

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2013-01-14** | Period of Report: **2013-01-09**  
SEC Accession No. [0001098277-13-000002](#)

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FILER

**WEBSense INC**

CIK: **1098277** | IRS No.: **510380839** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **000-30093** | Film No.: **13526608**  
SIC: **7389** Business services, nec

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SAN DIEGO CA 92121  
8583208000

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

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**FORM 8-K**

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**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

Date of Report (date of earliest event reported): January 9, 2013

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**WEBSENSE, INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(state or other jurisdiction  
of incorporation)

**000-30093**  
(Commission  
File Number)

**51-0380839**  
(I.R.S. Employer  
Identification No.)

**10240 Sorrento Valley Road  
San Diego, California 92121**  
(Address of principal executive offices) (Zip Code)

**(858) 320-8000**  
(Registrant's telephone number, including area code)

**N/A**  
(Former name or former address, if changed since last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### **Item 1.01 Entry Into a Material Definitive Agreement.**

The information set forth under Items 5.02(b) and 5.02(c) of this report is incorporated herein by reference.

### **Item 2.02 Results of Operations and Financial Condition.**

On January 13, 2012, Websense, Inc. (“*Websense*” or the “*Company*”) issued a press release announcing selected preliminary financial results for the quarter ended December 31, 2012. A copy of the press release is attached hereto as Exhibit 99.1. These financial results are unaudited and preliminary, and do not present all information necessary for an understanding of the Company's financial condition for the fourth quarter and fiscal year ended December 31, 2012. Complete financial results for the fourth quarter and fiscal year ended December 31, 2012 will be released after the market close on January 29, 2013.

### **Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

#### *(b) Retirement and Resignation of Chief Executive Officer*

On January 13, 2013, Websense announced that Gene Hodges is retiring and has resigned from his position as Chief Executive Officer and as a member of the Board of Directors (the “*Board*”) of the Company effective January 13, 2013. A copy of the press release is attached hereto as Exhibit 99.1.

The Company entered into a Retirement and Consulting Agreement with Mr. Hodges, dated as of January 10, 2013 (the “*Consulting Agreement*”), under which Mr. Hodges has agreed to provide consulting services to the Company beginning January 14, 2013 through February 28, 2014, unless earlier terminated by the Company for Cause (as defined in the Consulting Agreement) (the “*Consulting Period*”). Pursuant to the Consulting Agreement, Mr. Hodges is entitled to receive the following benefits: (1) a monthly consulting fee of \$5,000 and (2) expense reimbursement for reasonable and appropriate expenses incurred in connection with performing services under the Consulting Agreement. Mr. Hodges' unvested stock options and restricted stock unit (“*RSU*”) awards, including performance-based RSUs, will continue to vest during the Consulting Period in accordance with the Company's 2009 Equity Incentive Plan (the “*2009 Plan*”). A copy of the Consulting Agreement is attached as Exhibit 10.1 hereto.

The information set forth under Item 5.02(c) of this report with respect to Mr. McCormack ceasing to serve as President effective upon his appointment as Chief Executive Officer is incorporated herein by reference.

#### *(c) Appointment of Chief Executive Officer*

In connection with the retirement and resignation of Mr. Hodges, the Board appointed John McCormack as the Company's Chief Executive Officer and a director, effective January 13, 2013. Mr. McCormack previously served as President of Websense since April 2009 and as Senior Vice President, Product Development of Websense from July 2006 to April 2009. Effective upon his appointment as Chief Executive Officer, Mr. McCormack discontinued serving as President of Websense. Additional biographical information is included in the Company's Form 10-K filed with the Securities and Exchange Commission (the “*SEC*”) on February 23, 2012, under the heading “Executive Officers of the Registrant,” which information is incorporated herein by reference.

On January 10, 2013, Mr. McCormack entered into an employment agreement (the “*Employment Agreement*”) detailing the terms of his employment as Chief Executive Officer. A copy of the Employment Agreement is attached as Exhibit 10.2 hereto. The Employment Agreement is for at-will employment without a set term and supersedes all prior employment agreements, including the employment agreement dated July 5, 2006 between the Company and Mr. McCormack. Pursuant to the Employment Agreement, Mr. McCormack will receive a base salary at an initial annual rate of \$525,000 and will be eligible to receive an annual cash performance bonus with a target bonus of 100% of his annual base salary. The actual amount of the target bonus earned will be based upon the Company's achievement of billings and operating income targets as established by the Compensation Committee (the “*Compensation Committee*”) of the Board.

In connection with his promotion, and subject to the approval of the Compensation Committee, Mr. McCormack will be granted a non-qualified stock option to purchase up to 100,000 shares of the Company's common stock and a 2013 annual refresh non-qualified stock option to purchase up to 150,000 shares of the Company's common stock (collectively, the "**Stock Options**"). The Stock Options will be granted pursuant to the 2009 Plan and the per share exercise price of the common stock subject to each of the Stock Options will be equal to the closing price of the Company's common stock as reported on the NASDAQ Global Select Market on the grant date, which is expected to be January 31, 2013. The Stock Options each will have a term of seven years and the shares subject to the Stock Options will vest over four years, with 25% of the total shares vesting on the first anniversary of the date of grant, and the remainder vesting in equal monthly installments thereafter.

In connection with his promotion, and subject to the approval of the Compensation Committee, Mr. McCormack will also be granted an RSU award for 34,000 shares of the Company's common stock (the "**Promotion RSU Award**") and, as part of the 2013 annual equity refresh awards granted to the Company's executive officers, (1) an RSU award for 25,000 shares of the Company's common stock subject to performance-based vesting (the "**Performance-Based RSU Award**") and (2) an RSU award for 25,000 shares of the Company's common stock subject to time-based vesting (the "**Time-Based RSU Award**") and collectively with the Promotion RSU Award and the Performance-Based RSU Award, the "**RSU Awards**"). The RSU Awards will be granted pursuant to the 2009 Plan on February 10, 2013, the Company's quarterly RSU award grant date. The shares subject to the Promotion RSU Award and the Time-Based RSU Award will vest over four years, with 25% of the total shares vesting on the first anniversary of the date of grant and the remainder vesting in equal installments semi-annually thereafter. The shares subject to the Performance-Based RSU Award will be subject to performance-based vesting criteria as established by the Compensation Committee. Assuming such performance-based vesting criteria are met, 50% of the shares subject to the Performance-Based RSU Award will vest on February 10, 2015 and the remaining 50% of the shares subject to the Performance-Based RSU Award will vest on February 10, 2016.

Mr. McCormack will continue to be eligible to participate in the Company's standard benefit plans for executives, which include life, long-term disability, dental, vision and medical insurance and an optional 401(k) savings plan, Employee Stock Purchase Plan, cafeteria (flex 125) plan and Employee Assistance Plan.

Mr. McCormack will also continue to participate in the Company's Officer Change in Control Severance Benefit Plan (the "**Severance Plan**") as a "Tier One Officer". Under the Severance Plan, Mr. McCormack is entitled to receive severance benefits if his employment with the Company is involuntarily terminated without Cause (as defined in the Severance Plan) or if he voluntarily resigns with Good Reason, as defined in Mr. McCormack's participation agreement, during the period beginning two months prior to a specified Change in Control (as defined in the Severance Plan) and ending 18 months following a Change in Control.

Pursuant to the Employment Agreement, if Websense terminates Mr. McCormack's employment other than for Cause or Mr. McCormack resigns for Good Reason, Mr. McCormack is entitled to a severance payment in the form of his annual base salary and his annual target bonus in effect as of the date of such termination or resignation paid in 12 equal monthly installments, less standard deductions and withholdings, and continued payment of the health insurance premium paid on his behalf by the Company up to a maximum of 12 months from the date of termination or resignation. The severance benefits are contingent upon Mr. McCormack providing the Company with a fully effective waiver and release of claims in a form satisfactory to the Company and his compliance with the Company's standard non-competition and non-solicitation requirements. Both "Cause" and "Good Reason" are defined in the Employment Agreement. The severance benefits provided under the Employment Agreement are in lieu of, and not in addition to, the severance benefits provided under Section 2 of Mr. McCormack's participation agreement under the Severance Plan.

(c) *Appointment of Directors*

The information set forth under Item 5.02(c) of this report with respect to the appointment of Mr. McCormack as a director to fill the vacancy created by the resignation of Mr. Hodges as a director is incorporated herein by reference. Other than as described in Item 5.02(c) and as set forth in the Employment Agreement, Mr. McCormack will not receive any additional compensation for his service as a director of the Company.

On January 9, 2013, the Board approved an increase to the total number of authorized directors from seven to eight and, upon the recommendation of the Nominating and Corporate Governance Committee of the Board, elected Charles M. Boesenberg to fill the vacancy and serve as a director effective January 13, 2013. Mr. Boesenberg will serve until the Company's 2013 annual meeting of its stockholders and until his successor is duly elected and qualified, or, if sooner, until his death, resignation or removal.

Pursuant to the terms of the Company's non-discretionary grant program for its non-employee directors under the 2009 Plan, on January 31, 2013 Mr. Boesenberg will automatically be granted an option (the “**Non-Discretionary Option**”) to purchase up to 4,279 shares of the Company's common stock and an RSU award of 837 shares of the Company's common stock (the “**Director RSU**”). In addition to the equity awards granted under the Company's non-discretionary grant program, subject to the approval of the Compensation Committee, on January 31, 2013 Mr. Boesenberg will be granted a discretionary stock option grant (the “**Discretionary Option**”) and together with the Non-Discretionary Option, the “**Director Options**”) to purchase 100,000 shares of the Company's common stock. The per share exercise price of the common stock subject to each of the Director Options will be equal to the closing price of the Company's common stock as reported on the NASDAQ Global Select Market on January 31, 2013. The shares subject to the Non-Discretionary Option and the Director RSU will vest, and any repurchase right, shall lapse, in a series of five successive equal monthly installments beginning on February 28, 2013. The shares subject to the Discretionary Option will vest over four years, with 25% vesting on the first anniversary of the date of grant and the remainder vesting in equal monthly installments thereafter. The Director Options are immediately exercisable in whole, but the unvested portions thereof are subject to a right of repurchase in favor of the Company. The Director Options each have a maximum term of seven years beginning on January 31, 2013.

Mr. Boesenberg's membership on the Board's committees will be determined in the near future.

Mr. Boesenberg will receive compensation for his service as a director in accordance with the Company's compensation policies for non-employee directors, which are described under the heading “Compensation of Directors” in the Company's proxy statement filed with the SEC on April 19, 2012.

Mr. Boesenberg has entered into an indemnification agreement with the Company in substantially the form filed as an exhibit to the Company's registration statement on Form S-1 (File No. 333-95619), filed with the SEC on March 3, 2000, as amended.

Additional information about Mr. Boesenberg can be found in the press release issued by the Company on January 13, 2013, a copy of which is attached hereto as Exhibit 99.1.

(c) *Material Compensatory Plans*

The information set forth under Items 5.02(b) and 5.02(c) of this report is incorporated herein by reference. The descriptions of the Consulting Agreement and the Employment Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of those documents attached hereto.

**Item 8.01 Other Events.**

On January 13, 2013, the Company issued a press release announcing selected preliminary financial results for the quarter ended December 31, 2012, the resignation of Mr. Hodges from his position as Chief Executive Officer and as a member of the Board, the appointment of Mr. McCormack as the Company's Chief Executive Officer, the appointment of Mr. McCormack and Mr. Boesenberg as directors of the Company and the appointment of Russ Dietz as Chief Technology Officer. A copy of the Company's press release is furnished with this Form 8-K and attached hereto as Exhibit 99.1. The information in Item 2.02 and Exhibit 99.1 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference into any filing under the Exchange Act or the Securities Act of 1933, as amended, whether filed before or after the date hereof and regardless of any general incorporation language in such filing.

**Item 9.01 Financial Statements and Exhibits.**

- (a) Not applicable
- (b) Not applicable
- (c) Not applicable
- (d) Exhibits

<b><u>Exhibit Number</u></b>	<b><u>Description</u></b>
10.1	Retirement and Consulting Agreement by and between Websense, Inc. and Gene Hodges, dated January 10, 2013
10.2	Employment Agreement by and between Websense, Inc. and John McCormack, dated January 10, 2013
99.1	Press release issued by Websense, Inc. on January 13, 2013

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**SIGNATURE**

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

WEBSense, INC.

Date: January 14, 2013

By: /s/ Michael A. Newman  
Michael A. Newman  
Chief Financial Officer  
(principal financial accounting officer)

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## Exhibit Index

<u>Exhibit Number</u>	<u>Description</u>
10.1	Retirement and Consulting Agreement by and between Websense, Inc. and Gene Hodges, dated January 10, 2013
10.2	Employment Agreement by and between Websense, Inc. and John McCormack, dated January 10, 2013
99.1	Press release issued by Websense, Inc. on January 13, 2013

January 10, 2013

Vernon Gene Hodges

**Re: Retirement and Consulting Agreement**

Dear Gene:

This letter sets forth our agreement (the "**Agreement**") regarding your retirement from Websense, Inc. (the "**Company**"), and your associated provision of consulting services to the Company. This Agreement will become effective on the Effective Date specified in Section 12 below.

**1. Retirement Date.** The Company agrees to accept your resignation from all positions you hold or have held as an officer, director, or employee of the Company effective as of January 13, 2013 (the "**Retirement Date**"), which will be your last day of employment with the Company.

**2. Consultancy.** The Company agrees to retain you as a consultant, and you agree to provide consulting services, under the terms specified below.

**a. Consulting Period.** The consulting relationship shall commence on the day following the Retirement Date, and continue through February 28, 2014 (the "**Consulting Period**"). The Company shall have the right to terminate the consulting relationship immediately, without prior notice and without any financial obligation to you other than payment for accrued, unpaid sums pursuant to Section 2(b), upon the occurrence of any of the following: (i) your failure to make yourself available to perform the Consulting Duties (as defined below); (ii) your breach of your obligations set forth in Sections 9 of this Agreement; or (iii) your breach of Section 10 of this Agreement. Such a termination shall be referred to as termination for "Cause." Except as set forth in the second sentence of this paragraph, the Company shall not otherwise terminate this Agreement without your consent.

**b. Consulting Duties and Fees.** During the Consulting Period, you agree to provide up to a maximum of 10 hours per month of consulting services with respect to such issues and projects as requested by the Company and to prepare for the Company a quarterly report on trends impacting the security industry and potential strategic initiatives of the Company (the "**Consulting Duties**"). During the Consulting Period, you will receive a monthly payment of US\$5,000, less required deductions, payable on and in accordance with the Company's standard payroll dates and policies (the "**Consulting Fees**"). The provision of any consulting services in excess of 10 hours per month ("**Excess Consulting Duties**") shall be subject to you and the Company mutually agreeing to compensation for such Excess Consulting Duties in addition to the Consulting Fees, and shall otherwise be subject to the terms of this Agreement. You will perform the Consulting Duties at the request and direction of the Company's Chief Executive Officer (the "**CEO**"). You agree to exercise the highest degree of professionalism and utilize your expertise and creative talents to the fullest in performing the Consulting Duties,

and the Company agrees not to request that you perform services that are inconsistent with your expertise and experience.

**c. Independent Contractor.** You agree that during the Consulting Period you will be an independent contractor and not an employee, agent, joint venturer or partner of the Company, and you will not hold yourself out as, or give any person reason to believe that you are, an employee, agent, joint venturer or partner of the Company.

**d. Reimbursement of Consulting-Related Expenses.** You will be reimbursed for reasonable and appropriate expenses you incur in performing the Consulting Duties; *provided* that all expenses, regardless of amount, must be approved in advance by the CEO. All claims for reimbursement shall be submitted by documented business expense report upon Company-approved forms and shall include receipts. Any reimbursements will be paid to you within 30 days after the date you submit receipts for the expenses, provided you submit those receipts within 45 days after you incur the expense. For the avoidance of doubt, if any reimbursements payable to you under this Section 2(d) are subject to the provisions of Section 409A of the Internal Revenue Code: (i) to be eligible to obtain reimbursement for such expenses you must submit expense reports within 45 days after the expense is incurred, (ii) any such reimbursements will be paid no later than December 31 of the year following the year in which the expense was incurred, (iii) the amount of expenses reimbursed in one year will not affect the amount eligible for reimbursement in any subsequent year, and (iv) the right to reimbursement under this Agreement will not be subject to liquidation or exchange for another benefit.

**e. Protection of Confidential and Proprietary Information.** You agree that, during the Consulting Period and thereafter, you will not use or disclose any confidential or proprietary information or materials of the Company which you obtain or develop in the course of performing the Consulting Duties, except with the express written permission of the CEO. Any and all work product you create in the course of performing the Consulting Duties will be the sole and exclusive property of the Company. You hereby assign to the Company all right, title, and interest in all inventions, techniques, processes, works of authorship, copyrights, materials, and other intellectual property developed by you solely or jointly with others in the course of performing the Consulting Duties.

**f. Authority and Facilities Usage During Consulting Period.** After the Retirement Date, you will have no authority, in the absence of the express written consent of the CEO, to bind the Company (or to represent that you have authority to bind the Company) to any contractual obligations, whether written, oral or implied. You hereby agree that after the Retirement Date, you will not represent or purport to represent the Company in any manner whatsoever to any third party unless authorized to do so in writing by the CEO. Access to and use of Company facilities or equipment to perform the Consulting Duties will be coordinated through the CEO or the Company's Chief Financial Officer (the "**CFO**").

**g. Breach of Nondisparagement or Confidentiality Obligations.** If you breach your confidentiality or nondisparagement obligations under this Agreement, the Company's obligation to pay you Consulting Fees will cease immediately. Nothing in this

Section waives the Company's right to pursue other action against you for any breach of your obligations under this Agreement.

**3. Accrued Vacation.** On the Retirement Date, the Company shall pay you accrued and unused vacation, if any, earned through the Retirement Date, subject to standard payroll deductions and withholdings. You are entitled to this payment by law.

**4. Insurance.** Following the Retirement Date, your coverage under the Company's group term life insurance policy will cease upon the Retirement Date; however, you will be provided with information from the insurance carrier regarding your opportunity to convert these policies to individual plans.

**5. Other Compensation or Benefits.** Your cash bonus for 2012 will be calculated in accordance with the bonus plan and paid to you at the same time as cash bonuses are paid to the Company's other executives, and in any event by February 10, 2013. You acknowledge that, except as expressly provided in this Agreement, you will not receive from the Company any additional compensation, severance or benefits after the Retirement Date. You expressly agree that your employment agreement and your participation agreement under the Company's Officer Change of Control Severance Plan shall terminate as of the Retirement Date and that you have no right to any severance or other payments or benefits under such agreements and plan. You also expressly acknowledge that prior to your retirement, you primarily provided services to the Company in California and that you are not subject to, or entitled to any retirement, consultation period, advance notice or other benefits in connection with your retirement or termination of employment under the laws of the United Kingdom or the laws of any other jurisdiction where you may have provided services during the term of your employment.

**6. Restricted Stock Unit and Option Vesting and Exercise.** The number of performance-based restricted stock units ("**RSUs**") granted to you on February 10, 2012 that will vest on February 10, 2013 will be calculated and vested in a manner consistent with the RSUs granted to the Company's other executives for the same period. During the Consulting Period, all options to purchase the common stock of the Company as were granted to you prior to your Retirement Date (the "**Options**") and all RSUs as were granted to you prior to your Retirement Date that remain subject only to vesting conditions as of your Retirement Date will, subject to your providing the Consulting Duties, continue to vest until the earlier of the termination or expiration of the Consulting Period, at which time all vesting of the Options and RSUs shall cease. Except as modified by this Agreement, all terms, conditions, and limitations applicable to the Options and the RSUs will remain in full force and effect pursuant to the applicable stock option agreements and restricted stock unit agreements between you and the Company, the Company's 2009 Equity Incentive Plan, and any other documents applicable to the Options and RSUs. You shall have a period of three months following the end of the Consulting Period to exercise any vested Options (provided that this Agreement will not extend the option exercise period for any Options that expire by their terms assuming continuous service to the Company), and you hereby consent to such amendment of the terms applicable to the Options. You are advised by the Company to seek independent legal advice with respect to tax and securities law issues regarding the Options, RSUs, this amendment of the Options, and amendment of RSUs and any exercise or sale of Company stock you may make.

7. **Expense Reimbursement.** You agree that, no later than three weeks following the Retirement Date you will submit your final documented expense employee reimbursement statement reflecting all business expenses you incurred through the Retirement Date, if any, for which you seek reimbursement. The Company will reimburse you for these expenses pursuant to its regular business practice.

8. **Return of Company Property.** Upon the earlier of (i) the Retirement Date or (ii) such earlier date as the Company shall specify, you will return to the Company all Company documents (and all copies thereof) and other Company property in your possession or control, including, but not limited to, Company files, correspondence, memoranda, notes, notebooks, drawings, books and records, plans, forecasts, reports, proposals, studies, agreements, financial information, personnel information, sales and marketing information, research and development information, systems information, specifications, computer-recorded information, tangible property and equipment, including laptops, tablets and cell phones, credit cards, entry cards, identification badges and keys and any other materials of any kind that contain or embody any proprietary or confidential information of the Company (and all reproductions thereof in whole or in part) ("**Company Property**"). You also represent that you have performed a good faith search to ensure that you are no longer in possession or control of any Company Property.

9. **Proprietary Information Obligations.** You hereby acknowledge your continuing obligation to comply with the Proprietary Information and Inventions Agreement (attached hereto as Exhibit 1), both before and after the Retirement Date.

10. **Noncompetition and Nonsolicitation.** During your employment by the Company and during the Consulting Period: (i) you will not participate as an owner (which shall not include ownership of less than 2% of the stock of a publicly traded company), employee, officer, director, promoter, or consultant for any of the companies or entities listed on Exhibit 2 attached hereto; and (ii) you will not request, induce or advise any vendors, existing or potential corporate partners or investors, and/or customers of the Company to withdraw, curtail, limit, reduce, or cancel their business or business relationship(s) with the Company. Additionally, during your employment by the Company, during the Consulting Period, and for one year thereafter, you will not, either directly or through others, solicit or attempt to solicit any employee, consultant, or independent contractor of the Company to limit, reduce, or terminate his or her relationship with the Company or to become an employee, consultant or independent contractor to or for any other person or entity.

11. **Release of the Company.** In exchange for the consideration provided to you by this Agreement that you are not otherwise entitled to receive, you hereby generally and completely release the Company and its directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to your signing this Agreement. This general release includes, but is not limited to: (1) all claims arising out of or in any way related to your employment with the Company or your retirement and termination of that employment; (2) except as set forth in this Agreement, all claims related to your compensation or benefits from the Company, including, but not limited to, salary, bonuses, commissions, vacation pay, expense reimbursements, retirement pay, fringe benefits, stock, stock options, restricted stock units (including determination of performance vesting conditions) or any

other ownership interests in the Company; (3) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including, but not limited to, claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including, but not limited to, claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (“*ADEA*”), and the Employee Retirement Income Security Act, the California Labor Code, and the California Fair Employment and Housing Act (as amended).

**12. ADEA Waiver.** You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you may have under ADEA, and that the consideration given for the waiver and release in the preceding paragraph is in addition to anything of value to which you were already entitled. You further acknowledge that you have been advised by this writing that: (a) your waiver and release do not apply to any rights or claims that may arise after the execution date of this Agreement; (b) you should consult with an attorney prior to executing this Agreement; (c) you have 21 days to consider this Agreement (although you may choose to voluntarily execute this Agreement earlier); (d) you have seven days following the execution of this Agreement by the parties to revoke the Agreement; and (e) this Agreement will not be effective until the date upon which the revocation period has expired without you having previously revoked this Agreement (the “*Effective Date*”).

**13. Section 1542 Waiver.** In granting the release herein, you and the Company hereby acknowledge that each has read and understands Section 1542 of the California Civil Code: “**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**” You and the Company hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to your release of claims hereby.

**14. Nondisparagement.** You agree not to disparage the Company, and the Company's officers, directors, employees, shareholders and agents, in any manner that is harmful to them or their business, business reputation or personal reputation. The Company will instruct its officers and directors not to disparage you in any manner that is harmful to you or your business, business reputation, or your personal reputation. Notwithstanding the foregoing, both you and the Company may respond accurately and fully to any question, inquiry or request for information when required by legal process or standard corporate filing or disclosure rules.

**15. Miscellaneous.** This Agreement, including the exhibits hereto, constitutes the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to this subject matter. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. This Agreement may not be modified or amended except in a writing signed by both you and a duly authorized officer of the Company. This Agreement will bind the heirs, personal representatives, successors and assigns of both you and the Company, and inure to the benefit of both you and the Company, their heirs, successors and assigns. The failure to enforce any breach of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. For purposes of construing this Agreement, any

ambiguities shall not be construed against either party as the drafter. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question will be modified so as to be rendered enforceable in a manner consistent with the intent of the parties insofar as possible. This Agreement will be deemed to have been entered into and will be construed and enforced in accordance with the laws of the State of California as applied to contracts made and to be performed entirely within California. This Agreement may be executed in counterparts or with facsimile signatures, which shall be deemed equivalent to originals.

*[remainder of page intentionally left blank - signature page follows]*

If this Agreement is acceptable to you, please sign below and return one original to me.

Sincerely,

**Websense, Inc.**

By: /s/ John B. Carrington  
John B. Carrington  
Chairman of the Board

**Agreed and Accepted:**

<u>/s/ Vernon Gene Hodges</u>	<u>Jan. 10, 2013</u>
Vernon Gene Hodges	Date

**Exhibit 1**

**PIIA**

(see attached)

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## Proprietary Information and Inventions Agreement

In consideration of my employment or continued employment by Websense, Inc., a Delaware corporation (the "**Company**"), the compensation to be paid to me by the Company during the period of my employment, and for other valuable consideration, I (the "**Employee**") hereby agree as follows:

1. **Employment.** I will perform the duties of my employment as assigned by the Company and in a manner satisfactory to the Company, and will devote my full working time to such duties. I understand and acknowledge that my employment by the Company is completely in the discretion of, and at the will of, the Company.

2. **Loyal Performance.** I agree that during the period of my employment by the Company, I will not, without the Company's express written consent, engage in any employment or activity in any business competitive with the Company.

3. **Maintaining Confidential Information.**

**3.1 Company Confidential Information.** I agree at all times, both during and after the termination of my employment for any reason whatsoever (whether with or without cause), to hold in the strictest confidence, and not to use, to publish, or to disclose to any person, firm, or corporation without written authorization of the Board of Directors of the Company, any past, present, or future techniques, know-how, designs, drawings, processes, experimental and development work, inventions, trade secrets, developments, machinery, research activities and plans, prices, software, cost of production, equipment, prototypes, sales and customer information, customer and prospect lists, and business and financial information relating to the business, products, practices and techniques of the Company or any of its affiliates, clients, consultants, or licensees (collectively, "**Confidential Information**"). Information shall for purposes of this Agreement be considered to be Confidential Information if not known by the trade generally, even though such information has been disclosed to one or more third parties pursuant to distribution agreements, joint research agreements or other agreements entered into by the Company. Without limiting the foregoing, the information set forth on **Exhibit A** shall constitute Confidential Information.

**3.2 Former Employer Information.** I agree that I will not, during my employment with Company, use or disclose any confidential or proprietary information or trade secrets of my former employers or companies, or any third party, if any, and that I will not bring onto the premises of Company any unpublished document or any property belonging to my former employers or companies, or any third party, if any, unless consented to in writing by said employers or companies.

**3.3 Third Party Information.** I recognize that Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree that I owe Company and such third parties, both during the term of my employment and thereafter, a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation (except as necessary in carrying out my work for Company consistent with Company's agreement with such third party) or to use it for the benefit of anyone other than for Company or such third party (consistent with Company's agreement with such third party) without the express written authorization of the Board of Directors of Company.

**3.4 Exceptions.** My obligation under this Section shall not apply to information which I can demonstrate is or becomes generally known other than through my acts in violation of this Agreement.

4. **List of Prior Inventions.** As a matter of record, I have attached as **Exhibit B** to this Agreement, a complete list of all inventions or improvements relevant to the subject matter of my employment by the Company which have been made or conceived or first reduced to practice by me alone or jointly with others prior to my engagement by the Company which I desire to remove from the operation of this Agreement, and I represent that such list is complete. If no list is attached or the list is blank, it means that I have no inventions or improvements to list.



**5. Disclosure of Inventions.** I will promptly disclose in writing to the President of the Company complete information concerning each and every invention (including a new contribution, concept, idea, development, formula, composition, technique, machine and improvement thereof, or know-how related thereto), discovery, improvement, device, design, apparatus, practice, process, method or product (collectively, "**Inventions**"), whether I consider them patentable or not, made, developed, perfected, devised, conceived or first reduced to practice by me, either solely or in collaboration with others, during the period of my employment by the Company, and up to and including a period of one (1) year after termination of my employment, whether or not during regular working hours, relating either directly or indirectly to the business, products, practices or techniques of the Company, or to the Company's actual or demonstrably anticipated research or development, or resulting from any work performed by me for the Company.

**6. Assignment of Inventions and Original Works of Authorship.**

**6.1 Inventions.** I hereby agree that any and all Inventions made, developed, perfected, devised, conceived or reduced to practice by me during the period of my employment by the Company, and any other Inventions made, developed, perfected, devised, conceived or reduced to practice by me during said period of one (1) year after termination of my employment, relating either directly or indirectly to the business, products, practices or techniques of the Company or the Company's actual or demonstrably anticipated research or development, or resulting from any work performed by me for the Company, are the sole property of the Company, and I hereby assign and agree to assign to the Company, its successors and assigns, any and all of my right, title and interest in and to any and all Inventions, and any patent applications or Letters Patent thereon.

**6.2 Original Works of Authorship.** I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act (17 USCA, Section 101) and that I am an employee as defined under that Act. Notwithstanding the foregoing, I hereby assign any and all original works of authorship (and all copyrights therein) created by me during the period of my employment by the Company within the scope of my employment, to the Company. I further agree from time to time to execute written transfers to Company of ownership of specific original works of authorship (and all copyrights therein) made by me (solely or jointly with others) in such form as is acceptable to Company in its reasonable discretion.

**6.3 Further Cooperation.** I will, at any time during my employment or thereafter, upon request and without further compensation therefore, but at no expense to me, do all lawful acts, including the execution of papers and oaths and the giving of testimony, that in the opinion of the Company, its successors and assigns, may be necessary or desirable for: (i) obtaining, sustaining, reissuing or enforcing Letters Patent in the United States and throughout the world for any and all of said Inventions; (ii) perfecting, recording and maintaining the title of the Company, its successors and assigns, to the Inventions and to any patent applications made and any Letters Patent granted for the Inventions in the United States and throughout the world; and (iii) obtaining, securing, perfecting, or enforcing copyrights, trademarks, or other intellectual property rights.

**6.4 Appointment of Company as Attorney-in-Fact.** If Company is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations (or on any document transferring ownership thereof) covering inventions or original works of authorship assigned to Company under this Agreement, I hereby irrevocably designate and appoint Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers thereof with the same legal force and effect as if executed by me. This appointment is coupled with an interest in and to the inventions and works of authorship and shall survive my death or disability. I hereby waive and quitclaim to Company any and all claims, of any nature whatsoever, which I now or may here-after have for infringement of any patents or copyright resulting from or relating to any such application for letters patent or copyright registrations assigned hereunder to Company.

**6.5 Applicability of Assignment Requirements.** This Agreement shall not apply to any Inventions which qualify fully under the provisions of Section 2870 of the California Labor Code, as amended from time to time. I understand that Section 2870 provides that no assignment is required of any Invention for which no equipment, supplies, facilities or trade secret information of the Company was used and which was developed entirely on my own time without using any of the Company's equipment, supplies, facilities, or trade secret information, except for those Inventions that either: (a) related at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company; or (b) result from any work performed by me for the Company.

**7. Keeping of Records.** I will keep complete, accurate and authentic accounts, notes, data and records of any and all of the Inventions, original works of authorship, trade secrets, and other developments developed or made by me (solely or jointly with others) during the term of my employment by the Company in the manner and form requested by the Company. Such accounts, notes, data and records, including all copies thereof, shall be the property of the Company, and, upon its request, I will promptly surrender same to the Company, or if not previously surrendered, I will promptly surrender same to the Company at the conclusion of my employment.

**8. Non-Solicitation.** In order to protect the Confidential Information of the Company and avoid injury to the Company, I agree that for a period of one (1) year following the termination of my employment with the Company: (a) I will not directly or indirectly solicit the customers or prospective customers of the Company to purchase products or services which are competitive with those of the Company; and (b) I will not directly or indirectly solicit or in any manner encourage employees of the Company to leave its employ.

**9. Surrender of Materials.** I agree that I will also surrender to the Company, at its request, or at the conclusion of my employment, all accounts, notes, data, sketches, drawings and other documents and records, and all material and physical items of any kind, including all reproductions and copies thereof, which relate in any way to the business, products, practices or techniques of the Company or contain Confidential Information, whether or not created by me, or which come into my possession by reason of my employment with the Company, and I agree further that all of the foregoing are the property of the Company.

**10. Imposed Obligations.** I understand that the Company may enter into agreements or arrangements that may be subject to laws and regulations which impose obligations, restrictions and limitations on it with respect to Inventions and patents which may be acquired by it or which may be conceived or developed by employees, consultants or other agents rendering services to it. I agree that I shall be bound by all such obligations, restrictions and limitations applicable to any Invention conceived or developed by me during the period of my employment, and I shall take any and all further action which may be required to discharge such obligations and to comply with such restrictions and limitations.

**11. Preservation of Property.** I will exercise reasonable care, consistent with good business judgment, to preserve in good working order, subject to reasonable wear and tear from authorized usage, and to prevent loss of, any equipment, instruments or accessories of the Company in my custody for the purpose of making demonstrations, implementing trials, carrying out development work, or otherwise conducting the business of the Company. Upon request, I will promptly surrender the same to the Company at the conclusion of my employment, or if not surrendered, I will account to the Company to its reasonable satisfaction as to the present location of all such instruments or accessories and the business purpose for their placement at such location. At the conclusion of my employment with the Company, I agree to return such instruments or accessories to the Company or to account for same to the Company's reasonable satisfaction.

**12. No Inconsistent Agreements; Effect of Breach.** I affirm that I have no agreement with any other party that would preclude my compliance with my obligations under this Agreement. This Agreement is ancillary to employment and does not purport to include all of the terms of that relationship. It is intended, however, that the obligation of the parties to perform the terms of this Agreement is unconditional and does not depend on the performance or nonperformance of any terms, duties or obligations not specifically recited in this Agreement. The undersigned's obligations to maintain the confidentiality of the Company's Confidential Information is unconditional and shall not be excused by any conduct on Company's part except prior voluntary disclosure of the information by Company.

**13. Post-Termination Statement.** At the conclusion of my employment with the Company, I agree to give a written statement to the Company certifying that I have complied with my obligations under this Agreement as set forth above, and acknowledging my continuing obligations to disclose Inventions, to do certain lawful acts relating to United States and foreign Letters Patent on the Inventions, and to preserve as confidential and refrain from using the Company's Confidential Information.

**14. Successors.** The provisions of this Agreement shall inure to the benefit of, and be binding upon, my heirs, personal representatives, successors and assigns. However, I affirm that I may not delegate my obligations under this Agreement.

**15. Equitable Relief.** I understand and agree that, because of the unique nature of the Confidential Information, the Company will suffer irreparable harm if I fail to comply with any of my obligations under this Agreement, and monetary damages will be inadequate to compensate the Company for such breach. Accordingly, I agree that the Company shall, in addition to any other remedies available to it at law or in equity, be entitled to injunctive relief to enforce the terms of this Agreement, without the necessity of posting a bond or undertaking.



16. **Governing Law.** This Agreement is made in San Diego, California and shall be construed and interpreted in accordance with the internal laws of the State of California. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, whether involving remedies at law or in equity, shall be adjudicated in San Diego, California.

17. **Attorneys' Fees.** In any controversy or claim arising out of or relating to this Agreement or the breach thereof, which results in a legal action, proceeding or arbitration, the prevailing party in such action, as determined by the court or arbitrator, shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

18. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and may be waived, modified or amended only by an agreement in writing signed by the undersigned and the President of the Company.

19. **Severability.** If any provision in this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid or unenforceable for any reason, including without limitation by reason of such provision extending for too long a period or over too large a geographical area, or by reason of its being too extensive in any other respect, such provision, to the extent that it is unenforceable, shall be interpreted to extend only over the maximum period of time or geographic area, and only to the maximum extent in all other respects, as to which it is valid and enforceable, in order to effectuate the parties' intent to the greatest extent possible. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

20. **Waiver.** No covenant, term or condition of this Agreement or breach thereof shall be deemed waived unless the waiver is in writing, signed by the party against whom enforcement is sought, and any waiver shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.

21. **Interpretation.** The normal rule of construction, to the effect that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of this Agreement.

22. **Counterparts.** This Agreement is executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

I have carefully read this entire Agreement, have received a copy of it, and fully understand it.

IN WITNESS WHEREOF, I have executed this Agreement at San Diego, California effective as of January 23<sup>rd</sup>, 2006.

/s/ Gene Hodges  
\_\_\_\_\_  
(Employee Signature)

Gene Hodges  
\_\_\_\_\_  
(Employee Name)

#####  
\_\_\_\_\_  
(Employee Address)

###-##-####  
\_\_\_\_\_  
(Employee Social Security Number)

Accepted:

Websense, Inc.  
a Delaware Corporation

By: /s/ Maelin Donovan  
\_\_\_\_\_  
Name: Maelin Donovan  
\_\_\_\_\_  
Title: Sr HR Coordinator  
\_\_\_\_\_



Exhibit A

List of Specific Information Considered Confidential

**This list is not in any way exclusive.**

Exhibit B

Date: January 26, 2006

To: Websense, Inc.  
10240 Sorrento Valley Road  
San Diego, CA 92121

Re: Inventions, Improvements, Materials and Documents

1. The following is a complete list of all inventions or improvements relevant to the subject matter of my employment by Websense, Inc., a Delaware corporation (the "Company"), that have been made or conceived or first reduced to practice by me alone or jointly with others prior to my employment by the Company, which I desire to remove from the operation of the Company's Proprietary Information and Inventions Agreement:

No inventions or improvements.

The following inventions or improvements:

US Patents #'s 6,269,456 & 6,035,423 granted to me, rights owned by McAfee, Inc.

Additional sheets attached.

2. I propose to bring to my employment the following materials and documents of a former employer:

No materials or documents.

The following materials or documents:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional sheets attached.

/s/Gene Hodges \_\_\_\_\_  
(Employee Signature)

Gene Hodges \_\_\_\_\_  
(Employee Name)



## Exhibit 2

### List of Non-Compete Companies

AhnLab	Zix
AirWatch	Zscaler
Akamai	
Axway	
Barracuda Networks	
Black Box Network Services	
Blue Coat Systems	
CA Technologies	
Check Point Software Technologies	
CipherCloud	
Cisco Systems	
Citrix	
Clearswift	
Code Green Networks	
CommTouch	
CrowdStrike	
EdgeWave	
EMC/RSA	
F5 Networks	
Fidelis Security Systems (acquired by General Dynamics)	
FireEye	
Fortinet	
Good Technology	
Google	
GTB Technologies	
Huawei	
Imperva	
Juniper Networks	
Kaspersky Lab	
LastLine	
Lightspeed	
Mandiant	
McAfee (acquired by Intel)	
Microsoft	
Mimecast	
MobileIron	
OpenDNS	
Palisade Systems	
Palo Alto Networks	
Panda Security	
PhishMe	
Proofpoint	
Qualys	
Raytheon	
SafeNet	
Seculert	
Sonain	
SonicWALL (acquired by Dell)	
Sophos	
Sourcefire	
Symantec	
Trend Micro	

Trustwave  
Verdasys  
Voltage  
WatchGuard Technologies  
Webroot Software  
Workshare

Via Hand Delivery

Execution Copy

January 10, 2013

Mr. John R. McCormack

Dear John:

We are delighted to offer to you a promotion to the position of Chief Executive Officer of Websense, Inc. (the “*Company*”) to be effective on January 13, 2013 (the “*Effective Date*”). Subject to review and approval by the Company's Board of Directors, the terms of our offer are summarized below:

1. **Base Salary.** Your salary will be \$525,000 per year to be paid bi-weekly, subject to standard deductions and withholdings. Your salary will be reviewed annually in accordance with the standard practice of the Company.
2. **Performance Bonus.** You will be eligible to receive a discretionary annual performance bonus (“*Bonus*”) with a target of 100% of your annual base salary, based upon the Company achieving a combination of objective performance goals, including billings and/or operating profit objectives, along with any individual performance goals that may be established by the Compensation Committee of Board of Directors of the Company (the “*Compensation Committee*”).
3. **Stock Options and Restricted Stock Units.**

**3.1 Option Grant.** In connection with your promotion, subject to the approval of the Board of Directors and subject to the terms of the Company's 2009 Equity Incentive Plan (the “*Plan*”), you will be granted a non-qualified stock option (the “*Option*”) to purchase 100,000 shares of the Company's Common Stock at an exercise price equal to the fair market value of the shares on the date of the grant. In addition, subject to the approval of the Board of Directors and subject to the terms of the Plan, you will be granted a 2013 annual refresh Option to purchase 150,000 shares of the Company's Common Stock at an exercise price equal to the fair market value of the shares on the date of the grant. The Options will be granted on or about January 31, 2013 (the “*Grant Date*”). The Options will both vest over four (4) years, with 25% of the shares vesting on the first anniversary of the Grant Date and 1/48th of the shares will vest monthly thereafter, provided that you remain employed by the Company through each vesting installment date.

**3.2 Restricted Stock Units.** In connection with your promotion, subject to the approval of the Board of Directors and subject to the terms of the Plan, on or about February 10, 2013 (the “*RSU Grant Date*”) you will be awarded 34,000 restricted stock units (“*RSUs*”) of the Company's Common Stock, subject to vesting as follows: 25% vesting on the first anniversary of the RSU Grant Date and the remainder vesting in equal installments semi-annually thereafter, provided that you remain employed by the Company through each such vesting installment date. In addition, subject to the approval of the Board of Directors and subject to the terms of the Plan, on the RSU Grant Date you

will be awarded as part of the 2013 annual equity refresh 25,000 performance-vesting RSUs and 25,000 time-based vesting RSUs. The performance-vesting RSUs shall be subject to the performance-based vesting criteria established by the Compensation Committee for all performance RSUs for 2013 performance and assuming the performance-vesting criteria are met will be subject thereafter to time-based vesting, with 50% of the performance vested RSUs vesting on the second anniversary of the RSU Grant Date and 50% vesting on the third anniversary of the RSU Grant Date, provided that you remain employed by the Company through each such vesting installment date. The time-based vesting RSUs will vest over four (4) years, with 25% vesting on the first anniversary of the RSU Grant Date and the remainder vesting in equal installments semi-annually thereafter, provided that you remain employed by the Company through each such vesting installment date.

#### 4. Severance Benefit.

**4.1 Benefits.** In the event the Company terminates your employment other than for Cause as defined below, or you resign your employment for Good Reason as defined below, you will receive (i) severance pay in the form of your annual base salary and your annual target bonus in effect as of the date of such termination or resignation paid in twelve (12) equal monthly installments, less standard deductions and withholdings; and (ii) continued payment of the health insurance premium paid on your behalf by the Company until you and your covered dependants obtain alternative health insurance coverage, up to a maximum of twelve (12) months. The severance benefits are contingent upon you providing the Company with a fully effective waiver and release of claims in a form satisfactory to the Company (the “**Release**”) and your compliance with the Company's standard non-competition and non-solicitation requirements. The severance benefits provided hereunder are in lieu of, and not in addition to, the severance benefits provided under Section 2 of your participation agreement for a tier one officer under the Officer Change of Control Severance Plan (the “**Severance Plan**”).

#### 4.2 Definitions.

**(a)** “**Cause**” means any of the following: (i) your commission of a material act of fraud with respect to the Company; (ii) your intentional refusal or willful failure to carry out the reasonable instructions of the Board of Directors; (iii) your conviction of, or plea of nolo contendere to, at any time, a misdemeanor crime of moral turpitude or a felony (even if such has occurred prior to employment with the Company); (iv) your gross misconduct in connection with the performance of your duties; or (v) your material breach of your obligations to the Company or any agreement between you and the Company.

**(b)** “**Good Reason**” shall mean any one of the following events occurring without your consent on or after the commencement of your employment, provided that you have first provided written notice to the Company (or the surviving corporation, as applicable) within 90 days of the first such occurrence of such condition specifying the event(s) constituting Good Reason and specifying that you intend to terminate your employment not earlier than thirty (30) days after providing such notice,

and the Company (or surviving corporation) has not cured such event(s) within thirty (30) days (or such longer period as may be specified by you in such notice) after your written notice is received by such member of the Board (or by the surviving corporation) (the “*Cure Period*”), and you resign within thirty (30) days following the end of the Cure Period: (i) a material breach by the Company of any provision of this Agreement or any other material agreement between you and the Company concerning the terms and conditions of your employment; (ii) any material reduction in your duties, authority and/or responsibilities; (iii) a material reduction by the Company in your annual base salary; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in your annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect you to a greater extent than other similarly situated employees; (iv) a relocation of your business office to a location that requires a one-way increase in your driving distance of more than thirty-five (35) miles, except for required travel by you on the Company's business to an extent substantially consistent with your business travel obligations prior to the effective date of the Change in Control (as defined in the Severance Plan).

## **5. Code Section 409A Matters.**

**5.1** Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Internal Revenue Code of 1986, as amended (the “*Code*”) and the regulations and other guidance thereunder and any state law of similar effect (collectively “*Section 409A*”).

**5.2** Severance benefits shall not commence until you have a “separation from service” for purposes of Section 409A. Each installment of severance benefits is a separate “payment” for purposes of Treas. Reg. Section 1.409A-2(b)(2)(i), and the severance benefits are intended to satisfy the exemptions from application of Section 409A provided under Treasury Regulations Sections 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9). However, if such exemptions are not available and upon separation from service, you are a “specified employee” for purposes of Section 409A, then, solely to the extent necessary to avoid adverse personal tax consequences under Section 409A, the timing of the severance benefits payments shall be delayed until the earlier of (i) six (6) months and one day after your separation from service, or (ii) your death. Upon the expiration of the foregoing delay period, all payments and benefits delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to you in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

**5.3** If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release could become effective in the calendar year following the calendar year in which you separate from service, the Release will not be deemed effective any earlier than the deadline in the Release for purposes of determining the timing of Executive's severance benefit payments.

**5.4** To the extent that any provision hereof is modified in order to comply with Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to you and the Company of the applicable provision without violating the provisions of Section 409A.

**5.5** To the extent that reimbursements or other in-kind benefits under this Agreement constitute “nonqualified deferred compensation” for purposes of Section 409A, (a) all expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by you, (b) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (c) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

**5.6** Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company, and you shall have no discretion with respect to the actual date of payment.

**5.7** In no event shall any payment under this Agreement that constitutes “nonqualified deferred compensation” for purposes of Section 409A be subject to offset by any other amount unless otherwise permitted by Section 409A.

- 6. Employment Taxes.** All of your compensation and benefits shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.
  - 7. Benefits.** You will continue to be eligible to participate in the Company's standard benefit plans for executives, which include life, long-term disability, dental, vision, and medical insurance and an optional 401(k) savings plan, Employee Stock Purchase Plan (ESPP), cafeteria (flex 125) plan and Employee Assistance Plan. You will continue to participate in the Officer Change of Control Severance Plan as a tier one officer pursuant to the Participation Agreement you previously executed with the Company.
  - 8. Proprietary Information Obligations.** You hereby acknowledge your continuing obligation to comply with your Proprietary Information and Inventions Agreement with the Company (“PIIA”).
  - 9. At-Will Agreement.** Your employment is at-will and for no specified period, and either you or the Company may terminate this employment relationship at anytime and for any reason. This Agreement, including the enclosures, the PIIA and your Participation Agreement contains our complete, final, and exclusive agreement relating to the terms and conditions of your employment, and supersedes all prior or contemporaneous oral or written agreements, representations, or discussions. This Agreement cannot be amended or modified except by a written instrument signed by you and the Chairman of the Board of Directors of the Company.
-

It is the current intention of the Board of Directors, should you accept this offer, to add you as a member of the Websense Board of Directors at the first Board meeting following your acceptance of this offer.

Please indicate your agreement with the above terms by signing below and returning to my attention.

Sincerely,

/s/ John B. Carrington \_\_\_\_\_

John B. Carrington  
Chairman of the Board

Accepted and agreed:

Date: January 10, 2013

/s/ John R. McCormack

John R. McCormack



## **Websense Names John McCormack as CEO; Announces Preliminary Fourth Quarter 2012 Financial Results**

*Achieves Record Fourth Quarter Billings Performance*

*Announces Retirement of CEO Gene Hodges*

*Appoints Charles Boesenberg to Board of Directors*

*Announces Russ Dietz as Chief Technology Officer*

**SAN DIEGO—January 13, 2013**— Websense, Inc. (NASDAQ: WBSN) today announced that its board of directors has named John McCormack as the company's chief executive officer and as a board member, effective immediately. He succeeds Gene Hodges, who is retiring after serving as both CEO and a board member since January 2006. Websense also announced record fourth quarter billings performance, Charles Boesenberg's appointment to the board of directors, and Russ Dietz as the company's chief technology officer.

“The board and I would like to thank and congratulate Gene for a strong fourth quarter performance and for all that he has accomplished in transforming Websense into a leading content security provider,” said John Carrington, chairman of the Websense board of directors. “We wish Gene the best in his retirement, and we are confident that he leaves Websense well-positioned as we continue to extend our technology leadership and achieve corporate objectives.”

“John McCormack has taken the lead in the successful execution of our strategic initiatives, enabling us to generate solid fourth quarter billings growth amid the continued expansion of our field sales organization,” said Carrington. “As president, he has demonstrated his executive acumen while leading our worldwide sales and sales engineering teams; our marketing, product management, business development and technical support organizations; as well as the Websense® Security Labs™ and research and development.”

### **Preliminary Fourth Quarter Financial Results**

Websense also released its preliminary fourth quarter 2012 results today. The company expects billings to be approximately \$122 million, up 5 percent year-over-year, exceeding its guidance range of \$112 to \$117 million for the fourth quarter. Also for the fourth quarter, Websense expects revenues of \$91.5 to \$92.0 million, versus guidance of \$90 to \$92 million.

Non-GAAP earnings per diluted share are expected to be in the range of \$0.27 to \$0.28, versus guidance of \$0.32 to \$0.35, primarily reflecting the increased sales commissions incurred with the higher-than-expected billings during the quarter.

The company expects fourth quarter cash flow from operations to be approximately \$11 million, versus guidance of \$8 to \$11 million, also reflecting the higher level of billings.

“With solid sales of our TRITON™ products across all global markets, we were able to achieve billings results above our expectations,” said John McCormack, Websense CEO. “I look forward to continuing this momentum as we expand our sales coverage and reach more customers with our innovative content security solutions.”

Complete financial results for the fourth quarter and full year 2012 will be released after the market close on January 29, 2013.

## **Charles Boesenberg Appointed to Board of Directors**

Websense also announced that Charles Boesenberg was appointed as an independent director, effective today.

“We are pleased to strengthen our board with the addition of Charles Boesenberg, a seasoned board member with more than 30 years of experience in accelerating growth for high-tech companies as both a CEO and an independent director,” said Carrington.

Boesenberg is currently a board member for Boingo Wireless, Callidus Software<sup>®</sup>, Keynote<sup>®</sup> Systems and Silicon Graphics International Corporation (SGI<sup>®</sup>). He has previously served on the boards of Symantec<sup>™</sup>, Ancestry.com<sup>®</sup>, Rackable Systems, Onyx Software Corporation, Macromedia, Maxtor and Interwoven. Boesenberg is the former chief executive officer and chairman of the board of NetIQ<sup>®</sup> Corporation; president and CEO of Integrated Systems Inc; and has held senior executive level positions at companies including Magellan Corporation, Central Point Software, Apple<sup>®</sup> Inc., Data General and IBM<sup>®</sup>.

Boesenberg's memberships on Websense board committees will be determined in the near future.

## **Management Appointments**

Websense CEO John McCormack joined the company in July 2006 as senior vice president of product development and was named president in April 2009.

“With more than 25 years of security and industry experience, McCormack's leadership, vision and technical insight has been a driving force in Websense's global expansion and ground-breaking innovation,” said Carrington. “Under his guidance, Websense has emerged as a consistent leader in the rapidly evolving content security industry. His vision is reflected in the award-winning Websense TRITON architecture, which unifies the essential components of modern threat defense and data theft prevention into a cohesive content security system that offers best-in-class security effectiveness and pervasive deployment across an integrated appliance and cloud platform.”

In addition to the appointment of McCormack as CEO, Russ Dietz has also been named Websense chief technology officer (CTO).

Russ Dietz joined Websense in November 2012 as CTO and executive vice president of product development. He is responsible for the future of Websense TRITON security technology and product strategy, innovation, and research and development. Dietz will oversee the worldwide Websense engineering, product management and security lab teams.

“Russ has a unique combination of business, market, and technology skills that will prove invaluable as we continue to build upon our innovative TRITON platform,” said McCormack. “Our continued investment in cloud, mobile, data, and internet security will be enhanced by his leadership and proven success in these areas. TRITON has set the industry benchmark for best-in-class integrated content security and I'm confident that Russ can lead our team's efforts to accelerate our momentum as we enhance this technology platform.”

Dietz brings more than 30 years of experience in the technology and security space to Websense. He has a proven record of success as CTO of multiple hardware, software and systems security companies, and is a recognized pioneer and innovator in cloud computing and virtualization security solutions. Dietz holds more than 20 patents in encryption, authentication and network traffic behavior and analysis.

“Websense is extremely well-positioned in the marketplace, and I am proud to join the Websense team,” said Russ Dietz, Websense CTO. “I look forward to extending the company's technology platform as well as expanding its market leadership. My goal is to drive continued innovation in the delivery of integrated content security, both in the cloud and through on-premise appliances, maintaining our corporate commitment that no one stops more security threats than Websense.”

## **Non-GAAP Financial Measures**

This news release refers to earnings per diluted share that is not calculated in accordance with generally accepted accounting principles (GAAP). Non-GAAP earnings per diluted share adjusts for the following items: acquisition related adjustments, share-based compensation expense, amortization of intangible assets, deferred expenses and certain other items. Management believes this non-GAAP financial measure provides meaningful supplemental information regarding our performance that enhances management's and investors' ability to evaluate the company's operating results, trends and prospects and to compare current operating results with historic operating results. A reconciliation of GAAP earnings per diluted share and non-GAAP earnings per diluted share for the fourth quarter of 2012 will be provided when our final fourth quarter financial results are released on January 29, 2013.

This news release also includes billings which is not a numerical measure that can be calculated in accordance with GAAP. Websense provides this measurement in news releases reporting financial performance because this measurement provides a consistent basis for understanding the company's sales activities in the current period. The company believes the billings measurement is useful to investors because the GAAP measurements of revenue and deferred revenue in the current period include subscription contracts commenced in prior periods. A reconciliation of billings to deferred revenue for the fourth quarter of 2012 will be provided when final fourth quarter financial results are released on January 29, 2013.

## **About Websense, Inc.**

Websense, Inc. (NASDAQ: WBSN), a global leader in unified web security, email security, mobile security, and data loss prevention (DLP), delivers the best content security for modern threats at the lowest total cost of ownership to tens of thousands of enterprise, mid-market and small organizations around the world. Distributed through a global network of channel partners and delivered as appliance-based software or SaaS-based cloud services, Websense TRITON content security solutions help organizations leverage social media and cloud-based communication, while protecting from advanced persistent threats and modern malware, preventing the loss of confidential information, and enforcing internet use and security policies. Websense is headquartered in San Diego, California with offices around the world. For more information, visit [www.websense.com](http://www.websense.com).

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This news release contains forward-looking statements that involve risks, uncertainties, assumptions and other factors which, if they do not materialize or prove correct, could cause Websense's results to differ materially from historical results or those expressed or implied by such forward-looking statements. All statements, other than statements of historical fact, are statements that could be deemed forward-looking statements, including the estimates of the fourth quarter 2012 results, statements regarding expansion of sales coverage and expected benefits, billings and growth momentum, statements regarding the expected contributions of new management, statements of belief and any statements of assumptions underlying any of the foregoing, and any statements containing the words "planned," "expects," "believes," "strategy," "opportunity," "anticipates" or similar words. The potential risks and uncertainties which contribute to the uncertain nature of these statements include, among others, risks associated with expanding Websense's sales force on a global basis, including hiring and integration related risks, customer acceptance of the company's products and services, product performance, launching new product offerings, products and fee structures in a changing market, the success of Websense's brand development efforts, the volatile and competitive nature of the Internet and security industries, changes in domestic and international market conditions, including in continental Europe, fluctuations in currency exchange rates and impacts of macro-economic conditions on our customers, ongoing compliance with the covenants in the company's credit facility, changes in accounting interpretations and the other risks and uncertainties described in Websense's public filings with the Securities and Exchange Commission, available at [www.websense.com/investors](http://www.websense.com/investors). Websense assumes no obligation to update any forward-looking statement to reflect events or circumstances arising after the date on which it was made.

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