Information as designated on Schedule B attached hereto.

(xxviii) "Specifications" shall mean those design specifications and performance standards and other specifications for the Aether MarketClip Software, System and Product as set forth in Schedule C attached hereto.

(xxix) "Subscriber" shall mean a subscriber who has signed a MarketClip Subscription Agreement and any related agreements with or with respect to an Exchange or other Third Party Provider to obtain the Product.

(xxx) "Support" shall mean the provision of support by Aether as set out in Schedule I attached hereto.

(xxxi) "System" shall mean the Network and related systems developed by Aether to be used in the transmission of the Service and provision of the Product, including any host systems, network interfaces, the Permissioning System, and the interfaces to the Reuters systems, as may be modified by Aether from time to time, subject to Reuters written consent, such consent not to be unreasonably withheld or delayed.

(xxxii) "Territory" shall mean North, Central and South America,

and the Caribbean. Additional territories and regions may be added upon the mutual agreement of the parties.

(xxxiii) "Third Party Providers" shall mean Persons (including Exchanges, if applicable), other than Reuters and Aether, whose text, information, data, images (still and moving), sound recordings, equipment and/or software is included in the Product (other than the Unit).

(xxxiv) "Unit" shall mean any electronic hand held computing and wireless communications devices used to access the Service as may be agreed upon by the parties. The Units that have been agreed for use from the Release Date are set out in Schedule A.

(xxxv) "U.S. Securities" shall mean publicly traded securities that are bought and sold through or by means of one or more of the Exchanges.

(2) The following terms are defined in the Sections or Schedules indicated:

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(c) In this Agreement:

(i) unless the context otherwise requires all references to a particular Section, Schedule, subsection, or clause are references to that Section, Schedule, subsection, or

clause in or to this Agreement as they may be amended from time to time;

(ii) references to the words "include" or "including" are to be construed without limitation to the generality of the preceding words;

(iii) neutral pronouns and any variations thereof shall be deemed to include the feminine and masculine and all terms used in the singular shall be deemed to include the plural, and vice versa, as the context may require;

(iv) references to "dollars" and "$" are to United States dollars; and

(v) references to a "day" or a number of "days" (without the explicit qualification of business) shall be interpreted as a reference to a calendar day or number of calendar days. If any action or notice is to be taken or given on or by a particular calendar day, and such calendar day is not a business day, then such action or notice shall be deferred until or may be taken or given on, the next business day. A "business day" shall mean any day other than a Saturday, a Sunday, or a day on which banking institutions in New York, New York are authorized or obligated by law or executive order to be closed for business.

2. LICENSES FROM REUTERS TO AETHER.

(a) In order to enable Aether to develop and maintain the interface

between the Service and the Product and AirBroker, respectively and to fulfill its obligations under this Agreement, and subject to the terms and conditions of this Agreement, Reuters shall provide Aether with the following:

(i) the Reuters Software; and

(ii) the Reuters Selectfeed Plus Controller and Information.

(b) Reuters hereby grants Aether a non-exclusive, non-transferable license to use the Information on the System during the Term, solely for distribution of the Service in the Territory:

(i) to Subscribers as part of the Product, for which license Aether shall pay the MarketClip Payment or the Margin Split, as applicable, as defined and set forth in Section 13;

(ii) to AirBroker Customers by means of AirBroker, for which license Aether shall pay the AirBroker Payment as defined and set forth in Section 14(a); and

(iii) for development purposes, pursuant to the terms and conditions of this Agreement.

Aether may not copy or download the Information except as may be necessary to fulfill its obligations under this Agreement. In the event that Aether learns of any unauthorized distribution of or access to the Service or Information by or through Aether, Aether will notify Reuters of the particulars thereof and will identify and remedy the cause of such transmission within twenty-four (24) hours of discovery or notice from Reuters. At Reuters' expense, Aether will assist Reuters in any proceedings that Reuters, in its discretion, decides should be commenced or defended regarding such unauthorized distribution. Violation of the terms of

the license granted in this Section 2(b) in excess of three (3) times in any two (2) consecutive months shall be considered a material breach of this Agreement and cause for immediate termination of this Agreement by Reuters.

(c) Reuters hereby grants to Aether a non-exclusive, non-transferable, royalty-free license to use the Reuters Software on the System during the Term for the purpose of delivering the Service within the Territory:

(i) to Subscribers by means of the Product;

(ii) to AirBroker Customers by means of AirBroker; and

(iii) for development purposes, pursuant to the terms and conditions of this Agreement.

Reuters Software will have open permissioning for ISFS, which permits Aether to have access to the full range of information available on the Reuters Selectfeed Plus, except for any data which is included in a restricted data set of Reuters.

(d) Aether is granted no other right to copy, duplicate, distribute, modify, merge, adapt, lend, rent, transmit, sell or otherwise transfer the Reuters Software, except that Aether may make two complete archival or back-up copies of the Reuters Software. The rights granted herein may not be sublicensed to any third Person. Aether is granted no right to use the source code of the Reuters Software in any manner.

(i) Aether acknowledges that Reuters owns all title and

proprietary rights to the Reuters Software and all copies thereof or has obtained the rights from third Persons to make the same available for use by Aether, all of which constitute valuable trade secrets and Confidential Information of Reuters in accordance with Section 22 and Schedule R.

(ii) Aether shall not reverse engineer, decompile, modify, incorporate in whole or in part in any other product or create derivative works based on all or any part of the Reuters Software, or permit others to do so.

(e) For Information from Reuters, the "Splash screen" of the client-side portion of the Aether MarketClip Software shall display the following copyright notice: "Information provided by Reuters Limited, Copyright 199_." Reuters shall provide Aether with reasonable prior notice for any Information that requires a copyright or other notice for a Third Party Provider.

(f) Reuters also grants to Aether a royalty-free, non-exclusive, non-transferable license to use the Reuters name and the trademarks specified in Schedule O (such name and trademarks, the "Licensed Marks") throughout the Territory during the Term in accordance with Section 4 and the guidelines set forth on Schedule O and consistent with the Reuters design and other applicable written standards which standards shall be set by Reuters from time to time in its discretion and may include the use of appropriate legends. Aether shall use such name and trademarks solely to identify Reuters as the source of the Service and the content for AirBroker and in connection with the marketing, promotion, advertisement and sale of the Product all on the terms and conditions set forth herein.

3. LICENSE FROM AETHER TO REUTERS.

(a) Subject to the terms and conditions of this Agreement, Aether hereby grants to Reuters an exclusive, non-transferable, royalty-free license to use the System and the Aether MarketClip Software during the Term for purposes of supplying the Subscribers with the Product in the Territory. It is expressly understood and agreed that, subject to the terms of this Agreement, including Section 17, Aether reserves the right to use and license the Aether MarketClip Software within its discretion for purposes other than as set forth in the foregoing sentence.

(b) Reuters is granted no other right to copy, duplicate, distribute, modify, merge, adapt, lend, rent, transmit, sell or otherwise transfer the Aether MarketClip Software. The rights granted herein may not be sublicensed to any third Person, other than to Subscribers for the purpose of supplying them with the Product. Reuters is granted no right to use the source code of the Aether MarketClip Software in any manner, except as allowed pursuant to Section 23 of this Agreement.

(i) Reuters acknowledges that Aether owns all title and proprietary rights to the System and the Aether MarketClip Software and all copies thereof, all of which constitute valuable trade secrets and Confidential Information of Aether in accordance with Section 22 and Schedule R.

(ii) Reuters shall not reverse engineer, decompile, modify (except as allowed pursuant to Section 23), incorporate in whole or in part in any other product or create derivative works based on all or any part of the Aether MarketClip Software, or permit others to do so.

(c) The client-side portion of the Aether MarketClip Software shall display Aether's copyright notice for the Aether MarketClip Software and System and the notation "Network Services by Aether Technologies."

(d) Aether also grants to Reuters a royalty-free, non-exclusive, non-transferable license to use the name and the trademark "Aether Technologies" throughout the Territory during the Term in a manner consistent with the Aether design and other applicable written standards which standards shall be set by Aether in its discretion and may include the use of appropriate legends. Reuters shall use such name and trademarks solely to identify Aether as the source of the Network services for the Service and in connection with the marketing, promotion, advertisement and sale of the Product all on the terms and conditions set forth herein.

4 USE OF LICENSED MARKS.

(a) Aether acknowledges and agrees that Reuters has invested many years of effort and millions of dollars in building a quality brand image and that the Product's value is greatly enhanced by its association with Reuters and the Licensed Marks. To that end, Aether acknowledges that Reuters must have ultimate control over the use of the Licensed Marks and shall be responsible for the overall management of the brand image of the Licensed Marks. Aether agrees not to use any name, mark, device, symbol, insignia, designation, labeling or packaging in connection with or linked with the Licensed Marks without the prior written approval of Reuters pursuant to the process set forth in paragraph (b) below.

(b) Reuters Marketing Approval Rights.

(i) Aether shall comply with and adhere to Trademark Usage Guidelines set forth on

Schedule O, as such guidelines may be amended and updated from time to time by Reuters, for the depiction or presentation of the Licensed Marks and of Aether's trademarks. Prior to Aether depicting or presenting the Licensed Marks on any type of marketing, advertising or promotional materials (including packaging) or on or in the Product (including the Software and all Software updates), Aether shall submit final drafts of such materials to the Reuters Marketing Communications Contact in order to confirm that the materials prepared by Aether which bear the Licensed Marks were prepared in accordance with the Trademark Usage Guidelines and otherwise conform with Reuters marketing policy. Aether shall also be required to submit for such approval its media plan (and any amendments to such plan) for placement and/or distribution of all advertising, promotional events, marketing and promotional materials. Each media plan shall include the information set forth on Schedule S. The foregoing approval rights shall be referred to herein as the "Marketing Approval Rights".

(ii) To the extent reasonably practicable, Aether shall submit all materials and/or plans requiring Reuters approval pursuant to clause (i) above at the monthly meetings with the Reuters Marketing Communications Contact or the quarterly meetings with the Marketing and Sales Committee described in Section 7(b). When that is not practicable, such materials and/or plans shall be submitted by registered mail or overnight delivery service. Simultaneously with the submission of any such materials and/or plans (other than a submission at a monthly or quarterly meeting), Aether shall be required to send an email to the Reuters Marketing Communications Contact, with a copy to both the Reuters Contact and the Reuters Director of Marketing Communications, to notify such persons that such materials and/or plans have been sent. Reuters shall have fifteen (15) days from the date Reuters receives such materials and/or plans (whether at such meeting or otherwise) to approve or object to any such materials and/or plans submitted to Reuters for review. In the event Reuters does not object to such materials and/or plans within such fifteen (15) day period, such materials and/or plans shall be deemed approved by Reuters; provided that such approval shall not be valid unless Aether has sent an email

on the fourteenth day of such fifteen day period to the Reuters Marketing Communications Contact, with a copy to both the Reuters Contact and the Reuters Director of Marketing Communications, notifying Reuters that if Aether does not receive an approval or disapproval prior to the end of the next business day, such materials shall be deemed accepted.

(iii) Any failure to comply with the foregoing Marketing Approval Rights process shall be a material breach of this Agreement and Aether shall be required to pay to Reuters as a penalty for each such breach an amount equal to the greater of (x) the cost of the development, production and placement of the applicable advertising and/or run of marketing materials or (y) $10,000. Such penalty shall be due immediately upon notice from Reuters, whether or not Reuters exercises any other remedy it may have in this Agreement.

(iv) Aether shall furnish to the Reuters Marketing Communications Contact (and to the Reuters Contact) upon reasonable request samples of all finished materials (e.g., promotional materials, advertisements, etc.) once they have been produced. In addition, Reuters shall be entitled to a share of each print run of mass-produced items, as outlined in Section 7(b)(v) below.

(c) Aether shall obtain Reuters' prior written approval before promoting the Product at any press or other public event.

(d) Aether shall obtain Reuters' prior written approval (which approval will not be unreasonably withheld) before engaging the services of any celebrity or publicly known individual for endorsement of the Product.

(e) Aether may select its own advertising agencies for development of the creative for its advertising

and promotional campaigns, subject to Reuters prior written approval, which approval shall not be unreasonably withheld. Aether shall instruct its advertising agencies to work with Reuters advertising agency to ensure consistency of theme and message; provided that nothing in this paragraph shall affect or limit Reuters Marketing Approval Rights.

(f) In the event that Reuters reasonably determines that the Marketing Approval Rights process has become too burdensome because of the time commitment Reuters is required to make to such process, Reuters shall be entitled to at its option either (i) require Aether to use a different advertising agency which agency is mutually agreeable to the parties or (ii) take control of the development of the creative for the advertising and marketing campaigns of the Product.

(g) Aether shall not use the Licensed Marks in any manner that would reflect adversely on the image of quality symbolized by the Licensed Marks. Aether shall not knowingly engage in any conduct which may place the Product, the Service, or the Licensed Marks in a negative light or context.

5. GEOGRAPHIC SCOPE OF SERVICE; UPGRADES AND MODIFICATIONS.

(a) For purposes of providing and marketing the Service to Subscribers, the initial geographic scope of the Service shall be the United States. Should the Product prove commercially viable, the parties shall discuss in good faith the phased expansion of the Service to other parts of the Territory. Any agreement to expand the geographic scope of the Service shall be in writing.

(b) Except as otherwise expressly set forth in this Agreement, all upgrades, modifications and enhancements to the System, the Aether MarketClip Software, the Information, the Service, the Reuters Software, and the Reuters Equipment shall be mutually agreed upon in writing by the parties before any work commences. The parties shall agree in writing, on a case by case basis, the source of funds for such upgrades, modifications and enhancements.

(c) Reuters shall provide Aether whenever possible with ninety (90) days prior written notice of changes to the Information and/or Service that may require any change in the Aether MarketClip Software or the System, and shall inform Aether of any change in Exchange data, processing or permissioning of which it is advised. Aether acknowledges and agrees that, from time to time, it may be necessary for it to perform limited upgrades to its hardware and/or software in order to maintain compatibility with modifications to the means of transmission of the Service, the Reuters communications protocols and/or Information format. Aether will carry out such upgrades to its hardware and/or software within sixty (60) days of the date of Reuters notice pursuant to this Section 5(c). Aether shall pay the costs associated with such upgrades, up to a maximum of one man-week per month of employee time. Any upgrades that will cause costs or time expenditures in excess of one man-week per month must be mutually agreed in advance in writing, and the parties shall share such costs as mutually agreed.

6. OBLIGATIONS OF AETHER.

Aether covenants and agrees with Reuters that during the Term of this Agreement:

(a) Aether shall manage, operate and maintain the System and Aether MarketClip Software in accordance with the Specifications.

(b) Subject to the availability of appropriate wireless digital telecommunication services, Aether shall make the Product and Service available to Subscribers within the United States and shall use reasonable commercial efforts during quarter three (3), 1998 to increase access to the Service, by incorporating the Bell South wireless data network to include major metropolitan areas where access is not currently available, including but not limited to Los Angeles, Atlanta, New Orleans and major Canadian cities, as appropriate wireless digital telecommunications services become available.

(c) Within sixty (60) days from the Effective Date, Aether will establish procedures in the event of a Network failure to ensure that delays or interruptions in delivery of the Service are minimized. Such procedures shall be submitted to Reuters prior to the expiration of such sixty (60) day period, and any changes to such procedures shall be submitted to Reuters within fifteen (15) days of their implementation. Reuters may make recommendations or suggestions regarding such procedures or changes to such procedures. Neither Reuters approval of such procedures or changes nor its submission of recommendations or suggestions regarding such procedures or changes shall affect in any way Aether's obligations to meet the standards set forth in the Schedules. Reuters, to assist in establishing these procedures, will deliver one complete set of the materials set out in Section 2(a) to Aether within thirty (30) days of the Effective Date. This shall be used as a cold stand-by in case any of the components set out in Section 2(a) fail. Within ninety (90) days of the Effective Date Aether will have incorporated these components into the Network so they constitute a hot stand-by.

(d) Aether shall develop and implement order-entry and billing systems for the Product, and provide administration, permissioning and de-permissioning

in accordance with the Specifications.

(e) Aether will pay all telecommunications charges for delivery of the Information from Reuters to the Premises, situated at Suite 106, Owings Mills, Maryland 21117.

(f) Aether shall load Aether MarketClip Software onto the Units and, as applicable, adapt Subscriber-supplied hardware that has been approved for use in the Product as set forth on Schedule A for use as part of the Product. Aether shall store the inventory of Units which, prior to the Equity Investment shall be on behalf of Reuters, for distribution to new Subscribers, arrange for delivery and replacements, and coordinate (but not perform) maintenance and repair as necessary in accordance with Schedule D.

(g) Aether shall initiate and manage the relationships, and enter into commercially reasonable agreements with, wireless digital communications providers on commercially reasonable terms. Aether shall be responsible for telecommunications charges for distributing the Information to the Subscribers.

(h) Aether shall use reasonable efforts to obtain any and all licenses and consents as may be necessary to fulfill its obligations under this Agreement.

(i) Aether shall develop and maintain management and monitoring services for the System, the Aether MarketClip Software and the Product. Aether shall produce and deliver to Reuters such reports at such times as specified in Schedule E. In addition, promptly upon the request of Reuters at any time during the Term or within 90 days following the termination of this Agreement, Aether shall provide to Reuters the following information with respect to each Aether Subscriber (to the extent that Aether has such information): (i) name, (ii) company name, (iii) address, (iv) shipping address (if different) and shipping contact, phone number and email address, (v) Unit type and quantity, (vi) Exchange entitlements by Unit, (vii) user names (by Unit), (viii) user e-mail address prefixes (by Unit), and (ix) renewal date.

(j) Effective on the Effective Date and subject to the reasonable cooperation of Reuters, Aether will comply with the procedures set out in Schedule F which specify how the Product order process of Services between Reuters and Aether will operate and how the Service will be provisioned on the Units for the Product.

(k) Aether shall not modify the System, the Network or the Aether MarketClip Software in any way that would materially degrade the operational performance of the Product without Reuters prior written consent.

(l) Aether will supply the Service as incorporated into the Product to its knowledge only to Subscribers who have entered into a MarketClip Subscription Agreement in accordance with this Agreement and pursuant to Schedule F attached hereto, except for those additional Units to be permissioned and supplied for promotional and other purposes as expressly provided in this Agreement. In the event that Reuters advises Aether in writing to cease providing the Service, or any part of the Service, to a Reuters Subscriber, Aether agrees to cease supplying the Service, or such part of the Service, to such Reuters Subscriber, in accordance with Schedule F.

(m) Aether shall contract directly with Subscribers for delivery of the Service through the Product by means of a MarketClip Subscription Agreement in

the form attached hereto as Schedule P (substituting Aether for Reuters therein where appropriate). Aether shall not be entitled to enter into a MarketClip Subscription Agreement which contains any modification (other than in respect of the date of the agreement and the name and address of the Subscriber and other than the substitution of Aether for Reuters therein) from the form attached hereto as Schedule P and shall not be entitled to waive or amend any provisions in a MarketClip Subscription Agreement, in each case, without the written consent of Reuters to each such modification.

(n) Aether shall administer Product order, receipt and entry for and shall bill and collect fees from both Aether Subscribers and Reuters Subscribers in accordance with Schedule F and shall remit the MarketClip Payments and the Margin Splits to Reuters and Reuters' pro rata portion of any Cancellation Fee, all in accordance with Section 13 hereof. Prior to initiating or threatening to initiate any legal proceedings or any third party collection procedures, Aether shall be required to obtain Reuters written consent.

(o) Aether shall supply the Information as incorporated into AirBroker and shall bill and collect fees from AirBroker Customers and remit the AirBroker Payments to Reuters in accordance with Section 14 hereof. Aether shall set the fees paid by AirBroker Customers. Aether shall have a subscription agreement in place between it and each AirBroker Customer in the form attached hereto as Schedule J before any Information is made available to any AirBroker Customer.

(p) Aether shall comply with the Permissioning Process set forth on Schedule H attached hereto, as such Schedule may be amended from time to time by mutual agreement. Aether shall have thirty (30) days to implement any changes to the System or to the procedures required by any such amendment to Schedule H.

(q) Prior to permitting any Subscriber to receive any Information from or provided by any Third Party Provider as part of the Product, Aether shall, in accordance with the applicable rules, guidelines and restrictions of any Third Party Provider, properly enter into on behalf of such Subscriber, or shall cause each such Subscriber to properly enter into, a subscriber, datafeed, quotation, information and/or similar agreement or application (including any related questionnaires and forms, collectively, "Third Party Data Arrangements") with or of any Third Party Provider in a form required by such Third Party Provider and previously approved in writing by Reuters. Aether covenants and agrees that, except where a Third Party Provider has expressly assumed responsibility therefor, Aether shall be solely responsible for the timely billing and collecting of any

fees, costs and expenses arising under or otherwise payable pursuant to the Third Party Data Arrangements and shall timely remit any such fees, costs and expenses to the applicable Third Party Provider. Aether covenants and agrees that it shall be solely responsible for obtaining, and shall obtain, any consents and approvals from any Third Party Provider and required by such Third Party Provider in connection with any Third Party Data Arrangement. Aether agrees that it shall maintain reasonable records (including all records required to be maintained by the applicable Third Party Providers) in connection with the Third Party Data Arrangements. Aether covenants and agrees that all information provided by it in any Third Party Data Arrangement shall be true and correct and that it shall take all reasonable steps to ensure that any information provided by or factual determination with respect to any Subscriber in any Third Party Data Arrangement is true and correct. Aether shall comply with any terms in any Third Party Data Arrangements applicable to it and shall take all reasonable steps to ensure that the Subscribers comply

with the terms of the Third Party Data Arrangements. Upon the request of Reuters, Aether shall provide to Reuters true and complete copies of all Third Party Data Arrangements and related correspondence with respect to each MarketClip Subscription Agreement, indexed and filed in each case with each related MarketClip Subscription Agreement. Aether covenants and agrees that Reuters shall be entitled reasonably to revise or modify the form of Third Party Data Arrangements from time to time and reasonably to propose certain audit or compliance measures to be undertaken by Aether, in each case in order to ensure timely compliance with the applicable rules, guidelines and restrictions of any Third Party Providers in the provision of the Product to Subscribers. Aether shall promptly notify Reuters upon receiving any notice of violation of or noncompliance with the Third Party Data Arrangements or any rules, guidelines or restrictions of Third Party Providers. After the Effective Date, Aether shall use all best efforts to obtain the consents and approvals of all Exchanges and any other applicable Third Party Providers to the foregoing process (including by filing any revised Exhibit A reflecting the foregoing process). Aether shall provide Reuters with a reasonable opportunity to review and approve in advance any such request for consent or approval (including any revised Exhibit A) from any Third Party Provider.

(r) In delivering the Service to the Subscribers, Aether shall comply with the performance procedures and standards set forth on Schedule C attached hereto.

(s) At the Release Date Aether has created a customer support service center and will, during the Term, provide Support to Subscribers in accordance with Schedule I attached hereto.

(t) Aether will permit employees of Reuters to have periodic access to the Premises to examine the equipment used to deliver the Service to Subscribers, including the Permissioning System, for the purposes of:

(i) evaluating compliance with the terms of this Agreement including, but not limited to, evaluating compliance regarding permissioning and the provision of the Information and customer service to Subscribers and the due and proper entering into of Third Party Data Arrangements; and

(ii) inspecting (whether physically or electronically) the quality, security and technical capabilities of the System.

Such inspections shall take place during normal business hours. Reuters shall be entitled to no more than two such inspections per calendar year; provided that in the event it is determined in an inspection that a performance standard was not met or that Aether was not otherwise in compliance with this Agreement, Reuters shall be entitled to an additional inspection during such year. Reuters shall provide at least three days advance notice to Aether before each inspection unless Reuters, in its reasonable opinion, considers there is an emergency relating to the delivery of the Service in which case Reuters can inspect the Premises on twelve (12)

hours notice. No such inspection shall have a duration longer than two (2) normal business days. Reuters shall carry out such inspections in a manner reasonably calculated to cause minimal disruption to the normal functioning of Aether's facilities and employees.

(u) Aether shall test the Network for viruses and use its best efforts to ensure that no virus or other disabling feature or code is transferred to the Units.

(v) Aether shall, promptly after the date hereof, appoint and advise Reuters in writing of the name, title, address and telephone number of the (i) contact person (the "Contact Person") of Aether who shall be responsible for: (x) overseeing the day-to-day compliance with this Agreement and (y) such other duties as may be set forth herein and (ii) Aether designees on the Marketing and Sales Committee. Aether may change its Contact Person and its designees on the Marketing and Sales Committee from time to time by written notice to Reuters in accordance with Section 27(d) hereof.

(w) Aether shall:

(i) not use the Information in violation of any applicable law, rule or regulation;

(ii) not modify, edit, or effect any change in the order, priority or speed of delivery of the Information without Reuters' prior written consent other than formatting changes in order to provide the Service to Subscribers in accordance with the Specifications;

(iii) notify Reuters promptly if it comes to Aether's attention that the Information or any rewritten or reprocessed version of the Information is being redisseminated by a third Person without Reuters' authorization;

(iv) upon reasonable prior notice from Reuters, comply with any limitations, embargoes or restrictions placed on the use, display or distribution of the Information;

(v) not knowingly supply the Service or any substantial part of the Information to any Person other than a Subscriber or AirBroker Customer, or as otherwise expressly provided in this Agreement for promotional purposes;

(vi) identify the source of the Information it distributes which in whole or in part derives from Reuters or any Third Party Provider in accordance with Section 2(e);

(vii) not store, in any medium, the Information for more than seven days without the prior written consent of Reuters, with the exception of daily equity close prices, which may be stored for a maximum of twenty (20) trading days. Aether acknowledges that Reuters may impose storage fees if it grants permission to extend such storage period;

(viii) not knowingly distribute, and shall prohibit the redistribution of, any substantial part of the Information over the Internet or any commercial on-line service, except solely as a means to distribute the Information to Subscribers via a dial-up wire line capability, as agreed by Reuters in advance in writing;

(ix) not knowingly post or otherwise make the Information available on the World Wide Web; and

(x) assign experienced personnel to the establishment and ongoing support of the System and Aether MarketClip Software who will have the requisite knowledge and skills to properly fulfill those obligations.

(xi) Aether shall, at all times during the term of this Agreement maintain a minimum aggregate errors and omissions insurance coverage of one million dollars ($1,000,000) and shall designate Reuters as an intended beneficiary in such insurance policies. Within two (2) weeks from the Effective Date, Aether shall deliver proof of such insurance coverage to Reuters.

7. FURTHER OBLIGATIONS OF AETHER, OBLIGATIONS OF REUTERS AND JOINT OBLIGATIONS OF THE PARTIES.

(a) Reuters shall transmit the Information to Aether and supply the Reuters Equipment necessary for receipt of such Information as referenced in Section 12 hereof.

(b) Marketing and Sales.

(i) Subject to the requirements of Section 4, Aether shall develop and implement a marketing and sales plan for the Product in the United States. The plan shall include Product launch schedules, pilot program Subscriber identification, beta testing (as appropriate), marketing materials, sales presentations, Product training for Aether sales personnel, and public relations. Aether shall assign an experienced sales team to the development of the sales plan.

(ii) Each party shall appoint four representatives to a Marketing and Sales Committee, and one of the Reuters appointees shall be the Reuters Marketing Communications Contact. The Marketing and Sales Committee shall be responsible for (A) coordination in the production of advertising and promotional materials and campaigns to ensure the adequacy, accuracy and consistency of such materials, (B) coordination of sales efforts of the parties, (C) reviewing the sales plans and the sales results of the Product; (D) following such time as the number of active Units exceeds 4,050, determining whether any adjustments shall be made to the Margin Split, based on any reduction or increase in Aether Costs and (E) such other matters mutually agreed upon by the parties. "Aether Costs" shall mean the aggregate costs incurred by Aether per month for airtime, airtime tax, customer support, a toll free number, and network management, divided by the greater of (i) 4,050 or (ii) the actual number of Units receiving service. The Marketing and Sales Committee shall meet quarterly and except with respect to items which require the approval of a specific party pursuant to the terms of this Agreement, shall make decisions only upon consensus of all of the members of such Committee. At each quarterly meeting, the Marketing and Sales Committee shall conduct ongoing reviews of upcoming advertising, marketing and promotional campaigns of each party and shall use good faith efforts to coordinate the campaigns in a manner that will maximize the advertising, marketing and promotional efforts of the parties and be consistent with the Trademark Usage Guidelines and Reuters marketing policies. In addition, the Reuters Marketing Communications Contact shall meet with Aether at Reuters premises (unless otherwise agreed by the parties) each month during which no quarterly meeting is held to supplement the coordination and ongoing reviews of such upcoming advertising, marketing and promotional campaigns.

(iii) The Marketing and Sales Committee shall review sales of the Product at each quarterly

meeting. At the first meeting following the Effective Date, Aether shall present the sales plan and shall present sales projections for the Units for each of the following periods (i) the first 12-months of this Agreement, (ii) the first 18-months of this Agreement and (iii) the first three (3) years of the Term of this Agreement. At subsequent quarterly meetings, Aether representatives shall present sales results for the previous quarter and plans for the upcoming quarter. Aether shall present an annual update to the sales plan in writing to Reuters within thirty (30) days of each anniversary of the Effective Date. All information revealed by Aether to Reuters at any meeting relating to the sales plan, sales results or any updated sales plan shall be

the Confidential Information of Aether. If Aether fails to achieve the twelve-month sales targets presented at the first Marketing and Sales Committee meeting following the Effective Date, the Marketing and Sales Committee shall meet to discuss and develop a mutually agreeable revised sales plan intended to remedy the shortfall in sales. Implementation of the revised plan shall be the responsibility of Aether.

(iv) Aether agrees that the license granted to Aether to use the Licensed Marks to sell the Product does not include the right to sell the Product to Reuters Major Customers, which Customers shall be retained as the exclusive customers of Reuters, except as specified in this paragraph and provided that Aether has complied with the procedures set forth in this paragraph. In the event that a Major Customer contacts Aether directly with respect to the Product without any direct solicitation by Aether, prior to making a sales call to such Major Customer with respect to the Product, Aether shall notify the Reuters sales executive for such Major Customer in writing of its desire to make a sales call to such Major Customer. If the Reuters sales executive for such Major Customer agrees to make a sales call to such Major Customer within five (5) business days of receipt of such notice, the Reuters sales executive shall be entitled to make such sales call; provided, an Aether sales representative shall be entitled to accompany the Reuters sales executive on such sales call; provided further that any sale resulting from such sales call shall be deemed a Reuters sale and such Major Customer shall enter into a MarketClip Subscription Agreement with Reuters. In the event that the Reuters sales executive does not agree to make such a sales call within such 5 business day period, Aether shall be permitted to make such sales call without Reuters. Prior to making an unsolicited request for a meeting with a Major Customer to sell the Product, Aether shall give written notice to the Reuters sales representative on the Marketing and Sales Committee and shall not approach such customer if the Reuters sales representative objects to such approach within 14 days of receipt of such notice which objection must be based on one of the following reasons: (A) Reuters has already approached such customer regarding the Product and believes in good faith that a second approach by Aether would be adverse to the Reuters client relationship with such customer or (B) Reuters intends to make a sales call to such Major Customer regarding the Product by the end of the subsequent month; provided, that in the case of an objection based on clause (B), an Aether sales representative shall be entitled, upon request, to accompany the Reuters sales executive on such sales call to such Major Customer; provided further that (x) the Aether sales representative's participation in such sales call shall be on the Reuters sales executive's terms and conditions and (y) any sale resulting from such sales call shall be deemed a Reuters sale and such Major Customer shall enter into a MarketClip Subscription Agreement with Reuters. In the event Reuters does not object to Aether's approach of a Major Customer, but Aether does not approach such customer within 60 days after such 14 day period referred to above, Aether shall be required to renew the notice and consent process described in this paragraph. The parties agree that Aether shall be permitted to sell the product to Major Customers without Reuters consent if a Major Customer purchases the Product without a sales call. In the event that Aether sells any Products to any of Reuters Major Customers (and, in the event that Reuters Global Customers are not designated as Major Customers at the relevant time, to any of Reuters Global Customers), Aether agrees to notify the Reuters sales executive for such Major Customer (or such Global Customer, as applicable) of such sale. In communicating with any Major Customer or other potential customer or existing Subscriber, Aether's employees and agents shall not hold themselves out as Reuters agents or make any statements or take any other actions that would indicate that such Aether employee or agent is entitled to

bind Reuters to any agreement with a third party or to incur any liability or

obligation on behalf of Reuters.

(v) All costs of advertising, marketing and promotional expenses and of Aether's sales efforts shall be the obligation of Aether, except to the extent Reuters determines to launch an independent marketing campaign. Upon request by Reuters, Aether shall provide to Reuters free of charge 20% of each print run of marketing or promotional materials created by Aether. Aether shall be required to spend a minimum of $600,000 on advertising, marketing and marketing communications (not including salary expense) (the "Marketing Minimum") for the Product between June 2, 1998 and December 31, 1998. In determining whether Aether has met the Marketing Minimum, Aether shall be entitled to include any amounts that Aether causes third parties to spend on advertising for the Product, so long as the primary focus of such advertising is the Product. With Reuters consent, a portion of the Marketing Minimum may be used to subsidize sales of the Units. Aether's marketing and sales plan shall include a plan for the expenditure of the Marketing Minimum. Upon the request of Reuters after December 31, 1998, Aether shall provide proof of its expenditure of the Marketing Minimum. As of January 1, 1999, the costs of the marketing and sales effort by Aether shall be at Aether's discretion, but Aether acknowledges and agrees that the marketing effort is intended to achieve the sales projections it presents at the first Marketing and Sales Committee meeting following the Effective Date.

(vi) Aether shall not be permitted to subcontract or otherwise permit third parties to sell the Product without the prior written consent of the Reuters Contact, which consent shall not be unreasonably withheld; provided, that the parties agree that Reuters shall not be deemed to be unreasonably withholding its consent if, among other reasons, (x) Reuters believes that the association of the Product with such third party would reflect adversely on the image of quality symbolized by the Licensed Marks or (y) such third party is a non-retail entity. To the extent Reuters consents to such third party arrangement, Aether shall be required to enter into a contract with such party which requires such third party to comply with the terms and conditions of this Agreement to the extent applicable; provided that Aether shall not be permitted to sublicense to such third party the use of the Licensed Marks. In the event that such third party desires to use the Licensed Marks in marketing or promotional materials or advertising, it shall be required to enter into a Sales and Marketing Agreement with Reuters which will contain substantially the provisions set forth in Section 4 and the Trademark Usage Guidelines set forth in Schedule O. The agreement between Aether and any third party granting such third party the right to sell the Product shall contain terms and conditions with respect to the foregoing requirements. Promptly following the execution of this Agreement, the parties will agree on a mutually acceptable form of agreement to be used between Aether and such third parties desiring to sell the Product and a mutually acceptable form of Sales and Marketing Agreement to be used between Reuters and such third parties for the use of the Licensed Marks by such third party.

(vii) Reuters shall be responsible for managing and maintaining the Reuters MarketClip web site; provided that Reuters agrees to make changes to such web site as proposed by Aether to the Reuters Marketing Communications Contact to the extent such changes are reasonable and Reuters determines that such changes conform to the Trademark Usage Guidelines set forth on Schedule O and to Reuters other marketing policies. Aether shall not create a second or competing web site for MarketClip.

(viii) Aether agrees that all advertising and marketing and promotional materials and events and the placement and distribution of such materials shall be subject to the Trademark Usage Guidelines set forth on Schedule O and to Reuters prior approval rights described in Section 4.

(c) Reuters shall use reasonable commercial endeavors to ensure that it only directs Aether to permission and supply the Service to Reuters Subscribers, except for those additional Units to be permissioned

and supplied for promotional and other purposes as expressly provided in this Agreement.

(d) Inventory.

(i) Reuters has procured the initial Units which are part of the inventory as of the Effective Date. Following the Effective Date, Aether shall contract for and purchase the Units for the Product necessary to replenish the inventory for sale to Subscribers in accordance with Schedule D; provided that (i) if the parties mutually determine prior to the Equity Investment that the inventory levels should be increased above the Baseline Inventory Levels determined in accordance with Schedule D, Reuters shall be required to contract for and purchase a number of Units in the amount of such increase in accordance with Schedule D or (ii) if the parties mutually determine prior to the Equity Investment that the inventory levels should be decreased below the Baseline Inventory Levels, the cost of the Units represented by such decrease shall be (x) applied as a credit to the purchase price of Reuters' Equity Investment or (y) if the Equity Investment is not consummated, refunded to Reuters by Aether.

(ii) If the Equity Investment is consummated, Reuters shall also be entitled to use as a credit towards the purchase price of the Equity Investment, the cost of the Units it has procured since the Release Date, for which it has not received reimbursement from Aether; provided, that the aggregate cost of such Units shall be decreased by 50% of the cost of the Units which Aether and Reuters mutually agree are not sellable above cost. In the event the Equity Investment is not consummated, Aether shall refund to Reuters the cost of the Units represented by the decrease in the Baseline Inventory Level from the Original License Agreement to the Baseline Inventory Level initially set in this Agreement; provided, that the aggregate cost of such Units shall be decreased by 50% of the cost of such Units which Aether and Reuters mutually agree are not sellable above cost. Such refund shall be due upon request from Reuters following the termination of negotiations of the Equity Investment.

(iii) To the extent Reuters is required to procure additional Units as required above, Aether shall initiate the relationships with hardware vendors with the Reuters specific terms to be agreed in advance with Reuters' materials management section to facilitate Reuters contracting and procuring such additional Units.

(iv) The party required to contract for and purchase Units shall (x) contract for and purchase such Units in accordance with Schedule D, (y) assign any applicable warranties from hardware manufacturers with respect to such Units to the Subscribers, and (z) ensure that such Units meet the requirements set forth in Schedule A attached hereto. Prior to the Equity Investment, Reuters shall and immediately following the Equity Investment, Aether shall maintain sufficient insurance coverage for the inventory of Units stored at the Premises to recover the value of the Units in the event of damage, loss or theft. Aether shall take reasonable commercial precautions to safeguard the Unit inventory at the Premises.

(e) Reuters shall inform Aether of the identity of new Reuters Subscribers in accordance with the procedures set forth on Schedule F attached hereto. Aether will treat this information as Confidential Information in accordance with Section 22 and Schedule R, and will not use it for any purpose other than for the delivery of the Product and Service in accordance with the terms hereof. Reuters acknowledges that, upon a Subscriber's request, Aether shall have the right to supply custom software development and integration services related to the Product, provided that it shall be clear to the Subscriber that such services are supplied directly by Aether and not by

Reuters, and provided further that Aether shall not solicit Reuters Subscribers for such services directly, but rather shall initiate any contacts for such custom services through Reuters.

Notwithstanding the foregoing, but subject to Section 17, Aether shall be permitted to solicit Financial Institutions with respect to products or services other than the Product or customizations of the Product.

(f) Reuters will contract directly with Subscribers for delivery of the Service through the Product by means of a MarketClip Subscription Agreement substantially in the form attached hereto as Schedule P. If any Subscriber requests customization of software in connection with the Product, Reuters shall inform Aether of such request.

(g) Promptly following the date hereof, Reuters shall provide Aether with a recommended price list based on the price range Reuters deems appropriate for the Product and based on Reuters experience in the market. Aether agrees to consider the recommended prices, except that nothing herein shall prevent Aether from setting its own prices for the Product and the Activation Fee, especially in the event that Aether determines that it is not commercially practicable to follow Reuters recommended price list. Notwithstanding the foregoing, no decrease in the prices charged for such Products by Aether shall affect the amount of the MarketClip Payment owed to Reuters. The parties agree that if Aether raises its list price for the Product, the corresponding MarketClip Payment and Margin Split shall be proportionately increased.

(h) Reuters shall, promptly after the date hereof, appoint and advise Aether in writing of the name, title, address and telephone number of (i) the Contact Person of Reuters who shall be responsible for: (A) overseeing the day-to-day compliance with this Agreement and (B) such other duties as may be set forth herein, (ii) the Reuters Marketing Communications Contact who shall be responsible for the Marketing Approval Rights and for reviewing Aether's proposed changes to the MarketClip web site, and (iii) the Reuters designees on the Marketing and Sales Committee. Reuters may change its Contact Person, Reuters Marketing Communications Contact and designees on the Marketing and Sales Committee from time to time by written notice to Aether in accordance with Section 27(d) hereof. To the extent this Agreement requires that notice be given or consent be requested from Reuters, such notice or request should be sent to the Reuters Contact unless specifically stated otherwise.

(i) Reuters shall test the Service datafeed to Aether for viruses and use its best efforts to ensure that no virus or other disabling feature or code is transferred to the Network.

(j) Reuters shall include in future subscription agreements for the Service any terms required by wireless telecommunications carriers in contracts between Aether and such carriers relating to the provision of the Service, provided that such terms shall not create significant obligations for Reuters or impair Reuters' rights in any material way.

(k) Upon the request of Reuters, Aether shall cooperate with Reuters to cause any Reuters Subscribers existing as of the Effective Date and designated by Reuters to consent to an assignment of such Subscriber's MarketClip Subscription Agreement from Reuters to Aether promptly following the Effective Date (or at Reuters option, upon the renewal of such agreement). Aether hereby consents to the assignment by Reuters of all such MarketClip Subscription Agreements with Reuters Subscribers to Aether.

(l) With respect to Reuters Subscribers only, upon being informed by Aether that a wireless telecommunications carrier is requiring resale certificates from Aether, Reuters will execute and deliver to Aether forms of such resale certificates of exemption from federal excise tax and state sales and use taxes, reflecting that the Service is being resold to Reuters Subscribers by Reuters, and that Aether will collect all applicable Taxes on the Service from the Subscribers and will remit such Taxes collected from Reuters

Subscribers to Reuters who will remit such Taxes directly to the applicable tax authority.

(m) Promptly following the Effective Date, the parties shall cooperate to revise the form of MarketClip Subscription Agreement set forth on Schedule P to make such form more practical for the Product; provided, that Reuters shall be entitled to reject in its sole discretion any changes proposed by Aether to such form.

(n) The parties make the following covenants:

(i) Aether and Reuters each covenants with the other that by March 31, 1999, they will have established a back-up facility to house a replica of the Network, including the hot stand-by referred to in Section 6(c) (the "Back-up Facility"), to be used in the event of a failure of the Network. Reuters and Aether will negotiate in good faith to develop by November 1, 1998, a full plan for the Back-up Facility, including all costings for such Back-up Facility, the details of which will form a Schedule to this Agreement once finalized and agreed between the parties. Reuters will supply two (2) sets of the items set out in Section 2(a) to Aether free of charge, to enable Aether to establish the Back-up Facility. Once established, if the Back-up Facility is ever used to deliver the Product to Subscribers, all the terms of this Agreement will apply to such Back-up Facility and references to the "Premises" will be deemed to mean the Back-up Facility. Reuters acknowledges that ownership of the Aether Property at the Back-up Facility will remain with Aether at all times, in accordance with Section 10(c), unless ownership of the Aether MarketClip Software transfers to Reuters in accordance with Section 19(h)(i).

(ii) Reuters agrees that as of December 31, 1998, there will not be a reduction in any material respect in the ability of the Product to function as a result of the Reuters Software's inability to process date information accurately before, on or after 1 January 2000 (including leap years). Compliance of the Reuters Software with the foregoing means that the Reuters Software is "Millennium Compliant" and "Millennium Compliance" shall be construed accordingly. Aether shall have the right to take reasonable actions to confirm the accuracy of this representation on or after December 31, 1998. Aether's sole remedies in the event that the Reuters Software is not Millennium Compliant by December 31, 1998 shall be governed by Section 19(d).

(iii) Aether agrees that as of December 31, 1998, there will not be a reduction in any material respect in the ability of the Product to function as a result of the Aether MarketClip Software's inability to process date information accurately before, on or after 1 January 2000 (including leap years). Compliance of the Aether MarketClip Software with the foregoing means that the Aether MarketClip Software is "Millennium Compliant" and "Millennium Compliance" shall be construed accordingly. Reuters shall have the right to take reasonable actions to confirm the accuracy of this representation on or after December 31, 1998. Reuters sole remedies in the event that the Aether MarketClip Software is not Millennium Compliant by December 31, 1998 shall be

governed by Section 19(d).

(iv) Each party also agrees to cooperate with the other party in connection with its reasonable investigations relating to the Millennium Compliance of the Reuters Software or the Aether MarketClip Software, as applicable, including, for example:

(A) permitting such investigating party to obtain relevant information from knowledgeable employees, representatives and agents of the other party in response to written and/or oral questions;

(B) providing such investigating party on reasonable notice with access to relevant information and documentation; and

(C) providing such investigating party with such assistance it reasonably requires in connection with Millennium Compliance testing by such investigating party relating to the Reuters Software or the Aether MarketClip Software, as applicable.

8. DISTRIBUTION OF AIRBROKER.

(a) In the event that it learns that an AirBroker Customer is violating any of the terms of its subscription agreement with Aether, Aether shall promptly notify Reuters and shall terminate that Customer's subscription and access to the Information.

(b) Neither party shall make any statement (whether oral or in writing) with respect to AirBroker in any advertising, marketing or promotion materials regarding the other party, the Information or its content (other than generally stating the availability of the Information on AirBroker) without the prior written consent of the other party.

9. WITHDRAWAL OF SERVICES.

(a) Upon forty-eight (48) hours prior written notice, Reuters reserves the right, at its sole discretion, to terminate any or all of the rights granted hereunder to the Service or any specific Information to the extent any legal action has been instituted or any claim made that Reuters does not have the right to permit others to use such Information or that such Information infringes the ownership rights of any third Person. Each of the parties shall ensure that all subscription agreements with Subscribers and AirBroker Customers contain a similar right.

(b) Where the operation or delivery of the Service or Information or any part thereof is dependent upon an agreement between Reuters or Aether and a third Person and such agreement has expired or is terminated or suspended in whole or in part for any reason, and Reuters or Aether is unable to enter into another equivalent agreement upon reasonable terms, Reuters or Aether may terminate the relevant part of the Service or Information in the corresponding part of the Territory, as applicable. Reuters or Aether, as the case may be, will make reasonable efforts to provide the other party with advance notice of such termination.

(c) At Reuters request, Aether shall withdraw the Service from any Subscriber and/or AirBroker Customer whom Reuters reasonably believes to be in breach of its MarketClip Subscription Agreement, AirBroker subscription agreement or applicable Third Party Data Arrangement, as applicable.

(d) In accordance with the terms of the MarketClip Subscription Agreement, Aether shall have the right to immediately suspend or terminate Permissioning and the provision of the Service to any internet protocol address or network entity identifier assigned to an individual Unit, if Aether has reasonable grounds to suspect that such Unit is being used to engage in fraudulent activity relating to the transmission and receipt of the Service, including, without limitation, altering or modifying a Unit to allow the receipt of the Service by more than one Unit through a single internet protocol address or network entity identifier. Aether shall immediately inform Reuters of any such suspensions or terminations in writing, via e-mail to the product manager for MarketClip, who as at the Effective Date is Richard Pirani. Should Reuters disagree with the

decision of Aether to suspend or terminate Service to any particular Unit, Aether shall immediately restore Permissioning and Service to such Unit, provided that, Reuters shall bear all liability for any loss or damage claimed by any wireless telecommunications provider for any fraudulent activities relating to the provision of Service to such Units from the time of restoration.

10. PROPERTY RIGHTS.

(a) Aether agrees that Reuters exclusively owns all rights (including patent, copyright, trade secret, trademark and all other intellectual property rights worldwide), title and interest in the Services and the Information, the Reuters equipment (including the Reuters Selectfeed Plus Controller) described in Schedule K hereto (the "Reuters Equipment"), the Reuters Software and the name "MarketClip" and "Reuters MarketClip", (collectively, "Reuters Property"), or has been licensed by Third Party Providers to grant the rights set forth herein. All rights with respect to the Reuters Property, whether now existing or which may hereafter come into existence, which are not expressly granted to Aether herein are reserved to Reuters. At the request and expense of Reuters, Aether shall take or cause to be taken any and all reasonably necessary actions to comply with all copyright, trademark, trade secret, patent and other laws necessary to secure, register and/or protect Reuters' rights, title and interest in the Reuters Property, and shall execute any documents and grant to Reuters any powers of attorney as may be necessary to perfect Reuters' ownership of copyrights or other intellectual property rights in the Reuters Property. Aether shall not remove, conceal or obliterate any copyright or other proprietary notice, trademark, proprietary rights, disclaimer or warning notice included on or embedded in any part of the Reuters Property or in any copy of the Reuters Software.

(b) Reuters reserves to itself complete editorial freedom in the form and content of the Information and may alter the same from time to time.

(c) Reuters agrees that Aether exclusively owns all rights (including patent, copyright, trade secret, trademark and all other intellectual property rights worldwide), title and interest in the Aether Property (as defined below), or has been licensed by third parties to grant the rights set forth herein. All rights with respect to the Aether Property, whether now existing or which may hereafter come into existence, which are not expressly granted to Reuters herein are reserved to Aether. Reuters shall take or cause to be taken any and all reasonably necessary actions to comply with all copyright, trademark, trade secret, patent and other laws necessary to secure, register and/or protect Aether's rights, title and interest in the System and the Aether MarketClip Software (collectively "Aether Property") and shall, at the request and expense of Aether, execute any documents and grant to Aether any powers of attorney as may be necessary to perfect Aether's ownership of copyrights or

other intellectual property rights in the Aether Property. Reuters shall not remove, conceal or obliterate any copyright or other proprietary notice, trademark, proprietary rights, disclaimer or warning notice included on or embedded in any part of the Aether Property or in any copy of the Aether MarketClip Software.

(d) Each of the parties shall promptly notify the other of any actual or threatened infringements, imitations or unauthorized uses of the "MarketClip" trademark by third Persons of which it becomes aware.

(e) Aether agrees that it shall not register or seek registration for any mark confusingly similar to "MarketClip" and further agrees in perpetuity never to assert the trademark "MoneyClip" against Reuters.

(f) The parties hereby agree that Aether shall not use any trade name, trade mark or service mark of Reuters without Reuters' prior written consent, except as specified in Section 2(f) and Section 4 above, and that

Reuters shall not use any trade name, trademark or service mark of Aether without Aether's prior written consent, except as specified in Section 3(d) and in this Section 10.

11. EMERGENCY CONSULTING PROVISIONS

(a) In the event that Aether:

(i) fails to meet any of the performance standards set forth on Schedule C for any two months in any continuous three month period;

(ii) the Network availability is less than that set out in Schedule C, Number 2 in any one week; or

(iii) persistently and materially breaches this Agreement,

then Reuters shall have the right to install its own personnel or third-party sub-contractors (any such third-party sub-contractor to be subject to the prior approval of Aether, which approval shall not be unreasonably withheld and to have signed an appropriate non-disclosure agreement) for consulting purposes at the Premises and Aether shall permit such Reuters personnel to take such actions necessary to ensure that the Services are delivered properly over the Network in accordance with the terms of this Agreement or to otherwise cure such breach until such time as Aether has met all performance criteria or has otherwise complied with this Agreement continuously for one calendar month. Aether shall bear all costs and expenses of such consulting services (which, if provided by Reuters shall be at its standard rates for the applicable service). Nothing is this Section 11 shall affect Reuters right to terminate this Agreement pursuant to Section 19.

12. REUTERS EQUIPMENT AND ACCESS TO SERVICES.

(a) Reuters shall supply and install the Reuters Equipment at the Premises. The Reuters Equipment will be used solely to receive the Information at the Premises. Reuters will, at its cost and expense, take all reasonable steps to arrange for the maintenance of the Reuters Equipment. Aether shall not allow any Person other than Reuters or a Reuters-approved designee to maintain and/or repair the Reuters Equipment.

(b) Aether will allow Reuters or a Reuters-approved designee access to the Premises, and any other applicable location, upon reasonable notice from

Reuters and at reasonable times in order to install, inspect, maintain, repair, replace or remove all or part of any Reuters Property.

(c) Aether will, at its own cost and expense, obtain any and all consents, rights of access, easements, governmental approvals, building permits, zoning authorizations or other rights or authorizations necessary for the installation and use of the Reuters Equipment.

(d) Aether will not move the Reuters Equipment from its location as installed without the prior written consent and supervision of Reuters; nor will Aether allow the Reuters Equipment to become subject to any claims, liens or encumbrances, except for such claims, liens or encumbrances as arise through the acts or omissions of Reuters.

(e) Aether shall provide, at its own expense, (i) all software interfaces from its own systems to the Reuters Equipment, and (ii) the server hardware on which the Reuters Software will run. Aether shall be

responsible for all transmission and communication of the Service from the Reuters Equipment to the Network. All such connections shall be in accordance with applicable standards including those of Underwriters Laboratories, Inc.

(f) Reuters may, at any time and upon thirty (30) days written notice, replace the Reuters Equipment with other equipment (which shall then be deemed to form part of the Reuters Equipment) or replace the means of transmission of the Service with another means of transmission. Reuters shall provide Aether with ninety (90) days prior written notice if such replacement would impact Aether's ability to receive the Information or provide the Service to the Subscribers or AirBroker Customers. The cost of any upgrades or modifications to the Aether MarketClip Software or the System necessary to maintain compatibility with such changes made by Reuters will be allocated between the parties as set forth in Section 5(c).

13. MARKETCLIP FEES AND CHARGES.

(a) MarketClip Activation Fee. The party that sells the Unit to the Subscriber will be entitled to make a one-time charge (the "Activation Fee") to cover its administration costs in such sale and setting up the Service for that Subscriber. On the sale of any Unit by Reuters, Aether shall remit such Activation Fee, less $25, to Reuters on the commencement of reception of the Service by that Unit.

(b) Calculation and Payment of Fees. Subject to clause (c) below, as at the Effective Date, Aether will pay to Reuters:

(i)(x) $6 per month for each Basic Unit and $16 per month for each Plus Unit for the first 4,000 Units receiving the Service in the applicable month and (y) $9 per month for each Basic Unit and $19 per month for each Plus Unit for each Unit receiving the Service in the applicable month in excess of 4,000 Units, in each case, which Units were sold to an Aether Subscriber (the "MarketClip Payment"). The applicable MarketClip Payment shall first become payable upon activation of the Service on such Unit; and

(ii) $31.50 per month for each Unit receiving the Service in the applicable month which Unit was sold to a Reuters Subscriber, which payment shall first become payable upon activation of the Service on that Unit (the "Margin Split"); and

(iii) Reuters pro rata portion of any cancellation fee paid by a

Reuters Subscriber or an Aether Subscriber ("Cancellation Fee").

(c) Payment of the Development Fee. If the Equity Investment is not consummated, Aether shall not be required to make any payments for MarketClip Payments or Margin Splits until the sum of the MarketClip Payments, the Margin Splits and the AirBroker Payments which have accrued from the Effective Date exceed the Development Fee. The "Development Fee" shall be an amount equal to $266,000 minus the aggregate amount of Unit Fees for all Units sold through the Effective Date. The "Unit Fee" equals $31.50 multiplied by the number of months the applicable Unit has received the Service through the Effective Date, plus a pro rata portion for any partial months the Unit was receiving the Service. In the event that the sum of the MarketClip Payments, the Margin Splits and the AirBroker Payments which have accrued from the Effective Date do not exceed the Development Fee by October 1, 1998 and provided that the Equity Investment has not been consummated, Reuters will pay Aether within fifteen (15) days of October 1, 1998, the difference between (i) the sum of the MarketClip Payments, the Margin Splits and the AirBroker Payments which have accrued from the Effective Date through October 1, 1998 and (ii) the Development Fee. If the Equity Investment is

consummated, this paragraph shall no longer have any effect.

(d) Payment of Taxes.

(i) Aether shall collect any applicable sales, use, goods and services, excise, and other similar taxes and duties payable with respect to the provision of the Product and Service to Subscribers (collectively, "Taxes"), other than any taxes levied or imposed on income. Aether shall provide Reuters monthly with detailed information on Taxes due from Reuters Subscribers as part of the MarketClip/AirBroker Monthly Report as described on Schedule E and will remit payment to Reuters in the amount of the Taxes invoiced to Reuters Subscribers and due to Aether in such month as soon as practicable after the end of the applicable month, but no later than the 15th day of the subsequent month. Each MarketClip/AirBroker Monthly Report shall include copies of all invoices relating to the sale of the Products to Reuters Subscribers which invoices shall itemize (i) with respect to the first invoice sent to such Subscriber following the sale of the Product, the charges for the Product (including charges for the Units), the Activation Fee and the tax associated with such charges and (ii) with respect to each monthly invoice, the charges for the monthly service charge, exchange fees (to the extent applicable), and tax associated with such monthly charges. With respect to credit card sales to Reuters Subscribers, Aether shall satisfy the foregoing requirement as follows: (i) for sales of Units and Activation Fees, such evidence will be in the form of copies of detailed packing slips sent with the Units specifically enumerating fees and sales tax billed to each such Reuters Subscriber and (ii) for ongoing monthly service fees, the evidence shall be a monthly report generated from Aether's credit card billing system, showing the detail of charges to Reuters Subscribers and specifically enumerating service fees, exchange fees (to the extent applicable) and sales tax billed to such Reuters Subscribers. Reuters shall be responsible for remittance of the Taxes invoiced to the Reuters Subscribers to the appropriate taxing agency, and Aether shall be responsible for remittance of the Taxes invoiced to the Aether Subscribers to the appropriate taxing agency.

(ii) In the event that Aether fails to remit a MarketClip/AirBroker Monthly Report prior to the 15th day of the subsequent month in which the applicable Taxes were due to Aether or in the event that such Report contains inaccuracies with respect to Taxes, in either case, for which Reuters becomes subject to a penalty, fee, or fine or is otherwise

required to make an additional payment, which but for such untimely submission of such Report or inaccuracy, Reuters would not otherwise be required to pay, Aether shall be required to pay to Reuters the amount of such penalty, fee, fine or other payment. In the event that Aether fails to remit payment for Taxes invoiced to Reuters Subscribers and due to Aether in any month by the 15th day of the subsequent month in which the applicable Taxes were due to Aether, Aether shall pay a late fee equal to 1.5% per month of the Tax payment due and not received by such date, such interest to accrue on a daily basis from the due date until actual payment.

(iii) In addition, to the extent not covered by clause (ii) above, Aether will indemnify Reuters for all losses, penalties, costs and expenses (including costs and expenses of legal counsel) incurred by Reuters as a result of (x) Aether's failure to remit MarketClip/AirBroker Monthly Reports and Tax payments to Reuters accurately and timely and (y) Aether's failure to collect Taxes for the Units since the Release Date.

(e) Timing of Payments; Late Fees; MarketClip Monthly Report.

(i) Except for payments for Taxes which shall be governed by clause (d) above, Aether shall make all payments of fees (including royalties, the Margin Split and any Cancellation Fees) due to Reuters within thirty (30) days of the end of the quarter for which the Service is provided (or if applicable, canceled). Aether shall pay a late fee equal to 1.5% per month of the payment due for any payments that are more than fifteen (15) days late, such interest to accrue on a daily basis from the due date until actual payment.

(ii) Aether shall provide to Reuters monthly the MarketClip/AirBroker Monthly Report, certified by an officer of Aether, setting forth the information described on Schedule E and any additional information Reuters may reasonably request. A MarketClip/AirBroker Monthly Report shall be required each month as set forth above whether or not any payment is due to Reuters for such period.

(f) Free and Reduced Price Service. Notwithstanding the foregoing provisions of this Section 13, each of the parties shall be entitled to provide the Service to (i) 2 of such party's development or monitoring representatives, with all applicable access information including passwords, for purposes of access to the Service as may be necessary for purposes of development and monitoring efforts and (ii) 20 members of such party's sales staff for the purpose of demonstration and sales and (iii) such party's executives, in each case, without any payment obligations to the other party, except that Reuters shall be required to pay to Aether $35 per month for each such Unit used by Reuters employees to cover Aether's out of pocket costs for providing the Service to such Unit. The party receiving such free Service (or reduced price in the case of Reuters) shall be required to pay any applicable exchange fees and to pay for the cost of the Units for such Product. Aether shall bill Reuters quarterly for the amounts owed for such reduced price Units and for exchange fees (if applicable) and shall remit such amounts for exchange fees to the appropriate exchanges (if applicable). In addition, Aether shall maintain a total of 20 Units in inventory which shall be available for either party to give to potential Subscribers for free trials of up to thirty (30) days in duration. The party requesting such Unit for a potential Subscriber shall be required to pay the exchange fees accruing during such free trial. Aether shall bill Reuters quarterly for such exchange fees, but Aether shall be responsible for remitting any required payments to the appropriate exchange. The parties agree that such free trials shall only include, and Aether shall only permission for such free trials, Nasdaq information. Neither party shall have any payment obligation to the other party with respect to such free trial Units.

14. AIRBROKER FEES AND CHARGES.

(a) Aether shall pay Reuters a fee of $6.00 per month for each Unit with access to AirBroker (the "AirBroker Payment").

(b) Subject to Section 13(c), Aether shall pay all AirBroker Payments due to Reuters within thirty (30) days of the end of the quarter for which the AirBroker service is provided. Aether shall pay a late fee equal to 1.5% per month of the payment due for any payments that are more than fifteen (15) days late, such interest to accrue on a daily basis from the due date until actual payment. Aether's MarketClip/AirBroker Monthly Report described in Section 13 above shall also include the information with respect to AirBroker set forth on Schedule E.

(c) In addition to the amounts set forth above, Aether shall pay to Reuters or to the relevant taxing authority, as appropriate, any applicable sales, use, goods and services, or other taxes payable with respect to the AirBroker Payments or otherwise arising with respect to AirBroker (other than taxes levied or imposed on Reuters income).

(d) Reuters shall be entitled to five (5) Units with access to AirBroker, and all applicable access information including passwords, for the purpose of enabling Reuters to monitor Aether's compliance with the provisions of this Agreement with respect to AirBroker.

15. AUDIT RIGHTS.

(a) Each party shall keep records to document the computation and payment of payments, charges and costs incurred in the performance of this Agreement, including, in the case of Aether, Taxes due from Reuters Subscribers, MarketClip Payments, Margin Splits, AirBroker Payments, Activation Fees collected from Reuters Subscribers, Cancellation Fees and any fees, costs and expenses to or in respect of any Third Party Provider.

(b) Either party, at its expense, and upon thirty (30) days notice to the other shall have the right to examine or audit the other's pertinent books and records solely in order to verify payments for the Product due and owing to such party or to verify collection of Taxes from Reuters Subscribers by Aether or payment of any fees, costs and expenses payable to or in respect of any Third Party Provider by Aether pursuant to this Agreement. Subject to paragraph (d) below, such right may be exercised a maximum of two times in each calendar year. The pertinent books of account and records shall be made available at the place where these records are kept in the ordinary course of business or at a location mutually agreed upon by the parties. Each of the parties and its accountants, auditors or other representatives shall treat all financial information obtained during the audit as Confidential Information pursuant to Section 22 and Schedule R.

(c) If, as a result of such examination or audit, it is determined that the party remitting payment ("Payor") under-reported the applicable number of AirBroker Customers, Subscribers, or active Units, as the case may be, or underpaid any amount due, the Payor shall promptly furnish to the other a copy of the report of its accountants setting forth the discrepancy, and showing, in reasonable detail, the bases upon which the same was determined. Unless the amount of such discrepancy is disputed, the Payor shall remit to the appropriate Person a sum equal to the discrepancy, together with any penalties

owed, within ten (10) days after notification of the discrepancy. In the case of a discrepancy by Aether with respect to Taxes due from any Reuters Subscriber, such amounts shall be remitted to Reuters who will remit such payment to the appropriate taxing authority. In the case of a discrepancy with respect to any amounts owed to any Third Party Providers, such amount shall be remitted directly to the appropriate Third Party Provider. Any dispute regarding the amount of the discrepancy shall be resolved in accordance with Section 26.

(d) If such discrepancy is greater than five (5%) percent of the total amount due for the applicable item over any six month period, then the Payor shall reimburse the other for the reasonable cost of the audit. In the event either party discovers such a discrepancy of the other party, the auditing party shall be entitled to one additional audit in such calendar year. In the event either party discovers such a discrepancy of the other party more than three times in a two-year period, such offending party shall be deemed to be in material breach of this Agreement.

16. REPRESENTATIONS AND WARRANTIES.

(a) Reuters and Aether each represents and warrants to the other that:

(i) it is a corporation or limited liability company duly organized and validly existing under the laws of the State of its incorporation or formation and has all requisite legal and corporate power and

authority to execute and deliver this Agreement and to carry out and perform all of its obligations under this Agreement;

(ii) the execution, delivery and performance by it of its obligations under this Agreement require no consent, approval or authorization of, action by or in respect of, or filing with, any governmental body, agency, or official;

(iii) the execution, delivery and performance by it of this Agreement do not (1) violate its Certificate of Incorporation (or other constitutional documents, including the certificate of formation and limited liability company agreement of Aether) or By-laws, or (2) violate any applicable law, rule, regulation, judgment, injunction, order or decree, except to the extent that any such violation would not, individually or in the aggregate, have a material adverse effect on its ability to perform the terms of this Agreement;

(iv) it holds and is in compliance with all material permits, licenses and other approvals required to carry out its obligations under this Agreement; and

(v) this Agreement constitutes a valid and binding agreement enforceable in accordance with its terms, except as (A) the enforceability hereof and thereof may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (B) the availability of equitable remedies may be limited by equitable principles of general applicability.

(b) Aether represents and warrants to Reuters that:

(i) Aether owns or has valid rights to use all of the intellectual property rights in the System and the Aether MarketClip Software, and has and will obtain agreements with its employees and contractors

sufficient to allow it to provide Reuters with the licenses to the intellectual property rights in the System and the Aether MarketClip Software. To the knowledge of Aether, the use of the System and the Aether MarketClip Software as proposed or contemplated by this Agreement will not infringe or violate any of the patents, trademarks, service marks, trade names, copyrights, trade secrets, or other proprietary rights of any third Person; and

(ii) the System and Aether MarketClip Software shall conform to the Specifications and be sufficient to deliver the Product to Subscribers as intended under this Agreement; and

(iii) subject to Section 6(b), it has executed agreements with third party digital wireless telecommunications carriers that will enable Aether to perform its obligations under this Agreement.

(c) Reuters represents and warrants to Aether that:

(i) Reuters owns or has valid rights to use all of the intellectual property rights in the Reuters Software and has valid licenses (where necessary) from the Third Party Providers to make the Information available to Aether. To the knowledge of Reuters, the use of the Reuters Software as proposed or contemplated by this Agreement will not infringe or violate any of the patents, trademarks, service marks, trade names, copyrights, trade secrets, or other proprietary rights of any third Person; and

(ii) the Information, Reuters Software and Reuters Equipment shall be sufficient to deliver the Product to Subscribers as intended under this Agreement.

17. EXCLUSIVITY AND NON-SOLICITATION.

(a) Exclusivity Prior to the Equity Investment. Neither party shall sell, market, promote, or co-brand any product or service similar to or competing with the Product or the Service in the wireless transmission of U.S. Securities market data in the United States, nor shall it enter into a joint venture or other similar arrangement to effectuate any of the foregoing. For the avoidance of doubt, this Agreement shall in no way prohibit or restrict Reuters' right to sell, transfer, or license the Information to any Person for the inclusion of Reuters information in that party's product. In addition, Aether shall not license any rights to the System or the Aether MarketClip Software (or any additional software that may be developed in connection with this Agreement) to any Competitor of Reuters for the purpose of the wireless transmission of U.S. Securities market data in the United States. The provisions set forth in this Section 17(a) shall terminate upon either (i) the termination of negotiations between the parties with respect to the Equity Investment or (ii) the consummation of the Equity Investment.

(b) Aether Obligations Following Equity Investment.

(i) Right of First Refusal. During the Aether Exclusive Period, Aether shall not, and shall not permit its Controlled Affiliates to, market, promote, or co-brand or use Aether's sales force to sell, any product or service which provides wireless transmission of financial data, news or information and/or Financial Transactional Capabilities in conjunction with a third party (a "Marketing Transaction"), without first offering to Reuters (the "Offer") the opportunity to participate in such activity on the terms and conditions on which such third party has agreed to participate (the "Third

Party Offer"). The Offer shall set forth in reasonable detail the nature and scope of the activity proposed to be engaged in and the terms and conditions of such Third Party Offer. Reuters shall enter into an appropriate confidentiality agreement as reasonably requested by Aether or the third party with respect to such Offer. Reuters shall have 15 days from its receipt of the Offer to accept the Offer in writing on substantially the same terms and conditions as such third party was offering to participate. Reuters shall have 75 days after the termination of such 15 day period to enter into a binding agreement with Aether with respect to the Offer. If Reuters fails to accept such Offer within such 15 day period or fails to enter into a binding agreement with Aether within such 75 day period for any reason other than a violation of this Section or wrongful acts or bad faith on the part of Aether, it shall be deemed to have rejected the Offer, and Aether shall be permitted to enter into a binding agreement to engage in such activity with such third party on terms and conditions no more favorable in the aggregate to such third party than those set forth in the Offer. Aether shall, as promptly as practicable and prior to the closing of such transaction with such third party, provide an affidavit of the chief executive officer of Aether stating that the terms and conditions of such transaction are not more favorable in the aggregate to the third party than those set forth in the Offer; provided that if the manager that is a Reuters designee believes that the terms and conditions of such transaction are more favorable in the aggregate to the third party than those set forth in the Offer, then subject to Reuters signing an appropriate confidentiality agreement, Reuters shall be permitted to confirm for itself that the terms and conditions of such transaction are not more favorable in the aggregate to the third party than those set forth in the Offer. If a binding agreement with respect to such Third Party Offer is not entered into within 90 days from the date of the rejection or deemed rejection by Reuters of the Offer, the procedure set forth above with respect to the Offer shall be repeated with respect to any subsequent Marketing Transaction. The parties agree that this clause shall not be applicable to any transaction involving an Equities Product and/or an FX Product, which transaction shall be governed by the provisions of clauses (iii) or (iv) below, as applicable, except as specifically provided therein. For the avoidance of doubt, the inclusion of Aether's copyright notice on any product or

service or marketing materials for such product or service shall not be considered marketing, promoting or co-branding or using Aether's sales force to sell, within the meaning of this Section 17(b)(i).

(ii) Most Favored Nations. During the Aether Exclusive Period, in the event that Aether or its Controlled Affiliates develop or assist in the development of or enter into a joint venture, partnership or similar arrangement with respect to or provide or license its software for use in or provide in any material respect any other goods or services for use in any product or service which provides wireless transmission of financial data, news or information and/or Financial Transactional Capabilities in conjunction with a Competitor or an Affiliate of a Competitor, Aether agrees that upon the request of Reuters, it shall (x) offer to Reuters the right to enter into a similar transaction with Aether on substantially the same terms and conditions proposed with such Competitor or Affiliate of such Competitor and (y) use commercially reasonable efforts to as promptly as practicable enter into a similar transaction with Reuters or provide such goods and services on terms and conditions which are no less favorable to Reuters than the terms and conditions pursuant to which it is entering into such transaction or is providing such goods or service to such Competitor or Affiliate of such Competitor.

(iii) Aether Exclusivity Obligation. During the Aether Exclusive

Period, Aether shall not, and shall not permit any of its Controlled Affiliates to develop or assist in the development of or enter into a joint venture, partnership or similar arrangement with respect to or provide or license its software for use in or provide in any material respect any other goods or services for use in an Equities Product and/or an FX Product (other than an FX Product jointly created by Reuters and Aether) in the United States, other than in conjunction with a Financial Institution in a transaction which complies with clause (iv). The parties agree that Aether's exclusivity obligation under this paragraph with respect to an FX Product shall terminate if Aether and Reuters cease negotiating in good faith and fail to enter into, an agreement for the marketing and distribution of an FX Product. In such a case, the provisions of Section 17(b)(i) shall become applicable to an FX Product.

(iv) Exception to Aether Exclusivity. During the Aether Exclusive Period, Aether shall be permitted to enter into any agreement or transaction, or joint venture or partnership with respect to or provide or license its software for use in or provide in any material respect any other goods or services for use in any product or service which provides wireless transmission of financial data, news or information and/or Financial Transactional Capabilities (including an Equities Product and/or an FX Product) in conjunction with a Financial Institution; provided that (A) such product or service is being created and customized solely for use by employees of such Financial Institution and customers for whom such Financial Institution provides financial advisory, brokerage, sales and trading or investment banking services, (B) Aether uses its commercially reasonable efforts to use or to cause the applicable Financial Institution, joint venture or partnership to use Reuters as the exclusive provider of all data included in such product or service, which data is offered for sale by Reuters, (C) Aether uses its commercially reasonable efforts to use or to cause the applicable Financial Institution, joint venture or partnership to use Reuters MarketClip as the base of any customized product or service created for such Financial Institution, to the extent applicable to the requested product or service, and (D) Aether does not brand or co-brand such product or service with a Competitor. For the avoidance of doubt, this Agreement shall not prohibit Aether from entering into any transaction with a Financial Institution so long as such transaction meets the requirements of clauses (A), (B), (C) and (D) above. The Aether manager designated by Reuters shall be entitled upon request to receive a report from Aether management regarding Aether's efforts referred to in clauses (B) and (C) above.

(c) Reuters Obligations Following Equity Investment. For a period of eighteen (18) months from the consummation of the Equity Investment (the "Reuters Exclusive Period"), Reuters shall not sell, market, promote, or co-brand any Equities Product or FX Product (other than an FX Product jointly created by Reuters

and Aether) in the United States which uses a two-way wireless PDA Device, nor shall it enter into a joint venture or other similar arrangement to effectuate any of the foregoing. For the avoidance of doubt, this Agreement shall in no way prohibit or restrict Reuters' right to sell, transfer, or license any information to any Person for the inclusion of Reuters information in that party's product. In the event that Reuters takes any action after the Reuters Exclusive Period which, if taken during the Reuters Exclusive Period, would have violated this paragraph, Aether shall thenceforth be released from its exclusivity obligations under Section 17(b)(iii) above. The parties agree that Reuters exclusivity obligation under this paragraph with respect to an FX Product shall terminate if Aether and Reuters cease negotiating in good faith and fail to enter into, an agreement for the marketing and distribution of an FX Product.

(d) Non-Solicitation. During the Term of this Agreement and for 6 months after its expiration or termination, neither Reuters nor Aether shall, directly or indirectly, solicit for employment, hire, or employ any person who is employed by or otherwise in the service of the other party, whether as an employee, consultant, independent contractor or otherwise, without the prior written consent of the other party.

(e) Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below.

(i) "Aether Exclusive Period" shall mean the period of time commencing on the date on which the Equity Investment is consummated and ending on the earlier to occur of (x) the consummation of an initial public offering of common stock of Aether (following its conversion to a corporation) and (y) the three year anniversary of the Effective Date; provided that if prior to such three year anniversary Aether consummates a Sale of the Company (as defined in Section 25) to a non-Competitor, this clause (y) shall be reduced to the six month anniversary of the Effective Date.

(ii) "Equities Product" means any service (other than the Product) whose primary purpose is the monitoring of the activities of the U.S. equities market which service provides wireless transmission of data which consists of a substantial amount of any of the following (or a combination of any of the following): (x) real time and/or delayed quotations of equity securities listed on an Exchange and/or (y) news relating to the U.S. equities market. and/or (z) and data or functionality the parties mutually agree shall be an enhancement to the Product. For illustration purposes only and not by way of limitation, an Equities Product would not include a product or service that includes a sufficient amount of fixed income data, news or information, in addition to the data referred to in items (x) and (y) of this definition, as could enable a professional in the fixed income financial services industry to utilize such product or service as a key tool in his business activities.

(iii) "Financial Institution" means any Person, or any Affiliates of such Person, existing as at the date of this Agreement or who come into existence at any time in the future while this Agreement remains in force, the majority of the revenues of which are derived from any (or a combination of any) of the following services: brokerage services, investment banking services, financial advisory services, sales and trading services (via an exchange or automated quotation system), but notwithstanding the foregoing, in no event shall a Financial Institution include a Competitor or a Controlled Affiliate of a Competitor.

(iv) "Financial Transactional Capabilities" means a service that provides users with the ability to enter orders and/or execute transactions in foreign exchange (spot, cross and forward), money markets (deposits), equities, or fixed income instruments. Financial Transactional Capabilities shall also include any other financial transactional products with respect to which Reuters has notified Aether that it is currently offering to customers; provided that to the extent Aether has entered into an agreement with a third party with

respect to such a financial transactional product prior to such notice, Aether shall not be required to comply with the obligations described in Section 17(b)(i) with respect to such financial transactional product.

(v) "FX Product" means any service whose primary purpose is the monitoring of currencies and money markets which service provides wireless

transmission of data which consists of a substantial amount of any (or a combination of any) of the following data: currency spot and cross rates, forward and money market rates, and/or any related futures, options (over the counter and exchange traded) and applicable off balance sheet instruments and any news related to the foregoing.

(vi) "PDA Device" (Personal Digital Assistant) shall mean a wireless device whose primary purpose is to act as a palm-top computer operating system platform that enables low-cost, low-power, small form-factor devices to integrate seamlessly with desktop personal computers, such as the Palm Pilot, Hewlett Packard HP 360LX or a successor version of such products.

18. TERM OF AGREEMENT.

This Agreement shall be effective as of the Effective Date and continue for three (3) years. This Agreement shall automatically renew thereafter for additional one year terms (each, together with the initial three year term, a "Term") unless terminated by either party on at least one hundred and eighty (180) days prior written notice before the end of a given Term.

19. TERMINATION AND EFFECTS OF TERMINATION.

(a) Termination for Breach. Subject to paragraph (b) below, if a party (the "Defaulting Party") is in material breach of or default under this Agreement, and the Defaulting Party does not remedy that breach or default within thirty (30) calendar days after receipt from the other party of written notice of that default or breach, the other party shall after the expiration of such thirty (30) calendar day period have the right to terminate this Agreement unless the Defaulting Party has commenced steps to remedy such breach or default and effects a cure within thirty (30) days of receipt of the default notice. To the extent that a breach or default is not curable or cannot be remedied, the non-Defaulting Party shall be entitled to terminate this Agreement immediately upon notice. For purposes of this Section 19, the parties acknowledge that in addition to other violations of this Agreement which a court may determine to be material, violations of the terms of the licenses granted in Sections 2 and 3 shall be deemed a material breach of this Agreement.

(b) Termination for Persistent and Material Breach. Reuters shall be entitled to terminate this agreement immediately upon notice without giving Aether an opportunity for cure in the event that Aether persistently and materially breaches the terms of this Agreement (regardless of whether such continuing failures to perform or breaches have been cured or are being cured by Aether in accordance with the provisions of paragraph (a) of this Section 19).

(c) Termination in Event of Bankruptcy. Either party may terminate this Agreement at any time by written notice in the event that the other: (i) files a voluntary petition in bankruptcy or under any similar insolvency law; (ii) makes an assignment for the benefit of creditors; (iii) has filed against it any involuntary petition in bankruptcy or under any similar insolvency law if any such petition is not dismissed within sixty (60) days after filing; or (iv) has a receiver appointed for, or a levy or attachment made against, substantially all of its assets, if any such petition is not dismissed or such receiver or levy or attachment is not discharged within sixty (60) days after the filing or appointment.

(d) Termination for failure to be Millennium Compliant. In the event that a party fails to be Millennium Compliant by December 31, 1998, the other party shall be entitled to terminate this Agreement upon 30 days written notice to the non-compliant party and neither party shall have any further liability to the other party as a result of such failure to be Millennium Compliant; provided that both of the parties shall be required to comply with the post termination procedures described in this Section 19.

(e) Obligations upon Termination. Promptly upon termination or expiration of this Agreement for any reason, Aether shall:

(i) delete or destroy any Information in the possession, custody or control of Aether, subject to Aether's obligation to provide the Service to existing Subscribers pursuant to Section 19(e)(vi). At the expiration of the period specified in Section 19(e)(vi), Aether will delete or destroy any Information in the possession, custody or control of Aether;

(ii) permit Reuters to remove the Reuters Equipment and Reuters Software from the Premises, subject to Aether's obligation to provide the Service to existing Subscribers pursuant to Section 19(e)(vi). At the expiration of the period specified in Section 19(e)(vi), Aether will permit Reuters to remove the Reuters Equipment and Reuters Software from the Premises;

(iii) (x) pay or cause to be paid all fees, costs and expenses payable to or in respect of any Third Party Provider, (y) pay all AirBroker Payments, MarketClip Payments, Margin Splits and Cancellation Fees accrued, due and owing to Reuters and (z) remit to Reuters all Taxes required to be collected from Reuters Subscribers, in each case, to the effective date of termination pursuant to Sections 6(q), 13 and 14 of this Agreement;

(iv) return or destroy any Confidential Information of Reuters in Aether's possession, custody or control and terminate any connections and interfaces to Reuters proprietary systems, subject to Aether's obligation to provide the Service to existing Subscribers pursuant to Section 19(e)(vi). At the expiration of the period specified in Section 19(e)(vi), Aether will return or destroy any Confidential Information of Reuters in Aether's possession, custody or control and terminate any connections and interfaces to Reuters proprietary systems;

(v) if the Equity Investment has not been made, turn over to Reuters any Units in its possession, custody or control. Any shipping costs associated with turning over the Units will be for the account of Reuters; and

(vi) cease signing up additional customers for AirBroker and for the Service, cease renewing any subscription agreements with AirBroker Customers and with Aether Subscribers and terminate any AirBroker subscription agreement and any MarketClip Subscription Agreement with any Aether Subscriber which extends more than one year after the date of termination of this Agreement (which termination must be effective no later than the one year anniversary of the date of termination of this Agreement), in each case (x) subject to the parties reaching contrary agreement for the continued use of the Reuters Property by Aether and (y) subject to Reuters right to require Aether to renew and/or not terminate any MarketClip Subscription Agreement with an Aether Subscriber in the event this Agreement was terminated due to a breach by Aether and Reuters intends to purchase Aether's interest in such subscription agreement pursuant to paragraph (h) of this Section. Notwithstanding any other provision of this Agreement, Aether's obligation to license and provide the

Aether MarketClip Software and the System to Reuters and provide Support and administrative services for purposes of providing the Service to existing Subscribers as at the date of termination or expiration shall survive expiration or termination of this Agreement for a period not to exceed the lesser of (i) the effective date of termination of any existing subscription agreements with Subscribers, or (ii) one year; provided, that in the event the parties are negotiating in good faith to reach an agreement pursuant to paragraph (h) of this Section, Aether's obligations pursuant to this sentence shall continue until such an agreement has been reached. Aether shall pay to Reuters the AirBroker Payments, MarketClip Payments and Margin Splits and shall collect Taxes from Subscribers and shall remit to Reuters the Taxes invoiced to Reuters Subscribers and shall pay or cause to be paid to the appropriate Third Party Providers and taxing authorities all amounts due such Person, in each case during any period during which the Service is being provided beyond the Term in accordance with this paragraph. In order to be able to implement this Section 19(e)(vi), Reuters will have, at its sole option, the right to continue to receive the Aether MarketClip Software directly from Aether and to use the System at the Premises or to use the Network and Aether MarketClip Software located at the Back-up Facility for the continued delivery of the Service.

(f) Promptly upon expiration or termination of this Agreement for any reason, Reuters shall:

(i) if the Equity Investment has not been consummated, pay any outstanding Development Fees that have not been paid in accordance with Section 13(c);

(ii) return or destroy any Confidential Information of Aether in the possession, custody or control of Reuters, subject to Reuters obligation to provide the Service to existing Subscribers and AirBroker Customers pursuant to Section 19(f)(iii). At the expiration of the period specified in Section 19(f)(iii), Reuters will return or destroy any Confidential Information of Aether in Reuters possession, custody or control; and

(iii) cease signing up additional customers for the Service, cease renewing any subscription agreements with Reuters Subscribers and terminate any MarketClip Subscription Agreement with any Reuters Subscriber which extends more than one year after the date of termination of this Agreement (which termination must be effective no later than the one year anniversary of the date of termination of this Agreement), in each case, unless Reuters intends to enter into an agreement for its continued use of the Aether MarketClip Software in accordance with Section 19(h). Notwithstanding any other provision of this Agreement, Reuters' obligations to license and provide the Reuters Property to Aether for the purpose of distributing the Information to AirBroker Customers and to Aether Subscribers shall survive termination of this Agreement for a period not to exceed the lesser of (i) the effective date of termination of any existing subscription agreements with AirBroker Customers and Aether Subscribers, or (ii) one year; provided, that in the event the parties are negotiating in good faith to reach an agreement pursuant to paragraph (h) of this Section, Reuters obligations pursuant to this sentence shall continue until such an agreement has been reached.

(g) Survival. The provisions of (i) Sections 10(e) and 17 will survive termination or expiration in accordance with the terms of those Sections, (ii) Section 22 for five years from the expiration or termination of this Agreement and (iii) Sections 19, 20, 21 and 26 will survive the termination or expiration of this Agreement for any reason.

(h) Continued Use of Aether MarketClip Software. Not less than sixty (60) days prior to the expiration of this Agreement, or more than sixty (60) days after the termination of this Agreement by Reuters due to a breach by Aether, Reuters may provide written notice to Aether that it desires to: (i) purchase all right, title and interest in and to the Aether MarketClip Software; (ii) obtain a non-exclusive non-transferable license

to use the Aether MarketClip Software for the purposes of providing the Subscribers with the Product; or (iii) enter into a consulting agreement or some other mutually agreed basis upon which Reuters may continue to use the Aether MarketClip Software to provide Subscribers with the Product. Upon receipt of such notice, Aether and Reuters shall negotiate in good faith the payment terms of such a purchase, license or other arrangement proposed by Reuters. If Aether and Reuters are unable to agree upon a purchase price or license fee for the Aether MarketClip Software within fifteen (15) days (the "Impasse Date") after they have begun negotiating such terms, each of them shall submit a proposal for a purchase price or license fee, as applicable, to an independent investment banking firm of national or regional reputation, in the following manner: First, the parties shall agree on a single investment banking firm. In the event that the parties fail to agree on an investment banking firm within five (5) days after the Impasse Date, each party shall notify the other, within two business days following such five (5) day period, of the identity of an independent investment banking firm of national or regional reputation. The parties shall cause the two investment banking firms so selected to agree, within ten (10) business days after the Impasse Date, on a third investment banking firm to act as the sole appraiser. The parties shall cause the investment banking firm to make its determination of the purchase price or license fee (using the proposals of each party as a guide) within 20 days after the matter was submitted to such firm, and such determination shall be final and binding on the parties hereto. The fees and expenses of any such investment banking firm shall be borne equally by Aether and Reuters. In the event that this Agreement is terminated due to a breach by Aether and Reuters consummates any transaction described in clause (i), (ii) or (iii) of this paragraph, Reuters shall have the right to simultaneously purchase Aether's interest in any existing MarketClip Subscription Agreements between Aether and an Aether Subscriber at a price to be determined by the investment banking appraisal process described above. The investment banking firm determining such price shall be permitted to apply, if it deems appropriate, a discount to the value of Aether's interest in such agreements due to the fact that this Agreement was terminated due to Aether's breach. Nothing in this paragraph shall be deemed to imply that the MarketClip Subscription Agreements between Aether and an Aether Subscriber are wholly owned by Aether.

20. LIMITS ON LIABILITY.

(a) Neither Aether nor Reuters, their Affiliates, employees, agents, contractors, subcontractors, or Third Party Providers will be held liable for any Damages suffered or incurred by the other party or any third Person arising out of (i) any faults, interruptions or delays in the Service; or (ii) any inaccuracies, errors or omissions in the Service, however such inaccuracies, errors or omissions arise, unless due to the other party's gross negligence or willful misconduct.

(b) NEITHER AETHER NOR REUTERS MAKES ANY WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING, EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT.

(c) IN NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL PUNITIVE OR CONSEQUENTIAL DAMAGES IN RESPECT OF THE PROVISIONS OF THIS AGREEMENT, INCLUDING LOST PROFITS, REGARDLESS OF WHETHER SUCH DAMAGES COULD HAVE BEEN FORESEEN OR PREVENTED.

(d) The aggregate monetary liability of one party to the other under this Agreement shall be limited to a total of $1,000,000, except that this limitation shall not apply to payments due Aether and Reuters pursuant

to Sections 13 and 14, and to both parties indemnification obligations pursuant to Section 21.

21. INDEMNIFICATION.

(a) Subject to Sections 20(a), (b) and (c), Aether will indemnify and hold Reuters, its Affiliates and their respective officers, directors and employees harmless from and against any Damages suffered by a third party directly resulting from or arising out of: (i) any claim that the System or the Aether MarketClip Software infringes or misappropriates any U.S. patent right, copyright, trade secret, trade name, trade mark or other similar intellectual property rights of any third Person; and (ii) any misrepresentation or breach of a representation, warranty or covenant of Aether contained herein, except to the extent due to an act or omission of Reuters or a Subscriber.

(b) Subject to Sections 20(a), (b) and (c), Reuters will indemnify and hold Aether, its Affiliates and their respective officers, directors and employees harmless from and against any Damages suffered by a third party directly resulting from or arising out of: (i) any claim that the Reuters Software infringes or misappropriates any U.S. patent right, copyright, trade secret, trade name, trade mark or other similar intellectual property rights of any third Person; and (ii) any misrepresentation or breach of a representation, warranty or covenant of Reuters contained herein, except to the extent due to an act or omission of Aether, an AirBroker Customer or a Subscriber.

(c) A party seeking indemnification pursuant to this Section 21 (an "Indemnified Party") from or against the assertion of any claim by a third party (a "Third Party Assertion") shall give prompt written notice to the party from whom indemnification is sought (the "Indemnifying Party"), provided, however, that failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (except to the extent the Indemnifying Party suffered actual material prejudice by such failure). No Indemnifying Party shall settle any Third Party Assertion without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed, provided, however that the Indemnified Party may withhold its consent if any such judgment imposes a monetary or continuing non-monetary obligation on the Indemnified Party or does not include an unconditional release of the Indemnified Party from all liability in respect of claims that are the subject matter of such Third Party Assertion.

(d) Within ten days of receipt of notice from the Indemnified Party pursuant to Section 21(c), the Indemnifying Party shall have the right, exercisable by written notice to the Indemnified Party, to assume the defense of a Third Party Assertion. If the Indemnifying Party assumes such defense, the Indemnifying Party: (i) may select counsel, which counsel shall be reasonably acceptable to the Indemnified Party; and (ii) shall be obligated to pay the costs (including reasonable attorneys' fees and expenses and costs of investigation) incurred by the Indemnified Party in defending such Third Party Assertion between the date of commencement of such Third Party Assertion and the date of the Indemnifying Party's assumption of such defense.

(e) If the Indemnifying Party: (i) does not assume the defense of any Third Party Assertion in accordance with Section 21(d); (ii) having so assumed such defense, unreasonably fails to diligently defend against such Third Party Assertion; or (iii) has been advised by the written opinion of counsel to the Indemnified Party that the use of the same counsel to represent both the Indemnifying Party and the Indemnified Party would present a conflict of interest, then, upon five days' written notice to the Indemnifying Party, the

Indemnified Party may assume the defense of such Third Party Assertion. In such an event, the Indemnified Party shall be entitled under this Section 21, as part of its damages, to indemnification for the costs of such defense.

(f) The Indemnifying Party, if it shall have assumed the defense of any Third Party Assertion, shall have the right to consent to the entry of judgment with respect to, or otherwise settle, such Third Party Assertion with the written consent of the Indemnified Party, which consent shall not be unreasonably withheld, provided, however, that the Indemnified Party may withhold its consent if any such judgment imposes a monetary or continuing nonmonetary obligation on the Indemnified Party or does not include an unconditional release of the Indemnified Party from all liability in respect of claims that are the subject matter of such Third Party Assertion.

(g) The Indemnifying Party and the Indemnified Party shall cooperate in the defense or prosecution of any Third Party Assertion and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings. hearings, trial or appeals, as may be requested in connection therewith. The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate, at its own expense, in the defense or settlement of any Third Party Assertion which the other is defending.

22. CONFIDENTIAL INFORMATION.

Each party acknowledges that it has received under the Original License Agreement and will, during the Term of this Agreement, receive confidential or proprietary information regarding the business or products of the other party. Each party agrees to the confidentiality provisions set forth on Schedule R and agrees that its obligations under such provisions were effective as of March 10, 1998 and shall survive for a period of five years from the termination of this Agreement.

23. ESCROW.

(a) Within sixty (60) days after the Effective Date, Aether shall place the source code and object code versions of the Aether MarketClip Software and any supporting software interfaces and documentation associated with the System and Aether MarketClip Software as specified in Schedule M (the "Escrowed Material") in escrow pursuant to the terms of a mutually satisfactory escrow agreement in form and content substantially similar to the escrow agreement attached as Schedule N, except that the Release Events shall match those set out below, and Reuters will bear the cost of placing the Software into escrow. The escrow fees shall be paid by Reuters. The parties agree that the following will trigger the release of the Escrowed Material to Reuters (the "Release Events"):

(i) Reuters terminates this Agreement pursuant to Section 19(c); or

(ii) Aether ceases to do business in the ordinary course.

If a release of the Escrowed Materials in accordance with clause (i) above is prohibited by applicable law at the time of such event or if Reuters termination pursuant to Section 19(c) is prohibited by applicable law at the time of such event, a Release Event shall also be deemed to occur if subsequent to such an event described in Section 19(c), Aether breaches its obligations to

provide, support, manage, or monitor the Aether MarketClip Software, the Product and/or the System under this Agreement.

(b) Certain Bankruptcy Provisions. The parties agree that all rights and licenses granted with respect to the Escrowed Materials under or pursuant to this Agreement by Aether to Reuters are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, licenses of rights to

"intellectual property" as defined under Section 101(56) of the Bankruptcy Code. The parties agree that Reuters, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code. The parties further agree that, at any time during the pendency of any bankruptcy proceeding by or against Aether under the Bankruptcy Code prior to the rejection of this Agreement by or on behalf of Aether, upon the written request of Reuters, Aether shall promptly provide to Reuters a complete duplicate of (or complete access to, as appropriate) the Escrowed Materials and all embodiments of such intellectual property. Upon the rejection of this Agreement by or on behalf of Aether, the Escrowed Material and all embodiments of such intellectual property shall be promptly delivered to Reuters.

(c) Assignment of Escrowed Source Code. If the Escrowed Material is released from escrow in accordance with paragraph (a) or upon the rejection of this Agreement in accordance with paragraph (b) above, all right, title and interest, including copyright, in and to the Escrowed Material will thereupon be irrevocably and automatically assigned to Reuters by Aether without payment of any additional consideration.

24. PRESS RELEASES.

Each of Reuters and Aether agrees not to issue, or cause or permit to be issued, any press release or written statement regarding this Agreement and the transactions contemplated hereby without receiving the written approval of the other party of the final version of such release or statement prior to making such release except and to the extent required by law, regulation, court order or the rules of any applicable Exchange or regulatory authority.

25. RIGHT OF FIRST REFUSAL; RIGHT OF NOTICE.

(a) If Aether or any third Party proposes to engage in a Sale of the Company to a Competitor during the Restricted Period (as defined below), Aether shall first offer Reuters the right to acquire Aether in accordance with the provisions set forth below.

(b) Aether shall deliver a written notice (a "Notice of Proposed Sale") to Reuters stating (i) Aether's intention to engage in a Sale of the Company, (ii) the name of the proposed buyer, (iii) the purchase price and terms of payment for Aether, and (iv) all other material terms and conditions of the proposed Sale of the Company, subject to applicable confidentiality restrictions.

(c) Reuters shall have a period of thirty (30) days from the date of delivery of the Notice of Proposed Sale to provide Aether written notice of its decision whether to exercise its right of first refusal to acquire Aether on the same terms and conditions as set forth in the Notice of Proposed Sale. If Reuters does not elect to exercise its option to purchase Aether within thirty (30) days after delivery of the Notice of Proposed Sale Aether may engage in a Sale of the Company to the proposed buyer or its Affiliate identified in, and

on terms no more favorable than those set forth in the Notice of Proposed Sale. If the Sale of the Company contemplated by such Notice of Proposed Sale is not consummated with such proposed buyer within 270 days from the date of the rejection or deemed rejection by Reuters of the right of first refusal, the procedure set forth above with respect to the right of first refusal shall be repeated with respect to any subsequent proposed Sale of the Company.

(d) As used herein, the term "Sale of the Company" means a reorganization, merger or consolidation of Aether as a result of which more than 50% of the membership interests in Aether (or similar

equity securities of any successor entity or in any parent entity) are directly or indirectly changed into or exchanged for property (including cash), rights or securities, or any combination thereof, or upon a direct or indirect sale of all or substantially all the assets of Aether to any other Person that is not a wholly owned subsidiary of Aether, or the direct or indirect acquisition by any Person of membership interests (from Aether or from existing members) representing at least fifty percent (50%) of the post acquisition outstanding membership interests (or other equity securities) of Aether or any parent entity of Aether.

(e) Notwithstanding anything that may be construed to the contrary in Section 25(d), the term "Sale of the Company" shall not include (i) an initial public offering of membership interests in Aether (or similar equity securities of any successor entity) pursuant to a Form S-1 Registration Statement (or an equivalent general registration form then in effect) filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended; (ii) any direct or indirect sale or transfer of membership interests in Aether (or similar equity securities of or substantially all of the assets of, Aether or any successor entity) to, between or among any Persons (and/or their Affiliates) that hold (or is an Affiliate of a Person that holds) membership interests in Aether as of the Effective Date, as disclosed to Reuters by Aether in Schedule Q attached hereto; or (iii) any transaction entered into solely to change Aether's domicile or to change the form of Aether to a different type of entity (e.g., from a limited liability company to a corporation).

(f) The "Restricted Period" shall mean the period beginning on the Effective Date and terminating on the earlier to occur or (1) the effectiveness of the registration statement for an initial public offering of Aether as set forth in Section 25(e)(i) or (2)(x) if the Equity Investment has not been consummated, upon the termination of this Agreement or (y) if the Equity Investment has been consummated, at such time as Reuters and its Affiliates own in the aggregate less than 33% of the number of Units held by Reuters as of the consummation of the Equity Investment, as adjusted for splits, reverse splits, recapitalizations and the like occurring after the consummation of the Equity Investment. Aether shall give Reuters thirty (30) days written notice before filing with the U.S. Securities and Exchange Commission a registration statement referred to in Section 25(e)(i).

26. DISPUTE RESOLUTION.

(a) Good Faith Negotiation. Except as otherwise provided in this Section 26, any controversy, claim or dispute ("Dispute") arising out of or relating to this Agreement shall be settled, if possible, through good faith negotiations between the parties. If the parties are unable to resolve the Dispute within thirty (30) days of commencing such good faith negotiations, such Dispute shall be resolved, in the first instance, through a meeting of Aether's and Reuters designated representatives, in the second instance by

mediation in accordance with Section 26(b), and in the third instance by court proceedings.

(b) Mediation. If the parties are unable to resolve the Dispute through good faith negotiations in accordance with Section 26(a), the parties shall appoint a neutral and impartial third party mediator within ten (10) days of the conclusion of such good faith negotiations. If the parties are unable to agree on a mediator within ten (10) days, the parties shall immediately apply to the American Arbitration Association for appointment of a mediator. Once a mediator has been appointed, the parties shall attempt to resolve the Dispute through mediation within thirty (30) days of commencement of mediation, unless the parties and mediator agree otherwise.

(c) Injunctive Relief. Notwithstanding the foregoing provisions of this Section 26, if either party reasonably determines that it must seek a preliminary injunction or other provisional equitable relief to preserve its business, rights or assets, such party may seek such relief in a court of competent jurisdiction without following the procedures set out in Sections 26(a) and (b).

27. OTHER TERMS AND CONDITIONS.

(a) Regulatory Compliance. This Agreement is, and at all times shall be, subject to applicable federal, state and local laws and to the applicable rules and regulations of the Federal Communications Commission, the Securities and Exchange Commission, and the various Exchanges, and to the applicable rules and regulations of any other applicable regulatory authority, now in effect or hereafter enacted and adopted. Neither party shall be liable to the other if either is prevented from or delayed in fulfilling the terms and conditions of this Agreement by reason of any such applicable law, rule or regulation. Where applicable from time to time, each party shall execute applications to and agreements with the respective Exchanges as may be required and comply with any and all of the aforesaid rules, regulations, approvals, terms and conditions.

(b) Entire Agreement. The Schedules attached hereto are hereby incorporated in and made a part of this Agreement. This Agreement, including the Schedules, represents the entire agreement of the parties, and supersedes any other written or oral representations, agreements or understandings between the parties with respect to the subject matter hereof, including, without limitation, the Letter of Understanding between the parties hereto dated as of August 25, 1997 and the Original License Agreement. Each party hereby releases the other party from any claims such party may have under the Original License Agreement, except for any claims for indemnification for any claims of non-Affiliates.

(c) Costs and Expenses. Except as specifically set forth in this Agreement, each party shall be responsible for all costs associated with its respective responsibilities hereunder.

(d) Notices. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile transmission or similar writing) and given to such party at its address or facsimile number set forth below or at such other address or facsimile number as such party may hereafter specify for such purposes.

To Reuters:

Reuters America Inc.
Jeffrey Maron
199 Water Street
New York, NY 10038
Facsimile No. (212) 859-1872

with a copy to

Reuters America, Inc.
Office of General Counsel
1700 Broadway, 40th floor
New York, NY 10019
Facsimile No. (212) 603-3757

To Aether:

Aether Technologies International, L.L.C.
President
11460 Cronridge Drive
Suite 106
Owings Mills, MD 21117
Facsimile No. (410) 654-6554

Except as otherwise specifically set forth herein, such notice may be by hand delivery, overnight mail, registered mail (return receipt requested) or by facsimile. Notices will be deemed to have been received: (i) if hand delivered or if delivered by overnight delivery service, on the day delivered; (ii) if sent by registered mail, on the third business day after being sent; or (iii) if sent by facsimile, on the day sent provided the transmitting facsimile machine produces a report verifying successful completion of the transmission. If any of the events in (i), (ii) or (iii) above occur after 5pm at the receiving party the notice will be deemed to have been received on the next business day.

(e) Choice of Law. This Agreement shall be deemed to have been executed and delivered in the State of New York and its substantive provisions shall be governed by and construed in accordance with the laws of New York.

(f) Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and permitted assigns. Neither Reuters nor Aether shall assign, sublicense, subcontract or transfer in any manner part or all of this Agreement or any of its rights or obligations hereunder without the prior written consent of the other, which consent may be withheld in the absolute discretion of such party. Notwithstanding anything in the preceding sentence or the terms of Section 3 to the contrary, Reuters may assign, sublicense, subcontract or transfer in any manner part or all of this Agreement or any of its rights or obligations hereunder to an Affiliate without the prior written consent of Aether, provided that such assignment, sublicense, subcontract or transfer does not relieve or release Reuters from any of its obligations under this Agreement. Any purported assignment not expressly permitted by this Agreement shall be void ab initio.

(g) Amendment and Waiver. This Agreement may not be amended, modified or superseded, nor may any of its terms or conditions be waived unless expressly agreed to in writing by Reuters and Aether. The failure of any party at any time or times to require full performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same.

(h) No Set Off. Neither party shall have any right to set off payment of any undisputed sums due and owing to the other party for alleged breach of any unrelated term of this Agreement; provided that the parties agree that Reuters can offset any penalties due to Reuters pursuant to Section 4 and Section 13(d) against amounts owed by Reuters to Aether.

(i) Headings. The section headings of the several clauses and paragraphs of this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

(j) Severability. If any provision of this Agreement is found invalid or unenforceable, that provision will be reformed, construed and enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in full force and effect.

(k) Independent Contractors. Nothing contained in this Agreement shall be construed by the parties hereto, or by any third party, as constituting Reuters and Aether as principal and agent, partners or joint venturers, or to be in any other trust, fiduciary or confidential relationship, nor shall anything herein render Reuters liable for the debts or obligations of Aether, or Aether liable for the debts or obligations of Reuters, it being understood and agreed that the only relationship between Reuters and Aether under this Agreement is that of independent contractors.

(l) Force Majeure. Neither party shall be liable for any Damage or be deemed to be in breach or default of this Agreement if its failure to perform or failure to cure any of its respective obligations hereunder results from any event or circumstance beyond its reasonable control, including, without limitation, availability of wireless digital telecommunications service; any natural disaster, storm, fire, flood, earthquake, or other Act of God; shortage of equipment, materials, supplies, or transportation facilities; strike, walkout or other industrial dispute; war, rebellion, riot or civil unrest; government interference or compliance with any law, regulation, or order (whether valid or invalid) of any governmental body.

(m) Counterparts. This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all counterparts together shall constitute one and the same instrument.

(n) Joint Participation in Drafting this Agreement. The parties acknowledge and confirm that both parties have participated jointly in the drafting, review and revisions of this Agreement and that it has not been written solely by counsel for one party and that each party has had the benefit of its independent legal counsel's advice with respect to the terms and provisions hereof and its rights and obligations hereunder. Each party hereto therefore stipulates and agrees that the rules of construction to the effect that any ambiguities are to be or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor any party against another and that no party shall have the benefit of any legal presumption or the detriment of any burden of proof by reason of any ambiguity or uncertain meaning contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated License, Marketing and Distribution Agreement to be signed on their respective behalves as of the date first set forth above.

REUTERS AMERICA INC.

By: /s/ DEVIN N. WENIG

Devin N. Wenig
Senior Vice President

AETHER TECHNOLOGIES
INTERNATIONAL L.L.C.

By: /s/ David S. Oros

David S. Oros, President CEO

Name and Title (Printed)

SCHEDULE A
PRODUCT DESCRIPTION

The Reuters MarketClip Product is composed of the Units, client-side portion of the Aether MarketClip Software, and the provision of the Service.

1. UNITS

(a) The Units are composed of a handheld computing device and modem.

(b) Two handheld computing devices exist as off-the-shelf hardware, meet the Product's requirements, and are approved for purchase.

(i) Hewlett Packard HP 360LX

(ii) 3Com PalmPilot Professional

(c) Three modems exist as off-the-shelf hardware, meet the Product's requirements, and are approved for purchase.

(i) Sierra Wireless PocketPlus modem (CDPD)

(ii) Novatel Wireless MINSTREL CDPD modem

(d) Integrated units which have the computing device and modem in one unit will be available during the Term. These units will be offered in place of separate computing device and wireless modem, when available.

(e) The parties will continually review the availability and suitability of new handheld computing devices, and modems as alternative Units for the Product.

2. CLIENT-SIDE SOFTWARE

The MarketClip client side software will provide the following functionality:

The Quotes function allows Subscribers to define and manage watch lists. Once defined, Subscribers can request updates on either all the stocks in a watch list or single stocks. The Quotes function also provides option chain retrieval. Also, if there is any news on a Quote instrument, news headlines can also be displayed.

The Alerts function allows Subscribers to define and manage price, volume, and news alerts. After defining custom alerts, the Reuters MarketClip server constantly monitors market conditions and notifies the user when the alert is penetrated. Price Alerts can be set on either market price, close price, or on the per cent price change for individual stocks. Volume Alerts can be set for cumulative volume, bid size, or ask size. The Alerts function

also enables users to set News Alerts. News Alerts can be defined for either all the stocks in an individual's watch list or on single instruments.

The Summaries function provides summary information for selected stock exchanges. For example, a subscriber can request an update of the most active stocks on a particular market. The Summaries function also provides top-level market information including major indices, as well as the number of advancing, declining, and unchanged stocks. Information on specific stock groups, such as Technology, can also be retrieved easily.

The Basic Charting function allows Subscribers to request intra-day or monthly graphs for individual equities. Two types of charts are available: 15-minute intraday and 20 day Interday continuous charts.

The Symbol Lookup allows customers to look up symbols by company name or company names by symbol.

The Portfolio/Watchlist function allows users to define up to ten (10) portfolios/Watchlists using standard Reuters RICS.

SCHEDULE B
SERVICE

The Product will feature one Reuters service - Reuters U. S. Securities, which will be comprised in part from the Information provided by the Exchanges, together with Reuters news. This Service will allow Subscribers to request, review, and set/clear alerts on market information and news for securities traded on the Exchanges. Any addition to the Service may require an amendment to Schedule H, including procedures surrounding permissioning of different Information as part of the Service.

SCHEDULE C
DESIGN AND PERFORMANCE STANDARDS

1. CLIENT SOFTWARE

The client-side Aether MarketClip Software shall perform according to the below matrix. Reuters and Aether will agree on any changes to these performance criteria.

<TABLE>
<CAPTION>

FUNCTION	DURATION + (SECONDS)
<S>	<C>
Redraw Screen After Selecting A New Tab (alerts, market diary information)	2
Request A Single Stock Quote	2
Update a watch list (15 symbols)	5
Draw An Intra-Day or Monthly Graph	2
Update Market Daily Diary Screen	2
Update Stock Groups Performance Screen	5
Update Market Summary Screen	2

</TABLE>

+ The duration values in this column denote a period of time for the particular function to execute, that begins once the handheld computing device has successfully acquired a communications channel and received a reply from the Reuters MarketClip host server. It expressly excludes any and all delays associated with transmission of the information from the Reuters MarketClip host server to the handheld computing device.

2. SERVER SOFTWARE

The Network availability is 24 hours per day, 7 days a week, subject to regular scheduled maintenance, but in no event shall be less than 99.95% per month during the operating hours of the Exchanges, to include one hour before opening and one hour after closing. Aether will provide Reuters with quarterly reports quantifying Network availability as set forth on Schedule E. The Network availability outside the operating hours of the Exchanges shall be reviewed by the parties within 180 days of the sale of the 1,500th Unit.

3. WIRELESS SERVICE REGIONS

The Service shall only be available in those regions with Cellular Digital Packet Data (CDPD) and/or Mobitex telecommunications coverage. In both cases, designation of existing coverage does not imply complete, uninterrupted coverage in that area. Because wireless services use radio frequencies for transmission, various factors can affect signal strength, and therefore, coverage in an area. These include, but are not limited to, location of the Unit within a building, topography in the region of the Unit, weather, and other environmental conditions. As such, Service availability may be degraded or not available in areas thought to have coverage.

SCHEDULE D
PURCHASES, INVENTORY, MAINTENANCE, AND REPAIR

1. PURCHASES AND INVENTORY

(a) The party responsible for purchasing inventory pursuant to the Agreement agrees to purchase the computing devices, wireless modems, carrying cases, and other items the parties agree makeup a Unit, and maintain an inventory at the Premises according to the following schedule.

(i) Reuters has purchased the initial inventory equal to five hundred (500) Units. Aether will purchase all subsequent inventory to maintain the inventory at the Baseline Inventory Level described below.

(ii) In the event that the Baseline Inventory Level is increased prior to the Equity Investment, Reuters will purchase such additional inventory. In the event that the Baseline Inventory Level is increased following the Equity Investment, Aether will purchase such additional inventory.

(iii) Aether will receive orders and ship the Product to Subscribers according to the process defined in Schedule F.

(iv) Aether will send Reuters a quarterly Inventory Management report as set forth on Schedule E.

(v) Aether will monitor the inventory and use the monthly sales projections to order sufficient new Units on a weekly basis to maintain the Baseline Inventory Level (BIL). Promptly following the Effective Date, the parties shall mutually agree on an appropriate BIL. The parties may subsequently mutually agree that the BIL should be increased or decreased.

(b) Aether and Reuters agree that Units used internally by a party hereto for monitoring and development, for sales staff and for corporate executives will be taken from inventory, but the party using such Units will pay for the cost of replenishing the inventory.

2. REPAIR AND MAINTENANCE OF UNITS

(a) Aether will process all Subscriber requests for in-warranty repairs of the Units as follows.

(b) Subscribers will be required to contact the MarketClip Customer Response Center "MCRC" (as described on Schedule I) for all warranty requests.

(c) If the Unit becomes defective within 30-days of receipt of the Unit by the Subscriber:

(i) The Subscriber calls the MCRC for assistance;

(ii) The MCRC troubleshoots the problem to determine if the Unit is defective. If so determined, the MCRC will ask the Subscriber to ship the defective Unit to Aether;

(iii) Aether will test the defective Unit and obtain a replacement for it

from the manufacturer, if found to be defective. Otherwise, the Unit will be returned to the Subscriber, and the Subscriber will be billed a handling fee payable to Aether; and

(iv) if the Unit is found to be defective, Aether will send the Subscriber a fully functional Unit within 5 business days from receipt of the defective Unit from the Subscriber.

(d) If the Unit becomes defective after 30 days of receipt of the Unit by the Subscriber:

(i) The Subscriber calls the MCRC for assistance;

(ii) The MCRC troubleshoots the problem to determine if there is a defective part. If one is found, the MCRC provides the Subscriber with a point of contact and telephone number at the appropriate manufacturer; and

(iii) The Subscriber contacts the manufacturer to arrange for warranty work.

SCHEDULE E

REPORTS

Aether shall produce and deliver to Reuters the reports listed in the Table below. Promptly following the Effective Date, the parties shall cooperate to develop templates for each report required by this Schedule E. Such reports will be delivered electronically by Aether to Reuters to the extent reasonably practicable.

<TABLE>
<CAPTION>

NAME		FREQUENCY	CONTENTS
<S>		<C>	<C>
Inventory Management		Quarterly- Due on the 15th day following the end of the applicable quarter	- Starting Inventory By Device and Modem - Shipments Received By Device and Modem - Shipments Installed By Device and Modem - Exceptions report of all orders not fulfilled within ten (10) business days. - Demonstration/Sales Units Sent/Returned By Device and Modem - Inventory Summary By Device and Modem
MarketClip Response Center	Subscriber	Quarterly- Due on the 15th day following the end of the applicable quarter	- Call Activity - Calls Received By Week - Status of Problems - Open - Closed - Reasons for each cancellation (to the extent known)

Subscriber Reports	Quarterly- Due on the 15th day following the end of the applicable quarter	- Active MarketClip Subscribers - Name and Address - Number of Devices and/or Modems - Activation Date - Shipment Date - Service Permissioned by Device - Exchanges Permissioned by Device - Agreement Termination/Renewal Date - Summary of Active/Canceled MarketClip Subscribers - Summary of Active/Canceled AirBroker Customers

</TABLE>

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NAME	FREQUENCY	CONTENTS
<S>	<C>	<C>
MarketClip/AirBroker Monthly Report	Monthly- Due on the 15th day following the end of the applicable month	- Reuters Monthly Portion of Activation Fees - Number of Units Activated during the Month which Reuters sold - Total Amount of Activation Fee invoiced to new Reuters Subscribers - Reuters Monthly MarketClip and AirBroker Payments - Number of Active MarketClip Units sold by Aether minus number of Free Units as set forth in Section 13(f) - Monthly MarketClip Payments per Active Unit sold by Aether - Number of Active AirBroker Units - Monthly AirBroker Payments due Reuters - Reuters Monthly Margin Split - Number of Active Units sold by Reuters minus number of Free Units as set forth in Section 13(f) - Monthly Margin Split per Active Unit sold by Reuters - Total amount invoiced to Reuters Subscribers - With respect to Reuters Subscribers - Total sales by taxing jurisdiction - Taxable sales by taxing jurisdiction - Exempt sales by taxing jurisdiction - Tax invoiced by taxing jurisdiction - Total tax invoiced for all jurisdictions - Prior to the Equity Investment, amount of Monthly Fees credited toward Development Fee and remaining balance of Development Fee. - Reuters Pro Rata Cancellation Fees -Number of Active MarketClip Units sold by Aether which were canceled -Number of Active MarketClip Units sold by Reuters which were canceled

			-Total Cancellation Fees invoiced (by Reuters Subscriber/Aether Subscriber) - Report shall be accompanied by all invoices sent to Reuters Subscribers (or in the case of Subscribers billed by credit card, packing slip sent with the Units or monthly report generated by Aether's credit card billing system)

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<TABLE>

Exchange Report		Monthly-Due on the 15th day following the end of the applicable month	- By Units (held by both Reuters Subscribers and Aether Subscribers): - Third Party Providers (including Exchanges) Permissioned - Third Party Provider Fees Billed (Directly as well as "Zero Value" on behalf of Persons Billed Directly by Providers) - By Third Party Providers (including Exchanges): -Report on Reportable Units (held by both Reuters Subscribers and Aether Subscribers): - Third Party Provider Correspondence: -Results of any Periodic Audit by Third Party Providers (including Exchanges) - Notice of Price Changes

</TABLE>

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Exchange Report	Reconciliation	Quarterly-Due on the 30th day following the end of the applicable quarter	- By Units - Reconciliation of Third Party Provider Fees Billed vs. Permissioned Units
Wireless Performance	WAN	Quarterly Upon Request-Due upon request for the quarterly period following such request	- Reported Outages By Carrier - Date of Outage - Duration of Outage - Cause of Outage - Time to Restore

MarketClip LAN Performance	Quarterly- Due on the 15th day following the end of the applicable quarter	- LAN Outages
		  - Date of Outage
		  - Duration of Outage
		  - Cause of Outage
		  - Actual Time to Restore
		- Selectfeed Plus Outages
		  - Date of Outage
		  - Duration of Outage
		  - Cause of Outage
		  - Actual Time to Restore
		- Hardware/Software Upgrade Activities
		- Hardware/Software Installation Activities
		- LAN Capacity
		  - Number of Active Users
		  - Current Capacity
		  - Growth Projections

</TABLE>

SCHEDULE F
PRODUCT ORDERING AND PROVISIONING PROCESSES

1. RESPONSIBILITIES

(a) Reuters owns the commercial relationship with the Reuters Subscribers and Aether owns the commercial relationship with the Aether Subscribers. The commercial relationship consists of:

- selling the product to Subscribers and
- securing the MarketClip Subscription Agreement and schedules

(b) Aether shall be responsible for the following with respect to both Aether Subscribers and Reuters Subscribers

- processing all required Exchange agreement forms and providing reports to Reuters on such activities with respect to Aether Subscribers and Reuters Subscribers,
- managing ongoing activity on Subscriber accounts, as required by the Subscriber (e.g. additions/changes/removals of Exchanges),
- issuing invoices to the Subscriber and collecting payments (including Taxes and Fees due to Third Party Data Providers to the extent applicable).

(c) Aether provides the Product to the Aether Subscribers on behalf of itself and provides the product to the Reuters Subscribers on behalf of Reuters. The provisioning process consists of:

- assigning devices to Subscribers;
- entitling the devices to receive only the data specified by Reuters;
- providing the Aether MarketClip Software;

- activating communications to deliver Information to the Units; and

- shipping the devices to Subscribers.

2. COMMUNICATION OF ORDER DETAILS BETWEEN REUTERS AND AETHER

(a) With respect to Reuters Subscribers, Reuters is responsible for providing the following order information to Aether via Lotus Notes electronic mail as described in Section 4.

Company Name
Street Address
Floor
City
State
Zip Code

Shipping Address as above (if different)
Shipping Contact
Shipping Phone Number
Shipping Contact Internet e-mail Address (if available)

Device type
Device Quantity
Exchange Entitlements by Device
User Names (by device)

User Reuters MarketClip e-mail address Prefixes (by Device)

Reuters Account Number (e.g. US12345)
Reuters Order Number (e.g. 12345678)
Reuters AKR for each Device
Order Sales Notes
Reuters Sales Executive Name
Reuters Sales Executive Id
Reuters Sales Executive District Code
Reuters Sales Executive Telephone Number

Reuters Sales Executive e-mail Address (if available)
Reuters Client Administrator Name
Reuters Client Administrator Id
Reuters Client Administrator District Code
Reuters Client Administrator e-mail Address

(b) Aether is responsible for collecting all order information necessary to properly support and track the Subscribers such that Reuters can verify compliance with this Agreement.

(c) Aether will store the information described in paragraphs (a) and (b) in its administration system and shall include the information provided in paragraph (a) in its MarketClip/AirBroker Monthly Report for each Unit sold to a Reuters Subscriber in such period.

(d) For changes to services or orders:

- Reuters is responsible for instructing Aether on all changes to a Subscriber order with respect to Reuters Subscribers, unless such changes are communicated directly to Aether by the Reuters

Subscribers, in which event Aether shall be required to promptly notify the Reuters Sales Executive responsible for the initial sale.

- Changes orders will be processed in the same manner and within the same time frames as new orders.

- Aether is responsible for maintaining all changes to a Subscriber order on the Aether database.

3. BILLING

(a) Aether shall bill all Reuters Subscribers monthly and shall require such Subscribers to remit payment no more than 30 after the invoice date. Such invoices shall itemize all charges including all taxes and exchange fees associated with such charges. With respect to Reuters Subscribers who are billed for the Product by credit card, Aether shall satisfy the foregoing requirement as follows: (i) for sales of Units and Activation Fees, Aether shall send the applicable Subscriber a detailed packing slip specifically enumerating fees and sales tax billed to such Reuters Subscriber and (ii) for ongoing monthly service fees, Aether shall generate a monthly report from Aether's credit card billing system, showing the detail of charges to Reuters Subscribers and specifically enumerating service fees, exchange fees (to the extent applicable) and sales tax billed to such Reuters Subscribers.

(b) Aether shall bill Aether Subscribers timely in order to meet the requirements of the relevant taxing authorities and Third Party Providers and to pay Reuters MarketClip Payments timely.

4. PROVISIONING PROCESS MANAGEMENT AND COMMUNICATIONS

(a) The Reuters Sales Executive making a sale will advise Aether of order dispatch daily using Lotus Notes electronic mail. This advice will consist of the information set forth in Section 2 of this Schedule.

(b) Aether will confirm receipt of order information to such Reuters Sales Executive within 24 hours of the order being entered into the Aether database using Lotus Notes electronic mail.

(c) Aether will advise the designated Reuters Sales Executive and Reuters Central Finance Administrator of the actual ship date using Lotus Notes Electronic mail on the day the Unit(s) is (are) shipped or changes are made to a Reuters Subscribers' entitlements.

(d) (i) Aether will fulfill all new orders at the rate of 25 Units per business day.

(ii) Aether requires a minimum of two (2) business days after order receipt to fulfill a new order;

(iii) the maximum period to fulfill a new order will depend on the existing order backlog and size of the new order.

5. DATA RECONCILIATIONS AND CONTROLS

Reuters Finance will be responsible for monitoring the MarketClip/AirBroker Monthly Reports. To the extent Reuters Finance finds a discrepancy in such reports with Reuters internal reports, Aether will undertake corrective action within 5 business days of the notification from Reuters.

6. PERFORMANCE STANDARDS

a) Aether must permission existing Units for specified types of information within 24 hours of receipt of notice of permissioning changes requested by a Subscriber.

b) Should Aether meet the time requirement as set out in Item 6(a) of this Schedule, but Reuters finds any permissioning inaccuracies, Aether will have a 24 hour period to make the necessary corrections from the time this correction is requested by Reuters.

SCHEDULE G
AETHER LOCAL AREA NETWORK DESCRIPTION

(a) The figure below provides a top level diagram of the Aether Technologies Local Area Network (ATLAN). The network uses Windows NT-based servers to provide the Service. Only those components shown as white boxes with shadowing constitute the ATLAN.

[GRAPHIC]

(b) All network operations center maintenance will be done by Aether network management personnel, and as necessary, qualified contractors.

(c) The network operations aspect of the MarketClip application can be divided into 3 areas: Triarch (Reuters Data Feed), Aether internal private network, and Aether external public network. The installed Triarch system consists of two Reuters connections, one satellite feed to a SDS4 receiver and a dedicated 56K data line.

These connections terminate into the source server, which is an Intel-based PC. The source server has a direct connection into a Sun SparcStation20 running the Reuters Selectserver. The Selectserver shares a hub with the other MarketClip components connected to the Aether internal private network.

(d) The internal network contains a HP Netserver where the MarketClip database resides. This server has two redundant power supplies, dual processors, redundant network interface cards, and dual SCSI channels that host a hot-swappable RAID 5 storage configuration. The server is connected to a firewall through a Cisco 4700 router which is backed up by a Cisco 4500. An

identically configured machine backs up the firewall.

(e) The external network consists of a Windows NT workstation running the UDP front end, and two WAN connections. The UDP front end is a single executable that can run on any machine configured with the appropriate IP address. One WAN connection is a T1 directly into Bell Atlantic. The other is a 56K connection into GTE. Aether intends to establish additional WAN connections with other wireless carriers. MarketClip traffic can be routed down any of these circuits.

(f) Power to all of these devices is backed up by a three phase, 69 amp output UPS, which is backed up by a 3-liter diesel generator.

SCHEDULE H
ENTITLEMENT PERMISSIONING PROCESS

1. NON-RESTRICTED INFORMATION PERMISSIONING PROCEDURES

(a) The permissioning of Information for all Units is the responsibility of Aether. This is controlled through the MarketClip Permissioning System ("MPS").

(b) On receipt of the order requirements (following the process defined in Schedule F), Aether will initiate the assignment of an Internet Protocol (IP) address for each device/modem ordered. The administration system will maintain a record of the device/modem serial number and IP address. This information, along with the desired service levels, and the approved Exchange entitlements are stored in the MPS database. Aether will select the appropriate device/modem, download the Reuters MarketClip software, setup the IP address in the modem, quality test, package, and ship to the Subscriber.

(c) During Product operation, additional security measures by the wireless carriers will limit the unauthorized access to the Information. The wireless carriers have taken extensive measures to limit the possibility of fraudulent end-user devices from mimicking legitimate ones. Each time a user logs onto a carrier network with the wireless device, a counter is incremented on both the network and the wireless device. Each time the Unit signs on, it exchanges authentication credentials along with the counter. If the counter does not match between the wireless device and the Network, that device is permanently suspended. Only by calling the carrier directly, can the device become operational. Once authenticated, each Subscriber request for Information contains the IP address of the requesting Unit. When the request reaches the MarketClip services server, the MPS attempts to verify its IP address against a list of authorized IP addresses. If a match is not found, then the Subscriber's request is not processed. If a match is found, then the MPS proceeds to verify the Subscriber's request against the permissioning for the requesting device. If the Information requested falls within the Subscriber's current permissions then the request is processed and the Information sent back to the requesting Unit. Each Unit stores the Subscriber's current permissions. If the Subscriber makes a request for Information that does not fall within their current permission, the system sends a reply that informs the Subscriber they have requested Information they are not currently authorized to view.

2. RESTRICTED DATA SET PERMISSIONING PROCEDURES

(a) The Aether MarketClip Software will limit Subscribers from making requests for and accessing market information and news other than those presented in its menus and dialogue boxes. The release of this data as part of any product will require development of automated controls as efficient and

effective as those that exist for Reuters Integrated Data Network delivered products.

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SCHEDULE I

PRODUCT SUPPORT

1. CUSTOMER RESPONSE CENTER

(a) Aether shall develop, implement and manage the Reuters MCRC.

(b) "Support Hours" means 8:00 a.m. to 8:00 p.m. Monday through Friday (Eastern Time) except for Exchange holidays.

(c) All Subscribers receiving the Product will contact the MCRC with any problems with the Product or Service. MCRC personnel will answer all telephone inquiries as "Reuters MarketClip Customer Support Center" and perform basic Unit and application trouble shooting for and with Subscribers.

(d) If the MCRC does not receive a response back from the Reuters CRC within 15 minutes with a status of the datafeed outage, the MCRC will escalate the problem to the designated Reuters CRC Technical Manager.

(e) Reuters will provide Aether with a maximum of 40 hours per year of Reuters classroom training for up to 3 individuals, as may be generally made available by Reuters, as related to the support of the Service delivered via the Network. Travel, accommodation, and living expenses of Aether personnel for these training sessions are the responsibility of Aether. The cost of additional courses required by Aether personnel will be agreed on a case by case basis.

(f) MCRC personnel will use their best efforts to resolve all Subscribers' problems brought to their attention in an expeditious manner. Aether shall staff the MCRC with a sufficient number of qualified personnel to meet the requirements of the previous sentence.

2. ESCALATION PROCEDURES

(a) The MCRC will promptly report to the Reuters Customer Response Center "RCRC" via telephone all known datafeed outages between the Reuters Data Center and the Network.

(b) The RCRC will provide the MCRC with a list of escalation contacts during and outside of the RCRC's operating hours, and will agree upon escalation procedures with Aether one month after execution of this Agreement.

(c) The designated Technical Manager at the RCRC will be notified of all emergency upgrades or maintenance work on the Network.

(d) Subject to the cooperation of the wireless communications carriers, Aether shall establish appropriate escalation procedures in the event of an outage in one of the wireless communications networks that support transmission of the Service to Subscribers.

(e) Once Aether either determines or is notified of a significant outage in one of the wireless communications networks, it will execute the following generic escalation procedure with the affected wireless carrier. Aether will, at its sole discretion, determine what constitutes a significant outage in wireless network service. The exact procedure will vary from carrier to carrier.

(i) The MCRC will log the reported outage and document major events, for subsequent reporting, during the carrier's effort to restore service.

(ii) The MCRC will call the carrier's customer support center, open a trouble ticket and obtain an estimate of time to restore service. Aether's MCRC will work with the affected carrier, where appropriate, to help restore service.

(iii) Within 30-minutes of opening a trouble ticket and obtaining an estimate of time to restore service, Aether's Contact Person shall inform Reuters' Contact Person of the outage, affected area(s), and estimated time to restore service.

(iv) Within 30-minutes of opening a trouble ticket and obtaining an estimate of time to restore service, the MCRC will inform the assigned RCRC person of the outage, affected area(s), and the carrier's estimated time to restore service.

(v) The MCRC will monitor the carrier's progress to restore service. If the estimated time to restore service has been exceeded, the MCRC will inform Aether's Contact Person.

(vi) Aether's Contact Person will inform Reuters' Contact Person of the escalation within the carrier's organization, and the MCRC will update the RCRC.

(vii) Once service is restored, the MCRC will close the log and summarize the event with the Aether Contact Person. The MCRC will contact the RCRC with the summary and the Aether Contact Person will review the summary of the event with the Reuters Contact Person.

SCHEDULE J
AIRBROKER SUBSCRIPTION AGREEMENT

This Agreement is entered into as of the Effective Date (as defined below) by and between Aether Technologies International, L.L.C. ("Aether Technologies") and Subscriber for the provision of Financial Data Services.

1. Term. The term of this Agreement shall be for a period of one (1) year from the Effective Date automatically renewable for a term of one (1) year unless Subscriber informs Aether Technologies of its intention to terminate within thirty (30) days before the end of the first year.

2. Services. Subscriber acknowledges that Financial Data Services, and the fees therefor, are provided by Aether Technologies. Fees and expenses for Financial Data Services to be provided are set forth on the

AirBroker Customer Subscription Authorization.

3. Database Information.

(1) The Financial Data Services enables Subscriber to access information, among other things, from various databases including, but not limited to, last sale information, quotation information, and other current securities information ("Database Information"). The Database Information is owned by certain other companies and entities, including but not limited to various securities markets, such as the American Stock Exchange, Inc., Chicago Board Options Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc., National Association of Securities Dealers Automated Quotation system ("NASDAQ") and other stock exchanges, quotation facilities, and their affiliates, and Reuters America, Inc. ("Reuters"), and its affiliates (collectively, "Information Suppliers"), and is protected by copyright. The Database Information is provided solely for Subscriber's personal use, and may not be copied (except in connection with Subscriber's personal, non- commercial use of the Financial Data Services), retransmitted, sold or distributed in any way by Subscriber. The Database Information is and shall remain the property of the Information Suppliers or of a third party licensor of the Database Information to an Information Supplier. Subscriber shall not store the Database Information on any electronic media for a period of more than seven days.

(2) Information Suppliers Disclaimer.The Information Suppliers have no liability for the accuracy or completeness of the Database Information furnished, or for delays or omissions therein. The Information Suppliers have proprietary rights in the Database Information; the Database Information is for Subscriber's personal, internal use only and shall not be redistributed to third parties. Subscriber agrees to be liable to the Information Suppliers for any and all losses, damages, liabilities, costs, charges, and expenses including reasonable attorneys' fees, arising out of any breach or alleged breach on Subscriber's part of the foregoing.

(3) The Information Suppliers do not warrant the timeliness, sequence, accuracy or completeness of Database Information made available, or other market information or messages disseminated, by any Information Supplier. No Information Supplier will be liable in any way to any person for: (a) the content of the Database Information, including any inaccuracy, error, interruption or delay in, omission of or in, or defamatory statement in, (i) Database Information or (ii) the transmission or delay of any such Database Information; or (b) any loss or damage arising from or occasioned by (i) any such inaccuracy, error, delay or omission, (ii) non-performance (iii) interruption in any such Database Information in any case due either to any negligent act or omission by any Information Supplier or to any "force majeure" (i.e. any flood, extraordinary weather conditions, earthquake or any other Act of God, fire, war insurrection, riot, labor dispute, accident, action of government, communication or power failure or equipment or software malfunction) or any other cause beyond the reasonable control of any Information Suppler; or (iv) any decision made or action taken in reliance upon the Database Information, including any trading losses.

(4) Subscriber agrees not to use or permit anyone to use Database Information for any unlawful purpose.

(5) Subscriber agrees to be liable to the Information Suppliers for any and all losses, damages, liabilities, costs, charges and expenses, including reasonable attorneys' fees arising out of any breach or alleged breach of this license on Subscriber's part. Subscriber hereby agrees to indemnify, hold harmless and defend the Information Suppliers from and against any suit, or other proceeding at law or in equity, and from any claim, liability, loss, costs, damage or

expense (including reasonable attorneys' fees) incurred by or threatened against any Information Supplier that arises out of this Agreement.

(6) Subscriber hereby agrees that the Information Suppliers have the right to terminate the provision of Database Information to Subscriber or Aether Technologies with or without notice and that none of the Information Suppliers shall have any liability in connection therewith. Subscriber further agrees that Subscriber's receipt of the Database Information and this Agreement are subject to immediate termination in the event that the applicable agreement between Aether Technologies and such Information Supplier is terminated.

(7) The foregoing limitations of liability, indemnification provisions and disclaimer of warranties are for the express benefit of the Information Suppliers, their predecessors, assigns, and successors, and each of them, which are relying upon the foregoing.

4. Credit Terms. Subscriber understands that it is subject to a credit check by Aether Technologies prior to activation of its NEI and that it must meet Aether Technologies established credit criteria. Subscriber further agrees that Aether Technologies may discontinue provision of Financial Data Services in the event that Subscriber does not adhere to the established credit policies and terms of this Agreement. Subscriber may charge its fees to a valid credit card, in which case Aether Technologies will bill the monthly charge for Financial Data Services to that card.

5. Equipment. Aether Technologies may, but shall not be obligated to, make available Equipment for purchase by Subscriber. In such event, Aether Technologies will provide to customer the terms and conditions for purchase of Equipment.

6. Financial Data Services Reporting and Billing. Payment for Financial Data Services is due within thirty (30) days of receipt of invoice. Overdue balances shall accrue a late payment fee equal to the lesser of one and one-half percent (1.5%) per month on any amount not paid when due, or the highest amount allowable by state law or tariff. The fee shall be paid every month on all outstanding balances and shall be prorated for each day that the payment is overdue. Such late payment fee will not be compounded monthly. If timely payment is not received in full, Aether Technologies may, at its sole option and without limiting any other remedy available under law in this Agreement, disconnect Financial Data Services, subject to a reconnection charge for service restoration. Subscriber shall be responsible for all charges incurred in connection with the provision of Financial Data Services hereunder.

7. Taxes. The amount of any present or future tax applicable to the sale of Financial Data Services shall be paid by Subscriber, or in lieu thereof, Subscriber shall furnish Aether Technologies with a tax-exemption certificate applicable to the appropriate taxing authorities. Aether may charge taxes directly to Subscriber, if Aether, in its sole discretion, determines that it is responsible for the collection of such taxes.

8. Limitation of Liability

(1) Aether Technologies shall not be liable to Subscriber hereunder for interruptions caused by failure of Financial Data Services, failure of communications, power outages, or other interruptions not within the complete control of Aether Technologies. There shall be no credit, reductions, or setoff against the charges for Financial Data Services for downtime or interruption of Financial Data Services unless such Financial Data Services interruption exceeds twenty-four (24) hours in duration. Aether Technologies shall provide a

credit equal to one-thirtieth (1/30) of the recurring monthly charge for Financial Data Services for each twenty-four (24) hour period from the time of notice of interruption until Financial Data Services restoration, provided Aether Technologies receives notice of such interruption.

(2) The liability of Aether Technologies for any cause whatsoever, including, but not limited to, any failure or disruption of Financial Data Services provided under this Agreement, regardless of the form of action, whether in contract or tort or otherwise , including negligence, shall be limited to an amount equivalent to the charges payable under this agreement for Financial Data Services during the period such claim arose.

(3) Notwithstanding any provision contained herein, neither Aether Technologies nor any Information Supplier shall be liable to Subscriber for any special, consequential, exemplary, incidental or punitive damages of any kind,

including, but not limited to, loss of business opportunity, loss of profits, or loss of the use of Equipment, regardless of whether such damages could have been foreseen or prevented.

9. Termination. Aether Technologies may terminate this Agreement if Subscriber fails to pay for Financial Data Services as set forth in this Agreement, or if Subscriber resells or attempts to resell use of Financial Data Services or Equipment provided pursuant to this Agreement or if Subscriber uses the Equipment for any purpose other than for the purposes intended by this Agreement. Aether Technologies may, at its sole option, terminate the provision of Financial Data Services in any Market which Aether Technologies determines, in its best judgment, does not serve its business interests. If Subscriber terminates after the 30-day trial period, but prior to the expiration of the term, there will be a $50 cancellation charge. Upon termination, Subscriber shall destroy or erase any portion of the Database Information in its possession or control regardless of the medium in which it is stored.

10. SERVICE DISCLAIMER. AETHER TECHNOLOGIES, THE INFORMATION SUPPLIERS, AND THE WIRELESS CARRIERS MAKE NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED CONCERNING THE FINANCIAL DATA SERVICES, AND EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTIBILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

11. Wireless Carrier Disclosures. Subscriber acknowledges and agrees that Aether Technologies will transmit the Financial Data Services by means of one or more wireless telecommunications carriers, chosen by Aether Technologies in its sole discretion, and including, without limitation, AT & T Wireless Data, Inc., Bell Atlantic NYNEX Mobile, [____], [Ameritech Mobile Communications, Inc.], or Bell South Wireless Data, [__] (each, a "Wireless Carrier"). Subscriber acknowledges and agrees to the following:

(1) Subscriber has no property right in any number assigned to it.

(2) Subscriber understands that Aether Technologies is an authorized reseller of Wireless Carrier wireless packet data service ("PDCD Service").

(3) Subscriber understands and agrees that it has no contractual relationship whatsoever with any Wireless Carrier and that Subscriber is not a

third party beneficiary of any agreement between Aether Technologies and any Wireless Carrier.

(4) Subscriber understands and agrees that the Wireless Carriers will have no legal, equitable or other liability of any kind to Subscriber. In any event, each Wireless Carrier's total liability arising in connection with this Agreement (regardless of the form of the action) for any cause whatsoever (including but not limited to any failure or disruption of the CDPD Service provided hereunder) is limited to payment of damages in an amount equal to the proportionate fixed monthly charge payable for services provided to Subscriber under the Agreement for the period of service during which such damages occur.

(5) Unless caused by the negligence of Aether Technologies or the Wireless Carrier, Subscriber will indemnify and hold the applicable Wireless Carrier (and its affiliated companies and any of their officers, employees and agents) harmless against all claims (including, without limitation, claims for libel, slander, copyright or patent infringement or any personal injury or death) arising directly or indirectly from Subscriber's use, failure to use, or inability to use the numbers assigned to it or the CDPD Service. This indemnity will survive the termination of this Agreement.

(6) Although CDPD Service uses an encrypted technology, and the laws generally prohibit third parties from monitoring cellular transmissions, the Wireless Carriers cannot guarantee the security of data transmission. Neither any Wireless Carrier nor any underlying carrier shall be liable for any lack of security relating in any way to use of the Service or Subscriber's data transmissions.

(7) Subscriber will not use the CDPD Service to transmit any communication where the message's transmission or distribution would violate any law, court order or regulation, or would likely be offensive to the recipient or recipients thereof.

(8) Subscriber uses the content accessed by the CDPD Service at its own risk.

12. Force Majeure. Aether Technologies, the Information Suppliers, and the Wireless Carriers shall not be liable for any delays or failures to perform resulting directly or indirectly from Acts of God, any governmental authority, accidents and disruptions, including fires, explosives, breakdown of essential machinery or equipment, power shortages, transportation or storage delays, labor difficulties, or failure or delay in its usual source(s) of power, or any other cause which is beyond such person's reasonable control.

13. Regulations. This Agreement shall at all times be subject to the decisions, orders, statutes, and rules of the federal and state regulatory authorities which have jurisdiction over the Financial Data Services provided under this Agreement.

14. Amendment. This Agreement may be amended only in writing signed by both parties hereto.

15. Non-assignment. Subscriber may not assign this Agreement except with prior written consent of Aether Technologies.

16. Non-waiver. Failure by either party to this Agreement to enforce any right shall not constitute a waiver of such right or any other right

and shall not prohibit the exercise of the same right at a future date.

17. Severability. In the event that any provision of this Agreement shall be found to be void or unenforceable, such finding shall not be construed to render any other provision of this Agreement either void or unenforceable.

18. Governing Law. This Agreement is entered into and shall be construed pursuant to the laws of the state of Maryland.

19. Entire Agreement. This Agreement, including all Exhibits, constitutes the entire and only agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous representations, promises or conditions, whether oral or in writing, of sales representatives or other personnel of Aether Technologies or any Information Supplier relating to the Financial Data Services.

20. NEIs. In connection with its provision of Financial Data Services hereunder, Aether Technologies shall provide Subscriber with an NEI to be associated with the provision of Financial Data Services. Subscriber shall acquire no proprietary interest in any such NEI designated for its use, and Aether Technologies reserves the right to change such NEIs or to re-assign such NEIs to other customers.

21. Definitions

(1) "Effective Date" means the date the AirBroker Customer Subscription Authorization and all attachments are received and accepted by Aether Technologies.

(2) "Financial Data Services " means financial market data from various sources including but not limited to prices of publicly traded securities regulated under The Securities Act of 1933 and the Securities Exchange Act of 1934, as amended, to be transmitted to Subscriber over wireless networks.

(3) "Equipment" means equipment of a type accepted by the FCC for use on cellular communications systems and all products and accessories related thereto.

(4) "Market" means the markets in which Aether Technologies provides Financial Data Services or the primary Market in which Subscriber receives services hereunder.

(5) "NEI" means the network equipment identifier which is registered in Equipment certified for use with cellular digital packet data services.

SCHEDULE K
REUTERS EQUIPMENT

(a) Reuters has installed the following equipment (Reuters Equipment) at the Premises.

(i) Select Feed Plus - AMS (all purpose market feed server), Intel-based controller

(ii) AT&T Paradyne Comsphere 3610 DSU

(iii) E070 Display, keyboard

(b) Reuters will install at the Premises at their own expense a second set of Reuters Equipment to ensure redundancy.

SCHEDULE L
MAJOR CUSTOMERS

[Reuters shall provide to Aether a list of its Major Customers within 10 days of the Effective Date.]

SCHEDULE M
ESCROWED MATERIALS

The Escrowed Material shall consist of the following:

1. MarketClip client software for the HP 360LX and PalmPilot Professional Models.

2. MarketClip server software including interfaces to the Reuters Equipment.

3. MarketClip client software user's guide.

4. Details of the deposit; full name and version details, number of media items, media type and density, file or archive format, list or retrieval commands, archive hardware and operating system details.

5. Name and top-level functionality of each module/application of the Source Code.

6. Names and versions of development tools.

7. Documentation describing the procedures for building/compiling the software using the development tools.

8. Hardcopy directory listings of the contents of the media.

9. Name and contact details of employee(s) with knowledge of how to maintain and support the Source Code."

SCHEDULE N

SAMPLE ESCROW AGREEMENT

ESCROW AGREEMENT

BETWEEN:

(1) _____whose registered office is at ("the Owner")

(2) _____whose registered office is at ("the Licensee"); and

(3) NCC ESCROW INTERNATIONAL INC. whose registered office is at 12030 Sunrise Valley Drive, Suite 500, Reston, VA 21901 ("NCC")

PRELIMINARY:

(A) The Licensee has been granted a license (the License) to use a software package (the Package) comprising computer programs.

(B) Certain technical information and documentation ("the Source Code") describing the Package are the confidential property of the Owner and are required for understanding, maintaining and contracting the Package.

(C) The Owner acknowledges that in certain circumstances the Licensee may require possession of the intact version of the Source Code held under this Agreement.

It is agreed that:

1. OWNER'S DUTIES AND WARRANTIES

1.1 The Owner shall:

1.1.1 deliver a copy of the Source Code to NCC within 30 days of the date of this Agreement;

1.1.2 at all times ensure that the Source Code as delivered to NCC is capable of being used to generate the latest version of the Package issued by the Owner to the Licensee and shall deliver further copies of the Source Code as and when necessary;

1.1.3 deliver to NCC a replacement copy of the Source Code within 12 months of the last delivery; and

1.1.4 deliver a replacement copy of the Source Code within 14 days of receipt of a notice served upon it by NCC under the provisions of Clause 3.1.5; and

1.1.5 deliver with each deposit of the Source Code the Information detailed in Schedule 2.

1.2 The Owner warrants that:

1.2.1 it owns the Intellectual Property Rights in the Source Code and has authority to enter into the Agreement;

1.2.2 The Source Code lodged under Clause 1.1 shall contain all information in human-readable form and on suitable media to enable a skilled client-server software developer with additional expertise in middleware for wireless telecommunications to understand, maintain and correct the Package without the assistance of any other person.

2. LICENSEE'S RESPONSIBILITIES

The Licensee may from time to time notify NCC of any change to the Package that necessitates a replacement deposit of the Source Code.

3. NCC'S DUTIES

3.1 NCC shall:

3.1.1 hold the Source Code in a safe and secure environment;

3.1.2 inform the Owner and the Licensee of the receipt of any copy of the Source Code;

3.1.3 in accordance with the terms of Clause 8, perform those tests that form part of its Standard Verification Service

from time to time;

3.1.4 at all times, retain a copy of the latest verified deposit of the Source Code; and

3.1.5 notify the Owner and the Licensee if it becomes aware at any time during the term of this

Agreement that the copy of the Source Code held by it has been lost, damaged or destroyed.

3.2 NCC shall not be responsible for providing the delivery of the Source Code in the event of failure by the Owner to do so.

4. PAYMENT

The Licensee will pay NCC's fees as detailed in Schedule 3.

5. RELEASE EVENTS

5.1 Subject to the provisions of Clauses 5.2 and 5.3, NCC will release the Source Code to a duly authorized officer of the Licensee if any of the following events occur:

5.1.1. the Owner (i) files a voluntary petition in bankruptcy or under any similar insolvency law; (ii) makes an assignment for the benefit of creditors; (iii) has filed against it any involuntary petition in bankruptcy or under any similar insolvency law if any such petition is not dismissed within sixty (60) days after filing; or (iv) has a receiver appointed for, or a levy or attachment made against, substantially all of its assets, if any such petition is not dismissed or such receiver or levy or attachment is not discharged within sixty (60) days after the filing or appointment; or

5.1.2 the Owner ceases to do business in the ordinary course;

5.1.3 following any event described in Section 5.1.1, to the extent the Source Code has not yet been released due to any prohibition by law or otherwise, in the event Owner breaches its obligations to provide, support, manage, or monitor the Package (including the Aether MarketClip Software, the Product and/or the System, each term as defined in the License Agreement) under the License Agreement.

5.2 The Licensee must notify NCC of the event(s) specified in Clause 5.1 by

delivering to NCC a statutory or notarized declaration ("the Declaration") made by an officer of the Licensee attesting that such event has occurred and that the License was valid and effective up to the occurrence of such event and exhibiting:

5.2.1 such documentation in support of the Declaration as NCC shall reasonably require;

5.2.2 a copy of the License Agreement; and

5.3 Upon receipt of a Declaration from the Licensee claiming a release event under Clause 5.1.3;

5.3.1 NCC shall send a copy of the Declaration to the Owner by registered mail; and

5.3.2 unless within 14 days after the date of delivery of such copy to Owner, the Owner delivers to NCC a counter notice signed by a duly authorized officer of the Owner that no such failure has occurred or that any such failure has been rectified

then NCC will release the Source Code upon receipt of the release fee stated in Schedule 3.

5.4 Where there is any dispute as to the occurrence of any of the events set out in Clause 5 or the fulfillment of any obligations referred to therein, such dispute will be referred at the request of either the Owner or the Licensee to arbitration in accordance with Clause 12.

6. CONFIDENTIALITY

6.1 The Source Code shall remain the confidential property of the Owner and in the event that NCC provides a copy of the Source Code to the Licensee, the Licensee shall be permitted to use the Source Code for the purpose of understanding, maintaining and correcting the Package exclusively on behalf of the Licensee. The Licensee shall not use the Source Code for any other purpose nor disclose it to any person save such of employees or contractors who need to know the same in order to understand, maintain and correct the Package exclusively on behalf of the Licensee.

6.2 NCC agrees to maintain all information and/or documentation coming into its possession or to its knowledge under this

Agreement in strictest confidence and secrecy. NCC further agrees not to make use of such information and/or documentation other than for the purposes of this Agreement and will not disclose or release it other than in accordance with the terms of this Agreement.

6.3 Termination of this Agreement will not relieve NCC or its employees or the Licensee or its employees from the obligations of confidentiality contained in this Clause 6.

7. INTELLECTUAL PROPERTY RIGHTS

The release of the Source Code to the Licensee will not act as an assignment of any Intellectual Property Rights that the Owner possesses in the Source Code.

8. VERIFICATION

8.1 Subject to the provisions of Clauses 8.2 and 8.3, NCC shall have no obligation or responsibility to any person, firm, company or entity whatsoever to determine the existence, relevance, completeness, accuracy, effectiveness or any other aspect of the Material.

8.2 Upon the Source Code being lodged with NCC, NCC shall perform those tests in accordance with its Standard Verification Service from time to time and shall provide a copy of the test report to the parties in this Agreement.

8.3 The Licensee shall be entitled to require NCC to carry out a Full Verification. Any reasonable charges and expenses incurred by NCC in carrying out the Full Verification will be paid by the Licensee.

9. NCC'S LIABILITY

9.1 NCC shall not be liable for loss or damage caused as a result of any action carried out by NCC in good faith as reasonably believing it to be within the authorities conferred by this Agreement.

10. TERMINATION

10.1 NCC may terminate this Agreement after failure by the Licensee to comply with a 30-day written notice from NCC to pay any outstanding fees.

10.2 NCC may terminate this Agreement by giving 60 days written notice to the Owner and the Licensee. In that event, the Owner and the Licensee shall appoint a mutually acceptable new custodian on terms similar to those contained in this Agreement.

10.3 If a new custodian shall not have been appointed within 30 days of delivery of any notice issued by NCC, in accordance with the provisions of Clause 10.2, the Owner or the Licensee shall be entitled to request the President for the time being of the British Computer Society to appoint a suitable new custodian upon such terms and conditions as he shall require. Such appointment shall be final and binding on all parties.

10.4 If the License has expired or has been lawfully terminated, this Agreement will automatically terminate on the same date.

10.5 The Licensee may terminate this Agreement at any time by giving written notice to the Owner and NCC.

10.6 The Owner may only terminate this Agreement with the written consent of the Licensee.

10.7 This Agreement shall terminate upon release of the copy of the Material to the Licensee in accordance with Clause 8.

10.8 Upon termination under the provisions of Clauses 10.2, 10.4, 10.5 or 10.8, NCC will deliver the Source Code to the Owner. If NCC is unable to trace the Owner, NCC will destroy the Source Code.

10.9 Upon termination under the provisions of Clause 10.1, the Source Code will be available for collection by the Owner from NCC for 30 days from the date of termination. After such 90 day period, NCC will destroy the Source Code.

10.10 NCC may forthwith terminate this Agreement and destroy the Source Code if it is unable to trace the Owner having used all reasonable endeavors to do so.

11. BANKRUPTCY

11.1 The owner and the Licensee acknowledges that this Agreement is an Agreement supplementary to the License as provided in Section 365(n) of Title II, United States Code ("Bankruptcy Code"). The Owner acknowledges that if the Owner, as a debtor in possession or a trustee in Bankruptcy in a case under the Bankruptcy Code, rejects the License Agreement or this Agreement, the Licensee may elect to retain the rights under the License Agreement and this Agreement as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the Licensee to the Owner or the Bankruptcy Trustee, the Owner or such Bankruptcy Trustee shall not interfere with the right of the Licensee as provided in the License Agreement and this Agreement including the rights

to obtain the Source Code from NCC. If the Trustee rejects the License Agreement or this Agreement and Licensee elects to retain its rights, upon written request of Licensee to the Trustee, Trustee shall provide the Source Code to Licensee.

12. ARBITRATION

12.1 Where there is any dispute as to the occurrence of any of the events set out in Clause 5.1 or the fulfillment of any obligations detailed in that Clause, such dispute shall be submitted to and settled by an arbitrator chosen by NCC from the [Virginia Office] of the American Arbitration Association in accordance with the rules of the American Arbitration Association. The arbitrator shall apply [Virginia] law. The arbitrator shall be reasonably familiar with the computer software industry. The decision of the arbitrator shall be binding and conclusive on all parties involved and judgment upon his decision may be entered in a court of competent jurisdiction. All costs of the arbitration incurred by NCC, including reasonable attorneys' fees and costs, shall be paid by the party which does not prevail in the arbitration; provided, however, if the arbitration is settled prior to a decision by the arbitrator, the Owner and the Licensee shall each pay 50% of all such costs.

13. TERM OF THE AGREEMENT

This Agreement shall have an initial term of two (2) years. The term shall be automatically renewed on a yearly basis thereafter, unless Owner, Licensee or NCC notifies the other parties in writing at least forty-five (45) days prior to the end of the then current term of the intention to terminate this Agreement.

14. WAIVER

Any term of this Agreement may be waived by the party entitled to the benefits thereof, provided that any such waiver must be in writing and signed by the party against whom the enforcement of the waiver is sought. No waiver of any condition, or of the breach of any provision of this Agreement, in any one or more instances, shall be deemed to be

a further or continuing waiver of such condition or breach. Delay or failure to exercise any right or remedy shall not be deemed the waiver of that right or remedy.

15. MODIFICATION OR AMENDMENT

Any modification or amendment of any provision of this Agreement must be in writing, signed by the parties hereto and dated subsequent to the date hereof.

16. HEADINGS

The heading appearing at the beginning of the sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used to determine the construction or interpretation of this Agreement.

17. SEVERABILITY

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

18. COUNTERPARTS

This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

19. INDEMNITY

Owner and Licensee shall, jointly and severally, indemnify and hold harmless NCC and each of its directors, officers, agents, employees and stockholders ("NCC Indemnities") absolutely and forever, from and against any and all claims, actions, damages, suits, liabilities, obligations, costs, fees, charges and any other expenses whatsoever, including reasonable attorneys' fees and costs, that may be asserted against any NCC Indemnitee in connection with this Agreement or the performance of NCC or any NCC Indemnitee hereunder, unless such loss arises or results as a direct consequence of the gross negligence or willful misconduct of NCC or any NCC Indemnitee.

20. GENERAL

20.1 This Agreement shall be governed by and construed in accordance with the laws of the [State of Virginia.]

20.2 This Agreement represents the whole agreement relating to the escrow arrangement between the parties for the Source Code and supersedes all prior arrangements, negotiations and undertakings, written or oral.

20.3 All notices or communications to be given to the parties under this Agreement shall be determined to have been duly given or made when delivered personally or 7 days after posting or if sent by facsimile, 12 hours after dispatch to the party to which such notice or communication is required to be given or made under this Agreement addressed to the principal place of business or for companies based in the UK, the registered office.

SCHEDULE 1

THE SOURCE CODE

The source code of the Package known as _____ to be supplied on

SCHEDULE 2

SOURCE CODE: TECHNICAL INFORMATION

THE SOURCE CODE SHALL BE SUPPLIED WITH DETAILS OF THE FOLLOWING:

1. MarketClip client software for the HP 360LX and PalmPilot Professional Models.

2. MarketClip server software including interfaces to the Reuters Equipment.

3. MarketClip client software user's guide.

4. Details of the deposit; full name and version details, number of media items, media type and density, file or archive format, list or retrieval commands, archive hardware and operating system details.

5. Name and top-level functionality of each module/application of the Source Code.

6. Names and versions of development tools.

7. Documentation describing the procedures for building/compiling the software using the development tools.

8. Hardcopy directory listings of the contents of the media.

9. Name and contact details of employee(s) with knowledge of how to maintain and support the Source Code.

SCHEDULE 3

NCC'S FEES

<TABLE>
<CAPTION>
DESCRIPTION FEE

1.	Initial Fee (payable on completion of this Agreement	1000
2.	Annual Fee (payable on completion of this Agreement and on each anniversary thereafter)	800
3.	Update Fee (per update after the first 4 updates per annum)	100
4.	Storage Fee (per annum, per cubic foot payable if the source code exceeds 1 cubic foot)	100
5.	Release Fee (plus NCC's reasonable expense)	600

Signed on behalf of: AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.

Name: _____ _____
(Authorized Signature)

Position: _____

Signed on behalf of: REUTERS AMERICA INC.

Name: _____ _____
(Authorized Signature)

Position: _____

Signed on behalf of: NCC ESCROW INTERNATIONAL, INC.

Name: _____ _____
(Authorized Signature)

Position: _____

SCHEDULE O

I. REUTERS TRADEMARKS

[MARKETCLIP REUTERS GRAPHIC]

[REUTERS GRAPHIC]

II. TRADEMARK USAGE GUIDELINES

Graphical Uses of Aether, Reuters and Reuters MarketClip Logos.

[AETHER LOGO]

1. The Aether logo will always be accompanied by the tag line "Network Services by," as depicted above, when used on materials relating to Reuters MarketClip. Aether logo and tag line shall not be required to be used on advertisements or promotional materials featuring Reuters MarketClip where Reuters determines in its reasonable discretion that the need for simplicity or the lack of space makes it advisable to omit the Aether logo and line. Likewise, Reuters corporate logo shall not be required to be used if Aether makes a similar determination. However, the Reuters MarketClip logo should always appear on such material in one of its approved forms.

2. To avoid brand confusion, Aether logo must always be considerably smaller and less prominent than the "Reuters MarketClip" logo. Generally, recommended size is 1 inch square. When the Reuters corporate logo is used in an ad or other promotional piece which also features the Aether logo, these two logos shall be approximately the same height, so that neither dominates the other.

3. Aether logo and line are not part of the logo, nor do they constitute a tag line. They should not appear directly underneath or close to the Reuters MarketClip logo. In a page layout, they should appear in a different quadrant than the MarketClip logo.

4. Aether logo and line will be reproduced in the official logo colors (black and PMS blue 286) or all in black, depending on the usage.

5. Aether logo and line may appear on MarketClip product literature, manuals and web site pages only in a

lower corner (right or left).

6. To avoid customer confusion, communications to MarketClip customers by Aether shall always be on Reuters MarketClip logo letterhead which includes both the Reuters MarketClip logo and the Aether logo and which also includes the Aether contact information.

7. In text, the word MarketClip shall always be preceded by Reuters, and should never by preceded by Aether or used without mention of Reuters (unless repeated in a paragraph where Reuters MarketClip has been previously mentioned).

8. The following language shall be included wherever the Reuters MarketClip trademark is used: "Reuters MarketClip is a trademark, and Reuters and the dotted and sphere logos are registered trademarks, of Reuters Limited." The first use of Reuters MarketClip in a piece should be followed by the "TM" symbol.

9. In each release of the Aether MarketClip Software, one of the two approved low-res bitmap forms of the Reuters MarketClip logo shall appear on the "Splash" screen (the first screen to appear when the user logs on) and on the "About" screen in the upper left corner. These two logos have been provided to Aether as the following documents: MKLOG127.BMP (dated 2/27/98) and MKTLO188.BMP (also dated 2/27/98), respectively.

In addition, the "About" screen and the "Splash" screen should also include a shared copyright statement (e.g., "Copyright 1998 Aether Technologies and Reuters Limited"), and the trademark statement: "Reuters and the dotted and sphere logos are registered trademarks, and Reuters MarketClip is a trademark, of Reuters Limited."

Other product screens and dialog boxes shall include the full product name "Reuters MarketClip" in the title bar or status bar, except where including them would significantly impede a user's ability to see a meaningful display of financial information, or where the operating system prevents the display of this number of characters.

All news headlines and news story displays will include an attribution to Reuters.

Aether and Reuters also agree to explore other product branding opportunities such as the possibility of silk-screening the Reuters MarketClip logo on the hardware unit. These uses will employ the higher-resolution versions of the logo as described in point 10 below.

10. In print, one of the following high-resolution Reuters MarketClip logo files which have been previously provided to Aether shall be used -- MKTLOGO.EPS, dated 2/24/98, which is a two-color file (PMS blue 286 and PMS orange 152), or MKLOGBW.EPS, dated 3/4/98, which is a black and white version of the logo. The preferred positioning of this logo is in a left-hand or right-hand corner. Except where costs or the medium prohibit color, MKTLOGO.EPS (the color file) shall be used.

11. In print, one of the three following high-resolution Reuters corporate logos files which have been previously provided to Aether shall be used -- SIG_COL.EPS, dated 1/20/97, which is a two-color file (PMS blue 286 and PMS orange 152), or SIG_BLK.EPS, dated 1/20/97, which is a black version of the logo, or SIG_WHT.EPS, dated 1/20/97, which is a white version of the logo for use against a dark background. A clear, empty space equal to no fewer than 10 of the Reuters dots shall be left around this logo on all sides. The Reuters corporate logo shall be positioned in a left-hand or right-hand corner of a page or other display area.

12. All uses of the Reuters logo shall abide by any other written standards as set forth by Reuters.

SCHEDULE P
MARKETCLIP SUBSCRIPTION AGREEMENT

[REUTERS GRAPHIC]

REUTERS MARKETCLIP(TM) SUBSCRIBER AGREEMENT

CLIENT NAME: ("Subscriber")

STREET:

CITY/STATE/ZIP:

REUTERS AMERICA INC., ("REUTERS") WITH OFFICES AT 1700 BROADWAY, NEW YORK NEW YORK 10019 AND SUBSCRIBER, BY THEIR SIGNATURES BELOW AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. SUBJECT TO THE TERMS AND CONDITIONS OF THIS

AGREEMENT, REUTERS WILL SUPPLY THE PRODUCT TO SUBSCRIBER.

THIS AGREEMENT INCORPORATES ALL OF THE SCHEDULES ATTACHED. SUBSCRIBER AGREES IT HAS READ AND AGREES TO ALL OF THE ATTACHED AND INCORPORATED TERMS AND SCHEDULES.

<TABLE>
<CAPTION>
ACCEPTED: [SUBSCRIBER] ACCEPTED: REUTERS AMERICA INC.

<S> <C>
BY: BY:
---------- ----------

NAME: NAME:
---------- ----------

TITLE: TITLE:
---------- ----------

DATE: DATE:
---------- ----------
</TABLE>

1. DEFINITIONS

"ACTIVATION CHARGE" means the one-time charge Reuters will levy on Subscribers for each unit of the Product subscribed for pursuant to this Agreement, as set out in the Schedule.

"AGREEMENT" means this agreement together with its Schedules.

"AGREED LEVEL" means the percentage change in the most recently published consumer price index for all urban consumers as issued by the Bureau of Labor Statistics of the U.S. Department of Labor in the New York, New Jersey metropolitan area as compared with that index published 12 months earlier.

"CHARGES" means the Service Fees and any related charges.

"DOCUMENTATION" means the user guide and related documentation for the Product.

"EQUIPMENT" means the portable units and wireless modems purchased by the Subscriber from Reuters or owned by the Supplier and which are used to access the Service. The makes of Equipment that will enable access to the Service are set out in the Schedule.

"INFORMATION PROVIDERS" means a client of Reuters or other third party, including any stock, futures or commodity exchange whose data is contained in the Service.

"MESSAGE" means any electronic communication, regardless of the medium in or on which it is recorded, sent or to be sent (i) by the Subscriber or on the Subscriber's behalf; (ii) by or on behalf of a User; or (iii) to the Subscriber or a User.

"PRODUCT" means Reuters MarketClipTM, which consists of the Software, and Documentation, and the Service as accessed by means of the Equipment.

"REUTERS GROUP" means Reuters Group Plc and any of its direct or indirect subsidiaries.

"SERVICE" means the Reuters information service specified in the Schedule, which will consist of data supplied by Reuters and by Information Providers.

"SERVICE FACILITATOR" means any third party Reuters uses to deliver the Product to the Subscriber.

"SERVICE FEES" means the monthly charges Reuters makes to Subscriber for the supply of each unit of the Product as specified in the Schedule.

"SERVICE HOURS" means the hours, set out in the Schedule, during which Reuters will provide Support to the Subscriber.

"SOFTWARE" means the application software that needs to be loaded onto the Equipment in order for the Equipment to access the Service.

"USER" means any person designated by the Subscriber as being entitled to use the Product.

"VIRUS" mean any code or device which may impair or otherwise adversely affect the operation of any computer, prevent or hinder access to or the operation of any program or data (whether by rearranging within the computer or any storage medium or device, altering or erasing the program or data in whole or in part, or otherwise), including computer viruses, worms, trojan horses and other similar things.

"WIRELESS CARRIERS" has the meaning set out in Section 15.1.

2. SCOPE

2.1 In consideration of the payment of the Service Fees, Reuters will supply the Subscriber with access to the Product by means of the Equipment, for use in those areas of the United States where wireless packet data telecommunications coverage is available.

2.2 The Service will be provided either on Equipment sold to the Subscriber by Reuters in accordance with the terms of Section 11, or on Equipment which the Subscriber owns and onto which Reuters loads the Software to access the Service.

2.3 If during the term of this Agreement, the Subscriber wishes to subscribe to additional units of the Product, it may do so by completing an additional Schedule to this Agreement, which will become effective once countersigned by Reuters.

3. TERM

This Agreement will take effect from the date of signature by Reuters and will continue for an initial term of one year. This Agreement will automatically renew for further periods of one year unless either party gives the other 90 days written notice of its intention not to renew prior to the expiration of the initial term or any further term.

4. USE OF THE PRODUCT

4.1 The Subscriber will ensure that each User will comply with the terms of this Agreement, and the Documentation, as amended from time to time, and any instruction issued by Reuters with respect to the use of the Product.

4.2 The Subscriber will immediately notify Reuters if any User ceases to be a User, and will use the Subscriber's best efforts to prevent that person from accessing the Product. The Subscriber will administer any addition and deletion of Users and Equipment serial numbers, and will promptly notify Reuters of such changes in writing.

4.3 Reuters will be entitled, on reasonable grounds, including the reasonable belief of fraud by any User in their use of the product to terminate access to the Service by that User.

4.4 The Subscriber will ensure that Users do not redistribute or transmit any information or other content obtained from the Service other than limited extracts of such information or content distributed in response to their customers' specific ad-hoc inquiries, provided that such extracts are attributed to Reuters and are not automatically redistributed from the Product.

4.5 The Subscriber understands and agrees that the information contained in the Service will not be updated unless and until the User sends a request for updated information.

4.6 Reuters grants the Subscriber a non-exclusive, non-transferable license to use the Software contained as part of the Product, provided the Subscriber does not:

(a) make available or distribute all or any part of the Software or Documentation to any third party whether by assignment, sublicense or by any other means; or

(b) copy, adapt, reverse engineer, decompile, disassemble, or modify, in whole or in part, any of the Software, except as allowed by this Agreement;

5. CHARGES

5.1 The Subscriber will pay the Service Fees and Activation Charge for each individual unit of the Product made available by Reuters to the Subscriber, and the following related charges:

(a) charges for data forming part of the Service supplied by Information Providers;

(b) all applicable taxes and duties (excluding any taxes imposed on the income of Reuters), payable in respect of the Product.

5.2 Reuters will endeavor to provide reasonable notice of any change to the related charges referred to in Section 5.1, but the Subscriber agrees that these may change at any time without notice if the charge is imposed on Reuters by any third party.

5.3 The Service Fees for each unit of the Product are payable from 3 business days after the shipment of the Equipment to the Subscriber. Reuters will invoice the Subscriber for the Charges. The Subscriber will pay the Charges in full within the time specified on the invoice. Unless otherwise specified in the

Schedule, Charges are payable monthly in advance.

5.4

(a) Reuters may adjust or change the basis of calculation of the Service Fees for the Product on not less than 3 months' prior notice, to take effect on January 1 of the following year.

(b) The Subscriber may cancel the Product if the Service Fees taken over the 12 months preceding the date of Reuters notice referred to in Section 5.4(a) are to be increased above the Agreed Level.

(c) If the Subscriber chooses to exercise the right to cancel in Section 5.4(b), the Subscriber must give Reuters written notice within 30 days of the date of our notice referred to in Section 5.4(a) and the Product will be canceled on the date on which the Service Fees would have increased.

5.5 As a condition to Subscribers receipt of the Product, Reuters may require a security deposit or irrevocable bank guarantee from the Subscriber. Reuters may use the security deposit or invoke the bank guarantee to recover any overdue Charges.

6. TERMINATION

6.1 Either party may terminate the Agreement in whole or in part by written notice if the other is in breach of any of its material obligations under the Agreement and fails to remedy such breach within 30 days of written request.

6.2 Either party may terminate the Agreement immediately and without notice if the other makes an assignment for the benefit of its creditor, files or has filed against it at a petition under any bankruptcy, insolvency, reorganization or similar law, seeks a trustee or receiver appointed for any of its property or commences (by resolution or otherwise) the liquidation or winding-up of its affairs.

6.3 Reuters may cancel the Product or a part of the Service delivered via the Product, as the case may be, by written notice to the Subscriber if the provision of all or part of the Product or Service;

(a) depends on an agreement between a Reuters Group member and a third party and that agreement is modified or terminated for any reason or breached by the third party and as a result Reuters are unable to continue to provide all or part of the Product or Service upon terms reasonably acceptable to Reuters; or

(b) becomes illegal or contrary to any requirement of any exchange or regulatory authority.

6.4 Reuters may, on 6 months' written notice, cease providing the Product if Reuters withdraws it from sale in the United States.

6.5 If Sections 5.4(c), 6.3 or 6.4 applies Reuters only obligation to the Subscriber will be to refund the part of the Service Fees paid in advance for the canceled part of the Product.

6.6 If the Subscriber:

(a) cancels any Product other than when permitted by the Agreement; or

(b) is in breach of any payment obligation under the Agreement entitling Reuters to terminate this Agreement,

Reuters will be entitled to recover from the Subscriber as liquidated damages an amount equal to 75% of the relevant Service Fees which would have been payable until the end of the current term. Both parties agree that this constitutes a realistic pre-estimate of Reuters loss and will not be construed as a penalty.

6.7 Upon expiration or termination of the Agreement in whole or in part, unless otherwise specifically agreed between the parties, the Subscriber must delete any Software supplied with the terminated Product and, if requested by Reuters, certify the deletion in writing.

7. LIABILITY

7.1 Although Reuters will use all reasonable endeavors to ensure the accuracy and reliability of the Services delivered via the Product, neither Reuters nor any other member of the Reuters Group, nor any Information Provider, nor any Service Facilitator or other third party supplier will be liable for any loss

or damage in connection with the provision of or failure to provide the Services except as set out in Section 7.3.

7.2 The Subscriber further acknowledges and accepts that due to the inherent limitations of wireless packet data telecommunications, neither Reuters nor any Service Facilitator nor Wireless Carrier guarantees the reception of the Service via the Equipment in any location.

7.3 The Reuters Group accepts liability only for:

(a) death or personal injury caused by Reuters negligence; or

(b) any other direct loss or damage caused by Reuters gross negligence or willful misconduct.

7.4 EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ALL EXPRESS OR IMPLIED CONDITIONS, WARRANTIES OR UNDERTAKINGS, WHETHER ORAL OR IN WRITING, INCLUDING WARRANTIES AS TO MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

7.5 NEITHER REUTERS, NOR ANY MEMBER OF THE REUTERS GROUP, NOR ANY INFORMATION PROVIDER, NOR ANY SERVICE FACILITATOR OR OTHER THIRD-PARTY SUPPLIER WILL BE LIABLE TO THE SUBSCRIBER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE ARISING OUT OF THIS AGREEMENT.

7.6 The Subscriber agrees to indemnify Reuters, its affiliates, agents, Service Facilitators and third party suppliers from any loss, claims or damages (including reasonable attorney's fees) arising from the Subscribers breach of Sections 4.2, 4.4 or 4.6.

7.7 To the extent permitted by law and except for Section 7.3(a), under no circumstances will Reuters or any Service Facilitators liability under the Agreement exceed 1 year's Service Fees for the Product, regardless of the cause or form of action.

7.8 Neither party, nor any Service Facilitator will be held liable for any loss or failure to perform an obligation due to circumstances beyond its reasonable control. Should such circumstances continue for more than 3 months, either party may terminate this Agreement.

8. SUBSCRIBER OBLIGATIONS

8.1 The Subscriber will:

(a) not, without Reuters prior written consent, make any alteration, addition, connection or interface to the Product;

(b) enter into any applicable Exchange agreements necessary to use the product prior to receiving the Service; and

(c) comply with the requirements of the Wireless Carriers specified in Section 15.

9. OWNERSHIP RIGHTS

The Subscriber acknowledges and agrees that the copyright, patent, trade secret, and all other intellectual property rights of whatever nature in the Product, the Software and the Documentation will remain the property of Reuters or its suppliers, as the case may be,

and nothing in this Agreement should be construed as transferring any aspects of such rights to the Subscriber or any third party.

10. SUPPORT

10.1 Reuters will provide support for the Product during the Service Hours, which will consist of telephone hot-line access via a toll free number. There will be no support provided for the Equipment except as set out in Section 13.

10.2 The Subscriber will not permit any person other than Reuters authorized personnel, agents or sub-contractors to provide support for the Product.

11 PURCHASE OF THE EQUIPMENT

11.1 If indicated in the Schedule, the Subscriber will purchase and Reuters will sell the Equipment to the Subscriber. If Reuters sells the Equipment to the Subscriber the following will apply:

(a) Subscriber agrees to pay the purchase price set out in the Schedule for each unit of the Equipment being purchased. The purchase price for the Equipment is exclusive of all sales or other similar taxes payable in respect of the Equipment, which the Subscriber agrees to pay;

(b) Reuters or its designee will ship the Equipment to the location specified on the Schedule;

(c) title to the Equipment will pass to the Subscriber on payment in full of the purchase price for the Equipment;

(d) risk of loss or damage to the Equipment will pass to the Subscriber upon delivery of the Equipment to the location specified in the Schedule;

(e) Subscriber understands and agrees that all logos or nameplates of Reuters or Reuters affiliates, Service Facilitators, vendors or sub-contractors may not be removed, defaced or obstructed from view during the term of this Agreement. Upon expiration or termination of the Agreement, Subscriber agrees to remove from the Equipment and return any Reuters logos and/or items labeled "MarketClip" to Reuters.

(f) Subscriber understands that the Equipment is being sold "as is". THERE ARE NO WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING, MADE BY REUTERS, ITS SERVICE FACILITATORS, VENDORS OR SUB-CONTRACTORS, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT THAT REUTERS AGREES TO ASSIGN ANY APPLICABLE MANUFACTURERS WARRANTIES TO THE SUBSCRIBER. THE SUBSCRIBER HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY WARRANTY, CONDITION, GUARANTY OR REPRESENTATION MADE BY REUTERS.

12. PROCESS IF SUBSCRIBER OWNS EQUIPMENT

12.1 If the Subscriber owns Equipment that meets the specifications to be able to access the Service, and wishes Reuters to make the Product available over that Equipment, Reuters will either:

(a) ship the Subscriber a modem to access the Service together with a CD containing the Software which the Subscriber may load onto a PC and then download onto the Equipment. The Subscriber agrees it will only download as many copies of the Software onto the Equipment as it has paid for as set out in the Schedule; or

(b) the Subscriber may ship the Equipment to Reuters or its designee as directed by Reuters and Reuters will load the Software onto the Equipment and ship it back to the Subscriber. The Subscriber acknowledges it will be responsible for backing-up any personal data stored on the Equipment

before shipment to Reuters.

12.2 If the Subscriber ships any Equipment to Reuters or its designee pursuant to Section 12.1(b), Reuters will only be responsible for any loss or damage to that Equipment while at the site of Reuters or its designee caused by the gross negligence or willful misconduct of Reuters or its designee.

13. SUPPORT FOR THE EQUIPMENT

13.1 If the Subscriber has purchased the Equipment from Reuters, and the Equipment malfunctions within 30 days of receipt of the Equipment by the Subscriber, the Subscriber may call the Reuters toll free support number and Reuters will make reasonable commercial efforts to diagnose the problem over the phone. If Reuters determines that the problem is due to a malfunction with the Equipment, the Subscriber may return the Equipment to Reuters and Reuters will replace the malfunctioning Equipment with a fully functional unit of the Equipment, within 5 business days of the receipt of the malfunctioning Equipment at the Reuters repair center. The troubleshooting of Equipment over the telephone has limitations and therefore Reuters reserves the right to charge the subscriber a handling fee if units of the Equipment that are sent to Reuters for service, are determined to not be defective upon inspection by Reuters. The Subscriber acknowledges it will be responsible for backing-up any personal data stored on the Equipment before shipment to Reuters.

13.2 If a problem occurs with the Equipment after the 30 days period referred to in Section 13.2, or if a problem occurs with an item of Equipment which the Subscriber did not purchase from Reuters, the Subscriber may call the Reuters toll free support number, but if Reuters determines that the problem with the Product is due to a malfunction with the Equipment, the Subscriber acknowledges that it is the Subscriber's responsibility to get the Equipment repaired by an authorized repair facility or replaced. If the Subscriber calls the Reuters toll free support number, Reuters will provide the Subscriber with information concerning the location and telephone number of an authorized repair facility.

14. USE OF ELECTRONIC MAIL VIA THE PRODUCT

14.1 If and when the Product allows the sending and receipt of wireless electronic mail the following will apply:

(a) personal data on Users will be required. It will be necessary for the Subscriber to obtain the consent of each of the Subscriber's Users, to Reuters holding their personal data on Reuters host computer and making it available to other users, before they will be allowed to use the Product for the purpose of sending electronic mail;

(b) the Subscriber will ensure that any Message that the Subscriber or any of the Subscriber's Users sends does not contain any material which could be considered misleading, deceptive, defamatory or obscene;

(c) the Subscriber accepts that Messages are not attributable to or endorsed by Reuters or any Service Facilitator; and

(d) the Subscriber must use all reasonable efforts to ensure that no Message attachment or file sent by any User contains any Virus. To reduce the possibility that a message attachment or file sent by a User might contain a virus, the Subscriber and the Subscriber's Users are not permitted to send any

Messages containing any executable file or program.

15. REQUIREMENTS OF WIRELESS PACKET DATA TELECOMMUNICATION PROVIDERS

15.1 The Subscriber acknowledges and agrees the following in relation to the Wireless Carriers that:

(a) Reuters will transmit the Service by means of one or more wireless telecommunications carriers, chosen by Reuters in its sole discretion, and including, without limitation, AT & T Wireless Data, Inc., Bell Atlantic Mobile, or Bell South Wireless Data, (each, a "Wireless Carrier");

(b) Subscriber has no property right in any number assigned to it;

(c) Subscriber understands that Reuters or its Service Facilitator is an authorized reseller of Wireless Carrier wireless packet data service (" Wireless Packet Data Service");

(d) Subscriber understands and agrees that it has no contractual relationship whatsoever with any Wireless Carrier and that Subscriber is not a third party beneficiary of any agreement between Reuters, its Service Facilitator and any Wireless Carrier;

(e) Subscriber understands and agrees that the Wireless Carriers will have no legal, equitable or other liability of any kind to Subscriber. In any event, each Wireless Carrier's total liability arising in connection with this Agreement (regardless of the form of the action) for any cause whatsoever (including but not limited to any failure or disruption of the Wireless Packet Data Service provided hereunder) is limited to payment of damages in an amount equal to the proportionate fixed monthly charge payable for services provided to Subscriber under the Agreement for the period of service during which such damages occur;

(f) unless caused by the negligence of Reuters or the Wireless Carrier, Subscriber will indemnify and hold the applicable Wireless Carrier (and its affiliated companies and any of their officers, employees and agents) harmless against all claims (including, without limitation, claims for libel, slander, copyright or patent infringement or any personal injury or death) arising directly or indirectly from Subscriber's use, failure to use, or inability to use the numbers assigned to it or the Wireless Packet Data Service. This indemnity will survive the termination of this Agreement;

(g) although Wireless Packet Data Service uses an encrypted technology, and the laws generally prohibit third parties from monitoring cellular transmissions, the Wireless Carriers cannot guarantee the security of data transmission. Neither any Wireless Carrier nor any underlying carrier shall be liable for any lack of security relating in any way to use of the Service or Subscriber's data transmissions;

(h) Subscriber will not use the Wireless Packet Data Service to transmit any communication where the message's transmission or distribution would violate any law, court order or regulation, or would likely be offensive to the recipient or recipients thereof; and

(i) Subscriber uses the content accessed by the Wireless Packet Data Service at its own risk.

16. MISCELLANEOUS

16.1 Certain parts of the Product will be subject to United States and other country's export regulations for high technology goods. The Subscriber warrants that it is not subject to any restriction on delivery of the Product and agrees to comply with such regulations. If the Subscriber is an agency or instrumentality of the United States government, use, duplication or disclosure of the Software is subject to restrictions set forth in Subparagraphs (a)

through (d) of the commercial Computer-Restricted Rights clause at FAR 52.227-19 when applicable, or in Subparagraph c(i)(ii) of the Rights in Technical Data and Computer Program clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. Contract Manufacturer is Reuters America Inc., 1700 Broadway, New York, New York 10019.

16.2 This Agreement sets out the entire understanding of the parties relating to its subject matter and replaces all prior proposals, understandings and other agreements, oral and written between the parties relating to the subject matter of this Agreement.

16.3 If any part of this Agreement that is not fundamental is found to be illegal or unenforceable, this will not affect the validity or enforceability of the remainder of this Agreement.

16.4 Neither party may assign any right or obligation under this Agreement without the prior written consent of the other. This consent may not be unreasonably withheld. However, Subscriber agrees that Reuters may assign any or all of its rights or obligations to another member of the Reuters Group. Any attempted assignment in violation of this Section 16.4 is void.

16.5 If either party delays or fails to exercise any right or remedy under this Agreement, that party will not have waived that right or remedy.

16.6 This Agreement will be deemed to have been executed in the State of New York and will be governed by and construed in accordance with the laws of the State of New York. Both parties consent to the jurisdiction of the courts of the State of New York or the United States District Court for the Southern District of New York for the purpose of any action or proceeding brought by either party in connection with this Agreement.

16.7

(a) Any notice to be given under this Agreement may be delivered by hand delivery, registered mail or facsimile.

(b) Notices given:

(i) by hand delivery will be addressed to the person at the address; or

(ii) by facsimile will be addressed to the person at the number set out in the Schedule.

(c) Either party may change the person, address and facsimile number notices are to be delivered to, by giving notice to the other party in accordance with this Section 16.7.

(d) Notices will be deemed to have been received:

(i) if hand delivered, on the day delivered;

(ii) if sent by registered mail, on the third business day after being sent; or

(iii) if sent by facsimile, on the day sent provided the transmitting facsimile machine produces a report verifying successful completion of the transmission

provided that if any of the events in (i), (ii) or (iii) above occur after 5pm the notice will be deemed to have been received on the next business day.

16.8 Reuters reserves the right to perform any of its obligations under this Agreement through a sub-contractor.

16.9 Sections 7, 8, 11(f), 15(f) and 16.6 will survive the termination of this Agreement for any reason.

16.10 This Agreement may only be amended by the parties in

writing, signed by duly authorized representatives of the parties.

16.11 In this Agreement:

(a) any reference to a notice means to a written notice;

(b) headings are for convenience only and do not affect the interpretation of the Agreement; and

(c) words importing the singular include the plural and vice versa.

SCHEDULE

THIS IS A SCHEDULE TO THE REUTERS MARKETCLIP(TM) SUBSCRIBER AGREEMENT BETWEEN REUTERS AMERICA INC., AND [ ], DATED THE [ ] DAY OF [ ], 199[ ]

NUMBER OF UNITS OF THE PRODUCT BEING SUBSCRIBED TO:

SERVICE BEING PROVIDED: U.S. SECURITIES DATA

SERVICE HOURS:

SERVICE FEES PER UNIT OF THE PRODUCT:

ACTIVITATION CHARGE PER UNIT OF THE PRODUCT:

EQUIPMENT

SUBSCRIBER AGREES TO PURCHASE EQUIPMENT LISTED BELOW:

<TABLE>
<CAPTION>

MAKE OF EQUIPMENT	NO. OF UNITS OF EQUIPMENT	PRICE	TOTAL PRICE
<S>	<C>	<C>	
Hewlett Packard HP 360LX			
Sierra Wireless PocketPlus Modem (CDPD)			
3Com PalmPilot Professional			
Novatel Wireless MINSTREL CDPD modem			
		Taxes	
		Total Price	

</TABLE>

USER NAME AND PERMISSIONING BY EQUIPMENT:

90

CONTACT INFORMATION:

LOCATION TO SHIP EQUIPMENT TO:

<TABLE>
<CAPTION>

SUBSCRIBER INFORMATION	REUTERS INFORMATION
<S>	<C>
POINT OF CONTACT NAME:	POINT OF CONTACT NAME:
ADDRESS:	ADDRESS:
TELEPHONE NUMBER:	TELEPHONE NUMBER:
FACSIMILE NUMBER:	FACSIMILE NUMBER:
INTERNET E-MAIL ADDRESS:	INTERNET E-MAIL ADDRESS:

ADDITIONAL NOTES:

ADDRESS FOR NOTICES:

Subscriber contact:	Reuters Contact:
Subscriber Address:	Reuters Address:
Facsimile Number:	Facsimile Number
ACCEPTED: [SUBSCRIBER]	ACCEPTED: REUTERS AMERICA INC.
BY: ----------	BY: ----------
NAME: ----------	NAME: ----------

</TABLE>

91

<TABLE>

<S>	<C>
TITLE: ----------	TITLE: ----------
DATE: ----------	DATE: ----------

</TABLE>

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SCHEDULE Q
HOLDERS OF MEMBERSHIP INTERESTS IN AETHER
AS OF THE EFFECTIVE DATE

MEMBER

Nexgen Techologies, L.L.C., a Maryland limited liability company

Transettlements, Inc., a Georgia corporation

Telcom ATI-Investors, L.L.C., a Delaware limited liability company

Pyramid Ventures, Inc., a Delaware corporation

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SCHEDULE R

MUTUAL CONFIDENTIALITY PROVISIONS

1. "Confidential Information", subject to the provisions of Paragraph 4 hereof, shall mean: (a) any information, in whatever form, designated in writing as confidential, proprietary or marked with words of like import and (b) any information orally conveyed if the disclosing party provides written notice describing in reasonable detail the portion of the oral communication that shall be deemed Confidential Information and delivers such writing to the receiving party within 10 days of the oral conveyance. "Confidential Information" shall include information with respect to any of a disclosing party's affiliates.

2. The receiving party acknowledges the confidential and proprietary nature of the Confidential Information and agrees that, absent the prior written consent of the disclosing party, it shall not reveal or disclose any Confidential Information for any purpose to any other person, firm, corporation or other entity (other than Reuters Group PLC and its subsidiaries in the case of Reuters), or use any Confidential Information for any purpose other than as contemplated hereby. In the event that a receiving party wishes to disclose Confidential Information to one of its professional advisors, it may do so only if that professional advisor agrees to abide by the terms of these Mutual Confidentiality Provisions. In any event, the receiving party shall be liable for any improper disclosure or use of Confidential Information by any affiliate or professional advisor to whom such Information is disclosed.

3. The receiving party shall keep any copies of the Confidential Information in as secure a location as the receiving party uses for its own similar information, shall inform its employees of their obligations under these Mutual Confidentiality Provisions and shall take such steps as may be reasonable in the circumstances, or as may be reasonably requested by the disclosing party, to prevent any unauthorized disclosure, copying or use of the Confidential Information. The receiving party shall grant access to the Confidential Information only to those employees who are required to obtain such access to enable the undersigned to use the Confidential Information for the purposes permitted by this Agreement. The receiving party shall not remove from any copies of the Confidential Information, any trade secret or other proprietary notices as are inserted by the disclosing party or as may otherwise be reasonably requested by the disclosing party.

4. Notwithstanding anything contained herein to the contrary, Confidential Information shall not include information which:

(a) at or prior to the time of disclosure by the disclosing party was known to the receiving party as evidenced in writing except to the extent unlawfully appropriated;

(b) at or after the time of disclosure by the disclosing party becomes

generally available to the public other than through any act or omission on the receiving party's part;

(c) is developed by the receiving party independently of any Confidential Information it receives from the disclosing party; or

(d) the receiving party receives from a third party free to make such disclosure without breach of any legal obligation.

5. Either party may disclose Confidential Information pursuant to any order, subpoena or document discovery request, provided that prior written notice of such disclosure is furnished to the disclosing party as soon as practicable in order to afford the disclosing party an opportunity to seek a protective order (it being agreed that if the disclosing party is unable to obtain or does not seek a protective order and the receiving party is legally compelled to disclose such information, disclosure of such information may be made without liability).

6. The receiving party represents to the disclosing party that, as of the date hereof, it has not disclosed, discussed or revealed any Confidential Information to any person, firm or other entity.

7. The receiving party agrees that within three days of a request from the disclosing party, it shall, at the discretion of the disclosing party:

(a) return all Confidential Information held or used by the receiving party in note, memorandum, print, letter report or other written form to the disclosing party, including all copies thereof, or

(b) destroy all such Confidential Information, including such copies thereof.

In either case, the receiving party shall deliver a certificate signed by an appropriate person of the receiving party stating that the receiving party complied in full with the terms of this Paragraph 7.

8. The receiving party acknowledges and agrees that in the event of the undersigned's breach of these Mutual Confidentiality Provisions, the disclosing party will suffer irreparable injuries not compensated by money damages and therefore shall not have an adequate remedy at law. Accordingly, the disclosing party shall be entitled to a preliminary and final injunction without the necessity of posting any bond or undertaking in connection therewith to prevent any further breach of these Mutual Confidentiality Provisions or further unauthorized use of Confidential Information. This remedy is separate and apart from any other remedy the disclosing party may have.

SCHEDULE S

MEDIA PLAN REQUIREMENTS

Each Media Plan shall include the following details with respect to each campaign:

1. Medium (print, TV, radio, web, etc.)

2. Names of specific publications, TV stations, radio stations, web sites, etc. (Business Week, Wall Street Journal, etc.)

3. Types of publications or shows (weekly, daily, monthly)

4. Ad types (size)

5. Flight dates (when ad will run, e.g. weekly -- 6/1 - 9/27; or monthly, September through December, etc.)

6. Frequency ads will run (2 times, 3 times, etc.)

SCHEDULE T

REUTERS GLOBAL CUSTOMERS

<TABLE>
<S> <C>

Abn Amro Bank	Generale Bank
American Express Bank	Goldman Sachs
American International Group	Hsbc Holdings
Anz Banking Group	Industrial Bank of Japan
Banca Commerciale Italiana	Ing Groep NV (Including BBL)
Banca di Roma	Istituto Bancario
Banca Nazionale Del Lavoro	JP Morgan
Banco Bilbao Vizcaya	KBC Bank NV
Banco Central Hispano	Lehman Brothers Inc
Banco Santander	Liechtenstein Global Trust
Bankamerica Corporation	Lloyds Bank
Bank Austria (Including CBV)	Long Term Credit Bank
Bank Gesellschaft Berlin	Merita Bank
Bank Julius Baer	Merrill Lynch
Bank of China	Morgan Stanley
Bank of Montreal	National Australia Bank
Bank of Nova Scotia	Nationsbank
Bank of Tokyo-Mitsubishi Ltd	National Westminster Bank
Bankers Trust	Nikko Securities
Banque Nationale de Paris	Nomura Securities
Banque Paribas	Prudential Securities
Barclays Bank	Rabobank
Bayerische Hypo & Wechsel Bank	Republic National Bank of New York
Bayerische Landesbank Girozentrale	Royal Bank of Canada
Bayerische Vereinsbank	Royal Bank of Scotland
Bhf Bank	Sakura Bank
Canadian Imperial Bank of Commerce	Travelers Group Inc
Cariplo	Sanwa Bank
Chase Manhattan Bank	Schroders Plc
Citicorp	Skandinaviska Enskilda Banken
Commerzbank AG	Societe Generale
Compagnie Financiere de CIC	Standard Bank Investment Corp
Caisse Nationale de Credit Agricole	Standard Chartered Bank
Credit Commercial de France	Sumitomo Bank

Credito Italiano	Sumitomo Trust & Banking
Credit Lyonnais	Svenska Handelsbanken
Credit Suisse Group	Swiss Bank Corporation
Dai-Ichi Kangyo Bank	Tokai Bank
Daiwa Bank Ltd	Toronto Dominion
Daiwa Securities	Tradition (Compagnie Financiere Tradition)
Den Danske Bank	Tullett & Tokyo
Den Norske Bank	UBS
Deutsche Bank	Unidanmark
Dresdner Bank	Un Investments (Nederland) BV
First Chicago NBD Corp	Westdeutsche Landesbank
Fortis	Westpac Banking Corp
Fuji Bank	

</TABLE>

SCHEDULE T

REUTERS GLOBAL CUSTOMERS

<TABLE>

<S>	<C>
Abn Amro Bank	Generale Bank
American Express Bank	Goldman Sachs
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Banca Nazionale Del Lavoro	Jp Morgan
Banco Bilbao Vizcaya	Kbc Bank Nv
Banco Central Hispano	Lehman Brothers Inc
Banco Santander	Liechtenstein Global Trust
Bankamerica Corporation	Lloyds Bank
Bank Austria (Including Cbv)	Long Term Credit Bank
Bank Gesellschaft Berlin	Merita Bank
Bank Julius Baer	Merrill Lynch
Bank of China	Morgan Stanley
Bank of Montreal	National Australia Bank
Bank of Nova Scotia	Nationsbank
Bank of Tokyo Mitsubishi Ltd	National Westminster Bank
Bankers Trust	Nikko Securities
Banque Nationale De Paris	Nomura Securities
Banque Paribas	Prudential Securities
Barclays Bank	Rabobank
Bayerische Hypo & Wechsel Bank	Republic National Bank of New York
Bayerische Landesbank Girozentrale	Royal Bank of Canada
Bayerische Vereinsbank	Royal Bank of Scotland
Bhf Bank	Sakura Bank
Canadian Imperial Bank of Commerce	Travelers Group Inc
Cariplo	Sanwa Bank
Chase Manhattan Bank	Schroders Plc
Citicorp	Skandinaviska Enskilda Banken
Commerzbank Ag	Societe Generale
Compagnie Financiere De Cic	Standard Bank Investment Corp
Caisse Nationale De Credit Agricole	Standard Chartered Bank
Credit Commercial De France	Sumitomo Bank
Credito Italiano	Sumitomo Trust & Banking
Credit Lyonnais	Svenska Handelsbanken
Credit Suisse Group	Swiss Bank Corporation
Dai Ichi Kangyo Bank	Tokai Bank
Daiwa Bank Ltd	Toronto Dominion

Daiwa Securities	Tradition (Compagnie Financiere Tradition)
Den Danske Bank	Tullett & Tokyo
Den Norske Bank	Ubs
Deutsche Bank	Unidanmark
Dresdner Bank	Un Investments (Nederland) Bv
First Chicago Nbd Corp	Westdeutsche Landesbank
Fortis	Westpac Banking Corp
Fuji Bank	

</TABLE>

EXHIBIT 10.2

STRICTLY CONFIDENTIAL

CONTRACT

BETWEEN
DISCOVER BROKERAGE DIRECT, INC("DISCOVER BROKERAGE")

AND

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C. ("AETHER")

Discover Brokerage and Aether hereby enter into a definitive and binding contractual agreement (the "Agreement") for purposes of the development, implementation, sale and support of a wireless financial data access and trading product for sale to certain Discover Brokerage Accountholders (the "Subscribers") within the United States of America hereto (the "Territory"). The product would be known as "Discover Brokerage TradeRunner(SM)" (the "Product") and would provide Subscribers with mobile device access to real-time Discover Brokerage account, trading and financial market information. The Product would initially source data from Discover Brokerage host computer systems along with market data and news from Reuters SelectFeed Plus platform, or such additional or replacement feeds product(s) as mutually agreed to by Discover Brokerage and Aether. (the "Discover Brokerage Service").

1 Term.

The Agreement shall take effect on execution, continue for three years, and shall automatically renew thereafter for additional one year terms, unless, prior to any additional one year term, either party provides the other party sixty (60) days' prior written notice of termination. Ninety(90) days prior to the termination or expiration of this agreement, the parties agree to negotiate in good faith the terms and conditions of a licensing agreement for use of Aether's intellectual property relating to the Discover Brokerage TradeRunner(SM) Product.

2 Responsibilities of Aether.

System Development

a) Aether shall be responsible for all development activity associated with the wireless data system (the "System") necessary for operation and delivery of the Product including, but not limited to application software development, network development and integration.

Software Development

b) Aether shall be responsible for all custom software development required to support the Product including, but not limited to host system interface, application development and network interface.

Network Operations

c) Aether shall manage, operate and maintain the System in accordance with specifications and service levels to be agreed to by the parties, which shall include, but not be limited to, network management, operational management, and the day-to-day operating environment.

Hardware

d) Aether shall initiate and maintain relationships with all hardware vendors on favorable terms. Hardware selected shall meet the specifications to be agreed upon by the parties. Aether shall arrange for maintenance and repair of the same, and will provide the Discover Brokerage Service in accordance with standards to be agreed upon by the parties.

Billing/Order Entry

e) Aether shall develop, implement and maintain order-entry and billing systems for the Product. These systems shall provide administration, permissioning and depermissioning.

Customer Support Vendor Relations

f) Aether shall develop, implement and manage customer support including but not limited to, 8:30 AM -- 8:00 PM EST Monday through Friday, and shall manage and coordinate relationships with third party suppliers such as airtime providers and hardware vendors. Aether agrees's to implement 24/7 customer service within 6 months from execution of this Agreement.

Third Party Agreements

g) Aether shall obtain any and all licenses and consents, and enter into and comply with any applicable third party agreements, as may be necessary to fulfill its obligations under the Agreement, including but not limited to Exchange Agreements.

Subscriber Exchange Fees

h) Aether Technologies shall be responsible for any exchange fees associated with the receipt of real time market data.

3 Responsibilities of Discover Brokerage.

Tools and Documentations

a) Discover Brokerage shall provide to Aether Technologies, at no charge, all required software, tools, and documentation required to implement this system.

DataFeeds

b) Discover Brokerage shall grant to Aether a non-exclusive, non-transferable license to receive and distribute the Discover Brokerage Service information through the Product only within the Territory. Aether shall receive the Discover Brokerage Service during the term of the Agreement without payment of Subscription fees and installation costs.

Telecommunication Equipments

c) Discover Brokerage shall provide all communication lines and equipment required to implement this system. Discover Brokerage shall transmit the Discover Brokerage Service to Aether free of any telecommunication charges. Discover Brokerage shall maintain a development, as well as, production environment.

Sales and Marketing

d) In consideration of Aether having developed the System at its own expense and its undertaking not to seek compensation for said development costs from Discover Brokerage, Discover Brokerage commits itself to a marketing and advertising campaign for the product that is representative of its normal business practices for similar products. Discover Brokerage shall commit itself to soliciting news, and print media attention to the impending Products release and subsequent to that release date. Discover Brokerage shall define and document a marketing and sales plan illustrating a commitment of no less than $250,000. This plan shall be developed within the first month after activation of this contract.

Product Launch Plan

e) Discover Brokerage shall budget, develop and implement marketing and sales plans which shall include, but not be limited to, product launch schedules, beta test program Subscriber identification, beta testing, marketing materials, sales projections, sales force training, and public relations releases. The plan shall be developed as part of an agreed to Product development plan and schedules.

Future Requirements

f) Discover Brokerage shall cooperate in the identification and the development of mutually agreed to Product enhancements.

Trading Fees

g) Discover Brokerage shall be responsible for any trading fees other than payments for real time quotes associated with subscribers using this system.

Web Site

h) Discover Brokerage shall undertake as per its normal course of promotion for products and services, add the Discover Brokerage TradeRunner(SM) product information to the appropriate internet sites for said products. Aether Technologies shall provide a companion web site for Product information, Product ordering, and customer support.

4 Cooperation.

Roles and Responsibilities

a) Discover Brokerage and Aether agree to reasonably cooperate with one another to facilitate the achievement of their respective responsibilities, and to document, as necessary, all relevant plans, schedules, models and procedures mentioned above. Aether Technologies and Discover shall assign a project manager for the duration of this agreement.

Future Development

b) All upgrades, modifications, enhancements to the Product, System, Software, Discover Brokerage Service and the use of other devices shall be mutually agreed upon in writing by the parties before any work commences. The parties shall decide, on a case by case basis, the source of funds for such upgrades, modifications and enhancements.

Hardware Purchase

c) Discover Brokerage shall retain the right upon (90) day written notice to contract for and purchase all hardware for the Product for sale to Subscribers. Discover Brokerage shall assign any applicable warranties from hardware vendors to the Subscribers.

Insurance

d) Should Discover Brokerage execute its right to purchase hardware during the term, Discover Brokerage will maintain sufficient insurance coverage for the inventory of hardware stored at Aether to recover the value of the hardware in the event of damage, loss or theft. Aether shall take reasonable commercial precautions to safeguard the hardware inventory at the Premises.

Training

e) Discover Brokerage and Aether will jointly work towards a plan whereby both parties may participate where appropriate in an Onsite training session with the Discover, organization Discover Brokerage shall undertake to establish an ongoing training cycle in accordance with Discover Brokerage normal practices. Aether shall also provide phone support for training purposes.

Devices

f) Discover Brokerage and Aether agree to develop this application on Palm and Windows CE devices., Aether and Discover Brokerage shall decide, on a case by case basis, the source of funds for such new devices, product upgrades, system modifications and application enhancements.

Subscriber/User Manual

g) Aether will where practical supply Discover Brokerage with a user guide for Subscribers in sufficient quantities so as to meet demand.

5 Ownership.

Software

a) Discover Brokerage and Aether agree that the System along with the Software shall be the property of Aether Technologies.

Trademark

b) Discover Brokerage and Aether agree to "brand" the Product as "Discover Brokerage TradeRunner(SM)," which trademark shall be the property of Discover Brokerage. Discover Brokerage has the responsibility for any and all legal costs associated with trademarking the name.

6 Financials.

Monthly Fees

a) In consideration of Aether being responsible for managing the Subscriber provisioning, permissioning, activation, customer service, network and systems management, technical support, software development, billing, collections, managing carrier relationships, and managing airtime, Aether will charge a monthly fee to Subscribers inclusive of the above mentioned items for $69.00 per month plus applicable exchange fees plus an additional $10 per month for full news stories. Aether will also bundle much of its current MarketClip functionality into the Discover Brokerage TradeRunner(SM) application free of any additional fees.

Hardware Costs

b) In consideration of Aether having developed the product in accordance with Discover Brokerage requirements and choice of platform delivery mechanisms, Aether shall charge the Subscribers according to the current market price of the device(s).

Aether shall undertake (within 30 days of written notification) to reduce the price of subscriber hardware to a price not greater than the vendors published price schedule that reflects a deduction in price for the aforementioned hardware models.

New Hardware Models

Aether shall advise Discover Brokerage from time to time as to the upcoming release of new hardware models and advise Discover Brokerage as to the efficacy of adopting the new model as the defacto hardware for subscribers.

Subscriber Term

The Subscriber shall enter into a one year agreement for the Discover Brokerage TradeRunner(SM) service. Should the subscriber at any time after an initial 15 day trial decide to cancel the Discover Brokerage TradeRunner(SM) service the Subscriber shall be held accountable for payment of 75% of the remaining contract fees.

Subscriber Exchange Fees

c.) It is understood that exchange fees associated with the receiving of real time market data shall be paid by the subscriber and are in addition to the monthly fees.

Trading Fees

d) Discover Brokerage shall be responsible for any trading fees other than payments for real time quotes associated with subscribers using this system.

Activation

e) Aether shall be entitled to receive a one time activation and handling fee of $69.00 per new subscriber to be paid by the Subscriber.

7 Confidentiality.

a) Each party acknowledges that it has received, and will during the term of

this agreement, receive confidential or proprietary information regarding the business or products of the other party. Each party will maintain the confidentiality of such information, provided that it is designated in writing as confidential, proprietary, or marked with words of similar import, or if orally conveyed, is reduced to writing and delivered to the receiving party by the disclosing party within 10 days of oral conveyance. Each party agrees that if the proposed transaction is not consummated for any reason, it will return to the other party all confidential material or information without retaining any copies thereof. No disclosure of this Agreement in principle or the subject matter hereof shall be made without the mutual consent of both parties.

b) Confidential information shall not include information which:

i) at or prior to the time of disclosure by the disclosing party was known to the receiving party;

ii) at or after the time of disclosure by the disclosing party becomes generally available to the public other than through any act or omission on the receiving party's part;

iii) is developed by the receiving party independent of any confidential information it receives from the disclosing party;

iv) the receiving party receives from a third party free to make such disclosure without breach of any legal obligation; or

v) is required to be disclosed pursuant to any order, subpoena or document discovery request.

8 Exclusivity.

a) Aether from the effective date of this Agreement shall not license any rights to the executable software and source code that constitutes the Discover Brokerage specific back office trading and account management interfaces, to any competitor of Discover Brokerage for the purpose of the wireless transmission of Discover Brokerage information. This capability is embodied and implemented within a single software library, titled, Discover.dll. It is understood that Aether having bundled MarketClip functionality into the Discover Brokerage TradeRunner(SM) product that functionality shall not be considered part of this exclusivity clause. Aether has retained full rights to the MarketClip product and shall NOT be bound or restricted in its ability to market the product to Discover Brokerage competitors. It is also understood that Aether has utilized Aether's proprietary AIM executable software components and source code(AIM) in the Discover Brokerage TradeRunner(SM) product that AIM shall not be considered part of this exclusivity clause. Aether has retained full rights to the AIM product and shall NOT be bound or restricted in its ability to market the product to Discover brokerage competitors.

9 Liability

Aether shall not be liable for any entered order, trade account or position

inquiry by a Subscriber or user of the device that results in financial loss or injury to the respective client or holder of said account.

NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT AND/OR, CONSEQUENTIAL DAMAGES OF ANY KIND, RESULTING FROM EITHER PARTY'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THE TERMS OF THIS AGREEMENT OR RESULTING FROM THE FURNISHING, PERFORMANCE OR USE OR LOSS OF ANY LICENSED PRODUCTS OR OTHER MATERIALS DELIVERED TO DISCOVER BROKERAGE THEREUNDER, INCLUDING WITHOUT LIMITATION ANY INTERRUPTION OF BUSINESS, WHETHER RESULTING FROM BREACH OF CONTRACT OR BREACH OF WARRANTY, EVEN IF THE PARTIES HERETO HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10 Press Releases.

Neither Aether nor Discover Brokerage or their respective affiliates shall issue any press release or make any other public statement relating to this Contract or the transactions contemplated hereby unless required

by law, regulation, court order or the rules of any applicable stock exchange or regulatory authority or approved in writing by the other party.

Discover Brokerage agrees to make press releases and public relations announcements of its impending release of the Discover Wireless Trading System application upon completion of its internal QA cycle. Discover Brokerage may at its discretion choose to have Aether undertake to coordinate that effort on its behalf subject to any Discover Brokerage internal approval processes.

11 Termination.

a) Termination for Breach. If a party (the "Defaulting Party") is in material breach of or default under this Agreement, and the Defaulting Party does not remedy that breach or default within thirty (30) calendar days after receipt from the other party of written notice of that default or breach, the other party shall after the expiration of such thirty (30) calendar day period have the right to terminate this Agreement unless the Defaulting Party has commenced steps to remedy such breach or default and effects a cure within thirty (30) days of receipt of the default notice.

Termination in Event of Bankruptcy. Either party may terminate this Agreement at any time by written notice in the event that the other: (i) files a voluntary petition in bankruptcy or under any similar insolvency law; (ii) makes an assignment for the benefit of creditors; (iii) has filed against it any involuntary petition in bankruptcy or under any similar insolvency law if any such petition is not dismissed within sixty (60) days after filing; or (iv) has a receiver appointed for, or a levy or attachment made against, substantially all of its assets, if any such petition is not dismissed or such receiver or

levy or attachment is not discharged within sixty (60) days after the filing or appointment.

12) Assignment

Notwithstanding any other terms of this agreement, Discover Brokerage may, subject to Aether's prior consent which consent will be not unreasonably withheld, transfer this agreement to another wholly-owned subsidiary of Morgan Stanley Dean Witter & Co. Discover Brokerage agrees to provide Aether reasonable notice of any such transfer. Aether may assign this agreement to any successor to its business

13) Governing Law

This Agreement shall be governed by New York law without regard to conflicts of law principles

DISCOVER BROKERAGE	AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.
/s/ JOHN F. FAY	/s/ David S. Oros
Signature	Signature
JOHN F. FAY FVP, CONTROLLER	PRESIDENT/CEO
Name and Title (printed)	Name and Title (printed)
8/5/99	8/5/99
Date	Date

EXHIBIT 10.3

OPTIONS PRICE REPORTING AUTHORITY
VENDOR AGREEMENT
(Last Sale and Quotation Information)

THIS AGREEMENT is made this 3rd day of June, 1997, between Aether Technologies International, L.L.C., a Limited Liability corporation ("Vendor"), and the American Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, New York Stock Exchange, Inc., Pacific Stock Exchange Incorporated and Philadelphia Stock Exchange, Inc. (said exchanges are hereinafter sometimes collectively referred to as the Options Price Reporting Authority ("OPRA"), a registered securities information processor registered pursuant to Section llA(b) of the Securities Exchange Act of 1934, as amended).

RECITALS

A. The aforesaid exchanges have been authorized by the Securities and Exchange Commission pursuant to Section llA(a)(3)(B) of the Securities Exchange Act of 1934, as amended, to act jointly as parties to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (said plan as amended from time to time in accordance with the provisions thereof is hereinafter referred to as the "Plan"), and the Plan provides that any other national securities exchange or association approved by the Securities and Exchange Commission for the trading of options may become a party to the Plan (all such parties are hereinafter sometimes collectively referred to as the "Participants" and individually as a "Participant");

(c) "Options Information" means Last Sale Reports and Quotation Information and any other information transmitted over the information reporting system administered by OPRA.

(d) "Current" means, in the case of Last Sale Reports, such information that has been transmitted by the Processor, by a Participant or by OPRA to Vendor within the immediately preceding 15 minutes, and in the case of Quotation Information, the bid or offer in respect of a given security that was most recently transmitted by the Processor, by a Participant or by OPRA to Vendor.

(e) "Eligible Securities" means each series of option contracts listed and traded on one or more of the Participant exchanges, and any other securities determined by OPRA to be eligible for inclusion in the information reporting system administered by OPRA.

(f) "Last Sale Subscriber" means a person that has executed a

Nonprofessional Subscriber agreement or a Professional Subscriber agreement with OPRA setting forth the terms and conditions under which such person is permitted to receive Last Sale Reports for its own use and not for the purpose of retransmitting or redistributing Last Sale Reports to any other person, and that has been approved by OPRA for such purpose.

(g) "Quotation Subscriber" means a person that has executed a Nonprofessional Subscriber agreement or a Professional Subscriber agreement with OPRA setting forth the terms and conditions under which such person is permitted to receive

Quotation Information for its own use and not for the purpose of retransmitting or redistributing Quotation Information to any other person, and that has been approved by OPRA for such purpose.

(h) "Nonprofessional Subscriber" means an individual natural person (not a firm, corporation, partnership, trust or association) who has completed a Nonprofessional Subscriber Application and Agreement in the form of Attachment C hereto, or as said Application and Agreement may be amended from time to time by OPRA, evidencing that such person intends to receive Options Information for his or her private use only in connection with personal investment activities and not in connection with any trade or business activities, and making the other representations and agreements required by said Application and Agreement.

(i) "Professional Subscriber" means a Last Sale Subscriber or a Quotation Subscriber who is not a Nonprofessional Subscriber.

(j) "Person" means a firm, corporation, or an association, as well as an individual.

(k) "Affiliate" means when used in reference to a Participant, each governor, director, officer, employee or subsidiary of such Participant and each director, officer or employee of each such subsidiary.

(1) "Print News Publisher" means the publisher of a bona fide newspaper, newsmagazine or other news publication of

general circulation published on a regular schedule solely in print form and not distributed electronically, by fax or by radio or television broadcast.

2. Furnishing Options Information to Vendor.

Options Information (in the format conforming to the specifications set forth in Attachment A hereto, as the same may be amended from time to time, subject to the provisions of Section 13 hereof) may be furnished to Vendor directly from the Processor or from another vendor for the purpose of enabling Vendor to distribute or publish Options Information in accordance with the terms hereof. If Vendor desires to access Options information directly from the Processor, Vendor must provide telecommunications facilities to the Processor. Vendor shall pay to OPRA, if applicable, any one or more of the following fees in accordance with the Fee Schedule set forth in Attachment B hereto: (i) the Redistribution Fee, (ii) the Direct Access Charge, (iii) the Nonprofessional Subscriber fee referred to in Section 6 hereof, and (iv) such other fees and charges as OPRA may from time to time impose, all as the same may be amended from time to time, subject in each case to not less than 30 days prior written notice to Vendor. Payment of the Redistribution Fee shall permit Vendor to redistribute Options Information in accordance with the terms of Section 3, below. Payment of the Direct Access Charge shall entitle Vendor to two circuit connections at the premises of the Processor in New York City. Additional circuit connections will be made available upon

payment of a nominal fee, as reflected in the Fee Schedule, which will approximate OPRA's cost in respect of such additional connections. The Direct Access Charge established by OPRA for direct access to Options Information is a uniform charge levied against each person who receives Options Information directly from the Processor. The revenues derived from the Direct Access charge are not intended by OPRA to exceed OPRA's operating expenses associated with providing Options Information in the form of one or more consolidated high speed transmissions. This charge may be increased or decreased, depending upon the number of vendors or other persons who are required to pay it, or changes in OPRA's costs associated with the furnishing of Options Information. OPRA intends to review the Direct Access Charge at least annually, and may increase or decrease this charge from time to time on not less than 30 days prior written notice to Vendor. In the event Vendor intends to utilize Options Information other than in its capacity as a vendor as authorized under this Agreement, Vendor must complete the appropriate agreements governing such other use, and pay any additional applicable fees.

3. Authority of Vendor to Utilize Options Information.

Subject to the terms of this Agreement and applicable rules and regulations of the Securities and Exchange Commission, Vendor may retransmit or redistribute Options Information on a selective or continuous basis, and may furnish a market data or retrieval service or services with respect to Options Information

whereby Professional and Nonprofessional Subscribers, authorized vendors, and other authorized persons may receive access to Options Information through interrogation or display devices and over circuits provided by Vendor, provided that in retransmitting or redistributing such information or in making such information available through a market data or retrieval service, Vendor shall not exclude information or otherwise discriminate on the basis of the market in which a transaction took place or in which a quotation was entered, and provided further that Vendor shall furnish Last Sale Reports on a current basis only to persons that are at the time of receipt thereof duly approved Last Sale Subscribers, and Vendor shall furnish Quotation Information on a current basis only to persons that are at the time of receipt thereof duly approved Quotation Subscribers, or in either case to approved vendors, back-up facility providers, control service providers, or other authorized persons for their use in accordance with agreements such persons have entered into with OPRA.

Vendor may furnish Options Information on a current basis via a (data feed) transmission only to (i) Subscribers who have entered into a Professional Subscriber Agreement and an Indirect (Vendor Pass-Through) Circuit Connection Rider, (ii) other vendors, (iii) Print News Publishers, subject to the conditions stated below, or (iv) other categories of persons authorized by OPRA to receive a data feed transmission.

Vendor may furnish Options Information to a person who intends to retransmit all or a portion of the information to other persons only if such person has entered into a Vendor Agreement with OPRA, except that Vendor may furnish Options Information to a Print News Publisher to the extent and subject to the conditions set forth in the following paragraph of this Section 3, and except that Vendor may furnish historical Last Sale Reports and Quotation Information to any person. For purposes of the previous sentence, Last Sale Reports that reflect transactions completed during a given trading session of an options market, and bids and offers entered in a given trading session of an options market, become "historical" upon the opening of trading in the next succeeding trading session of that same market. (E.g., reports of transactions completed in a trading session on Wednesday become historical reports from and after the opening of trading on the following Thursday.)

Vendor may also furnish Options Information to a Print News Publisher in the form of formatted options tables or by means of a data feed transmission or in any other format, provided that the redistribution of such information by the

Print News Publisher is limited to options tables appearing in a bona fide newspaper, newsmagazine or other news publication of general circulation published on a regular schedule in print form, and provided further that Vendor shall have entered into a written agreement with the Print News Publisher, expressly for the benefit of OPRA, in which the Print News Publisher agrees that

its redistribution of Options Information will be so limited and acknowledges that neither OPRA, the Processor nor any Participant guarantees the timeliness, sequence, accuracy or completeness of any Options Information, and that neither OPRA, the Processor nor any participant shall be liable in any way to Print News Publisher for any claims or damages, consequential or otherwise, for any delays, inaccuracies, errors in, or omissions of, any Options Information, or in the transmission or delivery thereof or for any damage arising therefrom or occasioned thereby. Vendor shall provide to OPRA, in advance, a copy of every form of agreement it intends to use for this purpose.

4. Approval of Professional Subscribers.

OPRA shall, from time to time, furnish to Vendor the names of those persons that have been approved by OPRA as Last Sale Professional Subscribers or Quotation Professional Subscribers or both (separately identifying those Subscribers who have entered into Indirect (Vendor Pass-Through) Circuit Connection Riders), and the names of those persons that have entered into Vendor Agreements with OPRA, or are otherwise approved to receive Options Information. Upon receipt by Vendor of written notice from OPRA that the approval of any person to receive Options Information has been withdrawn, Vendor will promptly discontinue furnishing Last Sale Reports or Quotation Information, or both, to such person, except to the extent such person is approved to receive such information as a Nonprofessional Subscriber, and except to the extent that such

information is historical information as defined in Section 3 above.

5. Approval of Nonprofessional Subscribers.

(a) Vendor shall furnish to each of its customers who desires to be approved as a Nonprofessional Subscriber a Nonprofessional Subscriber Application and Agreement in the form of Attachment C hereto or as such form may be amended by OPRA from time to time, and shall require the customer to return the completed Application and Agreement to Vendor. Vendor, on behalf of and as agent for OPRA, shall review each Application and Agreement, and upon Vendor's

determination that the Application and Agreement is complete in all material respects and that the applicant in fact meets the qualifications of a Nonprofessional Subscriber, Vendor shall approve the applicant by endorsing the completed Application and Agreement.

(b) A Nonprofessional Subscriber whose Application and Agreement has been approved in accordance with the foregoing shall remain a duly approved Nonprofessional Subscriber only so long as he remains in compliance with the provisions of the Application and Agreement, subject to the right of Vendor or OPRA to withdraw such approval or to terminate the Application and Agreement, as stated therein.

(c) In the event Vendor or OPRA determines that a previously approved Nonprofessional Subscriber does not meet the requirements for such approval (in the case of such determination by OPRA, OPRA shall furnish Vendor notification thereof), Vendor

will promptly discontinue furnishing current Last Sale Reports or current Quotation Information, or both, to such person, except to the extent such person is approved to receive such information as a Professional Subscriber.

6. Nonprofessional Subscriber Fees, Accounts, Records and Reports.

(a) For each Nonprofessional Subscriber whom it has approved and to whom it furnishes current Last Sale Reports or Quotation Information, Vendor shall pay to OPRA a monthly Nonprofessional Subscriber fee in accordance with the Fee Schedule set forth in Attachment B hereto, as the same may be amended from time to time. Such fee shall be due and payable to OPRA on the day on which Vendor initially furnishes Options Information to a new Nonprofessional Subscriber, and thereafter the fee shall be due and payable for each month, in advance, on the first day of the month. If Vendor initiates service to a new Nonprofessional Subscriber following the 15th day of any month, or if Vendor discontinues service to a Nonprofessional Subscriber on or before the 15th day of any month, that month's fee for the service so initiated or discontinued shall be 50% of the regular applicable monthly fee. If any amount due from Vendor to OPRA under this subsection 6(a) has not been paid by the 30th day after such amount is due, OPRA may impose a late payment charge for each day from and after the due date that the amount remains unpaid. The late payment charge shall be at an annual rate that does not exceed the lesser of (i) the commercial prime rate of interest as last published in The Wall Street Journal prior to

the date such charge is computed plus three percent, or (ii) the maximum rate of interest permitted by applicable law.

(b) For each approved Nonprofessional Subscriber to whom it furnishes Options Information, Vendor shall retain a signed original of the completed Application and Agreement and any supplements or amendments thereto. Vendor shall promptly send such notices to its Nonprofessional Subscribers and shall obtain such additional information from its Nonprofessional Subscribers as OPRA may from time to time request. All of Vendor's records pertaining to Nonprofessional Subscribers and to the computation of the Nonprofessional Subscriber fee due from Vendor to OPRA, including the required copies of completed Applications and Agreements, shall be maintained in a reasonably accessible place during the time that Vendor furnishes Options Information to such persons, and shall be preserved for at least six years after the date Vendor discontinues furnishing Options Information to such persons. Such records shall be available for inspection by duly authorized representatives of OPRA upon reasonable notice during ordinary business hours.

(c) Vendor shall deliver to OPRA not less than 30 days after the end of each fiscal year, and at such other time or times as OPRA may request (but not more frequently than quarterly) a report, as of the last day in the most recently completed calendar quarter, setting forth the name, residence address and the billing address of each Nonprofessional Subscriber, any different address to which Options Information is

furnished, the number and types of devices through which the Nonprofessional Subscriber receives Options Information, and the calculation of the Nonprofessional Subscriber fees due from Vendor to OPRA since the period covered by the most recent prior report furnished to OPRA hereunder. Vendor shall also furnish OPRA with such additional information concerning its furnishing of Options Information to Nonprofessional Subscribers as OPRA may reasonably request. At the request of Vendor, such information shall be kept confidential by OPRA.

(d) The report furnished pursuant to subsection (c) above with respect to the end of Vendor's fiscal year shall be audited, at Vendor's expense, by Vendor's regular independent public accountant. The auditor's report shall be furnished to OPRA within 90 days after the end of Vendor's fiscal year.

(e) In the event OPRA, in its sole discretion, determines that a person has been improperly approved by Vendor as a Nonprofessional Subscriber, upon written notice of such determination to Vendor, within 20 days of receipt of such notice, Vendor shall pay to OPRA the difference between (i) the amount that would have been billed to that person at the rates applicable to Professional

Subscribers since the date of his approval as a Nonprofessional Subscriber and (ii) the Nonprofessional Subscriber fees actually paid by Vendor with respect to that person; provided, however, that if Vendor demonstrates to OPRA's reasonable satisfaction that the improper approval of the Subscriber in question was the result of a good

faith error of Vendor, the maximum amount that Vendor shall be required to pay to OPRA under this subsection with respect to any single Subscriber shall be the applicable Professional Subscriber fees for a period of twelve months.

7. Transactions Effected on Other Exchanges.

To the extent that rules and regulations of the SEC require the reporting of transactions or quotations involving option contracts having the same terms as Eligible Securities effected in markets other than the Participants', and to the extent that information pertaining to such transactions is furnished to Vendor by OPRA, Vendor agrees that it will include such information as a part of its service provided to Last Sale Subscribers or Quotation Subscribers, unless the SEC shall have granted Vendor an exemption from this requirement.

8. Defense of Suits - Indemnification.

(a) If Vendor shall refuse to furnish Last Sale Reports or Quotation Information to any person who is not a Last Sale Subscriber or Quotation Subscriber or shall refuse to continue furnishing Last Sale Reports or Quotation Information to any person who has been terminated as a Last Sale Subscriber or Quotation Subscriber, solely by reason of having received written notice from OPRA that the approval of such person as a Subscriber has been denied or revoked, the Participants shall indemnify, hold harmless and defend Vendor from and against any and all suits or proceedings at law or in equity based on such refusal and any and all liability, loss or damages, including reasonable

attorneys' fees, which Vendor shall incur as a result of such suit or proceeding, provided, however, that Vendor shall promptly notify OPRA in writing of any such suit or proceeding and the Participants shall have the sole control of the defense of any such suit or proceeding and all negotiations for the settlement or compromise thereof, but only insofar as such settlement or compromise does not impose any liability on Vendor. The obligation of a Participant to indemnify Vendor pursuant to this or the following paragraph shall survive the termination of this Agreement as to such Participant, but only

to the extent of any liability arising out of action by OPRA terminating, revoking or denying the approval of any person as a Last Sale Subscriber or Quotation Subscriber occurring prior to the effective date of termination of this Agreement as to such Participant.

(b) In the event any suit or legal proceeding is brought to enjoin Vendor from refusing to furnish Last Sale Reports or Quotation Information to any person because the approval of such person as a Last Sale Subscriber or Quotation Subscriber has been denied or revoked by OPRA, Vendor shall at once inform OPRA of such suit or proceeding. Upon the receipt of any such notice by OPRA, the Participants shall have the right to intervene in such suit in the name of Vendor, and/or through counsel of their choice to assume the defense of the action on behalf of Vendor, and the Participants shall indemnify and hold Vendor harmless from and against any and all loss, liability and expense out of or resulting from such suit.

(c) In case any one or more of the Participants institutes any suit or proceeding to enjoin any person not entitled to receive Options Information from obtaining or using the same, Vendor will, in all reasonable respects, cooperate with and assist such Participants in such suit or proceeding, provided Vendor is reimbursed for its actual expenses in connection therewith.

9. Protection of Options Information.

Vendor agrees to use its best efforts to prevent unauthorized persons from obtaining Options Information through its equipment or facilities. In the event OPRA or Vendor has reason to believe any Options Information is so being obtained by unauthorized persons, Vendor agrees to use its best efforts to ascertain the source from which, and the manner in which, the same is being obtained and to promptly inform OPRA fully with respect thereto. Upon reasonable notice to Vendor, an authorized representative of OPRA shall be permitted to inspect Vendor's equipment and facilities used in connection with the dissemination or retransmission of Options Information; provided, however, that this right of inspection shall extend only so far as may be necessary to insure compliance by Vendor with the provisions of this Agreement and shall not require Vendor to divulge any confidential or proprietary information concerning its equipment or facilities.

10. No Warranty as to Options Information.

OPRA, the Processor or any Participant does not guarantee the timeliness, sequence, accuracy or completeness of any Options Information, and OPRA, the Processor or any Participant shall not be liable in any way to Vendor or to any Subscriber or to any other person whatsoever for any claims or damages, consequential or otherwise, which may arise out of any obligation of OPRA, the Processor or such Participant under this Agreement, or for any delays, inaccuracies, errors in, or omissions of, any Options Information, or in the transmission or delivery thereof or for any damage arising therefrom or occasioned thereby.

11. Proprietary Rights of Participants.

Last Sale Reports and Quotation Information are the property of the Participant on whose floor the respective transactions took place or the quotations were entered, and no Participant shall be deemed to have waived any of its proprietary interests therein as a result of furnishing the same to Vendor.

12. Disclosure by Vendor.

Vendor agrees to maintain at all times on a current basis, a list of all persons to whom Vendor is furnishing Last Sale Reports and/or Quotation Information, and to provide a full, complete and current copy of such list (or changes from the previous version of the list) to OPRA not less frequently than monthly. For each person included in the list who receives Options Information on terminals or other devices furnished by or

under the control of Vendor, Vendor shall report the number of devices on which such person currently receives Options Information.

At such reasonable times as OPRA shall request, Vendor agrees to provide OPRA with a description in reasonable detail of the services furnished by Vendor pertaining to Options Information, including a description of the various components of such services, the form and nature of the information made available through such services, identification of the persons to whom Vendor provides such services, a description of the equipment used in providing such services and the manner in which Vendor's equipment serves to furnish such services (but without disclosing any of Vendor's trade secrets or adversely affecting its proprietary interests in its equipment) and the nature of any sales literature used by Vendor in marketing its equipment or services. At the request of Vendor, such information shall be kept confidential by OPRA.

13. Alteration or Cessation of Transmission of Last Sale Reports or Quotation Information.

Nothing herein shall be deemed to prevent, or restrict in any manner whatsoever, the exercise by the Participants of their rights, without any notice and without any liability to Vendor or to any other person, to furnish, or to contract with any other person to furnish, Last Sale Reports or Quotation Information by any means whatever, or to attach devices or equipment of any design or manufacture to circuits carrying Last Sale Reports or Quotation Information, including devices or

equipment designed or manufactured by any Participant or any other person, whether or not competitive with the service or equipment furnished by Vendor, on such terms and conditions as OPRA may determine. OPRA may, upon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required), (a) make such changes in the speed of transmission or other characteristics of the electrical signals representing the Last Sale Reports or Quotation Information as OPRA may from time to time determine (whether or not such changes would require changes to be made by Vendor in its service or equipment), (b) discontinue furnishing Last Sale Reports or Quotation Information to Vendor, or (c) discontinue circuits carrying Last Sale Reports or Quotation Information provided, however, that OPRA agrees to give Vendor as much prior notice as is practicable under the circumstances (but in any event not less than sixty days unless Vendor agrees to a shorter period of notice) of any such action. The schedule of fees and charges pertaining to Options Information may be changed by OPRA on not less than 30 days notice.

14. No Endorsement by OPRA.

Vendor shall not represent, and shall not cause or permit any other person to represent, either directly or indirectly, that all or any part of its service is sponsored, endorsed or approved by any Participant or by OPRA.

15. Patent Indemnity.

Vendor hereby agrees to indemnify, hold harmless and defend each Participant and each Affiliate of a Participant from and against any and all suits, proceedings at law or in equity, and any and all liability, loss or damages, including reasonable attorneys' fees, arising out of, or in connection with any claim by any person that the use of Vendor's equipment infringes any United States patent or violates any property right; provided, however, that Vendor shall be notified promptly in writing of any such suit; and Vendor shall

have the sole control of the defense of any such suit or proceeding and all negotiations for the settlement or compromise thereof, but only insofar as such settlement or compromise does not impose any liability on any Participant or any affiliate thereof.

16. Effectiveness of Agreement - Termination.

This Agreement shall become effective as of the date set forth on the first page hereof, and shall thereupon supersede and cancel any and all previous agreements between the Vendor and any of the Participants providing for the furnishing by such Participant of Last Sale Reports or Quotation Information to the Vendor, or for the attachment of display devices to the circuits carrying such information. Following its effectiveness, this Agreement shall continue in effect until terminated as herein provided.

Upon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action

by the SEC, if required), either the Vendor or OPRA may terminate this Agreement on not less than thirty days prior written notice to the other; the provisions of Section 15 hereof shall survive the termination of this Agreement.

In the event a Participant, upon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required), shall withdraw from the Plan, this Agreement shall be deemed to have terminated with respect to such Participant effective as of the date of such withdrawal.

Notwithstanding the withdrawal by any one or more of the Participants from the Plan, this Agreement shall remain in effect as between the remaining Participants in the Plan and the Vendor, unless and until terminated as herein provided, and on or following any such withdrawal the term "Participant" and "Participants" as used herein shall refer only to the remaining Participants in the Plan.

17. Arbitration.

Any dispute or controversy between the parties hereto relating to the breach or alleged breach of this Agreement shall be promptly submitted to Arbitration in New York, New York in accordance with the rules of the American Arbitration Association then obtaining and judgment upon any award rendered may be entered in any court having jurisdiction. Solely for the purposes hereof, each of the parties hereto hereby submits to the jurisdiction of the courts of the State of New York.

18. Assignment of Agreement.

The Vendor shall not assign this Agreement in whole or in part without the prior written consent of the OPRA, except to a successor corporation upon merger or consolidation of the Vendor, or to a corporation acquiring all or substantially all of the property, assets and business of the Vendor. Subject to the foregoing restriction, this Agreement shall bind and inure to the benefit of the assignees and successors of the parties hereto.

19. Most Favored Provision.

If Participants shall enter into any agreement with any other person providing for such other person acting as a vendor to have access to Last Sale Reports or Quotation Information and such agreement contains terms and/or conditions more favorable to such other person than the terms and conditions of this Agreement applicable to Vendor, OPRA shall promptly notify Vendor thereof and, at Vendor's request, shall amend this Agreement to include substantially the same terms and conditions as are included in such other agreement.

20. New Participants.

Each new Participant, as a condition to its becoming a party to the Plan, shall be required to subscribe in writing to the terms and conditions of this Agreement and to authorize OPRA to take action on its behalf in respect to this Agreement.

21. Notices.

All notices, bills, consents or requests required or authorized to be given hereunder shall be deemed sufficiently given if in writing and sent by registered mail to OPRA at

Options Price Reporting Authority
400 South LaSalle Street, 6th Floor
Chicago, Illinois 60605

and in the case of Vendor -

Attention:

22. Integration; Modification.

(a) This Agreement constitutes the entire agreement between the parties relating to the furnishing of Last Sale Reports or Quotation Information to Vendor and the use thereof as permitted hereunder.

(b) No modification of this Agreement shall be valid unless set forth in writing and executed by the parties hereto.

23. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. The respective rights and obligations of the parties to this Agreement shall be subject to any applicable provisions of the Securities Exchange Act of 1934 (as amended) and any rules and regulations promulgated thereunder.

24. Headings.

Section headings used in this Agreement are for convenience in reference only and shall not affect the meaning or construction hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers or duly authorized agents on the day and year first above written.

Aether Technologies International, L.C.C.

[Name of Vendor]

By /s/ David S. Oros

(Title)
President/CEO

OPTIONS PRICE REPORTING AUTHORITY --

AMERICAN STOCK EXCHANGE, INC.

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED

NEW YORK STOCK EXCHANGE, INC.

PACIFIC STOCK EXCHANGE INCORPORATED

PHILADELPHIA STOCK EXCHANGE, INC.

By /s/ Joseph [illegible]

Executive Director

EXHIBIT 10.4

EXECUTION FORM

NEW YORK STOCK EXCHANGE, INC.

AGREEMENT FOR RECEIPT AND USE OF MARKET DATA

AGREEMENT made as of the 19th day of JULY, 1999 between the executing person ("Customer") and New York Stock Exchange, Inc. ("NYSE") acting on behalf of the Authorizing SROs* as Paragraph 12 describes.

RECITAL

The Authorizing SROs act (1) cooperatively pursuant to the "CTA Plan"(1) and the "CQ Plan"(2) (collectively, the "Plans") and on behalf of Other Data Disseminators*, and (2) individually on their own behalves, to facilitate the dissemination of the following categories of information:

<TABLE>

<S>	<C>
Network A* Last Sale Price Information*	Network B* Last Sale Price Information
Network A Quotation Information*	Network B Quotation Information
NYSE Market Information*	AMEX Market Information*
Other Market Information*	Delayed Last Sale Price Information*

</TABLE>

This Agreement refers to such information collectively as "Market Data" and refers to each category of such information as a "Type of Market Data") The Authorizing SROs authorize NYSE to enter into this Agreement to permit Customer to receive and redisseminate and/or otherwise use Market Data on a non-exclusive basis, and to perform or provide the Services*, (1) to the extent, for the purposes, and in the manner, specified in Exhibit A and (2) only in accordance with and subject to this Agreement. This Agreement incorporates Exhibit A.

TERMS AND CONDITIONS

Customer and the Authorizing SROs by NYSE acting on their behalf agree as follows:

PART I: MARKET DATA ACCESS AND USE

1. DEFINITIONS

(a) "AMEX Market Information" includes Last Sale Price and Quotation Information relating to Non-Eligible Securities* that are admitted to dealings on the American Stock Exchange ("AMEX"), index information that AMEX makes available and such other categories of information as AMEX or an Other Data Disseminator may make available and AMEX may from time to time identify.

(b) "Authorizing SRO(s)" mean each of the national securities exchanges, and the national securities association, that are signatories to either or both Plans. (This agreement refers to any such signatory as a "Participant".)

(c) "Customer Affiliate" means any person identified in Exhibit A (i) that receives one or more Services and (ii) as to which NYSE has made the "control relationship" determination that Paragraph 8(b) describes.

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* Whenever an asterisk follows the first use of a term, Paragraph 1 of this Agreement refers to or defines that term.

(1) The CTA Plan was filed with the Securities and Exchange Commission (the "Commission") by certain of the Authorizing SROs pursuant to Rule 17A-15 (later amended and renumbered as Rule 11Aa3-2) under the Securities Exchange Act of 1934, as amended (the "1934 Act"). The Commission declared the CTA Plan effective as of May 17, 1974.

(2) The CQ Plan was filed with the Commission by certain of the Authorizing SROs for the purpose of implementing Rule 1lAc1-1 under the 1934 Act. The Commission approved the CQ Plan on July 28, 1978.

(d) "Date Recipient" means any person that is authorized in accordance with Paragraph 5 to receive one or more Types of Market Data from Customer acting pursuant to this Agreement.

(e) "Delayed Last Sale Price Information" means Last Sale Price Information that has been delayed for such period (the "Delay Period") as NYSE specifies on 60 days' written notice.

(f) "Disseminating Party" means "CTA" and the "Operating Committee" (as defined in the CTA and CQ Plans, respectively), each member of CTA and the Operating Committee, each Authorizing SRO, each facilities manager for the dissemination of one or more Types of Market Data (e.g., the "Processor" as defined in the Plans), each Other Data Disseminator, each of their respective directors, governors, officers, employees and affiliates, and each director, officer and employee of each such affiliate.

(g) "Eligible Security" has the meaning that the CTA Plan assigns to that term.

(h) "Indirect Access" means access in one or more of the Authorizing SRO's Transmission Facilities through an intermediary and in a manner that (i) allows the access recipient to control the redistribution of Market Data or (ii) precludes the access provider (A) from exercising entitlement controls over the access recipient's use of Market Data in a manner that is satisfactory to NYSE or AMEX, as appropriate, or (B) from otherwise fulfilling its reporting obligations under its agreement with the Authorizing SROs. (This Agreement provides terms and conditions pursuant to which Customer may provide and/or receive Indirect Access.)

(i) "Indirect Access Service" refers to Customer's provision of Market Data to a Data Recipient in compliance with Exhibit A and in a manner that NYSE, acting in its sole discretion, determines to constitute Indirect Access to the Transmission Facilities.

(j) "Interrogation Device" means any terminal or other device, including, without limitation, any computer, data processing equipment, communications equipment, cathode ray tube, monitor or audio voice response equipment, technically enabled to display, transmit or otherwise communicate, upon inquiry, Market Data in visual, audible or other comprehensible form.

(k) "Interrogation Service" means any service that permits retrieval of one more Types of Market Data by means of an Interrogation Device.

(l) "Last Sale Price Information" means (i) the last sale prices reflecting completed transactions in Eligible Securities or Non-Eligible

Securities, (ii) the volume and other information related to those transactions, (iii) the identifier of the Authorizing SRO furnishing the prices, and (iv) other related information.

(m) "Market Minder" means any Service provided by a Vendor* by means of an Interrogation Device or other display which (i) permits monitoring, on a dynamic basis, of Last Sale Price Information and/or Quotation Information in respect of a particular security, and (ii) displays the most recent Last Sale Price Information or Quotation Information with respect to that security until such information has been superseded or supplemented by the display of new Last Sale Price Information reflecting the next reported transaction in that security and/or new Quotation Information reflecting updated bids or offers for that security.

(n) "Network A" means (i) in respect of Eligible Securities, Eligible Securities admitted to dealings on NYSE, and (ii) in respect of a Participant, a Participant that makes available information relating to Network A Eligible Securities.

(o) "Network B" means (i) in respect of Eligible Securities other than Network A Eligible Securities, and (ii) in respect of a Participant, a Participant that makes available information relating to Network B Eligible Securities.

(p) "Non-Eligible Securities" include certain stocks, bonds, and other securities, that are not Eligible Securities and that are admitted to dealings on a Participant national securities exchange.

(q) "NYSE Market Information" includes Last Sale Price and Quotation Information relating to Non-Eligible Securities that are admitted to dealings on NYSE, index information that NYSE makes available and such other categories of information as NYSE or an Other Data Disseminator may make available and NYSE may from time to time identify.

(r) "Other Data Disseminators" means (i) "other reporting parties" (as the CTA Plan defines that term) and (ii) such other, non-Participant parties that make market information available over the Transmission Facilities, or that have a proprietary interest in the index information that a Participant makes available pursuant to the CTA Plan, as NYSE or AMEX, as appropriate, may from time to time identity.

(s) "Other Market Information" includes Last Sale Price and Quotation Information relating to Non-Eligible Securities that are admitted to dealings on a Participant other than NYSE or AMEX, index information that a Participant other than NYSE or AMEX makes available pursuant to the CTA Plan and such other categories of information as a Participant other than NYSE or AMEX, or an Other Data Disseminator, may make available and NYSE may from time to time identify.

(t) "Person" means a natural person or proprietorship, or a corporation, partnership or other organization.

(u) "Quotation Information" means (i) all bids, offers, quotation sizes, aggregate quotation sizes, identities of brokers or dealers making bids or offers and other information in respect of Eligible Securities and Non-Eligible Securities; (ii) the identifier of the Authorizing SRO furnishing each bid or offer; (iii) each "consolidated BBO" (as the CQ Plan defines that term) in the foregoing information and any identifier associated therewith; (iv) each "ITS/CAES BBO" (as the CQ Plan defines that term) and any identifier associated therewith; and (v) related information.

(v) "Services" include both Subscriber Services* and Indirect Access Services.

(w) "Service Facilitator" means any person other than a "common carrier" (as defined in the Federal Communications Act) (i) that assists Customer as described and in the manner specified in Exhibit A in any aspect of Customer's receipt, dissemination or other use of Market Data (including any facilities manager, equipment operator, signal broadcaster or installation contractor) and (ii) as to which NYSE has made the "Service Facilitator" determination that Paragraph 8(a) describes.

(x) "Subscriber" means a recipient of one or more types of Market Data through a Ticker Display*, Interrogation Service, Market Minder Service, or other Market Data Service from a Vendor, another data redisseminator or the Authorizing SROs.

(y) "Subscriber Service" refers to any Interrogation, Ticker Display, Market Minder or other service involving the use of Market Data (other than an Indirect Access Service) that Customer may create and provide to its own officers, partners and employees and/or to other Data Recipients, all as Exhibit A describes.

(z) "Ticker Display" means a continuous moving display of Last Sale Price Information (other than a Market Minder) provided on an interrogation or other display device.

(aa) "Transmission Facilities" include the data transmission facilities by which the Authorizing SROs make Market Data available pursuant to the Plans and such other data transmission facilities by which one or more Authorizing SROs may make Market Data available as NYSE may from time to time identify.

(bb) "Vendor" means any person engaged in the business of providing Subscriber Services and/or Indirect Access Services to brokers, dealers, investors or other persons.

2. PROPRIETARY INTERESTS - Customer understands and acknowledges, and shall assure that each Customer Affiliate and Service Facilitator (if any) understands and acknowledges, that each Authorizing SRO and Other Data Disseminator has a proprietary interest in the Market Data that originates on or derives from its markets or in its index information.

3. CUSTOMER ACCESS TO MARKET DATA

(a) DIRECT ACCESS - Customer may receive one or more Types of Market Data through direct access to (i.e., through direct computer-to-computer interface(s) with) the Transmission Facilities.

(b) INDIRECT ACCESS - Customer may receive one or more Types of Market Data through Indirect Access to the Transmission Facilities through an intermediary. However, Customer may do so only after NYSE notifies the intermediary in writing of NYSE's approval.

(c) ACCESS SPECIFICATIONS AND EXPENSES - Customer may receive one or more Types of Market Data as Paragraphs 3(a) and 3(b) provide solely as and to the extent described, and in the manner specified, in Exhibit A. Where Customer adds, deletes or substitutes either any intermediary or any means of access (i.e., either direct access or Indirect Access), NYSE must first approve the addition, deletion or substitution and any related changes as Paragraph 6 describes. Except as NYSE may explicitly undertake, no Authorizing SRO is responsible for any cost or expense, or for providing any circuit, necessary for Customer to receive or transmit Market Data.

4. SRO MODIFICATIONS - Upon as much notice as is reasonably practicable under the circumstances, the Authorizing SROs, without liability to Customer or to any other person, (a) may discontinue disseminating any or all Types of Market Data either at all or in any particular manner, (b) may change or eliminate any circuit(s) carrying any or all Types of Market Data, (c) may discontinue converting any or all Types of Market Data into electrical signal form and/or (d) may change the speed or any other characteristic of the electrical signals representing any or all Types of Market Data.

5. CUSTOMER USE OF MARKET DATA

(a) PERMITTED USE OF DATA - Customer may receive and use a Type of Market Data pursuant to this Agreement solely as and to the extent described, and in the manner specified, in Exhibit A. Except as this Paragraph 5 describes, any dissemination or other use of that Type of Market Data is prohibited. Where NYSE has authorized Customer to provide one or more, but not all, Types of Market Data to a Data Recipient, Customer shall inhibit the provision of the unauthorized Type(s) of Market Data in the manner Exhibit A describes.

(b) SUBSCRIBER SERVICES - Customer may provide one or more Type(s) of Market Data to a Subscriber through a Subscriber Service solely as described and in the manner specified in Exhibit A and only pursuant to such one or more of the following requirements as NYSE or AMEX, as appropriate, specifies:

(i) if NYSE, or AMEX, as appropriate, has notified Customer (by such means as NYSE or AMEX, as appropriate, may specify) that the person has entered into an appropriate agreement with NYSE or AMEX that authorizes the person to receive and use the Type(s) of Market Data; or

(ii) while the person is a party to an effective agreement with Customer that includes terms and conditions in the form attached to this Agreement as Exhibit B (if any); or

(iii) Customer's compliance with such alternative or additional Subscriber Service requirements as NYSE, or AMEX, as appropriate, may from time to time approve in writing.

Where Customer provides a Subscriber Service pursuant to clause (ii) or (iii) of this Paragraph 5(b), Customer shall assure that it has the ability to modify its agreements with Subscribers, and any alternative subscriber requirements, as NYSE may from time to time specify. Customer shall effect any such modification promptly, except that Customer may continue to provide a Subscriber Service to any existing Subscriber without effecting the modification for 90 days from that receipt. Customer shall discontinue its provision thereafter if the Subscriber has not agreed to the modification(s). Customer shall promptly describe to NYSE any breach by a Subscriber of the NYSE-prescribed portions of Customer's agreements with the Subscriber, or of NYSE-prescribed alternative subscriber requirements, about which it may learn. Customer shall not in any way amend, supplement, or otherwise modify NYSE-prescribed provisions or requirements or vitiate those provisions or requirements by any collateral agreement or understanding, except as NYSE may otherwise agree in writing.

(c) INDIRECT ACCESS SERVICES - NYSE will determine in its sole discretion whether the manner in which Customer intends to provide one or more Types of Market Data to other persons constitutes an Indirect Access Service. Customer may provide an Indirect Access Service solely as described and in the manner specified in Exhibit A. Customer shall not provide any person with an Indirect Access Service unless NYSE has notified Customer that the person has

entered into an appropriate agreement with NYSE authorizing the Indirect Access. Customer shall promptly notify NYSE whenever any person commences or ceases to receive an Indirect Access Service.

(d) DELAYED LAST SALE PRICE INFORMATION SERVICES - If Customer elects to provide Delayed Last Sale Price Information Services (as described, and in the manner specified, in Exhibit A), Customer shall:

(i) comply with any contract and fee collection requirements that NYSE may specify from time to time as to persons receiving Delayed Last Sale Price Information;

(ii) assure that each display of Delayed Last Sale Price Information conspicuously exhibits a statement indicating that the information has been delayed and the duration of the delay; and

(iii) assure that any advertisement, sales literature or other material promoting any Delayed Last Sale Price Information Service, and any agreement for that Service, includes such a statement in a conspicuous manner.

Customer shall assure that the statement is effected in the form and manner Exhibit A describes and in a manner that makes it readily visible to any person viewing the display or promotional material. In addition, Customer shall comply, and shall use its best efforts to cause Subscribers to comply, with any other reasonable regulation that NYSE may adopt from time to time to assure that viewers of Delayed Last Sale Price Information are not misled as to its nature.

(e) SECURITIES PROFESSIONAL EXCEPTION - Insofar as (i) NYSE determines that Customer is a securities professional (such as a registered broker-dealer or investment adviser) and (ii) Exhibit A does not otherwise permit Customer to provide Market Data to a particular person or branch office, Customer, solely in the regular course of its securities business, may occasionally furnish limited amounts of Market Data to its customers and clients and to its branch offices. Customer may do so notwithstanding anything to the contrary in this Paragraph 5 and subject to such additional limitations as NYSE may specify in writing. Customer may so furnish Market Data to its customers and clients who are not on Customer's premises solely (i) in written advertisements, educational material, sales literature or similar written communications or (ii) during telephone conversations not entailing the use of computerized voice synthesization, other electronic communication or similar technology. Customer may so furnish Market Data to its branch offices solely (i) as the preceding sentence permits or (ii) through manual entry over its communications network. Customer shall not permit any customer or client to take physical possession of any component of the equipment and software used for or in connection with any Service, except as Exhibit A may otherwise provide.

(f) PERMITTED CONNECTIONS OF TICKER DISPLAY DEVICES - Customer may connect approved Ticker Display devices to the Transmission Facilities solely (i) for persons, and at locations, that NYSE or AMEX, as appropriate, has approved for that purpose and (ii) as described and in the manner specified in Exhibit A. Customer shall assure that any Ticker Display device complies with all NYSE requirements for content, format and timeliness.

6. SERVICE AND SECURITY VARIATIONS AND SUPPLEMENTS - Customer shall submit for NYSE's approval a description of any proposed, non-trivial variation or supplement to or deletion from any receipt, redissemination, other use or display of Market Data or to any Market Data security safeguard. Customer shall not implement any such variation, supplement or deletion unless NYSE approves its description in writing, whereupon Exhibit A shall incorporate the

description. Customer understands that NYSE may not approve a proposed variation, supplement or deletion and that it acts at its own risk if any significant effort is expended in development prior to NYSE's approval. Customer further understands that an approved variation or supplement may be subject to one or more additional or substituted charges payable pursuant to Paragraph 10.

PART II: SECURITY

7. TRANSMISSION AND EQUIPMENT SECURITY

(a) PROTECTION OF TRANSMISSIONS AND EQUIPMENT - Customer shall assure that Service-related data processing, transmission and communications equipment and software are arranged and protected so that, so far as reasonably possible, no person can have unauthorized access to Market Data.

(b) SECURITY BREACHES AND REVISION - Customer shall assure that the security safeguards that Exhibit A describes are enforced. If, in its sole discretion, NYSE determines that one or more persons have unauthorized access to Market Data, Customer shall, in accordance with Paragraph 6, take all steps necessary to alter the security safeguards and the manner of its receipt or transmission of Market Data so as to preclude the access. Customer shall provide NYSE with such evidence as NYSE may request regarding the adequacy of those steps. If NYSE determines those steps to be inadequate, Customer shall promptly comply with any writing instructing Customer to discontinue transmitting Market Data by the inadequately-safeguarded means.

(c) INSPECTION - Customer shall assure that any person authorized in writing by NYSE (in respect of all Types of Market Data) or by AMEX (in respect of Network B Market Data and Other Market Information) has access, at any reasonable time, to any premises of Customer, any Customer Affiliate, any Service Facilitator or any person to whom Customer provides Market Data. In the presence of officials in charge of the premises, the authorized person may (i) examine any component of equipment and software used for the purposes of this Agreement and located at the premises and (ii) observe the use of Market Data and all operations located or conducted at the premises, but solely to monitor compliance with this Agreement. This Paragraph 7(c) does not require Customer to disclose any proprietary information other than as Exhibit A discloses.

8. SERVICE FACILITATORS AND CUSTOMER AFFILIATES

(a) SERVICE FACILITATORS - NYSE will determine in its sole discretion whether any person assisting Customer for the purposes of this Agreement is a "Service Facilitator" and, therefore, is excused from entering into a separate agreement with NYSE. NYSE will base its determination upon such criteria as (i) the nature and quantity of the Service-related functions that the person performs and (ii) the extent to which Customer owns, or is under common ownership with, the person. Customer shall not permit any person other than a common carrier to assist Customer in providing or performing any aspect of the Service unless (i) NYSE has determined the person to be a "Service Facilitator" and the person is acting in accordance with, and in the manner specified, in Exhibit A or (ii) the person has entered into an agreement with NYSE governing the assistance.

(b) CUSTOMER AFFILIATES - NYSE will determine in its sole discretion whether any "control relationship" between Customer and any person qualifies the person as a "Customer Affiliate" for the purposes of this Agreement. Subject to the charges to which Paragraph 10(a) refers and to the other applicable provisions of this Agreement, Customer may provide any Subscriber

Service to partners or officers and employees of Customer Affiliates. For that purpose, any such partner, officer or employee is deemed "a partner, officer or employee of Customer".

(c) CUSTOMER'S GUARANTEE - Customer unconditionally guarantees that each Service Facilitator and Customer Affiliate (i) will fully comply with the provisions of this Agreement that protect against unauthorized access to Market Data, that relate to installation, maintenance and inspection, or that otherwise apply in respect of the Service Facilitator or Customer Affiliate to the same extent as if it had entered into this Agreement and (ii) will not cause Customer to fail to comply with this Agreement. Customer shall inform each Service Facilitator and Customer Affiliate of all relevant provisions of this Agreement and shall promptly provide NYSE with a full description whenever it learns that a Service Facilitator or Customer Affiliate has failed to so comply or has caused Customer to fail to comply.

(d) CURE AND DISCONTINUANCE OF ACCESS - Whenever NYSE notifies Customer in writing that it has determined that a Service Facilitator or Customer Affiliate has failed to act in accordance with, or in the manner specified in, this Agreement, Customer shall promptly cure the breach or rectify the failure. If NYSE so instructs, Customer shall discontinue giving Market Data access to the partners, officers and employees of the Customer Affiliate, or using the Service Facilitator, under this Agreement.

9. COOPERATION AS TO UNAUTHORIZED RECEIPT

(a) PREVENTION AND DISCOVERY - Customer shall use best efforts to assure that no "Unauthorized Recipient" obtains Market Data from Customer or from equipment and software that Customer uses for the Services. As to any Type of Market Data an "Unauthorized Recipient" is any person other than a Data Recipient, Customer Affiliate or Service Facilitator in its authorized access to that Type of Market Data. If an Unauthorized Recipient does so obtain Market Data, Customer shall use its best efforts to ascertain the source and manner of acquisition, shall fully and promptly brief NYSE, and shall promptly pay the applicable amounts described in Paragraph 10. Customer shall otherwise cooperate and assist in any investigation relating to any unauthorized receipt of Market Data made available pursuant to this Agreement.

(b) CUSTOMER COOPERATION AND ASSIGNMENT - Any one or more Authorizing SROs may sue or otherwise proceed against any Unauthorized Recipient, including suing or proceeding to prevent the Unauthorized Recipient from obtaining, or from using, any Type of Market Data that it or they make available. If any one or more Authorizing SROs institute any suit or other proceeding against the Unauthorized Recipient, Customer, unless made a defendant in the suit or proceeding,

(i) shall assure that it and Customer Affiliates and Service Facilitators (if any) cooperate with and assist the Authorizing SRO(s) in the suit or proceeding in all reasonable respects, provided that the Authorizing SRO(s) reimburse Customer for reasonable out-of-pocket expenses; and

(ii) if the one or more Authorizing SROs so elect in writing, shall assure that all of Customer's, Customer Affiliates' and Service Facilitators' right, title and interest in the suit or proceeding and in its subject matter will be assigned to the Authorizing SRO(s).

If the one or more Authorizing SROs elect the assignment, it or they shall indemnify, hold harmless and defend Customer against any cost, liability or expense (including reasonable attorneys' fees) that arises out of or results from the suit or proceeding.

(c) THIRD PARTY SUITS AGAINST CUSTOMER - If any person brings a suit or other proceeding to enjoin Customer, any Customer Affiliate or any Service Facilitator from refusing to furnish any Type of Market Data to any Unauthorized Recipient, Customer shall promptly notify NYSE. The Authorizing SRO(s) that make that Type of Market Data available may intervene in the suit or proceeding in the name of Customer, the Customer Affiliate or the Service Facilitator, as appropriate, and, through counsel chosen by the intervening Authorizing SRO(s), may assume the defense of the action on behalf of Customer, the Customer Affiliate or the Service Facilitator. Intervening Authorizing SROs shall jointly and severally indemnify, hold harmless and defend Customer against any loss, liability or expense (including reasonable attorneys' fees) that arises out of or results from the suit or proceeding.

(d) WITHDRAWAL OF RECIPIENT APPROVAL - If NYSE or AMEX, as appropriate, notifies Customer in writing that the Authorizing SRO(s) have terminated the right of any authorized recipient to receive any Type of Market Data, Customer (i) shall cease furnishing that Type of Market Data to the person within five business days of the notice and (ii) shall, within ten business days, confirm the cessation, and inform NYSE or AMEX, as appropriate, of the cessation date, by notice.

(e) CUSTOMER INDEMNIFIED - If Customer refuses to furnish, or to continue to furnish, to any person any Type of Market Data solely because NYSE has notified Customer in writing that the Authorizing SRO(s) do not authorize, or no longer authorize, the person to receive that Type of Market Data, the Authorizing SRO(s) shall jointly and severally indemnify, hold harmless and defend Customer from and against (i) any suit or other proceeding that arises from the refusal and (ii) any liability, loss, cost, damage or expense (including reasonable attorneys' fees) that Customer incurs as a result of the suit or proceeding. The Authorizing SRO(s) shall have sole control of the defense of any such suit or proceeding and of all negotiations for its settlement or compromise. Customer's prompt notice to NYSE of any such suit or proceeding is a condition to Customer's rights under this Paragraph 9(e). Those rights do not apply when Customer ceases to furnish Market Data to a person, or in a manner, not authorized by NYSE.

PART III: PAYMENTS, RECORDS AND REPORTS

10. PAYMENTS

(a) GENERAL CHARGES - Customer shall pay NYSE or AMEX, as appropriate, in United States dollars the applicable charge(s) from time to time in effect. Customer shall pay any amounts due in accordance with such procedures, and within such time parameters, as NYSE or AMEX, as appropriate, may specify from time to time and shall pay any applicable tax (excluding any income tax imposed on any Authorizing SRO in respect of any such amount). The Authorizing SROs will provide Customer with 30 days' notice of any changes in the charge(s) payable by Customer.

(b) CHARGES FOR UNAUTHORIZED INSTALLATIONS - If NYSE or AMEX, as appropriate, notifies Customer that it has determined in its sole discretion that Customer has made any unauthorized or unreported provision or use of Market Data made available to Customer under this Agreement (including the improper receipt described in Paragraph 10(d)), Customer shall pay (i) any applicable charge(s) that would have been imposed on Customer, a Data Recipient or an Unauthorized Recipient in respect of a provision or use, whether by Customer or by a Data Recipient or Unauthorized Recipient, had it been authorized or reported and (ii) an administrative fee equal to ten percent of those charges. Customer's payment obligations apply regardless of whether a person responsible for an unauthorized provision or use received the Market Data from Customer directly or from a person in the chain of dissemination that began with an unauthorized provision or use by Customer. The Authorizing SROs reserve the

right to recover punitive damages for any deliberate breach of good faith and the like.

(c) INTEREST ON UNPAID AMOUNTS - If Customer has not paid any amounts payable pursuant to Paragraph 10(a) within the applicable time parameters, Customer shall pay interest on the unpaid amount. That interest begins to accrue on the 31st day after the payment's due date. Customer shall also pay interest in respect of amounts payable pursuant to Paragraph 10(b)(i). That interest begins to accrue as of the date on which the amount would have been payable had the provision or use of Market Data been properly authorized or reported. The interest payable under this Paragraph 10(c) will equal the lesser of (i) one and one-half percent per month and (ii) the maximum rate of interest that applicable law permits.

(d) SUBROGATION AND RETURNS - If Customer has paid all amounts due in respect of any Unauthorized Recipient (i) Customer becomes subrogated to all rights of the Authorizing SROs to recover amounts from the Unauthorized Recipient and (ii) NYSE or AMEX, as appropriate, will return to Customer any amounts subsequently received from the Unauthorized Recipient, less any associated collection and administrative expenses.

11. RECORDS AND REPORTS

(a) RECORDS MAINTENANCE AND PRESERVATION - Customer shall maintain such billing records, reports, information, subscriber agreements and other documents as NYSE or AMEX, as appropriate, may reasonably require from time to time to permit the Authorizing SROs to bill for applicable charges and to monitor compliance with this Agreement. Customer shall have the ability to retrieve each such item as it applies to any NYSE-specified criterion, such as a particular Service, Data Recipient, location or account number. Customer shall preserve each such item for not less than three years.

(b) ACCESS TO RECORDS - During the term of this Agreement and for three years thereafter, Customer shall assure that any authorized representative of NYSE (in respect of all Types of Market Data) or of AMEX (in respect of Network B Market Data and Other Market Information) is able (1) to examine Customer's books and records relating to the Services (including, among other items, the items Customer must maintain pursuant to Paragraph 11(2)), (ii) to copy those books and records and extract information from them and (iii) to otherwise perform any auditing functions necessary to verify Customer's compliance with this Agreement.

(c) REPORTING - NYSE (in respect of all Types of Market Data) and AMEX (in respect of Network B Market Data and Other Market Information) may from time to time require Customer to furnish or report all or some of the items that Paragraph 11(a) requires Customer to maintain. Customer understands that NYSE or AMEX may require Customer (i) to so furnish or report some or all of those items upon occurrences of specified events and/or on a periodic basis and (ii) to provide detailed summaries. At the request of NYSE or AMEX, as appropriate, Customer shall have audited, by an independent certified public accountant satisfactory to the requesting exchange, a list of all Data Recipients and any other reasonably requested list, report or information relating to Customer's redissemination or other use of Market Data. Customer shall comply with this Paragraph 11(c) by such methods, in such format and within such time parameters as NYSE or AMEX may reasonably specify.

(d) RELIABILITY OF CUSTOMER'S RECORDS - Customer shall use its best efforts (including the insertion of appropriate terms in Customer's agreements with Data Recipients, Customer Affiliates and Service Facilitators) to assure that Customer is supplied with timely, complete and accurate information so that

Customer, in complying with this Paragraph 11, maintains and supplies NYSE and AMEX with timely, complete and accurate information. Those efforts shall include the use of such entitlement controls as Exhibit A may describe. NYSE recognizes that certain information is beyond Customer's control (such as information identifying Service-related equipment and software that Customer has not supplied, installed or made available). Subject to the best efforts requirement of this Paragraph 11 (d), Customer's obligations under this Paragraph 11 apply to information of this type only to the extent Customer has received it.

PART IV: PROVISIONS OF GENERAL APPLICABILITY

12. NYSE AND AMEX CAPACITIES - In respect of Network A Last Sale Price and Quotation Information, NYSE acts, and receives payments, information and notices, under this Agreement in the one or more capacities for which the Plans provide. In respect of Network B Last Sale Price and Quotation Information, NYSE or AMEX so acts or receives in the one or more capacities for which the Plans provide. In respect of NYSE Market Information, NYSE so sets or receives solely on its own behalf. In respect AMEX Market Information, NYSE or AMEX so acts or receives solely on behalf of AMEX. In respect of Other Market Information, NYSE or AMEX so acts or receives on behalf of the Participants or Other Data Disseminators that make that information available.

13. PROHIBITED USE AND PATENT IDEMNIFICATION - Customer shall idemnify, hold harmless and defend each Disseminating party from and against any suit or other proceeding at law or in equity, claim, liability, loss, cost, damage, or expense (including reasonable attorneys' fees) incurred by or threatened against the Disseminating Parties that arises out of or relates to

(a) any use of Market Data other than as this Agreement provides by Customer, Customer Affiliate or a Service Facilitator, or

(b) any claim that either any component of the equipment and software used for the purposes of this Agreement (excluding any equipment and software Customer or Service Facilitators (if any) do not supply, install or make available to, or operate or maintain for, a Data Recipient) or the manner of the use made of the component or of Market Data provided pursuant of this Agreement infringes any United States or foreign patent or copyright or violates any other property right.

NYSE'S provision to Customer of prompt written notice of the suit or proceeding is a condition to Customer's obligations under the preceding sentence. Customer shall have sole control of the defense of the suit or proceeding and all negotiations for its settlement or compromise.

14. DATA NOT GUARANTEED - The Disseminating Parties do not guarantee the timeliness, sequence, accuracy or completeness of Market Data made available, or of other market information or messages disseminated, by any Disseminating Party. No Disseminating Party will be liable in any way to Customer or to any other person for

(a) any inaccuracy, error or delay in, or omission of, (i) any such data, information or message, or (ii) the transmission or delivery of any such data, information or message, or

(b) any loss or damage arising from or occasioned by (i) any such inaccuracy, error, delay or omission, (ii) non-performance, or (iii) interruption in any such data, information or message,

due either to any negligent act or omission by any Disseminating Party or to any "Force Majeure" (i.e., any flood, extraordinary weather conditions, earthquake or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction) or any other cause beyond the reasonable control of any Disseminating Party.

15. NO SPONSORSHIP - Customer shall assure that neither Customer nor any Customer Affiliate or Service Facilitator represents, either directly or indirectly, that any Disseminating Party sponsors or endorses in any manner Customer, any other person, any particular use of Market Data or any equipment and software.

16. ARBITRATION - The parties shall settle any controversy or claim arising out of or relating to this Agreement, or to its breach or alleged breach, by arbitration in New York. New York under the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator(s) may issue injunctive and other equitable relief, but may not modify this Agreement. Either party may enter in any court having jurisdiction judgment upon any award that the arbitrator(s) render. For the purposes of so entering any such judgment, each party submits to the jurisdiction of the courts of the State of New York. Nothing in this Paragraph 16 derogates any right Customer, any Authorizing SRO, or any other person may have to appeal to the Securities and Exchange Commission any action taken or any failure to act under the 1934 Act, or any of its rules, or to pursue any claim relating to the unauthorized publication or use of communications under the Communications Act of 1934, as amended, at any time, whether before or after the commencement of any arbitration proceeding.

17. EFFECTIVE DATE AND TERMINATION - Upon its execution by each party, this Agreement becomes effective as of the date first above written. Upon becoming effective, this Agreement supersedes each previous agreement between the parties relating to any receipt or use of Market Data that Exhibit A describes. This Agreement continues in effect until terminated as this Paragraph 17 provides. Subject to Paragraph 4, either Customer or NYSE may terminate this Agreement as to one or more Types of Market Data on 30 days' written notice to the other. In addition, this Agreement terminates upon NYSE's withdrawal from the Plans and terminates as to Other Market Information and either Plan's Network B Market Data upon AMEX's withdrawal from that Plan. NYSE shall give Customer 30 days' written notice of any such withdrawal. Insofar as Customer receives access to Transmission Facilities by means of one or more interfaces with one or more intermediaries, this Agreement terminates as to that access immediately upon written notice from NYSE that it no longer approves the interface(s). Paragraphs 8(c), 9, 10, 11, 13, 14 and 16 survive the termination of this Agreement in general or as to any Type(s) of Market Data. They also survive any Participant's withdrawal from either Plan as those paragraphs apply to any matter arising prior to the withdrawal.

18. PROVISION OF SERVICE TO NYSE AND AMEX - Upon request by NYSE and/or AMEX, Customer shall provide to the requesting exchange, free of charge, one subscription to such one or more of Customer's Services as the request may identify, together with the equipment necessary to receive, display or communicate the Service(s). NYSE and AMEX shall use such subscriptions solely for purposes of demonstrating the Service(s) and monitoring Customer's compliance with this Agreement.

19. MISCELLANEOUS

(a) ENTIRE AGREEMENT - Exhibit C, if any, contains additional provisions applicable to any non-standard aspects of Customer's receipt and use of Market Data. This Agreement incorporates Exhibit C. This writing, Exhibit A, Exhibit B and Exhibit C contain the entire agreement between the parties in respect of their subject matter. No oral or written collateral representation, agreement or understanding exists except as this Agreement may otherwise provide.

(b) MODIFICATIONS - In keeping with Paragraph 19(g), NYSE may, by written notice to Customer, modify this Agreement as necessary to cause this Agreement to comply, or to be consistent, with any modification to or replacement of the 1934 Act, the rules under the 1934 Act, or either Plan. Subject to Paragraphs 5(d) and 6, neither party may otherwise modify this Agreement except pursuant to a writing signed by or on behalf of each of them.

(c) ASSIGNMENTS - Customer may not assign this Agreement, in whole or in part, without the written consent of NYSE.

(d) INDIRECT ACTS PROHIBITED - In prohibiting Customer from doing any act this Agreement also prohibits Customer from doing the act indirectly (e.g., by causing or permitting another person to do the act).

(e) REASONABLENESS STANDARD - This Agreement requires or authorizes NYSE and other Authorizing SROs to provide notices and approvals, to make requests and determinations, to impose and specify requirements, and otherwise to act, in respect of a variety of matters. The Authorizing SROs shall perform those acts in a reasonable manner.

(f) GOVERNING LAW - The laws of the State of New York govern this Agreement It shall be interpreted in accordance with those laws.

(g) ACT AND PLAN APPLICABILITY - This Agreement and the Services are subject at all times to the 1934 Act, the rules under the 1934 Act and the Plans.

20. NOTICES - Customer shall furnish any notice, description, report or other communication relating to this Agreement in writing or by such other means (e.g., by electronic mail) as NYSE may specify. The address of each party for all written communications relating to this Agreement is:

Customer (as set forth in Exhibit A)

CQ Plan Participants and
CTA Plan Participants
c/o New York Stock Exchange, Inc. (as below)

New York Stock Exchange, Inc.
11 Wall Street
New York, New York 10005
Attention: Director of Market Data

American Stock Exchange, Inc.
86 Trinity Place
New York, New York 10006
Attention: Director of Market Communications

Customer may change its address by notice to NYSE. NYSE may change any other party's address by notice to Customer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

CUSTOMER

Aether Technologies Intl LLC

NEW YORK STOCK EXCHANGE, INC.

acting in the capacities
Paragraph 12 describes

(Name of Customer)

By: /s/ DAVID S. OROS	By: /s/ RONALD JORDAN
Name: David S. Oros	Name: Ronald Jordan
Title: President and CEO	Title: Vice President, Market Data
Date: 5/19/99	Date: 7/21/99

Dated: May 9, 1996

EXHIBIT 10.5

THE NASDAQ STOCK MARKET, INC. [NYSDAQ LOGO]

THIS AGREEMENT PROVIDES FOR RESOLUTION OF CERTAIN DISPUTES BY BINDING ARBITRATION, SEE SECTION 10.05

THE NASDAQ STOCK MARKET, INC.
VENDOR AGREEMENT FOR LEVEL 1(SM) SERVICE AND LAST SALE(SM) SERVICE

THIS VENDOR AGREEMENT FOR LEVEL 1 SERVICE AND LAST SALE SERVICE ("Agreement"), is made by and between The Nasdaq Stock Market, Inc. ("Nasdaq"), a Delaware corporation, whose executive offices are located at 1735 K Street N.W., Washington, D.C. 20006, and which is a subsidiary of the National Association of Securities Dealers, Inc. ("NASD"), and AETHER TECHNOLOGIES INTERNATIONAL, L.L.C. ("Vendor"), a Delaware limited liability company, whose address is 11460 Cronridge Drive, Suite 106, Owings Mills, MD 21117

The Attachments referred to in this Agreement, a Table of Contents and a Table of Attachments and Amendments are appended to this Agreement.

RECITALS

(1) Nasdaq has developed the Nasdaq Level 1 Service ("Level 1 Service") and the Nasdaq Last Sale Service ("Last Sale Service") which make available for transmission to and reception by authorized vendors certain market information for Nasdaq National Market(R), Nasdaq SmallCap Market(SM), and OTC Bulletin Board(R) securities ("Information") that has been collected, validated, processed, and recorded by the Nasdaq(R) system ("System").

(2) Nasdaq is willing to use the System to make available the Information for transmission to and reception by Vendor, and Vendor desires to transmit the Information to interrogation devices owned and/or controlled by Vendor or its subscribers.

(3) Vendor has developed a subscriber service ("Service") whereby it intends to receive, transmit and disseminate the Information to interrogation devices owned and/or controlled by Vendor or its subscribers.

(4) Vendor desires to receive and use the Information from the System through a communications interface between Vendor's data processing equipment and the System to provide the Service in accordance with the detailed description of Vendor's system and service set forth in Attachment A to this Agreement.

(5) Nasdaq is willing to make available and Vendor is willing to receive the Level 1 Service and/or Last Sale Service subject to the terms and conditions of this Agreement.

TERMS AND CONDITIONS

In consideration of the recitals and the terms and conditions contained in this Agreement, Vendor and Nasdaq agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Defined Terms. The following words or phrases shall have the meanings set forth below when used in this Agreement:

(a) "Claims or Losses" means any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, judgments, settlements, and expenses of whatever nature, including, without limitation, (i) direct, indirect, punitive, special, consequential and incidental damages, and (ii) administrative costs, litigation costs, and attorneys' and auditors' fees and disbursements.

(b) "Corporations" means the National Association of Securities Dealers, Inc. ("NASD"), The Nasdaq Stock Market, Inc. ("Nasdaq") and any other subsidiaries or affiliates of the NASD now or hereafter in existence.

(c) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(d) "Indemnified Parties" means the Corporations and each of their officers, directors, employees and agents.

(e) "Level 1 Information" means the highest bid and lowest ask quotation for each authorized Nasdaq security for which the requisite minimum number of registered market makers are entering quotations, together with administrative

messages, volume and indices, and/or certain other or alternate information as determined by Nasdaq.

(f) "Last Sale Information" means transactions prices for Nasdaq securities, together with administrative messages, volume and indices, and/or certain other or alternate information as determined by Nasdaq.

(g) "Information" means Level 1 Information and/or Last Sale Information, and includes both Real-Time Information and Delayed Information, as defined herein.

(h) "Real-Time Information" means Information from the time of dissemination over the System to the time fifteen (15) minutes after the time of such dissemination.

(i) "Delayed Information" means Information delayed at least fifteen (15) minutes from the time of dissemination over the System. A person shall be deemed to have received or made use of the Information if he receives, transmits or makes use of all or any part of the Information, to include divulging or publishing the existence, contents, substance, purport, effect or meaning thereof.

(j) "Interrogation Device" means any device or equipment, including, without limitation, any computer, data processing equipment, communications equipment, terminal, cathode ray tube ("CRT") or monitor, which is authorized by Vendor to receive the Information from Vendor or which does in fact receive the Information from Vendor, and which at any time during any month either (i) displays, transmits or communicates the Information to any individual in visual, audible, or other comprehensible form or (ii) uses or processes the Information for any purpose or in any manner other than solely to process the Information for transmission to or to transmit the Information to devices described in the preceding clause (i). The term "interrogation device" means any device or equipment which is capable of being used as an "Interrogation Device."

(k) "Level 1 Service" means the Nasdaq Level 1 Service, whereby Nasdaq makes the Level 1 Information available to Vendor on a real-time basis, directly or through a Retransmission Vendor.

(l) "Last Sale Service" means the Nasdaq Last Sale Service, whereby Nasdaq makes the Last Sale Information available to Vendor on a real-time basis, directly or through a Retransmission Vendor.

(m) "NASD Rules" means the rules, regulations and requirements of NASD, including, without limitation, its By-Laws, Schedules to its By-Laws, and Code of Procedure, Rules of Fair Practice, and the interpretations of the NASD's Board of Governors relating thereto.

(n) "Nasdaq Invoiced Subscriber" means Subscribers invoiced by Nasdaq, if any, as specified in Attachment D.

(o) "Nasdaq Vendor" means a person other than Vendor (i) which is authorized by Nasdaq to be a vendor of the Information, (ii) which is a party to an effective Vendor Agreement with Nasdaq, and (iii) which is under contract with a Retransmission Vendor to receive the Information from such Retransmission Vendor.

(p) "Retransmission Vendor" means a person (i) which is authorized by Nasdaq to be a vendor of the Information and (ii) which is a party to an effective Vendor Agreement with Nasdaq that authorizes such person to transmit or provide the Information to Nasdaq Vendors. This Agreement does not authorize Vendor to be a Retransmission Vendor except as expressly provided in Attachment

G.

(q) "SEC" means the Securities and Exchange Commission, an agency of the government of the United States of America.

(r) "Service" means Vendor's service, including the data processing equipment, software, and communications facilities related thereto, for receiving, transmitting and disseminating the Information to Interrogation Devices owned and/or controlled by Vendor or its Subscribers, as further described in Attachment A.

(s) "Subscriber" means any person which subscribes to Vendor's Service and is authorized to receive the Information in accordance with Section 4.06, and includes both Nasdaq Invoiced Subscribers and Vendor Invoiced Subscribers.

(t) "Subscriber Agreement" means an agreement of a Subscriber as defined in Section 4.06.

(u) "System" means the computerized securities information system for Nasdaq securities operated by the Corporations.

(v) "Vendor Invoiced Subscribers" means Subscribers invoiced by Vendor in accordance with Section 4.02.

Section 1.02. General. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the other number or genders where the context so indicates or requires. The word "person" shall refer to any natural person, proprietorship, corporation, partnership, or other entity whatever. Unless otherwise expressly provided, references to days, months or years are to calendar days, months or years. A "business day" means any day other than: Saturday, Sunday, Good Friday, or a day which is appointed a federal holiday in the United States of America.

ARTICLE II

MAKING AVAILABLE THE INFORMATION

Section 2.01. System Interface.

(a) If Vendor has contracted to obtain the Level 1 Service and/or Last Sale Service directly from Nasdaq, Nasdaq will make available the Information to Vendor from the System. Vendor shall be responsible for (a) obtaining the requisite quantity and quality of common carrier communication lines, (b) the reliability and continued availability of such communications lines, and (c) interfacing with the System at Trumbull, Connecticut; Rockville, Maryland; and at such other places, if any, as may be designated from time to time by Nasdaq. Vendor will meet any reasonable requirement of Nasdaq concerning the location of the interface or interfaces with the System.

(b) If Vendor has contracted to obtain the Information from a Retransmission Vendor, then Vendor and such Retransmission Vendor are

responsible for all communications and other arrangements necessary for Vendor to receive the

Information from such Retransmission Vendor. Further, Vendor acknowledges and agrees that Nasdaq is not responsible for, and makes no representations or warranties regarding, the quality of service Vendor obtains from a Retransmission Vendor.

(c) If the interface with the System described in subsection (a) above enables Vendor to receive data other than the Information from Nasdaq, Nasdaq shall so notify Vendor, and Vendor shall not furnish or permit to be furnished such other data to any other party or place without the prior approval of Nasdaq. If Nasdaq inadvertently transmits data to Vendor other than the Information, Vendor shall not knowingly furnish or permit to be furnished such other data to any other party or place.

Section 2.02. Configuration. Vendor acknowledges and agrees that nothing in this Agreement shall be deemed to constitute an undertaking by Nasdaq to continue to disseminate the Information in the present form or configuration or to continue to use existing communications facilities. Nasdaq, in its sole discretion and without Vendor's consent, may from time to time make modifications to the Information and the System, including the interface and operational requirements referred to in Attachment B, irrespective of whether such modifications would require changes to be made by Vendor to its Service, the Interrogation Devices, or other equipment, or would render them inoperative with respect to the Information. Nasdaq agrees to give Vendor at least ninety (90) days prior notice of any change in the speed, code, format, operating hours, or any other material changes in the operational requirements contained in Attachment B, unless a malfunction in the System necessitates modifications on an accelerated basis or an emergency situation precludes such advance notice. Vendor shall bear all risks of failing to make concurrent modifications to its Service. Any changes pursuant to this Section 2.02 will be applicable generally to all persons in the same class of service as Vendor.

Section 2.03. Non-Exclusive Basis. Nasdaq agrees to make available the Information to Vendor on a non-exclusive basis. Nothing in this Agreement shall be construed to authorize, appoint or license Vendor to act on an exclusive basis. Nasdaq reserves the right, without any notice or liability to Vendor or to any other person, to furnish, or to contract with any other person to furnish, the Information or any other market information to any person by any means whatever (including devices or equipment designed or manufactured by the Corporations or any other person).

Section 2.04. Securities Information Processor. Vendor acknowledges that Nasdaq is registered with the SEC as a registered securities information

processor pursuant to Section 11A of the Exchange Act. Nasdaq acknowledges that, as a registered securities information processor, Nasdaq is obligated to assure that all qualified vendors are able to obtain the Level 1 Service and Last Sale Service on terms that are not unreasonably discriminatory, subject to such orders, rules or regulations as the SEC may adopt.

ARTICLE III

USE OF THE INFORMATION

Section 3.01. Authorized Use.

(a) Except as otherwise provided in Section 3.06, Vendor is authorized by this Agreement to receive, process, transmit and use the Information only for the purposes of providing the Information on Interrogation Devices (i) approved by Nasdaq and described in Attachment A, (ii) listed on Attachment C, and (iii) owned or controlled by Vendor or its Subscribers. Vendor's Subscribers are authorized to receive and use the Information only for the purposes set forth in their Subscriber Agreements. Any use of the Information, whether by Vendor or by its Subscribers, including, but not limited to, retransmission or reprocessing by a Subscriber, unless expressly described in Attachment A and approved by Nasdaq, is prohibited.

(b) Should Vendor desire to make any use of the Information (including, but not limited to, developing or communicating derivative information based upon the Information, retransmission, redistribution, reproduction or calculation of indices) in any manner not then described in Attachment A, Vendor may do so only with prior approval by Nasdaq of such use, which approval shall be reflected in an amendment to Attachment A, and upon payment of the fees applicable to the use approved. Nasdaq shall promptly and in good faith approve or disapprove modifications to Attachment A proposed by Vendor. Vendor acknowledges and agrees that it acts at its own risk in developing any modification to its Service prior to receiving approval from Nasdaq, since Nasdaq is not obligated by this Agreement to grant such approval.

(c) Vendor agrees not to alter the Information in any manner that adversely affects its accuracy or integrity or that renders it misleading and agrees to monitor and review the activities of its Subscribers to ensure, to the extent practicable, that no unauthorized use of the Information occurs.

(d) Vendor agrees that it will not use or cause or permit to be used, directly or indirectly, all or any part of the Information except to operate the Service described in Attachment A. Vendor shall be entitled to change the display format described in Attachment A, without prior approval from Nasdaq, provided that: (i) such change is not misleading to Subscribers; (ii) Vendor shall notify Nasdaq, describing such change in reasonable detail, within fifteen (15) days after implementation of any such change; and (iii) such change shall not alter the identification codes for issuers, market makers and securities specified by Nasdaq.

Section 3.02. Vendor Interrogation Devices.

(a) Notwithstanding Section 3.01, Nasdaq will permit Vendor, in accordance with the provisions of Attachment E, to use in connection with its Service certain Interrogation Devices located on Vendor's premises and described in Part I of Attachment E, without charge, for advertisement, demonstration, product development, and customer service. Vendor's use of such Interrogation Devices and the number thereof shall be

subject to all the provisions of this Agreement other than Section 4.01, including, without limitation, audit by Nasdaq.

(b) All other Vendor Interrogation Devices shall be subject to all the provisions of this Agreement (including, without limitation, Section 4.01 and Part II of Attachment E), except for Section 4.06.

Section 3.03. Description of Vendor's Service. Vendor represents and warrants that the detailed description of its Service, and the data processing equipment, software, and communications facilities related thereto, including Interrogation Devices, set forth in Attachment A is true, complete and not misleading.

Section 3.04. Operation of Vendor's Service.

(a) Vendor shall assume sole responsibility for the design, development, acquisition, installation, testing, implementation, operation and maintenance of any and all software and equipment not directly supplied by Nasdaq. Vendor represents and warrants that the design, development, acquisition, installation, testing, implementation, operation and maintenance of its Service, and its system supporting the Service, will not interfere with or adversely affect the equipment, software or operation of the System, any of its component parts or processes, or any use thereof by other persons.

(b) Vendor shall ensure that the data processing equipment supporting its Service is capable at all times of communicating with the System in accordance with the requirements contained in Attachment B. Any variation by Vendor from the specifications contained in Attachment B for the interface with the System is prohibited absent the prior written approval of Nasdaq. Vendor shall provide notice to Nasdaq of any change in location of Vendor's data processing equipment which directly receives the Level 1 Service and/or Last sale Service at least sixty (60) days prior to such change.

(c) Vendor shall be responsible for and shall bear all costs associated with the transmission, storage and distribution of the Information after receipt from Nasdaq at the interface with the System described in Attachment B. Vendor shall promptly and accurately transmit the Information to its Subscribers.

Section 3.05. Requirements of Self-Regulatory Organization. Vendor acknowledges that: (a) NASD is registered with the SEC as a registered national securities association pursuant to Section 15A of the Exchange Act; (b) NASD has a statutory obligation to protect investors and the public interest and to ensure the integrity of quotation information (including, without limitation, the Information) supplied to investors and the public; (c) Section 19(g)(1) of the Exchange Act mandates that NASD, as a self-regulatory organization, comply with the provisions of the Exchange Act, the rules and regulations thereunder, and the NASD Rules; and (d) NASD has jurisdiction over its members to enforce compliance with the Exchange Act, the rules and regulations promulgated thereunder, and the NASD Rules. Accordingly, Vendor agrees that Nasdaq, as a subsidiary of NASD, when required to do so by NASD, may by notice to Vendor unilaterally: (i) limit or terminate the right of any or all persons to receive or use the Information; or (ii) control the manner in which the Information is formatted and displayed by Vendor to ensure the completeness, fairness and integrity of the Information received by Subscribers. Vendor shall promptly comply with any such notice. With respect to clause (i) above, Vendor shall terminate or limit the furnishing of the Information within three (3) business days after receipt of such notice and shall confirm such compliance by notice to Nasdaq not later than five (5) business days after receipt of notice from Nasdaq. With respect to clause (ii) above, Vendor shall make the necessary changes to its Service to comply with any such notice within such period of time as may be determined in good faith by Nasdaq to be necessary, consistent with such statutory obligation. Any person or persons the subject of notice issued pursuant to this Section 3.05 shall have available to them those procedural protections provided by the Exchange Act and applicable rules thereunder.

Section 3.06. Transmission to Other Vendors. Vendor shall not transmit or provide the Information to any person for retransmission or redistribution by such person unless authorized by Nasdaq pursuant to Section 3.01 or unless such person is an Nasdaq Vendor. Vendor shall not transmit or provide the Information to any Nasdaq Vendor unless such transmission or provision has been previously approved by Nasdaq, which approval shall be reflected in Attachment G, and then only in accordance with the provisions of this Agreement and Attachment G. Nasdaq shall revise Attachment G from time-to-time to show the Nasdaq Vendors approved to receive the Information from Vendor and shall provide a copy of each such revised Attachment G to Vendor.

Section 3.07. Delayed Information. Vendor shall not transmit or provide Delayed Information to any person unless it has obtained the prior approval of Nasdaq, which approval shall be reflected in Attachment I, and then only in accordance with the provisions of Attachment I.

ARTICLE IV

PAYMENTS TO NASDAQ AND RELATED PROVISIONS

Section 4.01. SEC-Approved Fees. A schedule of fee(s) applicable to the Information has been adopted and approved by Nasdaq and NASD. The fee(s) currently in effect are set forth in Attachment K. Any changes to these fee(s)

are subject to review and approval by the SEC. Special provisions relating to the fee(s) payable by Non-Professional Subscribers (as defined in Attachment H), if any, are set forth in Attachment H. Subsequent modifications to the schedule of fee(s) approved by the SEC shall become effective upon thirty (30) days prior notice (by delivery of a revised Attachment K or otherwise) to Vendor. The fee(s) payable for the month of commencement or

termination of receipt of the Information will be a pro rata share of the full monthly fee(s) computed by dividing the number of trading days during such month that the Information was received (or available for receipt) by the total number of trading days in such month. Nothing in this Agreement shall prevent Vendor from separately charging its Subscribers for its Service.

Section 4.02. Subscriber Invoicing. All Subscribers shall be Vendor Invoiced Subscribers unless otherwise provided by Attachment D. Vendor shall invoice all Vendor Invoiced Subscribers for the fees and other amounts described in this Article IV and shall remit such fees and other amounts directly to Nasdaq in accordance with this Article IV. If Attachment D expressly provides that Nasdaq shall invoice certain Subscribers of Vendor which are specified in such Attachment D, then Nasdaq shall invoice the Nasdaq Invoiced Subscribers using the list of Subscribers provided by Vendor in Attachment C, as amended from time-to-time in accordance with the provisions of this Agreement.

Section 4.03. Taxes. Vendor shall have the obligation to pay directly to Nasdaq one hundred percent (100%) of the appropriate fees for the Information due from Vendor and from the Vendor Invoiced Subscribers specified in the then effective fee schedule, without any deductions whatever. Vendor shall assume full and complete responsibility for the payment of any taxes, charges or assessments imposed on Vendor, Vendor Invoiced Subscribers or Nasdaq (except for U.S. federal, state, or local income taxes, if any, imposed on Nasdaq) by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest, relating to the provision of the Information. In addition, if Vendor or the Vendor Invoiced Subscribers, respectively, are required by applicable law to deduct or withhold any such tax, charge or assessment from the amounts due Nasdaq under this Article IV, then the amounts due under this Article IV shall be increased so that the net amount actually received by Nasdaq after the deduction or withholding of any such tax, charge or assessment will equal one hundred percent (100%) of the appropriate fees specified on the then effective fee schedule. Vendor shall remit the fees and taxes described in this Section 4.03 to Nasdaq no later than fifteen (15) days after the end of the service month; such fees shall be payable in immediately available United States funds by check or electronic funds transfer drawn against a United States bank or other financial institution acceptable to Nasdaq.

Section 4.04. Interest. Vendor shall pay Nasdaq, on demand or upon invoice, interest on any amounts due Nasdaq pursuant to this Agreement which are not paid within thirty (30) days after the applicable due date specified in this Agreement. Interest shall accrue at a rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum amount permitted by applicable law, for the period commencing with the applicable due date and ending upon receipt of payment by Nasdaq.

Section 4.05. Payment a Condition to Access. Vendor acknowledges that payment by Vendor of all fees and other amounts described in this Article IV is a condition precedent for continued receipt of the Information by Vendor and by Vendor Invoiced Subscribers. Vendor shall bear all risk of non-payment by Vendor Invoiced Subscribers. Nasdaq will bear the risk of non-payment by Nasdaq Invoiced Subscribers, provided, however, that if a Nasdaq Invoiced Subscriber fails to pay invoiced amounts to Nasdaq in a timely fashion, then upon notice from Nasdaq to Vendor such Subscriber shall (unless Vendor terminates such Subscriber) become a Vendor Invoiced Subscriber, and Vendor shall pay to Nasdaq, on behalf of such Subscriber, all fees due Nasdaq with respect to such Subscriber for billing periods which commence on or after the date ten (10) days after such notice from Nasdaq. Vendor shall cooperate, at Vendor's expense, with Nasdaq in any lawful efforts by Nasdaq to collect unpaid amounts due Nasdaq described in this Article IV from current or former Nasdaq Invoiced Subscribers. Nasdaq shall cooperate, at Nasdaq's expense, with Vendor in any lawful efforts by Vendor to collect unpaid amounts due Vendor described in this Article IV from current or former Vendor Invoiced Subscribers. Upon Vendor's payment to Nasdaq on behalf of any Subscriber of any amounts due under this Article IV, Vendor shall be subrogated to any and all rights of Nasdaq to recover such amounts.

Section 4.06. Subscriber Agreements.

(a) Except as otherwise provided in Section 3.06, Vendor shall not furnish, or cause or permit to be furnished, all or any part of the Information to any person other than a person who, at the time of receipt thereof, is a party to an agreement ("Subscriber Agreement") which meets the requirements set forth in Attachment F.

(b) If any Subscriber fails to comply with any of the conditions, terms or provisions of this Agreement applicable to Subscribers, its Subscriber Agreement, any other agreement between Subscriber and Nasdaq, or has made any representation in any such Subscriber Agreement or other agreement which was or has become untrue, then Vendor shall, within three (3) business days after receipt of notice from Nasdaq of such failure or untruth, cease providing the Information to such Subscriber and shall, within five (5) business days following the receipt of such notice, confirm such cessation by notice to Nasdaq.

(c) The time periods set forth in subsection (b) above shall be ten (10) and twelve (12) days, respectively, in the case of a failure by a Nasdaq Invoiced Subscriber to pay amounts due Nasdaq.

Section 4.07. Records Relating to Interrogation Devices.

(a) Vendor shall maintain complete and accurate records identifying all Interrogation Devices able to receive the Level 1 Information and/or Last Sale Information through the Service and containing such other information relating to the Service as Nasdaq may reasonably request.

(b) Vendor's records shall include detailed descriptions of the types of computer and communications systems that are linked to Interrogation Devices and shall include such

information as is reasonably necessary to identify which interrogation devices of a Subscriber are Interrogation Devices. All such Interrogation Devices shall be identified in Attachment C in accordance with the terms and conditions of this Agreement. Attachment C shall be provided in a form reasonably satisfactory to Nasdaq.

(c) Attachment C shall show the Vendor and Subscriber addresses where Interrogation Devices are located (and in the case of Nasdaq Invoiced Subscribers, the billing address for each Subscriber, if different, and a contact person for billing purposes), the quantity at such addresses, the date each Interrogation Device first became capable of receiving the Information without further action by Vendor, and shall identify which Subscribers are Nasdaq Invoiced Subscribers.

(d) Vendor shall provide to Nasdaq, within one hundred twenty (120) days after the Effective Date, and annually thereafter, an expanded Attachment C which shall also specify, by categories to be agreed upon by Vendor and Nasdaq, the type of Interrogation Devices used at such addresses and the extent to which the number of Interrogation Devices used at such addresses is within the actual control of Vendor. Upon Nasdaq's good faith request, Vendor shall also provide such an expanded Attachment C within sixty (60) days after such request.

Section 4.08. Certified Report. Vendor shall comply with Nasdaq's reasonable procedures and requirements for the verification of all Interrogation Devices able to receive the Information through the Service, including, without limitation, delivery to Nasdaq, in accordance with the provisions and schedule set forth in Attachment L, of a certified report audited by an independent certified public accountant retained by Vendor at Vendor's sole expense and satisfactory to Nasdaq ("Vendor's Auditors"), which shall verify the number of Subscribers and Interrogation Devices receiving the Information. If this certified report discloses that Vendor has underreported the number of Subscribers or Interrogation Devices to Nasdaq, Vendor shall promptly remit any unpaid fees and applicable interest to Nasdaq due relative to such underreporting and submit a revised Attachment C within fifteen (15) days of the date of the certified report; if such certified report discloses an overpayment, then Nasdaq will apply the over-payment as a credit against amounts due from Vendor. The certified report shall include information relative to any

such underreporting in sufficient detail to determine the amounts due Nasdaq.

Section 4.09. Audit by Nasdaq. From time to time, Nasdaq may cause Vendor's (a) records of Subscriber Interrogation Devices, (b) reports and payments to Nasdaq, and (c) data processing equipment and communications facilities, to be reviewed by Nasdaq personnel and/or auditors of Nasdaq's choice. The review shall be scheduled upon reasonable notice to Vendor and conducted in Vendor's offices where its records are kept or its data processing equipment and communications facilities are located. Vendor shall make available for review all records and supporting documentation necessary in the judgment of the Nasdaq audit personnel to reach a conclusion as to the accuracy and completeness of: (i) Vendor's reports to Nasdaq, (ii) the payments connected therewith, and (iii) the description set forth in Attachment A. If the examination conducted by Nasdaq personnel or its auditors reveals that there may be errors in Attachment C or exceptions or errors in the audit reports provided to Nasdaq pursuant to Section 4.08, Vendor shall notify Vendor's Auditors and direct them to perform such procedures as are necessary to determine the magnitude of any adjustments of amounts previously remitted to Nasdaq relating to the audit period in question and to provide Nasdaq with the results thereof within ninety (90) days after notice from Nasdaq. If the review conducted by Nasdaq relates to a previously unaudited period, then unless Vendor shall cause Vendor's Auditors (at the Vendor's sole expense) to review the unaudited period and to determine the magnitude of any adjustments of amounts previously remitted to Nasdaq within ninety (90) days after notice from Nasdaq, Nasdaq or its auditors shall determine the magnitude of any such adjustments. In the latter case, Nasdaq's determination shall be deemed conclusive. The conduct of any such review by Nasdaq shall not constitute a waiver of the requirement for the annual audit certification as described in Section 4.08. If such audit or review discloses additional underreported amounts, such amounts shall be remitted to Nasdaq, together with applicable interest and a revised Attachment C within fifteen (15) days after notice from Nasdaq; if such audit or review discloses an overpayment, then Nasdaq will apply the overpayment as a credit against amounts due from Vendor. If the examination conducted by Nasdaq personnel or its auditors reveals that there may be errors or omissions in Attachment A, Vendor shall submit a revised Attachment A for Nasdaq's approval, within ninety (90) days after notice from Nasdaq. Any information obtained by Nasdaq pursuant to this Section 4.09 shall be used solely for the purpose of this Agreement and shall be kept confidential in accordance with the provisions of Section 10.06.

Section 4.10. Underreporting.

(a) Should Vendor have underreported to Nasdaq the number of Interrogation Devices receiving the Information, Vendor shall pay to Nasdaq within fifteen (15) days after such underreporting is discovered the fees and applicable interest due relative to such underreporting. Further, if such underreporting is equal to or greater than three percent (3%) of the reported number of Interrogation Devices for any audited or unaudited period referred to in Section 4.09, Vendor shall, in addition to remitting the fees and applicable interest due relative to such underreporting, within fifteen (15) days of invoice from Nasdaq, reimburse Nasdaq for any audit, legal or administrative

costs and expenses incurred to detect and rectify such underreporting, provided, however, that such costs and expenses are incurred in good faith and are not unreasonable given the amount of work necessary to detect and determine the extent of such underreporting and the actual amount of underreporting detected.

(b) Nasdaq agrees that Vendor's liability pursuant to Section 4.08 and Section 4.09 for underreporting the number of Subscribers or Interrogation Devices receiving the Information shall be limited to unpaid Subscriber fees, together with interest,

for months ended within the two (2) years preceding the date Vendor, Vendor's auditors or Nasdaq first know that such underreporting has occurred, if such underreporting is solely the result of a good faith error by Vendor.

Section 4.11. Information from Subscribers. In the event that any records are found by Nasdaq or Nasdaq's auditors to be insufficient or incomplete to verify the number of Interrogation Devices being used by a Subscriber, or if Nasdaq or Nasdaq's auditors request in good faith information regarding the use, reprocessing, or retransmission of the Information by a Subscriber, Vendor shall, within ten (10) days of being so advised by Nasdaq or Nasdaq's auditors, request in writing from such Subscriber the information required by Nasdaq or Nasdaq's auditors and shall advise such Subscriber that failure to provide the requested information to Vendor within thirty (30) days will result in termination of access to the Information until such time as the request is complied with. Vendor shall terminate access to the Information by such Subscriber if the information requested is not received within the applicable period specified above. In no event shall Vendor permit such Subscriber to be provided access to the Information beyond such applicable period unless and until such Subscriber furnishes the requested information. If the information provided by such Subscriber is found by Nasdaq or Nasdaq's auditors to be insufficient or incomplete to verify the number of Interrogation Devices or the use made of the Information, Vendor shall, upon being so advised by Nasdaq or Nasdaq's auditors, send a second request to such Subscriber in accordance with the above procedures. If the information provided by such Subscriber is found by Nasdaq or Nasdaq's auditors to still be insufficient or incomplete to verify the number of Interrogation Devices or the use made of the Information, Vendor shall, upon being so advised by Nasdaq or Nasdaq's auditors, terminate such Subscriber's access to the Information until such time as Nasdaq or Nasdaq's auditors determine and advise Vendor that the request has been adequately responded to. Upon Nasdaq's reasonable request, Vendor shall use its best efforts to assist Nasdaq or Nasdaq's auditors in gaining access to Subscriber locations for purposes of verifying the number of Interrogation Devices and the use of the Information at such locations.

Section 4.12. Facilities Charges. Vendor acknowledges that facilities charges may in the future be established by the Corporations. Such charges, and any changes thereto, will be subject to review and approval by the SEC. Vendor will be notified in writing not less than thirty (30) days prior to the

imposition of, or changes in, any facilities charges.

ARTICLE V

ADDITIONAL REPRESENTATIONS AND OBLIGATIONS OF VENDOR

Section 5.01. Security.

(a) Vendor agrees to use its best efforts to configure and operate its communications network (or to use its best efforts to cause such communications network to be configured and operated) so that said communications network remains at all times secure from unauthorized entry or interference and to prevent the Information from being taken from said communications network, or in any way communicated, divulged or published except through the authorized channels of transmission or reception described in Attachment A.

(b) Vendor agrees to meet any reasonable requirement of Nasdaq concerning the security arrangements in Vendor's place or places of business where equipment used to process, store and transmit the Information is located. Vendor will adopt and enforce, as respects persons entering such place or places of business, any reasonable regulation or requirement which Nasdaq may deem advisable in order to prevent the Information from being improperly taken from any of Vendor's offices or places of business. Nasdaq shall give Vendor prior notice of any such regulations or requirements and agrees that such requirements or regulations shall be applied consistently to similarly-situated vendors of the Level 1 Service and/or Last Sale Service. For the purpose of determining compliance with this Agreement, and at all reasonable times, any person or persons designated by Nasdaq shall have access to the locations where the Information is processed and the Service is received, and the right to observe the use made of the Information and the Service and to examine and inspect all instruments and apparatus used in connection therewith in any such location.

Section 5.02. Litigation re: Unauthorized Use. Vendor shall not oppose any suit or proceeding instituted by Nasdaq (a) to enjoin any person who is not entitled to receive the Information from Vendor in accordance with the terms of this Agreement, from receiving, transmitting or using the Information or (b) to enjoin any person receiving, assisting in receiving, transmitting, or assisting in transmitting, any Information from Vendor or Nasdaq outside the authorized channels of communication set forth in this Agreement. Vendor agrees to cooperate with and assist Nasdaq in any such suit or proceeding. If a Nasdaq request for cooperation and assistance pursuant to this Section 5.02 imposes substantial burdens upon Vendor outside Vendor's usual course of business, then Nasdaq agrees to reimburse Vendor for Vendor's reasonable direct expenses incurred in connection with such request. If Vendor furnishes, or permits to be furnished, any Information to any party other than in accordance with this Agreement and without the prior approval of Nasdaq, then Nasdaq, in addition to exercising any other rights it may have under this Agreement, may take any action against such other party to prevent the receipt, transmission or use of the Information by such other party, either with or without making Vendor a party to such action.

Section 5.03. Compliance with Law. Vendor represents that it is not engaged in, and agrees not to engage in, any unlawful transaction or business, and agrees not to use or knowingly permit anyone to use the Information for (a) any purpose or in any manner not authorized by this Agreement or (b) for any unlawful purpose or in any manner not in compliance with the statutes, rules and regulations referenced in Section

10.07(b). The Information furnished to Vendor by Nasdaq shall be solely for use in accordance with this Agreement, and Vendor will neither furnish nor permit others to furnish Information other than (i) in accordance with this Agreement and (ii) to a person authorized to receive the Information under the procedures set forth in Section 3.06 and Section 4.06.

Section 5.04. No Endorsement, Proprietary Rights, Corporate Names.

(a) Neither Vendor nor any officer or employee of Vendor shall represent, or shall cause or permit any other person to represent, either directly or indirectly, that Vendor or all or any part of the Service which Vendor offers or any equipment utilized by Vendor is sponsored or endorsed by the Corporations.

(b) Vendor acknowledges that "NASD," "Nasdaq," "Nasdaq-100," "Nasdaq National Market," "OTC Bulletin Board," and "Nasdaq/NMS" are registered trademarks and/or service marks and Vendor agrees not to use such marks in any way which would infringe such marks under applicable law.

(c) Vendor acknowledges and agrees that the Corporations have proprietary rights to use the names "National Association of Securities Dealers, Inc.," "The Nasdaq Stock Market, Inc.," "NASD," "Nasdaq, Inc.," "MSI" and "NASD Market Services, Inc." as trade and/or corporate names, and Vendor further agrees not to use said names or any combination or subset thereof in any manner inconsistent with the Corporations' rights therein. This Agreement does not constitute a license of the marks listed in this Section 5.04.

(d) Vendor acknowledges and agrees that the Corporations have proprietary rights in the Real-Time Information that originates on or derives from markets regulated or operated by the Corporations. Further, Vendor acknowledges that the Corporations assert proprietary rights in the Delayed Information that originates on or derives from markets regulated or operated by the Corporations.

(e) For purposes of monitoring compliance with this Section 5.04, upon reasonable request, Vendor shall provide Nasdaq with any materials made available to potential users of Vendor's Service.

Section 5.05. Notice of Breach or Default. Vendor shall promptly, but in

no event later than ten (10) days after Vendor knows that (i) a breach of or default under this Agreement by Vendor or any Subscriber has occurred or (ii) a breach of or default under any Subscriber Agreement has occurred, deliver to Nasdaq notice describing the same in reasonable detail.

ARTICLE VI

WARRANTIES AND LIABILITY

SECTION 6.01. NO WARRANTIES. NASDAQ WILL FURNISH THE INFORMATION FROM THE SYSTEM TO VENDOR AS PROMPTLY AND ACCURATELY AS IS REASONABLY PRACTICABLE, BUT THE CORPORATIONS DO NOT WARRANT OR GUARANTEE THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF THE INFORMATION. FURTHER, WITH RESPECT TO THE INFORMATION, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

SECTION 6.02. LIMITATION OF LIABILITY.

(A) THE CORPORATIONS SHALL NOT BE LIABLE TO VENDOR, THE SUBSCRIBERS, OR ANY OTHER PERSON, REGARDLESS OF THE CAUSE (UNLESS RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CORPORATIONS) OR DURATION, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION, OR FOR ANY DELAY OR INTERRUPTION IN THE TRANSMISSION THEREOF TO VENDOR, OR FOR ANY CLAIMS OR LOSSES ARISING THEREFROM OR OCCASIONED THEREBY.

(B) EXCEPT WITH RESPECT TO CLAIMS OR LOSSES ASSERTED AGAINST THE INDEMNIFIED PARTIES BY A PERSON DESCRIBED IN SECTION 7.01(A) (III), VENDOR SHALL NOT BE LIABLE TO THE CORPORATIONS, THE SUBSCRIBERS, OR ANY OTHER PERSON, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION AS PROVIDED TO VENDOR BY NASDAQ.

(C) EXCEPT FOR LOSS OF FEES DUE NASDAQ AS DESCRIBED IN ARTICLE IV, THE CORPORATIONS AND VENDOR SHALL NOT BE LIABLE TO EACH OTHER OR TO ANY OTHER PERSON FOR INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF VENDOR OR THE CORPORATIONS KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

(D) THE CORPORATIONS SHALL NOT BE RESPONSIBLE FOR ANY ERRORS, OMISSIONS, OR OTHER DEFECTS IN THE INFORMATION OR ANY DELAYS OR INTERRUPTIONS THAT ARE CAUSED BY VENDOR.

ARTICLE VII

INDEMNIFICATION

Section 7.01. Indemnification of the Corporations.

(a) Vendor shall indemnify the Indemnified Parties against, and hold the Indemnified Parties harmless from, any and all Claims or Losses imposed on, incurred by or asserted against the Indemnified Parties as a result of or

relating to:

(i) any non-compliance by Vendor with the terms and conditions hereof;

(ii) any non-compliance by the Subscribers with the terms and conditions hereof or of their respective Subscriber Agreements, if Vendor has failed to notify Nasdaq of such non-compliance within ten (10) days after Vendor knows of such noncompliance;

(iii) any assertion of Claims or Losses relating to the subject matter or existence of this Agreement against the Indemnified Parties made by a person who receives the Information from Vendor (or any person relying upon the Information received by such a person) and who is not a party to a Subscriber Agreement which meets the requirements of Section

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(iv) any assertion of Claims or Losses against the Indemnified Parties by Subscribers relating to Nasdaq's exercise of its remedies under Article VIII;

(v) any breach by Vendor of its warranty set forth in Section 3.04(a); or

(vi) any defense of or participation by the Indemnified Parties in any action, suit, arbitration, or judicial or administrative proceeding involving any Claims or Losses described in this subsection (a).

The indemnification provided by this Section 7.01(a) shall include, without limitation, Nasdaq's investigative and administrative costs relating to the detection of any material noncompliance by Vendor referred to in clause (i) above or any material noncompliance by Subscribers referred to in clause (ii) above, provided, however, that such costs are not excessive as compared to the injury the Corporations could suffer as a result of any such non-compliance.

(b) Vendor shall indemnify the Indemnified Parties against, and hold the Indemnified Parties harmless from, any and all Claims or Losses imposed on, incurred by or asserted against the Indemnified Parties as a result of: (i) any assertion by any person that Vendor's Service infringes any patent, trademark, service mark, trade secret, or copyright, or violates any other intellectual property right; or (ii) any defense of or participation by the Indemnified Parties in any action, suit, arbitration, or judicial or administrative proceeding involving any Claims or Losses described in this subsection (b).

Section 7.02. Indemnification of Vendor. Nasdaq shall indemnify Vendor against, and hold Vendor harmless from, any and all Claims or Losses imposed on, incurred by or asserted against Vendor as a result of:

(a) Vendor refusing to furnish the Information to any person, or terminating or suspending delivery of the Information to any Subscriber, solely as a result of, and pursuant to, notice from Nasdaq: (i) limiting or terminating the right of any person (other than Vendor) to receive or use the Information pursuant to Section 3.05 or (ii) requesting Vendor to cease providing the Information to a Subscriber pursuant to Sections 4.06(b) or 4.11; provided, however, that the indemnification provided by this Section 7.02(a) shall not be available where Vendor ceases furnishing the Information to any person for whom no enforceable Subscriber Agreement was completed, executed and delivered in accordance with Section 4.06;

(b) any assertion by any person that the Level 1 Service and/or Last Sale Service infringes any patent, trademark, service mark, trade secret or copyright or violates any other intellectual property right; or

(c) any defense or participation by Vendor in any action, suit, arbitration, or judicial or administrative proceeding involving any Claims or Losses described in this Section 7.02.

Section 7.03. Procedure. The party claiming indemnification under this Article VII agrees to promptly notify (and, in the case of any action, suit, arbitration, or judicial or administrative proceeding, shall so notify no later than fifteen (15) days after the party claiming indemnification has received notice thereof or has been served with a complaint or other process) the other party when it has knowledge of circumstances or the occurrence of any events which are likely to result in an indemnification obligation under this Article VII or when any action, suit, arbitration, or judicial or administrative proceeding is pending or threatened that is covered by this Article VII; and further agrees that, upon request and to the extent permitted by applicable law, the other party shall have the right to defend, settle, or compromise any such suit or proceeding, at the other party's expense, provided that: (i) the other party demonstrates to the satisfaction of the party claiming indemnification that it is financially able to defend such action and to pay any settlement or judgment; and (ii) counsel retained by the other party are reasonably satisfactory to the party claiming indemnification. The party claiming indemnification agrees to cooperate with the other party in the defense of any such suit or proceeding, and the other party agrees to reimburse the party claiming indemnification for its expenses with respect thereto. Failure by the party claiming indemnification to promptly notify the other party as required by this Section 7.03 shall not invalidate the claim for indemnification, unless such failure has a material adverse effect on the settlement, defense, or compromise of the matter that is the subject of the claim for indemnification. In addition, the party claiming indemnification shall be responsible for any Claims or Losses which could have been avoided or mitigated by prompt notice as required by this Section 7.03.

Section 7.04. Interpretation. Any conflict between the provisions of this Article VII and the provisions of Article VI, shall be resolved as follows:

(a) With respect to Claims or Losses that are described in Section 7.01 and that are incurred directly by the Indemnified Parties, the provisions of Section 6.02(c) shall apply to preclude recovery by the Indemnified Parties from Vendor of indirect, punitive, special, consequential or incidental damages, including lost profits (except for loss of fees due Nasdaq as described in Article IV).

(b) With respect to Claims or Losses that are described in Section 7.02 and that are incurred directly by Vendor, the provisions of Section 6.02(c) shall apply to preclude recovery by Vendor from the Indemnified Parties of indirect, punitive, special, consequential or incidental damages, including lost profits.

(c) With respect to Claims or Losses that are described in Section 7.01 and that are asserted against the Indemnified Parties by third parties, or incurred by or imposed on the Indemnified Parties as the result of Claims or Losses asserted by third parties, the provisions of Section 6.02(c) shall not apply, and the Indemnified Parties shall be entitled to recover from Vendor amounts awarded to or paid in settlement to third parties by the Indemnified Parties for indirect, punitive, special, consequential or incidental damages, including lost profits.

(d) With respect to Claims or Losses that are described in Section 7.02 and that are asserted against Vendor by third parties, or incurred by or imposed on Vendor as the result of Claims or Losses asserted by third parties, the provisions of Section 6.02(c) shall not apply, and Vendor shall be entitled to recover from the Indemnified Parties amounts awarded to or paid in settlement to third parties by Vendor for indirect, punitive, special, consequential or incidental damages, including lost profits.

(e) The provisions of this Article VII should not be construed as authorizing or as providing any basis for the recovery by third parties of indirect, punitive, special, consequential or incidental damages, including lost profits, from the Indemnified Parties or Vendor.

ARTICLE VIII

DEFAULT

Section 8.01. Default by Vendor.

(a) Vendor has specifically induced Nasdaq to enter into this Agreement

based on the representations and undertakings of Vendor contained herein. Strict compliance with the provisions of this Agreement is and shall be a condition precedent to Vendor's right hereunder to continue to receive the Information. Vendor expressly acknowledges and agrees that Nasdaq shall have the rights set forth in Section 8.01(b) if Nasdaq shall determine that one or more of the following events or conditions occurs or is continuing:

(i) Vendor fails to pay any amounts due Nasdaq under this Agreement within thirty (30) days after the applicable due date for such amounts specified in this Agreement;

(ii) any representation, warranty or certification, which is material to the Corporations for regulatory, commercial or other reasons, made by Vendor in this Agreement or in any other document furnished by Vendor in connection herewith was false or misleading, as of the time made or furnished;

(iii) Vendor defaults in the performance of any of its obligations or covenants under this Agreement, or any representation, warranty or certification described in clause (ii) above becomes untrue or inaccurate, and such default, untruth or inaccuracy (if curable) continues unremedied for a period of fifteen (15) days after Nasdaq notifies Vendor thereof; provided, however, that if such default, untruth or inaccuracy cannot be remedied by Vendor in good faith and with due diligence within fifteen (15) days and the failure to so remedy within fifteen (15) days does not cause any of the Corporations to be in violation of applicable law or regulations or to otherwise materially injure any of the Corporations, then an event or condition of default under this clause (iii) will not be considered to exist or to have occurred for so long as Vendor commences such actions as are necessary to remedy such default, untruth or inaccuracy within such fifteen (15) day period and thereafter diligently pursues such actions to remedy such default, truth or inaccuracy;

(iv) Vendor proceeds with a proposed action in default of its obligations or covenants under this Agreement, or in breach of any representation, warranty or certification, which is material to the Corporations for regulatory, commercial or other reasons, made by Vendor in connection herewith, after Nasdaq has notified Vendor that such proposed action would constitute a default hereunder;

(v) Vendor defaults (and such default is not cured within applicable grace periods) in the performance of any of its obligations under any other agreement between Vendor and one or more of the Corporations relating to the distribution of information provided by the Corporations;

(vi) Vendor (A) applies for or consents to the appointment of, or the

taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property, (B) makes a general assignment for the benefit of its creditors, (C) institutes proceedings under the United States Bankruptcy Code, (D) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts, (E) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or the board of directors of Vendor takes any action for the purpose of effecting any of the foregoing;

(vii) a proceeding or case of the type described in clause (vi) above is commenced, without the application or consent of Vendor, in any court of competent jurisdiction, and such proceeding or case is entered and continues unstayed and in effect for a period of sixty (60) days, or an order for relief against Vendor is entered in an involuntary case under the Bankruptcy Code; or

(viii) Vendor admits in writing its inability to pay its debts as they become due.

(b) Upon the occurrence of any of the events or conditions described in subsection (a) above, Nasdaq shall have the immediate right, in its sole discretion, to take one or more of the following actions: (i) to terminate this Agreement and Vendor's right to receive the Information hereunder; (ii) to suspend transmission of the Information to Vendor; (iii) to

demand arbitration under Section 10.05; or (iv) to pursue such other remedies, consistent with Section 10.05 and Section 10.07, as it may be entitled by virtue of or under this Agreement, before regulatory authorities, or at law or in equity.

Section 8.02. Default by Nasdaq. If Nasdaq has breached or is in default under this Agreement, and such breach or default continues unremedied for fifteen (15) days after notice to Nasdaq by Vendor, then Vendor shall have the immediate right to take one or more of the following actions; provided, however, that if such breach cannot be remedied by Nasdaq in good faith and with due diligence within fifteen (15) days and the failure to so remedy within fifteen (15) days does not cause Vendor (or its subscribers) to be in violation of applicable laws or regulations or to otherwise materially injure Vendor, then Nasdaq shall not be considered to be in default for so long as Nasdaq commences such actions as are necessary to remedy such breach within such fifteen (15) day period and thereafter diligently pursues such actions to remedy such breach

or default:

(a) to terminate this Agreement;

(b) to demand arbitration under Section 10.05; or

(c) to pursue such other remedies, consistent with Section 10.05 and Section 10.07, as it may be entitled by virtue of or under this Agreement, before regulatory authorities, or at law or in equity.

Section 8.03. Termination for Non-Payment Not Denial of Access. To the extent permitted by applicable law, Vendor acknowledges and agrees that the exercise by Nasdaq of the remedies to which it is entitled under Section 8.01(b) as a result of the occurrence of a default by Vendor as described in Section 8.01(a)(i) shall not be deemed or considered to be, and Vendor waives any right to represent or assert that any such exercise constitutes, an act or omission or an improper denial or limitation of access to any service or facility operated by the Corporations as contemplated in Section 11A of the Exchange Act, or any other provision of the Exchange Act, or any rule or regulation adopted thereunder.

ARTICLE IX

TERM AND TERMINATION

Section 9.01. Term. The original term of this Agreement shall commence on the date specified in Section 10.16 and shall continue until the date one (1) year thereafter. The term of this Agreement shall automatically be extended for successive additional periods of one (1) year unless terminated by written notice by a party hereto given to the other at least ninety (90) days prior to the expiration of the original term or any such additional one (1) year period as the case may be.

Section 9.02. Termination. Notwithstanding Section 9.01, and in addition to the rights of the parties under Article VIII, this Agreement may be terminated by:

(i) either party, upon termination of the right of Vendor to receive Information pursuant to Section 3.05; or

(ii) either party, if performance hereof by Nasdaq is impaired or rendered unnecessary by reason of changes after the Effective Date in the statutes, rules and regulations referenced in Section 10.07, other than NASD Rules which are not approved by the SEC;

(iii) Vendor, should it be unable to receive the Information as a result of any modification to the operational requirements notified by Nasdaq in accordance with Section 2.02; or

(iv) Vendor, by notice to Nasdaq within thirty (30) days after approval

by the SEC of an NASD Rule that imposes obligations on Vendor that materially exceed the obligations imposed on Vendor as of the Effective Date in connection with Vendor's distribution of the Information; or

(v) Nasdaq, should it cease providing Level 1 Service and Last Sale Service to all persons in the same class of service as Vendor, provided, however, that Nasdaq has given Vendor not less than ninety (90) days notice of its intention to so cease providing Level 1 Service and Last Sale Service.

Section 9.03. No Use of Information after Termination. Upon termination of this Agreement for whatever reason, Vendor shall immediately cease any and all use of the Information.

ARTICLE X

GENERAL PROVISIONS

Section 10.01 Assignment; Third-Party Rights. This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns. Vendor shall not assign this Agreement without the prior written consent of Nasdaq. Nasdaq agrees not to unreasonably withhold its consent to an assignment by Vendor provided that:

(a) such assignment would not adversely affect Nasdaq and would not cause any of the Corporations to be in violation of applicable law or regulations; and

(b) such assignment is to (i) a successor corporation of Vendor by operation of law, merger or consolidation or (ii) an entity acquiring substantially all of the assets of Vendor or an affiliate controlling, controlled by, or under common control with Vendor, and Vendor unconditionally guarantees the payment and performance by such entity or affiliate of all obligations under this Agreement. Nasdaq shall be free to assign this Agreement to one or more of the Corporations or to any person as security for or in connection with the borrowing of monies. Except as otherwise provided in Article VI, Article VII, and Section 10.12, nothing in this Agreement shall entitle any person to any rights as a third-party beneficiary under this Agreement. Nothing in this Agreement shall constitute the

parties as partners or participants in a joint venture, and neither party is appointed the agent of the other.

Section 10.02. Amendment. Except as otherwise provided herein, no provision of this Agreement, or the attachments which are a part hereof, may be

amended, modified or waived unless by an instrument in writing executed on behalf of each of the parties by their respective duly-authorized officers.

Section 10.03. Waiver; Good Faith.

(a) No failure on the part of Nasdaq or Vendor to exercise, no delay in exercising, and no course of dealing with respect to any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege under this Agreement.

(b) Nasdaq and Vendor shall act in good faith in the performance of their respective obligations under this Agreement and shall act as promptly as is reasonably practicable under the circumstances in granting or denying any consent or approval required hereunder.

Section 10.04. Entire Agreement. This Agreement, including the attachments hereto which are an integral part hereof, constitutes the entire Agreement between the parties with respect to the subject matter hereof, and supercedes all prior negotiations, communications, writings and understandings.

SECTION 10.05. ARBITRATION.

(A) IN THE EVENT OF A DEMAND FOR ARBITRATION BY NASDAQ PURSUANT TO SECTION 8.01(B)(III), A DEMAND FOR ARBITRATION BY VENDOR PURSUANT TO SECTION 8.02(B), OR BY MUTUAL CONSENT OF NASDAQ AND VENDOR, THE CLAIMS, DISPUTES, CONTROVERSIES AND OTHER MATTERS IN QUESTION BETWEEN NASDAQ AND VENDOR ARISING OUT OF, OR RELATING TO THIS AGREEMENT, OR TO THE BREACH HEREOF (WHICH CANNOT BE RESOLVED BY THE PARTIES), SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THIS AGREEMENT AND THE PROCEDURES (OR SUCH OTHER PROCEDURES AS MAY BE MUTUALLY AGREED UPON BY THE PARTIES) SET FORTH IN THIS SECTION 10.05.

(B) THE PARTY DEMANDING ARBITRATION PURSUANT TO SECTION 8.01(B)(III) OR SECTION 8.02(B) SHALL SERVE UPON THE OTHER PARTY, BY HAND OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A WRITTEN DEMAND, SPECIFYING IN REASONABLE DETAIL THE NATURE OF THE CLAIM, DISPUTE, CONTROVERSY OR OTHER MATTER IN QUESTION ("DISPUTE"), THAT THE DISPUTE BE SUBMITTED TO ARBITRATION. THE DEMAND, WHICH SHALL BE EFFECTIVE UPON RECEIPT, SHALL BE MADE WITHIN A REASONABLE TIME AFTER THE DISPUTE HAS ARISEN. IN NO EVENT SHALL THE DEMAND FOR ARBITRATION BE MADE AFTER THE DATE WHEN INSTITUTION OF LEGAL OR EQUITABLE PROCEEDINGS BASED UPON SUCH DISPUTE WOULD BE BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS OR LACHES. IN THE EVENT OF MUTUAL CONSENT OF NASDAQ AND VENDOR TO ARBITRATION, THE PARTIES SHALL PREPARE A JOINT STATEMENT OF THE DISPUTE.

(C) AFTER SERVICE AND RECEIPT OF A DEMAND FOR ARBITRATION, OR COMPLETION OF THE JOINT STATEMENT REFERRED TO IN SUBSECTION (B) ABOVE, THE PARTIES SHALL ATTEMPT TO AGREE UPON A SINGLE ARBITRATOR WITHIN TEN (10) DAYS OR SUCH LONGER PERIOD AS THE PARTIES MAY AGREE.

(D) IN THE EVENT THE PARTIES FAIL TO AGREE UPON A SINGLE ARBITRATOR

WITHIN THE PERIOD ESTABLISHED UNDER SUBSECTION (C) ABOVE, THEN EACH PARTY SHALL APPOINT ONE ARBITRATOR WITHIN AN ADDITIONAL TEN (10) DAYS AND NOTIFY THE OTHER PARTY OF SUCH APPOINTMENT. IF EITHER PARTY FAILS TO TIMELY APPOINT AN ARBITRATOR, THEN THE ARBITRATOR APPOINTED BY THE OTHER PARTY SHALL BE THE SOLE ARBITRATOR. IF, HOWEVER, BOTH PARTIES APPOINT AN ARBITRATOR, THEN A THIRD ARBITRATOR SHALL BE SELECTED WITHIN TEN (10) DAYS THEREAFTER BY THE FIRST TWO ARBITRATORS, UNLESS OTHERWISE AGREED BY THE PARTIES. IF THE ARBITRATORS AND THE PARTIES FAIL TO APPOINT A THIRD ARBITRATOR, EITHER PARTY MAY REQUEST THE AMERICAN ARBITRATION ASSOCIATION OR ANY FEDERAL OR LOCAL COURT OF THE DISTRICT OF COLUMBIA TO APPOINT THE THIRD ARBITRATOR.

(E) EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY ARBITRATION PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH THE RULES AND PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION, UNLESS OTHERWISE AGREED BY THE PARTIES. EXCEPT TO THE EXTENT PROVIDED IN THE LAST SENTENCE OF SUBSECTION (D) ABOVE, NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS REQUIRING SUBMISSION OF ANY DISPUTE TO THE AMERICAN ARBITRATION ASSOCIATION.

(F) THE ARBITRATION PROCEEDING SHALL BE HELD IN THE DISTRICT OF COLUMBIA, UNLESS OTHERWISE AGREED BY THE PARTIES.

(G) THE DECISION RENDERED THROUGH ARBITRATION SHALL BE FINAL AND BINDING UPON THE PARTIES HERETO AND JUDGMENT MAY BE ENTERED IN ACCORDANCE WITH APPLICABLE LAW IN ANY COURT HAVING JURISDICTION THEREOF.

(H) IN RENDERING A DECISION THE ARBITRATORS SHALL BE GOVERNED BY THE TERMS OF THIS AGREEMENT AND BY APPLICABLE PRECEDENT AND AUTHORITATIVE INTERPRETATIONS OF THE SEC. AT THE REQUEST OF EITHER PARTY, THE ARBITRATORS SHALL SUSPEND THE ARBITRATION PROCEEDINGS PENDING RESOLUTION BY THE SEC OF ISSUES RAISED IN THE ARBITRATION (OR A DETERMINATION BY THE SEC NOT TO RESOLVE SUCH ISSUES) THAT ARE BEFORE THE SEC.

(I) THIS SECTION 10.05 SHALL NOT APPLY TO ANY CLAIMS, DISPUTES, CONTROVERSIES OR OTHER MATTERS IN QUESTION BETWEEN NASDAQ AND VENDOR (A) THAT RELATE TO THE PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF NASDAQ IN THE INFORMATION AND THE LEVEL 1 SERVICE AND/OR LAST SALE SERVICE OR THE PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF VENDOR IN ITS SERVICE; (B) THAT ARE DESCRIBED IN SECTION 10.15; (C) THAT RELATE TO VIOLATIONS OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED; OR (D) THAT ARE NOT SPECIFIED IN SUBSECTION (A) ABOVE. THIS SECTION 10.05 SHALL NOT PRECLUDE EITHER PARTY FROM (X) PURSUING ALL AVAILABLE ADMINISTRATIVE, JUDICIAL OR OTHER REMEDIES FOR INFRINGEMENT OF A REGISTERED PATENT, TRADEMARK, SERVICE MARK, OR COPYRIGHT, OR THE MISAPPROPRIATION OR VIOLATION OF ANY TRADE SECRET OR OTHER PROPRIETARY OR INTELLECTUAL PROPERTY RIGHT; OR (Y) FILING OR PURSUING APPLICATIONS, APPEALS, COMMENTS OR OTHER COMMUNICATIONS WITH THE SEC AND APPEALING OR OTHERWISE

SEEKING RELIEF IN FEDERAL COURT FROM ACTIONS OF, OR FAILURES TO ACT BY, THE

SEC.

Section 10.06. Confidentiality. Each party acknowledges that in the course of performance of this Agreement it may obtain confidential data, information or techniques from the other party. With respect to any such data, information or techniques which a party has designated in writing as "confidential" on or before disclosure to the other party, and which are not otherwise publicly available, the other party agrees to hold such data, information or techniques confidential and to use it only in performance of this Agreement and agrees not to disclose it unless directed to do so by any court or administrative agency. Nothing herein shall constrain the Corporations from using confidential information in furtherance of their regulatory duties under the Exchange Act.

Section 10.07. Governing Law.

(a) This Agreement shall be deemed to have been made in the District of Columbia and shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the law of the District of Columbia, without reference to principles of conflicts of laws thereof. Judicial proceedings for the review of any arbitration decision or proceeding (other than entry or enforcement of an arbitration award or decision) or of any other matter arising under the terms of this Agreement shall be brought solely in the federal or local courts of the District of Columbia. Nasdaq and Vendor hereby consent to submit to the jurisdiction of the courts of the District of Columbia in connection with any judicial action or proceeding instituted by Nasdaq or Vendor pursuant to the provisions of this Agreement.

(b) This Agreement and the Information provided hereunder are subject to all applicable federal, state and local laws (including, without limitation, state laws regarding misappropriation of proprietary information) and governmental rules and regulations, including, without limitation, the Communications Act of 1934, the Exchange Act, and the Securities Act of 1933, as amended, the rules thereunder, as amended, and to the NASD Rules in effect on the Effective Date. In addition, this Agreement and the Information provided hereunder are subject to NASD Rules which are approved by the SEC after the Effective Date.

(c) This Section 10.07 shall not limit either party from filing or pursuing applications, appeals, comments or other communications with the SEC and appealing or otherwise seeking relief in federal court from actions of, or failures to act by, the SEC. Neither this Section 10.07 nor Section 10.05 shall be construed as affecting the application of the doctrine of exhaustion of administrative remedies.

Section 10.08. Liaison and Notices. All questions regarding the implementation of this Agreement shall be directed to the persons identified in Attachment J. All notices, approvals, proposals and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon actual receipt by the notified party, or upon constructive receipt (as of the date marked on the return

receipt) if sent by certified mail, return receipt requested, and addressed as specified in Attachment J. Either party, by ten (10) days prior notice, may specify a different contact person or address for purposes of this Section 10.08. In which case, Nasdaq shall prepare and deliver to Vendor a revised Attachment J reflecting such different contact person or address.

Section 10.09. Receipt of Services by Nasdaq. Vendor agrees that during the term of this Agreement it will provide at no cost to Nasdaq two (2) subscriptions to the Service covered by this Agreement together with the equipment used to received and to display or communicate the Service. Nasdaq represents and agrees that such subscriptions will be used solely for purposes of monitoring the information and demonstrating Vendor's Service.

Section 10.10. Severability. If any of the provisions of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which they are invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 10.11. Captions; Interpretation; Attachments.

(a) The article and section headings used in this Agreement are intended solely for convenience of reference and shall not in any way or manner amplify, limit, modify or otherwise be used in the interpretation of this Agreement. Unless otherwise specified: (i) references to articles, sections, or attachments in this Agreement are references to the articles or sections of, or attachments to, this Agreement, and (ii) all references to this Agreement include the attachments hereto. The Attachments referred to and appended to this Agreement are made an integral part of this Agreement.

(b) For purposes of this Agreement, a party shall be deemed to have knowledge of an event or circumstance if such party has, or ought to have on the basis of such party's obligations hereunder, knowledge of such facts as would reasonably cause the party to inquire about such event or circumstance, where such inquiry would disclose the happening or existence of such event or circumstance.

Section 10.12. Force Majeure. In addition to the provisions of Article VI, neither Vendor nor the Corporations shall be liable for delay or failure in performance of any of the acts required by this Agreement when such delay or failure arises from circumstances beyond the control and without the gross negligence or willful misconduct of Vendor or the Corporations, respectively. Such causes may include, without limitation, acts of God, acts of government in its sovereign or contractual capacity, acts of public enemy, acts of civil or military authority, war, riots, civil strife, terrorism, blockades, sabotage, rationing, embargoes, epidemics, earthquakes, fire,

flood, quarantine restrictions, power shortages or failures, utility or communication failure or delays, labor disputes, strikes, or shortages, supply shortages, equipment failures, or software malfunctions. The time for performance of any act delayed by such events may be postponed for a period equal to the delay. This Section 10.12 shall not apply to the payment of money and shall not toll the accrual of interest.

Section 10.13. Survival. The provisions of Articles VI, VII and VIII and Sections 4.03, 4.04, 4.08, 4.09, 4.10, 4.11, 5.04, 9.03, 10.05, 10.06, and 10.07 shall survive the completion of performance or any termination of this Agreement.

Section 10.14. Authorization. This Agreement shall not be binding upon Nasdaq unless executed by an authorized officer of Nasdaq. Vendor and Nasdaq, and the persons executing this Agreement on their behalf, represent that the persons executing this Agreement have been and are duly authorized by all necessary and appropriate corporate or other action to execute this Agreement on behalf of Vendor and Nasdaq, respectively.

Section 10.15. NASD Member Vendors. If Vendor is a member of NASD, then Vendor expressly acknowledges and agrees that:

(a) this Agreement does not limit or reduce in any way Vendor's obligations and responsibilities as a member of NASD;

(b) Section 10.05 does not in any way alter the procedures or standards generally applicable to disciplinary or other actions taken by NASD to enforce compliance with, or impose sanctions for violations of, the NASD Rules; and

(c) The fees set forth in Section 4.01 constitute "fees,... or other charges" the nonpayment of which could result in the suspension or cancellation of Vendor's NASD membership in accordance with Section 3 of Article VI of the NASD By-Laws.

Section 10.16. Effective Date. The execution date of this Agreement shall be the date it is executed by an authorized officer of Nasdaq and this Agreement shall become effective upon such date ("Effective Date").

Section 10.17. Counterparts. This Agreement may be executed in one or more counterparts, which shall each be considered an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized officers.

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.

("Vendor")

By: /s/ DAVID OROS

Name: David Oros

Title: President

Date: 9/5/96

FOR NASDAQ USE ONLY

Executed this day of OCT 04 1996 in the District of Columbia, for and on behalf of:

The Nasdaq Stock Market, Inc.
("Nasdaq")

By: /s/ [illegible]

Name: /s/ [illegible]

Title: SENIOR VICE PRESIDENT
THE NASDAQ STOCK MARKET, INC.

EXHIBIT 10.6

DOW JONES INDEXES(SM)
ENTERPRISE DISTRIBUTION AGREEMENT

THIS DOW JONES INDEXES(SM) ENTERPRISE DISTRIBUTION AGREEMENT (the "Agreement"), dated as of 4/23/99, sets forth terms and conditions under which Dow Jones & Company, Inc. ("DOW JONES") grants to the undersigned party ("VENDOR") a non-exclusive license to distribute the Indexes (as defined below) from components determined by Dow Jones from time to time.

1. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings when used in initial capital letters:

"AVERAGES" shall mean The Dow Jones Averages(SM) currently consisting of the Dow Jones Industrial Average(SM), the Dow Jones Transportation Average(SM), the Dow Jones Utility Average(SM) and the Dow Jones Composite Average(SM), including constituent information, as compiled and distributed by Dow Jones from time to time; Dow Jones reserves the right to modify the components and constituent information of the Averages from time to time in its sole discretion, subject to Section 3(b);

"CBOT" shall mean The Board of Trade of the City of Chicago;

"DELAYED DATA" shall mean any data from the Indexes for which twenty (20) minutes or more have elapsed from the time such data was received by Vendor to the time such data was distributed by Vendor;

"DOW JONES MARKS" shall mean the names Dow Jones(SM), The Dow Jones Indexes(SM), The Dow Jones Averages(SM), Dow Jones Industrial Average(SM), DJIA(SM), Dow Jones Transportation Average(SM), DJTA(SM), Dow Jones Utility Average(SM), DJUA(SM), Dow Jones Composite Average(SM), The Dow Jones Global Indexes(SM), DJGI(SM) and the names of the component indexes of the Global Indexes;

"END-OF-DAY DATA" shall mean any data from the Indexes distributed thirty minutes or more after the close of trading on the underlying stock exchange corresponding to such data;

"GLOBAL INDEXES" shall mean the Dow Jones Global Indexes(SM), including constituent information, as compiled and distributed by Dow Jones from time to time; Dow Jones reserves the right to modify the components and constituent information of the Global Indexes from time to time in its sole discretion, subject to Section 3(b);

"INDEXES" shall mean the Averages and the Global Indexes;

"INTELLECTUAL PROPERTY" shall mean patents, copyrights, trade

names, trademarks, service marks (including the Dow Jones Marks), trade secrets, formulas, methods, methodologies, and other property rights;

"REAL-TIME DATA" shall mean any data from the Indexes for which less than twenty (20) minutes have elapsed from the time such data was received by Vendor to the time such data was distributed by Vendor;

"SUBSCRIBER AGREEMENT" shall mean a written agreement between Vendor and a Subscriber governing such Subscriber's receipt and use of the Indexes, as required in Section 7(b);

"SUBSCRIBERS" shall mean end users that receive any of the Indexes from Vendor;

"SUBVENDORS" shall mean other data distributors that receive any of the Indexes from Vendor;

"VENDOR FEES" shall mean fees charged to Vendor pursuant to Section 4(a); and

"VENDOR PRODUCTS" shall mean the products and services of Vendor listed on Exhibit A hereto (which list may be amended to add additional products and services of Vendor, by written request to Dow Jones at least thirty (30) days in advance, and subject to Dow Jones' prior written consent).

2. GRANT OF LICENSE.

(a) Subject to the terms and conditions hereof, Dow Jones hereby grants to Vendor, for the term set forth below, a non-exclusive, non-transferable, worldwide license to (i) receive and store the Indexes solely for the purpose of distributing the Indexes in the Vendor Products that Vendor provides to Subscribers and/or Subvendors, (ii) distribute the Indexes in connection with the Vendor Products to Subscribers and/or Subvendors and (iii) use the Dow Jones Marks in connection with the Vendor Products as prescribed in Section 6. No other use of the Indexes or the Dow Jones Marks is permitted by Vendor without the express written permission of Dow Jones. [See Addendum A and Incorporate here]. Notwithstanding the preceding sentence, Vendor may, without additional express permission from Dow Jones, calculate the Indexes on a back-up basis only (i.e., calculate the Indexes and use such calculation only in the event and to the extent that such calculation is not provided to Vendor as set forth in Section 3 hereof).

(b) Vendor shall have no right to disseminate or otherwise distribute the Indexes or other data of Dow Jones on a real-time basis to Subscribers over the Internet unless, in addition to the other requirements of this Agreement, Vendor's distribution system has sufficient control1s to prevent

unauthorized receipt and redistribution of the Indexes and, in particular, Vendor shall require that its Subscribers gain access to the Indexes by means of identification codes that are designed to block, and are effective at blocking, unauthorized access to the Indexes.

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3. RECEIPT OF THE INDEXES; CHANGES IN INDEXES OR DISTRIBUTION.

(a) Vendor shall receive the real time Indexes via one or more datafeeds supplied by: The Board of Trade of the City of Chicago, Attention: Mr. Daniel Rooney, 141 West Jackson Boulevard, Chicago, Illinois 60604, Tel.: (312) 341-7024, or by a Subvendor. Vendor shall bear all costs and expenses related to receiving transmission of the Indexes.

(b) Vendor acknowledges that Dow Jones, in its sole discretion, may choose to: (i) cease or suspend compiling, calculating, publishing or distributing values of any or all of the Indexes; (ii) compile, calculate, publish or distribute the Indexes in a different form; or (iii) discontinue distributing the Indexes, in whole or in part, via CBOT or discontinue using existing communications facilities or modify such facilities' interface, speed, signal characteristics, or operational requirements. Dow Jones agrees to give Vendor at least ninety (90) days notice prior to making any material changes in the speed, signal characteristics, or operational requirements, unless a malfunction in the system requires changes on an accelerrated basis or an emergency situation precludes advance notice. Vendor shall bear the responsibility and expense of making any changes to its service necessitated by Dow Jones' actions pursuant to this Section 3(b).

4. VENDOR FEE. In consideration of the licenses granted herein. Vendor shall pay Dow Jones the Vendor Fees in the amounts and at the times set forth on Schedule 1 hereto. Vendor shall bear the responsibility of collecting all fees and charges, if any, that it chooses to impose on its Subscribers; provided, however, that Vendor shall be liable to Dow Jones for all Vendor Fees specified in Schedule 1 hereto irrespective of what fees and charges Vendor imposes on its Subscribers. Dow Jones shall have the right to institute increases in Vendor Fees annually at its sole discretion. Any such annual increase in Vendor Fees shall be made only upon at least ninety (90) days prior written notice to Vendor. Vendor shall submit to Dow Jones, at the remittance address set forth below, a check payable in United States dollars in the amount of the Vendor Fees. Alternatively, Vendor may pay the Vendor Fees by wire transfer to Dow Jones' bank account in New York pursuant to transfer instructions set forth on Exhibit B hereto.

5. INSPECTIONS AND AUDITS; INFORMATION. Dow Jones shall have the right, at its expense and upon reasonable notice, at any time and from time to time to inspect and audit Licensee's compliance with die terms of this

Agreement. Licensee shall provide to Dow Jones, within 30 days following each calendar year end, a written report setting forth the number of devices to which Vendor was distributing Indexes as of such year end.

6. INTELLECTUAL PROPERTY.

(a) Vendor acknowledges and agrees that the Dow Jones Marks are famous, well-known and internationally recognized trade names, trademarks and service marks owned by Dow Jones. Vendor has no rights to such marks except for those set forth herein. Vendor recognizes the great value of the reputation and goodwill associated with the Dow Jones Marks and agrees that all goodwill associated with the Dow Jones Marks from the Vendor Products shall belong exclusively to Dow Jones. Vendor further acknowledges and agrees that (i) the Indexes, and the divisors, formulas and methods used to compute the Indexes, are the exclusive property of Dow Jones not within the public domain and are protected by copyright and (ii) but for this

Agreement or any other written agreements between Vendor and Dow Jones, neither Vendor, its Subscribers, nor any other individual or entity would have any rights with respect to, or rights to receive, any of the Indexes. Vendor will not contest the ownership or validity of any rights of Dow Jones in the Indexes or such Intellectual Property relating thereto. If by operation of law Vendor should acquire any rights in any Intellectual Property of Dow Jones in the Indexes, Vendor hereby assigns to Dow Jones, exclusively and perpetually, all such rights and agrees to execute any documents and do any further acts as may be necessary to perfect, register or enforce Dow Jones' ownership of such rights.

(b) Vendor shall consistently provide clear attribution to Dow Jones in connection with any use of the Indexes hereunder, and Vendor shall ensure that the following notice is visible (i) in close proximity to any data from the Indexes that Subscribers may access from time to time in the Vendor products and (ii) on all labels, packaging, advertising and marketing materials referring to the Indexes:

> The Dow Jones Averages(SM) and The Dow Jones Global Indexes(SM) are compiled, calculated and distributed by Dow Jones & Company, Inc. and have been licensed for use. All content of The Dow Jones Averages(SM) and The Dow Jones Global Indexes(SM) (C) 1997 Dow Jones & Company, Inc. All Rights Reserved.

or similar language that may be approved in advance in writing by Dow Jones.

(c) Vendor agrees to use the following notice when referring to any of the Licensed Marks on any Vendor Products, labels, packaging, and

advertising and marketing materials:

> "Dow Jones(SM)," "The Dow Jones Indexes(SM)," "The Dow Jones Averages(SM)," "Dow Jones Industrial Average(SM)" "DJIA(SM)" "Dow Jones Transportation Average(SM)," DJTA(SM)," "Dow Jones Utility Average(SM)," "DJUA(SM)," "Dow Jones Composite Average(SM)," "The Dow Jones Global Indexes(SM)," "DJGI(SM)" and names of the component indexes of The Dow Jones Global Indexes(SM) are famous, well-known and internationally recognized trademarks of Dow Jones & Company, Inc. and have been licensed for use by Vendor.

or similar language that must be approved in advance in writing by Dow Jones. Vendor shall first submit to Dow Jones, for Dow Jones' review and approval, and Vendor shall nor distribute until receiving Dow Jones' approval thereof in writing, any Vendor Products, labels, packaging, and advertising and marketing materials that in any way use or refer to the Indexes or the Dow Jones Marks.

(d) Vendor shall not redistribute or otherwise commercially exploit the Indexes except as otherwise expressly provided herein. Vendor shall distribute the Indexes described herein only under the corresponding Dow Jones Marks. Nothing herein shall be construed to restrict or impair Vendor's right to distribute any other indexes provided that such indexes shall not include "Dow Jones" as part of the designation, shall not otherwise be attributed to Dow

Jones and shall not include the components and methods used in deriving the Indexes, or any substantial part thereof. Vendor agrees at all times visibly to distinguish on all labels, packaging, advertising and marketing materials between the Indexes on the one hand, and any other similar information distributed by Vendor on the other band.

(e) If at any time Dow Jones is of the opinion that Vendor is not properly using the Indexes or any Intellectual Property of Dow Jones in connection with Vendor Products, Dow Jones shall give Vendor notice to that effect. Upon receipt of such notice, Vendor shall forthwith cease distributing any non-conforming Vendor Products, or any labels, packaging, advertising and marketing material related thereto, and correct the defects to achieve compliance with all standards required by Dow Jones.

7. SUBVENDORS AND SUBSCRIBERS.

(a) DISTRIBUTION TO SUBVENDORS. Vendor shall not distribute any part of the indexes to any Subvendor unless such Subvendor has entered into an agreement with Dow Jones and Vendor receives written approval from Dow Jones to commence such distribution.

(b) SUBSRCIBER AGREEMENTS. Before distributing the Indexes to any Subscriber, Vendor shall have entered into a Subscriber Agreement with such subscriber. Such Subscriber Agreement must contain provisions necessary (i) to effect the terms and limitations respecting Subscribers set forth in this Agreement (including, without limitation, in Sections 7(c) and 8), (ii) for Subscriber to agree and acknowledge for itself the provisions agreed and acknowledged by Vendor for itself in Section 6(a), and (iii) for Subscriber to agree that it will not copy, download, store, reproduce or further transmit or distribute the Indexes for commercial purposes in any type of format or by any means, including but not limited to the Internet, Intranet or other type of network. Upon request by Dow Jones, Vendor shall make available to Dow Jones copies of its Subscriber Agreements; provided, however, that Vendor shall have no obligation to divulge any confidential or proprietary information. Vendor agrees to make all reasonable efforts to ensure that its Subscribers are not engaged in conduct inconsistent with the Subscriber Agreement, and Vendor shall promptly notify Dow Jones of the identity of any Subscriber who is not in compliance with the terms set forth in its Subscriber Agreement.

(c) RIGHT TO TERMINATE DISTRIBUTION. Dow Jones retains the right to direct Vendor to terminate distribution of the Indexes to any Subvendor or Subscriber for any reason or no reason, and the Subscriber Agreement shall so provide. Accordingly, upon written notice from Dow Jones, Vendor shall cease distributing the Indexes to such Subvendor or Subscriber as soon as practicable.

(d) COOPERATION OF VENDOR. Vendor shall cooperate with Dow Jones to ensure that Subscribers are complying with the Vendor's Subscriber Agreement as it relates to the Indexes. In the event that Dow Jones determines that a Subscriber is not in compliance with the terms of its Subscriber Agreement or a Subvendor is not in compliance with its Subvendor Agreement, Dow Jones may, at its option, file suit against such Subscriber or Subvendor or, in the event Dow Jones cannot adequately protect its rights by means of a lawsuit filed in its own name, direct Subscriber to file suit against such Subscriber or Subvendor. If Dow Jones files suit to

enjoin an unauthorized Subvendor or Subscriber from obtaining or using the Indexes or to otherwise enforce compliance with tie relevant Subscriber Agreement or Subvendor Agreement, Vendor agrees to cooperate with and assist Dow Jones in such proceeding whenever requested to do so by Dow Jones, including, but not limited to, joining as a party to the suit if under applicable law Vendor's joinder is required. Vendor will bear Vendor's own costs in providing the cooperation and assistance required by this Section 7(d), including but not limited to Vendor's attorney fees. Upon written request by Dow Jones, Vendor agrees to assign to Dow Jones all claims, demands and cause or causes of action of any kind or nature whatsoever that Vendor has or may have against any

Subscriber in connection with a breach of the Subscriber Agreement, provided that: (i) the breach is related to Subscriber's receipt of the Indexes; and (ii) Vendor has failed to prosecute such claims, demands and/or cause or causes of action within a reasonable period after the right to prosecute such claims, demands and/or cause or causes of action has accrued. For the purpose of this Section 7(d), a "reasonable period" shall be sixty (60) days for claims, demands and/or cause or causes of action seeking legal remedies and ten (10) days for claims, demands and/or cause or causes of action seeking equitable remedies.

8. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES.

(a) DOW JONES AND ITS AFFILIATES, CBOT AND ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND LICENSORS SHALL NOT BE LIABLE TO VENDOR OR ANY SUBVENDOR OR SUBSCRIBER FOR ANY LOSS OR DAMAGE, DIRECT, INDIRECT OR CONSEQUENTIAL, ARISING FROM (i) ANY INACCURACY OR INCOMPLETENESS IN, OR DELAYS, INTERRUPTIONS, ERRORS OR OMISSIONS IN THE DELIVERY OF, THE INDEXES OR ANY OTHER INFORMATION SUPPLIED TO VENDOR, SUBVENDORS OR SUBSCRIBERS OR (ii) ANY DECISION MADE OR ACTION TAKEN BY VENDOR OR ANY SUBVENDOR OR SUBSCRIBER IN RELIANCE UPON THE INDEXES OR ANY OTHER INFORMATION SUPPLIED TO VENDOR, SUBVENDORS OR SUBSCRIBERS. DOW JONES AND ITS AFFILIATES, CBOT AND ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND LICENSORS SHALL NOT BE LIABLE TO VENDOR OR ANY SUBVENDOR OR SUBSCRIBER FOR LOSS OF BUSINESS REVENUES, LOST PROFITS OR ANY PUNITIVE, INDIRECT, CONSEQUENTIAL, SPECIAL OR SIMILAR DAMAGES WHATSOEVER, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF DOW JONES AND ITS AFFILIATES, CBOT AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND LICENSORS ARISING OUT OF ANY LEGAL CLAIM IN ANY WAY CONNECTED TO THE INDEXES EXCEED THE VENDOR FEES PAID BY VENDOR HEREUNDER DURING THE TWELVE (12) MONTHS PRIOR TO THE INCIDENT GIVING RISE TO SUCH CLAIM.

(b) VENDOR EXPRESSLY ACKNOWLEDGES THAT DOW JONES, CBOT AND THEIR RESPECTIVE AFFILIATES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, TO VENDOR OR ANY SUBVENDORS OR SUBSCRIBERS WITH

RESPECT TO THE INDEXES, INCLUDING, WITHOUT LIMITATION: (i) ANY WARRANTIES WITH RESPECT TO THE TIMELINESS, SEQUENCE, ACCURACY, COMPLETENESS, CURRENTNESS, MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE INDEXES OR (ii) ANY WARRANTIES AS TO THE RESULTS TO BE OBTAINED BY VENDOR, ANY SUBVENDOR OR SUBSCRIBER, OR ANY OTHER PERSON OR ENTITY.

(c) Each Subscriber Agreement shall include the provisions of Sections 8(A) and 8(B).

9. TERM; TERMINATION. The term of this Agreement shall commence as of the date hereof and shall continue until terminated by either party upon not less than 90 days prior written notice; provided, however, that, if either party violates any provision of this Agreement, the other party may terminate this Agreement, effective upon 30 days written notice if such violation is not cured within such 30-day period; and provided, further, that, if Dow Jones exercises its right to increase the Vendor Fee pursuant to Section 4, Vendor may terminate this Agreement as of the effective date of such price increase by giving Dow Jones written notice of its desire to terminate the Agreement within 30 days after its receipt of the notice from Dow Jones regarding the increase in the Vendor Fee.

10. INDEMNIFICATION BY VENDOR.

(a) Vendor shall defend, indemnify and hold harmless Dow Jones, and CBOT, and their respective affiliates and each of their respective officers, directors, members, employees, agents, representatives and licensors (each, an "Indemnified Party") from and against any and all judgments, damages, expenses, settlements, liabilities, costs, losses and other liabilities of any kind (including reasonable attorneys' and experts' fees and disbursements) as a result of Vendor's breach of this Agreement, any Subscriber's breach of its Subscriber Agreement, or any claim, suit, action, litigation or proceeding by any third party that arises out of or relates to this Agreement or any Vendor Products, except insofar as such claim, action or proceeding relates to a material breach of this Agreement by Dow Jones.

(b) Any Indemnified Party seeking indemnification under this Section 10 shall promptly notify Vendor in writing of any claim, action, suit, litigation or proceeding (but the failure to do so shall not relieve Vendor of any liability hereunder except to the extent Vendor has been materially prejudiced therefrom). After receiving notice of any claim, action, suit, litigation or proceeding under this provision, Vendor may elect, by written notice to the party seeking indemnification within ten (10) days after receiving notice of such claim, action, suit, litigation or proceeding, to assume the defense thereof with counsel reasonably acceptable to the party seeking indemnification. If Vendor does not so elect to assume such defense or disputes its indemnity obligation with respect to such claim, action, suit, litigation or proceeding, or if Vendor reasonably believes that there are conflicts of interest between itself and the party seeking indemnification or that additional defenses are available to Vendor with respect to such defense, then the party seeking indemnification shall retain its own counsel to defend such claim, action, suit, litigation or proceeding at Vendor's expense. Vendor shall periodically reimburse the party seeking indemnification for its expenses incurred under this Section 10. The party seeking

indemnification shall have the right, at its own expense, to participate in the defense of any claim, action, suit, litigation or proceeding against which it is indemnified hereunder and with respect to which Vendor has elected to assume the defense; provided, however, that such party shall have no right to control the defense, consent to judgment, or agree to settle any such claim, action, suit, litigation or proceeding without the written consent of Vendor unless such party waives its right to indemnity hereunder. Vendor, in the defense of any such claim, action, suit, litigation or proceeding, shall not, without the prior written consent of the party seeking indemnification, consent to entry of any judgment or enter into any settlement. The indemnification provisions set forth herein are solely for the benefit of the Indemnified Parties and are not intended to, and do not, create any rights or causes of actions on behalf of any other party.

11. FORCE MAJEURE. Dow Jones' performance hereunder shall be excused without liability in the event of any event or contingency beyond Dow Jones' control, including but not limited to: foreign or domestic embargoes; acts of God; the adoption or enactment of any law, ordinance, regulation, ruling, or order directly or indirectly interfering with performance hereunder; lack of the usual means of transportation; technological failure; fires; floods; explosions; strikes; extraordinary currency devaluations; taxes; or customs, duties, or other similar charges or assessments.

12. HEADINGS. The headings used herein are for convenience only and shall not be deemed to constitute a part hereof or to limit, characterize, or in any way affect the provisions of this Agreement.

13. NOTICES. All notices and other communications under this Agreement shall be: (i) in writing; (ii) delivered by hand (with receipt confirmed in writing), by registered or certified mail (return receipt requested), or by facsimile transmission (with receipt confirmed in writing), to the address or facsimile number set forth below the parties' signatures herein or to such other address or facsimile number as either party shall specify by a written notice to the other; and (iii) deemed given upon receipt.

14. SEVERABILITY. If any court having competent jurisdiction shall determine that one or more of the provisions contained in this Agreement shall be unenforceable in any respect, then such provision shall be deemed limited and restricted to the extent that such court shall deem it to be enforceable, and as so limited or restricted shall remain in full force and effect. If any such provision or provisions shall be deemed wholly unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

15. ASSIGNMENT. This Agreement may not be assigned by Vendor without the prior written consent of Dow Jones.

16. SURVIVAL. Sections 6(a), 8 and 10 shall survive termination of this Agreement.

17. ENTIRE AGREEMENT; WAIVER. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof, and

supersedes any previous agreement or understanding between the parties, and no amendment hereof shall be effective unless in writing and signed by the parties hereto. No term or provision hereof shall be deemed

waived and no breach consented to or excused, unless such waiver, consent or excuse shall be in writing and signed by the waiving party. Should either party consent, waive or excuse a breach by the other party, such shall not constitute a consent to, waiver of, or excuse of any other different or subsequent breach, whether or not of the same kind as the original breach.

18. GOVERNING LAW; JURISDICTION AND VENUE. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, USA, applicable to contracts made and performed in New York. Vendor hereby agrees and consents to the personal and exclusive jurisdiction and venue of the New York state courts and the United States District Court for the Southern District of New York.

IN WITNESS WHEREOF, the signatory for each party has duly executed this Agreement on the date hereof and certifies that he/she has the authority to bind the party on behalf of whom he/she has signed.

AETHER TECHNOLOGIES INTERNATIONAL	DOW JONES & COMPANY, INC.
(Vendor)	
By: /s/ DAVID S. OROS	By: /s/ MICHAEL A. PETRONELLA
Name: David S. Oros	Michael A. Petronella 6-18-99
Title: President	Managing Director
	Dow Jones Indexes
VENDOR'S ADDRESS:	VENDOR FEE AND REPORT
11460 Cronridge Drive Suite 106	REMITTANCE ADDRESS:
Owings Mills, MD 21117	Dow Jones & Company, Inc.
	P.O. Box 300
	Princeton, New Jersey 08543-0300
	Attn: Michael A. Petronella
	(609) 520-5610/7030 fax
Attn: David S. Oros	

Tel No.: 410-654-6400 Ext 214

Fax No.: 410-654-6554

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EXHIBIT B

DOW JONES WIRE INSTRUCTIONS

ACCOUNT NAME:	Dow Jones & Company Princeton, New Jersey
ACCOUNT NUMBER:	140801942
BANK NAME AND ADDRESS:	Chase Manhattan Bank New York, NY 10004
ACCOUNT NUMBER: (for domestic transfers)	Fedwire ABA Number 021000021
CHIPS UID NUMBER: (for international transfers)	Swift Address CHASUS33
CHIPS PARTICIPANT:	002

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ADDENDUM A

Vendor may create derivative works from the Indexes (including but not limited to, intraday theoretical high/lows and historical graphs and charts) and distribute such works in Vendor Products.

EXHIBIT 10.7

|___| Employee's Copy
| X | Company's Copy

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.
EMPLOYMENT AGREEMENT

To DAVID OROS:

This Agreement establishes the terms of your employment as President and Chief Executive Officer of Aether Technologies International, L.L.C., a Delaware limited liability company (the "Company").

EMPLOYMENT AND DUTIES — You and the Company agree to your continued employment as President and Chief Executive Officer of the Company on the terms contained below. You will report directly to the Company's Managers. You agree to perform whatever duties the Managers may assign you from time to time that are consistent with services customarily performed by the President and Chief Executive Officer of a similar company. During your employment, you agree to devote your full business time, attention, and energies to performing those duties (except as the Managers otherwise agrees from time to time). During your employment, you will not perform services for compensation for other companies without the consent of the Managers.

TERM OF EMPLOYMENT — Your employment under this Agreement begins as of June 22, 1999 (the "Effective Date") and will end at 6 p.m. Eastern Time on June 21, 2002, unless earlier ended or later extended (which period is referred to as the "Term"). If neither party notifies the other of nonextension at least 15 days before the Term would otherwise end, it will extend a month at a time until such notice is given.

PLACE OF EMPLOYMENT — Your principal place of employment will be at the Company's principal office in Owings Mills, Maryland or such other location at which you agree to work, and in office space you consider appropriate.

COMPENSATION — The Company will provide you compensation and incentives as follows:

Salary — The Company will pay you an annual salary (the "Salary") of $200,000.

Performance Bonus	You will have the opportunity at the Managers' sole discretion to receive a performance bonus of up to $100,000 for every fiscal year (ending December 31) ending within the Term. In determining whether to award the bonus, the Managers will consider the progress of projects such as the formation of Airweb, the rollout of Discover brokerage and the licensing of Aim.net.
Bonus Based on Sales	You will receive a bonus equal to 1% of the Company's gross sales in excess of $3.5 million for its fiscal year ending December 31, 1999. For the fiscal years ending December 31, 2000 and December 31, 2001, the Managers, in their sole discretion, will set the minimum sales amount required for you to receive the bonus.
Bonus Based on New Equity	You will receive a bonus equal to 1% of all private equity raised by the Company during the fiscal year ending December 31, 1999. This bonus does not apply to money raised in a public offering or money raised after December 31, 1999.
Warrants	You will be granted a warrant to acquire 350,000 Units in the Company. The warrants will be exercisable for $0.01 per Unit upon the terms and conditions described in the Warrant to Acquire Limited Liability Company Interests of Aether Technologies International L.L.C. dated as of June 22, 1999 (the "Warrant Agreement"). You will also have the right to specify key employees who will receive warrants for an aggregate of up to 50,000 Units on the same terms and conditions as those described in the Warrant Agreement.
Employee Benefits	While you are employed under this Agreement, the Company will provide you with the same benefits, including medical insurance coverage, as the Company makes generally available from time to time to the Company's senior executives, as those benefits are amended or terminated from time to time. Your participation in the Company's benefit plans will be subject to the terms of the applicable plan documents and the Company's generally applied policies, and the Company in its sole discretion may from time to time adopt, modify, interpret, or discontinue such plans or policies.
Vacation	The Company will provide you with at least four weeks' vacation per calendar year.
EXPENSES	The Company will reimburse you for reasonable travel, entertainment, and other out-of-pocket expenses you incur in performing your duties under this Agreement or otherwise

rendering services to or on behalf of the

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Company upon submission and approval of written statements and bills that comply with the Company's then regular procedures.

TERMINATION

Subject to the provisions of this section, you and the Company agree that it may terminate your employment, or you may resign, except that, if you voluntarily resign, you must provide the Company with 90 days' prior written notice (unless the Company has previously waived such notice in writing or authorized a shorter notice period).

By the Company For Cause

The Company may terminate your employment for Cause, with written notice stating the acts, omissions, refusals, or failures that the Company believes constitute Cause, if you:

(i) are convicted of, or plead guilty or no contest to, any misdemeanor (other than for minor infractions) involving fraud, breach of trust, or misappropriation, or any felony; or

(ii) commit an act of gross negligence or otherwise act with willful disregard for the Company's best interests, and the result of your actions is materially adverse to the Company; or

(iii) fail or refuse to comply in any material respect with specific written directions from the Managers that are reasonable in scope, material to your duties as President and Chief Executive Officer, consistent with the duties of similarly-situated President and Chief Executive Officer at other companies and with the terms of this Agreement, and reasonably capable of being performed.

When providing you with a written notice of termination for Cause under Clause (ii) or (iii), the Managers will provide you with at least 30 days in which to correct the specified act, omission, refusal, or failure. If not corrected within that period, your employment will terminate for Cause at the end of that period. Your termination for Cause under Clause (i) will be effective immediately upon the Managers's mailing or transmission of such notice.

By the Company Without Cause	The Company may terminate your employment under this Agreement before the end of the Term, without Cause, upon 60 days' prior written notice.
By the Company For Disability	If you become "disabled" (as defined below), the Company may terminate your employment. You are "disabled" if you are unable, despite whatever reasonable accommodations the law requires, to render services

to the Company for more than 180 days in a calendar year because of physical or mental disability, incapacity, or illness. You are also disabled if you are found to be disabled within the meaning of the Company's long-term disability insurance policy as then in effect or would be so found if you applied for benefits. After you become "disabled," the Company agrees, if possible, to retain you in some capacity for the period set forth below under PAYMENT ON TERMINATION - By The Company Because of Disability.

Upon Death	If you die during the Term, the Term will end as of the date of your death.
By You	You may resign by giving the Company 90 days' prior written notice.
Nonrenewal	Neither party has any obligation to extend the term of this Agreement.
PAYMENTS ON TERMINATION	Except to the extent the law requires otherwise or as provided in this PAYMENTS ON TERMINATION section or in the Warrant Agreement, neither you nor your beneficiary or estate will have any rights or claims under this Agreement or otherwise to receive severance or any other cash compensation (other than Salary, bonuses, and vacation already accrued but not paid, and reimbursement of unpaid expenses) after your termination or resignation.
By the Company Without Cause	If, during the Term, the Company terminates your employment without Cause, the Company will promptly pay you severance equal to the Salary that would have been paid to you during the balance of the Term if you had remained employed. In addition, your warrant under the Warrant Agreement will vest on the date of termination.
Upon Death	If you die during the Term, the Company will promptly pay your

estate an amount equal to the Salary that would have been paid to you during the balance of the Term if you had remained employed.

By the Company Because of Disability: If the Company terminates your employment because of Disability, it will pay you severance equal to your Salary, as then in effect, for the lesser of six months and the applicable elimination period before you qualify for long-term disability benefits, with payments made on the same schedule as though you had remained employed.

You are not required to mitigate amounts payable under these provisions by seeking other employment or otherwise.

NO INTERFERENCE; During the Restricted Period (as defined below), you agree that you will

NO SOLICITATION not, directly or indirectly, whether for yourself or for any other individual or entity (other than the Company or its affiliates or subsidiaries), intentionally

solicit any person or entity who is, or was, within the Restricted Period, a customer, prospect, or client of the Company;

hire away or endeavor to entice away from the Company any employee or any other person or entity whom the Company engages to perform services or supply products and including, but not limited to, any independent contractors, consultants, engineers, or sales representatives or any contractor, subcontractor, supplier, or vendor; or

hire any person whom the Company employs or employed within the prior 12 months.

Restricted Period: For purposes of this Agreement, the Restricted Period runs from the date of your employment with the Company through the six month anniversary of the date your employment with the Company ends for any reason.

SECRECY

Preserving Company: Your employment with the Company under and before this Agreement has given and will give you Confidential Information

Confidences	(as defined below). You acknowledge and agree that using, disclosing, or publishing any Confidential Information in an unauthorized or improper manner could cause the Company substantial loss and damages that could not be readily calculated and for which no remedy at law would be adequate. Accordingly, you agree with the Company that you will not at any time, except in performing your employment duties to the Company under this Agreement (or with the Members' prior written consent), directly or indirectly, use, disclose, or publish, or permit others not so authorized to use, disclose, or publish any Confidential Information that you may learn or become aware of, or may have learned or become aware of, because of your prior or continuing employment, ownership, or association with the Company, or use any such information in a manner detrimental to the interests of the Company.
Preserving Others' Confidences	You agree not to use in working for the Company and not to disclose to the Company any trade secrets or other information you do not have the right to use or disclose and that the Company is not free to use without liability of any kind. You agree to promptly inform the Company in

writing of any patents, copyrights, trademarks, or other proprietary rights known to you that the Company might violate because of information you provide.

Confidential Information	"Confidential Information" includes, without limitation, information that the Company has not previously disclosed to the public or to the trade with respect to the Company's present or future business, including its operations, services, products, research, inventions, discoveries, drawings, designs, plans, processes, models, technical information, facilities, methods, trade secrets, copyrights, software, source code, systems, patents, procedures, manuals, specifications, any other intellectual property, confidential reports, price lists, pricing formulas, customer lists, financial information (including the revenues, costs, or profits associated with any of the Company's products or services), business plans, lease structure, projections, prospects, opportunities or strategies, acquisitions or mergers, advertising or promotions, personnel matters, legal matters, any other confidential and proprietary information, and any other information not generally known outside the Company that may be of value to the Company but excludes any information already properly in the public domain.

"Confidential Information" also includes confidential and proprietary information and trade secrets that third parties entrust to the Company.

You understand and agree that the rights and obligations set forth in this SECRECY Section will continue indefinitely and will survive termination of this Agreement and your employment with the Company.

EXCLUSIVE PROPERTY

You confirm that all Confidential Information is and must remain the exclusive property of the Company. Any office equipment (including computers) you receive from the Company in the course of your employment and all business records, business papers, and business documents you keep or make, whether on digital media or otherwise, in the course of your employment by the Company relating to the Company must be and remain the property of the Company. Upon the termination of this Agreement with the Company or upon the Company's request at any time, you must promptly deliver to the Company any such office equipment (including computers) and any Confidential Information or other materials (written or otherwise) not available to the public or made available to the public in a manner you know or reasonably should recognize the Company did not authorize, and any copies, excerpts, summaries, compilations, records, or documents you made or that came into your possession during your employment. You agree that you will not, without the Company's consent, retain copies, excerpts, summaries, or compilations of the foregoing information and materials. You understand

and agree that the rights and obligations set forth in this EXCLUSIVE PROPERTY Section will continue indefinitely and will survive termination of this Agreement and your employment with the Company.

COPYRIGHTS, DISCOVERIES, INVENTIONS, AND PATENTS

You agree that all records, in whatever media (including written works), documents, papers, notebooks, drawings, designs, technical information, source code, object code, processes, methods or other copyrightable or otherwise protected works you conceive, create, make, invent, or discover or that otherwise relate to or result from any work you perform or performed for the Company or that arise from the use or assistance of the Company's facilities, materials, personnel, or Confidential Information in the course of your employment

(whether or not during usual working hours), whether conceived, created, discovered, made, or invented individually or jointly with others, will be and remain the absolute property of the Company, as will all the worldwide patent, copyright, trade secret, or other intellectual property rights in all such works. You irrevocably and unconditionally waive all rights, wherever in the world enforceable, that vest in you (whether before, on, or after the date of this Agreement) in connection with your authorship of any such copyrightable works in the course of your employment with the Company. Without limitation, you waive the right to be identified as the author of any such works and the right not to have any such works subjected to derogatory treatment. You recognize any such works are "works for hire" of which the Company is the author.

You will promptly disclose, grant, and assign ownership to the Company for its sole use and benefit any and all ideas, processes, inventions, discoveries, improvements, technical information, and copyrightable works (whether patentable or not) that you develop, acquire, conceive or reduce to practice (whether or not during usual working hours) while the Company employs you. You will promptly disclose and hereby grant and assign ownership to the Company of all patent applications, letters patent, utility and design patents, copyrights, and reissues thereof or any foreign equivalents thereof, that may at any time be filed or granted for or upon any such invention, improvement, or information. In connection therewith:

You will, without charge but at the Company's expense, promptly execute and deliver such applications, assignments, descriptions, and other instruments as the Company may consider reasonably necessary or proper to vest title to any such inventions, discoveries, improvements, technical information, patent applications, patents, copyrightable works, or reissues thereof in the Company and to

enable it to obtain and maintain the entire worldwide right and title thereto; and

You will provide to the Company at its expense all such assistance as the Company may reasonably require in the prosecution of applications for such patents, copyrights, or reissues thereof, in the prosecution or defense of interferences that may be declared involving

any such applications, patents, or copyrights and in any litigation in which the Company may be involved relating to any such patents, inventions, discoveries, improvements, technical information, or copyrightable works or reissues thereof. The Company will reimburse you for reasonable out-of-pocket expenses you incur and pay you reasonable compensation for your time if the Company no longer employs you.

To the extent, if any, that you own rights to works, inventions, discoveries, proprietary information, and copyrighted or copyrightable works, or other forms of intellectual property that are incorporated in the work product you create for the Company, you agree that the Company will have an unrestricted, non-exclusive, royalty-free, perpetual, transferable license to make, use, sell, offer for sale, and sublicense such works and property in whatever form, and you hereby grant such license to the Company.

This COPYRIGHTS, DISCOVERIES, INVENTIONS AND PATENTS section does not apply to an invention or discovery for which no equipment, supplies, facility or trade secret information of the Company (including its predecessors) was used and that was developed entirely on your own time, unless (a) the invention relates (i) directly to the Company's business, or (ii) the Company's actual or then reasonably anticipated research or development, or (b) the invention results from any work you performed for the Company or any predecessor.

MAXIMUM LIMITS

If any of the provisions under the SECRECY, EXCLUSIVE PROPERTY, OR COPYRIGHTS, DISCOVERIES, INVENTIONS AND PATENTS sections are ever deemed to exceed the time, geographic area, or activity limitations the law permits, you and the Company agree to reduce the limitations to the maximum permissible limitation, and you and the Company authorize a court or arbitrator having jurisdiction to reform the provisions to the maximum time, geographic area, and activity limitations the law permits; provided, however, that such reductions apply only with respect to the operation of such provision in the particular jurisdiction with respect to which such adjudication is made.

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INJUNCTIVE RELIEF

Without limiting the remedies available to the Company, you acknowledge:

that a breach of any of the covenants in the SECRECY, EXCLUSIVE PROPERTY, OR COPYRIGHTS, DISCOVERIES,

INVENTIONS AND PATENTS sections of this Agreement may result in material irreparable injury to the Company for which there is no adequate remedy at law, and

that it will not be possible to measure damages for such injuries precisely.

You agree that, if there is a breach or threatened breach, the Company will be entitled to obtain a temporary restraining order and/or a preliminary or permanent injunction restraining you from engaging in activities prohibited by any provisions of the SECRECY, EXCLUSIVE PROPERTY, OR COPYRIGHTS, DISCOVERIES, INVENTIONS AND PATENTS sections of this Agreement or such other relief as may be required to specifically enforce any of the covenants in the SECRECY, EXCLUSIVE PROPERTY, OR COPYRIGHTS, DISCOVERIES, INVENTIONS AND PATENTS sections of this Agreement. The Company will, in addition to the remedies provided in this Agreement, be entitled to avail itself of all such other remedies as may now or hereafter exist at law or in equity for compensation and for the specific enforcement of the covenants contained in this Agreement. Resort to any remedy provided for in this Section or provided for by law will not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies, or preclude the Company's recovery of monetary damages and compensation. You also agree that the Restricted Period or such longer period during which the covenants hereunder by their terms survive will extend for any and all periods for which a court with personal jurisdiction over you finds that you violated the covenants contained in the SECRECY, EXCLUSIVE PROPERTY, OR COPYRIGHTS, DISCOVERIES, INVENTIONS AND PATENTS sections of this Agreement.

ASSIGNMENT

The Company may assign or otherwise transfer this Agreement and any and all of its rights, duties, obligations, or interests under it to any of the affiliates or subsidiaries of the Company.

Upon such assignment or transfer, any such business entity will be deemed to be substituted for the Company for all purposes. Without the Company's prior written consent, you may not assign or delegate this Agreement or any or all rights, duties, obligations, or interests under it, except that your economic benefits may be paid to your heirs or beneficiaries after your death.

SEVERABILITY

If the final determination of an arbitrator or a court of competent jurisdiction declares, after the expiration of the

time within which judicial review (if permitted) of such determination may be perfected, that any term or provision of this Agreement is invalid or unenforceable, the remaining terms and provisions will be unimpaired, and the invalid or unenforceable term or provision will be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

AMENDMENT; WAIVER — Neither you nor the Company may modify, amend, or waive the terms of this Agreement other than by a written instrument signed by you and a duly authorized officer of the Company (with the Managers' approval). Either party's waiver of the other party's compliance with any provision of this Agreement is not a waiver of any other provision of this Agreement or of any subsequent breach by such party of a provision of this Agreement.

WITHHOLDING — The Company will reduce its compensatory payments to you for withholding and FICA taxes and any other withholdings and contributions required by law.

GOVERNING LAW — The laws of the State of Maryland (other than its conflict of laws provisions) govern this Agreement.

SUPERSEDING EFFECT — This Agreement supersedes any prior oral or written employment, severance, or fringe benefit agreements between you and the Company, other than with respect to your eligibility for generally applicable employee benefit plans. This Agreement supersedes all prior or contemporaneous oral or written negotiations, commitments, and agreements with respect to the subject matter of this Agreement (other than the Warrant Agreement). All such other negotiations, commitments, agreements, and writings will have no further force or effect; and the parties to any such other negotiation, commitment, agreement, or writing will have no further rights or obligations thereunder.

NOTICES — Notices must be given in writing by personal delivery, by certified mail, return receipt requested, by telecopy, or by overnight delivery. You should send or deliver your notices to the offices of the Company. The Company will send or deliver any notice given to you at your address as reflected on the Company's personnel records. You and the Company may change the address for notice by like notice to the other. You and the Company agree that notice is received on the date it is personally delivered, the date it is received by certified mail, the date of guaranteed delivery by the overnight service, or the date the fax machine confirms effective transmission.

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AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.

By: /s/ DAVID C. REYMANN

Name DAVID C. REYMANN
Title CFO

I accept and agree:

/s/ DAVID OROS

David Oros

Dated: 7/7/99

EXHIBIT 10.8

EMPLOYMENT AGREEMENT

This employment agreement is effective as of between Aether Technologies International, L.L.C. (Employer) and David Reymann (Employee).

RECITALS

1. The Employee has acquired skills and abilities in financial management and accounting.

2. The Employer desires the services of the Employee, and is therefore willing to engage his/her services on the terms and conditions stated below.

3. The Employee desires to be employed by the Employer and is therefore willing to do so on those terms and conditions.

Now therefore, in consideration of the above recitals and of the mutual promises and conditions in this Agreement, it is agreed as follows:

1. EMPLOYEE'S DUTIES AND AUTHORITY.

The Employer shall employ the Employee as with responsibility to accomplish the assigned activities or in such other capacity or capabilities that are reasonably related to such activities.

2. OTHER BUSINESS ACTIVITIES.

During Employment, the Employee shall devote his work efforts to the performance of this Agreement and shall not, without the Employer's prior written consent, render to others services of any kind for compensation, or engage in any other business activity that would materially interfere with the performance of his duties under this Agreement, provided however, that the Employee continues to receive compensation for that service from the Employer.

2.1 REASONABLE TIME AND EFFORT REQUIRED.

During his/her employment, the Employee shall devote such time, interest, and effort to the performance of this Agreement as may be fair and reasonable.

3. NON-COMPETITION DURING EMPLOYMENT.

See Non-Compete Agreement

4. TERM OF EMPLOYMENT.

The Employee shall be employed from June 1, 1999 to June 1, 2001 unless the Employee is terminated as provided in this Agreement or this Agreement is extended by mutual written consent of the parties.

5. SALARY AND BONUS.

The Employer shall pay a basic salary to the Employee at the rate of $127,500 for the first year of the contract and a minimum of $127,500 for the second year of the contract, payable in equal monthly installments.

6. STOCK OPTIONS.

See Schedule A.

7. EXPENSES.

The Employer shall reimburse the Employee for reasonable expenses incurred in connection with the Employee's performance of his duties including travel expenses, food and lodging, while away from home, pursuant to the Employer's approval of any expense over $1,000.00.

8. HEALTH BENEFITS.

The Employer shall provide the Employee with Individual Health Coverage (Blue Cross and Blue Shield MPOS 100/80) and Dental coverage (Phoenix Dental) starting on the date of employment. The Employee monthly contribution is 20 (twenty) percent of the total health coverage cost.

9. VACATION AND HOLIDAY

The Employee is entitled to 20 days of paid vacation during each year of the Agreement term. He/she is also entitled to 10 (ten) paid holidays, each that he may select during the duration of the Agreement.

10. 401K PARTICIPATION,

The Employee is eligible for the 401K Plan after completing three months of service with the Company. Once the eligibility requirement is met, participation may start on the next entry date.

11. EMPLOYEE'S RIGHT OF OWNERSHIP.

All inventions conceived or developed by the Employee during the term of

this Agreement shall remain the property of the Employer.

12. TERMINATION.

12.1 INVOLUNTARY TERMINATION OF AGREEMENT.

The Employer may terminate this Agreement without cause, on the last day of this Agreement with 90 (ninety) days prior written notice to the Employee.

12.2 TERMINATION FOR CAUSE.

The Employer may terminate this Agreement at any time without notice if the employee commits any material act of dishonesty, discloses confidential information, is guilty of gross carelessness or misconduct, is not permitted to enter into this agreement because of previous commitments or agreements, or acts in any way that has direct, substantial, and adverse effect on the Employer's reputation.

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13. EMPLOYEE TERMINATION.

13.1 TERMINATION ON RESIGNATION.

The Employee may terminate this Agreement by giving the Employer 2 (two) weeks prior written notice of resignation.

13.2 TERMINATION ON DEATH.

If the Employee dies during the period of the Agreement shall then be terminated. All unpaid compensation will be made to Employees' estate.

14. NON-DISCLOSURE AFTER TERMINATION.

Because of his/her employment by the Employer, the employee will have access to trade secrets and confidential information about the Employer, its products, its customers, and its methods of doing business. In consideration of his/her access to this information, the Employee agrees that for a period of 2 (two) years after his/her employment, he/she will not disclose such trade secrets or confidential information.

15. ARBITRATION.

Any controversy or claim arising out of or relating to this Agreement

shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and Judgement on the award rendered by the arbitrators, one to be chosen directly by each party at will and the third arbitrator to be selected by the two arbitrators so chosen. Each party shall pay the fees of the arbitrator he selects and of his own attorneys and the expenses of his witnesses and all other expenses connected with presenting his case. Other costs of the arbitration, including the costs of any record transcripts of the arbitration, administrative fees, the fee of the third arbitrator, and all other fees and costs, shall be borne equally by the parties. Despite the forgoing, the arbitrators may assign to one party to the other any and all fees and costs as part of any arbitration award.

16. ENTIRE AGREEMENT.

This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written Agreements, understandings, commitments, and practices between the parties. No amendments to this Agreement may be made except in writing and signed by both parties.

17. CHOICE OF LAW.

The formation, construction, and performance of this Agreement shall be construed in accordance with the laws of Maryland.

18. SEVERABILITY.

If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

19. REPLACEMENT OF EMPLOYMENT AGREEMENT.

This contract replaces the contract dated June 8, 1998 between Aether Technologies International L.L.C. and David Reymann.

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20. NOTICES SHALL BE AS FOLLOWS:

Unto Employer: AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.
11460 CRONRIDGE DRIVE
OWINGS MILLS, MD 21117

Unto Employee: David Reymann

Executed by the parties as of the day and year first written above.

EMPLOYER

/s/ DAVID S. OROS	5/18/99
BY	DATE
PRESIDENT/CEO	
TITLE	
/s/ DAVID C. REYMANN	5-18-99
DAVID REYMANN	DATE

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Schedule A

Copy of Option Agreement

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SCHEDULE B

NON-COMPETITION AND NON-DISCLOSURE AGREEMENT

This is a Non-Competition and Non-Disclosure Agreement between Aether Technologies International, L.L.C. (the "Company") and David C. Reymann, (the "Employee"). The parties recognize that the Company is involved in the development and sale of technology that is unique and proprietary. In consideration of the Employee's employment with the Company, the parties agree as follows:

1. CONFIDENTIAL INFORMATION: The Employee understands that he/she will have access to confidential information, and that the disclosure of this information to others would be detrimental to the Company. The Employee agrees that during his/her employment, and at any time following his/her employment with the Company, the Employee will not disclose to any person or entity, other than in the discharge of his/her duties under this Agreement: (a) the business operations or internal structure of the Company, including marketing and sales information; (b) the customers of the Company, including customer lists and customer records; (c) the work performed for any customer of the Company; and

(d) the method or procedure used by the Company regarding any projects in which it is engaged, or plans for any method or procedure contemplated by the Company.

The Employee understands that the information to which he/she has access during his/her employment is the exclusive property of the Company, and agrees that upon the conclusion of his/her employment with the Company he/she will return all documents, forms, computer disks, customer lists, sales lists, marketing information and any other materials in his/her possession related to the Company's business, and that he/she will not keep any copies, reproductions, notes or records of any of these materials.

2. NON-COMPETITION: The Employee agrees that for a period of ten (10) months immediately following the Employee's employment, he/she will not directly or indirectly own, operate, join, control, participate in the ownership, operation, management, operation or control of; or be a director, shareholder, agent, employee, consultant, or contractor to any business, firm, company, or entity that develops, manufactures, sells, or resells wireless financial data services, or in any way competes with the business of the Company.

3. NON-SOLICITATION: The Employee agrees that for a period of ten (10) months immediately following the Employee's employment with the Company, he/she will not solicit, or accept orders from any customer of the Company, or any entity that the Company was actively soliciting to be a customer during the twelve (12) months preceding the conclusion of the Employee's employment. The Employee shall not solicit or accept orders directly, or indirectly, for his/her own account or for the accounts of others. The Employee's obligation of non-solicitation extends to any and all orders for merchandise, products or services of any kind that are like or similar to the merchandise, products or services sold or rendered by the Company. The Employee agrees that he/she will not directly or indirectly urge any customer or potential customer of the Company to discontinue in whole or in part, or not to do business with, the Company. The Employee also agrees that he/she will not solicit or recruit employees of the Company to leave the Company.

4. ENFORCEABILITY: The Parties agree that the restrictions set forth in this Agreement are reasonable in scope and duration, given the nature of the Company's business and that the protections afforded the Company are necessary to protect its legitimate business interests. Should a court of competent jurisdiction determine that any provision of this Agreement is invalid, the Parties agree that the court should determine the restraint that is reasonably necessary to protect the Company's legitimate business interests, and that the Parties agree to be bound by that decision. This Agreement shall be governed under the laws of Maryland.

5. REMEDIES: The Employee agrees that the Company could not be adequately compensated in damages by the Employee's breach of this Agreement, and that such a breach would result in irreparable and continuing harm to the Company. Therefore, in the event of any breach or threatened breach of this Agreement by the Employee, the Company shall have the right to obtain specific enforcement of this Agreement, or an injunction restraining such breach or potential breach, from a court of competent jurisdiction. The Employee agrees to pay the Company's attorneys' fees incurred in enforcing any covenant of this Agreement.

6. NOTICE TO NEW EMPLOYER: The Employee agrees to notify any subsequent employer or prospective employer of his/her obligations under this Agreement.

7. SCOPE AND AMENDMENTS: This is the entire agreement between the Parties, and it supersedes any prior agreement between the Parties. This Agreement does not modify the "at will" nature of the Employees' employment with the Company, and either the Employee or the Company may terminate the Employees' employment at any time and for any reason or for no reason. This Agreement may be amended, modified, or waived only by a document signed by both of the Parties.

AETHER TECHNOLOGIES
INTERNATIONAL, L.L.C.

By: [sig]

/s/ DAVID C. REYMANN

David C. Reymann (Signature)

Title: President/CFO

Date: 8-16-99

Date: 8-16-99

EXHIBIT 10.9

SERIES A PREFERRED STOCK PURCHASE AGREEMENT

DATED AS OF AUGUST 9, 1999

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SCHEDULES AND EXHIBITS

AIRWEB CORPORATION

SERIES A PREFERRED STOCK PURCHASE AGREEMENT

This Agreement is made as of August 9, 1999, by and among AirWeb Corporation, a Delaware corporation doing business as "OpenSky Corporation" (the "COMPANY"), and each of the purchasers listed on the Schedule of Purchasers attached hereto as Schedule A (the "SCHEDULE OF PURCHASERS"). The persons or entities listed thereon are hereinafter referred to collectively as the "PURCHASERS" and individually as a "PURCHASER."

W I T N E S S E T H:

WHEREAS, the Company desires to issue and sell, and the Purchasers desire to purchase, in exchange for cash and/or the contribution of assets, up to 25,000,000 shares of the Company's Series A Preferred Stock, par value $.001 per share (the "SERIES A PREFERRED"), upon the terms and conditions hereinafter set forth;

WHEREAS, the Company and the Purchasers intend that the transfers of cash and assets for Series A Preferred described herein constitute transfers described in Section 351(a) of the Internal Revenue Code of 1986 (the "CODE");

NOW THEREFORE, in consideration of the foregoing and the mutual covenants, agreements and warranties herein contained, the parties hereto agree as follows:

SECTION 1

Authorization and Sale of the Series A Preferred

1.1 Authorization of the Series A Preferred. The Company has, or before the Closing (as hereinafter defined) will have, authorized the sale and issuance of up to 25,000,000 shares of its Series A Preferred, having the rights, restrictions, privileges and preferences as set forth in the Company's Amended and Restated Certificate of Incorporation attached hereto as Exhibit A (the "RESTATED CERTIFICATE").

1.2 Sale of the Series A Preferred. Subject to the terms and conditions hereof and in reliance upon the representations, warranties and agreements contained herein, the Company will issue and sell to each Purchaser, severally and not jointly, and each Purchaser, severally and not jointly, will purchase from the Company, at the Closing, the number of shares of Series A Preferred set forth opposite the Purchaser's name on the Schedule of Purchasers in return for the assets and/or cash contributed by such Purchaser set forth opposite the Purchaser's name on the Schedule of Purchasers. The Series A Preferred are valued at a purchase price of $0.75 per share. The Company's agreement with each Purchaser is a separate agreement, and the sale of the Series A Preferred to each Purchaser is a separate sale.

SECTION 2

Closing Date; Delivery

2.1 Closing Date. The closing of the purchase and sale of the Series A Preferred hereunder (the "CLOSING") shall be held at the offices of Wilson Sonsini Goodrich & Rosati, Professional Corporation, 650 Page Mill Road, Palo Alto, California 94304 at 10:00 a.m. on August 9, 1999 (the "CLOSING DATE") or at such other time and place as shall be mutually agreed upon by the Company and the Purchasers who have subscribed for at least a majority of the Series A Preferred to be sold at the Closing.

2.2 Delivery. At the Closing, the Company shall deliver to each

Purchaser a certificate, in such denomination and registered in the Purchaser's name as set forth on the Schedule of Purchasers, representing the number of shares of Series A Preferred which such Purchaser is purchasing from the Company against (i) delivery to the Company of a check or wire transfer payable to the order of the Company, (ii) contribution of assets to the Company, or (iii) a combination of (i) and (ii), in each case in the aggregate amount of the purchase price of the Series A Preferred to be purchased by such Purchaser.

2.3 Subsequent Sale of Series A Preferred. If less than all of the authorized number of shares of Series A Preferred are sold on the Closing Date, then, subject to the terms and conditions of this Agreement and the Related Agreements (as defined below), the Company may sell, on or before November 30, 1999, up to the balance of the authorized but unissued shares of the Series A Preferred to such persons as the Board of Directors of the Company (the "BOARD") may determine at the same price per share as the Series A Preferred purchased and sold at the Closing (the date of any such sale also being referred to herein as a "CLOSING DATE"). Any such sale shall be made upon the same terms and conditions as those contained herein, and such persons or entities shall become parties to this Agreement, the Investors' Rights Agreement attached hereto as Exhibit B (the "RIGHTS AGREEMENT"), the Right of First Refusal and Co-Sale Agreement attached hereto as Exhibit C (the "ROFR AGREEMENT"), the Voting Agreement attached hereto as Exhibit D (the "VOTING AGREEMENT"), and the Warrant attached as Exhibit A to the Rights Agreement, and any other agreement to which the other Purchasers are party and the execution and delivery of which is contemplated hereby (collectively, the "RELATED AGREEMENTS"), and shall have the rights and obligations of a Purchaser hereunder and thereunder. Such persons or entities shall also execute and deliver such documents and certificates as are reasonably required to comply with applicable state, federal and foreign securities laws.

SECTION 3

Representations and Warranties of the Company

The Company represents and warrants to each of the Purchasers that the statements made in this Section 3 are true and correct, except as set forth in the Schedule of Exceptions attached hereto as Schedule B (the "SCHEDULE OF EXCEPTIONS"), which shall be arranged to correspond to the

numbered paragraphs contained in this Section 3. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty relates to the existence of the document or other item itself).

3.1 Organization and Standing. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of

Delaware and has full corporate power and authority to conduct its business as presently conducted and as proposed to be conducted by it and to enter into and perform this Agreement and the Related Agreements to which the Company is a party and to carry out the transactions contemplated by this Agreement and such Related Agreements. The Company is duly qualified and in good standing to do business in each jurisdiction (whether domestic or foreign) where the failure to be so qualified would have a material adverse effect on the Company. The Company has furnished to counsel for the Purchasers true and complete copies of its Certificate of Incorporation and Bylaws, each as amended to date and currently in effect.

3.2 Capitalization. The authorized capital stock of the Company consists of 40,000,000 shares of Common Stock, $0.001 par value, of which 4,200,000 shares are issued and outstanding and of which 5,800,000 shares have been reserved for issuance pursuant to the AirWeb Corporation 1999 Stock Plan (the "1999 STOCK PLAN"), and 25,000,000 shares of Preferred Stock, $0.001 par value, all of which shares are designated as Series A Preferred, none of which shares of Series A Preferred are issued or outstanding. The Company has reserved 25,000,000 shares of Common Stock for issuance upon conversion of the Series A Preferred. All of the issued and outstanding shares of Common Stock have been duly authorized and validly issued and are fully paid and nonassessable. The rights, privileges and preferences of the Series A Preferred are as stated in the Restated Certificate. Except as provided in this Agreement, the Restated Certificate, any Related Agreement and pursuant to the 1999 Stock Plan: (a) no subscription, warrant, option, convertible security or other right (contingent or otherwise) to purchase or acquire any shares of capital stock of the Company is authorized or outstanding; (b) the Company has no obligation (contingent or otherwise) to issue any subscription, warranty option, convertible security or other such right or to issue or distribute to holders of any shares of its capital stock any evidences of indebtedness or assets of the Company; and (c) the Company has no obligation (contingent or otherwise) to purchase, redeem or otherwise acquire any shares of its capital stock or any interest therein or to pay any dividend or make any other distribution in respect thereof. All of the issued and outstanding shares of capital stock of the Company have been offered, issued and sold by the Company in compliance with applicable federal and state securities laws or pursuant to valid exemptions therefrom, and, if issued to a non-US person, in full observance and compliance with the securities laws of such holder's jurisdiction.

3.3 Subsidiaries, Etc. The Company has no Subsidiaries and does not own or control, directly or indirectly, any shares of capital stock of any other corporation or any interest in any partnership, joint venture, limited liability company, professional association or other business enterprise.

3.4 Stockholder List and Agreements. The Schedule of Exceptions contains a true and complete list of the stockholders of the Company, showing the number of shares of Common Stock

or other securities of the Company held by each stockholder as of the date of this Agreement and the date of the Closing and the consideration paid to the Company, if any, therefor. Except as provided in this Agreement, the Restated Certificate, any Related Agreement and pursuant to the 1999 Stock Plan, there are no agreements, written or oral, between the Company and any holder of its capital stock or, to the best of the Company's knowledge, among any holders of its capital stock relating to the acquisition (including without limitation rights of first refusal or preemptive rights), transfer, sale or other disposition, registration under the Securities Act of 1933, as amended (the "SECURITIES ACT") or voting of the capital stock of the Company.

3.5 Issuance of Shares. Prior to the initial Closing, the issuance, sale and delivery of the shares of Series A Preferred in accordance with this Agreement, and the issuance and delivery of the shares of Common Stock issuable upon conversion of the shares of Series A Preferred, will be duly authorized by all necessary corporate action on the part of the Company and its officers, directors and stockholders, and all such shares have been duly reserved for issuance. The shares of Series A Preferred, when so issued, sold and delivered against payment therefor in accordance with the provisions of this Agreement, and the shares of Common Stock issuable upon conversion of the shares of Series A Preferred, when issued upon such conversion in accordance with the Restated Certificate, will be duly and validly issued, fully paid and non-assessable. The offer and sale of the shares of Series A Preferred (and Common Stock issued upon conversion thereof) to each of the Purchasers will be in full compliance with applicable federal and state securities laws.

3.6 Authorization. The execution, delivery and performance by the Company of this Agreement and all Related Agreements to which it is a party and the consummation by the Company of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action. All corporate action on the part of the Company and its officers, directors and stockholders necessary for the authorization, execution and delivery of this Agreement and all Related Agreements, and the performance of all obligations of the Company hereunder and thereunder has been taken or will be taken prior to the initial Closing. This Agreement and each of the Related Agreements have been duly executed and delivered by the Company and constitute valid and legally binding obligations of the Company enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) to the extent indemnification provisions contained herein or in any Related Agreement may be limited by applicable federal or state securities laws. The execution, delivery and performance of the transactions contemplated by this Agreement and the Related Agreements and compliance with their provisions by the Company will not violate any provision of law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or require a consent or waiver under, the Restated Certificate or Bylaws (each as amended to date) or any indenture, lease, agreement or other instrument to which the Company is a party

or by which it or any of its properties is bound, or any decree, judgment, order, statute, rule or regulation applicable to the Company.

3.7 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any governmental authority is required on the part of the Company in connection with the execution and delivery of this

Agreement or the Related Agreements, the offer, issuance, sale and delivery of the shares of Series A Preferred or the other transactions to be consummated at the Closing, as contemplated by this Agreement, except such filings as shall have been made prior to and shall be effective on and as of such Closing.

3.8 Litigation. There is no action, suit or proceeding or governmental inquiry or investigation pending against the Company that questions the validity of this Agreement or any Related Agreement or the right of the Company to enter into or perform this Agreement or any Related Agreement, or that could be expected to have, either individually or in the aggregate, any material adverse effect on the business, prospects, assets or condition, financial or otherwise, of the Company, nor is there any litigation pending against the Company by reason of the proposed activities of the Company or negotiations by the Company with possible investors in the Company.

3.9 Financial Statements. The Company has prepared no financial statements.

3.10 Absence of Operations and Liabilities. The Company has conducted no operations prior to the Closing Date other than taking such actions as are reasonably necessary to incorporate in the State of Delaware, to complete the corporate organization of the Company and to negotiate this Agreement and the Related Agreements. The Company has incurred no material liabilities, whether absolute or contingent, other than the incurrence of fees and expenses (including attorney's fees) related to the formation and the negotiation of this Agreement and the Related Agreements.

3.11 Title to Property and Assets and Liabilities. The Company's assets and liabilities are set forth on a Pro Forma Balance Sheet previously delivered to the Purchasers. Except as set forth on the Pro Forma Balance Sheet, the Company has no assets or liabilities.

3.12 Intellectual Property. Upon execution of license agreements with each of 3Com Corporation and Aether Technologies (collectively, the "LICENSE AGREEMENTS") the Company shall possess legal rights to all patents, trademarks, service marks, patent and trademark applications, trade names, copyrights, mask-works, trade secrets, licenses, information and proprietary rights, processes, data and know-how necessary for the conduct of the Company's business as conducted and as proposed to be conducted (the "INTELLECTUAL PROPERTY

RIGHTS"), free and clear of all Liens (as defined below), licenses or other restrictions, except as contemplated in the License Agreements. The Schedule of Exceptions contains a complete list of the Intellectual Property Rights. To the Company's knowledge, the business conducted or proposed to be conducted by the Company does not cause the Company to infringe or violate any of the patents, trademarks, service marks, trade names, copyrights, mask-works, trade secrets, processes, data or know-how or other intellectual property rights of any other individual, partnership, corporation, association, joint stock company, trust, joint venture, limited liability company, unincorporated organization or governmental entity or any department, agency or political subdivision thereof (each being a "PERSON") and, to the Company's knowledge, does not require the Company to obtain any license or other agreement to use any patents, trademarks, service marks, trade names, copyrights, trade secrets, processes, data or know-how of others, except as set forth in the License Agreements. The Company has not received any communications alleging that the Company has violated or, by conducting its business as proposed to be conducted, would violate any of the patents, trademarks, service marks, trade names, copyrights, mask-works, trade secrets, processes, data and know-how of any other Person. There are

no outstanding options, licenses or agreements of any kind relating to the Intellectual Property Rights, nor is the Company a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, mask-works, trade secrets, processes, data or know-how of any other Person. None of the holders of Common Stock, whether vested or unvested, owns any rights in patents, trademarks, service marks, trade names, copyrights, mask-works, trade secrets, processes, data or know-how directly or indirectly competitive with those owned or to be used by the Company or derived from or in connection with the conduct of the Company's business. The Company does not believe that it is or will be necessary to use any inventions or works of authorship of its employees (or Persons it currently intends to hire) made outside of their employment by the Company. For purposes of this Agreement, "Liens" shall mean any lien, security interest, pledge, mortgage, deed of trust, charge or encumbrance in real, personal or mixed property (tangible or intangible, and wherever located), whether contractual or statutory (each being a "LIEN"), of any nature other than those the material terms of which are described in the Schedule of Exceptions or those which do not materially impair the operations of the Company.

3.13 Material Contracts and Obligations. The Schedule of Exceptions sets forth a list of all material agreements or commitments of any nature to which the Company is a party or by which it is or will be bound as of the Closing Date, including without limitation: (i) each agreement that requires future expenditures by the Company in excess of $25,000 or that might result in payments to the Company in excess of $25,000; (ii) all management, consulting and similar agreements; (iii) all employment and consulting agreements, employee benefit, bonus, pension, profit-sharing, stock option, stock purchase and similar plans and arrangements and distributor and sales representative

agreements; (iv) each agreement with any stockholder, officer or director of the Company, or any affiliate of such Persons, including without limitation any agreement or other arrangement providing for the furnishing of services by, rental of real or personal property from, or otherwise requiring payments to, any such Person or entity; and (v) any agreement relating to the Intellectual Property Rights. The Company has delivered to the Purchasers copies of such of the foregoing agreements as the Purchasers have requested. All of such agreements and contracts are valid, binding and in full force and effect.

3.14 Permits; Compliance. The Company holds all permits, orders and approvals from governmental authorities required for the conduct of its business as conducted or as proposed to be conducted, or can obtain within a commercially reasonable period of time such permits, orders and approvals without having a material adverse effect on such business. There is no term or provision of any mortgage, indenture, material contract, material agreement or material instrument to which the Company is a party or by which it is bound or of any provision of any existing judgment, decree, order, statute, rule or regulation applicable to or binding upon the Company, that materially adversely affects or, so far as the Company may now reasonably foresee, in the future is reasonably likely to materially adversely affect, the business, prospects, assets or condition, financial or otherwise, of the Company.

3.15 Employees. None of the employees of the Company is represented by any labor union, and, to the Company's knowledge, there is no labor strike or other labor trouble pending with respect to the Company (including, without limitation, any organizational drive) or threatened. No employee of the Company is in violation of any judgment, decree, order, or any term of any employment contract, patent disclosure agreement, or other contract or agreement relating to the

relationship of any such employee with the Company or any other party because of the nature of the business conducted or presently proposed to be conducted by the Company or to the use by the employee of his or her best efforts with respect to such business. The employment of each officer and employee is terminable at the will of the Company.

3.16 Proprietary Information and Inventions Agreements. Each employee and officer of the Company has executed a Proprietary Information and Inventions Agreement in the form of Exhibit E (the "PROPRIETARY INFORMATION AGREEMENT").

3.17 Environmental Matters. With respect to environmental matters:

The Company is and has been in compliance with all Environmental Laws (as defined below), and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand or notice has been made, given, filed or commenced by any Person, nor to the Company's knowledge has any such making, giving, filing or commencement been threatened, against any of them

alleging any failure to comply with the Environmental Laws, or seeking contribution towards, or participation in, any remediation of any contamination of any property or thing with Hazardous Materials (as defined below). Without limiting the generality of the preceding sentence, the Company has obtained and been, and currently is, in compliance with all of the terms and conditions of all permits, licenses and other authorizations that are required under, and has complied with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables that are contained in, all Environmental Laws;

The Company has no obligation to remediate or any other liabilities of any kind arising in connection with or under any of the Environmental Laws, nor is there any basis for such obligation or liabilities;

Except as set forth in the Schedule of Exceptions. all properties and equipment used in the business of the Company are and have been free of Hazardous Materials;

"Environmental Laws" means all federal, state and local laws, regulations, ordinances, codes, rules, permits, decisions, orders or decrees relating or pertaining to the public health and safety or the environment, or otherwise governing the generation, use, handling, collection, treatment, storage, transportation, recovery, recycling, removal, discharge or disposal of Hazardous Materials, including, without limitation, the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., as amended (also known as "RCRA" for a subsequent amending act), (b) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as amended ("CERCLA"), (c) the Clean Water Act, 33 U.S.C. Section 1251 et seq., as amended ("CWA"), (d) the Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended ("CAA"), (e) the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., as amended ("TSCA"), (f) the Emergency Planning and Community Right To Know Act, 15 U.S.C. Section 2601 et seq., as amended ("EPCRKA"), and (g) the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; and

Hazardous Materials means, without limitation, (i) any "hazardous wastes" as defined under RCRA, (ii) any "hazardous substances" as defined under CERCLA, (iii) any toxic pollutants as defined under the CWA, (iv) any hazardous air pollutants as defined under the CAA, (v) any

hazardous chemicals as defined under TSCA, (vi) any hazardous substances as defined under EPCRKA, (vii) asbestos, (viii) polychlorinated biphenyls, (ix) petroleum or petroleum products, (x) underground storage tanks, whether empty, filled or partially filled with any substance, (xi) any substance the presence of which on the property in question is prohibited under any Environmental Law, and (xii) any other substance which under any Environmental Law requires special handling or notification of or reporting to any federal, state or local governmental entity in its generation, use, handling, collection, treatment,

storage, recycling, treatment, transportation, recovery, removal, discharge or disposal.

3.18 ERISA. The Company does not have or otherwise contribute to or participate in any employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (other than the Company's 401(k) savings plan and any medical benefit plan with respect to which the Company has made all required contributions and has complied with all applicable laws).

3.19 Transactions with Related Parties. No employee, officer, director or stockholder of the Company or member of his or her immediate family is indebted to the Company, nor is the Company indebted (or committed to make loans or extend or guarantee credit) to any of them, other than (i) for payment of salary for services rendered, (ii) reimbursement for reasonable expenses incurred on behalf of the Company and (iii) for other employee benefits made generally available to all employees. None of such persons has any direct or indirect ownership interest in any Person with which the Company is affiliated or with which the Company has a business relationship, or any Person that competes with the Company, except that employees, stockholders, officers or directors of the Company and members of their immediate families may own stock in publicly traded companies that may compete with the Company. No officer, director or stockholder or any member of their immediate families is, directly or indirectly, interested in any material contract with the Company (other than such contracts as relate to any such person's ownership of capital stock or other securities of the Company).

3.20 Books and Records. The minute books of the Company contain complete and accurate records of all meetings and other corporate actions of its stockholders and its Board and committees thereof. The stock ledger of the Company is complete and reflects all issuances, transfers, repurchases and cancellations of shares of capital stock of the Company.

3.21 Year 2000. The Company intends to conduct a review and assessment of its computer applications and to make inquiry of its key suppliers, vendors and customers with respect to the risk that computer applications may not be able to properly perform date-sensitive functions after December 31, 1999 (the "YEAR 2000 PROBLEM"). As of the date hereof, to the knowledge of the Company, the Year 2000 Problem will not have a material adverse effect on the condition (financial or otherwise), business, operations, properties or prospects of the Company.

3.22 Real Property Holding Company. The Company is not a real property holding company within the meaning of Section 897 of the Code.

3.23 Disclosures. Neither this Agreement, any Related Agreement nor any exhibit hereto or thereto, nor any written report, certificate or instrument furnished to any of the Purchasers in connection with the transactions contemplated in this Agreement or the Related Agreements contains

any untrue statement of a material fact or, when taken together, omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. However, as to any projections furnished to the Purchasers, the Company only represents that such projections were prepared in good faith by the Company and there is a reasonable basis for such projections. The Company knows of no information or fact that has or would have a material adverse effect on the business, prospects, assets or condition, financial or otherwise, of the Company that has not been disclosed to the Purchasers in this Agreement, the Related Agreements, the exhibits hereto or thereto or other written materials furnished to the Purchasers.

3.24 Additional Share Issuances. The Company is not under any obligation or binding commitment to issue additional shares of its stock to any person or entity.

SECTION 4

Representations and Warranties of the Purchasers

Each Purchaser, severally and not jointly, hereby represents and warrants to the Company with respect to the purchase of the Series A Preferred as follows:

4.1 Investment Representations of the Purchasers. Purchaser understands that the Series A Preferred (and the Common Stock issuable upon conversion of the Series A Preferred) have not been registered under the Securities Act and are being offered and sold pursuant to an exemption from registration contained in the Act based upon the representations of each Purchaser contained herein.

Purchaser knows of no public solicitation or advertisement of an offer in connection with the proposed issuance and sale of the Series A Preferred.

Purchaser is acquiring the Series A Preferred to be issued and sold hereunder (and the Common Stock issuable upon conversion of the Series A Preferred) for Purchaser's own account for investment and not as a nominee and not with a view to the distribution thereof. Purchaser understands that Purchaser must bear the economic risk of this investment indefinitely unless the Series A Preferred or such Common Stock are registered pursuant to the Act, or an exemption from such registration is available, and that the Company has no present intention of registering the Series A Preferred or such Common Stock. Purchaser further understands that there is no assurance that any exemption from the Act will be available or, if available, that such exemption will allow Purchaser to dispose of or otherwise transfer any or all of the Series A Preferred or such Common Stock under the circumstances, in the amounts or at the times Purchaser might propose.

By reason of Purchaser's business or financial experience, or that of Purchaser's professional advisor, Purchaser has the capacity to protect his own

interests in connection with the purchase of the Series A Preferred hereunder and has the ability to bear the economic risk (including the risk of total loss) of Purchaser's investment; provided, however, such capacity and/or ability in

no way serves to mitigate or release the Company from its obligations or representations or warranties in this Agreement, the Related Agreements or the Restated Certificate.

Purchaser acknowledges that Purchaser is aware of Rule 144 promulgated under the Act, which permits limited public resales of securities acquired in a non-public offering, subject to the satisfaction of certain conditions. Purchaser understands that under Rule 144, except as otherwise provided by section (k) of that Rule, the conditions include, among other things: the availability of certain current public information about the issuer, the resale occurring not less than one year after the party has purchased and paid for the securities to be sold and limitations on the amount of securities to be sold and the manner of sale. Purchaser understands that the current information referred to above is not now available and the Company has no present plans to make such information available. Purchaser acknowledges and understands that notwithstanding the Company's obligations under the Rights Agreement the Company may not be satisfying the current public information requirement of Rule 144 at the time Purchaser wishes to sell the Series A Preferred or any Common Stock received on conversion thereof, and that, in such event, Purchaser may be precluded from selling such stock under such Rule, even if the one year minimum holding period of such Rule has been satisfied.

Purchaser acknowledges that in the event all of the requirements of Rule 144 are not met, registration under the Act, compliance with the Securities and Exchange Commission's (the "COMMISSION") Regulation A or an exemption from registration will be required for any disposition of the Series A Preferred and the Common Stock issued on conversion thereof. Purchaser understands that although Rule 144 is not exclusive, the Commission has expressed its opinion that persons proposing to sell restricted securities received in a private offering other than in a registered offering or pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales and that such persons and the brokers who participate in the transactions do so at their own risk.

The residency of Purchaser (or, in the case of a partnership or corporation, such entity's principal place of business as office) is correctly set forth on the Schedule of Purchasers.

4.2 Authorization. Purchaser has the full power and authority to execute, deliver and perform this Agreement. This Agreement when executed and delivered by Purchaser will constitute a valid and legally binding obligation of Purchaser, enforceable in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of

general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) to the extent indemnification provisions contained herein or in any Related Agreement may be limited by applicable federal or state securities laws.

4.3 Legends. Purchaser understands and acknowledges that the certificate evidencing such Purchaser's Series A Preferred and any Common Stock acquired upon the conversion thereof will be imprinted with a legend in the form set forth in Sections 3 and 20(d) of the Rights Agreement, Section 3 of the Voting Agreement, and in Section 4 of the ROFR Agreement.

4.4 Investor Counsel. Purchaser acknowledges that such Purchaser has had the opportunity to review this Agreement, the exhibits and the schedules attached hereto and the transactions contemplated by this Agreement with such Purchaser's own legal counsel and has not relied upon the Company or any of its agents for legal advice, other than the legal opinion provided pursuant to Section 5.3 hereto, with respect to this investment or the transactions contemplated by this Agreement.

4.5 No Intent to Dispose. Purchaser has no current plan or intention, and is not under any binding commitment or contract, to sell, exchange or otherwise dispose of any stock in the Company, including without limitation any Series A Preferred received or to be received pursuant to this Agreement.

SECTION 5

Conditions to Closing of the Purchasers

The obligation of each of the Purchasers to purchase the Series A Preferred at the Closing is subject to the fulfillment to the Purchaser's satisfaction on or prior to the Closing Date of each of the following conditions:

5.1 Representations and Warranties Correct. Each representation and warranty made by the Company in Section 3 hereof shall be true and correct when made and on the Closing Date.

5.2 Performance. All covenants, agreements and conditions contained in this Agreement to be performed or complied with by the Company on or prior to the Closing Date shall have been performed or complied with by the Company in all respects.

5.3 Opinion of Company's Counsel. The Purchasers shall have received from Wilson Sonsini Goodrich & Rosati, counsel to the Company, an opinion addressed to the Purchasers, dated the Closing Date and in substantially the

form attached hereto as Exhibit F.

5.4 Rights Agreement. The Company, each of the Purchasers and Patrick McVeigh, Barak Berkowitz, Michael Dolbec and Andy Simms (the "FOUNDING COMMON STOCKHOLDERS") shall have entered into and delivered the Rights Agreement at or prior to the Closing, and the Rights Agreement shall be in full force and effect, without amendment or modification.

5.5 ROFR Agreement. The Company, each of the Purchasers and the Founding Common Stockholders shall have entered into and delivered the ROFR Agreement, at or prior to the Closing, and the ROFR Agreement shall be in full force and effect, without amendment or modification.

5.6 Voting Agreement. Each of the Purchasers and the Founding Common Stockholders shall have entered into and delivered the Voting Agreement, at or prior to the Closing, and the Voting Agreement shall be in full force and effect, without amendment or modification.

5.7 Proprietary Information Agreements. The Company shall have entered into a Proprietary Information Agreement at or prior to the Closing, with each employee. Such Proprietary Information Agreements shall be in full force and effect, without amendment or modification.

5.8 Board of Directors. The Company's Bylaws shall provide for a Board of Directors, with the number of directors fixed at three (3). As of the Closing, the Board of Directors of the Company shall consist of (i) Janice Roberts, (ii) David Oros and (iii) Patrick McVeigh.

5.9 Indemnification Agreements. The Company shall have entered into Indemnification Agreements, in the form attached hereto as Exhibit G (the "INDEMNIFICATION AGREEMENTS"), at or prior to the Closing, with each of the directors of the Company.

5.10 Stock Option Plan. The Board of Directors shall have adopted, and the stockholders of the Company shall have approved the 1999 Stock Plan providing for the issuance of up to an aggregate of 5,800,000 shares of Common Stock.

5.11 Restated Certificate. The Restated Certificate shall have been filed with the Secretary of State of the State of Delaware, shall have become effective in accordance with Section 103 of the Delaware General Corporation Law, as amended, and shall not have been further modified or amended. The Bylaws of the Company in the form of Exhibit H shall have been adopted and be in effect.

5.12 Compliance Certificate. The Company shall have delivered to the Purchasers or their special counsel a certificate signed by the President of the

Company, dated the Closing Date, certifying to the fulfillment of the conditions specified in Sections 5.1, 5.2, 5.8 and 5.11 above.

5.13 Other Matters. All material matters of a legal nature which pertain to the transactions contemplated in this Agreement, the Related Agreements and all documents and instruments incident to such transactions shall be reasonably satisfactory in substance and form to the Purchaser and its counsel, and the Purchaser and its counsel shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

SECTION 6

Conditions to Closing of the Company

The Company's obligation to sell the Series A Preferred at the Closing is subject to the fulfillment to its satisfaction on or prior to the Closing Date of each of the following conditions:

6.1 Representations. The representations made by the Purchasers pursuant to Section 4 hereof shall be true in all material respects at and as of the Closing.

6.2 Payment of Purchase Price. Each Purchaser shall have delivered to the Company the purchase price for such Purchaser's Series A Preferred, as set forth opposite such Purchaser's name on the Schedule of Purchasers.

6.3 Other Matters. All material matters of a legal nature which pertain to the transactions contemplated in this Agreement, the Related Agreements and all documents and instruments incident to such transactions shall be reasonably satisfactory in substance and form to the Company and its counsel, and the Company and its counsel shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

SECTION 7

Covenants of the Company

The Company hereby covenants and agrees with the Purchasers that, so long as a Purchaser owns any shares of Series A Preferred or of Common Stock issued upon conversion of the Series A Preferred, as follows:

7.1 Proprietary Information Agreement. Each person now or hereafter employed by the Company or any subsidiary with access to confidential information will enter into a Proprietary Information Agreement.

7.2 Independent Accountants. As promptly as practicable after the Closing Date, the Company will retain independent public accountants of

recognized national standing who shall audit the Company's financial statements at the end of each fiscal year. In the event the services of the independent public accountants so selected, or any firm of independent public accountants hereafter employed by the Company, are terminated, the Company will promptly thereafter engage another firm of independent public accountants of recognized national standing.

7.3 Insurance. The Company shall obtain and maintain valid policies of insurance with respect to its properties and business of the kinds and in the amounts not less than is customarily obtained by corporations engaged in the same business and similarly situated, including, without limitation, workers compensation insurance and insurance against casualty loss, public liability, libel, slander, defamation, advertising injury and other risks.

7.4 Year 2000. The Company intends to conduct a review and assessment of its computer applications and to make inquiry of its key suppliers, vendors and customers with respect to the risk that computer applications may not be able to properly perform date-sensitive functions after December 31, 1999.

7.5 Termination of Covenants. The covenants of the Company set forth in this Section 7 shall terminate in all respects on the date of the closing of an initial firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, covering the offer and sale of the Company's Common Stock.

7.6 Tax Reporting. The Purchasers and the Company will treat the transfers of cash and assets for Series A Preferred described herein and the transactions described in the Founders Stock Purchase Agreements between the Company and each of Patrick McVeigh, Barak Berkowitz, Michael Dolbec and Andy Simms, each dated as of July 29, 1999 as transfers described in Section

351(a) of the Code and shall comply with the reporting and recordkeeping requirements of Treasury Regulation Section 1.351-3.

SECTION 8

Miscellaneous

8.1 Governing Law. This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the State of Delaware, as applied to agreements entered into, and to be performed entirely in such state, between residents of such state.

8.2 Survival. The representations, warranties, covenants and agreements made herein shall survive (i) the execution and delivery of this Agreement and (ii) the Closing.

8.3 Rights of Purchasers. Each Purchaser shall have the absolute right

to exercise or refrain from exercising any right or rights that such Purchaser may have by reason of this Agreement, the Related Agreements, the Restated Certificate, the Bylaws or at law or in equity including, without limitation, the right to consent to the waiver of any obligation of the Company and to enter into any agreement with the Company for the purpose of modifying this Agreement or the Related Agreements and such Purchaser shall not incur any liability to any other Purchaser or holder of Series A Preferred (or Common Stock issued upon conversion thereof) with respect to exercising or refraining from exercising any such right or rights.

8.4 License Agreement. 3Com Ventures, Inc. shall cause Palm Computing, Inc. to make good faith efforts to enter into a license agreement with the Company on terms and conditions mutually acceptable to Palm Computing, Inc. and the Company within 30 days of the date of this Agreement.

8.5 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. Notwithstanding any other provision of this Agreement to the contrary, the rights and obligations of this Agreement may be expressly transferred to any affiliate of the Purchasers.

8.6 Entire Agreement; Amendment. This Agreement (including all exhibits hereto) and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof. This Agreement and any term hereof may be amended, waived, discharged or terminated only by means of a written instrument signed by the Company and Purchasers (or their respective successor or assigns) holding at least a majority of the shares of Series A Preferred (or Common Stock issued upon conversion thereof) then outstanding. Any amendment, waiver, discharge or termination not in compliance with this Section 8.5 shall be void.

8.7 Notices, etc. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered either by

hand, by messenger, by overnight courier service or by confirmed facsimile, addressed (a) if to Purchaser, as indicated on the Schedule of Purchasers, or at such other address as Purchaser shall have furnished to the Company in writing, or (b) if to any other holder of any Series A Preferred or any Common Stock issued upon conversion of Series A Preferred, at such address as such holder shall have furnished the Company in writing or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder thereof who has so furnished an address to the Company, or (c) if to the Company, at its address set forth at the end of this Agreement or at such other address as the Company shall have furnished to the Purchasers and each such other holder in writing.

8.8 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any holder of any Series A Preferred (or Common Stock issued upon conversion thereof) upon any breach or default of the Company under this Agreement shall impair any such right, power or remedy of such holder, nor shall it be construed to be a waiver of any such breach or default or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any holder of any breach or default under this Agreement, or any waiver on the part of any holder of any provisions or conditions of this Agreement, must be made in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any holder, shall be cumulative and not alternative.

8.9 Headings. The headings of this Agreement are for convenience only and should not be used to construe or interpret the terms of this Agreement.

8.10 Severability. In case any provision of the Agreement shall be held to be invalid, illegal or unenforceable, such provision shall be excluded from this Agreement the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8.11 Finders Fee. Each party represents that it neither is nor will be obligated for any finders' fee or commission in connection with this transaction. Each Purchaser agrees, severally and not jointly, to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which such Purchaser or any of its officers, partners, employees, or representatives is responsible. The Company agrees to indemnify and hold harmless each Purchaser from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees, representatives or predecessors-in-interests is responsible.

8.12 Further Assurances. Each party to this Agreement hereby covenants and agrees, without the necessity of any further consideration, to execute and deliver any and all such further documents and take any and all such other actions as may be necessary or appropriate to carry out the intent and purposes of this Agreement and to consummate the transactions contemplated herein.

8.13 Titles and Subtitles. The titles of the paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

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

8.15 Additional Parties. The parties hereto agree that additional purchasers of Series A Preferred may, with the consent only of the Company and as otherwise set forth in Section 2.3 of the Agreement, be added as parties to this Agreement, and shall thereupon be deemed for all purposes "Purchasers" hereunder. Any such additional party shall execute a counterpart of this Agreement, and upon execution by such additional party and by the Company, shall be considered a Purchaser for purposes of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date set forth above.

COMPANY:

AIRWEB CORPORATION

By: /s/ PATRICK McVEIGH

Name: PATRICK McVEIGH

Title: CEO

Address:

SIGNATURE PAGE TO SERIES A PREFERRED STOCK PURCHASE AGREEMENT

PURCHASERS:

3COM VENTURES, INC.

By: /s/ JANICE ROBERTS

(Signature)

Name: JANICE ROBERTS

(Print Name)

Title: PRESIDENT

AETHER OPENSKY INVESTMENTS LLC

By: Aether Technologies International, L.L.C.,
Its Sole Member

By: /s/ DAVID S. OROS

(Signature)

Name: DAVID S. OROS

(Print Name)

Title: MANAGER

SIGNATURE PAGE TO SERIES A PREFERRED STOCK PURCHASE AGREEMENT

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WS INVESTMENT COMPANY 99B

By:

(Signature)

Name:

(Print Name)

Title:

SIGNATURE PAGE TO SERIES A PREFERRED STOCK PURCHASE AGREEMENT

EXHIBIT 10.10

INVESTORS' RIGHTS AGREEMENT

DATED AS OF AUGUST 9, 1999

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INVESTORS' RIGHTS AGREEMENT

This Investors' Rights Agreement (this "AGREEMENT") is made as of this 9th day of August, 1999 by and among AirWeb Corporation, a Delaware corporation doing business as OpenSky Corporation (the "COMPANY"), and each of the holders of the Series A Preferred Stock, par value $0.001 per share (the "SERIES A PREFERRED") listed on the Schedule of Holders attached hereto as Schedule A (individually, a "SERIES A HOLDER," collectively, the "SERIES A HOLDERS"), and Patrick McVeigh, Barak Berkowitz, Michael Dolbec and Andrew Simms (individually, a "FOUNDER," collectively, the "FOUNDERS").

RECITALS

A. The Company and the Series A Holders have entered into agreements for issuance by the Company and acquisition by the Series A Holders of shares of the Company's Series A Preferred.

B. The obligation of the Series A Holders to acquire the Series A Preferred is conditioned upon, among other things, the execution and delivery by the Company and each of the Founders of this Agreement.

AGREEMENT

1. Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

"COMMISSION" shall mean the Securities and Exchange Commission or any successor agency.

"HOLDER" shall mean each Series A Holder and any transferee of Registrable Securities who, pursuant to Section 15 below, is entitled to registration rights hereunder.

"NEW SECURITIES" shall have the meaning set forth in Section 19 of this Agreement.

"RESTRICTED SECURITIES" shall mean the securities of the Company required to bear the legend set forth in Section 3 hereof (or any similar legend).

"REGISTRABLE SECURITIES" shall mean (i) shares of the Company's Common Stock issued or issuable upon the conversion of the Series A Preferred; (ii) any Common Stock of the Company or other securities issued or issuable in respect of shares of the Series A Preferred; and (iii) shares of the Company's Common Stock or other securities issued or issuable in respect of the shares described in clause (i) or (ii) upon any stock split, stock dividend, recapitalization, or similar event; provided, however, that any shares described in clauses (i)-(iii) above which have been resold to the public shall cease to be Registrable Securities upon such resale.

The terms "REGISTER," "REGISTERED" and "REGISTRATION" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement.

"REGISTRATION EXPENSES" shall mean all expenses incurred by the Company in complying with Sections 5, 6, 8 and 9 hereof, including, without limitation, all registration, qualification and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company, blue sky fees and expenses and the expense of any special audits incident to or required by any such registration.

"SECURITIES ACT" shall mean the Securities Act of 1933, as amended.

"SELLING EXPENSES" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the securities registered by the Holders and the legal expenses of counsel to the Holders.

"WARRANT" shall mean the warrant to purchase 3,000,000 shares of Series A Preferred issued by the Company on the date hereof to Aether OpenSky Investments LLC and substantially in the form of Exhibit A hereto.

2. Restrictions on Transferability. The Restricted Securities shall not be transferable except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. Each Holder of Restricted Securities will cause any proposed transferee of the Restricted Securities held by such Holder, other than a transferee acquiring such securities in connection with a registered offering covering such disposition, to agree to take and hold such Restricted Securities subject to the provisions and upon the conditions specified in this Agreement.

3. Restrictive Legend. Each certificate representing (i) the Series A Preferred, (ii) shares of the Company's Common Stock issued upon conversion of the Series A Preferred, (iii) any other securities issued in respect of the Series A Preferred or Common Stock issued upon conversion of the Series A Preferred including upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of Section 4 below) be stamped or otherwise imprinted with a legend in the following form (in addition to any legend required under applicable securities laws):

> THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THESE SHARES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM UNDER SAID ACT. COPIES OF THE AGREEMENT COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

> THE SHARES REPRESENTED HEREBY ARE SUBJECT TO A ONE HUNDRED EIGHTY (180) DAY LOCKUP FOLLOWING THE CORPORATION'S INITIAL PUBLIC OFFERING, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

Each Holder consents to the Company's making a notation on its records and giving instructions to any transfer agent of the Series A Preferred or the Common Stock in order to implement the restrictions on transfer established in this Section 3. The Company shall be obligated to reissue promptly unlegended certificates at the request of any Holder thereof if the Holder shall have obtained an opinion of counsel at such Holder's expense (which counsel may be

counsel to the Company) reasonably acceptable to the Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification or legend.

4. Notice of Proposed Transfers. The Holder of each certificate representing Restricted Securities by acceptance thereof agrees to comply in all respects with the provisions of this Section 4. Prior to any proposed transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transfer, the Holder thereof shall give written notice to the Company of such Holder's intention to effect such transfer. Each such notice shall describe the manner and circumstances of the proposed transfer in sufficient detail, and shall, if the Company reasonably requests, be accompanied (except in transactions in compliance with Rule 144) by either (i) a written opinion of legal counsel who shall be reasonably satisfactory to the Company, addressed to the Company and reasonably satisfactory in form and substance to the Company's counsel, to the effect that the proposed transfer of the Restricted Securities may be effected without registration under the Securities Act, or (ii) a "No Action" letter from the Commission to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, whereupon the Holder of such Restricted Securities shall be entitled to transfer such Restricted Securities in accordance with the terms of the notice delivered by the Holder to the Company; provided, however, that no opinion or "No Action" letter need be obtained with respect to a transfer to (A) a partner or member, active or retired, of a Holder of Restricted Securities, (B) the estate of any Holder of Registrable Securities, (C) an "affiliate" of a Holder of Restricted Securities as that term is defined in Rule 405 promulgated by the Commission under the Securities Act, (D) if to a corporation, to its stockholders, (E) if to a limited liability company, to its members or former members or (F) the spouse, children, grandchildren or spouse of such children or grandchildren of any Holder or to trusts for the benefit of any Holder or such persons, if the transferee agrees to be subject to the terms hereof. Each certificate evidencing the Restricted Securities transferred as above provided shall bear the appropriate restrictive legend set forth in Section 3 above, except that such certificate shall not bear such restrictive legend if the transferee provides an opinion of counsel as provided in Section 3 or in the opinion of counsel for the Company such legend is not required in order to establish compliance with any provisions of the Securities Act.

5. Requested Registration.

(a) Request for Registration. If at any time after the earlier of (i) five years after the date of this Agreement or (ii) following the closing date of the first registration statement filed by the Company covering an underwritten offering of any of its securities to the general public, the Company shall receive from any Holder or group of Holders holding a majority of

the Registrable Securities (the "INITIATING HOLDERS ") a written request that the Company effect any registration with respect to at least a majority of the shares of Registrable Securities, the Company will:

(i) promptly give written notice of the proposed registration, qualification or compliance to all other Holders; and

(ii) as soon as practicable, use its best efforts to effect such registration (including, without limitation, filing post-effective amendments, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within 20 days after receipt of such written notice from the Company.

Provided, however, that the Company shall not be obligated to take any action to effect any such registration pursuant to this Section 5:

(A) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(B) after the Company has effected two such registrations pursuant to this Section 5(a), such registrations have been declared or ordered effective and the securities offered pursuant to such registration have been sold; or

(C) during the period starting with the date sixty (60) days prior to the Company's estimated date of filing of, and ending on the date six (6) months immediately following the effective date of, any Company-initiated registration statement pertaining to securities of the Company (other than a registration of securities in a Rule 145 transaction or with respect to an employee benefit plan); provided that, the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective.

Subject to the foregoing clauses (A), (B) and (C), the Company shall file a registration statement covering the Registrable Securities so requested to be registered as soon as practicable after receipt of the request or requests of the Initiating Holders. If, however, the Company shall furnish to the Initiating Holders a certificate signed by the President of the Company stating that, in

the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is therefore essential to defer the filing of such registration statement, the Company shall have the right to defer such filing for a period of not more than 120 days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve-month period.

(b) Underwriting. If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 5(a) and the Company shall include such information in the written notice referred to in Section 5(a). The right of any Holder to registration pursuant to Section 5 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities to be registered in the underwriting to the extent requested (unless otherwise mutually agreed by a majority in interest of the Holders) and to the extent provided herein. A Holder may elect to include in such underwriting all or a part of the Registrable Securities he holds.

The Company shall (together with all Holders proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by a majority in interest of the Initiating Holders. Notwithstanding any other provision of this Section 5, if the managing underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then, subject to the provisions of Section 5(a), the Company shall so advise all Holders and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated among all Holders requesting inclusion in the registration as follows: (A) all securities proposed to be offered by the Company for its own account or for the account of holders of securities other than Registrable Securities shall be excluded before any Registrable Securities are excluded; and (B) if, after all non-Registrable Securities have been excluded, additional limitations are required, then the number of Registrable Securities included in the registration shall be allocated among all Holders requesting inclusion thereof in the registration in proportion, as nearly as practicable, to the respective amounts of Registrable Securities proposed to be registered by such Holders at the time of filing the registration statement. No Registrable Securities excluded from the underwriting by reason of the managing underwriter's marketing limitation shall be included in such registration.

If any Holder of Registrable Securities disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the managing underwriter and the other Holders. The Registrable Securities and/or other securities so withdrawn shall also be withdrawn from registration; provided, however, that if by the withdrawal of such Registrable Securities a greater number of Registrable Securities held by other Holders may be included in such registration (up to the maximum of any limitation imposed by the underwriters), then the Company shall offer to all Holders who have included

Registrable Securities in the registration the right to include additional Registrable Securities in the same proportion used in determining the underwriter limitation in this Section 5(b). If the registration does not become

effective due to the withdrawal of Registrable Securities at the behest of the Holder(s) of such Registrable Securities and the withdrawal of the registration is not at the request or on the advice of the Company or the underwriter nor is the result of a material adverse change in the Company's business, financial condition, results of operations or prospects since the date of the written request of the Initiating Holders pursuant to this Section 5, then either (1) the Holders requesting registration shall reimburse the Company for expenses incurred in complying with the request or (2) if the Holders fail to make such reimbursement, the aborted registration shall be treated as effected for purposes of Section 5(a)(B).

6. Company Registration.

(a) Notice of Registration. If the Company shall determine to register any of its securities, either for its own account or the account of a security holder or holders exercising their respective demand registration rights, other than (i) a registration pursuant to Section 5 or 9, (ii) a registration relating solely to employee benefit plans or (iii) a registration relating solely to a Rule 145 transaction, the Company will:

(i) promptly give to each Holder written notice thereof; and

(ii) include in such registration (and any related qualification under blue sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests, mailed by any Holder or Holders within 20 days after receipt of such written notice from the Company, provided that the Company may limit, to the extent so advised by the underwriters, the amount of Registrable Securities to be included in the registration by the Holders to an amount not less than 30% of the total number of securities included in the offering, unless such offering is the initial public offering of the Company's securities, in which case all Registrable Securities may be excluded from such offering. The written request of a Holder may specify that all or a part of such Holder's Registrable Securities shall be included in such registration.

(b) In all registered public offerings, whether underwritten or not, the amount of Registrable Securities of Holders which are included in such registration, in accordance with the limitations set forth in Section 6(a)(ii) above, shall be allocated to the Holders in proportion, as nearly as practicable, to the respective amounts of Registrable Securities proposed to be registered by each of such Holders (assuming conversion of all outstanding

Series A Preferred) as of the date of the notice given pursuant to this Section.

7. Expenses of Registration. All Registration Expenses incurred in connection with any registration, qualification or compliance pursuant to Sections 5, 6 and 9 shall be borne by the Company. All Selling Expenses relating to securities registered by the Holders shall be borne by the Holders of such securities pro rata on the basis of the number of shares so registered.

8. Registration Procedures. In the case of each registration, qualification or compliance effected by the Company pursuant to this Agreement the Company will keep each Holder advised in

writing as to the initiation of each registration, qualification and compliance and as to the completion thereof. At its expense the Company will:

(a) prepare and file with the Commission a registration statement with respect to such securities and use its best efforts to cause such registration statement to become and remain effective for at least 120 days or until the distribution described in the registration statement has been completed; provided, however, that (i) such 120-day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of an underwriter of securities of the Company; and (ii) in the case of any registration of Registrable Securities on Form S-2 or Form S-3 which are intended to be offered on a continuous or delayed basis, such 120-day period shall be extended, if necessary, to keep the registration statement effective until all such Registrable Securities are sold;

(b) furnish to the Holders participating in such registration and to the underwriters of the securities being registered such number of copies of the registration statement, preliminary prospectus, final prospectus and such other documents as such Holders or underwriters may reasonably request in order to facilitate the public offering of such securities;

(c) prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement or to applicable anti-fraud provisions;

(d) use its best efforts to register and qualify the securities covered by such registration statement under such other applicable securities or blue sky laws; provided that, the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions unless the Company is already subject to service in such jurisdiction and except as may

be required by the Securities Act;

(e) cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by the Company are then listed;

(f) provide a transfer agent and registrar for all Registrable Securities registered pursuant to such registration statement and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(g) enter into an underwriting agreement in form reasonably necessary to effect the offer and sale of Registrable Securities; and

(h) notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to

state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of circumstances then existing.

9. Registration on Form S-2 or S-3. In addition to the rights set forth above, if the Holder(s) holding at least 25% of the Registrable Securities request in writing that the Company file a registration statement on Form S-2 or S-3 (or any successors thereto) ("FOLLOW-ON REGISTRATIONS") for a public offering of shares of Registrable Securities the reasonably anticipated aggregate price to the public of which would exceed $1,000,000, and the Company is entitled to use Form S-2 or S-3 to register securities for such an offering, the Company shall use its best efforts to effect such registration (including, without limitation, filing post-effective amendments, appropriate qualifications under applicable blue sky or other state securities laws, and appropriate compliance with the Securities Act). The Company will promptly give written notice of the request for the proposed registration to all other Holders and include all Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within 30 days after receipt of such written notice from the Company. The written request of a Holder may specify that all or part of such Holder's Registrable Securities will be included in such registration. If the Follow-On Registration is for an underwritten offering, the provisions of Section 5(b) shall apply to such registration. The rights of the Holders pursuant to this Section 9 shall terminate after the Company has effected two such Follow-On Registrations pursuant to this Section 9.

10. Termination of Registration Rights. The registration rights granted pursuant to this Agreement shall terminate as to any Holder, at such

time after the Company's initial public offering as such Holder is able to sell all Registrable Securities held by it in a single three-month period pursuant to Rule 144 promulgated under the Securities Act.

11. Lock-up Agreement. In consideration for the Company agreeing to its obligations under this Agreement each Holder of Registrable Securities and each transferee pursuant to Section 15 hereof agrees, in connection with the first registration of the Company's securities, upon request of the Company or the underwriters managing any underwritten offering of the Company's securities, not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any Registrable Securities (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for 180 days from the effective date of such registration; provided, however, that all executive officers, directors and 2% or greater shareholders of the Company must enter into similar lock-up agreements as well. Each Holder agrees that the Company may instruct its transfer agent to place stop transfer notations in its records to enforce the provisions of this Section 11.

12. Indemnification.

(a) The Company will indemnify each Holder, each of its officers, directors and partners, members, legal counsel, accountants and each person controlling such Holder within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance has been effected pursuant to this Agreement, and each underwriter, if any, and each person who controls any underwriter within the meaning of Section 15 of the Securities Act, against all expenses, claims, losses, damages and liabilities (or actions in respect thereof), including any of

the foregoing incurred in settlement of any litigation, arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, offering circular or other document, or any amendment or supplement thereto, incident to any such registration, qualification or compliance, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, not misleading, or any violation by the Company of the Securities Act or any rule or regulation promulgated thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any such registration, qualification or compliance, and will reimburse each such Holder, each of its officers, directors, partners and members and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred in connection with investigating, preparing or defending any such claim, loss, damage, liability or action; provided that, the Company will not be liable in any such case to the extent that any such claim, loss, damage, liability or expense arises out of or

is based on any untrue statement or omission or alleged untrue statement or omission, made in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder or underwriter and stated to be specifically for use therein.

(b) Each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify the Company, each of its directors and officers, each underwriter, if any, of the Company's securities covered by such a registration statement, each person who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, and each other such Holder, each of its officers and directors and each person controlling such Holder within the meaning of Section 15 of the Securities Act, against all claims, losses, damages and liabilities (or actions in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any such registration statement, prospectus, offering circular or other document, or any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company, such Holders, such directors, officers, underwriters or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder and stated to be specifically for use therein; provided, however, that the obligations of such Holder hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of such Holder; and provided further that the obligations of each such Holder hereunder shall be limited to an amount equal to the net proceeds after expenses and commissions to such Holder from Registrable Securities sold in such offering.

(c) Each party entitled to indemnification under this Section 12 (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity

may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom; provided that, counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld), and the Indemnified Party may participate in such defense at such party's expense; and provided further that the failure of any Indemnified Party to give notice as provided herein shall not relieve the

Indemnifying Party of its obligations under this Agreement, except to the extent, but only to the extent, that the Indemnifying Party's ability to defend against such claim or litigation is impaired as a result of such failure to give notice. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation.

13. Information by Holder. The Holder or Holders of Registrable Securities included in any registration shall furnish to the Company such information regarding such Holder or Holders and the distribution proposed by such Holder or Holders as the Company may request in writing and as shall be reasonably required in connection with any registration, qualification or compliance referred to in this Agreement.

14. Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission which may at any time permit the sale of the Restricted Securities to the public without registration, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act, at all times after the effective date of the first registration under the Securities Act filed by the Company for an offering of its securities to the general public;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Securities Exchange Act of 1934, as amended (the "EXCHANGE ACT"), at any time after it has become subject to such reporting requirements; and

(c) so long as any of the Holders owns Restricted Securities, furnish to Holders of Registrable Securities forthwith upon written request, a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time after 90 days after the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents of the Company as a Holder of Restricted Securities may reasonably request in availing itself of any rule or regulation of the Commission allowing such Holder to sell any such securities without registration.

15. Transfer of Registration Rights. The right to cause the Company to register securities granted hereunder may be assigned by a Holder to a transferee or assignee who acquires the lesser of

(i) all of such Holder's Registrable Securities or (ii) 50,000 shares of Registrable Securities (as adjusted for stock splits, stock dividends and the like); provided that, the Company is given written notice of such assignment at the time of or within a reasonable time after said transfer or assignment, and the transferee agrees in writing to be bound by the provisions of this Agreement regarding the right to register securities. Notwithstanding the foregoing, the rights to cause the Company to register securities may be freely assigned (a) to any constituent partner or retired partner of a Holder, where such Holder is a partnership, (b) to any affiliate (as that term is defined in Rule 405 promulgated by the Commission under the Securities Act) of a Holder, (c) to any officer, director, principal shareholder or member thereof, where such Holder is a corporation or limited liability company or (d) to the spouse, children, grandchildren or spouse of such children or grandchildren of any Holder or to trusts for the benefit of any Holder or such persons where the Holder is a natural person, provided that written notice thereof is promptly given to the Company and that the transferee agrees to be bound by the provisions of this Agreement.

16. Subsequent Grant of Registration Rights. The Company shall not grant rights to have securities other than the Registrable Securities registered under the Securities Act that are more favorable to the registration rights granted herein without the written consent of the holders of a majority of the Registrable Securities.

17. Basic Financial Information. The Company will furnish the following reports to each holder of Series A Preferred then holding shares of Series A Preferred or Common Stock equal to 5% or more of the total outstanding capital stock of the Company (each being a "SIGNIFICANT HOLDER"), assuming full conversion of the Series A Preferred:

(a) As soon as practicable after the end of each fiscal year of the Company, and in any event within 90 days thereafter, a consolidated balance sheet of the Company and its subsidiaries, if any, as at the end of such fiscal year, and consolidated statements of income and cash flows of the Company and its subsidiaries, if any, for such year, prepared in accordance with generally accepted accounting principles consistently applied, all in reasonable detail and audited by an independent public accountant of recognized national standing selected by the Company.

(b) As soon as practicable after the end of each month and in any event within 30 days thereafter, a consolidated balance sheet of the Company and its subsidiaries, if any, as of the end of each monthly period, and consolidated statements of income and cash flows of the Company and its subsidiaries for such period, prepared in accordance with generally accepted accounting principles consistently applied, subject to changes resulting from year-end audit adjustments and the absence of notes, all in reasonable detail and certified by the principal financial or accounting officer of the Company.

(c) Not less than 30 days before the end of each fiscal year, an annual financial plan of the Company, which financial plan shall have been

approved by the Board of Directors and shall provide each Significant Holder with the Company's projections of its monthly financial statements for the forthcoming fiscal year.

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(d) As soon as practicable after the end of each month, an executive summary of the activities of the Company including, without limitation, marketing, financial, product development and support and other material activities.

(e) The rights to basic financial information set forth in this Section 17 may be transferred to any person acquiring from a Significant Holder a number of shares of Series A Preferred equal to 5% or more of the total outstanding capital stock of the Company (as adjusted for stock splits and like events) provided that the transferred Series A Preferred is not transferred to an unaffiliated third party who is an actual competitor of the Company in the reasonable judgment of the Company.

(f) Each Series A Holder agrees that any information obtained by such Series A Holder pursuant to this Section 17 which the Company identifies in writing to be proprietary or otherwise confidential will not be disclosed without the prior written consent of the Company; provided, however, that a Series A Holder may reasonably disclose such information without the prior written consent of the Company if: (A) such information is or becomes generally available to the public other than as a result of a disclosure by such Series A Holder or its agent; (B) such information was in the possession of such Series A Holder prior to receiving it from the Company; (C) such information becomes available to such Series A Holder on a non-confidential basis from a source other than the Company and the Series A Holder does not know or reasonably suspect that the provider of such information was violating a confidentiality agreement with the Company or its agents; or (D) the disclosure of such information is required by law. Each Series A Holder further acknowledges and understands that any information so obtained which may be considered "inside" non-public information will not be utilized by such Series A Holder in connection with purchases and/or sales of the Company's securities except in compliance with applicable state and federal anti-fraud statutes.

18. Visitation and Observer Rights. In addition to any rights of inspection afforded stockholders by statute or otherwise, the Company shall permit each Significant Holder to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such times as may be requested by the Significant Holder.

19. Rights of First Offer. The Company hereby grants to each Series A Holder and Founder (individually, an "OFFEREE;" collectively, the "OFFEREES") who owns any shares of Series A Preferred or Common Stock, the right of first offer to purchase a pro rata share of New Securities (as defined in this Section

19) which the Company may, from time to time, propose to sell and issue. Each Offeree's pro rata share, for purposes of this right of first offer, is the ratio of the number of shares of Common Stock owned by such Offeree immediately prior to the issuance of New Securities, assuming full conversion of the Series A Preferred and exercise of all outstanding rights, options and warrants held by said Series A Holder or Founder, to the total number of shares of Common Stock outstanding immediately prior to the issuance of New Securities, assuming full conversion of all outstanding Series A Preferred and exercise of all outstanding rights, options and warrants to acquire Common Stock of the Company. Each Offeree shall have a right of over-

allotment such that if any Offeree fails to exercise its right hereunder to purchase its pro rata share of New Securities, the other Offerees may purchase the non-purchasing Offeree's portion on a pro rata basis within twenty (20) days from the date such non-purchasing Offeree fails to exercise its right hereunder to purchase its pro rata share of New Securities. This right of first offer shall be subject to the following provisions:

(a) "NEW SECURITIES" shall mean any Common Stock and Preferred Stock of the Company whether or not authorized on the date hereof, and rights, options, or warrants to purchase Common Stock or Preferred Stock and securities of any type whatsoever that are, or may become, convertible into Common Stock or Preferred Stock; provided, however, that "New Securities" does not include the following:

(i) shares of Common Stock, or options to purchase shares of Common Stock, issued or granted to officers, directors and employees of, or consultants to, the Company or its subsidiaries pursuant to an option plan or purchase plan or other stock incentive program (collectively, the "PLANS") approved by the Board of Directors, including the approval of a majority of the representatives of the Series A Holders;

(ii) shares of Common Stock issued upon conversion of the Series A Preferred or other outstanding securities as of the date hereof;

(iii) shares of Common Stock of the Company sold in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act, the aggregate proceeds of which are not less than $15,000,000 at a public offering price of not less than $3.00 per share (appropriately adjusted for any recapitalizations, stock combinations, stock dividends, stock splits and the like);

(iv) securities of the Company issued pursuant to an acquisition approved by the Board of Directors, including the approval of a majority of the representatives of the Series A Holders, of another corporation by the Company by merger, purchase of substantially all of the assets, or other reorganization;

(v) securities of the Company issued in connection with equipment lease financing transactions or bank financing transactions approved by the Company's Board of Directors, including the approval of a majority of the representatives of the Series A Holders which the principal purpose of which is not to raise equity funding;

(vi) securities issued in connection with transactions with operating companies approved by the Company's Board of Directors, including the approval of a majority of the representatives of the Series A Holders, involving research or development funding, technology licensing or joint marketing or manufacturing activities; and

(vii) shares of Common Stock or Preferred Stock issued in connection with any stock split, stock dividend, or recapitalization by the Company.

(b) In the event that the Company proposes to undertake an issuance of New Securities, it shall give each Offeree written notice of its intention, describing the type of New Securities, the price, and the general terms upon which the Company proposes to issue the same. Each Offeree shall have thirty (30) business days after receipt of such notice to agree to purchase its pro rata share of such New Securities at the price and upon the terms specified in the notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased. Such Offeree's obligation to purchase such New Securities under this Section 19 will be contingent upon the completion of the issuance of the New Securities substantially in the form as provided in the written notice.

(c) The Company shall have sixty (60) days after the thirty (30) business days specified above to sell (or enter into an agreement pursuant to which the sale of New Securities covered thereby shall be closed, if at all, within thirty (30) days from the date of said agreement) the New Securities respecting which the rights of the Offerees were not exercised (or which were not subject to a right of first offer) at a price and upon terms no more favorable to the purchasers thereof than specified in the Company's notice. In the event the Company has not sold the New Securities within such sixty (60) day period (or sold and issued New Securities in accordance with the foregoing within thirty (30) days from the date of such agreement) the Company shall not thereafter issue or sell any New Securities, without first offering such New Securities to the Offerees in the manner provided above.

(d) Expiration. The Right of First Offer granted under this Section 19 shall expire upon the first sale of Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement under the Securities Act, the public offering of which is not less than $3.00 per share (appropriately adjusted for any recapitalizations, stock combinations, stock

dividends, stock splits and the like) and for an aggregate offering price, net of underwriters' discounts and commissions, of more than $15,000,000.

(e) Assignability. This Right of First Offer is nonassignable except to any transferee to whom registration rights may be transferred pursuant to Section 15 of this Agreement.

20. Right of First Refusal.

(a) The Right. In the event a Holder of Series A Preferred proposes to sell, assign, pledge or in any manner transfer any of the Series A Preferred or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise (a "SELLER"), to one (1) or more unaffiliated third parties in a transaction not registered under the Securities Act, then such Seller shall first grant the other Holders of Series A Preferred (the "NONSELLING HOLDERS") the right to purchase all or any part of such securities (the "OFFERED SECURITIES") on the same terms as such Seller is willing to sell or otherwise transfer the Offered Securities to such third parties and then, to the extent such Nonselling Holders do not fully exercise their rights with respect to the Offered Securities, to the Company. In the event of a gift, property settlement or other transfer in which the proposed transferee is not paying the full price for the shares, the price payable by the purchasing Holders and/or the Company (or its designee) (collectively, the "PURCHASING PARTIES ") shall be

deemed to be the fair market value of the securities at such time, as reasonably determined by the Board of Directors in good faith.

(b) Notice of Proposed Transfer. Before any Registrable Securities held by a Seller may be sold or otherwise transferred, the Seller shall deliver to the Nonselling Holders and the Company a written notice (the "TRANSFER NOTICE") stating (i) the Seller's bona fide intention to sell or otherwise transfer such Registrable Securities; (ii) the name of the proposed transferee(s); (iii) the number of shares of Registrable Securities to be transferred to each proposed transferee; and (iv) the bona fide cash price or other consideration for which the Seller proposes to transfer the Registrable Securities.

(c) Exercise of Right of First Refusal. The Right of First Refusal set forth in this Section 20 may be exercised first by each Nonselling Holder as to any or all of the Offered Securities by giving notice to the Seller within seven (7) business days of the receipt by such Nonselling Holder of the Transfer Notice. Each Nonselling Holder shall have a right of over-allotment such that if any other holder fails to exercise its right hereunder to purchase its pro rata share of Offered Securities, the other holders may purchase the non-purchasing holder's portion on a pro rata basis. If the Nonselling Holders do not exercise their Right of First Refusal as to all of such Offered

Securities within such period, then the Company (or a designee approved by the Board and identified to the Seller in writing before exercise) may exercise its Right of First Refusal as to any or all of the remaining Offered Securities, within thirty (30) days of the expiration of the Nonselling Persons' Right of First Refusal. If the Company does not exercise its Right of First Refusal within such period as to all remaining Offered Securities, then the Seller shall have sixty (60) days thereafter to sell (or enter into an agreement pursuant to which the sale of Offered Securities covered thereby shall be closed, if at all, within thirty (30) days from the date of said agreement) the Offered Securities respecting which the rights of the Nonselling Holders and the Company were not exercised at a price and upon terms no more favorable to the transferees thereof than specified in the Transfer Notice. In the event the Seller has not sold the Offered Securities within such sixty (60) day period (or sold and issued Offered Securities in accordance with the foregoing within thirty (30) days from the date of such agreement) the Seller shall not thereafter issue or sell any Offered Securities, without first offering such Offered Securities to the Nonselling Holders and the Company in the manner provided above.

(d) Legend. The certificates held by the Series A Holder that are subject to the Right of First Refusal set forth in this Section 20 shall have endorsed thereon, in addition to such other legends as required to be imprinted thereon pursuant to this Agreement or to applicable law, a legend in substantially the following form:

THE SECURITIES REPRESENTED BY THE CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL AND CERTAIN OTHER RESTRICTIONS ON TRANSFER AS SET FORTH IN AN INVESTORS' RIGHTS AGREEMENT, ENTERED INTO AMONG THE COMPANY, CERTAIN OF ITS STOCKHOLDERS AND THE REGISTERED HOLDER, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY AND WILL

BE FURNISHED UPON REQUEST TO THE HOLDER OF RECORD OF THE SHARES REPRESENTED BY THIS CERTIFICATE.

(e) Expiration. The Right of First Refusal granted under this Section 20 shall expire upon the first sale of the Company's Common Stock to the public in a bona fide, firm commitment underwriting pursuant to a registration statement under the Securities Act, the public offering of which is not less than $3.00 per share (appropriately adjusted for any recapitalizations, stock combinations, stock dividends, stock splits and the like) and for an aggregate offering price, net of underwriters' discounts and commissions, of more than $15,000,000.

(f) Assignability. The Right of First Refusal is not assignable except to any transferee to whom registration rights may be transferred pursuant to Section 15 of this Agreement.

(g) Exceptions to Right of First Refusal. The provisions of

this Section 20 shall not apply if the proposed transferee of the Offered Securities is (A) a partner, active or retired, of a Holder of Registrable Securities, (B) if the Holder is a corporation, to its stockholders, (C) if the Holder is a limited liability company, to its members, (D) the estate of any Holder of Registrable Securities, (E) the spouse, children, grandchildren or spouse of such children or grandchildren of any Holder or a trust or trusts for the benefit of any Holder or such persons, or (F) any fund or entity affiliated with a Holder including any successor funds or follow-on funds related thereto, upon the request of the appropriate partner or officer of such Holder; provided that the transferee agrees to be subject to the terms of the Right of First Refusal set forth in this Section 20.

21. Negative Covenants. Until such time as the Warrant is exercised or expires pursuant to its terms, the Company shall not, without first obtaining the unanimous approval (by vote or written consent as provided by law) of the Company's Board of Directors:

(a) sell, convey, or otherwise dispose of or encumber all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly owned subsidiary corporation) or effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of this corporation is disposed of;

(b) authorize, create or issue, or obligate itself to issue, any new class or series of stock or any other securities convertible into equity securities of the Company with rights, preferences or privileges senior to, or on a parity with, those of the Series A Preferred;

(c) amend or repeal any provision of, or add any provision to, the Company's Amended and Restated Certificate of Incorporation or Bylaws if such action would change adversely the preferences, rights, privileges or powers of, or restrictions provided for the benefit of, the Series A Preferred;

(d) redeem, purchase or otherwise acquire for value (or pay into or set aside for a sinking fund for such purpose) any share or shares of Series A Preferred otherwise than by conversion in accordance with the Amended and Restated Cetificate of Incorporation;

(e) redeem, purchase or otherwise acquire (or pay into or set aside for a sinking fund for such purpose) any of the Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, consultants or other persons performing services for the Company or any subsidiary pursuant to agreements under which the Company has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment; or

(f) permit any subsidiary to issue or sell, or obligate itself

to issue or sell, except to the Company or any wholly-owned subsidiary, any stock of such subsidiary.

22. Governing Law. This Agreement and the legal relations between the parties arising hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware. The parties hereto agree to submit to the jurisdiction of the federal and state courts of the State of Delaware with respect to the breach or interpretation of this Agreement or the enforcement of any and all rights, duties, liabilities, obligations, powers, and other relations between the parties arising under this Agreement.

23. Entire Agreement. This Agreement constitutes the full and entire understanding and agreement between the parties regarding the rights provided herein. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

24. Notices, etc. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed effectively given upon delivery to the party to be notified in person, by courier service or by confirmed facsimile or ten days after deposit with the United States mail, by registered or certified mail, postage prepaid, addressed (a) if to a Holder, to such Holder's address set forth on Schedule A hereto, or at such other address as such Holder shall have furnished to the Company in writing, (b) if to any other holder of any Registrable Securities, to such address as such holder shall have furnished the Company in writing, or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder of such securities who has so furnished an address to the Company, (c) if to a Founder, to such Founder's address as set forth in the records of the Company, or (d) if to the Company, to its address set forth on the signature page of this Agreement to the attention of the Corporate Secretary, or at such other address as the Company shall have furnished to the stockholders of the Company.

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

26. Amendment. Any provision of this Agreement may be amended, waived or modified only upon the written consent of (i) the Company, (ii) the holders of a majority of the Registrable Securities and (iii) with respect to Section 19 or any amendment, waiver or modification which may adversely affect the rights of the Founders thereunder, a majority-in-interest of the Founders. Any amendment or modification effected in accordance with this Section shall be binding upon each Holder of Registrable Securities and the Company. Any Shareholder may waive any of his or her rights or the Company's obligations hereunder with respect to such Shareholder without obtaining

the consent of any other person only be a writing signed by such Shareholder. Any amendment, waiver or modification not effected in accordance with this Section shall be void.

27. Additional Parties. The parties hereto agree that additional holders of securities of the Company may, subject only to Section 2.3 of that certain Series A Purchase Agreement between the Company and the Series A Holders, be added as parties to this Agreement with respect to any or all securities of the Company held by them, and shall thereupon be deemed for all purposes "Series A Holders" hereunder. Any such additional party shall execute a counterpart of this Agreement, and upon execution by such additional party and by the Company, shall be considered a Series A Holder for purposes of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have executed this Investors' Rights Agreement as of the date first set forth above.

COMPANY:

AIRWEB CORPORATION
a Delaware corporation

By:/s/ Pat McVeigh

Name:
Title:

Address:

FOUNDERS:

/s/ Pat McVeigh

Patrick McVeigh

/s/ Barak Berkowitz

Barak Berkowitz

/s/ Michael Dolbec

Michael Dolbec

/s/ Andy Simms

Andy Simms

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Investors' Rights Agreement as of the date first set forth above.

3COM VENTURES, INC.

By: /s/ Janice M. Roberts

Name: Janice M. Roberts
Title: President

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Investors' Rights Agreement as of the date first set forth above.

AETHER OPENSKY INVESTMENTS LLC

By: Aether Technologies International, L.L.C.,
Its Sole Member

By: /s/ David S. Oros

Name: David S. Oros

Title: Manager

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Investors' Rights Agreement as of the date first set forth above.

WS INVESTMENT COMPANY 99B

By:

Name:
Title:

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

SCHEDULE A

SCHEDULE OF HOLDERS

1) 3Com Ventures, Inc.
Address:
5400 Bayfront Plaza
Santa Clara, CA 95052-8145
Facsimile: (408) 764-5001

With a copy of all notices to:

3Com Corporation
Attention: General Counsel
5400 Bayfront Plaza
Santa Clara, CA 95052-8145
Facsimile: (408) 326-6434

2) Aether OpenSky Investments LLC
Address:
11460 Cronridge Drive
Owings Mills, MD 21117

Facsimile: (410) 654-6554

3) WS Investment Company 99B
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

4) Larry Sonsini
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

5) Boris Feldman
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

SCHEDULE A (CONTINUED)

SCHEDULE OF HOLDERS

6) Aaron Alter
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

7) Keith Eggleton
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

8) Cynthia Dy
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

9) Richard Arnold
Address:
650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

10) Mark Beariault
Address:

650 Page Mill Rd
Palo Alto, CA 94304
Facsimile: (650) 493-6811

EXHIBIT 10.11

RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT

THIS RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT (this "AGREEMENT") is made and entered into as of August 9, 1999 (the "EFFECTIVE DATE") by and among AirWeb Corporation, Inc., a Delaware corporation doing business as "OpenSky Corporation" (the "COMPANY"), and those holders of the Common Stock, par value $0.001 per share (the "COMMON STOCK"), identified on Schedule A attached hereto (individually, a "FOUNDER," collectively, the "FOUNDERS") and those holders of the Series A Preferred Stock, par value $0.001 per share (the "SERIES A STOCK"), identified on Schedule B attached hereto (individually, a "SERIES A HOLDER," collectively, the "SERIES A HOLDERS").

RECITALS

WHEREAS, each Founder is a beneficial owner of the number of shares of Common Stock set forth opposite his/her name on Schedule A (individually, a "FOUNDER'S SHARE," collectively, the "FOUNDERS' SHARES"); and

WHEREAS, each Series A Holder is a beneficial owner of the number of shares of Series A Stock set forth opposite its name on Schedule B.

AGREEMENT

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

1. Restrictions on Transfer of Shares. The Founders will not sell, assign, transfer, pledge, hypothecate, or otherwise encumber or dispose of in any way, all or any part of or any interest in Equity Securities (as that term is defined in Section 2.1) now or hereafter owned or held by such Founders other than as set forth herein. Any sale, assignment, transfer, pledge, hypothecation or other encumbrance or disposition of such securities not made in conformance with this Agreement, shall be null and void, shall not be recorded on the books of the Company and shall not be recognized by the Company.

2. Agreements Among the Series A Holders and the Founders.

2.1 Definitions.

(a) Holders. For purposes of this Section 2, the term "HOLDERS" shall mean the Series A Holders or their transferees or assignees who have received such shares of Series A Stock (or Common Stock issued upon

conversion thereof) and, for purposes of Section 2.2 only, the Founders who are then employed by the Company and who are not Selling Founders (as defined below).

(b) Equity Securities. For purposes of this Agreement, the term "EQUITY SECURITIES" shall mean Common Stock and any other securities having voting rights in the election of the Board of Directors of the Company not contingent upon default, or any

securities evidencing an ownership interest in the Company, or any securities convertible into or exercisable for any shares of the foregoing, or any agreement or commitment to issue any of the foregoing.

2.2 Right of Refusal.

(a) Transfer Notice. Except as otherwise provided herein, if at any time any Founder proposes to donate, pledge, sell, transfer or otherwise dispose of Equity Securities in any manner to one or more third parties (a "TRANSFER"), then such Founder (the "SELLING FOUNDER") shall give the Company and each Holder written notice of the Selling Founder's intention to make the Transfer (the "TRANSFER NOTICE"), which Transfer Notice shall include (i) a description of the Equity Securities to be transferred ("OFFERED SECURITIES"), (ii) the identity of the prospective transferee(s) (the "PROPOSED TRANSFERREE"), (iii) the consideration ("the OFFERED PRICE") and the material terms and conditions upon which the proposed Transfer is to be made and (iv) an offer to the Company or its assignees to purchase the Shares at the Offered Price. The Transfer Notice shall certify that the Selling Founder has received a bona fide offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Transfer Notice. The Transfer Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer.

(b) Company's Right of First Refusal. Before any offered Shares held by a Selling Founder may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase such Shares on the terms and conditions set forth in this Section 2.2(b) (the "COMPANY'S RIGHT OF FIRST REFUSAL").

(i) Exercise of Right of First Refusal. Within thirty (30) days after receipt of the Transfer Notice, the Company and/or its assignee(s) shall, by giving written notice to the Selling Founder, elect (i) to purchase all, but not less than all, of the Offered Shares, at the purchase price determined in accordance with Section 2.2(b)(ii) below or (ii) not to purchase any of the Offered Shares.

(ii) Purchase Price. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this paragraph 4 shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board of Directors of the Company in good faith.

(iii) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Selling Founder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty-five (35) days after receipt of the Transfer Notice or in the manner and at the times set forth in the Transfer Notice.

(c) Holders' Option. Upon receipt by the Selling Founder of written notice from the Company indicating the Company's election not to purchase the Offered Securities pursuant to the Company's Right of First Refusal, the Selling Founder shall promptly so notify the Holders by written notice (the "COMPANY'S ELECTION NOTICE"). The Holders as a group shall have an option for a period of thirty (30) days from receipt of the Company's Election Notice (the "NOTICE PERIOD") to elect to purchase all or any portion of the Offered Securities at the same price and subject to the same material terms and conditions as described in the Transfer Notice (the "HOLDERS' PURCHASE OPTION"); provided that, notwithstanding the foregoing sentence, the Holders' Purchase Option shall in any event expire on the 45th day after the Holders' receipt of the Transfer Notice. Each Holder may exercise the Holders' Purchase Option and, thereby, purchase all or any portion of his, her or its pro rata share (with any reallotments as provided below) of the Offered Securities by notifying the Selling Founder in writing before expiration of the Notice Period as to the amount of such Offered Securities which he, she or it wishes to purchase (including any reallotment). Each Holder's pro rata share of the Offered Securities shall be a fraction of the Offered Securities, of which the number of shares of Common Stock (including, without limitation, shares of Common Stock issuable upon conversion of Series A Stock or other securities) owned by such Holder on the date of the Transfer Notice shall be the numerator and the total number of shares of Common Stock (including, without limitation, shares of Common Stock issuable upon conversion of Series A Stock or other securities) held by all Holders on the date of the Transfer Notice shall be the denominator. Each Holder shall have a right of reallotment such that, if any other Holder fails to exercise the right to purchase its full pro rata share of the Offered Securities, the other participating Holders may exercise an additional right to

purchase, on a pro rata basis, the Offered Securities not previously purchased. Each Holder shall be entitled to apportion Offered Securities to be purchased among its directors, officers, members, stockholders, partners and affiliates, provided that such Holder notifies the Selling Founder of such allocation. If the Holders give the Selling Founder notice that they desire to purchase the Offered Securities, then payment for the Offered Securities shall be by check or wire transfer, against delivery of the

Offered Securities to be purchased at a place agreed upon between the parties and at the time of the scheduled closing therefor, which shall be no later than thirty (30) days after the Holders' receipt of the Transfer Notice, unless the Transfer Notice contemplated a later closing with the prospective third party transferee(s) or unless the value of the purchase price has not yet been established pursuant to Section 2.2(d).

(d) Valuation of Property. Should the purchase price specified in the Transfer Notice be payable in property other than cash or evidences of indebtedness, the Holders who have elected to purchase the Offered Securities pursuant to this Section 2.2 (the "PURCHASING HOLDERS" for purposes of this Section 2.2) shall pay the purchase price in the form of cash equal in amount to the fair market value of the Offered Securities. If the Selling Founder and the Purchasing Holders cannot agree on such cash value within ten (10) days after the Purchasing Holders' receipt of the Transfer Notice, the valuation shall be reasonably determined in good faith by the Board of Directors. If the time for the closing of the Purchasing Holders' purchase has expired but for the determination of the value of the purchase price offered by the prospective transferee(s), then such closing shall held on or prior to the fifth business day after such valuation shall have been made pursuant to this subsection.

(e) Selling Founder's Right to Transfer. If any of the Offered Shares proposed in the Transfer Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in Section 2.2(b) or by the Holders as provided in Section 2.2(c) (the "REMAINING SHARES"), then the Holder may sell or otherwise transfer the Remaining Shares to that Proposed Transferee at the Offered Price or at a higher price; provided that, such sale or other transfer is consummated within sixty (60) days after the date of the Transfer Notice; and provided further that any such sale or other transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 2.2 shall continue to apply to the Remaining Shares in the hands of such Proposed Transferee. If the Remaining Shares are not

transferred to the Proposed Transferee within such period, a new Transfer Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Company's Right of First Refusal and the Holders shall be entitled to the Holders' Purchase Option before any Shares held by the Selling Founder may be sold or otherwise transferred. Notwithstanding the foregoing, in no event may a Selling Founder transfer any shares which are still subject to a Repurchase Option (as defined in the Founder's Stock Purchase Agreements between the Company and each Founder).

(f) Exception for Certain Family Transfers. Notwithstanding anything to the contrary contained in this Section 2.2, the transfer of any or all of the Shares during a Founder's lifetime or on such Founder's death by will or intestacy to such Founder's immediate family or a trust for the benefit of such Founder's immediate family shall be exempt from the provisions of this Section 2.2 provided that the Company is notified in writing of said transfer within thirty (30) days of said transfer. "Immediate Family" as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 2.2, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 2.2.

(g) Termination of Right of First Refusal. The Company's Right of First Refusal shall terminate as to any Shares upon the closing of: (i) the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended; (ii) the sale of all or substantially all of the assets of the Company; or (iii) the merger, consolidation or other reorganization of the Company with or into any other corporation or corporations in which the holders of the capital stock of the Company immediately prior to such transaction hold less than fifty percent (50%) of the voting securities of the surviving corporation after such transaction.

2.3 Right of Co-Sale.

(a) If the Holders do not exercise their available right of refusal as to the Offered Securities pursuant to Section 2.2, then each Holder (a "SELLING HOLDER" for purposes of this Section 2.3) which notifies the Selling Founder in writing within twenty (20) days after the expiration of the Notice Period shall have the right to participate in such sale of Equity Securities on the same terms and conditions as specified in the Transfer Notice. Such Selling Holder's notice to the Selling Founder shall indicate the number of Equity Securities the Selling Holder wishes to sell under his, her or its right to participate. To the extent one (1) or more of the Holders exercises such right of participation in accordance with the terms and conditions set forth

below, the number of Offered Securities that the Selling Founder may sell in the Transfer shall be correspondingly reduced.

(b) Each Selling Holder may sell all or any part of that number of Equity Securities equal to the product obtained by multiplying (i) the aggregate number of Offered Securities by (ii) a fraction, the numerator of which is the number of shares of Common Stock (including, without limitation, shares of Common Stock issuable upon conversion of the Series A Stock) owned by the Selling Holder on the date of the Transfer Notice and the denominator of which is the total number of shares of Common Stock (including, without limitation, shares of Common Stock issuable upon conversion of the Series A Stock) owned on the date of the Transfer Notice by the Selling Founder and the Selling Holders.

(c) Each Selling Holder shall effect its participation in the sale by delivering within twenty (20) days after the expiration of the Notice Period to the Selling Founder for transfer to the prospective purchaser one (1) or more certificates, properly endorsed for transfer, which represent:

(i) the type and number of shares of securities which such Selling Holder elects to sell; or

(ii) that number of shares of securities which are at such time convertible into the number of shares of Common Stock which such Selling Holder elects to sell; provided, however, that if the prospective third-party purchaser objects to the delivery of securities in lieu of Common Stock, such Selling Holder shall convert such securities into Common Stock and deliver the Common Stock as provided in this Section 2.3. The Company agrees to make any such conversion concurrent with the actual transfer of such shares to the purchaser and contingent on such transfer.

(d) The stock certificate or certificates that the Selling Holder delivers to the Selling Founder pursuant to Section 2.3(c) shall be transferred to the prospective purchaser in consummation of the sale of the securities pursuant to the terms and conditions specified in the Transfer Notice, and the Selling Founder shall concurrently therewith remit to such Selling Holder that portion of the sale proceeds to which such Selling Holder is entitled by reason of its participation in such sale. To the extent that any prospective purchaser or purchasers prohibits such assignment or otherwise refuses to purchase shares or other securities from a Selling Holder exercising its rights of co-sale hereunder, the Selling Founder shall not sell to such prospective purchaser or purchasers any securities unless and until,

simultaneously with such sale, the Selling Founder shall purchase such shares or other securities from such Selling Holder for the same consideration and on the same terms and conditions as the proposed transfer described in the Transfer Notice.

2.4 Prohibited Transfers.

(a) In the event any Founder should sell any Equity Securities in contravention of Section 2.2 or the co-sale rights of the Holders under Section 2.3 (in either case, a "PROHIBITED TRANSFER"), to the extent such sale is valid and recorded on the books of and recognized by the Company pursuant to Section 1, the Holders, in addition to such other remedies as may be available at law, in equity or hereunder, shall have the put option provided below, and such Founder shall be bound by the applicable provisions of such option.

(b) In the event of a Prohibited Transfer, each Holder shall have the right to sell to the Founder the type and number of shares of Common Stock equal to the number of shares each Holder would have been entitled to transfer to the third-party transferee(s) under Section 2.3 above had the Prohibited Transfer been effected pursuant to and in compliance with the terms hereof. Such sale shall be made on the following terms and conditions:

(i) the price per share at which the shares are to be sold to the Founder shall be equal to the price per share paid by the third-party transferee(s) to the Founder in the Prohibited Transfer;

(ii) within sixty (60) days after the later of the dates on which the Holder (A) received notice of the Prohibited Transfer or (B) otherwise become aware of the Prohibited Transfer, each Holder shall, if exercising the option created hereby, deliver to the Founder the certificate or certificates representing shares to be sold, each certificate to be properly endorsed for transfer;

(iii) the Founder shall, upon receipt of the certificate or certificates for the shares to be sold by a Holder, pursuant to this Section 2.4, pay the aggregate purchase price therefor, as specified in subparagraph 2.4(b)(i), in cash or by other means acceptable to the Holder; and

(iv) notwithstanding the foregoing, this Section 2.4 does not in any way limit the restrictions on transfer provided for in Section 1.

3. Consent of Spouse. If the Founder is married on the date of this Agreement, the Founder's spouse shall execute a consent of spouse in the form of Exhibit A hereto ("CONSENT OF

SPOUSE"), effective on the date hereof. Such consent shall not be deemed to confer or convey to the spouse any rights in the Founders' Stock that do not otherwise exist by operation of law or the agreement of the parties. If the Founder should marry or remarry subsequent to the date of this Agreement, the Founder shall within thirty (30) days thereafter obtain his/her new spouse's acknowledgment of and consent to the existence and binding effect of all restrictions contained in this Agreement by signing a Consent of Spouse.

4. Legends. Each existing or replacement certificate representing any shares of Equity Securities now owned or hereafter acquired by the Founders shall have endorsed thereon the following legend (together with any other legends required by applicable law):

> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RIGHTS IN FAVOR OF THE COMPANY AND CERTAIN OTHER HOLDERS OF STOCK OF THE COMPANY SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY, SUCH HOLDERS, AND THE REGISTERED HOLDER, OR HIS OR HER PREDECSSOR IN INTEREST, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THIS COMPANY.

5. Effect of Change in Company's Capital Structure. Appropriate adjustments shall be made in the number and class of shares in the event of a stock dividend, stock split, reverse stock split, combination, reclassification or like change in the capital structure of the Company.

6. Notices. Any notice required or permitted by a provision of this Agreement shall be given in writing and shall be delivered personally or by courier, by registered or certified mail, postage prepaid, or by confirmed facsimile, addressed (i) in the case of any Founder to such Founder's address as set forth on Schedule A or such other address as the Founder may designate in writing from time to time; (ii) in the case of the Company, to its principal office; (iii) in the case of any Series A Holder which is an original party to this Agreement to the address of such Series A Holder as set forth on Schedule B or such other address for such Series A Holder as shall be designated in writing from time to time by such Series A Holder; and (iv) in the case of any permitted transferee of a party to this Agreement or its transferee, to such transferee at its address as designated in writing by such transferee to the Company from time to time. Notices that are mailed shall be deemed received five (5) days after deposit in the United States mail. Notices sent by courier or overnight delivery shall be deemed received two (2) days after they have been so sent.

7. Further Instruments and Actions. The parties agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement. Each party hereto agrees to cooperate affirmatively with all other parties hereto, to the extent reasonably requested by such parties, to enforce rights and obligations herein provided.

8. Specific Performance. The rights of the parties under this

Agreement are unique and, accordingly, the parties shall have the right, in addition to such other remedies as may be available to any of them at law or in equity, to enforce their rights hereunder by actions for specific performance in addition to any other legal or equitable remedies they might have to the extent permitted by law.

9. Term. This Agreement shall terminate upon the earlier of (i) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of the Company's Common Stock at a price per share of not less than $3.00 (as adjusted for stock splits, reverse stock splits and the like effected after the date of this Agreement) and an aggregate offering price of not less than $15,000,000, or (ii) the closing of (A) a merger or consolidation of the Company with or into any other corporation (other than a wholly-owned subsidiary corporation), (B) the sale of all or substantially all the assets or business of the Company, or (C) any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power is disposed of.

10. Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof, supersedes all other agreements between or among any of the parties with respect to the subject matter hereof.

11. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company, the written consent of a majority in interest of the Founders and the written consent of the Series A Holders of more than fifty percent (50%) of the then outstanding Series A Stock or Common Stock issued upon conversion of the Series A Stock. Any amendment or waiver effected in accordance with this paragraph shall be binding upon the Company, each Founder and each Series A Holder and their respective successors and assigns.

12. Assignment; Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors and permitted transferees, except as may be expressly provided otherwise herein.

13. Separability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or

unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and such invalid, illegal and unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

14. Attorneys' Fees. In the event that any dispute among the parties to this Agreement should result in litigation, 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 appeal.

15. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one (1) and the same instrument.

16. Section Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

17. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to conflicts of laws.

18. Additional Parties. The parties hereto agree that additional holders of Series A Stock of the Company may, subject only to Section 2.3 of that certain Series A Preferred Stock Purchase Agreement between the Company and the Holders, be added as parties to this Agreement with respect to any or all securities of the Company held by them, and shall thereupon be deemed for all purposes a "Series A Holder" hereunder. Any such additional party shall execute a counterpart of this Agreement, and upon execution by such additional party and by the Company, shall be considered a Series A Holder for purposes of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

COMPANY:

AIRWEB CORPORATION
a Delaware corporation

By: /s/ Pat McVeigh

Name:
Title:

FOUNDERS:
/s/ Pat McVeigh

Patrick McVeigh
/s/ Barak Berkowitz

Barak Berkowitz
/s/ Michael Dolbec

Michael Dolbec
/s/ Andy Simms

Andy Simms

[SIGNATURE PAGE TO RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

3COM VENTURES, INC.

By: /s/ Janice M. Roberts

Name: Janice M. Roberts
Title: President

[SIGNATURE PAGE TO RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

AETHER OPENSKY INVESTMENTS LLC
By: Aether Technologies International, L.L.C,
its Sole Member

By: /s/ David S. Oros

Name: David S. Oros
Title: Member

[SIGNATURE PAGE TO RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

WS INVESTMENT COMPANY 99B

By:

Name:
Title:

CONSENT OF SPOUSE

I, _____, spouse of _____, acknowledge that I have read the Right of First Refusal and Co-Sale Agreement, dated as of August __, 1999, to which this Consent is attached as Exhibit A (the "AGREEMENT") and that I know the contents of the Agreement. I am aware its provisions provide that certain rights are granted to certain other holders of capital stock of the Company upon the sale or other disposition of, shares of Common Stock of the Company which my spouse owns including any interest I might have therein.

I hereby agree that my interest, if any, in the Common Stock subject to the Agreement shall be irrevocably bound by the Agreement and further understand and agree that any community property interest I may have in the Common Stock shall be similarly bound by the Agreement.

I am aware that the legal, financial and related matters contained in the Agreement are complex and that I am free to seek independent professional guidance or counsel with respect to this Consent. I have either sought such guidance or counsel or determined after reviewing the Agreement carefully that I will waive such right.

Dated as of the _____ day of _____, ____.

(Signature)

(Print Name)

EXHIBIT 10.12

VOTING AGREEMENT

THIS VOTING AGREEMENT (this "AGREEMENT") is made as of the 9th day of August, 1999 (the "EFFECTIVE DATE"), by and among the undersigned holders of the Common Stock, par value $0.001 per share (the "COMMON STOCK"), of AirWeb Corporation, a Delaware corporation doing business as "OpenSky Corporation" (the "COMPANY"), set forth on Schedule A attached hereto (individually, a "FOUNDER," collectively, the "FOUNDERS"), 3Com Ventures, Inc. ("3COM") and Aether OpenSky Investments LLC ("AETHER") and any other purchaser of the Company's Series A Preferred Stock who executes this Agreement (any holder of voting stock who is a signatory to this Agreement is hereinafter referred to individually as a "VOTING PARTY" and collectively as the "VOTING PARTIES").

RECITALS

A. 3Com and Aether wish to acquire 10,000,000 and 10,000,000 shares (after exercise of a warrant issued to Aether on the date hereof), respectively, of the Series A Preferred Stock, par value $0.001 per share (together with any shares of Common Stock issued or issuable upon conversion of the Series A Preferred Stock, the "SERIES A PREFERRED STOCK"), of the Company.

B. The Company, 3Com and Aether have entered into that certain Series A Preferred Stock Purchase Agreement dated as of the Effective Date (the "PURCHASE AGREEMENT").

C. Each Founder currently owns that number of shares of the Common Stock, as set forth next to his or her respective name on Schedule A.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises herein contained, and other consideration, the receipt and adequacy of which hereby is acknowledged, the parties agree as follows:

1. Board of Directors. From and after the date of this Agreement and until the provisions of this Section 1 cease to be effective, each of the Voting Parties shall vote, or cause the vote of, all shares of Common Stock, Series A Preferred Stock and other voting securities of the Company over which such Voting Party has voting control, and will take all other necessary or desirable actions within his, her or its control (whether in his, her or its capacity as a stockholder, director or officer of the Company or otherwise) in order to ensure that the size of the Board of Directors (the "BOARD") shall be no more than five (5) and to cause the election to the Board of:

(a) One (1) representative designated by 3Com, who initially

shall be Janice Roberts;

(b) One (1) representative designated by Aether, who initially shall be David Oros; and

(c) One (1) representatives designated by the holders of Common Stock, as a class, who initially shall be Patrick McVeigh.

2. Vacancies. In the event that any representative designated as provided in Section 1 above for any reason ceases to serve as a member of the Board during his or her term of office, the parties hereto shall cause the resulting vacancy to be filled by a representative designated as provided in Section 1 by the respective person or persons or entity who designated the vacating representative. Each of the Voting Parties shall attend, and vote its shares of the voting stock of the Company in accordance with this Agreement at, each annual meeting of the stockholders of the Company and each special meeting of the stockholders of the Company involving the election of directors of the Company.

3. Application of Agreement to After-Acquired-Shares. All of the provisions of Section 1 shall apply to all voting securities held by the Voting Parties, whether issued before or after the Closing Date, and all securities issued as a replacement for the shares or with respect to the shares as a result of any stock dividend, stock split or other similar event.

4. Nontransferability. Each party hereby agrees that the obligations and covenants contained herein are unique to the original parties hereto and that no party may donate, transfer, sale, assign, pledge, hypothecate or otherwise dispose (other than to an agent, wholly-owned subsidiary or other person or entity that such party controls either directly or indirectly), any of its rights and obligations under this Agreement without the prior written consent of the Voting Parties holding at least a majority-in-interest of the aggregate voting securities collectively held by all Voting Parties, assuming full conversion of the Series A Preferred Stock. Any transfer not effected in accordance with this Section 6 shall be null and void.

5. No Heightened Duties. Each party hereby acknowledges and agrees that no fiduciary duty, duty of care, duty of loyalty or other heightened duty shall be created or imposed upon any party to any other party, the Company or other stockholder of the Company, by reason of this Agreement and/or any right or obligation hereunder.

6. Amendments; Waivers. Any term hereof may be amended or waived only by the written consent of (i) each of (a) the Voting Parties as a group holding at least a majority-in-interest of the aggregate voting securities collectively held by all Voting Parties (or their respective successors and

assigns), assuming full conversion of the Series A Preferred Stock and, (b) 3Com and (c) Aether, and (ii) with respect to any amendment or waiver that affects the rights of the Founders, then such amendment or waiver must also be approved by a majority-in-interest of the Founders. Any amendment or waiver not effected in accordance with this Section 8 shall be null and void and non-binding upon the Voting Parties and their respective successors and assigns. No waivers of any breach of this Agreement extended by any party hereto to any other party shall be construed as a waiver of any rights or remedies of such party or any other party hereto with respect to any subsequent breach.

7. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed delivered on the date of delivery, when delivered personally or by overnight courier or sent by telegram or confirmed fax, or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, to the following addresses:

(i) if to 3Com: 3Com Ventures, Inc., 5400 Bayfront Plaza, Santa Clara, CA 95052, Attn: Janice Roberts; (ii) if to Aether: Aether OpenSky Investments LLC, 11460 Cronridge Drive, Owing Mills, MD 21117, Attn: David Oros; (iii) if to a Founder, at the address below such Founder's name on Exhibit A attached hereto, (iii) if to such other Voting Parties signatory to this Agreement, at the addresses set forth on such parties signature page, or (iv) at such other address as such Voting Parties shall have furnished to the Company in writing.

8. Severability. If one or more provisions of or obligations under this Agreement are held to be invalid, illegal, or unenforceable under applicable law, then such provision or obligation shall be excluded from this Agreement, and the remaining provisions of and obligations under this Agreement shall be enforceable in full in accordance with their terms.

9. Governing Law. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.

10. Counterparts. This Agreement may be executed by facsimile and in two or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one agreement.

11. Successors and Assigns. Subject to Section 6 above, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement,

except as expressly provided in this Agreement.

12. Specific Performance. The parties hereby acknowledge that it is impossible to measure in money the damages which will accrue to a party hereto or to its heirs, personal representatives, or assignees by reason of a party's failure to perform its obligations under this Agreement and therefore agree that, in addition to and without limiting any remedies available at law, each of the parties hereto shall have full equitable remedies available to such party.

13. Termination. This Agreement shall terminate and the obligations of the Voting Parties to vote their respective shares of voting securities shall cease upon the earlier to occur of:

(a) the closing of the Company's sale of its Common Stock in a firm commitment underwriting pursuant to a registration statement under the Securities Act of 1933, as amended, the aggregate proceeds of which are not less than $15,000,000;

(b) the closing of (i) a merger or consolidation of the Company with or into any other corporation (other than a wholly-owned subsidiary corporation), (ii) the sale of all or substantially all the assets or business of the Company, or (iii) any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power is disposed of; or

(c) written consent of (i) each of (a) the Voting Parties as a group holding at least a majority-in-interest of the aggregate voting securities collectively held by all Voting

Parties (or their respective successors and assigns), assuming full conversion of the Series A Preferred Stock and, (b) 3Com and (c) Aether, and (ii) with respect to any amendment or waiver that affects the rights of the Founders, then such amendment or waiver must also be approved by a majority-in-interest of the Founders.

14. Additional Parties. The parties hereto agree that additional purchasers of the Company's Series A Preferred Stock may, subject only to section 2.3 of that certain Series A Preferred Stock Purchase Agreement between the Company, 3Com and Aether, be added as parties to this Agreement with respect to any or all securities of the Company held by them, and shall thereupon be deemed for all purposes a "Voting Party" hereunder. Any such additional party shall execute a counterpart of this Agreement, and upon execution by such additional party and by the Company, shall be considered a Voting Party for purposes of this Agreement.

IN WITNESS WHEREOF, the Voting Parties have entered into this Agreement as of the Effective Date.

FOUNDERS:

/s/ Pat McVeigh

Patrick McVeigh

/s/ Barak Berkowitz

Barak Berkowitz

/s/ Michael Dolbec

Michael Dolbec

/s/ Andy Simms

Andy Simms

SIGNATURE PAGE TO VOTING AGREEMENT

IN WITNESS WHEREOF, the Voting Parties have entered into this Agreement as of the Effective Date.

3COM VENTURES, INC.

By: /s/ Janice M. Roberts

Name: Janice M. Roberts
Title: President

Address: 5400 Bayfront Plaza
Santa Clara, CA 95052

SIGNATURE PAGE TO VOTING AGREEMENT

IN WITNESS WHEREOF, the Voting Parties have entered into this Agreement as of the Effective Date.

AETHER OPENSKY INVESTMENTS LLC

By: Aether Technologies International, L.L.C.,
Its Sole Member

By: /s/ David S. Oros

Name: David S. Oros
Title: Member

Address: 11460 Cronridge Drive
Owing Mills, MD 21117

SIGNATURE PAGE TO VOTING AGREEMENT

IN WITNESS WHEREOF, the Voting Parties have entered into this Agreement as of the Effective Date.

WS INVESTMENT COMPANY 99B

By:

Name:
Title:

SIGNATURE PAGE TO VOTING AGREEMENT

EXHIBIT 10.13

AETHER TECHNOLOGIES INTERNATIONAL, L.L.C.
11460 Cronridge Drive
Suite 106
Owings Mills, Maryland 21117

Telephone:410-654-6400
Facsimile:410-654-6554

August 9, 1999

Mr. Patrick McVeigh
President and CEO
AirWeb Corporation (d/b/a/ OpenSky Corporation)
471 Emerson Street, Suite 200
Palo Alto, California 94301

Dear Mr. McVeigh:

On June 17, 1999, 3Com Corporation ("3Com"), Aether Technologies International, L.L.C., a Delaware limited liability company ("Aether"), and AirWeb Corporation (d/b/a OpenSky Corporation), a Delaware corporation ("OpenSky") entered into a letter of intent (the "Letter of Intent") relating to the formation of OpenSky. Section 4 of the Letter of Intent sets forth certain commitments by OpenSky to Aether. This letter agreement (this "Agreement") sets forth the binding agreement of Aether and OpenSky with respect to those commitments.

The terms of the commitments between Aether and OpenSky are as follows:

1. Development Services. During the ten-month period following the date of this Agreement, OpenSky agrees to purchase from Aether, and Aether agrees to provide to OpenSky services for the development of (a) a network operations center; (b) initial wireless service systems integration for carrier launches during the term of the development agreement; (c) a Palm OS email client supporting access to IMAP4, POP3, SMTP, Exchange and Notes, and the requisite integration with the AIM server; and (d) operation of OpenSky's network operation centers. During this period, Aether will provide OpenSky and 3Com a detailed reconciliation of amounts billed and work performed on a quarterly basis. Aether's services shall be billed on a time and materials basis. Aether's current hourly charge for its engineers is $145 per hour. In

addition, Aether will charge $1.50 per month per customer for operation of OpenSky's network operations center. This charge does not include direct customer support services. Aether began its development activities for OpenSky prior to the date of this Agreement. In consideration of the services provided or to be provided by Aether to OpenSky, OpenSky will make an initial payment to Aether in the amount of $500,000 within five (5) days following signing of this

Agreement. In addition, OpenSky will pay Aether an additional amount $2,500,000 in monthly installments of $250,000 per month on the first day of each month during the period from September 1, 1999 through June 1, 2000. OpenSky's obligation to make such payments to Aether shall be subject to OpenSky's acceptance of such services, which acceptance shall be made in accordance with customary industry norms for acceptance, or upon such other criteria as may be established from time to time by OpenSky and Aether.

2. Resale of OpenSky Services. During the five (5) year period following the date of this Agreement, OpenSky grants Aether the right to resell OpenSky's basic package of web clipping and e-mail services, subject to such terms and conditions as OpenSky offers its other basic package customers, which terms and conditions shall not be less favorable than those available to other OpenSky basic package customers. Aether would pay OpenSky a fee of $3.00 per individual subscriber per month for such services and would otherwise be subject to no less favorable terms and conditions as OpenSky provides to any other reseller of its services. Aether will be solely responsible for all customer support and service in connection with such services, as well as for airtime charges.

3. ROFR on Development Activities. During the two (2) year period following the date of this Agreement, OpenSky grants Aether a right of first refusal to provide OpenSky with all custom enterprise development requirements for vertical applications involving investment banking and brokerage activities. During this period, Aether will also be OpenSky's preferred provider of custom enterprise development for all vertical applications. The rights set forth in this Section 3 shall be subject to requisite final approval of any third party customer of OpenSky.

4. Representations and Warranties.

(a) OpenSky represents and warrants to Aether that (i) OpenSky has full power and authority to enter into this Agreement; (ii) all necessary approvals for the execution, delivery and performance of this Agreement by

OpenSky have been obtained, and this Agreement has been duly executed and delivered by OpenSky and constitutes the legal and binding obligation of OpenSky enforceable in accordance with its terms.

(b) Aether represents and warrants to OpenSky that (i) Aether has full power and authority to enter into this Agreement; (ii) all necessary approvals for the execution, delivery and performance of this Agreement by Aether have been obtained, and this Agreement has been duly executed and delivered by Aether and constitutes the legal and binding obligation of Aether enforceable in accordance with its terms.

5. Binding Agreement. OpenSky and Aether confirm their intention that the agreements in this Agreement will be more particularly set forth in a long-form contract to be worked out by OpenSky and Aether as promptly as possible; provided, however, that such

intention of the parties concerning a long-form contract in no way vitiates the validity and binding nature of this Agreement. It is understood that this signed Agreement constitutes a fully enforceable agreement concerning its subject matter; and OpenSky and Aether will prepare a long-form contract merely to thoroughly manifest their understanding. OpenSky and Aether agree to negotiate in good faith to reach agreement on such long-form contract. Nevertheless, all of the material terms of the subject matter of this Agreement are set forth in this Agreement and, if OpenSky and Aether fail to agree on any other terms, the terms set forth in this Agreement shall be independently enforceable.

6. Severability. The invalidity or unenforceability of any provision of this Agreement shall not impair the validity or enforceability of any other provision.

7. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

8. Entire Agreement. This Agreement constitutes the entire agreement between OpenSky and Aether in respect of the subject matter contained in this Agreement and supersedes all prior agreements.

9. Notices. Any notice or other communication required or permitted hereunder shall be in writing, shall be sent in accordance with the provisions of Section 8.6 of the Series A Preferred Stock Purchase Agreement dated on or

about the date hereof among OpenSky, Aether and the other Purchasers named therein.

10. Governing Law. This Agreement shall be governed by the laws of the State of Maryland, without regard to principles of conflicts of laws.

Please confirm that the terms set forth in this Agreement are acceptable to you by signing and returning to me the duplicate execution copy of this Agreement.

Very Truly Yours,
Aether Technologies International L.L.C.

By: /s/ David S. Oros

Davis S. Oros
President & CEO

AGREED AND CONFIRMED, AUGUST 6, 1999

AirWeb Corporation (d/b/a OpenSky Corporation)

By: /s/ Pat McVeigh

Patrick McVeigh
President and CEO

EXHIBIT 10.14

SOFTWARE LICENSE AGREEMENT

AETHER INTELLIGENT MESSAGING (AIM)

This Software License Agreement ("Agreement") is made effective as of the date last executed below ("Effective Date") by and between Aether Technologies International, L.L.C. (hereinafter, "Aether" or "Aether Technologies"), located at 11460 Cronridge Drive, Owings Mills, MD 21117, and AirWeb Corporation (d/b/a OpenSky Corporation) ("Licensee"), located at 471 Emerson Street, Suite 200, Palo Alto, CA 94301.

The parties agree as follows:

1. Licensed Software. The software to be licensed to Licensee (which excludes all of Licensee's affiliates, subsidiaries, partnerships, associations or other entities or legal relationships in whatever form (collectively referred to as "Licensee's Subsidiaries")), is Aether's AIM software and documentation (the "Licensed Software"), as described on Exhibit A. The portion of the Licensed Software described on Exhibit B hereto is referred to herein as the "Client Code." All references herein to Licensed Software shall include the Client Code.

2. License Grant. Subject to the terms of this Agreement, Aether grants to Licensee a personal, perpetual, worldwide, irrevocable, royalty-free, non-exclusive and, except as provided in Section 7, non-transferable license to (a) reproduce, display and use the Licensed Software at any of Licensee's data centers and (b) reproduce, sublicense and distribute, directly or indirectly through value added resellers, original equipment manufacturers, system integrators or other intermediaries, the Client Code solely for use by Licensee's customers on wireless hardware devices. Before copying the Licensed Software, Licensee shall provide Aether with 90 days' written notice and Aether will have the opportunity to make copies of the Licensed Software and install such copies in additional data centers identified by Licensee. Licensee shall also have the right to make two copies of the Licensed Software as archival or backup copies for its own internal use. No rights are granted under this Agreement to modify the Licensed Software. Except as otherwise provided in this Section 2, Licensee is expressly prohibited from licensing or distributing the Licensed Software to any third party, which includes Licensee's Subsidiaries, without the prior written permission of Aether, and any such attempted license or distribution is a material breach of this Agreement.

Licensee acknowledges that the Licensed Software contains intellectual property belonging exclusively to Aether Technologies. Except as provided herein, Licensee acknowledges and agrees that this Agreement does not grant any

right, title or interest in and to any patents, copyrights, trade secrets, trademarks or other property rights or rights of ownership in the Licensed Software in whatever form. All rights not expressly granted by Aether hereunder are reserved by Aether Technologies.

3. License Fee. No fees are due and payable by Licensee to Aether or from Aether to Licensee for the license granted or services provided pursuant to this Agreement. Aether has agreed to enter into this Agreement as consideration for the shares of Series A Preferred Stock of Licensee issued and sold to Aether by Licensee as set forth in that certain Series A Preferred Stock Purchase Agreement, dated as of August __, 1999.

4. Copyright Notice. OpenSky shall reproduce all copyright notices contained in the Licensed Software on each copy made by Licensee of the Licensed Software in whatever form.

5. Term. This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated pursuant to this Section 5. Either party may terminate this Agreement by providing written notice to the other party if the other party is in material breach of this Agreement and has not remedied such breach within thirty (30) days of notice thereof. The parties agree that their respective obligations and applicable limitations under Sections 2 (License Grant), 7 (No Assignment; No Reverse Engineering), 8 (Confidentiality), 9 (Representations and Warranties), 10 (Indemnification), and 11 (Limitation of Liability) shall survive any expiration or termination of this Agreement and that any other obligations and duties which by their nature extend beyond the expiration or termination of this Agreement shall survive any expiration or termination and shall remain in effect for a period of ten (10) years thereafter.

6. Support.

2

(a) Aether shall, at Aether's sole expense, provide Licensee with all Updates as they become generally available to Aether's licensees. In this Agreement, "Updates" means all new versions of the Licensed Software, including all error corrections, patches, work-arounds, fixes, enhancements, new versions defined by changes to the version number (e.g., 2.0 to 3.0).

(b) Should Licensee need any custom modifications to the Licensed Software, Aether agrees to negotiate in good faith an agreement for the provision of such modifications on a time and materials basis.

(c) If at any time during the term of this Agreement, the Licensed Software fails to substantially conform to the Documentation, Aether shall, at its option, either modify or replace the Licensed

Software to conform to the Documentation in a prompt manner after receiving notice of any substantial nonconformity from Licensee.

7. No Assignment; No Reverse Engineering. Neither this Agreement nor the rights or obligations hereunder, either in whole or in part, may be assigned or otherwise transferred, whether voluntarily or by operation of law, by Licensee without the prior written consent of Aether, which consent may be withheld in Aether's sole discretion, and any attempted transfer or assignment is null and void and shall be deemed a material breach of this Agreement. Notwithstanding the foregoing, Licensee may assign this Agreement to an acquirer of all of the stock or substantially all of the assets of Licensee. Licensee shall not reverse engineer, reverse compile or disassemble the Licensed Software.

8. Confidentiality. Licensee hereby acknowledges that the Licensed Software, embodied in whatever form or media, constitutes a valuable trade secret belonging to Aether, and Licensee agrees to hold such trade secret in strict confidence, and not to use or disclose such trade secret, except as permitted hereunder. Licensee further acknowledges that Aether is the owner of and retains all title to the Licensed Software recorded on the original media and all subsequent copies regardless of the form or media.

9. Representations and Warranties.

(a) Each party represents and warrants to the other that (i) it has the legal right and corporate power and authority to execute, deliver, and perform this Agreement, provided that the sole and exclusive remedy for a breach of this Subsection 9 as it relates to intellectual property rights will be the indemnification obligations (including the limits thereto) set forth in Section 10; (ii) its execution, delivery, and performance of this Agreement has been duly authorized in accordance with all appropriate corporate power and authority; (iii) the individual signing this Agreement on its behalf has been authorized to execute this Agreement in the capacity set forth under such individual's name on the signature page hereof; and (iv) the execution, delivery, and performance of this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and that the remedy of specific performance may be subject to judicial discretion.

(b) Aether represents and warrants to Licensee that the Licensed Software will perform substantially in accordance with its Documentation.

10. Indemnification.

(a) General. Aether, at its own expense, will indemnify and defend Licensee, its employees, representatives, agents and affiliates against any claim, suit, action or proceeding based on or arising from a

claim brought by a third party that the use, copying, display, or distribution of the Licensed Software by Licensee as permitted in Section 2 infringes in any manner Intellectual Property Right of any third party. In this Agreement, "Intellectual Property Rights" means all rights in, to, or arising out of: (i) any U.S., international or foreign patent or any application therefor and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any

country), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask work registrations, and applications therefor in the U.S. or any foreign country, and all other rights corresponding thereto throughout the world; (iv) moral rights; and (v) any other proprietary rights anywhere in the world similar to those described in this definition. Aether's obligations set forth in this Section 10 are conditioned on (i) Aether's prompt notice of any indemnified claim, and (ii) Licensee permits Aether to assume and control the defense of the action, with counsel chosen by Aether. Aether will pay any and all costs, damages, and attorneys fees awarded against Licensee in connection with or arising from any such claim, suit or proceeding.

(b) Election of Remedy. In the event that Licensee's ability to use the Licensed Software is enjoined due to a claim covered by the indemnity obligations set forth in Section 10(a) above, Aether will, at its option and expense, either: (i) procure for Licensee the right to use the Licensed Software; (ii) replace the infringing material so that it is non-infringing; (iii) modify the infringing material so that it is non-infringing or, (iv) if none of the above options are reasonably available after commercially reasonable attempts by Aether, Aether may, at its option, terminate this Agreement.

(c) Sole and Exclusive Remedy. The foregoing states Aether's entire liability and Licensee's sole and exclusive remedy with respect to the infringement of intellectual property rights of any third party.

(d) LIMIT ON INDEMNITY LIABILITY. IN NO EVENT SHALL AETHER'S AGGREGATE, CUMULATIVE LIABILITY TO LICENSEE ARISING OUT OF OR RELATING TO THE INDEMNITY OBLIGATIONS DESCRIBED IN THIS SECTION 10 EXCEED ONE MILLION DOLLARS ($1,000,000). THIS LIMITATION ON LIABILITY IS CUMULATIVE WITH ALL PAYMENTS BEING AGGREGATED TO DETERMINE SATISFACTION OF THE

LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS OR SUITS UNDER THIS SECTION WILL NOT ENLARGE THE LIMIT.

(e) Warranty Disclaimer. SUBJECT TO AETHER'S OBLIGATIONS UNDER SECTION 9(b), AETHER TECHNOLOGIES MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE LICENSED SOFTWARE IS FREE OF ERRORS. THE LICENSED SOFTWARE IS PROVIDED ON AN "AS IS" BASIS AND ALL RISK IS WITH LICENSEE. SUBJECT TO AETHER'S OBLIGATIONS UNDER SECTION 9(b), AETHER TEHNOLOGIES MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AS TO ANY MATTER WHATSOEVER. IN PARTICULAR, ANY AND ALL WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED.

11. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR REVENUE, OR INTERRUPTION OF BUSINESS IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Entire Agreement. This Agreement and any attachments hereto represent the entire agreement and understanding of the parties with respect to the subject matter hereof and supersede all prior representations, understandings and agreements, whether oral or written, with respect to such subject matter. This Agreement may be modified only by a writing executed by both parties hereto.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland as such laws are applied to agreements entered into and to be performed entirely within Maryland between Maryland residents and by the laws of the United States. The parties hereby submit to the jurisdiction of the State of Maryland, and the United States District Court of Maryland, and agree that such tribunals

shall have jurisdiction and venue over all controversies in connection herewith. The parties exclude in its entirety the application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods.

14. Export Regulations. Licensee shall not export, directly or indirectly, any information acquired under this Agreement or any products utilizing any such information to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other government approval without first obtaining such license or approval.

15. Relationship of the Parties. Each of the parties shall at all times during the term of this Agreement act as, and shall represent itself to be, an independent contractor, and not an agent or employee of the other.

16. Waiver. A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply solely to the instance to which such waiver is directed. The exercise of any right or remedy provided in this Agreement shall be without prejudice to the right to exercise any other right or remedy provided by law or equity, except as expressly limited by this Agreement.

17. Injunctive Relief. The copying or use of the Licensed Software in a manner inconsistent with any provision of this Agreement will cause irreparable injury to Aether for which Aether will not have an adequate remedy at law. Aether shall be entitled to equitable relief in court, including but not limited to temporary restraining orders, preliminary injunctions and permanent injunctions.

18. Severability. In the event any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

19. Notices. Any notice provided for or permitted under this Agreement will be treated as having been given when (a) delivered personally, (b) sent by confirmed telex or telecopy, (c) sent by commercial overnight courier with written verification of receipt, or (d) mailed postage prepaid by certified or registered mail, return receipt requested, to the signatory of the party to be notified, at the address set forth above, or at such other place of which the other party has been notified in accordance with the provisions of this Section 19 (Notices). Copies of all notices to Aether shall also be sent to the following address: Aether Technologies, Attention, Chief Financial Officer, 11460 Cronridge Drive, Owings Mills, MD 21117, telecopy (410) 654-6554. Copies of all notices to Licensee shall also be sent to the following address: Wilson, Sonsini, Goodrich & Rosati, Attention: Aaron J. Alter, Esq., 650 Page Mill Road, Palo Alto, CA 94304, facsimile (650) 493-6811. Notices will be treated as having been received upon the earlier of actual receipt or five (5) days after posting.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

Licensee: AirWeb Corporation (d/b/a OpenSky Corporation)	Aether Technologies International, L.L.C.:
By: /s/ Michael D. Dolbec	By: /s/ David S. Oros

Printed: Michael D. Dolbec	Printed: David S. Oros
Title: CFO and Secretary	Title: Manager
Date: August 9, 1999	Date: 8/9/99

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SCHEDULE A

DETAILED SOFTWARE LIST

The object code for the software described in the attached documentation and the attached documentation

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SCHEDULE B

DESCRIPTION OF CLIENT CODE

The object code for the Client Software described in the attached documentation and the attached documentation relating to the Client Software

EXHIBIT 10.15

Warrant No. PA-1

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM UNDER SAID ACT.

AIRWEB CORPORATION

WARRANT
TO PURCHASE 3,000,000 SHARES
OF
SERIES A PREFERRED STOCK

AUGUST 9, 1999

THIS CERTIFIES that, for value received, Aether OpenSky Investments LLC (the "HOLDER"), is entitled, upon the terms and subject to the conditions hereinafter set forth, at any time after August 9, 1999 (the "EFFECTIVE DATE") and prior to the Expiration Date (as defined below), to subscribe for and purchase from AirWeb Corporation, a Delaware corporation (the "COMPANY"), 3,000,000 fully paid non-assessable shares of the Company's Series A Preferred Stock ("SERIES A PREFERRED") at an exercise price of $0.83 1/3 per share (the "EXERCISE PRICE"). The Exercise Price and the number of shares issuable will be reduced as a result of any partial exercise of this Warrant and will be subject to adjustment under the terms hereof.

The right to exercise this Warrant will terminate on the Expiration Date. The "EXPIRATION DATE" shall mean the earlier to occur of (i) 5:00 p.m., Pacific Standard Time, on January 31, 2000; (ii) fifteen (15) days after the closing date of a public offering of the common stock of Aether OpenSky Investments LLC pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "ACT"); (iii) the last business day immediately preceding the closing date of a public offering of the Company's common stuck pursuant to an effective registration statement under the Act (an "IPO"); or (iv) the last business day immediately preceding the closing date of any sale by the Company of all or substantially all its assets or a merger or consolidation of the Company with or into another corporation as a result of which the shareholders of the Company will hold less than 50% of the voting equity securities of the surviving corporation (collectively, a "SALE OF THE COMPANY").

1. Transfer of Warrant. This Warrant is for the benefit of the Holder only, and may not be transferred or assigned without the prior written consent of the Company except to the Holder's parent, Aether Technologies International LLC (or its successor in interest).

2. Exercise of Warrant. The purchase rights represented by this Warrant are exercisable by the Holder hereof, in whole at any time or in part from time to time after the Effective Date and before the Expiration Date by the surrender of this Warrant, together with the Notice of Exercise attached hereto duly completed and executed at the principal executive office of the Company (or

such other office or agency of the Company as it may designate by notice in writing to the Holder hereof at the address of such holder appearing on the books of the Company), and upon payment of the purchase price of the shares thereby purchased (by cash or by check or bank draft payable to the order of the Company and/or by cancellation of indebtedness of the Company to the holder hereof, if any, at the time of exercise in an amount equal to the purchase price of the shares thereby purchased); whereupon the holder of this Warrant shall be entitled to receive a certificate for the number of shares so purchased; provided that the Company will place on each certificate a legend substantially the same as that appearing on this Warrant, in addition to any legend required by any applicable state or federal law. If this Warrant is exercised in part, the Company will issue to the holder hereof a new Warrant upon the same terms as this Warrant but for the balance of shares for which this Warrant remains exercisable. The Company agrees that upon exercise of this Warrant the holder surrendering this Warrant shall be deemed to be the record owner of the shares issued upon exercise as of the close of business on the date on which this Warrant shall have been exercised as aforesaid. Certificates for shares purchased hereunder shall be delivered to the holder hereof within a reasonable time after the date on which this Warrant shall have been exercised as aforesaid.

The Company covenants that all shares which may be issued upon the exercise of rights represented by this Warrant will, upon exercise of the rights represented by this Warrant, be fully paid and nonassessable and free from all preemptive rights, taxes, liens and charges in respect of the issue thereof (other than taxes in respect of any transfer occuring contemporaneously with such issue) and that all shares of common stock which may he issued upon conversion of such shares will, upon such conversion, be fully paid and non-assessable and free from all preemptive rights, taxes, liens and charges in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

3. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. In lieu thereof, the Company shall pay cash equal to any such fractional shares, based upon the applicable exercise price.

4. No Rights as Stockholder. This Warrant does not entitle the holder hereof to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof.

5. Loss, Theft, Destruction or Mutilation of Warrant. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of this Warrant, if mutilated, the Company will make and deliver a new Warrant of like tenor (but with no additional rights or obligations) and dated as of such cancellation, in lieu of this Warrant.

6. Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday or a Sunday or shall be a legal holiday, then such action may be taken or such right may be exercised on the next succeeding day not a Saturday, Sunday or legal holiday.

7. Cash Distributions. No adjustment will be made to the Exercise Price on account of cash dividends or interest on the Company's Series A Preferred Stock or any other securities that may become purchasable hereunder.

8. Notice of IPO or Sale of the Company. In the event that the Company shall propose at any time to effect an IPO or a Sale of the Company, the Company shall send to the Holder at least ten (10) days' prior notice of the date on which the same shall take place. Each such written notice shall be given by first class mail, postage prepaid, addressed to the Holder at the address shown on the Company's books for the Holder.

9. Adjustment of Warrant Shares and Purchase Price.

(a) In case the Company shall at any time after the date of this Warrant subdivide (by way of a stock split) or declare a stock dividend or combine the outstanding shares of Series A Preferred Stock for which this Warrant is exercisable, the Exercise Price shall forthwith be proportionately decreased in the case of a subdivision or stock dividend or increased in the case of a combination and the number of shares deliverable upon the exercise of this Warrant shall be determined by (i) dividing the purchase price in effect prior to such adjustment by the purchase price as adjusted, and (ii) multiplying the resulting quotient by the number of shares deliverable upon exercise of this Warrant immediately prior to such adjustment.

(b) In case, at any time after the date of this Warrant, of any capital reorganization, or any reclassification of the stock of the Company (other than a change in par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of the Company with or into another person (other than a consolidation or merger

in which the Company is the continuing entity and which does not result in any change in the Series A Preferred Stock or other securities for which this Warrant is then exercisable), this Warrant (unless it terminates upon the consummation of such event), after such reorganization, reclassification, consolidation or merger, shall be exercisable into the kind and number of shares of stock or other securities or property of the Company or of the entity resulting from such consolidation or surviving such merger to which such holder would have been entitled if immediately prior to such reorganization, reclassification, consolidation or merger, it had exercised this Warrant. The provisions of this subparagraph (b) shall similarly apply to successive reorganizations, reclassifications, consolidations or mergers.

10. Reservation and Issuance of Shares. The Company will at all times after the Effective Date keep reserved for issuance upon exercise of this Warrant the number of shares of Series A Preferred Stock of the Company issuable upon full exercise hereof, and will also at all times after the Effective Date keep reserved for issuance, the number of shares of common stock which are then issuable upon conversion of such shares that are issuable upon full exercise hereof. The Company covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necesssary certificates for shares of the Company upon the exercise of the purchase rights under this Warrant.

11. Waiver and Amendment. Neither this Warrant nor any term hereof may be changed, waived, discharged or terminated orally. Any term of this Warrant may be amended and the

observance of any such term may be waived (either generally or in a particular instance, and either retroactively or prospectively) with the written consent of the Company and the Holder.

12. Communications. All notices or other communications hereunder shall be in writing and shall be given by registered or certified mail (postage prepaid and return receipt requested) or sent by a recognized overnight delivery service that can provide proof of delivery upon request addressed to the Holder or the Company at their respective addresses as set forth in the Agreement or such other address as any party may designate to the others in accordance with the aforesaid procedure. All notices and other communications shall be deemed to have been given as of the date of deposit in the United States mail or deposit with the overnight delivery service, as the case may be.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its President and Chief Executive Officer thereunto duly authorized.

AirWeb Corporation,
a Delaware Corporation

By: /s/ PATRICK McVEIGH

Patrick McVeigh
President and Chief Executive Officer

Dated: August 9, 1999

NOTICE OF EXERCISE

TO: AIRWEB CORPORATION

1. The undersigned hereby elects to purchase _____ shares of Series A Preferred Stock of AirWeb Corporation, pursuant to the terms of the attached Warrant, and tenders herewith payment of the purchase price in full, together with all applicable transfer taxes, if any.

2. Please issue a certificate or certificates representing said shares of Series A Preferred Stock in the name of the undersigned or in such other name as is specified below:

(Name)

(Address)

(Date)

(Name of Warrant Holder)

By:

Title:

(name of purchaser, and title and signature of authorized person)

EXHIBIT 21.1

LIST OF SUBSIDIARIES

Aether OpenSky Investments LLC