

Getting the Dough In 2005: Financing Early Stage Companies

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Speakers

Moderator: Robert J. Sell, Partner, Seyfarth Shaw LLP

Speakers: David J. Kauffman, Partner, Duane Morris LLP

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*HELPFUL HINTS
FOR DRAFTING AN EFFECTIVE EXECUTIVE SUMMARY
FOR EARLY STAGE FINANCING*

Companies looking to get their foot in the door of investors frequently provide too much information or the wrong kind of information. The quality of a Company's Executive Summary can determine whether a contact results in a meeting, or merely results in more paper in an Investor's circular file. Here are some helpful hints.

Investors usually look to receive the Executive Summary in an electronic format in advance of doing any review of the Business Plan or having a meeting. As a result, it is important that it be direct and short (3 pages maximum). The following is an typical outline of the subjects covered.

(1) Business Description (3 to 4 short paragraphs): Where is the business located? What are its products/services? What is the status of the Company's product development? Does the Company have sales?

(2) Financing Sought (1 or two paragraphs and/or a table): How much money has the Company raised previously? How much money is the Company seeking to raise now? What will be the use of the proceeds?

(3) Business/Product Strategy (4 or 5 paragraphs): Who is the typical customer for the Company's products/services? How will the products/services be delivered/sold to customers? What is attractive about the products/services from a typical customers perspective as compared to competitor's offerings? In other words, why are the Company's products of value?

(4) Management/Directors - List of names and short bullet point description (not full bios) of Management and Directors.

(5) Market Opportunity (2 or 3 paragraphs) - What is the size of the market of the products/services sold by the Company? What portion is realistically available to the Company, through an increase in the market or taking market share from competitors?

(6) Distribution Channels - How will the product be sold? Is it directly or through strategic partners or distributors, etc.?

(7) Opportunity - What opportunity to increase sales is available if the Company has additional funds? Is it expansion into new product/service lines, expansion geographically, etc?

(8) Revenue Model - How will the Company charge for its products/services? How is the Company compensated?

(9) Financial Projections - Usually a small table that lists past performance and five years of projections. It usually includes a Gross Revenue line and an EBITDA line, assuming conclusion of the anticipated financing.

Helpful Hints To Enhance the Value of Intellectual Property In Advance Of Financing

Many companies that seek financing do so before getting their “Intellectual Property House” in order. The failure to do so can create serious issues during the course of Investor due diligence and can have a negative impact on the valuation of an Enterprise. The following are some helpful hints.

- I. Confirm Title of Patents, Trademarks and Copyrights in Advance of Due Diligence
 - A. Conduct Internal Examinations and Document Assets - You may be aware of those intellectual property assets that are formally registered, but may not have given thought to those that are unregistered. Create a record with respect to all intellectual property assets, registered and unregistered.
 - B. Use Appropriate Identifiers of Ownership - Check to see that registration, trademark, service mark and tradename symbols are being used, where appropriate. If third parties are using the intellectual property, formally document any permission granted with a license, and with symbols that recognize the licensor as the true owner.
 - C. Conduct External Database Searches - Such searches help with the evaluation of whether there are infringers, and assist in proving value.
- II. Make Governmental Filings Where Appropriate - Enterprise Value is frequently lost due to failure to make timely filings or to properly document and make a record regarding the creation, ownership and use of intellectual property. Avoid this mistake by focusing on these issues early in a Company’s life.
- III. Show Protective Efforts With Employees and Third Parties
 - A. Use Confidentiality Agreements for Employees, Contractors and other Third Parties that are given access to Intellectual Property assets.
 - B. Formalize the transfer of ownership, using properly worded Invention Agreements with Contractors, Employees, and Strategic Partners.
- IV. Take Steps To Preserve Full Value of Know-How
 - A. Consider formulating Operating Procedure Manuals to document Know-How. This can decrease risk of loss upon the death or termination of a Key Employee.
 - B. Trade Secrets are things that have competitive value, because they are not generally known. Make sure that only those that need to know, know, and that even those who gain access are subject to formal Confidentiality Agreements. Put sensitive information under lock and key and use password protection.

ABC, LLC

SUBSCRIPTION AGREEMENT

ABC, LLC
c/o Law Firm
Address
Attn: Attorney Name

Ladies and Gentlemen:

The undersigned hereby tenders this subscription to ABC, LLC, a Delaware Limited Liability Company (the “Company”), and applies to purchase that number of Units of the Company as is set forth on page 8 hereof (“the Units”). As payment for the purchase price, the undersigned hereby encloses a check payable to ABC, LLC in the amount set forth on page 8 (“**the Purchase Price Payment**”).

The Company agrees to hold such funds separate and apart from all other funds in a bank account until this subscription is accepted. It is understood and agreed that the Company may, in its discretion, reject this subscription in whole for any reason. In the event this subscription is rejected for any reason, the Company shall promptly return the funds deposited herewith, without interest and without deduction, to the undersigned.

The undersigned hereby covenants, represents and warrants to the Company as follows:

- I. Bona Fide Residence. The undersigned is a bona fide resident and domiciliary, not a transient or temporary resident, of the state indicated next to the signature herein. The undersigned is not a nonresident alien of the United States.

- II. Securities Not Registered. The undersigned understands that the Units have not been registered under the Securities Act of 1933, as amended, (the “**1933 Act**”), or any applicable state securities laws; the undersigned understands that the Units are being offered in reliance upon exemptions from registration afforded by the 1933 Act and the Securities and Exchange Commission (“SEC”) rules promulgated thereunder, and the undersigned makes the following representations, declarations and warranties with the intent that the same may be relied upon in determining its suitability as a purchaser of the Units.
 - a. Acquired Solely for the Undersigned. The Units for which the undersigned hereby subscribes, or is otherwise entitled, will be acquired solely for the account of the undersigned for investment; the Units are not being purchased or otherwise acquired for subdivision or fractionalization; and the undersigned has no contract, undertaking, agreement or arrangement with any person to sell, transfer or pledge to such person or anyone else the Units for which the undersigned hereby subscribes or is otherwise entitled, or any part thereof, and the undersigned shall not enter into any such contract, undertaking, agreement or arrangement.

- b. Transferability of the Units Without Registration. The undersigned agrees not to dispose of the Units or any interest therein, and the Company will not be obligated to treat any transferee as the registered holder or to issue Units, unless prior to the issuance or transfer the Company receives:
- i. From the proposed transferee (1) an opinion of counsel to the proposed transferee (which counsel shall be, and which opinion in form and substance shall be reasonably satisfactory to the Company), to the effect that the proposed purchase or transfer does not require registration under the 1933 Act or registration, qualification or other filings under state securities laws or applicable regulations and that the proposed transferee has been provided information sufficient, in the opinion of the Company, to permit counsel to the Company to render such opinion; and (2) a letter, in form acceptable to the Company, executed by the proposed transferee, acknowledging that said transferee has read (i) all available information regarding the Company including any reports to shareholders, (ii) agrees to provide any information about himself and his investments as required either by the Company or applicable regulatory authorities, and (iii) confirm that the Company has not offered to repurchase the Units; and
 - ii. From the undersigned, an opinion of counsel to the undersigned (which counsel shall be, and which opinion in form and substance shall be, reasonably satisfactory to the Company), to the effect that such transfer or disposition does not require registration under the 1933 Act or registration, qualification or other filings under state securities laws or applicable regulations or information sufficient in the opinion of the Company to permit counsel to the Company to render such opinion.
- c. No Obligation to Register. The undersigned understands that the Units will not be registered under the 1933 Act and that the Units will be “**restricted securities**” as defined in the 1933 Act. The undersigned also understands that the Company is under no obligation to register such securities or to file any reports, required by Rule 144 or otherwise, adopted under the 1933 Act.
- d. Documentation. The undersigned has read, understands, and is fully familiar with all information provided by the Company.
- e. Availability of Investment Information. The Company has made all documents pertaining to this purchase of the Units available to the undersigned’s attorney, accountant and the undersigned and has provided the undersigned, its attorney and accountant an opportunity to ask questions and secure additional information concerning the Units and the Company and all additional matters considered by the undersigned to be relevant to this investment.
- f. Reliance Solely on Information Provided. The undersigned has relied solely upon the information provided by the Company and independent investigations

made by the undersigned and/or its representatives in deciding to purchase Units offered hereby and no representations or agreements other than those set forth in the information provided by the Company have been made to the undersigned with respect thereto.

III. Characteristics of Units. The undersigned acknowledges, agrees and is aware of the following:

- a. No federal or state agency has passed upon or endorsed the adequacy or accuracy of the information provided by the Company or made any finding or determination as to the fairness or appropriateness of the Units as an investment.
- b. Transfer of the Units is restricted pursuant to the securities laws; unless such securities are registered pursuant to the 1933 Act and the relevant state securities laws, it may not be possible to readily liquidate them.

IV. Indemnification. The undersigned agrees to indemnify the Company its officers, directors, employees and agents and to hold each of them harmless against all liabilities, costs or expenses (including attorneys' fees) arising as a result of the sale or distribution of the Units in violation of the 1933 Act or other applicable law. The undersigned also agrees to indemnify the Company, its officers, directors, employees and agents and hold each of them harmless from and against any loss, damage, liability or expense, including costs and attorneys' fees, to which they may be put or which they may incur by reason of or in connection with any misrepresentation, breach of warranties or failure to fulfill any covenants or agreements under this Agreement by the undersigned. This Agreement and the representations and warranties contained herein shall be binding upon the undersigned's heirs, executors, administrators, successors, and assigns.

The Company agrees to indemnify and hold harmless the undersigned from and against any loss, damage, liability or expense, including costs and attorney's fees, to which the undersigned may be put or which the undersigned may incur by reason of or in connection with any misrepresentation, breach of warranties or failure to fulfill any covenants or agreements under this Agreement by the Company. This Agreement and the representations and warranties contained herein shall be binding upon the Company, its successors and assigns.

V. Arbitration. The undersigned agrees that any controversy between the Company, its officers, directors, employees or agents, and the undersigned arising out of , or relating to, (i) the preparation or contents of the information provided by the Company or this Agreement, (ii) the offer and sale of Units, or (iii) any transactions in connection with the foregoing, shall be settled by arbitration. Any arbitration hereunder shall take place before at least three arbitrators, and the award of the arbitrators, unanimously or by a majority of them, shall be final, and judgment upon the award rendered may be entered in any court having jurisdiction. The undersigned agrees that notice of any such arbitration may be sent to the undersigned by mail at the mailing address shown on the signature page hereof, and the undersigned waives personal service thereof.

VI. Cancellation. The undersigned hereby acknowledges and agrees that it is not entitled to cancel, terminate or revoke this offer or any agreements made by the undersigned hereunder and that such offer and agreements shall survive the death or disability of the undersigned.

VII. Required Legends.

THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED AND ARE NOT REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR THE SECURITIES LAWS OF ANY STATE AND ARE BEING OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS, AS THAT TERM IS DEFINED UNDER THE 1933 ACT, AND TO A LIMITED NUMBER OF NON-ACCREDITED INVESTORS AND SOLELY IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID 1933 ACT AND SUCH LAWS. THE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON, OR ENDORSED THE MERITS OF, THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THE SECURITIES OFFERED HEREBY ARE BEING SOLD TO INVESTORS WHO ACQUIRE THE SECURITIES SOLELY FOR INVESTMENT PURPOSES WITHOUT A VIEW TOWARDS FURTHER DISTRIBUTION. THE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE 1933 ACT, THE LAWS OF THE APPLICABLE STATES, OR PURSUANT TO REGISTRATION OR AN EXEMPTION THEREFROM. ACCORDINGLY, PROSPECTIVE INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO RETAIN THE SECURITIES FOR AN INDEFINITE PERIOD OF TIME AND TO BEAR THE ASSOCIATED FINANCIAL RISKS.

THIS PRIVATE PLACEMENT MEMORANDUM IS HIGHLY CONFIDENTIAL AND HAS BEEN PREPARED BY THE COMPANY SOLELY FOR USE IN CONNECTION WITH THE PROPOSED PRIVATE PLACEMENT OF THE SECURITIES OFFERED HEREBY. THE COMPANY RESERVES THE RIGHT TO REJECT ANY OFFER TO PURCHASE SECURITIES OFFERED HEREBY, IN WHOLE OR IN PART, FOR ANY REASON, OR TO SELL LESS THAN THE AMOUNT OF SECURITIES OFFERED HEREBY OR FOR WHICH ANY PROSPECTIVE INVESTOR HAS SUBSCRIBED. THIS PRIVATE PLACEMENT MEMORANDUM IS PERSONAL TO EACH OFFEREE AND DOES NOT CONSTITUTE AN OFFER TO ANY OTHER PERSON OR TO THE PUBLIC GENERALLY TO SUBSCRIBE FOR OR OTHERWISE ACQUIRE THE SUBJECT SECURITIES. DISTRIBUTION OF THIS PRIVATE PLACEMENT MEMORANDUM TO ANY PERSON OTHER THAN THE OFFEREE AND THOSE PERSONS, IF ANY, RETAINED TO ADVISE SUCH OFFEREE WITH RESPECT THERETO IS UNAUTHORIZED, AND ANY REPRODUCTION OR DISTRIBUTION OF THIS PRIVATE PLACEMENT MEMORANDUM IN WHOLE OR IN PART, AND ANY DISCLOSURE OF ANY OF ITS CONTENTS WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMPANY IS PROHIBITED. THE INFORMATION

CONTAINED HEREIN HAS BEEN PROVIDED BY THE COMPANY AND OTHER SOURCES IDENTIFIED HEREIN. NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IS MADE BY THE COMPANY AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION, OR THE LEGALITY OF ANY INVESTMENT BY ANY OFFEREE OR PURCHASER OF THE SECURITIES OFFERED HEREBY UNDER APPROPRIATE LEGAL INVESTMENT OR SIMILAR LAWS, AND NOTHING CONTAINED HEREIN IS, OR SHALL BE RELIEF UPON AS, A PROMISE OR REPRESENTATION BY THE COMPANY. EACH PERSON RECEIVING THIS PRIVATE PLACEMENT MEMORANDUM REPRESENTS THAT SUCH PERSON IS BASING ITS INVESTMENT DECISION SOLELY ON THIS PRIVATE PLACEMENT MEMORANDUM AND THAT SUCH PERSON IS NOT RELYING ON ANY PRIOR INFORMATION, CONFIDENTIAL OR OTHER, THAT IT MAY HAVE RECEIVED FROM THE COMPANY.

IN MAKING AN INVESTMENT DECISION, PROSPECTIVE INVESTORS MUST RELY SOLELY ON THEIR OWN EXAMINATION OF THE COMPANY AND TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THIS OFFERING IS BEING MADE ON THE BASIS OF THIS PRIVATE PLACEMENT MEMORANDUM. ANY DECISION TO PURCHASE THE SECURITIES OFFERED HEREBY MUST BE BASED ON THE INFORMATION CONTAINED HEREIN. THE CONTENTS OF THIS PRIVATE PLACEMENT MEMORANDUM ARE NOT TO BE CONSTRUED AS INVESTMENT, LEGAL OR TAX ADVICE. EACH INVESTOR SHOULD CONSULT ITS OWN COUNSEL, ACCOUNTANT AND OTHER ADVISORS AS TO LEGAL, TAX, BUSINESS, FINANCIAL AND RELATED ASPECTS OF A PURCHASE OF THE SHARES.

THE COMPANY HAS AGREED TO MAKE AVAILABLE TO EACH PROSPECTIVE INVESTORS PRIOR TO THE PURCHASE OF SECURITIES, THE OPPORTUNITY TO ASK QUESTIONS AND RECEIVE ANSWERS CONCERNING THE TERMS AND CONDITIONS OF THE OFFERING AND TO OBTAIN ANY ADDITIONAL INFORMATION WHICH THE COMPANY POSSESSES OR CAN ACQUIRE WITHOUT UNREASONABLE EFFORT OR EXPENSE THAT ANY PROSPECTIVE INVESTORS REQUIRES. EXCEPT AS PROVIDED ABOVE, NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION CONCERNING THE COMPANY OR THE SECURITIES OFFERED HEREBY OTHER THAN AS CONTAINED HEREIN AND, IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION SHOULD NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY.

THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM IS INTENDED FOR THE CONFIDENTIAL USE OF THE PROSPECTIVE INVESTORS TO WHOM IT HAS BEEN DELIVERED, AND UNDER NO CIRCUMSTANCES SHALL IT CONSTITUTE AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY UNLESS AND UNTIL (I) THE PROSPECTIVE INVESTORS TO WHOM IT IS GIVEN SATISFIES THE SUITABILITY STANDARDS SET FORTH HEREIN; AND (II) A PROSPECTIVE INVESTOR TENDERS, AND THE COMPANY RECEIVES AND ACCEPTS, ALL NECESSARY DOCUMENTATION AND PAYMENT-IN-FULL AND FOR THE UNITS. THE COMPANY HEREBY RESERVES THE RIGHTS TO REJECT, FOR ANY REASON, ANY SUBSCRIPTION TENDERED BY ANY PROSPECTIVE INVESTORS. THIS

PRIVATE PLACEMENT MEMORANDUM MAY NOT, EITHER IN WHOLE OR IN PART, BE REPRODUCED OR FURTHER DISSEMINATED IN ANY MANNER.

NO BROKER, SALESMAN, OR ANY OTHER PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION, OTHER THAN THOSE CONTAINED HEREIN (OR INFORMATION REQUESTED BY A PROSPECTIVE OFFEREE AND FURNISHED TO SUCH PROSPECTIVE OFFEREE IN WRITTEN FORM BY THE COMPANY) AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY OR BY ANY OTHER PERSON.

ARIZONA RESIDENTS: THE SECURITIES BEING OFFERED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF ARIZONA, THE 1933 ACT, OR OTHERWISE AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED WITHOUT BEING REGISTERED OR AN EXEMPTION FROM REGISTRATION BECOMING AVAILABLE.

CALIFORNIA RESIDENTS: IT IS UNLAWFUL TO CONSUMMATE A SALE OR TRANSFER OF THIS SECURITY, OR ANY INTEREST THEREIN, OR TO RECEIVE ANY CONSIDERATION THEREFOR, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, EXCEPT AS PERMITTED IN THE COMMISSIONER'S RULES.

FLORIDA RESIDENTS: THE SECURITIES BEING OFFERED HAVE NOT BEEN REGISTERED WITH THE FLORIDA DIVISION OF SECURITIES AND INVESTOR PROTECTION. PURCHASERS HAVE THE RIGHT TO RESCIND THE TRANSACTION WITHIN THREE DAYS OF THE PURCHASE WITHOUT PENALTY.

ILLINOIS RESIDENTS: THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECRETARY OF STATE OR THE STATE OF ILLINOIS, NOR HAS THE SECRETARY OF STATE OR THE STATE OF ILLINOIS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

MARYLAND RESIDENTS: THESE SECURITIES ARE OFFERED FOR SALE IN THE STATE OF MARYLAND PURSUANT TO REGISTRATION WITH THE DIVISION OF SECURITIES OF THE DEPARTMENT OF LAW OF MARYLAND, BUT REGISTRATION IS PERMISSIVE ONLY AND DOES NOT CONSTITUTE A FINDING THAT THE PROSPECTUS IS TRUE, COMPLETE, AND NOT MISLEADING, NOR HAS THE DIVISION OF SECURITIES PASSED IN ANY WAY UPON THE MERITS OF, RECOMMENDED, OR GIVEN APPROVAL TO THESE SECURITIES. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

NEW HAMPSHIRE RESIDENTS: NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW

HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE THAT ANY DOCUMENT FILED UNDER RSA 421-B IS TRUE, COMPLETE AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL TO, ANY PERSON, SECURITY, OR TRANSACTION. IT IS UNLAWFUL TO MAKE OR CAUSE TO BE MADE, TO ANY PROSPECTIVE INVESTOR, CUSTOMER, OR CLIENT ANY REPRESENTATION INCONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH.

NORTH CAROLINA RESIDENTS: IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

[ADD ADDITIONAL STATE LEGENDS AS NECESSARY]

IN WITNESS WHEREOF, the undersigned has executed this Agreement this ____ day of _____, 2005.

(NOTE: PAYMENT MUST BE MADE BY CHECK MADE PAYABLE TO ABC, LLC)

Bona fide resident of _____

Number of Units subscribed for: _____

(Social Security Number)

Residence or Business Address

Mailing Address (if different)

Signature

(Print or type name)

STATE OF)
) SS
COUNTY OF)

On _____, 2005, before me the undersigned, a Notary Public, personally appeared _____, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledge that he/they executed the same.

WITNESS my hand and official seal.

(SEAL)

Notary Public in and for
Said County and State

My Commission Expires:

CONFIDENTIAL

PROSPECTIVE INVESTOR SUITABILITY QUESTIONNAIRE

The attached Questionnaire (the “Questionnaire”) has been prepared in connection with the proposed offering of Units of ABC, LLC, a Delaware limited liability company (the “Units”).

The Units are not being registered under the Securities Act of 1933, as amended (the “1933 Act”) or under any state securities laws, but are being sold in reliance upon exemptions from such registration requirements. This Questionnaire will be reviewed by counsel to ABC, LLC, a Delaware limited liability company (the “Company”) to determine whether or not the Prospective Investor is qualified as an “Accredited Investor” under the 1933 Act, including Section 4(2) and Regulation D promulgated thereunder, as well as applicable state securities laws. Accordingly, the Questionnaire must be completed by every Prospective Investor in connection with the possible purchase of the Units. The completion and return of this Questionnaire does not obligate the Company to sell the Units to any Prospective Investor.

The undersigned Prospective Investor represents and warrants to the Company that:

- (a) The information contained herein is complete and accurate and may be relied upon by the Company; and
- (b) The Prospective Investor will notify the Company immediately of any material change in any information provided thereby at any time prior to the acceptance or rejection of the Prospective Investor’s subscription for the Units. If such change occurs, Prospective Investor hereby acknowledges that the Company may review the Questionnaire in light of the new information and make a new determination as to whether or not the Prospective Investor is a suitable investor.

If additional space is needed for the response to any item, please attach an appropriate rider.

All responses will at all times be kept strictly confidential. By completing and signing this Questionnaire, the Prospective Investor acknowledges that the Company may make such use of this Questionnaire as may be necessary to establish the availability of an exemption from registration under the 1933 Act.

If you have questions concerning this Questionnaire, please contact:

Attorney Name
Firm Name
Address

Thank you for your cooperation.

QUESTIONNAIRE

Part I of this Questionnaire must be completed by all Prospective Investors.

Part II of this Questionnaire is designed to determine whether or not the Prospective Investors are an "Accredited Investor" under the 1933 Act. Accordingly, the Prospective Investors should initial each of the applicable items set forth in Part II. Part II must be completed by all Prospective Investors, but appropriate cross-references to responses set forth in Part II may be provided.

PART I: GENERAL INFORMATION

1. **Name.** Name of Prospective Investors: _____

2. **Addresses.** Address of Prospective Investors: _____
Home Address:⁽¹⁾ _____
(including Zip Code) _____
Home Telephone: _____
Principal Business Address: _____
Business Telephone: _____

3. **Employment History.** Please provide the following information:
 - (a) Principal Business: _____
 - (b) Current position in Principal Business: _____
 - (c) Percentage of equity ownership held by Prospective Investors in Principal Business, if any:

 - (d) Name and address of other business in which Prospective Investor has an equity interest, along with the percentage of the equity securities owned by the Prospective Investor in said business. (Please attach separate sheet if necessary.):

 - (e) Employment during the past 5 years (if other than involving the Principal Business identified above).

<u>Employer</u>	<u>Position</u>	<u>Dates</u>

⁽¹⁾ Please provide the address of your principal residence. If you maintain two or more residences, please list each residence and indicate the approximate amount of time you reside at each location each year.

4. **Identification.** _____
Social Security Number of Prospective Investor: (____ - ____ -
____)

5. **Voter Registration.** State in which Prospective Investor is registered to vote:

6. **Date of Birth:** _____ **U.S. Citizen:** Yes _____ No _____

7. **Education.** Please provide the following information:
(a) Last year of education: _____
(b) College: _____
Degree: _____ Year Received: _____
(c) Graduate School: _____
Degree: _____ Year Received: _____

8. **Marital Status:** Please indicate your current marital status:
Single _____ Married _____
Widowed _____ Divorced _____

9. **Title.** Please indicate how the Prospective Investor will hold title to the Units:
_____ Individually _____ As Trustee under the following trust:
_____ Other (please specify) _____
_____ Jointly _____

PART II. PROSPECTIVE INVESTOR INFORMATION

ACCREDITED INVESTOR STATUS

Individuals

The Prospective Investor hereby certifies as follows:

Initial _____ a. I certify that I have an individual net worth, or my spouse and I have a combined net worth, in excess of \$1,000,000. For purposes of this Questionnaire, “**net worth**” means the amount by which total assets at fair market value (including principal residence, home furnishing, and automobiles), exceed total liabilities.

or
Initial _____ b. I (i) had individual income, exclusive of any income attributable to my spouse, of more than \$200,000 in both calendar year 2003 and 2004, and (ii) I reasonably expect to have an individual income in excess of \$200,000 during the calendar year 2005. For purposes of this Questionnaire, “**income**” shall mean the Prospective Investor’s Individual Adjusted Gross Income as reported on the Prospective Investor’s Federal Tax Return, increased by (w) any deduction for long term capital gain under Section 1202 of the Internal Revenue Code of 1986, as amended (the “**Code**”), (x) any deduction for depletion under Section 611 *et seq.* of the Code, (y) any exclusion for interest under Section 103 of the Code, and (z) any losses of a partner allocated to the Prospective Investor as a limited partnership as reported on Schedule E of Form 1040.

or
Initial _____ c. My spouse and I (i) had joint income of more than \$300,000 in both calendar year 2003 and 2004, and (ii) reasonably expect to have joint income in excess of \$300,000 during the calendar year 2005.

or
Initial _____ d. I am a director or executive officer of the Company.

or
Initial _____ e. I (i) am a relative, spouse or relative of a spouse of another Prospective Investor, and (ii) I have the same principal residence as said other Prospective Investor. The name, address and nature of the relationship between the Prospective Investor is as follows:

Name: _____

Address: _____

Relationship: _____

PART III: ADDITIONAL INFORMATION

1. **Experience.** (a) I consider myself to have such knowledge and experience in financial and business matters to enable me to evaluate the merits and risks of this investment.

Yes _____ No _____

(b) If the answer to 1(a) is “yes,” please set forth below (or in an attachment) the basis for your answer.

2. **Previous Investment Experience.**

(a) Have you ever had a securities or commodities brokerage account?

Yes (_____) No (_____)

(b) Have you ever before bought securities which were exempt from federal and state registration (Private Placements of Regulation D offerings)?

Yes (_____) No (_____)

(c) How many issues did you invest in during the past two years?

(_____) 0 (_____) 1 (_____) 2 or more

(d) Have you previously purchased a speculative investment?

Yes (_____) No (_____)

(e) If your answer to (a), (b) or (d) is “yes,” did you rely on a purchaser representative or other investment counsel in connection with your investment?

Yes (_____) No (_____)

If the answer to item 2(e) is “yes,” please list the name, business address and telephone number of the person who acts as your purchaser or investment counsel.

3. **Investment Intent.** Will you acquire the Units for your own account without any intention of transferring them to others?

Yes (_____) No (_____)

4. **Affirmation.** (a) I hereby affirm that I have previously tendered payment to the Company for the Units indicated below. I furthermore affirm that I waive any and all rights to rescind this purchase of Units and to receive all of the monies previously tendered by me.

Yes (_____) No (_____)

(b) If the answer to 4(a) is “no”, please indicate below, or in an attachment, where you would like the Company to forward the refund of all monies previously tendered by you to the Company.

The undersigned certifies that the answers given in this Questionnaire are complete and accurate and are furnished with knowledge that they will be relied on by the Company. In the event that any of the information contained herein changes, the undersigned will promptly notify the Company in writing. The undersigned further acknowledges that the Units being sold are not being registered, that no market for the Units currently exists and that the undersigned therefore must maintain its investment for an indefinite period of time.

Date: _____, 2005

Signature of Prospective Investor

COMMON STOCK PURCHASE AGREEMENT

THIS COMMON STOCK PURCHASE AGREEMENT ("Agreement") is made as of the [___] day of [_____], 200___, by and among _____, a [_____] corporation (the "Company") and _____, a Delaware corporation ("Investor").

RECITAL

In accordance with the provisions of this Agreement, the Investor desires to purchase, and the Company desires to issue and sell to the Investor, shares of common stock of the Company, \$[___] par value ("Common Stock"), all on the terms and subject to the conditions contained herein.

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

Purchase and Sale of the Common Stock; Closing and Manner of Payment

1.1 Sale and Issuance of Common Stock. On the terms and subject to the conditions of this Agreement, the Investor agrees to purchase and the Company agrees to sell and issue to such Investor [___] shares of Common Stock for a purchase price of [\$_] per share and an aggregate purchase price of _____ Thousand Dollars (\$_____) (the "Purchase Price").

1.2 Closing. The purchase and sale of the Common Stock shall take place at the offices of _____, Chicago, Illinois, 60606 ("Closing"). The Closing shall take place on the date hereof (the "Closing Date"). The date on which the Closing occurs is referred to herein as a "Closing Date".

1.3 Payment; Issuance of Shares. At the Closing, the Investor shall pay the Purchase Price therefor by wire-transfer or check or other method acceptable to the Company. Against payment of the Purchase Price therefor, the Company shall issue to such Investor a stock certificate, registered in the name of Investor, in an amount equal to the number of shares of Common Stock purchased by such Investor.

ARTICLE II

Representations and Warranties

2.1 General Statement. The parties make the representations and warranties to each other which are set forth in this Article II. All such representations and warranties, all

representations and warranties set forth elsewhere in this Agreement and all representations and warranties set forth in any other instrument or document delivered in connection with this Agreement shall survive the execution and delivery hereof or thereof and the Closing (and none shall merge into any instrument or document delivered at Closing or thereafter), regardless of any investigation or lack of investigation by any of the parties hereto. No specific representation or warranty shall limit the generality or applicability of a more general representation or warranty. All representations and warranties of the Company are made subject to the exceptions which are noted in the schedule delivered by the Company to the Investor concurrently herewith and identified by the parties as the "Disclosure Schedule." Each section of the Disclosure Schedule shall be numbered to correspond to the paragraph of Section 2.3 to which such section relates.

2.2 Investor's Representations and Warranties. The Investor represents and warrants to the Company that:

(a) Investment. Investor is acquiring the Common Stock, and the shares of Common Stock for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof, nor with any present intention of distributing or selling the same; and, except as contemplated by this Agreement and the exhibits hereto, such Investor has no present or contemplated agreement, undertaking, arrangement, obligation, indebtedness or commitment providing for the disposition thereof.

(b) Authority. Investor has full power and authority to enter into and perform this Agreement in accordance with its terms. Investor has not been organized, reorganized or recapitalized specifically for the purpose of investing in the Company.

(c) Validity. This Agreement constitutes the legal, valid and binding obligation of Investor, enforceable against Investor in accordance with its terms, except that (i) such enforcement may be limited by or be subject to any bankruptcy, insolvency, fraudulent transfer or other laws, now or hereafter in effect relating to or limiting creditors' rights generally and (ii) such enforcement, if such enforcement is sought by way of specific performance, injunction or other similar remedy, may be limited by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(d) Accredited Investor. Investor is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission ("SEC") under the Securities Act of 1933, as amended (the "Securities Act").

(e) Disclosure of Information. Investor acknowledges that it has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of the Common Stock and the business, properties, prospects and financial condition of the Company. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2.3 of this Agreement or the right of the Investor to rely thereon.

(f) Brokers. No Person (as herein defined) has or will have, as a result of the transactions contemplated by this Agreement, any right, interest or valid claim against or upon the Company or Investor for any commission, fee or other compensation as a finder or broker because of any act or omission by Investor or any of its agents. As used herein, "Person" means an individual, corporation, limited liability company, partnership, joint venture, trust, or unincorporated organization, or a government or any agency or political subdivision thereof.

2.3 The Company's Representations and Warranties. The Company represents and warrants to Investor that, except as set forth in the Disclosure Schedule:

(a) Organization and Standing. The Company is a duly organized and validly existing corporation in good standing under the laws of the State of [_____] and has all requisite corporate power and authority for the ownership and operation of its properties and for the carrying on of its business as now conducted or as now proposed to be conducted. The Company is duly licensed or qualified and in good standing as a foreign corporation authorized to do business in all jurisdictions wherein the character of the property owned or leased, or the nature of the activities conducted, by it makes such licensing or qualification necessary and where the failure to be so licensed or qualified would be reasonably likely to have a Material Adverse Effect (as herein defined). As used herein, Material Adverse Effect shall mean a material adverse effect on the business, operations, affairs, assets, liabilities, condition (financial or otherwise) or prospects of the Company.

(b) Authorization. The Company has all requisite corporate power and authority to enter into and perform this Agreement. The execution and delivery by the Company of this Agreement and all other agreements in connection herewith, the performance by the Company of all of its obligations under this Agreement and all other agreements in connection herewith, have all been duly authorized and approved prior to the date hereof by all appropriate corporate action of the Company.

(c) Obligation. This Agreement constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that (i) such enforcement may be limited by or be subject to any bankruptcy, insolvency, fraudulent transfer or other laws, now or hereafter in effect relating to or limiting creditors' rights generally and (ii) such enforcement, if such enforcement is sought by way of specific performance, injunction or other similar remedy, may be limited by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(d) Capitalization. The authorized capital stock of the Company as of the date hereof consists of [_____] shares of Common Stock, of which [_____] shares are issued and outstanding. Following the Closing, the authorized capital stock of the Company will consist of [_____] shares of Common Stock, of which [_____] shares shall be issued and outstanding. All of the issued and outstanding shares of Common Stock (including those being acquired hereunder) have been duly authorized and validly issued and are fully paid and nonassessable, with no personal liability attaching to the ownership thereof. No shares of Common Stock have been reacquired by the Company

or are held in its treasury. Except for the conversion privileges of the currently outstanding option or warrant agreements, if any, to purchase shares of Common Stock granted or committed (whether or not binding) to be granted to employees, directors who are not also employees, and other service providers pursuant to the [Company's Stock Plan]("Stock Plan") and certain vendors to the Company, in each case as fully described in Section 2.3(d) of the Disclosure Schedule, (i) 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, (ii) there is no commitment of the Company to issue any subscription, warrant, 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 any assets of the Company, and (iii) 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. Except as provided in this Agreement, no Person is entitled to (i) any preemptive or similar right with respect to the issuance of any capital stock of the Company, or (ii) any rights with respect to the registration of any capital stock of the Company under the Securities Act. All of the issued and outstanding shares of Common Stock have been offered, issued and sold by the Company in compliance with applicable Federal and state securities laws. To the best of the Company's knowledge, no stockholder of the Company has granted options or other rights to purchase any shares of Common Stock from such stockholder.

(e) Identities of Holders of Common Stock. The names of the holders of Common Stock, and their respective holdings thereof, are set forth in Section 2.3(e) of the Disclosure Schedule. Except as contemplated by this Agreement, there are no agreements, written or oral, between the Company and any holder of its capital stock, or, to the best knowledge of the Company, among any holders of its capital stock, relating to the acquisition, disposition or voting of the capital stock of the Company.

(f) Compliance with Other Instruments. The Company is in compliance in all respects with its Certificate of Incorporation and its By-laws (as amended and restated to date). On or prior to the date hereof, the Company has provided to Investor true, correct and complete copies of the Certificate of Incorporation and By-laws, each approved by appropriate corporate action, amended up to and in effect as of the date hereof. Neither the execution, delivery and performance of this Agreement nor the issuance and delivery of the shares of Common Stock pursuant hereto, nor the consummation of any transaction contemplated hereby or thereby, has constituted or resulted in or will constitute or result in a default or violation of, or give any party a right of acceleration or termination pursuant to, any term or provision of the Certificate of Incorporation or By-laws of the Company (each as amended to date)), or of any instruments, judgments, Material Contracts (as herein defined), decrees, orders, statutes, rules or regulations, except for defaults, violations, accelerations and terminations which, individually and in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

(g) Governmental Consents. Except for the filing of any notice subsequent to the Closing that may be required under applicable state and/or federal securities laws (which, if required, shall be filed on a timely basis), no authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department,

commission, board, bureau, agency or instrumentality, domestic or foreign, is or will be necessary for the execution and delivery by the Company of this Agreement, for the offer, issuance, sale and delivery of the shares of Common Stock, or for the performance by the Company of its obligations under this Agreement.

(h) Subsidiaries. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, limited liability company, association, or other business entity. The Company is not a participant in any joint venture, partnership, or similar arrangement.

(i) Compliance with Laws. The Company has not received from any governmental authority any notice that the Company, its business, operations, or properties, or the premises where it conducts its business, has violated any statute, law, regulation, municipal ordinance, order, or zoning rule, or any Permit (as herein defined) which violation has not been cured; and the Company is in fact not in material violation of any such statute, law, regulation, municipal ordinance, order, zoning rule or Permit. The Company is in compliance in all material respects with all judgments, decrees and governmental orders by which it is bound or to which its material properties or assets is subject. The Company does not know of any proposed law, regulation, municipal ordinance, order, or zoning rule, the adoption, approval or passage of which could, directly or indirectly, have a Material Adverse Effect. The Company has complied, and will comply, with all applicable federal and state securities laws in connection with the offer, issuance and sale of the Common Stock.

(j) Litigation. There is no litigation or governmental proceeding or investigation pending as to the Company, or, to the best knowledge of the Company, threatened against the Company affecting any of its properties or assets, or against any officer or Key Employee (as herein defined) of the Company, affecting such Person's performance of duties for the Company, his or her stock ownership in the Company or otherwise relating to the business of the Company, nor, to the best knowledge of the Company, has any event occurred nor does any condition exist which would constitute a reasonable basis for any such litigation, proceeding or investigation. Neither the Company, nor, to the best knowledge of the Company, any officer or Key Employee of the Company is in default with respect to any order, writ, injunction, decree, ruling or decision of any court, commission, board or other government agency that would be reasonably likely to have, in any individual case, or in the aggregate any Material Adverse Effect. There are no actions or proceedings pending or threatened (or any basis therefor known to the Company) which might call into question the validity of this Agreement, any action taken or to be taken pursuant hereto, any of the shares of Common Stock or any documents governing or executed with respect to such shares. References to actions or proceedings (and like matters) in the foregoing sentences include, without limiting their generality, actions pending or threatened (or any basis therefor known to the Company) involving the prior employment of any of the Company's officers or Key Employees or such officers or employees' use in connection with the Company's business of any information or techniques allegedly proprietary to any of their former employers.

(k) Permits. The Company possesses all material licenses, permits, registrations and governmental approvals ("Permits") which are required in order for the

Company to conduct its businesses as presently conducted. All of the Permits are listed on the Disclosure Schedule and the Company has delivered copies of such Permits to the Investor, all of which are true and correct in all material respects.

(l) Environmental Matters. The Company is not in violation of, and the Company has no liability under, any applicable statute, law or regulation relating to the environment or occupational health and safety, which violation or liability would, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, and to the best of the Company's knowledge, no material expenditures are or shall be required in order to comply with any such existing statute, law or regulation.

(m) Employees Generally. All employees of the Company whose employment responsibility requires access to confidential or proprietary information of the Company have executed and delivered a Nondisclosure and Assignment of Inventions Agreement substantially in the form of **Exhibit B**, attached hereto (the "Inventions Agreement"), and all of such agreements are in full force and effect. The Company has no knowledge that any employee is in violation of any such agreement. With respect to the employees of the Company, there has not been, there is not presently pending or existing, and, to the best of the Company's knowledge, there is not threatened, (A) any material strike, slowdown, picketing, work stoppage or employee grievance process; (B) any material charge, grievance proceeding or other claim against or affecting the Company relating to the alleged violation of any law pertaining to labor relations or employment matters, including any charge or complaint filed by an employee or union with the National Labor Relations Board, the Equal Employment Opportunity Commission or any comparable governmental authority, organizational activity or other labor or employment dispute against or affecting the Company or (C) any application for certification of a collective bargaining agent. To the best of the Company's knowledge, no event has occurred or circumstances exist that could provide the basis for any work stoppage or other labor dispute. To the best of the Company's knowledge, the employment by the Company of all of its employees is lawful. Section 2.3(m) of the Disclosure Schedule contains a list of all employees of the Company as of the date hereof and said list correctly reflects their base salaries, bonuses, dates of employment and positions. The employment of the Company's employees is terminable at will without cost to the Company except for payments required under the Employee Benefit Plans (as herein defined) and the payment of accrued salaries or wages and vacation pay. No employee or former employee has any right to be rehired by the Company prior to the Company's hiring a Person not previously employed by the Company.

(n) Key Employees. To the best knowledge of the Company, no Key Employee of the Company has any present intention of terminating his employment with the Company, which termination (either individually or in the aggregate when combined with all other such terminations) would be reasonably likely to have a Material Adverse Effect. For the purposes of this Agreement, the term "Key Employee" shall mean each of the Chief Executive Officer, President, any Vice-President, the Treasurer, any director, Chief Financial Officer, Chief Technology Officer, supervisor, manager or other head of operations, financial or strategic planning, sales, marketing, design or other functional area of the Company, the head of any division of the Company, any Persons performing

similar functions as those enumerated earlier in this sentence for or any other individual so designated by the board of directors of the Company.

(o) Employee Benefit Plans.

(i) The Company does not maintain, administer or contribute to, nor has it maintained, administered or contributed to, nor has it any liability with respect to any Employee Benefit Plan (as herein defined). For purposes of this Agreement, "Employee Benefit Plan" includes any pension, retirement, savings, profit-sharing, disability, medical, dental, health, life, death benefit, group insurance, deferred compensation, stock option, stock purchase, stock appreciation, bonus, incentive, vacation pay, severance pay, or other employee benefit plan, trust, arrangement, contract, agreement, policy or commitment (including, without limitation, any "pension plan" as defined in Section 3(2) of ERISA ("Pension Plan"), any "welfare plan" as defined in Section 3(1) of ERISA ("Welfare Plan"), or any "multiemployer plan" as defined in Section 3(37) of ERISA ("Multiemployer Plan")), whether or not any of the foregoing is funded or insured and whether written or oral. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended. Neither the Company or any affiliate of either (within the meaning of Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended (the "Code")) has ever contributed to, or been obligated to contribute, to a (i) Multiemployer Plan (as defined in Section 3(37) of ERISA) (ii) a "defined benefit plan" (as defined in Section 3(35) of ERISA), or (iii) "defined contribution plan" (as defined in Section 3(34) of ERISA); nor does the Company or any such affiliate have any liability for post retirement welfare benefits, including retiree medical or life benefits.

(ii) Each Employee Benefit Plan maintained or administered by the Company has (a) complied in all material respects with the applicable requirements of ERISA (including, but not limited to, the health care continuation requirements of Part 6 of Title I, Subtitle B of ERISA), the Code and any other applicable state or federal law (including the regulations and rulings thereunder) governing each Employee Benefit Plan, and (b) at all times been properly administered in all material respects in accordance with all such laws and in accordance with its terms to the extent consistent with all such laws.

(iii) All contributions and payments with respect to Employee Benefit Plans that are required to be made by the Company with respect to all periods prior to the Closing Date have been or shall be made before the Closing Date by the Company, in accordance with the terms of any such Employee Benefit Plan.

(iv) No Employee Benefit Plan has any provision that could increase or accelerate benefits or any other provision that could increase liability as a result of the transaction contemplated by this Agreement.

(v) No claims (other than routine claims for benefits) are pending or are or have been threatened, to the best of either the Company's knowledge, by or on behalf of any Employee Benefit Plan or any employee or beneficiary covered by any Employee Benefit Plan or otherwise involving any Employee Benefit Plan.

(p) Related Parties. Section 2.3(p) of the Disclosure Schedule describes each: (i) business relationship (excluding employee compensation and other ordinary incidents of employment) existing on the date of this Agreement between (x) the Company and (y) any present or former officer, Key Employee, director, stockholder or Affiliate (as herein defined) of the Company, any present or former known spouse, ancestor or descendant of any of the aforementioned persons or any trust or other similar entity for the benefit of any of the foregoing persons (all such persons and trusts encompassed by this clause (y) being sometimes collectively referred to herein as the "Related Parties" and individually as a "Related Party"); (ii) transaction occurring between the date of the Company's formation and the date of this Agreement between the Company and any Related Party; and (iii) amount owing by or to any of the Related Parties, respectively, to or from the Company as of the date of this Agreement. No property or interest in any property, tangible or intangible, which relates to and is or will be necessary or useful in the present or currently contemplated future operation of the Company's business, is presently owned by or leased by or to any Related Party. Neither the Company nor any Related Party has an interest, directly or indirectly, in any business, corporate or otherwise, which is in competition with the business of the Company (other than as a passive owner of 2% or less of the outstanding shares of a company whose shares are publicly traded). For the purposes of this Agreement, "Affiliate" means, with respect to any Person, any other Person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is in common control with such Person.

(q) Guaranties; Burdensome Agreements. The Company has not created, incurred, suffered to exist, or guaranteed, endorsed, or otherwise become liable for any indebtedness of any other Person (other than endorsements of checks for collection in the ordinary course of business). The Company is not a party to or otherwise bound by any written or oral agreement, instrument, commitment or restriction which individually or in the aggregate could have a Material Adverse Effect.

(r) Books and Records. The books, accounts and records of the Company are, and have been, maintained in the Company's usual, regular and ordinary manner, in accordance with generally accepted accounting practices consistently applied, and all material transactions to which it is or has been a party are properly reflected therein in accordance with generally accepted accounting principles ("GAAP") consistently applied. The minute books of the Company contain complete and accurate records of all meetings and other corporate actions of its stockholders and its board of directors and committees thereof. The stock ledgers of the Company are complete and reflects all issuances, transfers, repurchases and cancellations of shares of capital stock of the Company.

(s) Business Plan. The Company has furnished to the Investor a Business Plan, a true, correct and complete copy of which is attached as Exhibit C (the "Business

Plan”). The Business Plan does not contain any untrue statement of a material fact nor does it omit to state a material fact necessary to make the statements made therein not misleading. The projected financial information contained in the Business Plan was prepared in good faith, is based upon assumptions that the Company believes are reasonable and takes into account all material information regarding the matters set forth therein

(t) Financial Statements. Copies of the consolidated balance sheet and statement of income of the Company as of and for [the _____-month period ended _____, ____] (the "Financial Statement Date") are contained in Section 2.3(t) of the Disclosure Schedule. Such financial statements are herein referred to as the "Financial Statements". The Financial Statements are complete and correct in all material respects, are in accordance with the books and records of the Company and present fairly, in all material respects, the financial position of the Company as of the date thereof and the results of operations of the Company for the period covered by said statements, in accordance with GAAP, consistently applied throughout all periods, except as disclosed therein, except for (i) the absence of footnote disclosures required by GAAP and (y) normal recurring year-end adjustments which are not material, individually or in the aggregate.

(u) Absence of Liabilities. Except as disclosed in the Disclosure Schedule, the Company did not have, at the Financial Statement Date, any liabilities of any type (whether direct or indirect, matured or unmatured, absolute, accrued, contingent or otherwise), whether or not required by GAAP to be accrued for on a balance sheet, except for liabilities fully reflected on or fully reserved against in the balance sheet contained in the Financial Statements, and, since the Financial Statement Date, the Company has not incurred or otherwise become subject to any such liabilities or obligations except in the ordinary course of business.

(v) Material Adverse Changes. No customer or supplier which was significant to the Company during the period covered by the Financial Statements or which has been significant to the Company thereafter, has terminated, materially reduced or threatened to terminate or materially reduce its purchases from or provision of products or services to the Company. The Company has not suffered or been threatened with (and the Company has no knowledge of any facts which may cause or result in) any material adverse change in the business, operations, assets, liabilities, condition (financial or otherwise) or prospects of the Company, taken as a whole.

(w) Absence of Changes. Since the Financial Statement Date, there has not been, with respect to the Company: (i) any sale or transfer of material assets or property, except in the usual and ordinary course of business; (ii) any material damage, destruction or loss, or material interruption in use, of any material asset or property of the Company (whether or not covered by insurance); (iii) any assets written off on the Company's books of account as unusable or obsolete or for any other reason in excess of \$5,000 in the aggregate; (iv) any material change in the conduct or nature of its business, whether or not the change had a Material Adverse Effect (the foregoing representation and warranty shall not be deemed to be breached by virtue of the entry of the Company into this Agreement or its consummation of the transactions contemplated hereby); (v) any

waiver or compromise of a valuable right or of a material debt owed to it; (vi) any payment, declaration or setting aside of dividends or other distributions on its securities of any class, or purchase, exchange or redemption of any of its securities; (vii) any capital expenditures incurred or any commitments to incur capital expenditures made in excess of [\$_____] in the aggregate; (viii) any increases in compensation paid to employees of the Company; (ix) any management or consulting fees paid or incurred in excess of [\$_____] in the aggregate; (x) any employee hired for an annual salary and/or wages in excess of [\$_____]; (xi) any issuance or sale by the Company of any shares of its Common Stock or other securities; or (xii) without limitation by the enumeration of any of the foregoing, any material transaction entered into other than in the usual and ordinary course of business (the foregoing representation and warranty shall not be deemed to be breached by virtue of the entry by the Company into this Agreement or its consummation of the transaction contemplated hereby).

(x) Taxes. There have been properly completed and filed on a timely basis and in correct form all material Tax Returns (as herein defined) required to be filed by the Company on or prior to the date hereof pertaining to Taxes (as herein defined). As of the time of filing, the foregoing Tax Returns correctly reflected the facts regarding the income, business, assets, operations, activities, status or other matters of the Company or any other information required to be shown thereon, and no extension of time within which to file any such Tax Return has been requested or granted. With respect to all amounts in respect of Taxes imposed upon the Company or for which the Company is or could be liable, whether to taxing authorities (as, for example, under law) or to other Persons (as, for example, under tax allocation agreements), with respect to all taxable periods or portions of periods ending on or before the Closing Date, all applicable Tax laws and agreements have been complied with in all material respects, and all amounts required to be paid by the Company, to taxing authorities or others, have been paid. The Company has not elected to be treated as an S corporation under the Code or collapsible corporation pursuant to Section 1362(a) or Section 341(f) of the Code, nor have they made any other elections pursuant to the Code (other than elections that relate solely to methods of accounting, depreciation or amortization) that would have a Material Adverse Effect. For the purposes of this Agreement, "Taxes" means all federal, state, local or foreign gross or net income, gross or net receipts, windfall profits, severance, property, ad valorem, real estate, capital property (tangible or intangible), production, sales, use, value added, stamp, duty, business transfer, wealth, license, excise, franchise, employment, withholding or similar taxes imposed on the income, properties or operations of the Company, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, and "Tax Returns" means all reports and returns required to be filed on or before the Closing Date with respect to the Taxes of the Company, whether filed on a separate, consolidated, or combined basis.

(y) Material Contracts. Section 2.3(y) of the Disclosure Schedule correctly and completely lists and describes all Material Contracts (as herein defined) to which the Company is a party or is bound. All Material Contracts and all other contracts or instruments to which the Company is a party or is bound are in full force and binding upon the parties thereto. No default by the Company has occurred thereunder and, to the best of the Company's knowledge, no default by the other contracting parties has

occurred thereunder. No event, occurrence or condition exists which, with the lapse of time, the giving of notice, or both, or the happening of any further event or condition, would become a default by the Company thereunder. Complete and accurate copies (or, with respect to oral Contracts, written summaries) of all Material Contracts (including any amendments or supplements thereto) have previously been delivered or been made available to the Investor. For purposes of this Agreement, "Material Contracts" shall mean any oral or written: customer agreements for the rendering of services by the Company in an amount in excess of [\$_____] each; purchase orders and purchase contracts in excess of [\$_____] each; contracts for capital expenditures in excess of [\$_____] each; agreements or arrangements regarding confidentiality or non-competition; loan agreements; notes; security agreements; employment and employment-related agreements; collective bargaining agreements; leases and subleases of the Leased Real Property (as herein defined); leases and subleases of personal property where the annual payments thereunder exceed [\$_____] or which cannot be canceled by the Company without payment or penalty upon notice of sixty (60) days or less; license agreements; agreements restricting or affecting the development, manufacture or distribution of the Company's products or services; agreements imposing indemnification obligations on the Company; work-for-hire agreements; sales representative, distribution, advertising and similar agreements; and all other agreements or arrangements to which the Company is a party or by which the Company or any of its assets is bound and which have a notice for termination period of more than six (6) months or obligate any party thereto to make an annual payment of more than [\$_____] or total payments of more than [\$_____] during the term of such agreement or arrangement.

(z) Intellectual Property. The Company is the owner of or has exclusive rights to use all of the Intellectual Property (as herein defined). Section 2.3(z) of the Disclosure Schedule sets forth a complete and accurate list of all U.S. and foreign copyright registrations, copyright applications, patents and patent applications, trademark and service mark registrations (including Internet domain name registrations), trademark and service mark applications and material unregistered trademarks and service marks included within the Intellectual Property. Except with respect to unregistered trademarks and service marks, each owner listed on the Disclosure Schedule is listed in the records of the appropriate governmental entity as the sole owner of record of the Intellectual Property. Section 2.3(z) of the Disclosure Schedule lists all Software, as herein defined, which is owned ("Proprietary Software") or licensed, leased or otherwise used by the Company (other than "off-the-shelf" Software), and identifies which Software is owned, licensed, leased or otherwise used, as the case may be. Section 2.3(z) of the Disclosure Schedule sets forth a complete and accurate list of all agreements (other than agreements with respect to "off-the-shelf" Software) between the Company, on the one hand, and any Person, on the other hand, where the Company has granted or has been granted any right to use or practice any rights under any of the Intellectual Property (collectively, "Intellectual Property Licenses"). To the best of the Company's knowledge, the conduct of its business and the exercise of rights relating to the Intellectual Property does not infringe upon or otherwise violate, the rights of any Person (including Intellectual Property rights, rights of privacy and rights of publicity). To the best of the Company's knowledge, no Person is infringing upon or otherwise violating any of the Intellectual Property. The Company has not received any notice of any claims, and, to the best of

Company's knowledge, there are no pending claims, of any Persons relating to the scope, ownership or use of any of the Intellectual Property. Each copyright registration, patent and registered trademark and application therefor listed on Section 2.3(z) of the Disclosure Schedule is in proper form, not disclaimed and has been duly maintained, including the submission of all necessary filings in accordance with the legal and administrative requirements of the appropriate jurisdictions. The Company has not licensed or sublicensed its rights in any of the Intellectual Property or received or granted any such rights, other than pursuant to Intellectual Property Licenses. All Proprietary Software set forth in Section 2.3(z) of the Disclosure Schedule was either developed (a) by employees of the Company within the scope of their employment; or (b) by independent contractors who have assigned their right to the Company pursuant to written agreements. The Company is not aware that any employee of the Company is obligated under any contract (including any license, covenant or commitment of any nature), or subject to any judgment, decree or order of any court or administrative agency, that would interfere with the use of such employee's best efforts to promote the interests of the Company or would conflict with the Company's business as proposed to be conducted. To the best of the Company's knowledge, no prior employer of any employee of the Company has any right to or interest in any inventions, improvements, discoveries or other information assigned to the Company by such employee pursuant to an Inventions Agreement executed by such employee, or otherwise so assigned, and the Company does not believe it is or will be necessary to utilize any inventions of any of its employees (or people it currently intends to hire) made prior to their employment by the Company. The Company is not a party to, or, to its knowledge, bound by, any commitment, contractual term or other agreement, either express or implied, that would in any way limit or interfere with the Company's ability to: (i) enhance, improve or modify any Company website or (ii) relocate any Company website to a different host server or (iii) link other websites or hyperlinks to any Company website. As used herein, (i) "Intellectual Property" means all intellectual property rights, including, without limitation, all patents, trademarks, designs, service marks, copyrights, Internet domain names and web sites, trade or business names [(including the name "_____")], trade dress and slogans (and all registrations of any of the foregoing, and all applications for registration thereof), Software (as herein defined), all goodwill associated with such intellectual property rights, and all Intellectual Property Licenses, and (ii) "Software" means any and all computer programs (including any and all software implementation of algorithms, models and methodologies whether in source code or object code), databases and computations (including any and all data and collections of data), all documentation (including user manuals and training materials) relating to any of the foregoing, and the content and information contained in any web site.

(aa) Insurance. The Company carries insurance with reputable insurers incident to its properties and businesses in amounts and types at least equivalent to insurance customary for persons engaged in similar businesses of a similar size subject to the same perils or hazards, but in any event in amounts sufficient to prevent the Company from becoming a self-insurer or co-insurer.

(bb) Real Property. The Company does not own any real property. Schedule 2.3(bb) of the Disclosure Schedule lists all real property leased, subleased or used by the

Company (the "Leased Real Property"). The Leased Real Property: (i) constitutes all real property and improvements leased or used by the Company; (ii) is not subject to any leases or tenancies of any kind (except for the Company's lease); (iii) to the best of the Company's knowledge, is used in a manner which is consistent and permitted by applicable zoning ordinances and other laws or regulations without special use approvals or permits; (iv) is adequate for the Company's present and reasonably foreseeable needs; and (v) to the best of the Company's knowledge, requires no work or improvements to bring it into compliance with any applicable law or regulation, is in good condition and repair, and no material expenditures in excess of \$10,000 in the aggregate are required to be made for the repair or maintenance of any improvements on the Leased Real Property.

(cc) Investment Company. The Company is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(dd) Disclosure. Neither this Agreement, including the Disclosure Schedule, nor any other agreement, document, certificate or written statement furnished to Investor or its counsel by or on behalf of the Company in connection with the transactions contemplated hereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. There is no fact within the knowledge of the Company which has not been disclosed herein or in a written document delivered by it to the Investor which would have a Material Adverse Effect. Without limiting the foregoing, the Company has no knowledge or belief that there exists, or there is pending or planned, any patent, invention, device, work of authorship, application or principle or any statute, rule, law, regulation, standard or code which would be reasonably likely to have a Material Adverse Effect.

(ee) Brokers. No Person has or will have, as a result of the transactions contemplated by this Agreement, any right, interest or valid claim against or upon the Company or the Investor for any commission, fee or other compensation as a finder or broker because of any act or omission by the Company or any of its agents.

ARTICLE III

Closing

3.1 Form of Documents. At Closing, the parties shall deliver the documents and shall perform the acts which are set forth in Section 1.3 and this Article III. All documents which the Company shall deliver to Investor at the Closing shall be in form and substance reasonably satisfactory to counsel for the Investor.

3.2 Company's Deliveries. The Company shall deliver to Investor all of the following:

(a) An incumbency and specimen signature certificate with respect to the officers of the Company executing this Agreement, and any other document delivered hereunder, on behalf of the Company.

(b) Certified copies of the Certificate of Incorporation, and the By-laws, each as in effect on the Closing Date.

(c) A certified copy of resolutions of the Company's board of directors, authorizing the Company's execution and performance of this Agreement, the Shareholders Agreement, the Investors Rights Agreement and all other documents to be executed in connection with or pursuant to this Agreement.

(d) Certificates of good standing of the Company, or their equivalent, issued not earlier than 10 days prior to the initial Closing Date by the Secretary of State or equivalent authority of the States of [_____ and _____].

(e) The written opinion of _____, counsel to the Company, dated as of the Closing Date, in substantially the form of **Exhibit E** attached hereto.

(f) Copies of Inventions Agreements, executed by the Company and all Key Employees.

(g) Payment for the costs, expenses, taxes and filing fees identified in Section 5.5.

(h) Without limitation by specific enumeration of the foregoing, all other documents reasonably required to consummate the transactions contemplated hereby.

3.3 Joint Deliveries. The Founders, the Investor and the Company shall jointly execute and deliver a Shareholders Agreement in the form attached hereto as **Exhibit F** (the "Shareholders Agreement"), duly executed by the parties named therein. The Investor and the Company shall jointly execute and deliver an Investor Rights Agreement in the form attached hereto as **Exhibit G** (the "Investor Rights Agreement") and the License Agreement in the form attached hereto as **Exhibit H** (the "License Agreement").

ARTICLE IV

Indemnification

4.1 General. From and after the Closing Date, the parties shall indemnify each other as provided in this Article V.

4.2 The Company's Indemnification Covenants. The Company shall indemnify, save and keep the Investor, its successors and assigns, forever harmless against and from all liability, demands, claims, actions or causes of action, assessments, losses, penalties, costs, damages or expenses, including reasonable attorneys' and expert witness fees (collectively, "Damages"), sustained or incurred by the Investor and its successors or assigns:

(a) as a result of or arising out of or by virtue of any incorrect representation or warranty made by the Company to the Investor or in any closing document delivered to the Investor in connection herewith; or

(b) as a result of or arising out of or by virtue of the failure of the Company to comply with, or the breach by the Company of, any of the covenants of this Agreement, the Certificate of Incorporation, the Shareholders Agreement or the Investor's Rights Agreement to be performed by the Company (including, without limitation, this Article IV).

4.3 Investor's Indemnification Covenants. The Investor shall indemnify, save and keep the Company, its successors and assigns, forever harmless against and from all Damages sustained or incurred by the Company, its successors and assigns:

(a) as a result of or arising out of or by virtue of any incorrect representation or warranty made by the Investor to the Company herein; or

(b) as a result of or arising out of or by virtue of the failure of the Investor to comply with, or the breach by the Investor of, any of the covenants of this Agreement, the Certificate of Incorporation, the Shareholders Agreement or the Investor's Rights Agreement to be performed by the Investor (including without limitation this Article IV).

ARTICLE V

Miscellaneous

5.1 Legend on Certificates. Until registered under the Securities Act or transferred pursuant to the provisions of Rule 144 as promulgated by the SEC, all certificates evidencing any shares of the Common Stock, whether upon initial issuance or upon any transfer thereof, shall bear a legend, prominently stamped or printed thereon, substantially in the form as set forth below:

“The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended (the "Act"). The shares have been acquired for investment only and may not be sold or transferred in the absence of an effective Registration Statement for the shares under the Act or an opinion of counsel satisfactory to the corporation that registration under the Act is not required in connection with such transfer.”

5.2 No Waiver; Cumulative Remedies. No failure or delay on the part of any party to this Agreement in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

5.3 Amendments, Waivers and Consents. Any provision in this Agreement to the contrary notwithstanding, and except as hereinafter provided, changes in or additions to this

Agreement may be made, and compliance with any covenant or provision set forth herein may be omitted or waived, only if the Company shall obtain consent thereto in writing from the Investor. Any waiver or consent may be given subject to satisfaction of conditions stated therein and any waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

5.4 Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand or courier, mailed by first class, registered or certified mail, return receipt requested, postage prepaid or transmitted by telecopier or telex (with hard copy to follow promptly by mail) addressed as follows:

If to Investor:

with a copy to:

If to the Company:

with a copy to:

or at such other respective addresses and/or addressees as may be designated by notice given in accordance with the provisions of this Section 7.4. Notices shall be effective (a) upon delivery if by hand or courier or if by telecopier or telex (b) one business day after being sent by reputable overnight courier, and (c) three days after being deposited in the mail if sent by mail.

5.5 Costs, Expenses and Taxes. Regardless of whether any Closing occurs, each party agrees to pay in connection with the preparation, negotiation, execution and delivery of this Agreement or any other agreements or documents contemplated hereby and the issuance of the Common Stock, its own fees and out-of-pocket expenses, including, without limitation, the reasonable fees and out-of-pocket expenses of legal counsel, independent public accountants and other outside experts reasonably retained in connection with the amendment or enforcement of this Agreement. In addition, the Company shall pay any and all stamp and other like taxes payable or determined to be payable in connection with the execution and delivery of this Agreement, the issuance of the Common Stock, and the other instruments and documents to be delivered hereunder or thereunder, except that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Common Stock which is being converted. The Company agrees to save the Investor harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omitting to pay any taxes that the Company is required to pay pursuant to the preceding sentence

5.6 Specific Performance. Each party to this Agreement agrees and acknowledges that violation or breach of its covenants, agreements and undertakings contained in this Agreement shall cause the other party irreparable injury and, in addition to any other right or remedy available to a party at law or in equity, such party shall be entitled to enforcement by court injunction for specific performance of the obligations of the other party hereunder. Notwithstanding the foregoing sentence, nothing herein shall be construed as prohibiting a party

from also pursuing any other rights, remedies or defenses, for such breach or threatened breach, including receiving damages and attorneys' fees. The election of any remedy shall not be construed as a waiver on the part of any party of any rights such party might otherwise have at law or in equity. Said rights and remedies shall be cumulative.

5.7 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Company and the Investor, their respective heirs, successors and assigns, except that the Company shall not have the right to delegate any of its respective obligations hereunder or to assign any of its respective rights hereunder or any interest herein without the prior written consent of the Investor.

5.8 Prior Agreements. This Agreement, the Shareholders Agreement, the Investor Rights Agreement, and the License Agreement constitute the entire agreement among the parties and supersedes any prior understandings or agreements concerning the purchase and sale of the shares of Common Stock.

5.9 Severability. The provisions of this Agreement and the terms of the Common Stock are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of a provision contained in this Agreement or the Common Stock 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 or part of a provision of this Agreement or the terms of the Common Stock; but this Agreement and the terms of the Common Stock shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and so that such provisions or part reformed shall be valid, legal and enforceable to the maximum extent possible.

5.10 Governing Law. This Agreement shall be construed and enforced in accordance with and governed by the [General Corporation Law of the State of Delaware] as to matters within the scope thereof, and as to all other matters shall be governed by and construed in accordance with the internal laws of the State of Illinois.

5.11 Headings. Article, Section and paragraph headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

5.12 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart.

5.13 Further Assurances. From and after the date of this Agreement, upon the request of the Investor or the Company, the Company and the Investor shall execute and deliver such instruments, documents and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement and the shares of Common Stock.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

THE COMPANY:

By: _____
Title: _____

THE INVESTOR

By: _____
Title: _____

Name _____
Memorandum No. _____

SUPPLEMENTAL PRIVATE PLACEMENT MEMORANDUM

NEWCO, INC.

A Delaware Corporation

This Supplemental Private Placement Memorandum is dated _____

SUPPLEMENTAL PRIVATE PLACEMENT MEMORANDUM

NEWCO, INC.

A Delaware Corporation

_____ Common Shares
At \$ _____ Per Share

This Supplemental Private Placement Memorandum ("Memorandum") is furnished on a confidential basis solely for the purpose of permitting each person to whom it is delivered (an "Offeree") to evaluate a possible investment in Newco, Inc., a Delaware corporation (the "Company"). This Memorandum is being distributed with a copy of the Company's Business Plan (the "Business Plan") and supplements the information contained therein. This Memorandum is also being distributed with a copy of a Subscription Agreement, a copy of a Shareholder's Agreement, a copy of the Company's Certificate of Incorporation and copy of the Company's Bylaws (collectively with this Memorandum and the Business Plan, the "Offering Documents"), all of which are attached to this Memorandum as exhibits. Please read all of the Offering Documents carefully before making a decision to invest.

This offering of the Company's Common Stock (the "Offering") involves a high degree of risk and is not suitable for investors who lack substantial net income or net worth. Purchasers of the Common Stock offered hereunder (the "Shares") must be prepared and able to hold the Shares for an unlimited period of time and to sustain the loss of their entire investment. For a more complete discussion of the significant risks associated with an investment in the Company, see "Risk Factors" below.

THE SHARES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATES AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH STATE LAWS. THE SHARES MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY THE SECURITIES ACT AND SUCH STATE LAWS PURSUANT TO REGISTRATION OR AN EXEMPTION THEREFROM. THE SHARES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM OR ANY OTHER OFFERING DOCUMENTS. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

Terms of Offering

	<u>Offered Shares 1/</u>	<u>Per Share Price To Purchasers 2/</u>	<u>Discounts and Commissions</u>	<u>Proceeds to the Company 3/</u>
Minimum				
Maximum				

-
- (1) For a more complete discussion of the current capital structure of the Company, see "Description of Shares" below.
 - (2) There is currently no market for the Shares and no market is expected to develop. The Offering is being made on a best efforts basis by the Company. (See "Risk Factors").
 - (3) Proceeds are calculated assuming sale of all of the Shares, before deducting legal, accounting, printing and state securities law filing fees related to the Offering. In the event that the Company raises only the minimum amount in the Offering, or something substantially less than the maximum amount, such proceeds will be used for the immediate working capital needs of the Company, pending the location of an alternative source of financing. (See "Risk Factors - Additional Financing").

Each Offeree electing to subscribe to purchase Shares (a "Subscriber") must subscribe for a minimum investment of \$_____. The Company, in its sole discretion, may elect to accept subscriptions for less than \$_____. The Company will terminate the Offering and not accept any subscriptions if it does not receive subscriptions acceptable to the Company for Shares having an aggregate purchase price of at least \$_____. The Company may also reject any subscription in whole or in part in its sole discretion. This Offering will terminate on _____, 200____, unless extended by the Company in its sole discretion for no more than an additional fifteen days.

Each Subscriber will be required to deliver to the Company (a) an executed copy of the Subscription Agreement (a copy of which is attached hereto as Exhibit A), (b) an executed copy of the Shareholders' Agreement (attached hereto as Exhibit B), and (c) the purchase price for Shares subscribed for by the Subscriber. Subscribers whose subscriptions for Shares are accepted by the Company are referred to herein as "Investors". (See "How To Purchase Shares").

The Shares offered hereby are subject to substantial restrictions on transfer. (See "Description of the Offering - Summary of Terms of Shareholders' Agreement"). There is no market for the Shares. An investment in the Company is highly illiquid. No Offeree should

consider investing in the Company if such Offeree might need the funds represented by such Offeree's investment in the Company. This Offering will be made only to "accredited investors," as defined in Rule 501(a) of Regulation D under the Securities Act, that either alone, or together with the assistance of their professional advisors, have the knowledge and experience in business and financial matters to evaluate the merits and risks of an investment in the Shares.

By accepting this Memorandum, each Offeree agrees to keep this Memorandum, the other Offering Documents and the information contained herein or therein in strict confidence and not to divulge the contents of this Memorandum or the other Offering Documents in whole or in part to any other persons except such Offeree's investment, tax or legal advisers. Each Offeree agrees to return this Memorandum and the other Offering Documents to the Company if the Offeree does not purchase any of the Shares offered hereby. Any reproduction of this Memorandum in whole or in part without the prior written consent of the Company is prohibited.

No third person or entity has been authorized to make any representation or give any information on behalf of the Company with respect to the Shares offered hereby, except the information contained herein or in the other Offering Documents. Offerees should not rely on information obtained from any such third person or entity not contained in the Offering Documents. Offerees are urged to request that the Company provide any additional information they may consider necessary in making an informed investment decision. The Company hereby extends to each Offeree (and Offeree's purchaser representative, if any) the opportunity, prior to the consummation of a sale of any shares to such Offeree, to ask questions of, and receive answers from, the Company concerning this Offering and to obtain any additional information to the extent the Company possesses or can acquire it without unreasonable effort or expense, in order to verify the accuracy of the information set forth herein or in the other Offering Documents. Neither the delivery of the Offering Documents at any time nor any sale made thereunder shall imply that information contained in any of the Offering Documents is correct as of any time subsequent to the date of this Memorandum.

The Business Plan attached hereto contains projections of future events which may or may not occur. The projections are based on assumptions which may or may not prove to be accurate or complete and should not be relied upon to indicate the actual results which might be obtained by the Company. No representation or warranty of any kind is given with respect to the accuracy of such projections contained in the Business Plan.

Offerees are not to construe the contents of this memorandum as legal, tax or investment advice. Offerees must rely upon their own judgment and the advice of their own representatives, including legal counsel, tax advisers and accountants, as to legal, tax and related matters concerning the Company and an investment therein.

The Offering Documents do not constitute an offer or solicitation in any state or other jurisdiction in which such an offer or solicitation is not authorized. The Offering Documents do not constitute an offer to sell or solicitation of an offer to buy any of the securities offered thereby to any person to whom it is unlawful to make such an offer or solicitation.

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THE COMPANY

Newco, Inc. is a Delaware corporation formed in 200____. For complete discussion of the Company's business, its management and its financial projections, please review the Company's Business Plan accompanying this Memorandum, which is incorporated herein by reference.

DESCRIPTION OF THE OFFERING

- Issuer:** NewCo, Inc., a Delaware corporation (the "Company")
- Securities Offered:** Common Shares ("Shares")
- Size of Offering:** Minimum of _____ Shares
Maximum of _____ Shares
- Offering Period:** The offering period will expire on _____, 200__ (subject to extension at the Company's sole discretion for no more than fifteen additional days)
- Price Per Share:** \$_____
- Offering Proceeds:** Minimum - \$_____
Maximum - \$_____
- Minimum Investment Per Investor** The minimum investment is \$_____, although the Company may accept lower investments in its discretion.
- Use of Proceeds:** The proceeds, after other offering/transaction expenses, will be used primarily for development of the Company's website, product development, staff expenses, marketing expenses and for general working capital purposes.
- Investors:** This Offering will be made to "accredited investors," as defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended (the "1933 Act"), that either alone, or together with the assistance of their professional advisors, have the knowledge and experience in business and financial matters to evaluate the merits and risks of an investment in the Shares. This Offering will not be registered under the 1933 Act or applicable state securities laws by virtue of the "private placement" exemption set forth in Rule 506 of Regulation D and Section 4(2) of the 1933 Act. Purchasers of Shares in this Offering are called "Investors."

- Current Ownership** The Company currently has _____ authorized Common Shares. _____ of these Common Shares are currently issued and outstanding. Additionally, _____ Common Shares are presently reserved for issuance to employees and consultants of the Company in the form of stock grants and stock options.
- No Anti-Dilution Protections** The Shares offered hereby do not have anti-dilution protections associated with them. As a result, a Shareholder's relative ownership position in the Company will decrease or be diluted by future issuances of stock by the Company
- Rights of Refusal/ Transfer Restrictions:** The Shares may not be sold, transferred or otherwise assigned to a third party without giving the Company and the other shareholders of the Company the right to buy the Shares at the same price and on the same terms as are offered by the third party. This right of first refusal will not apply to the transfer of the Shares to the Investor's spouse, child or a trust for the benefit of the Investor or the Investor's spouse or child. In addition to the foregoing right of first refusal restrictions, the Shares may not be sold unless there is an effective registration statement for the offering or an available exemption from the registration and prospectus delivery requirements under federal and applicable state securities laws.

RISK FACTORS

THIS OFFERING INVOLVES A HIGH DEGREE OF RISK. OFFEREEES MUST BE PREPARED AND ABLE TO HOLD THE SHARES OFFERED HEREBY FOR AN UNLIMITED PERIOD OF TIME AND TO SUSTAIN THE LOSS OF THEIR ENTIRE INVESTMENT IN THE COMPANY. ANY OFFEREE CONSIDERING A PURCHASE OF THE SHARES SHOULD CAREFULLY CONSIDER THE FACTORS DISCUSSED BELOW.

New Venture with Limited Operating History

The Company commenced operations in _____, and, consequently, it has had a limited operating history and there is limited financial data upon which to base an assessment of the Company's potential. The Company is in the development stage and its operations are subject to all of the risks inherent in the establishment of a new business enterprise, including total failure of its proposed business. The likelihood of the Company's success will depend in part on its ability to react to the problems, expenses and delays frequently associated with a new business venture and the highly competitive environment in which the Company will operate. The Company has only limited assets. Future losses are likely before the Company's operations will become profitable and there are no assurances that the Company's operations will ever prove profitable.

Additional Financing

Even if this Offering is fully subscribed, additional financing will be required to meet the Company's objectives of continuing its operations and expanding the Company's marketing capabilities. There is no assurance that such financing will be available to the Company on attractive terms or at all. The inability of the Company to obtain adequate financing would have a material adverse effect on the Company's operations and its future viability.

Dependence on Key Personnel

The Company is substantially dependent on the efforts and skill of its key employees. Because of the difficulty of finding adequate replacements for these key individuals, the loss, incapacity or unavailability of any of these individuals would have a material adverse effect on the Company's operations. In addition, it will be necessary for the Company to attract and retain additional talented individuals to support anticipated growth or to replace the aforementioned individuals in the event their association with the Company is terminated. There are no assurances that these individuals will be available on terms acceptable to the Company. The inability to attract individuals with the necessary skills would have a material adverse effect on the Company's ability to achieve its Business Plan.

Competition

The Company will compete with other companies that are of greater size and have greater financial resources and that also are seeking the attention of the targeted audience of the Company. In addition, the Company's financial results will depend upon its ability to attract sponsors and advertisers that are willing to pay to gain access to the targeted audience through the Company, instead of or in addition to competitors of the Company. The Company's inability to attract the targeted audience and the required sponsors and advertisers would have a material adverse effect on the Company.

Market Conditions

Adverse market and economic conditions and a variety of other factors may adversely affect the advertising budgets of companies that might ordinarily have an interest in advertising through the Company. Adverse market and economic conditions may also adversely affect the Company's ability to locate additional financing. The impact of such adverse market and economic conditions could have a material adverse effect on the Company's ability to achieve its Business Plan.

No Market for Shares

There is currently no market for the Shares and no market is expected to develop. The Shares must be acquired for investment purposes only and not with a view to resale or

distribution. The Shares are not registered under federal or state securities laws and may not be resold unless the Shares are subsequently registered thereunder or an exemption from registration is available. In addition, there are certain restrictions on the transfer of Shares contained in the Shareholders' Agreement. Each of the certificates representing the Shares will bear a legend reflecting the foregoing restrictions. Accordingly, the marketability and transferability of the Shares is limited, and Investors should be prepared and able to hold the Shares for an unlimited period of time. There is no assurance that an Investor ever will be able to liquidate his or her investment in the Company.

Shares Subject to Dilution

The Shares being offered hereunder do not have any anti-dilution protections associated with them. The Company intends to issue additional shares of its stock in the future, the result of which will be to reduce an Investor's percentage ownership interest in the Company.

THE FOREGOING IS A SUMMARY OF CERTAIN SIGNIFICANT RISKS RELATING TO INVESTMENT IN THE COMPANY. THIS SUMMARY OF RISKS SHOULD NOT BE INTERPRETED AS A REPRESENTATION THAT THE MATTERS REFERRED TO ABOVE ARE THE ONLY RISKS INVOLVED IN THIS INVESTMENT, NOR SHOULD THE REFERENCES TO THE RISKS HEREIN BE DEEMED A REPRESENTATION THAT THE MAGNITUDE OF SUCH RISKS IS NECESSARILY EQUAL. PROSPECTIVE INVESTORS ARE URGED TO CONSULT THEIR OWN LEGAL COUNSEL, ACCOUNTANTS AND OTHER PROFESSIONAL ADVISERS RELATIVE TO THIS OFFERING.

DESCRIPTION OF RESTRICTIONS ON TRANSFER

The Company currently has _____ shares of Common Stock that are authorized for issuance pursuant to the terms and provisions of the Company's Certificate of Incorporation attached hereto. Each share of Common stock issued pursuant to this Offering will be subject to the terms of the Shareholders' Agreement attached hereto.

Summary of Terms of Shareholders' Agreement

The Shares will be issued only to persons who execute and deliver a counterpart of the Shareholders' Agreement attached to this Memorandum as Exhibit B (the "Shareholders' Agreement"). The purpose of the Shareholders' Agreement is to restrict transfers of the Shares except in prescribed circumstances. Any or all of the terms of the Shareholders' Agreement may be amended by a vote of the holders of at least seventy-five percent (75%) of the outstanding Shares.

Third Party Transfers. No holder of Shares shall be permitted to transfer any such Shares except in accordance with the terms of the Shareholders' Agreement. Before any Shareholder may transfer any of his or her Shares in response to a bona fide written offer, the transferring

Shareholder must first offer to sell such Shares to the Company and the other Shareholders upon the same terms and conditions as the third party offer. The Company shall have a twenty (20) day period to purchase the offered Shares. If the Company does not elect to purchase such Shares within the twenty (20) day period, the other Shareholders shall have an additional ten (10) day period to exercise their right to purchase the offered Shares on a pro rata basis or in such other proportion as such other Shareholders may agree in writing. If the Company and the Shareholders do not elect to purchase all of the offered Shares within the foregoing periods, the transferring Shareholder may then proceed to sell such remaining shares to the transferee upon the same terms and conditions as the initial offer for a period of thirty days following the end of the foregoing periods.

Permitted Transfers. The Shares will not be subject to the foregoing transfer restrictions under the following circumstances: (a) a transfer upon the death of a Holder; (b) a transfer to a Member's spouse, children or a trust for their benefit; and (d) a transfer pursuant to a public offering.

Other Restrictions on Transfer

The Shares are being offered pursuant to exemptions from the registration requirements of the Securities Act and must be held indefinitely unless they are subsequently registered under the Securities Act, or an exemption from such registration is available and state securities laws are complied with. The Company is under no obligation to register the Shares offered hereby under the Securities Act or any state securities laws. The certificates representing Shares purchased hereunder will bear appropriate legends with respect to these restrictions and the restrictions contained in the Shareholders' Agreement.

FEES AND EXPENSES

All of the fees and expenses related to the Offering (consisting of legal, accounting, and printing fees) will be paid by the Company from the proceeds of the Offering.

HOW TO PURCHASE SHARES

Offerees may purchase Shares by delivering to the Company (i) an executed copy of the Subscription Agreement, (ii) an executed copy of the Shareholders' Agreement, and (iii) the purchase price, in cash by bank cashier's or certified check, for the Shares subscribed for, on or before _____ or such later date as the Company may determine in its sole discretion, but no later than fifteen days after such date (the "Offering Termination Date").

No purchase of Shares shall be effective until and unless the Subscription Agreement is accepted by the Company. Certain representations and warranties required to be made by such Offerees are contained in the Subscription Agreement. The Company may, in its sole discretion, accept or reject, in whole or in part, any subscription. In the event that the Company is unable to

raise a minimum of \$_____ as contemplated by this Memorandum by the Offering Termination Date, or if the Offering is terminated at any time prior thereto, then the Company will promptly return the subscriptions of Offerees who have submitted subscriptions to purchase Shares.

The Company may deposit, at such time or times as the Company shall determine in its sole discretion, all checks received from Offerees prior to acceptance of a subscription or termination of the Offering in interest bearing accounts of the Company (the "Accounts"). Any interest earned thereon shall be paid to Offerees upon the acceptance of a subscription or termination of the Offering or, with respect to each Offeree, upon the rejection of any such Offeree's subscription. In no event shall the Company be obligated to pay interest to an Offeree unless and until the Company deposits such Offeree's check in the Accounts and then only to the extent of interest earned thereon. Furthermore, the Company shall have no obligation to make any deposit in such Accounts.

ADDITIONAL INFORMATION

The Company will provide an opportunity to the Offeree and his or her representatives, at any time prior to the acceptance of the subscription, to ask questions of and to receive answers from the Company or any persons acting on its behalf concerning the Company. The Company shall make available any additional information necessary to verify the accuracy of the information set forth in the Offering Documents to the extent it possesses such information or can acquire it without unreasonable effort or expense. Offerees who decide to avail themselves of this opportunity should contact _____. All Offerees are encouraged to read the Offering Documents carefully in their entirety and to discuss this Offering with their personal legal, accounting and tax advisors before they invest.

MISCELLANEOUS

Attached to this Memorandum as Exhibits are various documents which are incorporated herein by reference. This Memorandum includes brief descriptions of portions of certain of these documents. Such descriptions are qualified in their entirety by reference to such documents and reference is made thereto for a complete statement of the terms thereof.

The Company's Articles of Incorporation and Bylaws provide for indemnification by the Company of its officers and directors for all costs, losses, liabilities, and damages paid or accrued by them in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State of Delaware. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, such indemnification may be against public policy and, therefore, unenforceable.