



FORM 10-Q

Riverbed Technology, Inc. - RVBD

Filed: July 30, 2007 (period: June 30, 2007)

Quarterly report which provides a continuing view of a company's financial position

PART I.

FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

PART I.

FINANCIAL INFORMATION

Item 1 Condensed Consolidated Financial Statements

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

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Item 4. Controls and Procedures

PART II.

OTHER INFORMATION

Item 1. Legal Proceedings

Item 1A. Risk Factors

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

Item 3. Defaults Upon Senior Securities.

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

Item 5. Other Information.

Item 6. INDEX TO EXHIBITS

SIGNATURES

EXHIBIT INDEX

EX-10.42 (FORM OF EQUITY INCENTIVE PLAN NOTICE OF STOCK OPTION GRANT STOCK OPTION AGREEMENT)

EX-10.43 (RIVERBED TECHNOLOGY)

EX-10.44 (LEASE AGREEMENT BETWEEN W2005 RPS REALTY)

EX-31.1 (SECTION 302 CEO CERTIFICATION)

EX-31.2 (SECTION 302 CFO CERTIFICATION)

EX-32.1 (SECTION 906 CEO AND CFO CERTIFICATION)

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

FORM 10-Q

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

For the quarterly period ended June 30, 2007

OR

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

For the transition period from _____ to _____

Commission file number: 001-33023

Riverbed Technology, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

03-0448754
(I.R.S. Employer
Identification Number)

199 Fremont Street
San Francisco, California 94105
(Address of Principal Executive Offices including Zip Code)

(415) 247-8800
(Registrant's Telephone Number, Including Area Code)

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

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

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☒

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

The number of shares of the registrant's common stock, par value \$0.0001, outstanding as of July 26, 2007 was: 70,370,711.

Riverbed Technology, Inc.
INDEX

PART I. FINANCIAL INFORMATION

	<u>Page No.</u>
Item 1.	
Condensed Consolidated Financial Statements	
Condensed Consolidated Balance Sheets as of June 30, 2007 and December 31, 2006	3
Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2007 and June 30, 2006	4
Condensed Consolidated Statements of Cash Flows for the six months ended June 30, 2007 and June 30, 2006	5
Notes to Condensed Consolidated Financial Statements	6
Item 2.	
Management's Discussion and Analysis of Financial Condition and Results of Operations	17
Item 3.	
Quantitative and Qualitative Disclosures About Market Risk	30
Item 4.	
Controls and Procedures	30

PART II. OTHER INFORMATION

	<u>Page No.</u>
Item 1.	
Legal Proceedings	30
Item 1A.	
Risk Factors	31
Item 2.	
Unregistered Sales of Equity Securities and Use of Proceeds	41
Item 3.	
Defaults Upon Senior Securities	42
Item 4.	
Submission of Matters to a Vote of Security Holders	42
Item 5.	
Other Information	42
Item 6.	
Exhibits	43

[Table of Contents](#)
Item 1 – Condensed Consolidated Financial Statements
RIVERBED TECHNOLOGY, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
As of June 30, 2007 and December 31, 2006
(in thousands, except per share data)

	June 30, 2007	December 31, 2006
	(unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 151,687	\$ 105,330
Marketable securities	66,018	3,999
Trade receivables, net of allowances of \$600 and \$472 as of June 30, 2007 and December 31, 2006, respectively	26,105	18,148
Other receivables	2,374	118
Inventory	8,404	7,452
Prepaid expenses and other current assets	3,777	5,438
Total current assets	<u>258,365</u>	<u>140,485</u>
Fixed assets, net	10,730	7,718
Other assets	4,547	2,566
Total assets	<u>\$ 273,642</u>	<u>\$ 150,769</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 9,006	\$ 11,113
Accrued compensation and related benefits	8,343	8,285
Other accrued liabilities	7,633	2,931
Deferred revenue	21,638	16,837
Total current liabilities	<u>46,620</u>	<u>39,166</u>
Deferred revenue non-current	4,706	2,245
Other long-term liabilities	296	378
Total long-term liabilities	<u>5,002</u>	<u>2,623</u>
Stockholders' equity:		
Preferred stock, \$0.0001 par value – 30,000 shares authorized, no shares outstanding	—	—
Common stock and additional paid-in-capital; \$0.0001 par value — 600,000 shares authorized; 70,336 and 66,180 shares issued and outstanding as of June 30, 2007 and December 31, 2006, respectively	266,733	162,033
Deferred stock-based compensation	(4,524)	(5,704)
Accumulated deficit	(40,131)	(47,333)
Accumulated other comprehensive loss	(58)	(16)
Total stockholders' equity	<u>222,020</u>	<u>108,980</u>
Total liabilities and stockholders' equity	<u>\$ 273,642</u>	<u>\$ 150,769</u>

See Notes to Condensed Consolidated Financial Statements.

RIVERBED TECHNOLOGY, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts)
(unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Revenue:				
Product	\$ 43,392	\$ 14,030	\$ 77,029	\$ 24,865
Support and services	8,475	2,267	15,312	3,790
Ratable product and related support and services	<u>2,135</u>	<u>1,746</u>	<u>4,445</u>	<u>3,109</u>
Total revenue	<u>54,002</u>	<u>18,043</u>	<u>96,786</u>	<u>31,764</u>
Cost of revenue:				
Cost of product	12,348	4,776	22,009	8,364
Cost of support and services	3,413	855	5,703	1,547
Cost of ratable product and related support and services	<u>597</u>	<u>557</u>	<u>1,200</u>	<u>1,056</u>
Total cost of revenue	<u>16,358</u>	<u>6,188</u>	<u>28,912</u>	<u>10,967</u>
Gross profit	<u>37,644</u>	<u>11,855</u>	<u>67,874</u>	<u>20,797</u>
Operating expenses:				
Sales and marketing	20,804	11,560	37,896	19,588
Research and development	9,036	4,317	16,494	7,782
General and administrative	<u>5,600</u>	<u>2,071</u>	<u>9,637</u>	<u>3,667</u>
Total operating expenses	<u>35,440</u>	<u>17,948</u>	<u>64,027</u>	<u>31,037</u>
Operating income (loss)	<u>2,204</u>	<u>(6,093)</u>	<u>3,847</u>	<u>(10,240)</u>
Other income (expense), net	<u>2,555</u>	<u>83</u>	<u>4,274</u>	<u>(19)</u>
Income (loss) before provision for income taxes	4,759	(6,010)	8,121	(10,259)
Provision for income taxes	<u>814</u>	<u>41</u>	<u>918</u>	<u>78</u>
Net income (loss)	<u>\$ 3,945</u>	<u>\$ (6,051)</u>	<u>\$ 7,203</u>	<u>\$ (10,337)</u>
Net income (loss) per common share:				
Basic	<u>\$ 0.06</u>	<u>\$ (0.46)</u>	<u>\$ 0.11</u>	<u>\$ (0.82)</u>
Diluted	<u>\$ 0.05</u>	<u>\$ (0.46)</u>	<u>\$ 0.10</u>	<u>\$ (0.82)</u>
Shares used in computing net income (loss) per common share:				
Basic	68,085	13,073	66,561	12,542
Diluted	74,091	13,073	72,221	12,542
Stock-based compensation expense included in above:				
Cost of product	\$ 33	\$ —	\$ 41	\$ —
Cost of support and services	620	69	992	105
Sales and marketing	3,545	668	6,286	1,133
Research and development	1,991	409	3,447	628
General and administrative	<u>1,251</u>	<u>311</u>	<u>2,050</u>	<u>486</u>
Total stock-based compensation expense	<u>\$ 7,440</u>	<u>\$ 1,457</u>	<u>\$ 12,816</u>	<u>\$ 2,352</u>

See Notes to Condensed Consolidated Financial Statements.

RIVERBED TECHNOLOGY, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(unaudited)

	Six months ended June 30,	
	2007	2006
Operating Activities:		
Net income (loss)	\$ 7,203	\$ (10,337)
Adjustments to reconcile net income (loss) to net cash provide by (used in) operating activities:		
Depreciation	2,203	750
Stock-based compensation	12,816	2,352
Revaluation and amortization of warrants	—	225
Provision for trade receivable allowances	134	129
Changes in operating assets and liabilities:		
(Increase) in trade receivables	(7,876)	(4,037)
(Increase) in inventory	(2,184)	(2,948)
Decrease (increase) in prepaid expenses and other assets	470	(2,926)
Increase (decrease) in accounts payable and other current liabilities	(198)	5,507
Increase in income taxes payable	779	67
Increase in deferred revenue	7,262	3,749
Net cash provided by (used in) operating activities	<u>20,609</u>	<u>(7,469)</u>
Investing Activities:		
Capital expenditures	(3,488)	(2,153)
Purchase of available for sale securities, net of maturities	(62,078)	—
Increase in other assets	(1,600)	—
Net cash used in investing activities	<u>(67,166)</u>	<u>(2,153)</u>
Financing Activities:		
Proceeds from issuance of convertible preferred stock, net of issuance costs	—	19,915
Proceeds from issuance of common stock, net of repurchases	5,215	156
Proceeds from follow-on public offering of common stock	87,681	—
Payments of debt	—	(625)
Net cash provided by financing activities	<u>92,896</u>	<u>19,446</u>
Effect of exchange rate changes on cash and cash equivalents	<u>18</u>	<u>12</u>
Net increase in cash and cash equivalents	46,357	9,836
Cash and cash equivalents at beginning of period	<u>105,330</u>	<u>10,410</u>
Cash and cash equivalents at end of period	<u>\$ 151,687</u>	<u>\$ 20,246</u>

See Notes to Condensed Consolidated Financial Statements.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)****1. ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES****Organization**

Riverbed Technology, Inc. was founded in May 2002 and has developed a comprehensive solution to the fundamental problems of wide-area distributed computing. Our Steelhead[®] appliances enable our customers simply and efficiently to improve the performance of their applications and access to their data over wide area networks, or WANs. We began commercial shipments of our products in May 2004.

Public Offerings

In September 2006, we completed our initial public offering, or IPO, of common stock in which we sold and issued 9,990,321 shares of our common stock, including 1,290,321 shares sold by us pursuant to the underwriters' exercise of their over-allotment option, at an issue price of \$9.75 per share. We raised a total of \$97.4 million in gross proceeds from the IPO, or approximately \$87.5 million in net proceeds after deducting underwriting discounts and commissions of \$6.8 million and other offering costs of \$3.1 million. Upon the closing of the IPO, all shares of convertible preferred stock outstanding automatically converted into 39,441,439 shares of common stock.

In February 2007, we completed a follow-on public offering of common stock in which we sold and issued 2,854,671 shares of our common stock, including 250,000 shares sold by us pursuant to the underwriters' partial exercise of their over-allotment option, at an issue price of \$32.50 per share. As a result of the offering, we raised a total of \$92.8 million in gross proceeds, or approximately \$87.7 million in net proceeds after deducting underwriting discounts and commissions of \$4.2 million and other offering costs of \$0.9 million.

Significant Accounting Policies***Basis of Presentation***

The condensed consolidated financial statements include our accounts and the accounts of our wholly owned subsidiaries. Intercompany transactions and balances have been eliminated. The accompanying condensed consolidated balance sheet as of June 30, 2007, the condensed consolidated statements of operations for the three and six months ended June 30, 2007 and June 30, 2006, and the condensed consolidated statements of cash flows for the six months ended June 30, 2007 and June 30, 2006 are unaudited. The accompanying statements should be read in conjunction with the audited consolidated financial statements and related notes contained in our Annual Report on Form 10-K for the year ended December 31, 2006.

The accompanying condensed consolidated financial statements have been prepared in accordance with United States generally accepted accounting principles, or GAAP, pursuant to the rules and regulations of the Securities and Exchange Commission, or SEC. They do not include all of the financial information and footnotes required by GAAP for complete financial statements. We believe the unaudited condensed consolidated financial statements have been prepared on the same basis as the audited financial statements and include all adjustments necessary for the fair presentation of our statement of financial position as of June 30, 2007, and our results of operations for the three and six months ended June 30, 2007 and June 30, 2006, and our cash flows for the six months ended June 30, 2007 and June 30, 2006. All adjustments are of a normal recurring nature. The results for the three and six months ended June 30, 2007 are not necessarily indicative of the results to be expected for any subsequent quarter or for the fiscal year ending December 31, 2007.

Other than the adoption of the provisions of Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109*, or FIN 48, there have been no significant changes in our accounting policies during the three and six months ended June 30, 2007 as compared to the significant accounting policies described in our Annual Report on Form 10-K for the year ended December 31, 2006.

Use of Estimates

GAAP requires us to make certain estimates and judgments that can affect the reported amounts of assets and liabilities as of the date of the consolidated financial statements, as well as the reported amounts of revenue

Table of Contents

and expenses during the periods presented. Significant estimates and assumptions made by management include the determination of the fair value of stock awards issued, the allowance for doubtful accounts, warranty reserves and inventory valuation. We believe that the estimates and judgments upon which we rely are reasonable based upon information available to us at the time that these estimates and judgments were made. To the extent there are material differences between these estimates and actual results, our consolidated financial statements will be affected.

Revenue Recognition

Our software is integrated on appliance hardware and is essential to the functionality of the product. As a result, we account for revenue in accordance with Statement of Position, or SOP, 97-2, *Software Revenue Recognition*, as amended by SOP 98-9, *Modification of SOP 97-2, Software Revenue Recognition, With Respect to Certain Transactions*, for all transactions involving the sale of software. We recognize product revenue when all of the following have occurred:

(1) we have entered into a legally binding arrangement with a customer; (2) delivery has occurred, which is when product title transfers to the customer; (3) customer payment is deemed fixed or determinable and free of contingencies and significant uncertainties; and (4) collection is probable.

Product revenue consists of revenue from sales of our appliances. Product sales include a perpetual license to our software. Product revenue is generally recognized upon transfer of title at shipment, assuming all other revenue recognition criteria are met. Shipping charges billed to customers are included in product revenue and the related shipping costs are included in cost of product revenue. Product revenue on sales to resellers is recorded once we have received persuasive evidence of an end-user and all other revenue recognition criteria have been met.

Substantially all of our products have been sold in combination with support services, which consist of software updates and support. Software updates provide customers with rights to unspecified software product upgrades and to maintenance releases and patches released during the term of the support period. Support includes internet access to technical content, telephone and internet access to technical support personnel and hardware support. Revenue for support services is recognized on a straight-line basis over the service contract term, which is typically one year.

We use the residual method to recognize revenue when a product agreement includes one or more elements to be delivered at a future date and vendor specific objective evidence, or VSOE, of the fair value of all undelivered elements exists. Through June 30, 2007, in virtually all of our contracts, the only element that remained undelivered at the time of delivery of the product was support and updates. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the contract fee is recognized as product revenue. If evidence of the fair value of one or more undelivered elements does not exist, all revenue is generally deferred and recognized when delivery of those elements occurs or when fair value can be established. When the undelivered element for which we do not have a fair value is support, revenue for the entire arrangement is bundled and recognized ratably over the support period. Revenue related to these arrangements is included in ratable product and related support and services revenue in the accompanying condensed consolidated statements of operations. VSOE of fair value for elements of an arrangement is based upon the normal pricing and discounting practices for those services when sold separately and for support and updates is additionally measured by the renewal rate offered to the customer. Prior to the third quarter of 2005, we had not established VSOE for the fair value of support contracts provided to our reseller class of customers. As such, prior to the third quarter of 2005, we recognized all revenue on transactions sold through resellers ratably over the term of the support contract, typically one year. Beginning in the third quarter of 2005, we determined that we had established VSOE of fair value of support for products sold to resellers, and began recognizing product revenue upon delivery, provided the remaining criteria for revenue recognition had been met.

Our fees are typically considered to be fixed or determinable at the inception of an arrangement, generally based on specific products and quantities to be delivered. Substantially all of our contracts do not include rights of return or acceptance provisions. To the extent that our agreements contain such terms, we recognize revenue once the acceptance provisions or right of return lapses. Payment terms to customers generally range from net 30 to 60 days. In the event payment terms are provided that differ from our standard business practices, the fees are deemed to not be fixed or determinable and revenue is recognized when the payments become due, provided the remaining criteria for revenue recognition have been met.

We assess the ability to collect from our customers based on a number of factors, including credit worthiness of the customer and past transaction history of the customer. If the customer is not deemed credit worthy, we defer all revenue from the arrangement until payment is received and all other revenue recognition criteria have been met.

[Table of Contents](#)

Stock-Based Compensation

Prior to January 1, 2006, we accounted for employee stock options using the intrinsic value method in accordance with Accounting Principles Board, or APB, Opinion No. 25, *Accounting for Stock Issued to Employees*, and Financial Accounting Standards Board Interpretation, or FIN, 44, *Accounting for Certain Transactions Involving Stock Compensation, an Interpretation of APB No. 25*, and had adopted the disclosure only provisions of Statement of Financial Accounting Standards, or SFAS, No. 123, *Accounting for Stock-Based Compensation*, and SFAS No. 148, *Accounting for Stock-Based Compensation — Transition and Disclosure*, using the minimum value method.

In accordance with APB 25, stock-based compensation expense, which is a non-cash charge, resulted from stock option grants at exercise prices that, for financial reporting purposes, were deemed to be below the estimated fair value of the underlying common stock on the date of grant. We recorded deferred stock-based compensation relative to options accounted for under APB 25 of \$9.3 million and \$567,000 in the years ended December 31, 2005 and 2004, respectively, which is being amortized over the service period, which generally corresponds to the vesting period of the applicable options on a straight-line basis. During the three and six months ended June 30, 2007, we amortized \$573,000 and \$1.1 million, respectively, of deferred compensation expense, net of reversals, related to these options, and in the three and six months ended June 30, 2006, we amortized \$748,000 and \$1.4 million, respectively.

Effective January 1, 2006, we adopted the fair value recognition provisions of SFAS 123(R), *Share-Based Payment*, using the prospective transition method, which requires us to apply the provisions of SFAS 123(R) to new awards granted, and to awards modified, repurchased or cancelled, after the effective date. Under this transition method, stock-based compensation expense recognized beginning January 1, 2006 is based on a combination of the following: (a) the grant-date fair value of stock option and employee stock purchase plan awards granted or modified after January 1, 2006; and (b) the amortization of deferred stock-based compensation related to stock option awards granted prior to January 1, 2006, which was calculated using the intrinsic value method as previously permitted under APB 25.

Under SFAS 123(R), we estimated the fair value of stock options granted using the Black-Scholes option-pricing formula and a single option award approach. This model utilizes the estimated fair value of common stock and requires that, at the date of grant, we use the expected term of the option, the expected volatility of the price of our common stock, risk free interest rates and expected dividend yield of our common stock. This fair value is then amortized on a straight-line basis over the requisite service periods of the awards, which is generally the vesting period. Options typically vest either 25% of the shares one year after the options' vesting commencement date and the remainder ratably on a monthly basis over the following three years, or ratably on a monthly basis over four years. On September 20, 2006, we implemented our Employee Stock Purchase Plan, or Purchase Plan. Purchase Plan shares typically vest over 2 years, and include two purchase dates per year.

The fair value of options granted and Purchase Plan shares were estimated at the date of grant using the following assumptions:

	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Employee and Director Stock Options				
Expected life in years	4.5	4.5-6.1	4.5	4.5-6.1
Risk-free interest rate	4.9%	5.0%-5.1%	4.5%-4.9%	4.7%-5.1%
Volatility	57%	65%-81%	57%-62%	65%-81%
Weighted average fair value of grants	\$14.03-\$22.78	\$3.67-\$4.92	\$14.03-\$22.78	\$3.67-\$4.92

[Table of Contents](#)

	Three months ended June 30, 2007 (1)	Six months ended June 30, 2007 (1)
Purchase Plan		
Expected life in years	0.5-2.0	0.5-2.0
Risk-free interest rate	4.9%-5.0%	4.9%-5.0%
Volatility	38%-46%	38%-46%
Weighted average fair value of grants	\$30.99-\$36.42	\$30.99-\$36.42

(1) There were no Purchase Plan shares in the six months ended June 30, 2006.

The expected term represents the period that stock-based awards are expected to be outstanding, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of our stock-based awards. For the three and six months ended June 30, 2007, we have elected to use the simplified method of determining the expected term as permitted by SEC Staff Accounting Bulletin 107. The computation of expected volatility for the three and six months ended June 30, 2007 is based on the historical volatility of comparable companies from a representative peer group selected based on industry and market capitalization data. As required by SFAS 123(R), management estimates expected forfeitures and is recognizing compensation costs only for those equity awards expected to vest.

As of June 30, 2007, the total compensation cost related to stock-based awards granted under SFAS 123(R) to employees and directors but not yet recognized was approximately \$70.2 million, net of estimated forfeitures of \$3.4 million. This cost will be amortized on a straight-line basis over the vesting period, which is typically 4 years. Amortization in the three and six months ended June 30, 2007, was \$4.0 million and \$6.2 million, respectively, and was \$708,000 and \$995,000 in the three and six months ended June 30, 2006, respectively. There was no amortization in the six months ended June 30, 2006 as the plan was not yet implemented.

As of June 30, 2007, there was \$15.7 million left to be amortized under our Purchase Plan, which will be amortized over the remaining vesting period, which is between 14 to 22 months. Amortization in the three and six months ended June 30, 2007 was \$2.9 million and \$5.5 million, respectively.

Inventory Valuation

Inventory consists of hardware and related component parts and are stated at the lower of cost (on a first-in, first-out basis) or market. A large portion of our inventory relates to evaluation units located at customer locations as some of our customers test our equipment prior to purchasing. Inventory that is obsolete or in excess of our forecasted demand is written down to its estimated realizable value based on historical usage, expected demand, and evaluation unit conversion rate and age. Inherent in our estimates of market value in determining inventory valuation are estimates related to economic trends, future demand for our products and technological obsolescence of our products. Inventory write-downs are reflected as cost of product and amounted to approximately \$536,000 and \$800,000 in the three and six months ended June 30, 2007, respectively, and \$400,000 and \$604,000 in the three and six months ended June 30, 2006, respectively.

Accounting for Income Taxes

We use the asset and liability method of accounting for income taxes in accordance with SFAS 109, *Accounting for Income Taxes*. Under this method, income tax expenses or benefits are recognized for the amount of taxes payable or refundable for the current year and for deferred tax liabilities and assets for the future tax consequences of events that have been recognized in our consolidated financial statements or tax returns. The measurement of current and deferred tax assets and liabilities are based on provisions of currently enacted tax laws. The effects of future changes in tax laws or rates are not contemplated.

As part of the process of preparing consolidated financial statements, we are required to estimate our income taxes and tax contingencies in each of the tax jurisdictions in which we operate prior to the completion and filing of tax returns for such periods. This process involves estimating actual current tax expense together with assessing temporary differences in the treatment of items for tax purposes versus financial accounting purposes that may create net deferred tax assets and liabilities.

We record a valuation allowance to reduce our deferred tax assets to the amount we believe is more likely than not to be realized. In assessing the need for a valuation allowance, we have considered our historical levels of income, expectations of future taxable income and on-going tax planning strategies. Because of the uncertainty

[Table of Contents](#)

of the realization of the deferred tax assets, we have recorded a full valuation allowance against our deferred tax assets. Realization of our deferred tax assets is dependent primarily upon future U.S. taxable income.

We adopted the provisions of FIN 48 on January 1, 2007. The application of this Interpretation requires a two-step process that separates recognition from measurement. We recorded no increases or decreases to the tax reserves for uncertain tax positions upon implementing FIN 48 and this assessment has not changed as of June 30, 2007. We have elected to record interest and penalties recognized in accordance with FIN 48 in the financial statements as income taxes. Any subsequent change in classification of FIN 48 interest and penalties will be treated as a change in accounting principle subject to the requirements of SFAS 154, *Accounting Changes and Error Corrections*.

Warranty Reserve

Upon shipment of products to our customers, we provide for the estimated cost to repair or replace products that may be returned under warranty. Our warranty period is typically 12 months from the date of shipment to the end-user customer for hardware and 90 days for software. For existing products, the reserve is estimated based on actual historical and expected experience. For new products, the warranty reserve is based on historical experience of similar products until such time as sufficient historical data has been collected for the new product. Warranty reserves amounted to approximately \$1.4 million and \$735,000 at June 30, 2007 and December 31, 2006, respectively.

The following is a summary of the warranty reserve activity for the six months ended June 30, 2007:

<u>(in thousands)</u>	<u>December 31, 2006</u>	<u>Additions charged to operations</u>	<u>Warranty costs incurred</u>	<u>June 30, 2007</u>
Warranty reserve	\$ 735	\$ 1,193	\$ (578)	\$ 1,350

Deferred Inventory Costs

When our products have been delivered, but the product revenue associated with the arrangement has been deferred as a result of not meeting the revenue recognition criteria in SOP 97-2, we also defer the related inventory costs for the delivered items in accordance with Accounting Research Bulletin 43, *Restatement and Revision of Accounting Research Bulletins*. Deferred inventory costs amounted to approximately \$1.9 million and \$3.5 million at June 30, 2007 and December 31, 2006, respectively, and are included in prepaid expenses and other current assets in the condensed consolidated balance sheets.

Spares

We hold spare parts to service our customers who purchase support. We classify spare parts as other long term assets and amortize the spares over an estimated useful life of three years. At June 30, 2007 and December 31, 2006 we had \$1.0 million and \$876,000, respectively, of spare inventory, net of accumulated amortization.

Concentration of Credit Risk

Financial instruments that are potentially subject to concentrations of credit risk consist primarily of cash, cash equivalents, marketable securities, and trade receivables. Investment policies have been implemented that

[Table of Contents](#)

limit investments to investment grade securities. The risk with respect to trade receivables is mitigated by credit evaluations we perform on our customers and by the diversification of our customer base. Collateral is not required for trade receivables. No customer represented more than 10% of our revenue for the three and six months ended June 30, 2007 and June 30, 2006.

We outsource the production of our hardware to third-party manufacturing facilities. Through June 30, 2007, we had no long-term contractual commitment with any manufacturer.

2. NET INCOME (LOSS) PER COMMON SHARE

Basic net income (loss) per common share is computed by dividing net income (loss) by the weighted average number of vested common shares outstanding during the period. Diluted net income (loss) per common share is computed by giving effect to all potential dilutive common shares, including options and common stock subject to repurchase.

The following table sets forth the computation of income (loss) per share:

(in thousands, except per share data)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Net income (loss)	\$ 3,945	\$ (6,051)	\$ 7,203	\$ (10,337)
Weighted average common shares outstanding - basic	68,085	13,073	66,561	12,542
Dilutive effect of employee stock plans	6,006	—	5,660	—
Weighted average common shares outstanding - diluted	74,091	13,073	72,221	12,542
Basic net income (loss) per share	\$ 0.06	\$ (0.46)	\$ 0.11	\$ (0.82)
Diluted net income (loss) per share	\$ 0.05	\$ (0.46)	\$ 0.10	\$ (0.82)

The following weighted average outstanding options, common stock subject to repurchase and convertible preferred stock were excluded from the computation of diluted net income (loss) per common share for the periods presented because including them would have had an antidilutive effect:

(in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Options to purchase common stock and common stock subject to repurchase	2,837	8,928	1,910	8,928
Convertible preferred stock (as converted basis)	—	39,442	—	39,442
Convertible stock warrants (as converted basis)	—	133	—	133

3. CASH, CASH EQUIVALENTS, MARKETABLE SECURITIES AND RESTRICTED CASH

Cash, Cash Equivalents and Marketable Securities

Cash and cash equivalents consist primarily of highly liquid investments in time deposits held at major banks, commercial paper, United States government agency discount notes, money market mutual funds and other money market securities with remaining maturities at date of purchase of 90 days or less. The carrying value of cash and cash equivalents at June 30, 2007 and December 31, 2006 was approximately \$151.7 million and \$105.3 million, respectively, and the weighted average interest rates were 5.1% and 5.3%, respectively.

Table of Contents

Marketable securities, which are classified as available for sale at June 30, 2007, are carried at fair value, with the unrealized gains and losses, net of tax, reported as a separate component of stockholders' equity. Marketable securities consist of commercial paper and certificates of deposit with original maturities of one year or less. As of June 30, 2007 and December 31, 2006, the amortized cost of marketable securities equals fair value.

Restricted Cash

Pursuant to certain lease agreements and as security for our merchant services agreement with our financial institution, we are required to maintain cash reserves, classified as restricted cash. Current restricted cash totaled \$121,000 at June 30, 2007 and December 31, 2006. Long-term restricted cash totaled \$3.1 million and \$1.5 million at June 30, 2007 and December 31, 2006, respectively. Long term restricted cash is included in other assets in the condensed consolidated balance sheets and consists primarily of \$3.0 million held as collateral for letters of credit for the security deposit on the leases of our corporate headquarters and is restricted until the end of the lease terms on August 30, 2010 and July 31, 2014.

4. INVENTORY

Inventories consist primarily of hardware and related component parts and are stated at the lower of cost (on a first-in, first-out basis) or market. Inventory is comprised of the following:

(in thousands)	June 30, 2007	December 31, 2006
Raw materials	\$ 372	\$ 320
Finished goods	8,032	7,132
Total	<u>\$ 8,404</u>	<u>\$ 7,452</u>

5. FIXED ASSETS

Fixed assets are stated at the lower of cost or net realizable value. Depreciation is calculated using the straight-line method over the estimated useful lives of the respective assets, which is typically two to five years. Leasehold improvements are amortized using the straight-line method over the shorter of the lease term or estimated useful life of the asset. Repair and maintenance costs are expensed as incurred.

Fixed assets consisted of the following:

(in thousands)	Estimated Useful Lives	June 30, 2007	December 31, 2006
Computer hardware	3 years	\$ 3,177	\$ 2,315
Computer software	2-5 years	1,829	1,411
Research and development lab equipment	3 years	4,684	3,152
Office equipment, furniture and fixtures	3 years	1,483	965
Leasehold improvements	2-5 years	4,246	2,646
Total fixed assets		15,419	10,489
Accumulated depreciation and amortization		(4,689)	(2,771)
Fixed assets, net		<u>\$ 10,730</u>	<u>\$ 7,718</u>

6. DEFERRED REVENUE

Deferred revenue consisted of the following:

(in thousands)	June 30, 2007	December 31, 2006
Product	\$ 2,950	\$ 2,895
Support and services	15,131	9,456
Ratable product and related support and services	3,557	4,486
Deferred revenue, current	<u>21,638</u>	<u>16,837</u>
Support and services, non-current	4,693	2,220

Table of Contents

<u>(in thousands)</u>	<u>June 30,</u> <u>2007</u>	<u>December 31,</u> <u>2006</u>
Ratable product and related support and services, non-current	13	25
Deferred revenue, non-current	4,706	2,245
Total deferred revenue	<u>\$ 26,344</u>	<u>\$ 19,082</u>

Deferred product revenue relates to arrangements where not all revenue recognition criteria have been met. Deferred support revenue represents customer payments made in advance for annual support contracts. Support contracts are typically billed on a per annum basis in advance and revenue is recognized ratably over the support period. Deferred ratable product and related support and services revenue consists of deferred revenue on transactions where VSOE of fair value of support had not been established and the entire arrangement is being recognized ratably over the support period.

7. LEASE COMMITMENTS

We lease our facilities under non-cancelable operating lease agreements. Future minimum commitments for these operating leases in place as of June 30, 2007 with a remaining non-cancelable lease term in excess of one year are as follows:

<u>(in thousands)</u>	<u>June 30,</u> <u>2007</u>
2007 (the six months ended December 31)	\$ 1,830
2008	4,087
2009	3,705
2010	3,575
2011 and thereafter	14,146
Total	<u>\$ 27,343</u>

The terms of certain lease agreements provide for rental payments on a graduated basis. We recognize rent expense on the straight-line basis over the lease period and have accrued for rent expense incurred but not paid. Rent expense under operating leases was \$1.1 million and \$2.0 million for the three and six months ended June 30, 2007, respectively, and \$500,000 and \$886,000 for the three and six months ended June 30, 2006, respectively.

On September 26, 2006, we entered into an Agreement of Sublease, or Sublease, for new corporate headquarters, and on March 21, 2007 entered into another lease agreement to expand our corporate headquarters as well as extend the term of the existing Sublease mentioned above. The terms of the leases are from February 1, 2007 and March 31, 2007, respectively, to July 31, 2014. The aggregate minimum lease commitment for the combined leases is \$21.8 million and is included in the table above. Both leases call for additional payments for electricity and a portion of real estate taxes and operating expenses. We have entered

[Table of Contents](#)

into two letters of credit totaling \$3.0 million to serve as security deposits for the leases which is included in other assets in the condensed consolidated balance sheet. In addition, one of the leases requires an increase of approximately \$500,000 to the letter of credit in 2009.

On July 3, 2007, we entered into a lease agreement for office space in Sunnyvale, California. The term of the lease is for five years and two months commencing on January 1, 2008. Early commencement may take place if we choose to occupy the space earlier at which time the term of the lease will be extended to include the period of time from occupation until January 1, 2008. The aggregate minimum lease commitment is \$4.7 million and is not reflected in the table above. The lease also calls for additional payments for utilities and a portion of real estate taxes and operating expenses. On July 2, 2007, we entered into a letter of credit in the amount \$500,000 to serve as the security deposit for the lease.

8. COMMON STOCK

In September 2006, in connection with our IPO, our board of directors approved the 2006 Plan, the Purchase Plan, and the 2006 Director Stock Option Plan. The following number of shares are reserved under these plans as of June 30, 2007:

	Shares
2006 Equity Incentive Plan	6,309,014
2006 Employee Stock Purchase Plan	2,161,803
2006 Director Option Plan	750,000

Options issued under our stock option plans are generally for periods not to exceed 10 years and are issued at the fair value of the shares of common stock on the date of grant as determined by the Board of Directors. Following the IPO, the fair value of our common stock is determined by the last sale price of such stock on the Nasdaq Global Market on the date of grant. Options typically vest either 25% of the shares one year after the options' vesting commencement date and the remainder ratably on a monthly basis over the following three years, or ratably on a monthly basis over four years. Options granted under the 2002 Plan prior to May 31, 2006 have a maximum term of ten years. Beginning May 31, 2006, options granted under the 2002 Plan had a maximum term of seven years. Options granted under the 2006 Plan had a maximum term of seven years. Prior to March 28, 2006, employees in the United States had the right to exercise their options granted under the 2002 Plan prior to vesting. For options granted beginning March 28, 2006, optionees may only exercise vested shares. Any unvested stock issued under the 2002 Plan is subject to repurchase by us. Grants made pursuant to the 2006 Plan generally do not provide for the immediate exercise of options.

The Purchase Plan became effective on September 20, 2006, the effective date of the registration statement relating to our IPO. Under the Purchase Plan, employees may purchase shares of common stock through payroll deductions at a price per share that is 85% of the lesser of the fair market value of our common stock as of the beginning of an applicable offering period or the applicable purchase date, with purchases generally every six months. Employees' payroll deductions may not exceed 15% of their compensation. Employees may purchase up to 2,000 shares per purchase period provided that the value of the shares purchased in any calendar year may not exceed \$25,000, as calculated pursuant to the Purchase Plan.

Table of Contents

The following tables summarize information about stock options outstanding:

	Shares Available	Options Outstanding	Weighted Average Exercise Price Per Share
	(in thousands, except per share amounts)		
Balance, December 31, 2006	3,333	7,044	\$ 6.18
Additional options authorized	3,559	—	
Granted	(3,246)	3,246	\$ 32.46
Exercised	—	(895)	\$ 2.37
Repurchased	—	—	
Canceled	156	(156)	\$ 13.11
Balance, June 30, 2007	<u>3,802</u>	<u>9,239</u>	\$ 15.67

The range of exercise prices for options outstanding at June 30, 2007 was \$0.05 to \$44.55.

Range of Exercise Price	Options Outstanding as of June 30, 2007 (in thousands)	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price Per Share	Aggregate Intrinsic Value (in thousands)
\$ 0.05 – \$ 0.60	956	7.74	\$ 0.39	
\$ 0.61 – \$ 5.75	1,723	8.45	\$ 3.44	
\$ 5.76 – \$16.72	2,759	6.31	\$ 6.62	
\$16.73 – \$34.12	3,347	6.70	\$ 30.44	
\$34.13 – \$44.55	<u>454</u>	<u>6.88</u>	<u>\$ 40.33</u>	
\$ 0.05 – \$44.55	<u>9,239</u>	<u>7.03</u>	<u>\$ 15.67</u>	\$ 260,221

The aggregate intrinsic value is calculated as the difference between the exercise price of the underlying stock option awards and the closing price of our common stock at June 30, 2007. During the three and six months ended June 30, 2007, the aggregate intrinsic value of stock option awards exercised was \$27.0 million and \$28.7 million, respectively, determined at the date of option exercise.

The per share weighted-average fair value and exercise price of options granted in the six months ended June 30, 2007 was \$16.80 and \$32.46, respectively.

At June 30, 2007 and December 31, 2006, there were 1,679,000 and 2,372,000 shares, respectively, subject to repurchase under all common stock repurchase agreements. The cash received from the sale of these shares is initially recorded as a liability and is subsequently reclassified to common stock as the shares vest. At June 30, 2007 and December 31, 2006, there was \$493,000 and \$659,000, respectively, recorded in accrued liabilities and other long-term liabilities related to the issuance of these shares.

9. INCOME TAXES

For the three and six months ended June 30, 2007 we generated operating profits. After applying our available net federal and state operating loss and tax credit carryforwards, our tax provision for the three and six months ended June 30, 2007 consisted of federal, foreign and state provisions for income tax.

As of December 31, 2006, we recorded a full valuation allowance against our net deferred tax assets due to operating losses incurred since inception. Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Accordingly, the net deferred tax assets were fully offset by a

[Table of Contents](#)

valuation allowance. If not utilized, the federal and state net operating loss and tax credit carryforwards will expire between 2013 and 2026. Utilization of these net operating losses and credit carryforwards may be subject to an annual limitation due to provisions of the Internal Revenue Code of 1986, as amended, that are applicable if we experience an “ownership change” that may occur, for example, by a change in significant shareholder allocation or equity structure.

For the three and six months ended June 30, 2007, our tax provision includes a deferred tax benefit for the projected reduction in the valuation allowance as a result of forecasted taxable income and corresponding utilization of net operating losses and tax credit carryforwards. In determining future taxable income, we make assumptions to forecast federal, state and international operating income, the reversal of temporary differences, and the implementation of any feasible and prudent tax planning strategies. The assumptions require significant judgment regarding the forecasts of future taxable income, and are consistent with our forecasts used to manage our business. We intend to maintain the remaining valuation allowance until sufficient further positive evidence exists to support a reversal of, or decrease, in the valuation allowance.

10. SEGMENT INFORMATION

SFAS No. 131, *Disclosures about Segments of an Enterprise and Related Information*, establishes standards for reporting information about operating segments. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. Our chief operating decision maker is our Chief Executive Officer. Our Chief Executive Officer reviews financial information presented on a consolidated basis, accompanied by information about revenue by geographic region for purposes of allocating resources and evaluating financial performance. We have one business activity and there are no segment managers who are held accountable for operations, operating results and plans for levels or components below the consolidated unit level. Accordingly, we are considered to be in a single reporting segment and operating unit structure.

Revenue by geography is based on the billing address of the customer. The following table sets forth revenue and long-lived assets by geographic area.

Revenue

(in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Domestic revenue	\$ 32,883	\$ 13,170	\$ 62,462	\$ 22,634
International revenue	21,119	4,873	34,324	9,130
Total revenue	<u>\$ 54,002</u>	<u>\$ 18,043</u>	<u>\$ 96,786</u>	<u>\$ 31,764</u>

Long-lived Assets

(in thousands)	June 30, 2007	December 31, 2006
Domestic long-lived assets	\$ 10,485	\$ 7,509
International long-lived assets	245	209
	<u>\$ 10,730</u>	<u>\$ 7,718</u>

11. LEGAL MATTERS

From time to time, we may be involved in various legal proceedings arising in the ordinary course of business. There are no matters at June 30, 2007 that, in the opinion of management, might have a material adverse effect on our financial position, results of operations or cash flows.

12. NEW ACCOUNTING PRONOUNCEMENTS

In February 2007, the FASB issued Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities, including an amendment of FASB Statement No. 115*, which allows an entity the irrevocable option to elect fair value for the initial and subsequent measurement for certain financial assets and liabilities under an instrument-by-instrument election. Subsequent measurements for the financial assets and liabilities an entity elects to fair value will be recognized in earnings. SFAS 159 also establishes additional disclosure requirements. SFAS 159 is effective for fiscal years beginning after November 15, 2007, with early adoption permitted provided that the entity also adopts SFAS 157. We are currently evaluating the impact of the adoption of SFAS 159 on our consolidated financial statements.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and related notes included elsewhere in this Form 10-Q. The information in this Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act, and Section 21E of the Exchange Act. Such statements are based upon current expectations that involve risks and uncertainties. Any statements contained herein that are not statements of historical facts may be deemed to be forward-looking statements. For example, words such as "may," "will," "should," "estimates," "predicts," "potential," "continue," "strategy," "believes," "anticipates," "plans," "expects," "intends" and similar expressions are intended to identify forward-looking statements. Our actual results and the timing of certain events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause or contribute to such a discrepancy include, but are not limited to, those discussed elsewhere in this Form 10-Q in the section titled "Risk Factors" and the risks discussed in our other SEC filings. We undertake no obligation to publicly release any revisions to the forward-looking statements after the date of this Form 10-Q.

Overview

We were founded in May 2002 by experienced industry leaders with a vision to improve the performance of wide-area distributed computing. Having significant experience in caching technology, our executive management team understood that existing approaches failed to address adequately all of the root causes of this poor performance. We determined that these performance problems could be best solved by simultaneously addressing inefficiencies in software applications and wide area networks, or WANs, as well as insufficient or unavailable bandwidth. This innovative approach served as the foundation of the development of our products. We began commercial shipments of our products in May 2004 and now offer twelve models of our Steelhead appliances as well as our Central Management Console and Interceptor.

On July 26, 2007 we announced the upcoming release of our new Steelhead® Mobile product, a software client version of our Steelhead appliances, which is intended to deliver LAN-like application performance to any employee, whether on the road, working from home or connected wirelessly in the office. The Steelhead Mobile is scheduled for general availability in September 2007.

We are headquartered in San Francisco, California. Our personnel are located throughout the United States and in numerous countries worldwide. We expect to continue to add personnel in the United States and internationally to provide additional geographic sales, research and development, general and administrative, and technical support coverage.

In September 2006, we completed our initial public offering, or IPO, of common stock in which we sold and issued 9,990,321 shares of our common stock, at an issue price of \$9.75 per share. We raised a total of \$97.4 million in gross proceeds from the IPO, or approximately \$87.5 million in net proceeds after deducting underwriting discounts and commissions of \$6.8 million and other offering costs of \$3.1 million. Upon the closing of the IPO, all shares of convertible preferred stock outstanding automatically converted into 39,441,439 shares of common stock.

In February 2007, we completed a follow-on public offering of common stock in which we sold and issued 2,854,671 shares of our common stock, including 250,000 shares sold by us pursuant to the underwriters' partial

Table of Contents

exercise of their over-allotment option, at an issue price of \$32.50 per share. As a result of the offering, we raised a total of \$92.8 million in gross proceeds, or approximately \$87.7 million in net proceeds after deducting underwriting discounts and commissions of \$4.2 million and other offering costs of \$0.9 million.

We believe that our current value proposition, which enables customers to improve the performance of their applications and access to their data across WANs, while also offering the ability to simplify IT infrastructure and realize significant capital and operations cost savings, should allow us to grow our business. Our product revenue growth rate will depend significantly on continued growth in the wide-area data services, or WDS, market and our ability to continue to attract new customers in that market. Our growth in support and services revenue is dependent upon increasing the number of products under support contracts, which is dependent on both growing our installed base of customers and renewing existing support contracts. Our future profitability and rate of growth, if any, will be directly affected by the continued acceptance of our products in the marketplace, as well as the timing and size of orders, product mix, average selling prices and costs of our products and general economic conditions. Our ability to maintain profitability will also be affected by the extent to which we must incur additional expenses to expand our sales, marketing, development, and general and administrative capabilities to grow our business. The largest component of our expenses is personnel costs. Personnel costs consist of salaries, benefits and incentive compensation for our employees, including commissions for sales personnel and stock-based compensation. We expect that each of these expenses will continue to grow in absolute dollars and decrease as a percentage of revenue over time.

Revenue. We derive our revenue from sales of our products and support and services. Our revenue has grown rapidly since we began shipping products in May 2004, increasing from \$2.6 million for the year ended December 31, 2004 to \$96.8 million in the six months ended June 30, 2007. Revenue for the three and six months ended June 30, 2007 was \$54.0 million and \$96.8 million, respectively, compared to \$18.0 million and \$31.8 million, for the three and six months ended June 30, 2006, respectively. This growth has been driven primarily by an expansion of our customer base, coupled with increased purchases from existing customers. As of December 31, 2004, our products had been sold to 68 customers as compared to more than 2,500 customers as of June 30, 2007.

We sell our products directly through our sales force and indirectly through resellers. We derived 73% of our revenue through indirect channels in the six months ended June 30, 2006 and 90% of our revenue through indirect channels in the six months ended June 30, 2007. We expect revenue from resellers to continue to constitute a substantial majority of our future revenue.

Cost of Revenue. Cost of product revenue consists of the costs of the appliance hardware, manufacturing personnel, manufacturing, shipping and logistics costs and expenses for inventory obsolescence and warranty obligations. We utilize third parties to design and manufacture our Steelhead appliance hardware, embed our proprietary software and perform shipping logistics. Cost of support and service revenue is primarily comprised of the personnel costs of providing technical support and professional services. Cost of ratable product and related support and services consists of hardware, support and service costs related to transactions recognized ratably. As we expand internationally and into other sectors, we may incur additional costs to conform our products to comply with local laws or local product specifications. In addition, as we expand internationally, we will continue to hire additional technical support personnel to support our growing international customer base.

Gross Margin. Our gross margin has been and will continue to be affected by a variety of factors, including the mix and average selling prices of our products, support and services, new product introductions and enhancements, the cost of our appliance hardware, and the mix of distribution channels through which our products are sold.

Operating Expenses. Operating expenses consist of sales and marketing, research and development and general and administrative expenses. Personnel-related costs are the most significant component of each of these expense categories. We grew from 70 employees at December 31, 2004 to 445 employees at June 30, 2007. We expect to continue to hire significant numbers of new employees to support our anticipated growth. The timing of these additional hires has and could materially affect our operating expenses, both in absolute dollars and as a percentage of revenue, in any particular period.

Sales and marketing expenses represent the largest component of our operating expenses and include personnel costs, sales commissions, marketing programs and facilities costs. Marketing programs are intended to generate revenue from new and existing customers, and are expensed as incurred. We expect sales and marketing expenses to increase as we hire additional personnel and spend more on marketing programs with the intent to grow our revenue. The majority of our international personnel are engaged in sales and support activities. The percentage of sales and marketing expenses incurred internationally grew from 11% in 2004 to 26% in the six months ended June 30, 2007.

Table of Contents

Research and development expenses primarily include personnel costs and facilities costs. Quality assurance, infrastructure, depreciation and related costs of product quality efforts are also included. We expense research and development expenses as incurred. We are devoting substantial resources to the continued development of additional functionality for existing products and the development of new products. We intend to continue to invest significantly in our research and development efforts because we believe they are essential to maintaining our competitive position. Investments in research and development personnel costs are expected to increase in total dollars, but to decrease as a percentage of revenue over time. Investments in research and development assets will affect our liquidity by increasing cash used in investing activities.

General and administrative expenses consist primarily of personnel costs related to our executive, finance, human resource, information technology and legal organizations, and fees for professional services. Professional services include outside legal, audit and information technology consulting costs.

Stock-Based Compensation Expense. Effective January 1, 2006, we began to measure and recognize compensation expense for all stock-based payments at fair value, in accordance with Statement of Financial Accounting Standard No. 123 (revised 2004), *Share-Based Payment*, or SFAS 123(R). Prior to the adoption of SFAS 123 (R) we accounted for stock options under the intrinsic value method in accordance with Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*, or APB 25. In the fourth quarter of 2006, we implemented the 2006 Employee Stock Purchase Plan, or Purchase Plan. Under the Purchase Plan, employees may purchase shares of common stock at a price per share that is 85% of the lesser of the fair market value of our common stock as of the beginning or the end of a purchase period. The Purchase Plan is compensatory and results in compensation expense to be accounted for under SFAS 123(R). We expect to continue to incur significant stock-based compensation expense.

Other Income (expense), net. Other income (expense), net includes interest income on cash balances and marketable securities. Cash has historically been invested primarily in money market funds. Other income, net also includes losses or gains on conversion of non-U.S. dollar transactions into U.S. dollars. In 2006, other income (expense), net included the impact of recording our outstanding preferred stock warrants at fair value. Subsequent to our IPO, we were no longer required to remeasure our warrants to fair value.

Critical Accounting Policies and Estimates

Our consolidated financial statements are prepared in accordance with United States generally accepted accounting principles, or GAAP. These accounting principles require us to make certain estimates and judgments that can affect the reported amounts of assets and liabilities as of the date of the consolidated financial statements, as well as the reported amounts of revenue and expenses during the periods presented. We believe that the estimates and judgments upon which we rely are reasonable based upon information available to us at the time that these estimates and judgments are made. To the extent there are material differences between these estimates and actual results, our consolidated financial statements could be adversely affected.

The accounting policies that reflect our more significant estimates and judgments and which we believe are the most critical to aid in fully understanding and evaluating our reported financial results include revenue recognition, stock-based compensation, inventory valuation and accounting for income taxes.

Revenue Recognition

Our software is integrated on appliance hardware and is essential to the functionality of the product. As a result, we account for revenue in accordance with Statement of Position, or SOP, 97-2, *Software Revenue Recognition*, as amended by SOP 98-9, *Modification of SOP 97-2, Software Revenue Recognition, With Respect to Certain Transactions*, for all transactions involving the sale of software. We recognize product revenue when all of the following have occurred:

- (1) we have entered into a legally binding arrangement with a customer;
- (2) delivery has occurred, which is when product title transfers to the customer;
- (3) customer payment is deemed fixed or determinable and free of contingencies and significant uncertainties; and
- (4) collection is probable.

Product revenue consists of revenue from sales of our appliances. Product sales include a perpetual license to our software. Product revenue is generally recognized upon transfer of title at shipment, assuming all other revenue recognition criteria are met. Shipping charges billed to customers are included in product revenue and the related shipping costs are included in cost of product revenue. Product revenue on sales to resellers is recorded once we have received persuasive evidence of an end-user and all other revenue recognition criteria have been met.

Table of Contents

Substantially all of our products have been sold in combination with product support services, which consist of software updates and support. Software updates provide customers with rights to unspecified software product upgrades and to maintenance releases and patches released during the term of the support period. Support includes internet access to technical content, telephone and internet access to technical support personnel and hardware support. Revenue for support services is recognized on a straight-line basis over the service contract term, which is typically one year.

We use the residual method to recognize revenue when a product agreement includes one or more elements to be delivered at a future date and vendor specific objective evidence, or VSOE, of the fair value of all undelivered elements exists. Through June 30, 2007, in virtually all of our contracts, the only element that remained undelivered at the time of delivery of the product was support and updates. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the contract fee is recognized as product revenue. If evidence of the fair value of one or more undelivered elements does not exist, all revenue is generally deferred and recognized when delivery of those elements occurs or when fair value can be established. When the undelivered element is support, revenue for the entire arrangement is bundled and recognized ratably over the support period. Revenue related to these arrangements is included in ratable product and related support and services revenue in the accompanying consolidated statements of operations. VSOE of fair value for elements of an arrangement is based upon the normal pricing and discounting practices for those services when sold separately, and for product support and updates, is additionally measured by the renewal rate offered to the customer. Prior to the third quarter of 2005, we had not established VSOE for the fair value of support contracts provided to our reseller class of customers. As such, prior to the third quarter of 2005, we recognized all revenue on transactions sold through resellers ratably over the term of the support contract, typically one year. Beginning in the third quarter of 2005, we determined that we had established VSOE of fair value of support for products sold to resellers, and began recognizing product revenue upon title transfer at shipment, provided the remaining criteria for revenue recognition had been met.

Our fees are typically considered to be fixed or determinable at the inception of an arrangement, generally based on specific products and quantities to be delivered. Substantially all of our contracts do not include rights of return or acceptance provisions. To the extent that our agreements contain such terms, we recognize revenue once the acceptance provisions or right of return lapses. Payment terms to customers generally range from net 30 to 60 days. In the event payment terms are provided that differ from our standard business practices, the fees are deemed to not be fixed or determinable and revenue is recognized when the payments become due, provided the remaining criteria for revenue recognition have been met.

We assess the ability to collect from our customers based on a number of factors, including credit worthiness of the customer and past transaction history of the customer. If the customer is not deemed credit worthy, we defer all revenue from the arrangement until payment is received and all other revenue recognition criteria have been met.

Stock-Based Compensation

Prior to January 1, 2006, we accounted for employee stock options using the intrinsic value method in accordance with Accounting Principles Board, or APB, Opinion No. 25, *Accounting for Stock Issued to Employees*, and Financial Accounting Standards Board Interpretation, or FIN, 44, *Accounting for Certain Transactions Involving Stock Compensation, an Interpretation of APB No. 25* and had adopted the disclosure only provisions of Statement of Financial Accounting Standards, or SFAS, No. 123, *Accounting for Stock-Based Compensation*, and SFAS No. 148, *Accounting for Stock-Based Compensation — Transition and Disclosure*, using the minimum value method.

In accordance with APB 25, stock-based compensation expense, which is a non-cash charge, resulted from stock option grants at exercise prices that, for financial reporting purposes, were deemed to be below the estimated fair value of the underlying common stock on the date of grant. We recorded deferred stock-based compensation relative to options accounted for under APB 25 of \$9.3 million and \$567,000 in the years ended December 31, 2005 and 2004, respectively, which is being amortized over the service period, which generally corresponds to the vesting period of the applicable options on a straight-line basis. During the three and six months ended June 30, 2007, we amortized \$573,000 and \$1.1 million, respectively, of deferred compensation expense, net of reversals, related to these options, and in the three and six months ended June 30, 2006, we amortized \$748,000 and \$1.4 million, respectively.

Table of Contents

Effective January 1, 2006, we adopted the fair value recognition provisions of SFAS 123(R), *Share-Based Payment*, using the prospective transition method, which requires us to apply the provisions of SFAS 123(R) to new awards granted, and to awards modified, repurchased or cancelled, after the effective date. Under this transition method, stock-based compensation expense recognized beginning January 1, 2006 is based on a combination of the following: (a) the grant-date fair value of stock option awards and employee stock purchase plan shares granted or modified after January 1, 2006; and (b) the amortization of deferred stock-based compensation related to stock option awards granted prior to January 1, 2006, which was calculated using the intrinsic value method as previously permitted under APB 25.

Under SFAS 123(R), we estimated the fair value of stock options granted using a Black-Scholes option-pricing formula and a single option award approach. This model utilizes the estimated fair value of common stock and requires that, at the date of grant, we use the expected term of the option, the expected volatility of the price of our common stock, risk free interest rates and expected dividend yield of our common stock. This fair value is then amortized on a straight-line basis over the requisite service periods of the awards, which is generally the vesting period. Options typically vest either 25% of the shares one year after the options' vesting commencement date and the remainder ratably on a monthly basis over the following three years, or ratably on a monthly basis over four years. On September 20, 2006, we implemented our Purchase Plan. Shares granted under the Purchase Plan typically vest over two years, and include two purchase dates per year.

The fair value of options granted and Purchase Plan shares were estimated at the date of grant using the following assumptions:

	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Employee and Director Stock Options				
Expected life in years	4.5	4.5-6.1	4.5	4.5-6.1
Risk-free interest rate	4.9%	5.0%-5.1%	4.5%-4.9%	4.7%-5.1%
Volatility	57%	65%-81%	57%-62%	65%-81%
Weighted average fair value of grants	\$14.03-\$22.78	\$3.67-\$4.92	\$14.03-\$22.78	\$3.67-\$4.92
Purchase Plan				
Expected life in years	0.5-2.0		0.5-2.0	
Risk-free interest rate	4.9%-5.0%		4.9%-5.0%	
Volatility	38%-46%		38%-46%	
Weighted average fair value of grants	\$30.99-\$36.42		\$30.99-\$36.42	

(1) There were no Purchase Plan shares in the six months ended June 30, 2006.

The expected term represents the period that stock-based awards are expected to be outstanding, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of our stock-based awards. For the three and six months ended June 30, 2007, we have elected to use the simplified method of determining the expected term as permitted by SEC Staff Accounting Bulletin 107. The computation of expected volatility for the three and six months ended June 30, 2007, is based on the historical volatility of comparable companies from a representative peer group selected based on industry and market capitalization data. As required by SFAS 123(R), management estimates expected forfeitures and is recognizing compensation costs only for those equity awards expected to vest.

As of June 30, 2007, the total compensation cost related to stock-based awards granted under SFAS 123(R) to employees and directors but not yet recognized was approximately \$70.2 million, net of estimated forfeitures of \$3.4 million. This cost will be amortized on a straight-line basis over the vesting period, which is typically 4 years. Amortization in the three and six months ended June 30, 2007 was \$4.0 million and \$6.2 million, respectively, and was \$708,000 and \$995,000 in the three and six months ended June 30, 2006, respectively. There was no amortization in the six months ended June 30, 2006 as the plan was not yet implemented.

Table of Contents

As of June 30, 2007, there was \$15.7 million left to be amortized under our Purchase Plan, which will be amortized over the remaining vesting period, which is between 14 to 22 months. Amortization in the three and six months ended June 30, 2007 was \$2.9 million and \$5.5 million, respectively.

Inventory Valuation

Inventory consists of hardware and related component parts and are stated at the lower of cost (on a first-in, first-out basis) or market. A large portion of our inventory relates to evaluation units located at customer locations as some of our customers test our equipment prior to purchasing. Inventory that is obsolete or in excess of our forecasted consumption is written down to estimated realizable value based on historical usage, expected demand and evaluation unit conversion rate and age. Inherent in our estimates of market value in determining inventory valuation are estimates related to economic trends, future demand for our products and technological obsolescence of our products. If future demand or market conditions are less favorable than our projections, additional inventory write-downs could be required and would be reflected in cost of product in the period the revision is made. Inventory write-downs are reflected as cost of product and amounted to approximately \$536,000 and \$800,000 for the three and six months ended June 30, 2007, respectively, and \$400,000 and \$604,000 for the three and six months ended June 30, 2006, respectively.

Accounting for Income Taxes

We use the asset and liability method of accounting for income taxes in accordance with SFAS 109, *Accounting for Income Taxes*. Under this method, income tax expenses or benefits are recognized for the amount of taxes payable or refundable for the current year and for deferred tax liabilities and assets for the future tax consequences of events that have been recognized in our consolidated financial statements or tax returns. The measurement of current and deferred tax assets and liabilities are based on provisions of currently enacted tax laws. The effects of future changes in tax laws or rates are not contemplated.

As part of the process of preparing consolidated financial statements, we are required to estimate our income taxes and tax contingencies in each of the tax jurisdictions in which we operate prior to the completion and filing of tax returns for such periods. This process involves estimating actual current tax expense together with assessing temporary differences in the treatment of items for tax purposes versus financial accounting purposes that may create net deferred tax assets and liabilities.

We record a valuation allowance to reduce our deferred tax assets to the amount we believe is more likely than not to be realized. In assessing the need for a valuation allowance, we have considered our historical levels of income, expectations of future taxable income and on-going tax planning strategies. Because of the uncertainty of the realization of the deferred tax assets, we have recorded a full valuation allowance against our deferred tax assets. Realization of our deferred tax assets is dependent primarily upon future U.S. taxable income. Based on our forecast of earnings and our continual assessment regarding the realizability of our deferred tax assets, we may release some portion or all of our valuation allowance in future periods. Such release could have a significant impact on our effective tax rate.

We adopted the provisions of FIN 48 on January 1, 2007. The application of this Interpretation requires a two-step process that separates recognition from measurement. We recorded no increases or decreases to the tax reserves for uncertain tax positions upon implementing FIN 48 and this assessment has not changed as of June 30, 2007. We have elected to record interest and penalties recognized in accordance with FIN 48 in the financial statements as income taxes. Any subsequent change in classification of FIN 48 interest and penalties will be treated as a change in accounting principle subject to the requirements of SFAS 154, *Accounting Changes and Error Corrections*.

Results of Operations

Revenue

We derive our revenue from sales of our appliances and product support and services. We began shipping our products in May 2004.

Product revenue primarily consists of revenue from sales of our Steelhead appliances and is typically recognized upon shipment. Support and services revenue includes unspecified software license updates and product support. Support revenue is recognized ratably over the contractual period, which is typically one year.

Table of Contents

Service revenue includes installation and training, which to date has not been significant, and is recognized as the services are performed. Ratable product and related support and services revenue includes revenue from arrangements in which product and support are bundled and no VSOE of fair value for support pricing in the arrangements exists. The total revenue from these arrangements is recognized ratably over the support period, typically one year.

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Total Revenue				
<i>Total Revenue by Type:</i>				
Product	\$ 43,392	\$ 14,030	\$ 77,029	\$ 24,865
Support and services	8,475	2,267	15,312	3,790
Ratable product and related support and services	2,135	1,746	4,445	3,109
<i>% Revenue by Type:</i>				
Product	80%	78%	80%	78%
Support and services	16%	13%	16%	12%
Ratable product and related support and services	4%	9%	4%	10%
<i>Total Revenue by Geography:</i>				
Domestic	32,883	13,170	62,462	22,634
International	21,119	4,873	34,324	9,130
<i>% Revenue by Geography:</i>				
Domestic	61%	73%	65%	71%
International	39%	27%	35%	29%
<i>Total Revenue by Sales Channel:</i>				
Direct	5,256	5,103	9,279	8,523
Indirect	48,746	12,940	87,507	23,241
<i>% Revenue by Sales Channel:</i>				
Direct	10%	28%	10%	27%
Indirect	90%	72%	90%	73%

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: Product revenue increased in the three months ended June 30, 2007 as compared to the three months ended June 30, 2006 due primarily to an increase in new customers and additional purchases by existing customers. As of June 30, 2007, our products had been sold to over 2,500 customers, compared to over 900 customers as of June 30, 2006. During the three months ended June 30, 2007 we recognized \$2.0 million of previously deferred product revenue upon the termination of a Reseller agreement. We believe the market for our products has grown due to increasingly distributed organizations, which increases dependence on timely access to data and applications.

Substantially all of our customers purchase support when they purchase our products. The increase in support and services revenue on an absolute basis and as a percentage of total revenues is a result of increased product and first year support sales combined with the renewal of support contracts by existing customers. As our customer base grows, we expect the proportion of revenue generated from support and services to increase over time.

In the three months ended June 30, 2007, we derived 90% of our revenue from indirect channels compared to 72% in the three months ended June 30, 2006. This increase in indirect channel revenue is due to our increased focus on expanding our indirect channel sales. We expect indirect channel revenue to continue to be a significant portion of our revenue.

We generated 39% of our revenue in the three months ended June 30, 2007 compared to 27% in the three months ended June 30, 2006 from international locations. We continue to expand into international locations and introduce our products in new markets and expect international revenue to increase in absolute dollars.

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: Product revenue increased in the six months ended June 30, 2007 due primarily to an increase in new customers and additional purchases by existing customers.

Table of Contents

Support and services revenue increased in the six months ended June 30, 2007 in line with the significant increase in product revenue and the renewal of support contracts for existing customers.

In the six months ended June 30, 2007 we generated 90% of our revenue from indirect channels compared to 73% in the six months ended June 30, 2006.

We generated 35% of our revenue in the six months ended June 30, 2007 from international locations compared to 29% in the six months ended June 30, 2006.

Cost of Revenue and Gross Margin

Cost of product revenue consists of the costs of appliance hardware, manufacturing, shipping and logistics costs and expenses for inventory obsolescence and warranty obligations. Cost of support and service revenue consists of salary and related costs of technical support personnel. Cost of ratable product and related support and services consists of hardware, support and service costs related to transactions recognized ratably.

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Revenue:				
Product	\$ 43,392	\$ 14,030	\$ 77,029	\$ 24,865
Support and services	8,475	2,267	15,312	3,790
Ratable product and related support and services	2,135	1,746	4,445	3,109
Total revenue	54,002	18,043	96,786	31,764
Cost of revenue:				
Cost of product	12,348	4,776	22,009	8,364
Cost of support and services	3,413	855	5,703	1,547
Cost of ratable product and related support and services	597	557	1,200	1,056
Total cost of revenue	16,358	6,188	28,912	10,967
Gross profit	\$ 37,644	\$ 11,855	\$ 67,874	\$ 20,797
Gross margin for product	72%	66%	71%	66%
Gross margin for support and services	60%	62%	63%	59%
Gross margin for ratable product and related support and services	72%	68%	73%	66%
Total gross margin	70%	66%	70%	65%

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: The increase in cost of product revenue was due primarily to increased hardware costs associated with increased shipments of our products to customers. Cost of support and services revenue increased as we added more technical support headcount domestically and abroad to support our growing customer base. Technical support and services headcount was 53 employees as of June 30, 2007 compared to 22 employees as of June 30, 2006.

Gross margins increased to 70% in the three months ended June 30, 2007 from 66% in the three months ended June 30, 2006 primarily due to higher margins on product revenue as a result of lower unit product costs that were partially offset by lower gross margins on support and services as a result of investing in technical support headcount in order to provide support to our growing customer base.

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: The increase in the cost of product revenue was due primarily due to increased hardware costs associated with increased shipments of products to our customers. The increase in cost of support and services revenue was due to increased personnel related costs as a result of increased headcount.

Gross margins increased to 70% in the six months ended June 30, 2007 from 65% in the six months ended June 30, 2006 primarily due to higher margins on product revenue primarily as a result of lower unit product costs.

Sales and Marketing Expenses

Sales and marketing expenses primarily include personnel costs, sales commissions, marketing programs and facilities costs.

Table of Contents

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Sales and marketing expenses	\$ 20,804	\$ 11,560	\$ 37,896	\$ 19,588
Percent of total revenue	39%	64%	39%	62%

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: The increase in sales and marketing expenses was primarily due to an increase in the number of sales and marketing employees, as sales and marketing headcount grew to 204 employees as of June 30, 2007 from 127 employees as of June 30, 2006. The increase in employees resulted in higher salary expense, employee related benefits and fees for recruitment of new employees. Additionally, commission expense increased in the three months ended June 30, 2007 as compared to the three months ended June 30, 2006 due to the substantial increase in revenue. Salaries, bonuses and commissions accounted for \$2.7 million, marketing related activities accounted for \$1.1 million, facilities and information technology expenses attributable to sales and marketing accounted for \$1.0 million, and travel and entertainment expenses accounted for \$434,000 of the \$9.2 million increase in sales and marketing expenses. Stock-based compensation, which was \$3.5 million in the three months ended June 30, 2007 compared to \$668,000 in the three months ended June 30, 2006, accounted for approximately \$2.9 million of the increase in sales and marketing expenses.

We plan to continue to make significant investments in sales and marketing with the intent to add new customers and increase penetration within our existing customer base by increasing the number of sales personnel worldwide, expanding our domestic and international sales and marketing activities, building brand awareness and sponsoring additional marketing events. We expect future sales and marketing expenses to continue to increase and continue to be our most significant operating expense. Generally sales personnel are not immediately productive and sales and marketing expenses do not immediately result in revenue. Hiring additional sales personnel reduces short-term operating margins until the sales personnel become productive and generate revenue. Accordingly, the timing of sales personnel hiring and the rate at which they become productive will affect our future performance.

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: The increase in sales and marketing expenses was primarily due to an increase in the number of sales and marketing employees. The increase in employees resulted in higher salary expense, employee related benefits and fees for recruitment of new employees. Additionally, commission expense increased in the six months ended June 30, 2007 as compared to the six months ended June 30, 2006 due to the substantial increase in revenue. Salaries, bonuses and commissions accounted for \$6.3 million, marketing related activities accounted for \$1.9 million, facilities and information technology expenses attributable to sales and marketing accounted for \$1.8 million, and travel and entertainment expenses accounted for \$1.2 million of the \$18.3 million increase in sales and marketing expenses. Stock-based compensation, which was \$6.3 million in the six months ended June 30, 2007 compared to \$1.1 million in the six months ended June 30, 2006, accounted for approximately \$5.2 million of the increase in sales and marketing expenses.

Research and Development Expenses

Research and development expenses primarily consist of personnel costs and facilities costs. We expense research and development expenses as incurred.

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Research and development expenses	\$ 9,036	\$ 4,317	\$ 16,494	\$ 7,782
Percent of total revenue	17%	24%	17%	24%

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: Research and development expenses increased in the three months ended June 30, 2007 compared to the three months ended June 30, 2006 due to an increase in personnel and facility-related costs as a result of research and development headcount increasing to 136 employees as of June 30, 2007 from 97 employees as of June 30, 2006. Salaries and bonuses accounted for \$1.1 million and facilities and related costs accounted for \$721,000 of the \$4.7 million increase in research and development expenses. Stock-based compensation, which was \$2.0 million in the three months ended June 30, 2007 compared to \$409,000 in the three months ended June 30, 2006, accounted for \$1.6 million of the increase in research and development expenses. We plan to continue to invest in research and development as we develop new products and make further enhancements to existing models.

Table of Contents

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: Research and development expenses increased in the six months ended June 30, 2007 compared to the six months ended June 30, 2006 due to an increase in personnel and facility-related costs. Salaries and bonuses accounted for \$2.2 million and facilities and related costs accounted for \$1.4 million of the \$8.7 million increase in research and development expenses. Stock-based compensation, which was \$3.4 million in the six months ended June 30, 2007 compared to \$628,000 in the six months ended June 30, 2006, accounted for \$2.8 million of the increase in research and development expenses.

General and Administrative Expenses

General and administrative expenses consist primarily of compensation for personnel and facilities costs related to our executive, finance, human resources, information technology and legal organizations, and fees for professional services. Professional services include legal, audit and information technology consulting costs.

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
General and administrative expenses	\$ 5,600	\$ 2,071	\$ 9,637	\$ 3,667
Percent of total revenue	10%	11%	10%	12%

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: The increase in general and administrative expenses for the three months ended June 30, 2007 compared to the three months ended June 30, 2006 is due to an increase in personnel costs, primarily as a result of headcount increasing to 49 employees as of June 30, 2007 from 25 employees as of June 30, 2006, and an increase in professional services fees. Salaries and bonuses accounted for \$806,000 and professional service fees accounted for approximately \$1.2 million of the \$3.5 million increase in general and administrative expenses. Stock-based compensation, which was \$1.3 million in the three months ended June 30, 2007 compared to \$311,000 in the three months ended June 30, 2006, accounted for approximately \$940,000 of the increase in general and administrative expenses.

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: The increase in general and administrative expenses for the six months ended June 30, 2007 compared to the six months ended June 30, 2006 is due to an increase in personnel costs and an increase in professional services fees. Salaries and bonuses accounted for \$1.5 million and professional service fees accounted for approximately \$1.8 million of the \$6.0 million increase in general and administrative expenses. Stock-based compensation, which was \$2.1 million in the six months ended June 30, 2007 compared to \$486,000 in the six months ended June 30, 2006, accounted for approximately \$1.6 million of the increase in general and administrative expenses.

Other Income (Expense), Net

Other income (expense), net consists primarily of interest income, interest expense, and foreign currency exchange gains (losses).

(dollars in thousands)	Three months ended June 30,		Six months ended June 30,	
	2007	2006	2007	2006
Interest income	\$ 2,658	\$ 241	\$ 4,427	\$ 426
Interest expense	—	(70)	—	(145)
Other	(103)	(88)	(153)	(300)
Total other income (expense), net	<u>\$ 2,555</u>	<u>\$ 83</u>	<u>\$ 4,274</u>	<u>\$ (19)</u>

Quarter Ended June 30, 2007 Compared to the Quarter Ended June 30, 2006: Other income (expense), net, increased in the three months ended June 30, 2007 primarily due to interest income on higher cash balances. In September 2006, we received net IPO proceeds of \$87.5 million and in February 2007, we received net follow-on public offering proceeds of \$87.7 million. We did not have interest expense in the second quarter of 2007, as we paid off the balance of our credit facility on October 2, 2006.

Table of Contents

Six Months Ended June 30, 2007 Compared to the Six Months Ended June 30, 2006: Other income (expense), net, increased in the six months ended June 30, 2007 primarily due to interest income on higher cash balances. We did not have interest expense in the first two quarters of 2007, as we paid off the balance of our credit facility on October 2, 2006. Other expense decreased due to recording our preferred stock warrants to fair value in 2006 and no such adjustment was required in 2007. In the six months ended June 30, 2006 we recorded \$215,000 of warrant expense. Subsequent to our IPO, we were no longer required to record the warrants to fair value.

Provision for Income Taxes

Prior to the first quarter of 2007, we had incurred operating losses and, accordingly, had not recorded a provision for income taxes for any of the periods presented other than foreign provisions for income tax. For the three and six months ended June 30, 2007, we generated operating profits. After applying our available net operating loss and tax credit carryforwards and considering our remaining valuation allowance, our tax provision accrued for the three and six months ended June 30, 2007 consists of federal, foreign and state provisions for income tax.

As of December 31, 2006, we recorded a valuation allowance against our net deferred tax assets due to operating losses incurred since inception. Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Accordingly, the net deferred tax assets were fully offset by a valuation allowance. If not utilized, the federal and state net operating loss and tax credit carryforwards will expire between 2013 and 2026. Utilization of these net operating losses and credit carryforwards may be subject to an annual limitation due to provisions of the Internal Revenue Code of 1986, as amended, that are applicable if we experience an "ownership change" that may occur, for example, by a change in significant shareholder allocation or equity structure.

For the three and six months ended June 30, 2007, our tax provision includes a deferred tax benefit for the projected reduction in the valuation allowance as a result of forecasted taxable income and corresponding utilization of net operation losses and tax credit carryforwards. In determining future taxable income, we make assumptions to forecast federal, state and international operating income, the reversal of temporary differences, and the implementation of any feasible and prudent tax planning strategies. The assumptions require significant judgment regarding the forecasts of future taxable income, and are consistent with our forecasts used to manage our business. We intend to maintain the remaining valuation allowance until sufficient further positive evidence exists to support a reversal of, or decrease, in the valuation allowance.

If our recent trend of profitability continues, we may determine that there is sufficient positive evidence to support a reversal of, or decrease in, the valuation allowance. If we were to reverse all or some part of our valuation allowance and recognize all or some part of our deferred tax assets, our financial statements in the period of reversal would reflect an increase in assets on our balance sheet and a corresponding tax benefit to our statement of operations in the amount of the reversal.

We expect our effective tax rate for 2007 to fluctuate significantly on a quarterly basis and could be affected by such items as disqualifying dispositions of stock from the Purchase Plan and incentive stock options, by changes in the valuation of our deferred tax assets or liabilities, changes in actual results versus our estimates, or by changes in tax laws, regulations, accounting principles, or interpretations thereof. In addition, we are subject to potential income tax audits on open tax years by any taxing jurisdiction for which we operate in. The taxing authorities of the most significant jurisdictions are the United States Internal Revenue Service and California Franchise Tax Board. Since all filed federal and California franchise tax returns have shown operating losses, we do not anticipate any material adjustments to the provisions relating to these returns. Currently, in accordance to the general rules of the respective tax jurisdictions, the tax years open for potential examination are 2003-2005 for federal and 2002-2005 for California.

Liquidity and Capital Resources

(in thousands)	As of June 30, 2007	As of December 31, 2006
Working capital	\$ 211,745	\$ 101,319
Cash and cash equivalents	151,687	105,330
Marketable securities	66,018	3,999

[Table of Contents](#)

(in thousands)	Six months ended June 30,	
	2007	2006
Cash provided by (used in) operating activities	\$ 20,609	\$ (7,469)
Cash used in investing activities	(67,166)	(2,153)
Cash provided by financing activities	92,896	19,446

Cash and Cash Equivalents

Cash and cash equivalents consist of highly liquid investments in time deposits held at major banks, commercial paper, United States government agency discount notes, money market mutual funds and other money market securities with maturities at the date of purchase of 90 days or less.

Prior to our IPO in September 2006, we funded our operations primarily through private sales of our convertible preferred stock and collections from our customers and, to a lesser extent, borrowings under a credit facility. In February 2006, we completed the sale of our Series D convertible preferred stock with aggregate net proceeds of \$19.9 million. In September 2006, we completed our IPO which we raised aggregate net proceeds of \$87.5 million. In February 2007, we completed a follow-on public offering in which we raised aggregate net proceeds of \$87.7 million.

Pursuant to certain lease agreements and as security for our merchant services agreement with our financial institution, we are required to maintain cash reserves, classified as restricted cash. Current restricted cash totaled \$121,000 at June 30, 2007 and December 31, 2006, and long-term restricted cash totaled \$3.1 million and \$1.5 million at June 30, 2007 and December 31, 2006, respectively. Long-term restricted cash is included in other assets in the condensed consolidated balance sheets and consists primarily of \$3.0 million held as collateral for letters of credit for the security deposit on the leases of our corporate headquarters and is restricted until the end of the lease terms on August 30, 2010 and July 31, 2014.

Since the fourth quarter of 2004, we have expanded our operations internationally. Our sales contracts are typically denominated in United States dollars and as such, the increase in our revenue derived from international customers has not affected our cash flows from operations. As we fund our international operations, our cash and cash equivalents are affected by changes in exchange rates. To date, the foreign currency effect on our cash and cash equivalents has not been immaterial.

Cash Flows from Operating Activities

Our largest source of operating cash flows is cash collections from our customers. Our primary uses of cash from operating activities are for personnel related expenditures, product costs, outside services, rent payments and capital investments in technology costs. Our cash flows from operating activities will continue to be affected principally by the extent to which we grow our revenue and spend on hiring personnel in order to grow our business. The timing of hiring sales personnel in particular affects cash flows as there is a lag between the hiring of sales personnel and the generation of revenue and cash flows from sales personnel.

Cash provided by operating activities was \$20.6 million in the six months ended June 30, 2007 compared to cash used in operations of \$7.5 million in the six months ended June 30, 2006 primarily due to increased profitability. In the first six months of 2006, we experienced negative cash flows from operations as we continued to expand our business and build our infrastructure domestically and internationally.

Cash Flows from Investing Activities

Cash flows used in investing activities primarily relate to investments in marketable securities and capital expenditures to support our growth.

Cash used in investing activities increased in the six months ended June 30, 2007 compared to the six months ended June 30, 2006 due to purchases of marketable securities. Additionally, capital expenditures increased in the first six months of 2007 compared to 2006 primarily resulting from leasehold improvement additions associated with our new corporate headquarters. Restricted cash outlays increased in the first six months of 2007 due to the cash collateralized \$1.6 million letter of credit required for the new corporate headquarters.

[Table of Contents](#)

Cash Flows from Financing Activities

Prior to September 2006, we financed our operations primarily through private sales of convertible preferred stock totaling \$56.3 million and collections from customers and, to a lesser extent, borrowings under our credit facility. In February 2006, we sold 3,738,318 shares of our Series D convertible preferred stock for net proceeds of \$19.9 million. In September 2006, we completed our IPO and received net proceeds of \$87.5 million. In February 2007, we completed a follow-on public offering of our common stock and received net proceeds of \$87.7 million.

On June 7, 2004, we entered into a loan and security agreement with a financial institution for a \$2.5 million credit facility, and we borrowed \$1.4 million and \$1.1 million in 2004 and 2005, respectively. We made principal payments of \$625,000 in the first six months of 2006 and repaid the remaining balance on our loan on October 2, 2006.

We believe that our net proceeds from operations, together with our cash balance at June 30, 2007, will be sufficient to fund our projected operating requirements for at least the next 12 months. Our future capital requirements will depend on many factors, including our rate of revenue growth, the expansion of our sales and marketing activities, the timing and extent of expansion into new territories, the timing of introductions of new products and enhancements to existing products, and the continuing market acceptance of our products. We may enter into arrangements for potential investments in, or acquisitions of, complementary businesses, services or technologies, which also could require us to seek additional equity or debt financing. Additional funds may not be available on terms favorable to us or at all.

Contractual Obligations

The following is a summary of our contractual obligations as of June 30, 2007:

	Total	Remaining six months of 2007	2008	2009	2010	2011 and beyond
			(in thousands)			
Contractual Obligations						
Operating leases	\$27,343	\$ 1,830	\$4,087	\$3,705	\$3,575	\$14,146
Purchase obligations (1)	115	40	50	23	2	—
Total contractual obligations	<u>\$27,458</u>	<u>\$ 1,870</u>	<u>\$4,137</u>	<u>\$3,728</u>	<u>\$3,577</u>	<u>\$14,146</u>

- (1) Represents amounts associated with agreements that are enforceable, legally binding and specify terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of payment. Obligations under contracts that we can cancel without a significant penalty are not included in the table above.
- (2) On July 3, 2007, we entered into a lease agreement for office space in Sunnyvale, California. The term of the lease is for five years and two months commencing on January 1, 2008. Early commencement may take place if we choose to occupy the space earlier at which time the term of the lease will be extended to include the period of time from occupation until January 1, 2008. The aggregate minimum lease commitment is \$4.7 million and is not reflected in the table above. The lease also calls for additional payments for utilities and a portion of real estate taxes and operating expenses.

Off-Balance Sheet Arrangements

At June 30, 2007 and December 31, 2006, we did not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes, nor did we have any undisclosed material transactions or commitments involving related persons or entities.

Other

At June 30, 2007 and December 31, 2006, we did not have commercial commitments under lines of credit, standby repurchase obligations or other such debt arrangements.

Recent Accounting Pronouncements

See Note 13 of "Notes to Consolidated Financial Statements" for recent accounting pronouncements that could have an effect on us.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Foreign Currency Risk

Our sales contracts are denominated in United States dollars and therefore our revenue is not subject to foreign currency risk. Our operating expenses and cash flows are subject to fluctuations due to changes in foreign currency exchange rates, particularly changes in the British pound, Euro and Singapore dollar. To date, we have not entered into any hedging contracts since exchange rate fluctuations have had little impact on our operating results and cash flows.

Interest Rate Sensitivity

We had unrestricted cash and cash equivalents totaling \$151.7 million and \$105.3 million at June 30, 2007 and December 31, 2006, respectively. These amounts were invested primarily in money market funds. The unrestricted cash and cash equivalents are held for working capital purposes. We do not enter into investments for trading or speculative purposes. We believe that we do not have any material exposure to changes in the fair value as a result of changes in interest rates. Declines in interest rates, however, will reduce future investment income. If overall interest rates had fallen by 10% in 2007, our interest income would have declined approximately \$369,000, assuming consistent investment levels.

Item 4. Controls and Procedures

We evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of June 30, 2007, the end of the period covered by this report on Form 10-Q. This evaluation (the controls evaluation) was done under the supervision and with the participation of our management, including our Chief Executive Officer (CEO) and Chief Financial Officer (CFO).

Disclosure controls and procedures means controls and other procedures that are designed to provide reasonable assurance that information required to be disclosed in the reports that we file or submit under the Exchange Act, such as this report on Form 10-Q, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed such that information is accumulated and communicated to our management, including the CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

Based upon the controls evaluation, our CEO and CFO have concluded that as of June 30, 2007, our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified by the SEC and to ensure that material information relating to the Company and our consolidated subsidiaries is made known to management, including the CEO and CFO.

In the first quarter of 2007, we implemented a new enterprise resource planning software system. This change did not materially affect our internal control over financial reporting in the first or second quarters of 2007. There were no changes in our internal control over financial reporting that occurred during the second quarter of 2007 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Internal control over financial reporting means a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

We are required to comply with Section 404 of the Sarbanes-Oxley Act of 2002 by our fiscal year ending December 31, 2007. The notification of such compliance is due no later than the time we file our annual report for the fiscal year ending December 31, 2007. We believe we will have adequate resources and expertise, both internal and external, in place to meet this requirement. However, there is no guarantee that our efforts will result in a management assurance, or an attestation by the independent auditors, that internal controls over financial reporting were adequate in their design and/or operation.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are subject to various claims, complaints and legal actions in the normal course of business from time to time. We do not believe we are party to any currently pending legal proceedings the outcome of which will have a material adverse effect on our operations or financial position. There can be no assurance that existing or future legal proceedings arising in the ordinary course of business or otherwise will not have a material adverse effect on our business, consolidated financial position, results of operations or cash flow.

Item 1A. Risk Factors

Set forth below and elsewhere in this quarterly report on Form 10-Q, and in other documents we file with the SEC, are risks and uncertainties that could cause actual results to differ materially from the results contemplated by the forward-looking statements contained in this quarterly report on Form 10-Q. Because of the following factors, as well as other variables affecting our operating results, past financial performance should not be considered as a reliable indicator of future performance and investors should not use historical trends to anticipate results or trends in future periods.

Risks Related to Our Business and Industry

We compete in new and rapidly evolving markets and have a limited operating history, which make it difficult to predict our future operating results.

We were incorporated in May 2002 and shipped our first Steelhead appliance in May 2004. We have a limited operating history and offer a single line of products in an industry characterized by rapid technological change. It is very difficult to forecast our future operating results. You should consider and evaluate our prospects in light of the risks and uncertainty frequently encountered by early stage companies in rapidly evolving markets characterized by rapid technological change, changing customer needs, evolving industry standards and frequent introductions of new products and services. As we encounter rapidly changing customer requirements and increasing competitive pressures, we likely will be required to reposition our product and service offerings and introduce new products and services. We may not be successful in doing so in a timely and appropriately responsive manner, or at all. Furthermore, because we compete in an early stage market, many of our target customers have not purchased products similar to ours and might not have a specific budget for the purchase of our products and services. All of these factors make it difficult to predict our future operating results.

Our operating results may fluctuate significantly, which makes our future results difficult to predict and could cause our operating results to fall below expectations or our guidance.

Our operating results may fluctuate due to a variety of factors, many of which are outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. You should not rely on our past results as an indication of our future performance. In addition, a significant portion of our quarterly sales typically occurs during the last month of the quarter, which we believe reflects customer buying patterns of products similar to ours and other products in the technology industry generally. As a result, our quarterly operating results are difficult to predict even in the near term. If our revenue or operating results fall below the expectations of investors or securities analysts or below any guidance we may provide to the market, the price of our common stock would likely decline substantially. We are rapidly expanding the number of personnel, programs and infrastructure to accommodate and facilitate anticipated future growth. If revenues are less than anticipated, then our financial results would be adversely affected.

In addition to other risk factors listed in this “Risk Factors” section, factors that may affect our operating results include:

- fluctuations in demand, including due to seasonality, for our products and services;
- fluctuations in sales cycles and prices for our products and services;
- reductions in customers’ budgets for information technology purchases and delays in their purchasing cycles;
- the timing of recognizing revenue in any given quarter as a result of software revenue recognition rules, including the extent to which sales transactions in a given period are unrecognizable until a future period or, conversely, the satisfaction of revenue recognition rules in a given period resulting in the recognition of revenue from transactions initiated in prior periods;
- the sale of our products in the timeframes we anticipate, including the number and size of orders in each quarter;
- our ability to develop, introduce and ship in a timely manner new products and product enhancements that meet customer requirements;

[Table of Contents](#)

- the timing of product releases or upgrades by us or by our competitors;
- any significant changes in the competitive dynamics of our markets, including new entrants or substantial discounting of products;
- our ability to control costs, including our operating expenses and the costs of the components we purchase;
- volatility in our stock price, which may lead to higher stock compensation expenses pursuant to Statement of Financial Accounting Standards No. 123(R);
- general economic conditions in our domestic and international markets; and
- unpredictable fluctuations in our effective tax rate due to disqualifying dispositions of stock from the employee stock purchase plan and incentive stock options, changes in the valuation of our deferred tax assets or liabilities, changes in actual results versus our estimates, or changes in tax laws, regulations, accounting principles, or interpretations thereof.

We have a history of losses and we may not maintain profitability in the future.

We achieved profitability for the first time in the three months ended March 31, 2007. We experienced a net loss of \$15.8 million for the year ended December 31, 2006. As of June 30, 2007, our accumulated deficit was \$40.1 million. We may incur significant losses in the future for a number of reasons, including those discussed in other risk factors and factors that we cannot foresee. We expect to make significant expenditures related to the development of our business, including expenditures to hire additional personnel relating to sales and marketing and technology development. In addition, as a public company, we incur significant legal, accounting and other expenses that we did not incur as a private company. We would have to generate and sustain significantly increased revenue to maintain profitability. Our revenue growth trends in prior periods are not likely to be sustainable, and we may not achieve sufficient revenue to maintain profitability.

We face intense competition that could reduce our revenue and adversely affect our financial results.

The market for our products is highly competitive and we expect competition to intensify in the future. Other companies may introduce new products in the same markets we serve or intend to enter.

This competition could result in increased pricing pressure, reduced profit margins, increased sales and marketing expenses and failure to increase, or the loss of, market share, any of which would likely seriously harm our business, operating results or financial condition.

Competitive products may in the future have better performance, lower prices and broader acceptance than our products. Many of our current or potential competitors have longer operating histories, greater name recognition, larger customer bases and significantly greater financial, technical, sales, marketing and other resources than we do. Potential customers may prefer to purchase from their existing suppliers rather than a new supplier regardless of product performance or features. Currently, we face competition from a number of established companies, including Cisco Systems (which acquired Actona Technologies), Juniper Networks (which acquired Peribit Networks), F5 Networks (which acquired Swan Labs), Packeteer (which acquired Tacit Networks), Citrix Systems (which acquired Orbital Data) and Blue Coat Systems. We also face competition from a large number of smaller private companies and new market entrants.

We expect increased competition from other established and emerging companies if our market continues to develop and expand. For example, third parties currently selling our products could market products and services that compete with our products and services. In addition, some of our competitors have made acquisitions or entered into partnerships or other strategic relationships with one another to offer a more comprehensive solution than they individually had offered. We expect this trend to continue as companies attempt to strengthen or maintain their market positions in an evolving industry and as companies enter into partnerships or are acquired. Many of the companies driving this consolidation trend have significantly greater financial, technical and other resources than we do and are better positioned to acquire and offer complementary products and technologies. The companies resulting from these possible consolidations may create more compelling product offerings and be able to offer greater pricing flexibility, making it more difficult for us to compete effectively, including on the basis of price, sales and marketing programs, technology or product functionality. Continued industry consolidation may adversely impact customers' perceptions of the viability of smaller and even medium-sized technology companies and consequently customers' willingness to purchase from such companies. These pressures could materially adversely affect our business, operating results and financial condition.

Table of Contents

We also face competitive pressures from other sources. For example, Microsoft has announced its intention to improve the performance of its software for remote office users. Our products are designed to improve the performance of many applications, including applications that are based on Microsoft protocols. Accordingly, improvements to Microsoft application protocols may reduce the need for our products, adversely affecting our business, operating results and financial condition. Improvement in other application protocols or in the Transmission Control Protocol (TCP), the underlying transport protocol for most WAN traffic, could have a similar effect. In addition, we market our products, in significant part, on the anticipated cost savings to be realized by organizations if they are able to avoid the purchase of costly IT infrastructure at remote sites by purchasing our products. To the extent other companies are able to reduce the costs associated with purchasing and maintaining servers, storage or applications to be operated at remote sites, our business, operating results and financial condition could be adversely affected.

We rely on indirect distribution partners, including value-added resellers, to sell our products, and disruptions to, or our failure to develop and manage, our distribution channels and the processes and procedures that support them effectively could adversely affect our business.

Our future success is highly dependent upon establishing and maintaining successful relationships with a variety of indirect distribution partners. A substantial majority of our revenue is derived through indirect channel sales and we expect indirect channel sales to continue to account for a substantial majority of our total revenue. Accordingly, our revenue depends in large part on the effective performance of these channel partners. By relying on indirect channels, we may have little or no contact with the ultimate users of our products, thereby making it more difficult for us to establish brand awareness, ensure sell-through of our products necessary for us to recognize revenue, ensure proper delivery and installation of our products, service ongoing customer requirements and respond to evolving customer needs.

Recruiting and retaining qualified channel partners and training them in our technology and product offerings requires significant time and resources. In order to develop and expand our distribution channel, we must continue to scale and improve our processes and procedures that support our channel, including investment in systems and training, and those processes and procedures may become increasingly complex and difficult to manage. We have no long-term contracts or minimum purchase commitments with any of our value-added resellers or other indirect distributors, and our contracts with these channel partners do not prohibit them from offering products or services that compete with ours. Our competitors may be effective in providing incentives to existing and potential channel partners to favor their products or to prevent or reduce sales of our products. Our channel partners may choose not to offer our products exclusively or at all. Our failure to establish and maintain successful relationships with channel partners would likely materially adversely affect our business, operating results and financial condition.

We rely on third parties to perform shipping and other logistics functions on our behalf. A failure or disruption at a logistics partner would adversely impact our business.

Currently, we use third party logistics partners to perform storage, packaging, shipment and handling for us. We intend to utilize additional logistics service providers in connection with any expansion of our international sales. Although the logistics services required by us may be readily available from a number of providers, it is time consuming and costly to qualify and implement these relationships. Therefore, if one or more of our logistics partners suffers an interruption in its business, or experiences delays, disruptions or quality control problems in its operations, or we have to change or add additional logistics partners, our ability to ship products to our customers would be delayed and our business, operating results and financial condition would be adversely affected.

If functionality similar to that offered by our products is incorporated into existing network infrastructure products, organizations may decide against adding our appliances to their network, which would have an adverse effect on our business.

Other providers of network infrastructure products are offering or announcing functionality aimed at addressing the problems addressed by our products. For example, Cisco Systems incorporates WAN optimization functionality into certain of its router blades. The inclusion of, or the announcement of intent to include, functionality perceived to be similar to that offered by our products in products that are already generally accepted as necessary components of network architecture or in products that are sold by more established vendors may have an adverse effect on our ability to market and sell our products. Furthermore, even if the functionality offered by other network infrastructure providers is more limited than our products, a significant number of customers may elect to accept such limited functionality in lieu of adding additional appliances from an additional vendor. Many organizations have invested substantial personnel and financial resources to design and operate their networks

Table of Contents

and have established deep relationships with other providers of network infrastructure products, which may make them reluctant to add new components to their networks, particularly from new vendors. In addition, an organization's existing vendors or new vendors with a broad product offering may be able to offer concessions that we are not able to match because we currently offer only a single line of products and have fewer resources than many of our competitors. If organizations are reluctant to add additional network infrastructure from new vendors or otherwise decide to work with their existing vendors, our business, operating results and financial condition will be adversely affected.

If we are unable to protect our intellectual property rights, our competitive position could be harmed or we could be required to incur significant expenses to enforce our rights.

We depend on our ability to protect our proprietary technology. We rely on trade secret, patent, copyright and trademark laws and confidentiality agreements with employees and third parties, all of which offer only limited protection. Despite our efforts, the steps we have taken to protect our proprietary rights may not be adequate to preclude misappropriation of our proprietary information or infringement of our intellectual property rights, and our ability to police such misappropriation or infringement is uncertain, particularly in countries outside of the United States. Further, with respect to patent rights, we do not know whether any of our pending patent applications will result in the issuance of patents or whether the examination process will require us to narrow our claims, and even if patents are issued, they may be contested, circumvented or invalidated over the course of our business. Moreover, the rights granted under any issued patents may not provide us with proprietary protection or competitive advantages, and, as with any technology, competitors may be able to develop similar or superior technologies to our own now or in the future. Protecting against the unauthorized use of our products, trademarks and other proprietary rights is expensive, difficult and, in some cases, impossible. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Such litigation could result in substantial costs and diversion of management resources, either of which could harm our business, operating results and financial condition. Furthermore, many of our current and potential competitors have the ability to dedicate substantially greater resources to enforce their intellectual property rights than we do. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property.

Claims by others that we infringe their proprietary technology could harm our business.

Third parties could claim that our products or technology infringe their proprietary rights. We expect that infringement claims may increase as the number of products and competitors in our market increases and overlaps occur. In addition, to the extent that we gain greater visibility and market exposure as a public company, we face a higher risk of being the subject of intellectual property infringement claims. Any claim of infringement by a third party, even those without merit, could cause us to incur substantial costs defending against the claim, and could distract our management from our business. Furthermore, a party making such a claim, if successful, could secure a judgment that requires us to pay substantial damages. A judgment could also include an injunction or other court order that could prevent us from offering our products. In addition, we might be required to seek a license for the use of such intellectual property, which may not be available on commercially reasonable terms or at all. Alternatively, we may be required to develop non-infringing technology, which could require significant effort and expense and may ultimately not be successful. Any of these events could seriously harm our business, operating results and financial condition. Third parties may also assert infringement claims against our customers and channel partners. Any of these claims would require us to initiate or defend potentially protracted and costly litigation on their behalf, regardless of the merits of these claims, because we generally indemnify our customers and channel partners from claims of infringement of proprietary rights of third parties. If any of these claims succeed, we may be forced to pay damages on behalf of our customers or channel partners, which could have a material adverse effect on our business, operating results and financial condition.

Our sales cycles can be long and unpredictable, and our sales efforts require considerable time and expense. As a result, our sales are difficult to predict and may vary substantially from quarter to quarter, which may cause our operating results to fluctuate significantly.

The timing of our revenue is difficult to predict. Our sales efforts involve educating our customers about the use and benefit of our products, including their technical capabilities and potential cost savings to an organization. Customers typically undertake a significant evaluation process that has in the past resulted in a lengthy sales cycle, in some cases over twelve months. We spend substantial time, effort and money in our sales efforts without any assurance that our efforts will produce any sales. In addition, product purchases are frequently subject to budget constraints, multiple approvals, and unplanned administrative, processing and other delays. If sales expected from a specific customer for a particular quarter are not realized in that quarter or at all, our business, operating results and financial condition could be materially adversely affected.

Table of Contents

We are susceptible to shortages or price fluctuations in our supply chain. Any shortages or price fluctuations in components used in our products could delay shipment of our products, which could materially adversely affect our business.

Shortages in components that we use in our products are possible and our ability to predict the availability of such components may be limited. Some of these components are available only from limited sources of supply. For example, our Steelhead appliances depend on network bypass cards to provide a fail-to-wire capability. These bypass cards use high speed relays available only from a limited number of vendors. In addition, our ability to timely deliver products to our customers would be materially adversely impacted if we needed to qualify replacements for the systems, motherboards, chassis and storage adapters used in our Steelhead appliances. We would be similarly affected by shortages in the availability, or the complete unavailability, of the central processing units, bypass cards, disks, fans and power supplies that we use in our appliances. Specifically, the unavailability of any of these components would prevent us from shipping products because each of these components is necessary to the proper functioning of our appliances. In addition, the lead times associated with certain components are lengthy and preclude rapid changes in quantity requirements and delivery schedules.

Any growth in our business or the economy is likely to create greater pressures on us and our suppliers to project overall component demand accurately and to establish optimal component inventory levels. In addition, increased demand by third parties for the components we use in our products may lead to decreased availability and higher prices for those components. We carry very little inventory of our products and product components, and we rely on our suppliers to deliver necessary components to our contract manufacturers in a timely manner based on forecasts we provide. We rely on purchase orders rather than long-term contracts with our suppliers. As a result, even if available, we may not be able to secure sufficient components at reasonable prices or of acceptable quality to build products in a timely manner, which would seriously impact our ability to deliver products to our customers, and our business, operating results and financial condition would be adversely affected.

If we fail to predict accurately our manufacturing requirements, we could incur additional costs or experience manufacturing delays which would harm our business. We are dependent on contract manufacturers with whom we do not have long-term supply contracts, and changes to those relationships, expected or unexpected, may result in delays or disruptions that could harm our business.

We depend on independent contract manufacturers who use standard components to manufacture and assemble our products. We rely on purchase orders with all of our contract manufacturers and do not have long-term supply arrangements with any of them. As a result, our contract manufacturers are not obligated to supply products to us for any specific period, in any specific quantity or at any specific price. Our orders may represent a relatively small percentage of the overall orders received by our contract manufacturers from their customers. As a result, fulfilling our orders may not be considered a priority by one or more of our contract manufacturers in the event the contract manufacturer is constrained in its ability to fulfill all of its customer obligations in a timely manner. We provide demand forecasts to our contract manufacturers. If we overestimate our requirements, the contract manufacturers may assess charges or we may have liabilities for excess inventory, each of which could negatively affect our gross margins. Conversely, because lead times for required materials and components vary significantly and depend on factors such as the specific supplier, contract terms and the demand for each component at a given time, if we underestimate our requirements, the contract manufacturers may have inadequate materials and components required to produce our products, which could interrupt manufacturing of our products and result in delays in shipments and deferral or loss of revenue.

Although the contract manufacturing services required to manufacture and assemble our products may be readily available from a number of established manufacturers, it is time consuming and costly to qualify and implement contract manufacturer relationships. Therefore, if one or more of our contract manufacturers suffers an interruption in its business, or experiences delays, disruptions or quality control problems in its manufacturing operations, or we have to change or add additional contract manufacturers, our ability to ship products to our customers would be delayed and our business, operating results and financial condition would be adversely affected.

Table of Contents

If we lose key personnel or are unable to attract and retain personnel on a cost-effective basis, our business would be harmed.

Our success is substantially dependent upon the performance of our senior management and key technical and sales personnel. Our management and employees can terminate their employment at any time, and the loss of the services of one or more of our executive officers or other key employees could harm our business. Our success also is substantially dependent upon our ability to attract additional personnel for all areas of our organization, particularly in our sales, research and development and customer service departments. Competition for qualified personnel is intense, and we may not be successful in attracting and retaining such personnel on a timely basis, on competitive terms, or at all. If we are unable to attract and retain the necessary technical, sales and other personnel on a cost-effective basis, especially in light of our recent and anticipated growth, our business, operating results and financial condition would be adversely affected.

We may not generate positive returns on our research and development investments.

Developing our products is expensive, and the investment in product development may involve a long payback cycle. In the three and six months ended June 30, 2007, our research and development expenses were \$9.0 million and \$16.5 million, respectively, or approximately 17% of our total revenue in these periods. Our future plans include significant investments in research and development and related product opportunities. We believe that we must continue to dedicate a significant amount of resources to our research and development efforts to maintain our competitive position. These investments may take several years to generate positive returns, if ever.

Our ability to sell our products is highly dependent on the quality of our support and services offerings, and our failure to offer high quality support and services would have a material adverse effect on our sales and results of operations.

Once our products are deployed within our customers' networks, our customers depend on our support organization to resolve any issues relating to our products. A high level of support is critical for the successful marketing and sale of our products. If we or our channel partners do not effectively assist our customers in deploying our products, succeed in helping our customers quickly resolve post-deployment issues, and provide effective ongoing support, it would adversely affect our ability to sell our products to existing customers and could harm our reputation with potential customers. In addition, as we expand our operations internationally, our support organization will face additional challenges including those associated with delivering support, training and documentation in languages other than English. As a result, our failure to maintain high quality support and services would have a material adverse effect on our business, operating results and financial condition.

If we fail to manage future growth effectively, our business would be harmed.

We have expanded our operations significantly since inception and anticipate that further significant expansion will be required. This future growth, if it occurs, will place significant demands on our management, infrastructure and other resources. To manage any future growth, we will need to hire, integrate and retain highly skilled and motivated employees. We will also need to continue to improve our financial and management controls, reporting systems and procedures. We have recently converted to a new enterprise resource planning software system that has replaced a substantial majority of our prior finance, sales and inventory management systems. We may encounter delays or difficulties in connection with this conversion, including loss of data and decreases in productivity as our personnel become familiar with new systems. If we experience any delays or difficulties, either in connection with this new enterprise resource planning system or other controls, systems and procedures, our ability to properly run our business could be adversely affected. For example, deficiencies in our internal controls over financial reporting could result in loss of revenue, improper revenue recognition, or errors in our financial statements. If we do not effectively manage our growth, our business, operating results and financial condition would be adversely affected.

If we do not successfully anticipate market needs and develop products and product enhancements that meet those needs, or if those products do not gain market acceptance, our business and financial results will be adversely affected.

We may not be able to anticipate future market needs or be able to develop new products or product enhancements to meet such needs, either on a timely basis or at all. For example, our failure to address additional application-specific protocols, particularly if our competitors are able to provide such functionality, could adversely affect our business. In addition, any new products or product enhancements that we introduce, including our recently announced Steelhead Mobile software client, may not achieve any significant degree of market acceptance or be accepted into our sales channel by our channel partners, which would adversely affect our business, operating results and financial condition.

Table of Contents

Organizations are increasingly concerned with the security of their data, and to the extent they elect to encrypt data being transmitted from the point of the end-user in a format that we're not able to decrypt, rather than only across the WAN, our products will become less effective.

Our products are designed to remove the redundancy associated with repeated data requests over a WAN, either through a private network or a virtual private network (VPN). The ability of our products to reduce such redundancy depends on our products' ability to recognize the data being requested. Our products currently detect and decrypt some forms of encrypted data. Since most organizations currently encrypt most of their data transmissions only between sites and not on the LAN, the data is not encrypted when it passes through our appliances. For those organizations that elect to encrypt their data transmissions from the end-user to the server in a format that we're not able to decrypt, our products will offer little performance improvement unless we are successful in incorporating additional functionality into our appliances that address those encrypted transmissions. Our failure to provide such additional functionality could adversely affect our business, operating results and financial condition.

Adverse economic conditions or reduced information technology spending may adversely impact our business.

Our business depends on the overall demand for information technology, and in particular for Wide-area Data Services, and on the economic health of our current and prospective customers. The market we serve is emerging and the purchase of our products involves material changes to established purchasing patterns and policies. In addition, the purchase of our products is often discretionary and may involve a significant commitment of capital and other resources. Weak economic conditions, or a reduction in information technology spending even if economic conditions improve, would likely adversely impact our business, operating results and financial condition in a number of ways, including longer sales cycles, lower prices for our products and services and reduced unit sales.

If our products do not interoperate with our customers' networks, installations will be delayed or cancelled, which would harm our business.

Our products must interoperate with our customers' existing networks, which often have different specifications, utilize multiple protocol standards and products from multiple vendors, and contain multiple generations of products that have been added over time. If we find errors in the existing software or defects in the hardware used in our customers' networks or problematic network configurations or settings, as we have in the past, we may have to modify our software or hardware so that our products will interoperate with our customers' networks. This could cause longer installation times for our products and could cause order cancellations, either of which would adversely affect our business, operating results and financial condition. In addition, government and other customers may require our products to comply with certain security or other certifications and standards. If our products are late in achieving or fail to achieve compliance with these certifications and standards, we may be disqualified from selling our products to such customers, which would adversely affect our business, operating results and financial condition.

Our products are highly technical and may contain undetected software or hardware errors, which could cause harm to our reputation and adversely affect our business.

Our products, including software product upgrades and releases, are highly technical and complex and, when deployed, are critical to the operation of many networks. Our products have contained and may contain undetected errors, defects or security vulnerabilities. Some errors in our products may only be discovered after a product has been installed and used by customers. Any errors, defects or security vulnerabilities discovered in our products after commercial release could result in loss of revenue or delay in revenue recognition, loss of customers and increased service and warranty cost, any of which could adversely affect our business, operating results and financial condition. Any such errors, defects or security vulnerabilities could also adversely affect the market's perception of our products and business, and could result in a decline in the trading price of our common stock. In addition, we could face claims for product liability, tort or breach of warranty, including claims relating to changes to our products made by our channel partners. Our contracts with customers contain provisions relating to warranty disclaimers and liability limitations, which may not be upheld. Defending a lawsuit, regardless of its merit, is costly and may divert management's attention and adversely affect the market's perception of us and our products. In addition, if our business liability insurance coverage proves inadequate or future coverage is unavailable on acceptable terms or at all, our business, operating results and financial condition could be adversely impacted.

Table of Contents

We may engage in future acquisitions that could disrupt our business, cause dilution to our stockholders and harm our business, operating results and financial condition.

In the future we may acquire other businesses, products or technologies. We have not made any acquisitions to date. Our ability as an organization to make acquisitions is unproven. We may not be able to find suitable acquisition candidates and we may not be able to complete acquisitions on favorable terms, if at all. If we do complete acquisitions, we may not ultimately strengthen our competitive position or achieve our goals, or may be viewed negatively by customers, financial markets or investors. In addition, any acquisitions that we make could lead to difficulties in integrating personnel and operations from the acquired businesses and in retaining and motivating key personnel from these businesses. Acquisitions may disrupt our ongoing operations, divert management from day-to-day responsibilities, increase our expenses and adversely impact our business, operating results and financial condition. Future acquisitions may reduce our cash available for operations and other uses and could result in an increase in amortization expense related to identifiable assets acquired, potentially dilutive issuances of equity securities or the incurrence of debt, which could harm our business, operating results and financial condition.

Our international sales and operations subject us to additional risks that may adversely affect our operating results.

In 2005, we derived approximately 18% of our revenue from customers outside the United States. This number increased to approximately 27% in 2006 and 35% in the six months ended June 30, 2007. We have sales and technical support personnel in numerous countries worldwide. We expect to continue to add personnel in additional countries. Our international operations subject us to a variety of risks, including:

- the difficulty of managing and staffing international offices and the increased travel, infrastructure and legal compliance costs associated with multiple international locations;
- difficulties in enforcing contracts and collecting accounts receivable, and longer payment cycles, especially in emerging markets;
- tariffs and trade barriers and other regulatory or contractual limitations on our ability to sell or develop our products in certain foreign markets;
- increased exposure to foreign currency exchange rate risk; and
- reduced protection for intellectual property rights in some countries.

International customers may also require that we localize our products. The product development costs for localizing the user interface of our products, both graphical and textual, could be a material expense to us if the software requires extensive modifications. To date, such changes have not been extensive and the costs have not been material.

As we continue to expand our business globally, our success will depend, in large part, on our ability to anticipate and effectively manage these and other risks associated with our international operations. Our failure to manage any of these risks successfully could harm our international operations and reduce our international sales, adversely affecting our business, operating results and financial condition.

Our use of open source and third-party software could impose limitations on our ability to commercialize our products.

We incorporate open source software into our products. Although we monitor our use of open source closely, the terms of many open source licenses have not been interpreted by United States courts, and there is a risk that such licenses could be construed in a manner that could impose unanticipated conditions or restrictions on our ability to commercialize our products. In such event, we could be required to seek licenses from third parties in order to continue offering our products, to re-engineer our products or to discontinue the sale of our products in the event re-engineering cannot be accomplished on a timely basis, any of which could adversely affect our business, operating results and financial condition.

We also incorporate certain third-party technologies, including software programs, into our products and may need to utilize additional third-party technologies in the future. However, licenses to relevant third-party technology may not continue to be available to us on commercially reasonable terms, or at all. Therefore, we could face delays in product releases until equivalent technology can be identified, licensed or developed, and integrated into our current products. These delays, if they occur, could materially adversely affect our business, operating results and financial condition. We currently use third-party software programs in our Steelhead

Table of Contents

appliances, our Interceptor appliances, our Central Management Console appliances and our recently announced Steelhead Mobile software client. For example, in our Steelhead appliances, we use third-party software to configure a storage adapter for specific redundant disk setups as well as to initialize and diagnose hardware on certain models, and in our Central Management Console appliances we use third-party software to help manage statistics and reporting. Each of these software programs is currently available from only one vendor. As a result, any disruption in our access to these software programs could result in significant delays in our product releases and could require substantial effort to locate or develop a replacement program. If we decide in the future to incorporate into our appliances any other software program licensed from a third party, and the use of such software program is necessary for the proper operation of our appliances, then our loss of any such license would similarly adversely affect our ability to release our products in a timely fashion.

We are subject to governmental export and import controls that could subject us to liability or impair our ability to compete in international markets.

Our products are subject to U.S. export controls and may be exported outside the U.S. only with the required level of export license or through an export license exception, because we incorporate encryption technology into our products. In addition, various countries regulate the import of certain encryption technology and have enacted laws that could limit our ability to distribute our products or could limit our customers' ability to implement our products in those countries. Changes in our products or changes in export and import regulations may create delays in the introduction of our products in international markets, prevent our customers with international operations from deploying our products throughout their global systems or, in some cases, prevent the export or import of our products to certain countries altogether. Any change in export or import regulations or related legislation, shift in approach to the enforcement or scope of existing regulations, or change in the countries, persons or technologies targeted by such regulations, could result in decreased use of our products by, or in our decreased ability to export or sell our products to, existing or potential customers with international operations. For example, we will need to comply with Waste Electrical and Electronic Equipment Directive laws, which are being adopted by certain European Economic Area countries on a country-by-country basis. Failure to comply with these and similar laws on a timely basis, or at all, could have a material adverse effect on our business, operating results and financial condition. Any decreased use of our products or limitation on our ability to export or sell our products would likely adversely affect our business, operating results and financial condition.

We incur significant costs as a result of operating as a public company, and our management devotes substantial time to new compliance initiatives.

We incur significant legal, accounting and other expenses as a public company, including costs resulting from regulations regarding corporate governance practices. For example, the listing requirements of the Nasdaq Stock Market's Global Market require that we satisfy certain corporate governance requirements relating to independent directors, audit committees, distribution of annual and interim reports, stockholder meetings, stockholder approvals, solicitation of proxies, conflicts of interest, stockholder voting rights and codes of conduct. Our management and other personnel devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations have increased our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, these rules and regulations could make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as executive officers.

In addition, the Sarbanes-Oxley Act requires, among other things, that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, for the year ending December 31, 2007, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management and our independent registered public accounting firm to report on the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. Our testing, or the subsequent testing by our independent registered public accounting firm, may reveal deficiencies in our internal control over financial reporting that are deemed to be material weaknesses. Our compliance with Section 404 will require that we incur substantial expense and expend significant management time on compliance-related issues. Moreover, if we are not able to comply with the requirements of Section 404 in a timely manner, or if we or our independent registered public accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, the market price of our stock would likely decline and we could be subject to sanctions or investigations by the Nasdaq Stock Market's Global Market, the SEC or other regulatory authorities, which would require additional financial and management resources.

[Table of Contents](#)

If we need additional capital in the future, it may not be available to us on favorable terms, or at all.

We have historically relied on outside financing and cash flow from operations to fund our operations, capital expenditures and expansion. We may require additional capital from equity or debt financing in the future to fund our operations or respond to competitive pressures or strategic opportunities. We may not be able to secure timely additional financing on favorable terms, or at all. The terms of any additional financing may place limits on our financial and operating flexibility. If we raise additional funds through further issuances of equity, convertible debt securities or other securities convertible into equity, our existing stockholders could suffer significant dilution in their percentage ownership of our company, and any new securities we issue could have rights, preferences and privileges senior to those of holders of our common stock. If we are unable to obtain adequate financing or financing on terms satisfactory to us, if and when we require it, our ability to grow or support our business and to respond to business challenges could be significantly limited.

Our business is subject to the risks of earthquakes, fire, floods and other natural catastrophic events, and to interruption by manmade problems such as computer viruses or terrorism.

Our corporate headquarters are located in the San Francisco Bay Area, a region known for seismic activity. A significant natural disaster, such as an earthquake, fire or a flood, could have a material adverse impact on our business, operating results and financial condition. In addition, our servers are vulnerable to computer viruses, break-ins and similar disruptions from unauthorized tampering with our computer systems. In addition, acts of terrorism or war could cause disruptions in our or our customers' business or the economy as a whole. To the extent that such disruptions result in delays or cancellations of customer orders, or the deployment of our products, our business, operating results and financial condition would be adversely affected.

Risks Related to Ownership of Our Common Stock

The trading price of our common stock has been volatile and is likely to be volatile in the future.

The trading prices of the securities of technology companies have been highly volatile. Further, our common stock has a limited trading history. Since our initial public offering in September 2006 through July 25, 2007, our stock price has fluctuated from a low of \$13.60 to a high of \$49.44. Factors that could affect the trading price of our common stock could include:

- variations in our operating results;
- announcements of technological innovations, new services or service enhancements, strategic alliances or significant agreements by us or by our competitors;
- the gain or loss of significant customers;
- recruitment or departure of key personnel;
- changes in the estimates of our operating results or changes in recommendations by any securities analysts who follow our common stock;
- significant sales, or announcement of significant sales, of our common stock by us or our stockholders, including our directors and executive officers;
- announcements by us regarding events or news adverse to our business;
- market conditions in our industry, the industries of our customers and the economy as a whole; and
- adoption or modification of regulations, policies, procedures or programs applicable to our business.

If the market for technology stocks or the stock market in general experiences loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business, operating results or financial condition. The trading price of our common stock might also decline in reaction to events that affect other companies in our industry even if these events do not directly affect us. Each of these factors, among others, could have a material adverse effect on an investment in our common stock. Some companies that have had volatile market prices for their securities have had securities class actions filed against them. If a suit were filed against us, regardless of its merits or outcome, it could result in substantial costs and divert management's attention and resources. This could have a material adverse effect on our business, operating results and financial condition.

Table of Contents

If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock will continue to depend in part on the research and reports that securities or industry analysts publish about us or our business. If we do not continue to maintain adequate research coverage or if one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price and trading volume to decline.

Insiders have substantial control over us and will be able to influence corporate matters.

As of June 30, 2007, our directors and executive officers and their affiliates beneficially owned, in the aggregate, approximately 33.8% of our outstanding common stock. As a result, these stockholders will be able to exercise significant influence over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, such as a merger or other sale of our company or its assets. This concentration of ownership could limit your ability to influence corporate matters and may have the effect of delaying or preventing a third party from acquiring control over us.

Anti-takeover provisions in our charter documents and Delaware law could discourage, delay or prevent a change in control of our company and may affect the trading price of our common stock.

We are a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of three years after the person becomes an interested stockholder, even if a change in control would be beneficial to our existing stockholders. In addition, our restated certificate of incorporation and amended and restated bylaws may discourage, delay or prevent a change in our management or control over us that stockholders may consider favorable.

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

(a) Sales of Unregistered Securities

None.

(b) Use of Proceeds from Public Offering of Common Stock

In September 2006, we completed our IPO pursuant to a registration statement on Form S-1 (Registration No. 333-133437) which the U.S. Securities and Exchange Commission declared effective on September 20, 2006. Under the registration statement, we registered the offering and sale of an aggregate of 9,990,321 shares of our common stock, and another 100,000 shares of our common stock sold by a certain selling stockholder. The offering did not terminate until after the sale of all of the shares registered on the registration statement. All of the shares of common stock issued pursuant to the registration statement, including the shares sold by the selling stockholder, were sold at a price to the public of \$9.75 per share. The managing underwriters were Goldman, Sachs & Co., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., and Thomas Weisel Partners LLC.

As a result of the IPO, we raised a total of \$87.5 million in net proceeds after deducting underwriting discounts and commissions of \$6.8 million and offering expenses of \$3.1 million. On October 2, 2006 we used \$1.5 million of our proceeds to pay off our credit facility.

In February 2007, we completed our follow on public offering pursuant to a registration statement on Form S-1 (Registration No. 333-140544) which the U.S. Securities and Exchange Commission declared effective on February 22, 2007. Under this registration statement, we registered the offering and sale of 2,854,671 shares of our common stock (including 250,000 shares sold by us pursuant to the underwriters' exercise of their over-allotment option) and another 2,645,329 shares of our common stock sold by certain selling stockholders. The offering did not terminate until after the sale of all of the shares registered on the registration statement. All of the shares of common stock issued pursuant to the registration statement, including the shares sold by the selling stockholders, were sold at a price to the public of \$32.50 per share. The managing underwriters were Goldman, Sachs & Co., Deutsche Bank Securities Inc., Citigroup Global Markets Inc., and Thomas Weisel Partners LLC.

As a result of the follow on public offering, we raised a total of \$87.7 million in net proceeds after deducting underwriting discounts and commissions of \$4.2 million and other offering costs of \$0.9 million. No payments for such expenses were made directly or indirectly to (i) any of our officers or directors or their associates, (ii) any persons owning 10% or more of any class of our equity securities, or (iii) any of our affiliates. We did not receive any proceeds from the sale of shares in the follow on public offering by the selling stockholders.

[Table of Contents](#)

We anticipate that we will use the remaining net proceeds from the IPO and the follow-on public offering for general corporate purposes, which may include expansion of our domestic and international sales and marketing organizations, investments in our infrastructure to support our anticipated growth, further development and expansion of our service offerings and possible acquisitions of complementary businesses, technologies or other assets. We have no current agreements or commitments with respect to any material acquisitions. Pending such uses, we plan to invest the net proceeds in short-term, interest-bearing, investment grade securities. There has been no material change in the planned use of proceeds from the IPO and the follow-on public offering as described in the final prospectuses filed with respect to such public offerings with the Securities and Exchange Commission pursuant to Rule 424(b).

(c) Purchases of Equity Securities by the Issuer and Affiliated Purchasers

None.

Item 3. Defaults Upon Senior Securities.

None.

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

None.

Item 5. Other Information.

None.

Item 6. INDEX TO EXHIBITS

Exhibit No.	Description
3.2	Restated Certificate of Incorporation. (1)
3.4	Amended and Restated Bylaws. (1)
4.2	Form of Common Stock Certificate. (1)
10.42	Form of 2006 Equity Incentive Plan Notice of Stock Option Grant and Stock Option Agreement (Officers)
10.43	Riverbed Technology, Inc. Management Bonus Plan
10.44	Lease Agreement between W2005 RPS Realty, L.L.C. and Riverbed Technology, Inc. dated June 28, 2007
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

The certification attached as Exhibit 32 that accompanies this Quarterly Report on Form 10-Q is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Riverbed Technology, Inc. under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

-
- (1) Incorporated by reference to exhibit of same number filed with the Registrant's Registration Statement on Form S-1 (No. 333-133437) on April 20, 2006, as amended.

SIGNATURES

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

Dated: July 27, 2007

RIVERBED TECHNOLOGY, INC.

By: /s/ Jerry M. Kennelly
Jerry M. Kennelly
President and Chief Executive Officer

Dated: July 27, 2007

RIVERBED TECHNOLOGY, INC.

By: /s/ Randy S. Gottfried
Randy S. Gottfried
Chief Financial Officer

EXHIBIT INDEX

Exhibit No.	Description
3.2	Restated Certificate of Incorporation. (1)
3.4	Amended and Restated Bylaws. (1)
4.2	Form of Common Stock Certificate. (1)
10.42	Form of 2006 Equity Incentive Plan Notice of Stock Option Grant and Stock Option Agreement (Officers)
10.43	Riverbed Technology, Inc. Management Bonus Plan
10.44	Lease Agreement between W2005 RPS Realty, L.L.C. and Riverbed Technology, Inc. dated June 28, 2007
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

The certification attached as Exhibit 32 that accompanies this Quarterly Report on Form 10-Q is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Riverbed Technology, Inc. under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

- (1) Incorporated by reference to exhibit of same number filed with the Registrant's Registration Statement on Form S-1 (No. 333-133437) on April 20, 2006, as amended.

**RIVERBED TECHNOLOGY, INC.
2006 EQUITY INCENTIVE PLAN
NOTICE OF STOCK OPTION GRANT**

You have been granted the following option to purchase shares of the Common Stock of Riverbed Technology, Inc. (the “Company”):

Name of Optionee:	«Name»
Total Number of Shares:	«TotalShares»
Type of Option:	«ISO» Incentive Stock Option «NSO» Nonstatutory Stock Option
Exercise Price Per Share:	\$«PricePerShare»
Date of Grant:	«DateGrant»
Vesting Commencement Date:	«VestDay»
Vesting Schedule:	This option becomes exercisable with respect to the first 25% of the Shares subject to this option when you complete 12 months of continuous Service from the Vesting Commencement Date. Thereafter, this option becomes exercisable with respect to an additional 1/48 th of the Shares subject to this option when you complete each month of Service.
Expiration Date:	«ExpDate». This option expires earlier if your Service terminates earlier, as described in the Stock Option Agreement.

You and the Company agree that this option is granted under and governed by the terms and conditions of the 2006 Equity Incentive Plan (the “Plan”) and of the Stock Option Agreement, which is attached to and made a part of this document.

You further agree that the Company may deliver by email all documents relating to the Plan or this option (including, without limitation, prospectuses required by the Securities and Exchange Commission) and all other documents that the Company is required to deliver to its security holders (including, without limitation, annual reports and proxy statements). You also agree that the Company may deliver these documents by posting them on a web site maintained by the Company or by a third party under contract with the Company. If the Company posts these documents on a web site, it will notify you by email.

OPTIONEE:

RIVERBED TECHNOLOGY, INC.

By: _____

Title: _____

STOCK OPTION AGREEMENT

Tax Treatment

This option is intended to be an incentive stock option under Section 422 of the Internal Revenue Code or a nonstatutory stock option, as provided in the Notice of Stock Option Grant.

Vesting

This option becomes exercisable in installments, as shown in the Notice of Stock Option Grant.

This option will become exercisable in full if not assumed or a new option substituted, as provided in Section 10.1 of the Plan, or if Section 11.3(d) of the Plan applies. In addition, this option will become exercisable in full if the Company is subject to a Change in Control before your Service terminates and you are subject to an Involuntary Termination within 12 months after that Change in Control.

This option will in no event become exercisable for additional shares after your Service has terminated for any reason.

For purposes of this Agreement, "Cause" means (a) your unauthorized use or disclosure of the Company's confidential information or trade secrets, (b) your material failure to comply with the Company's written policies or rules, (c) your conviction of, or plea of "guilty" or "no contest" to, a felony under the laws of the United States or any State thereof or (d) your gross misconduct.

For purposes of this Agreement, "Involuntary Termination" means the termination of your Service by reason of (a) your involuntary discharge by the Company (or the Parent, Subsidiary or Affiliate employing you) for reasons other than Cause or (b) your voluntary resignation following (i) a change in your position that materially reduces your level of responsibility or the nature of your functions, (ii) a reduction in your compensation or (iii) receipt of notice that your principal workplace will be relocated more than 50 miles.

Term

This option expires in any event at the close of business at Company headquarters on the day before the seventh anniversary of the Date of Grant, as shown in the Notice of Stock Option Grant. (It will expire earlier if your Service terminates, as described below.)

Regular Termination

If your Service terminates for any reason except death or total and permanent disability, then this option will expire at the close of business at Company headquarters on the date 120 days after your termination date. The Company determines when your Service terminates for this purpose.

Death	If you die before your Service terminates, then this option will expire at the close of business at Company headquarters on the date 12 months after the date of death.
Disability	<p>If your Service terminates because of your total and permanent disability, then this option will expire at the close of business at Company headquarters on the date 12 months after your termination date.</p> <p>For all purposes under this Agreement, “total and permanent disability” means that you are unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than one year.</p>
Leaves of Absence and Part-Time Work	<p>For purposes of this option, your Service does not terminate when you go on a military leave, a sick leave or another <i>bona fide</i> leave of absence, if the leave was approved by the Company in writing. But your Service terminates when the approved leave ends, unless you immediately return to active work.</p> <p>If you go on a leave of absence, then the vesting schedule specified in the Notice of Stock Option Grant may be adjusted in accordance with the Company’s leave of absence policy or the terms of your leave. If you commence working on a part-time basis, then the vesting schedule specified in the Notice of Stock Option Grant may be adjusted in accordance with the Company’s part-time work policy or the terms of an agreement between you and the Company pertaining to your part-time schedule.</p>
Restrictions on Exercise	The Company will not permit you to exercise this option if the issuance of shares at that time would violate any law or regulation.
Notice of Exercise	<p>When you wish to exercise this option, you must notify the Company by filing the proper “Notice of Exercise” form at the address given on the form. Your notice must specify how many shares you wish to purchase. Your notice must also specify how your shares should be registered. The notice will be effective when the Company receives it.</p> <p>If someone else wants to exercise this option after your death, that person must prove to the Company’s satisfaction that he or she is entitled to do so.</p>

Form of Payment

When you submit your notice of exercise, you must include payment of the option exercise price for the shares that you are purchasing. To the extent permitted by applicable law, payment may be made in one (or a combination of two or more) of the following forms:

- Your personal check, a cashier's check or a money order.
- Certificates for shares of Company stock that you own, along with any forms needed to effect a transfer of those shares to the Company. The value of the shares, determined as of the effective date of the option exercise, will be applied to the option exercise price. Instead of surrendering shares of Company stock, you may attest to the ownership of those shares on a form provided by the Company and have the same number of shares subtracted from the option shares issued to you.
- Irrevocable directions to a securities broker approved by the Company to sell all or part of your option shares and to deliver to the Company from the sale proceeds an amount sufficient to pay the option exercise price and any withholding taxes. (The balance of the sale proceeds, if any, will be delivered to you.) The directions must be given by signing a special "Notice of Exercise" form provided by the Company.

Withholding Taxes and Stock Withholding

You will not be allowed to exercise this option unless you make arrangements acceptable to the Company to pay any withholding taxes that may be due as a result of the option exercise. With the Company's consent, these arrangements may include withholding shares of Company stock that otherwise would be issued to you when you exercise this option. The value of these shares, determined as of the effective date of the option exercise, will be applied to the withholding taxes.

Restrictions on Resale

You agree not to sell any option shares at a time when applicable laws, Company policies or an agreement between the Company and its underwriters prohibit a sale. This restriction will apply as long as your Service continues and for such period of time after the termination of your Service as the Company may specify.

Transfer of Option

Prior to your death, only you may exercise this option. You cannot transfer or assign this option. For instance, you may not sell this option or use it as security for a loan. If you attempt to do any of these things, this option will immediately become invalid. You may, however, dispose of this option in your will or a beneficiary designation.

Regardless of any marital property settlement agreement, the Company is not obligated to honor a notice of exercise from your former spouse, nor is the Company obligated to recognize your former spouse's interest in your option in any other way.

Retention Rights	Your option or this Agreement does not give you the right to be retained by the Company or a subsidiary of the Company in any capacity. The Company and its subsidiaries reserve the right to terminate your Service at any time, with or without cause.
Stockholder Rights	You, or your estate or heirs, have no rights as a stockholder of the Company until you have exercised this option by giving the required notice to the Company and paying the exercise price. No adjustments are made for dividends or other rights if the applicable record date occurs before you exercise this option, except as described in the Plan.
Adjustments	In the event of a stock split, a stock dividend or a similar change in Company stock, the number of shares covered by this option and the exercise price per share may be adjusted pursuant to the Plan.
Applicable Law	This Agreement will be interpreted and enforced under the laws of the State of Delaware (without regard to their choice-of-law provisions).
The Plan and Other Agreements	<p>The text of the Plan is incorporated in this Agreement by reference. Capitalized terms not otherwise defined in this Agreement shall be defined as set forth in the Plan.</p> <p>This Agreement and the Plan constitute the entire understanding between you and the Company regarding this option. Any prior agreements, commitments or negotiations concerning this option are superseded. This Agreement may be amended only by another written agreement between the parties.</p>

**BY SIGNING THE COVER SHEET OF THIS AGREEMENT, YOU AGREE TO ALL OF THE
TERMS AND CONDITIONS DESCRIBED ABOVE AND IN THE PLAN.**

RIVERBED TECHNOLOGY, INC.**MANAGEMENT BONUS PLAN****SECTION 1
BACKGROUND AND PURPOSE**

1.1 Effective Date. This Plan is effective as of May 29, 2007.

1.2 Purpose of the Plan. The Plan is intended to motivate Participants to achieve excellent short and long term financial performance for the Company. The Plan's goals are to be achieved by providing Participants with the opportunity to earn incentive awards for the achievement of goals relating to the performance of the Company.

**SECTION 2
DEFINITIONS**

The following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

2.1 "Actual Award" means as to any Performance Period, the actual award (if any) payable to a Participant for the Performance Period. Each Actual Award is determined by the Payout Formula for the Performance Period, subject to the Committee's authority under Section 3.5 to increase, eliminate or reduce the award otherwise indicated by the Payout Formula.

2.2 "Affiliate" means any corporation or other entity (including, but not limited to, partnerships and joint ventures) controlled by the Company.

2.3 "Base Salary" means as to any Performance Period, the Participant's earned salary during the Performance Period. Such Base Salary shall be before both (a) deductions for taxes or benefits, and (b) deferrals of compensation pursuant to Company-sponsored plans and Affiliate-sponsored plans.

2.4 "Board" means the Board of Directors of the Company.

2.5 "Chief Executive Officer" means the Chief Executive Officer of the Company.

2.6 "Committee" means the Compensation Committee of the Board.

2.7 "Company" means Riverbed Technology, Inc., a Delaware corporation, or any successor thereto.

2.8 "Disability" means a permanent disability in accordance with a policy or policies established by the Company from time to time.

2.9 “Employee” means any employee of the Company or of an Affiliate, whether such employee is so employed at the time the Plan is adopted or becomes so employed subsequent to the adoption of the Plan.

2.10 “Fiscal Quarter” means a fiscal quarter within a Fiscal Year of the Company.

2.11 “Fiscal Year” means the fiscal year of the Company.

2.12 “Participant” means as to any Performance Period, an Employee selected for participation in the Plan for that Performance Period pursuant to Section 3.1.

2.13 “Payout Formula” means as to any Performance Period, the formula or payout matrix established by the Committee pursuant to Section 3.4 in order to determine the Actual Awards (if any) to be paid to Participants. The formula or matrix may differ from Participant to Participant.

2.14 “Performance Period” means any Fiscal Year or such other period longer or shorter than a Fiscal Year, as determined by the Committee in its sole discretion.

2.15 “Performance Goals” means the goal(s) (or combined goal(s)) determined by the Committee (in its discretion) to be applicable to a Participant for a Target Award for a Performance Period. As determined by the Committee, the Performance Goal(s) may provide for a targeted level or levels of achievement using the performance criteria specified by the Committee. Any criteria used may be measured, as applicable, (i) in absolute terms, (ii) in relative terms (including, but not limited to, the passage of time and/or against other companies or metrics), (iii) on a per share and/or share per capita basis, (iv) against the performance of the Company as a whole or against particular segments or products of the Company, and/or (v) on a pre-tax or after-tax basis. The Committee (in its discretion) shall determine whether any element(s) (for example, but not by way of limitation, the effect of mergers or acquisitions or non-cash expenses) shall be included in or excluded from the determination of any Performance Goal with respect to any Participants (whether or not such determinations result in any Performance Goal being measured on a basis other than generally accepted accounting principles).

2.16 “Plan” means the Riverbed Technology, Inc. Management Bonus Plan, as set forth in this instrument and as hereafter amended from time to time.

2.17 “Progress Payment” means a portion of the Target Award or Actual Award determined in accordance with Section 3.5 that has been earned by the Participant as of the end of the Progress Period based on achievement of the applicable Performance Goals and thereby that may be paid to the Participant during the Performance Period.

2.18 “Progress Period” means a period shorter than and within the Performance Period for which a Progress Payment may be made.

2.19 “Retirement” means with respect to any Participant, a Termination of Employment occurring in accordance with a policy or policies established by the Company from time to time.

2.20 “Section 16 Officer” means each Employee who has been designated by the Board as an “officer” within the meaning of Rule 16a-1 under the Securities Exchange Act of 1934, as amended.

2.21 “Target Award” means the target award payable under the Plan to a Participant for the Performance Period or Progress Period, as applicable, expressed as a percentage of his or her Base Salary or a specific dollar amount, as determined in accordance with Section 3.3.

2.22 “Termination of Employment” means a cessation of the employee-employer relationship between an Employee and the Company or an Affiliate for any reason, including, but not by way of limitation, a termination by resignation, discharge, death, Disability, Retirement, or the disaffiliation of an Affiliate.

SECTION 3

SELECTION OF PARTICIPANTS AND DETERMINATION OF AWARDS

3.1 Selection of Participants. The Committee, in its sole discretion, shall select each Section 16 Officer who shall be a Participant for any Performance Period, including an individual (by name or position) who is expected to become a Section 16 Officer during a Performance Period. The Chief Executive Officer, in his or her sole discretion, shall select each other Employee who shall be a Participant for any Performance Period, including an individual (by name or position) who is expected to become an Employee during a Performance Period. Participation in the Plan may be determined on a Performance Period by Performance Period basis. Accordingly, an Employee who is a Participant for a given Performance Period in no way is guaranteed or assured of being selected for participation in any subsequent Performance Period.

3.2 Determination of Performance Goals. The Committee, in its sole discretion, shall establish the Performance Goals for each Participant for the Performance Period. Such Performance Goals shall be set forth in writing.

3.3 Determination of Target Awards. The Committee, in its sole discretion, shall establish a Target Award for each Section 16 Officer, and the Chief Executive Officer, in his or her sole discretion, shall establish a Target Award for each other Participant. Each Target Award shall be set forth in writing.

3.4 Determination of Payout Formula or Formulae. The Committee, in its sole discretion, shall establish a Payout Formula or Formulae for purposes of determining the Actual Award (if any) payable to each Participant. Each Payout Formula shall (a) be in writing, (b) be based on a comparison of actual performance to the Performance Goals, (c) provide for the payment of a Participant’s Target Award if the Performance Goals for the Performance Period are achieved at the predetermined level, and (d) provide for the payment of an Actual Award greater than or less than the Participant’s Target Award, depending upon the extent to which actual performance exceeds or falls below the Performance Goals.

3.5 Determination of Actual Awards. After each Performance Period or Progress Period, as applicable, the Actual Award or Progress Payment, as applicable, shall be determined for each Participant based on (i) the Payout Formula for that period, (ii) the Participant’s Target

Award for that period and (iii) the extent to which the Performance Goals for that Participant were achieved or exceeded. Notwithstanding any other provision of this Plan, the Committee, in the case of a Section 16 Officer, and the Chief Executive Officer, in the case of other Employees, may at its or such individual's sole discretion, (a) determine the extent to which a Participant's Performance Goals were achieved or exceeded, (b) increase, eliminate or reduce the Actual Award that otherwise would be payable under the Payout Formula, or (c) determine whether or not any Participant will receive an Actual Award in the event the Participant incurs a Termination of Employment prior to the date the Actual Award is to be paid pursuant to Section 4.2 below.

SECTION 4 PAYMENT OF AWARDS

4.1 Right to Receive Payment. Each Actual Award that may become payable under the Plan shall be paid solely from the general assets of the Company or the Affiliate that employs the Participant (as the case may be), as determined by the Company. Nothing in this Plan shall be construed to create a trust or to establish or evidence any Participant's claim of any right to payment of an Actual Award other than as an unsecured general creditor with respect to any payment to which he or she may be entitled.

4.2 Timing of Payment. Subject to Section 3.5, payment of each Actual Award shall be made as soon as administratively practicable, as determined in the sole discretion of the Company, but in no event later than two and one-half months after the end of the applicable Performance Period or Progress Period.

4.3 Form of Payment. Each Actual Award shall be paid in cash (or its equivalent) in a single lump sum.

4.4 Payment in the Event of Death. If a Participant dies prior to the payment of an Actual Award (determined under Section 3.5) that was scheduled to be paid to him or her prior to death for a prior Performance Period, the Actual Award shall be paid to his or her designated beneficiary or, if no beneficiary has been designated, to the administrator or representative of his or her estate.

SECTION 5 ADMINISTRATION

5.1 Committee is the Administrator. As of the Effective Date of the Plan, the Plan shall be administered by the Compensation Committee of the Board.

5.2 Committee Authority. It shall be the duty of the Committee to administer the Plan in accordance with the Plan's provisions. The Committee shall have all powers and discretion necessary or appropriate to administer the Plan and to control its operation, including, but not limited to, the power to (a) determine which Employees shall be granted awards, (b) prescribe the terms and conditions of awards, (c) interpret the Plan and the awards, (d) adopt such procedures and subplans as are necessary or appropriate to permit participation in the Plan by Employees who are foreign nationals or employed outside of the United States, (e) adopt rules for the administration, interpretation and application of the Plan as are consistent therewith, and (f) interpret, amend or revoke any such rules.

5.3 Decisions Binding. All determinations and decisions made by the Committee, the Board, and any delegate of the Committee pursuant to the provisions of the Plan, including the Chief Executive Officer, shall be final, conclusive, and binding on all persons, and shall be given the maximum deference permitted by law.

5.4 Delegation by the Committee. The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or part of its authority and powers under the Plan to one or more directors and/or employees of the Company.

SECTION 6 GENERAL PROVISIONS

6.1 Tax Withholding. The Company or an Affiliate, as determined by the Committee, shall withhold all applicable taxes from any Actual Award, including any federal, state, local and other taxes.

6.2 No Effect on Employment. Nothing in the Plan shall interfere with or limit in any way the right of the Company or an Affiliate, as applicable, to terminate any Participant's employment or service at any time, with or without cause. For purposes of the Plan, transfer of employment of a Participant between the Company and any one of its Affiliates (or between Affiliates) shall not be deemed a Termination of Employment. Employment with the Company and its Affiliates is on an at-will basis only. The Company expressly reserves the right, which may be exercised at any time and without regard to when during or after a Performance Period such exercise occurs, to terminate any individual's employment with or without cause, and to treat him or her without regard to the effect which such treatment might have upon him or her as a Participant.

6.3 Successors. All obligations of the Company and any Affiliate under the Plan, with respect to awards granted hereunder, shall be binding on any successor to the Company and/or such Affiliate, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company or such Affiliate.

6.4 Nontransferability of Awards. No award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will, by the laws of descent and distribution, or to the limited extent provided in Section 4.4. All rights with respect to an award granted to a Participant shall be available during his or her lifetime only to the Participant.

SECTION 7 AMENDMENT, TERMINATION AND DURATION

7.1 Amendment, Suspension or Termination. The Board or the Committee, each in its sole discretion, may amend, suspend or terminate the Plan, or any part thereof, at any time and for any reason. No award may be granted during any period of suspension or after termination of the Plan.

7.2 Duration of the Plan. The Plan shall commence on the date specified herein and, subject to Section 7.1 (regarding the Board or the Committee's right to amend, suspend or terminate the Plan), shall remain in effect thereafter.

SECTION 8 LEGAL CONSTRUCTION

8.1 Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also shall include the feminine; the plural shall include the singular and the singular shall include the plural.

8.2 Severability. In the event any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

8.3 Requirements of Law. The granting of awards under the Plan shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

8.4 Governing Law. The Plan and all awards shall be construed in accordance with and governed by the laws of the State of California, but without regard to its conflict of law provisions.

8.5 Captions. Captions are provided herein for convenience only, and shall not serve as a basis for interpretation or construction of the Plan.

LEASE AGREEMENT BETWEEN

W2005 RPS REALTY, L.L.C.,

AS LANDLORD, AND

RIVERBED TECHNOLOGY, INC.

AS TENANT

DATED JUNE 28, 2007

SUNNYVALE, CALIFORNIA

BASIC LEASE INFORMATION

Lease Date: June 28, 2007

Landlord: **W2005 RPS REALTY, L.L.C.**, a Delaware limited liability company

Tenant: **RIVERBED TECHNOLOGY, INC.**, a Delaware corporation

Premises: That certain building containing 45,823 rentable square feet, whose street address is 475 Potrero Avenue, Sunnyvale, California (the "**Building**"). The Premises are shown on the plan attached to the Lease as Exhibit A. The land on which the Building is located (the "**Land**") is described on Exhibit B. The term "**Project**" shall collectively refer to the Building, the Land and the driveways, parking facilities, and similar improvements and easements associated with the foregoing or the operation thereof.

Term: 62 full calendar months, plus any partial month from the Commencement Date to the end of the month in which the Commencement Date falls, starting on the Commencement Date and ending at 5:00 p.m. local time on the last day of the 62nd full calendar month following the Commencement Date, subject to adjustment and earlier termination as provided in the Lease.

Commencement Date: The earlier of (a) the date on which Tenant occupies any portion of the Premises and begins conducting business therein, or (b) January 1, 2008.

Basic Rent Basic Rent shall be the following amounts for the following periods of time:

Lease Month	Monthly Basic Rent Rate Per Rentable Square Foot	Monthly Basic Rent
1 - 2	\$ 0.00	\$ 0.00
3 - 12	\$ 1.60	\$ 73,316.80
13 - 24	\$ 1.65	\$ 75,607.95
25 - 36	\$ 1.70	\$ 77,899.10
37 - 48	\$ 1.75	\$ 80,190.25
49 - 60	\$ 1.80	\$ 82,481.40
61 - 62	\$ 1.85	\$ 84,772.55

As used herein, the term "**Lease Month**" means each calendar month during the Term (and if the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the third Lease Month for purposes of determining the duration of the Term and the monthly Basic Rent rate applicable for such partial month).

LC Amount: \$500,000.

Rent: Basic Rent, Tenant's Proportionate Share of Taxes and Additional Rent, and all other sums that Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Permitted Use: General office and research and development.

Tenant's Proportionate Share: 100%. Landlord and Tenant stipulate that the number of rentable square feet in the Premises set forth above is conclusive and shall be binding upon them.

Initial Liability Insurance Amount: \$3,000,000

Tenant's Address: Prior to Commencement Date:

Riverbed Technology, Inc.
199 Fremont Street
San Francisco, California 94105
Attention: Randy Gottfried
Telephone: 415-247-7382
Telecopy: 415-247-8801

Following Commencement Date:

Riverbed Technology, Inc.
475 Potrero Avenue
Sunnyvale, California 94085
Attention: _____
Telephone: ____-____-____
Telecopy: ____-____-____

[Tenant to provide Landlord with information to complete blanks upon the Commencement Date]

With a copy to:

Riverbed Technology, Inc.
199 Fremont Street
San Francisco, California 94105
Attention: Randy Gottfried
Telephone: 415-247-7382
Telecopy: 415-247-8801

Landlord's Address: For all Notices:

W2005 RPS Realty, L.L.C.
Riverbed Technology
c/o CB Richard Ellis
225 W. Santa Clara Street, Suite 1050
San Jose, California 95113
Attention: Property Manager
Telephone: 408-453-7437
Telecopy: 408-437-3170

With a copy to:

W2005 RPS Realty, L.L.C.
c/o Archon Group, L.P.
600 East Las Colinas Blvd., Suite 400
Irving, Texas 75039
Attention: General Counsel – Central
Research Park
Telephone: 972-368-2200
Telecopy: 972-368-3199

The foregoing Basic Lease Information is incorporated into and made a part of the Lease identified above. If any conflict exists between any Basic Lease Information and the Lease, then the Lease shall control.

LANDLORD:

W2005 RPS Realty, L.L.C., a Delaware limited liability company

By: /s/ Nancy M. Haag
Name: Nancy M. Haag
Title: Assistant Vice President

TENANT:

RIVERBED TECHNOLOGY, INC., a Delaware corporation

By: /s/ Randy S. Gottfried
Name: Randy S. Gottfried
Title: Chief Financial Officer

-iii-

TABLE OF CONTENTS

	<u>Page No.</u>
1. Definitions and Basic Provisions	1
2. Lease Grant	1
3. Tender of Possession	1
4. Rent	1
(a) Payment	1
(b) Operating Costs; Taxes	2
5. Delinquent Payment; Handling Charges	5
6. Letter of Credit	5
7. Landlord's Obligations	7
(a) Landlord's Maintenance Obligations	7
(b) Landlord's Right to Perform Tenant's Obligations	7
8. Improvements; Alterations; Repairs; Maintenance	7
(a) Improvements; Alterations	7
(b) Repairs; Maintenance	8
(c) Performance of Work	8
(d) Mechanic's Liens	9
(e) Utilities	9
9. Use	10
10. Assignment and Subletting	10
(a) Transfers	10
(b) Consent Standards	10
(c) Request for Consent	11
(d) Conditions to Consent	11
(e) Attornment by Subtenants	11
(f) Cancellation	11
(g) Additional Compensation	12
(h) Permitted Transfers	12
11. Insurance; Waivers; Subrogation; Indemnity	12
(a) Tenant's Insurance	12
(b) Landlord's Insurance	13
(c) No Subrogation; Waiver of Property Claims	13
(d) Indemnity	13
12. Subordination; Attornment; Notice to Landlord's Mortgagee	14
(a) Subordination	14
(b) Attornment	14
(c) Notice to Landlord's Mortgagee	14
(d) Landlord's Mortgagee's Protection Provisions	14
13. Rules and Regulations	15
14. Condemnation	15
(a) Total Taking	15
(b) Partial Taking - Tenant's Rights	15
(c) Partial Taking - Landlord's Rights	15
(d) Temporary Taking	15
(e) Award	15
15. Fire or Other Casualty	15
(a) Repair Estimate	15

(b) Tenant's Rights	15
(c) Landlord's Rights	16
(d) Repair Obligation	16
(e) Waiver of Statutory Provisions	16
(f) Abatement of Rent	16
16. Personal Property Taxes	16
17. Events of Default	16
(a) Payment Default	16
(b) Abandonment	17
(c) Estoppel	17
(d) Insurance	17
(e) Mechanic's Liens	17
(f) Other Defaults	17
(g) Insolvency	17
18. Remedies	17
(a) Termination of Lease	17
(b) Enforcement of Lease	18
(c) Sublessees of Tenant	18
(d) Efforts to Relet	18
19. Payment by Tenant; Non-Waiver; Cumulative Remedies	18
(a) Payment by Tenant	18
(b) No Waiver	18
(c) Cumulative Remedies	19
20. Intentionally Omitted	19
21. Surrender of Premises	19
22. Holding Over	19
23. Certain Rights Reserved by Landlord	19
(a) Building Operations	19
(b) Security	20
(c) Prospective Purchasers and Lenders	20
(d) Prospective Tenants	20
24. Intentionally Omitted	20
25. Miscellaneous	20
(a) Landlord Transfer	20
(b) Landlord's Liability	20
(c) Force Majeure	20
(d) Brokerage	20
(e) Estoppel Certificates	20
(f) Notices	21
(g) Separability	21
(h) Amendments; Binding Effect; No Electronic Records	21
(i) Quiet Enjoyment	21
(j) No Merger	21
(k) No Offer	21
(l) Entire Agreement	21
(m) Waiver of Jury Trial	21
(n) Governing Law	22
(o) Recording	22
(p) Water or Mold Notification	22
(q) Joint and Several Liability	22
(r) Financial Reports	22
(s) Landlord's Fees	22

(t) Attorneys' Fees	22
(u) Telecommunications	22
(v) Confidentiality	23
(w) Authority	23
(x) Hazardous Materials	23
(y) List of Exhibits	23
(z) Prohibited Persons and Transactions	24
(aa) Parking	24
26. Renewal Option	24
27. Right of First Offer	25

LIST OF DEFINED TERMS

	<u>Page No.</u>
Additional Rent	2
Affiliate	1
Basic Lease Information	1
Basic Rent	i
Building	i
Building's Structure	1
Building's Systems	1
Cash Collateral	6
Casualty	15
Commencement Date	i
Complex	2
Damage Notice	15
Default Rate	5
Event of Default	16
GAAP	12
Hazardous Materials	23
including	1
Initial Liability Insurance Amount	ii
Land	i
Landlord	1
Landlord's Mortgagee	14
Law	1
Laws	1
LC Amount	i
Lease	1
Lease Month	i
Letter of Credit	5
Loss	13
Mortgage	14
OFAC	24
Operating Costs	2
Operating Costs and Tax Statement	4
Parking Area	24
Permitted Transfer	12
Permitted Transferee	12
Permitted Use	i
Premises	i
Primary Lease	14
Project	i
Rent	i
Repair Period	16
Security Deposit Laws	7
Taking	15
Tangible Net Worth	12
Taxes	3
Telecommunications Services	22
Tenant	1
Tenant Party	1
Tenant's Off-Premises Equipment	1
Tenant's Proportionate Share	ii
Term	ii
Transfer	10

LEASE

This Lease Agreement (this "**Lease**") is entered into as of June 28, 2007, between **W2005 RPS REALTY, L.L.C.**, a Delaware limited liability company ("**Landlord**"), and **RIVERBED TECHNOLOGY, INC.**, a Delaware corporation ("**Tenant**").

1. Definitions and Basic Provisions. The definitions and basic provisions set forth in the Basic Lease Information (the "**Basic Lease Information**") executed by Landlord and Tenant contemporaneously herewith are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: "**Affiliate**" means any person or entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the party in question; "**Building's Structure**" means the Building's exterior walls, roof structure, elevator shafts, footings, foundations, structural portions of load-bearing walls, structural floors and subfloors, and structural columns and beams; "**Building's Systems**" means the Building's HVAC, life-safety, plumbing, electrical, and mechanical systems; "**including**" means including, without limitation; "**Laws**" means all federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, and all restrictive covenants affecting the Project, and "**Law**" means any of the foregoing; "**Tenant's Off-Premises Equipment**" means any of Tenant's equipment or other property that may be located on or about the Project (other than inside the Premises); and "**Tenant Party**" means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, employees, licensees, guests and invitees.

2. Lease Grant. Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises.

3. Tender of Possession. Landlord will tender possession of the Premises to Tenant in its current "as-is" condition upon full execution and delivery of this Lease. Tenant shall be deemed to have accepted the Premises in their "as-is" condition as of the date of such tender of possession and Landlord shall have no obligation to perform any work therein (including demolition of any improvements existing therein or construction of any tenant finish work or other improvements therein), and Landlord shall not be obligated to reimburse Tenant or provide an allowance for any costs related to the demolition or construction of improvements therein except as expressly provided in Exhibit D attached hereto. Promptly following the Commencement Date, Landlord and Tenant shall execute and deliver to each other a letter substantially in the form of Exhibit E hereto confirming (1) the Commencement Date and the expiration date of the initial Term, (2) that Tenant has accepted the Premises, and (3) that Landlord has performed all of its pre-Commencement Date obligations, if any, with respect to the Premises; however, the failure of the parties to execute such letter shall not defer the Commencement Date or otherwise invalidate this Lease. During Tenant's possession of the Premises prior to the Commencement Date, Tenant shall have the right to construct tenant improvements (pursuant to the Work Letter set forth in Exhibit D), install telecommunications systems and otherwise "fit up" the Premises; provided that Tenant's possession of the Premises prior to the Commencement Date shall be subject to all of the provisions of this Lease, except for the payment of Basic Rent and Additional Rent.

4. Rent.

(a)**Payment.** Tenant shall timely pay to Landlord Rent, without notice, demand, deduction or set off (except as otherwise expressly provided herein), by good and sufficient check drawn on a national banking association at Landlord's address provided for in this Lease or as otherwise specified by Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Basic Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Basic Rent, adjusted as herein provided, shall be payable monthly in advance. Basic Rent for the third full calendar month of the Term shall be payable contemporaneously with the execution of this Lease; thereafter, Basic Rent shall be payable on the first day of each month beginning on the first day of the fourth full calendar month of the Term. The monthly Basic Rent for any partial month at the beginning of the Term shall equal the product of 1/365 of the annual Basic Rent in effect during the partial month and the number of days in the partial month and shall be due on the Commencement Date. Payments of Basic Rent for any fractional calendar month at the end of the Term shall be similarly prorated. Tenant shall pay Additional Rent at the same time and in the same manner as Basic Rent. This Lease shall be a net Lease and Basic Rent shall be paid to Landlord absolutely net of all costs and expenses.

(b) Operating Costs; Taxes.

(1) During each calendar year or partial calendar year of the Term, Tenant shall pay to Landlord as “**Additional Rent**” Tenant’s Proportionate Share of Operating Costs (defined below). Landlord may make a good faith estimate of the Additional Rent to be due by Tenant for any calendar year or part thereof during the Term and contemporaneously with the execution of this Lease, Tenant shall pay to Landlord the estimated Additional Rent for the first calendar month of the Term, and Tenant shall pay to Landlord in advance on the first day of each calendar month following the Commencement Date an amount equal to the estimated Additional Rent for such calendar year or part thereof divided by the number of months therein. From time to time, but only once during any one calendar year, Landlord may estimate and re-estimate the Additional Rent to be due by Tenant and deliver a copy of the estimate or re-estimate to Tenant. Thereafter, the monthly installments of Additional Rent payable by Tenant shall be appropriately adjusted in accordance with the estimations so that, by the end of the calendar year in question, Tenant shall have paid all of the Additional Rent as estimated by Landlord. Any amounts paid based on such an estimate shall be subject to adjustment as herein provided when actual Operating Costs are available for each calendar year.

(2) The term “**Operating Costs**” means all expenses and disbursements (subject to the limitations set forth below) that Landlord incurs in connection with the ownership, operation, and maintenance of the Project, determined in accordance with sound accounting principles consistently applied, including the following costs: (A) wages and salaries of all on-site employees at or below the grade of senior building manager engaged in the operation, maintenance or security of the Project (together with Landlord’s reasonable allocation of expenses of off-site employees at or below the grade of senior building manager who perform a portion of their services in connection with the operation, maintenance or security of the Project), including taxes, insurance and benefits relating thereto; (B) all supplies and materials used in the operation, maintenance, repair, replacement, and security of the Project; (C) costs for improvements made to the Project which, although capital in nature, are expected to reduce the normal operating costs (including all utility costs) of the Project, as amortized using a commercially reasonable interest rate over the time period reasonably estimated by Landlord to recover the costs thereof taking into consideration the anticipated cost savings, as determined by Landlord using its good faith, commercially reasonable judgment, as well as capital improvements made in order to comply with any Law hereafter promulgated by any governmental authority or any interpretation hereafter rendered with respect to any existing Law, as amortized using a commercially reasonable interest rate over the useful economic life of such improvements as determined by Landlord in its reasonable discretion; (D) cost of all utilities, except the cost of utilities reimbursable to Landlord by the Project’s tenants other than pursuant to a provision similar to this Section 4(b); (E) insurance expenses; (F) repairs, replacements, and general maintenance of the Project; (G) fair market rental and other costs with respect to the management office for the Project; and (H) service, maintenance and management contracts for the operation, maintenance, management, repair, replacement, or security of the Project. The Project is part of a multi-building complex (the “**Complex**”), and Operating Costs and Taxes for the Complex may be prorated among the Project and the other buildings of the Complex as determined by Landlord (based on a fraction, the numerator of which is the rentable square footage of the Premises and the denominator of which is the rentable square footage of the Complex, which fraction is, as of the date hereof, 9.785% based on the current rentable square footage of the Premises divided by the current rentable square footage of the Complex (which rentable square footage of the Complex is 468,323 rentable square feet as of the date hereof)), and Tenant shall pay Tenant’s Proportionate Share of the amounts so allocated. Operating Costs shall also include any costs, taxes or other charges allocated to the Project, as determined by Landlord, pursuant to or in connection with any covenants, conditions, restrictions and/or easements applicable to the Project and other property. Landlord shall collect only 100% of actual costs without mark-up and Landlord shall not administer Operating Costs or Taxes as a “profit center”.

Operating Costs shall not include costs for: (i) capital improvements made to the Building, other than capital improvements described in Section 4(b)(2)(C) and except for items which are generally considered

maintenance and repair items, such as painting of common areas and the like; (ii) repair, replacements and general maintenance paid by proceeds of insurance or warranties or by Tenant or other third parties; (iii) interest, amortization or other payments on loans to Landlord; (iv) depreciation; (v) leasing commissions; (vi) legal expenses for services, other than those that benefit the Project tenants generally (e.g., tax disputes); (vii) renovating or otherwise improving space for occupants of the Project or vacant space in the Project; (viii) Taxes; (ix) federal income taxes imposed on or measured by the income of Landlord from the operation of the Project; (x) costs incurred due to violation by Landlord of the terms and conditions of any lease or any Law; (xi) overhead and profit increment paid to Landlord, its subsidiaries or affiliates for management or other services on or to the Project or for supplies or other materials to the extent that the costs of such materials, services, or supplies exceed the costs normally payable for like services, supplies or materials provided by unaffiliated parties on a competitive basis (taking into account the market factors in effect on the date any relevant contracts were negotiated) in comparable buildings; (xii) interest on debt or amortization payments (except as provided in Section 4(b)(2)(C)); (xiii) Landlord's general corporate overhead and general administrative expenses including Landlord's general corporate legal and accounting expenses; (xiv) cost of work required to rectify design and/or construction defects and to bring the Building into compliance with building and safety code requirements applicable to the Building as of the date hereof; (xv) marketing, advertising and promotional expenditures; (xvi) capital costs for purchasing paintings, sculpture, and other objects of art; (xvii) compensation to clerks, attendants, or to other persons involved with the operation of the parking facility or in commercial concessions operated by Landlord; (xviii) costs of abating, removing, remediating, or cleaning up (a) any asbestos or other Hazardous Materials which as of the date hereof are in violation of Hazardous Materials Laws and (b) any asbestos existing in other buildings of the Complex as of the date hereof (other than costs expended as part of the ordinary and customary operation and maintenance of the Project) except caused by Tenant or Tenant's employees or contractors; (xiv) costs for the repair of damage to any improvements in the Project resulting from the gross negligence or willful misconduct of Landlord or Landlord's employees and contractors; (xv) costs of insurance premiums in excess of those being charged by institutional owners of comparable buildings for comparable insurance; (xvi) charitable and political contributions; (xvii) costs associated with the operation of the business of the partnership or entity that constitutes Landlord, as the same are distinguished from the costs of operation of the Project, including partnership or other entity accounting and legal matters, costs of defending any lawsuits with any mortgagee, costs of any disputes between Landlord and its employees (if any); (xviii) interest, fines or penalties assessed as a result of Landlord's failure to make payments in a timely manner or indemnification payments to Tenant, other occupants of the Project or third parties; (xix) costs of selling, syndicating, financing, mortgaging (including syndication thereof) or hypothecating any of Landlord's interest in the Project; (xx) rental under any ground lease or other underlying lease of the Building or Project and other monetary obligations in connection therewith; (xxi) entertainment expenses of Landlord; (xxi) cost of leasing, purchasing or installing tenant improvements, furniture, fixtures, and equipment and operating costs of any eating facility, exercise rooms, day care center, or other specialty service, if any; (xxii) bad debt loss; and (xxiii) reserves for capital or operating costs, bad debts or Rent loss. The foregoing exclusions from Operating Costs shall apply equally to any Operating Costs or Taxes assessed in connection with the Complex.

(3) Tenant shall also pay Tenant's Proportionate Share of Taxes for each year and partial year falling within the Term in the same manner as provided above for Tenant's Proportionate Share of Operating Costs. "**Taxes**" means taxes, assessments, and governmental charges or fees whether federal, state, county or municipal, and whether they be by taxing districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments (including non-governmental assessments for common charges under a restrictive covenant or other private agreement that are not treated as part of Operating Costs) now or hereafter attributable to the Project (or its operation), excluding, however, penalties and interest thereon and federal and state taxes on income (if the present method of taxation changes so that in lieu of or in addition to the whole or any part of any Taxes, there is levied on Landlord a capital tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for the Project, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term "**Taxes**" for purposes hereof). Taxes shall include the costs of consultants retained in an effort to lower taxes and all costs incurred in disputing any taxes or in seeking to lower the tax valuation of the Project. For property tax purposes, Tenant waives all rights to protest or appeal the appraised value of the Premises, as well as the

Project, and all rights to receive notices of reappraisalment. Notwithstanding the foregoing, federal, state, and local documentary transfer taxes, gift, franchise, inheritance, transfer, succession, and estate taxes, and income taxes shall not be included as Taxes. The amount of Taxes attributable to any the calendar year shall be reduced by the amount of any refund of Taxes arising out of an appeal and permanent reduction of the Building's, Project's or Complex's assessed valuation for such calendar year.

(4) By April 1 of each calendar year, or as soon thereafter as practicable but in no event later than December 31 following such April 1 date, Landlord shall furnish to Tenant a statement of Operating Costs for the previous year, in each case adjusted as provided in Section 4(b)(5), and of the Taxes for the previous year (the "**Operating Costs and Tax Statement**"). If Tenant's estimated payments of Operating Costs or Taxes under this Section 4(b) for the year covered by the Operating Costs and Tax Statement exceed Tenant's Proportionate Share of such items as indicated in the Operating Costs and Tax Statement, then Landlord shall promptly credit or reimburse Tenant for such excess; likewise, if Tenant's estimated payments of Operating Costs or Taxes under this Section 4(b) for such year are less than Tenant's Proportionate Share of such items as indicated in the Operating Costs and Tax Statement, then Tenant shall pay Landlord such deficiency within thirty (30) days after delivery of said notice. In the event Landlord shall not have delivered the Operating Costs and Tax Statement until after said December 31 date, Landlord shall have waived its right to collect from Tenant any underpayment for the applicable previous year as to those Operating Costs and Taxes for which Landlord has received invoices during such previous year.

(5) With respect to any calendar year or partial calendar year in which the Building is not occupied to the extent of 100% of the rentable area thereof, or Landlord is not supplying services to 100% of the rentable area thereof, the Operating Costs for such period which vary with the occupancy of the Building shall, for the purposes hereof, be increased to the amount which would have been incurred had the Building been occupied to the extent of 100% of the rentable area thereof and Landlord had been supplying services to 100% of the rentable area thereof.

(6) Provided no Event of Default then exists, after receiving an annual Operating Costs and Tax Statement and giving Landlord 30 days' prior written notice thereof, Tenant may inspect Landlord's records relating to Operating Costs and Taxes for the period of time covered by such Operating Costs and Tax Statement in accordance with the following provisions. If Tenant fails to object to the calculation of Operating Costs and Taxes on an annual Operating Costs and Tax Statement within 90 days after the statement has been delivered to Tenant, or if Tenant fails to conclude its inspection within 120 days after the statement has been delivered to Tenant, then Tenant shall have waived its right to object to the calculation of Operating Costs and Taxes for the year in question and the calculation of Operating Costs and Taxes set forth on such statement shall be final. Tenant's inspection shall be conducted where Landlord maintains its books and records (which location shall be in northern California), shall not unreasonably interfere with the conduct of Landlord's business, and shall be conducted only during business hours reasonably designated by Landlord. Tenant shall pay the cost of such inspection, unless the total Operating Costs and Taxes for the period in question is determined to be overstated by more than 5% in the aggregate, in which case Landlord shall pay the inspection cost (not to exceed the amount Tenant was overcharged for the period in question). Tenant may not conduct an inspection more than once during any calendar year. Tenant or the accounting firm conducting such inspection shall, at no charge to Landlord, submit its report in draft form to Landlord for Landlord's review and comments before the final approved report is submitted to Landlord, and any reasonable comments by Landlord shall be incorporated into the final report. If such inspection reveals that an error was made in the Operating Costs or Taxes previously charged to Tenant, then Landlord shall refund to Tenant any overpayment of any such costs, or Tenant shall pay to Landlord any underpayment of any such costs, as the case may be, within 30 days after notification thereof. Provided Landlord's accounting for Operating Costs and Taxes is consistent with the terms of this Lease (i.e., in accordance with sound accounting principles consistently applied), Landlord's good faith judgment regarding the proper interpretation of this Lease and the proper accounting for Operating Costs and Taxes shall be binding on Tenant in connection with any such inspection. Tenant shall maintain the results of each such inspection confidential and shall not be permitted to use any third party to perform such inspections, other than an independent firm of certified public accountants (1) reasonably acceptable to Landlord, (2) which is not compensated on a contingency fee basis or in any other

manner which is dependent upon the results of such inspection (and Tenant shall deliver the fee agreement or other similar evidence of such fee arrangement to Landlord upon request), and (3) which agrees with Landlord in writing to maintain the results of such inspection confidential. Notwithstanding the foregoing, Tenant shall have no right to conduct an inspection if Landlord furnishes to Tenant an audit report for the period of time in question prepared by an independent certified public accounting firm of recognized national standing (whether originally prepared for Landlord or another party). Nothing in this Section 4(b)(6) shall be construed to limit, suspend or abate Tenant's obligation to pay Rent when due, including Additional Rent.

5. Delinquent Payment; Handling Charges. All past due payments required of Tenant hereunder shall bear interest from the date due until paid at the lesser of eight percent (8%) per annum or the maximum lawful rate of interest (such lesser amount is referred to herein as the "**Default Rate**"); additionally, Landlord, in addition to all other rights and remedies available to it, may charge Tenant a fee equal to five percent of the delinquent payment to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. In no event, however, shall the charges permitted under this Section 5 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest. Notwithstanding the foregoing, the late fee referenced above shall not be charged with respect to the first occurrence (but not any subsequent occurrence) during any 12-month period that Tenant fails to make payment when due, until five days after Landlord delivers written notice of such delinquency to Tenant.

6. Letter of Credit. Concurrently with the execution of this Lease, Tenant shall deliver to Landlord, as collateral for the full and faithful performance by Tenant of all of its obligations under this Lease, an irrevocable and unconditional negotiable letter of credit (the "**Letter of Credit**") containing the terms required herein, running in favor of Landlord, issued by Silicon Valley Bank or another bank reasonably approved by Landlord under the supervision of the Superintendent of Banks of the State of California, or a National Banking Association, in an amount equal to the LC Amount and otherwise satisfactory to Landlord. The Letter of Credit shall be:

(a) at sight and irrevocable;

(b) maintained in effect for the entire period from the date of execution of this Lease through the date ("LC Expiration Date") which is thirty (30) days following the expiration of the Term of this Lease (including renewal options), provided that the expiration date thereof shall be no earlier than the LC Expiration Date or provide for automatic renewal thereof at least through the LC Expiration Date, unless the issuing bank provides at least thirty (30) days prior written notice to Landlord of such non-renewal, and Tenant shall deliver a new Letter of Credit to Landlord at least thirty (30) days prior to the expiration of the Letter of Credit without any action whatsoever on the part of Landlord;

(c) subject to the International Standby Practices (ISP 1998) International Chamber of Commerce Publication #590; and

(d) fully assignable by Landlord in connection with any number of transfers of Landlord's interest in this Lease (with Tenant bearing any fees, costs or expenses in connection with any such transfer), and permit partial draws.

In addition to the foregoing, the form and terms of the Letter of Credit (and the bank issuing the same) shall be acceptable to Landlord, in Landlord's reasonable discretion, and shall provide, among other things, in effect that:

(i) Landlord, or its then managing agent, shall have the right to draw down an amount up to the face amount of the Letter of Credit upon the presentation to the issuing bank of Landlord's (or Landlord's then managing agent's) written statement that Landlord is entitled to make such drawing under this Lease, it being understood that if Landlord or its managing agent is a corporation, partnership or other entity, then such statement shall be signed by an officer (if a corporation), a general partner (if a partnership), or any authorized party (if another entity);

(ii) the Letter of Credit will be honored by the issuing bank without inquiry as to the accuracy thereof and regardless of whether the Tenant disputes the content of such statement; and

(iii) in the event of a transfer of Landlord's interest in the Building, Landlord shall transfer the Letter of Credit, in whole or in part (or cause a substitute letter of credit to be delivered, as applicable) to the transferee and thereupon the Landlord shall, without any further agreement between the parties, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole or any portion of said Letter of Credit to a new landlord.

If, as a result of any application or use by Landlord of all or any part of the Letter of Credit, the amount of the Letter of Credit shall be less than the LC Amount, Tenant shall, within seven (7) business days thereafter, provide Landlord with an additional letter(s) of credit in an amount equal to the deficiency (or a replacement letter of credit in the total amount of the LC Amount) and any such additional (or replacement) letter of credit shall comply with all of the provisions of this Section 6, and if Tenant fails to comply with the foregoing, the same shall constitute an incurable default by Tenant.

Tenant further covenants and warrants that it will neither assign nor encumber the Letter of Credit, or any part thereof and that neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Without limiting the generality of the foregoing, if the Letter of Credit expires earlier than the LC Expiration Date, Landlord will accept a renewal letter of credit or substitute letter of credit (such renewal or substitute letter of credit to be in effect and delivered to Landlord, as applicable, not later than thirty (30) days prior to the expiration of the Letter of Credit), which shall be irrevocable and automatically renewable as above provided through the LC Expiration Date upon the same terms as the expiring Letter of Credit or such other terms as may be acceptable to Landlord in its reasonable discretion. However, if the Letter of Credit is not timely renewed or a substitute letter of credit is not timely received, or if Tenant fails to maintain the Letter of Credit in the amount and in accordance with the terms set forth in this Section 6, Landlord shall have the right to present the Letter of Credit to the issuing bank in accordance with the terms of this Section 6, and the entire sum evidenced thereby shall be paid to and held by Landlord as cash (the "**Cash Collateral**") to be held as collateral for performance of all of Tenant's obligations under this Lease and for all losses and damages Landlord may suffer as a result of any default by Tenant under this Lease pending Tenant's delivery to Landlord of the required replacement letter of credit in the LC Amount and otherwise complying with all of the provisions of this Section 6. Upon delivery of such replacement letter of credit, any Cash Collateral held by Landlord shall be returned to Tenant. Landlord shall have the right to hold the Cash Collateral in a deposit account in the name of Landlord and commingle the Cash Collateral with its general assets and Tenant hereby grants Landlord a security interest in the Cash Collateral. Tenant shall not be entitled to any interest earned on the Cash Collateral.

If there shall occur a default under the Lease beyond any applicable grace period, Landlord may, but without obligation to do so, draw upon the Letter of Credit and/or utilize the Cash Collateral, in part or in whole, to cure any default of Tenant and/or to compensate Landlord for any and all damages of any kind or nature sustained or which may be sustained by Landlord resulting from Tenant's default. Tenant agrees not to interfere in any way with payment to Landlord of the proceeds of the Letter of Credit, either prior to or following a "draw" by Landlord of any portion of the Letter of Credit, regardless of whether any dispute exists between Tenant and Landlord as to Landlord's right to draw from the Letter of Credit. No condition or term of this Lease shall be deemed to render the Letter of Credit conditional to justify the issuer of the Letter of Credit in failing to honor a drawing upon such Letter of Credit in a timely manner.

Landlord and Tenant acknowledge and agree that in no event or circumstance shall the Letter of Credit or any renewal thereof or substitute therefor or Cash Collateral be:

- (a) deemed to be or treated as a "security deposit" within the meaning of California Civil Code Section 1950.7;
- (b) subject to the terms of such Section 1950.7; or
- (c) intended to serve as a "security deposit" within the meaning of such Section 1950.7.

The parties hereto:

(i) recite that the Letter of Credit and/or Cash Collateral, as the case may be, is not intended to serve as a security deposit and such Section 1950.7 and any and all other laws, rules and regulations applicable to security deposits in the commercial context ("**Security Deposit Laws**") shall have no applicability or relevancy thereto; and

(ii) waive any and all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws.

Notwithstanding anything to the contrary contained in this Section 6, on each yearly anniversary of the Commencement Date and provided that Tenant has furnished to Landlord Tenant's financial statements audited by a national independent certified public accounting firm for each of the four (4) most recent consecutive calendar quarters with each statement showing positive income for such quarter and provided no Event of Default exists and Tenant is not then in monetary default or material non-monetary default of any of its obligations under this Lease, Landlord shall, within ten (10) days following the later of satisfaction of the foregoing and Tenant's written request, notify the Bank that the LC Amount may be reduced by \$100,000. No such reduction may occur unless Landlord has so notified the Bank. A Letter of Credit in the LC Amount and otherwise in accordance with the terms of this Section 6 shall be required at all times, with Tenant's non-compliance with the foregoing constituting an incurable default under this Lease.

7. Landlord's Obligations.

(a)**Landlord's Maintenance Obligations.** This Lease is intended to be a net lease; accordingly, subject to Tenant's payment obligations pursuant to the provisions of Section 4(b), Landlord's maintenance obligations are limited to the repair and replacement of the Building's Structure and any Building's Systems not exclusively serving the Premises and maintenance and repair of the common areas of the Project. Landlord shall not be responsible for (1) any such work until Tenant notifies Landlord of the need therefor in writing, (2) alterations to the Building's Structure required by applicable law because of alterations and improvements made by or on behalf of Tenant or the specific nature of Tenant's use of the Premises (which alterations shall be Tenant's responsibility), or (3) any such work that is the responsibility of Tenant pursuant to Section 8. The Building's Structure does not include skylights, windows, glass or plate glass, doors, special fronts, or entries, all of which shall be the responsibility of Tenant. Subject to Tenant's payment obligations pursuant to the provisions of Section 4(b), Landlord's liability for any defects, repairs, replacement or maintenance for which Landlord is specifically responsible for under this Lease shall be limited to the cost of performing the work.

(b)**Landlord's Right to Perform Tenant's Obligations.** Landlord may perform Tenant's maintenance, repair, and replacement obligations and any other items that are Tenant's obligation pursuant to Section 8 in accordance with the provisions of Section 8. Tenant shall reimburse Landlord for the reasonable cost incurred in so doing within thirty (30) days after being invoiced therefor.

8. Improvements; Alterations; Repairs; Maintenance.

(a)**Improvements; Alterations.** Improvements to the Premises shall be installed at Tenant's expense only in accordance with plans and specifications which have been previously submitted to and approved in writing by Landlord, which approval shall be governed by the provisions set forth in this Section 8(a). No alterations or physical additions in or to the Premises may be made without Landlord's prior written consent, which shall not be unreasonably withheld or delayed; however, Landlord may withhold its consent to any alteration or addition that would adversely affect (in the reasonable discretion of Landlord) the (1) Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), (2) exterior appearance of the Building, (3) appearance of the Building's common areas, if any, or (4) provision of services to any other occupants of the Building. Landlord's consent shall not be required for non-structural, interior cosmetic improvements costing less than \$50,000 in the aggregate and not requiring a permit, provided however, at the expiration or earlier termination of this Lease, Tenant shall, at Landlord's election, remove any such improvements and restore the Premises to its prior condition. Landlord agrees that Tenant shall not be required to remove the tenant improvements to be constructed in the Premises pursuant to Exhibit D at the expiration or earlier termination of this

Lease to the extent such improvements are consistent with general office improvements or to the extent such improvements provide supplemental HVAC or additional electricity to the labs and/or server rooms in the Premises. Tenant shall not paint or install lighting or decorations, signs, window or door lettering, or advertising media of any type visible from the exterior of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. Notwithstanding the foregoing and provided Tenant is not in default under this Lease, Tenant shall have the right, at its sole cost and expense and subject to obtaining all governmental permits and approvals therefor, to install one exterior identification sign (Building top, eyebrow or monument) at a location to be designated by Landlord, and otherwise in accordance with all Laws and the provisions of this Lease. The size, shape, content, general appearance, design, materials, coloring and lettering of said signage shall be subject to Landlord's prior approval, which approval shall not be unreasonably withheld. Tenant shall be responsible for the fabrication, installation, maintenance and repair of such signage in good condition at Tenant's sole cost and expense. At the expiration or earlier termination of this Lease, Tenant shall, at Tenant's sole expense, remove Tenant's signage and restore the Building and/or the Project to its original condition in connection with the removal of such signage. Tenant's indemnity of Landlord under this Lease shall apply to Tenant's signage. The signage rights granted to Tenant are personal to the original Tenant signing this Lease and any Permitted Transferee and shall not inure to the benefit of any assignee, subtenant or other occupant. All alterations, additions, and improvements shall be constructed, maintained, and used by Tenant, at its risk and expense, in accordance with all Laws; Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws, and Tenant shall be solely responsible for ensuring all such compliance.

(b)Repairs; Maintenance. Tenant shall maintain the Premises in a clean, safe, and operable condition, and shall not permit or allow to remain any waste or damage to any portion of the Premises. Additionally, Tenant, at its sole expense, shall repair, replace and maintain in good condition and in accordance with all Laws and the equipment manufacturer's suggested service programs (to the extent Tenant has been advised of such service programs), all portions of the Premises, Tenant's Off-Premises Equipment and all areas, improvements and Building's Systems exclusively serving the Premises. Tenant shall repair or replace, subject to Landlord's direction and supervision, any damage to the Building caused by a Tenant Party. If Tenant fails to make such repairs or replacements within 30 days after the occurrence of such damage, then Landlord may make the same at Tenant's cost. If any such damage occurs outside of the Premises, then Landlord may elect to repair such damage at Tenant's expense, rather than having Tenant repair such damage. The cost of all maintenance, repair or replacement work performed by Landlord under this Section 8 shall be paid by Tenant to Landlord within 30 days after Landlord has invoiced Tenant therefor. Tenant hereby waives and releases its right to make repairs at Landlord's expense under Sections 1941 and 1942 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect. In no event shall Tenant's obligation to maintain the Premises in compliance with all Laws obligate Tenant to make any structural changes to the Premises (including the Building's Systems) or in the Project, or to remove or remediate any Hazardous Materials existing in, on under or about the Premises as of the date of this Lease except in connection with Tenant's improvements to the Premises or Tenant's use of the Premises. Landlord and Tenant acknowledge and agree that the Premises are subject to, among other Laws, the requirements of the American with Disabilities Act, 42 U.S.C. 12101 et seq., and similar State and local Laws including, without limitation, Title 24 of the California Code of Regulations (as the same may hereafter be modified, amended or supplemented, collectively, the "ADA"). To Landlord's knowledge, Landlord has received no written notice from any governmental authority that the Premises is currently in violation of the ADA.

(c)Performance of Work. All work described in this Section 8 shall be performed only by Landlord or by contractors and subcontractors reasonably approved in writing by Landlord. Tenant shall cause all contractors and subcontractors to procure and maintain insurance coverage naming Landlord, Landlord's property management company and Landlord's asset management company as additional insureds against such risks, in such amounts, and with such companies as Landlord may reasonably require. Tenant shall provide Landlord with the identities, mailing addresses and telephone numbers of all persons performing work or supplying materials prior to beginning such construction and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Laws. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Building (including the Premises, the Building's Structure and the Building's Systems). All such work which may affect the Building's Structure or the Building's Systems

must be approved by the Building's engineer of record, at Tenant's expense and, at Landlord's election, must be performed by Landlord's usual contractor for such work. All work affecting the roof of the Building must be performed by Landlord's roofing contractor and no such work will be permitted if it would void or reduce the warranty on the roof. Notwithstanding the foregoing or any other provision of this Lease, Landlord hereby acknowledges and agrees that Tenant shall be permitted to install one additional maximum 50 ton HVAC unit on the roof of the Building and hereby consents to such installation by Tenant's contractor provided that plans and specifications for the installation of such unit are reasonably approved by Landlord and provided such unit does not adversely affect the structural integrity of the Building or any roof warranty. Such HVAC unit shall not be removed by Tenant at the expiration or earlier termination of this Lease unless Landlord otherwise elects.

(d)**Mechanic's Liens**. All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Premises or the Project in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Tenant shall, within ten (10) days after Landlord has delivered notice of the filing thereof to Tenant (or such earlier time period as may be necessary to prevent the forfeiture of the Premises, the Project or any interest of Landlord therein or the imposition of a civil or criminal fine with respect thereto), either (1) pay the amount of the lien and cause the lien to be released of record, or (2) diligently contest such lien and deliver to Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord within ten days after Landlord has invoiced Tenant therefor. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Accordingly, all materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracting with Tenant, any contractor or subcontractor of Tenant or any other Tenant Party for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Premises, at any time from the date hereof until the end of the Term, are hereby charged with notice that they look exclusively to Tenant to obtain payment for same. Landlord may record, at its election, notices of non-responsibility pursuant to California Civil Code Section 3094 in connection with any work performed by Tenant. Nothing herein shall be deemed a consent by Landlord to any liens being placed upon the Premises, the Project or Landlord's interest therein due to any work performed by or for Tenant or deemed to give any contractor or subcontractor or materialman any right or interest in any funds held by Landlord to reimburse Tenant for any portion of the cost of such work. Tenant shall defend, indemnify and hold harmless Landlord and its agents and representatives from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. This indemnity provision shall survive termination or expiration of this Lease.

(e)**Utilities**. Tenant shall pay for all water, gas, electricity, heat, telephone, sewer, sprinkler charges and other utilities and services used at the Premises, together with all taxes, penalties, surcharges, and maintenance charges pertaining thereto pursuant to the terms and conditions of this Lease. Landlord may, at Tenant's expense, separately meter and bill Tenant directly for its use of utility services. To the extent that any particular utility is not separately metered or submetered as provided above, Landlord shall, using its good-faith, reasonable judgment, allocate the expenses for such utility among the existing tenants of the Project based upon density, usage, and other factors in Landlord's reasonable judgment. Landlord shall not be liable for any interruption or failure of utility service to the Premises, and in no event shall the unavailability of such services or any other services (or any diminution in the quality thereof) render Landlord liable to Tenant or any entity claiming through Tenant for any damages caused thereby, constitute a constructive eviction of Tenant, constitute a breach of any implied warranty by Landlord, or entitle Tenant to any abatement of Tenant's obligations hereunder; provided however Landlord shall use commercially reasonable diligence to restore such service or to reduce the length of such interruption, and to minimize any disturbance to Tenant, where it is within Landlord's commercially reasonable control to do so. Additionally, if any such unavailability of such services is due to Landlord's voluntary making of additions, alterations or improvement to the Building or the Project and Tenant is unable to conduct its business in a significant portion of the Premises for ten (10) consecutive business days as a direct result of such interruption or failure, then Tenant shall be entitled to an abatement of Basic Rent and Additional Rent for the period of such

interruption or failure which renders the Premises untenable and during which Tenant does not use the Premises. Any amounts payable by Tenant under this Section shall be due within thirty (30) days after Landlord has invoiced Tenant therefor. Tenant shall not install any electrical equipment requiring special wiring or requiring voltage in excess of 110 volts unless approved in advance by Landlord, which approval shall not be unreasonably withheld. Tenant shall not install any electrical equipment requiring voltage in excess of Building capacity unless approved in advance by Landlord, which approval may be withheld in Landlord's sole discretion. Landlord hereby acknowledges that Tenant has advised Landlord that certain of Tenant's equipment uses electrical equipment requiring 208 or 220 volts and, subject to Tenant's compliance with the provisions of this Lease, consents to such usage. The use of electricity in the Premises shall not exceed the capacity of existing feeders and risers to or wiring in the Premises. Any risers or wiring required to meet Tenant's electrical requirements shall, upon Tenant's written request, be installed by Landlord, at Tenant's cost, if, in Landlord's judgment, the same are necessary and shall not cause permanent damage to the Building or the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs, or expenses, or interfere with or disturb any other tenants of the Building. If Tenant uses machines or equipment in the Premises which affect the temperature otherwise maintained by the air conditioning system or otherwise overload any utility, Landlord may install supplemental air conditioning units or other supplemental equipment in the Premises, and the cost thereof, including the cost of installation, operation, use, and maintenance, shall be paid by Tenant to Landlord within 30 days after Landlord has delivered to Tenant an invoice therefor.

9. Use. Tenant shall use the Premises only for the Permitted Use and shall comply with all Laws relating to the use, condition, access to, and occupancy of the Premises and will not commit waste, overload the Building's Structure or the Building's Systems or subject the Premises to use that would damage the Premises. The population density within the Premises shall not adversely impact the Building's Systems. The Premises shall not be used for any use which is disreputable, creates extraordinary fire hazards, or results in an increased rate of insurance on the Building or its contents, or for the storage of any Hazardous Materials (other than typical office supplies [e.g., photocopier toner] and/or janitorial supplies, and then only in compliance with all Laws). Tenant shall not use any substantial portion of the Premises for a "call center," any other telemarketing use, or any credit processing use. If, because of a Tenant Party's acts or because Tenant vacates the Premises, the rate of insurance on the Building or its contents increases, then Tenant shall pay to Landlord the amount of such increase within thirty (30) days of demand therefor accompanied by documentation from the insurance company supporting the reason for such increase, and acceptance of such payment shall not waive any of Landlord's other rights. Tenant shall conduct its business and control each other Tenant Party so as not to create any nuisance or unreasonably interfere with other tenants or Landlord in its management of the Building.

10. Assignment and Subletting.

(a)**Transfers.** Except as provided in Section 10(h), Tenant shall not, without the prior written consent of Landlord, (1) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (2) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization, (3) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant, (4) sublet any portion of the Premises, (5) grant any license, concession, or other right of occupancy of any portion of the Premises, or (6) permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 10(a)(1) through 10(a)(6) being a "**Transfer**").

(b)**Consent Standards.** Landlord shall not unreasonably withhold its consent to any assignment or subletting of the Premises, provided that the proposed transferee (1) is creditworthy, (2) has a good reputation in the business community, (3) will use the Premises for the Permitted Use (thus, excluding, without limitation, uses for credit processing and telemarketing) and will not use the Premises in any manner that would conflict with any exclusive use agreement or other similar agreement entered into by Landlord with any other tenant of the Building or Complex, (4) will not use the Premises, Building or Project in a manner that would materially increase the pedestrian or vehicular traffic to the Premises, Building or Project, (5) is not a governmental entity, or subdivision or agency thereof, (6) is not another occupant of the Building or Complex, and (7) is not a person or entity with whom Landlord is then, or has been within the six-month period prior to the time Tenant seeks to enter into such assignment or subletting, negotiating to lease space in the Building or Complex or any Affiliate of any such person or entity; otherwise, Landlord may withhold its consent in its sole discretion and, in connection

therewith, Tenant hereby waives and releases its rights under Section 1995.310 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect. Additionally, Landlord may withhold its consent in its sole discretion to any proposed Transfer if any Event of Default by Tenant then exists.

(c)**Request for Consent**. If Tenant requests Landlord's consent to a Transfer, then, at least 15 business days prior to the effective date of the proposed Transfer, Tenant shall provide Landlord with a written description of all terms and conditions of the proposed Transfer, copies of the proposed documentation, and the following information about the proposed transferee: name and address; reasonably satisfactory information about its business and business history; its proposed use of the Premises; banking, financial, and other credit information; and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character. Concurrently with Tenant's notice of any request for consent to a Transfer, Tenant shall pay to Landlord a fee of \$1,000 to defray Landlord's expenses in reviewing such request, and Tenant shall also reimburse Landlord immediately upon request for its reasonable attorneys' fees incurred in connection with considering any request for consent to a Transfer.

(d)**Conditions to Consent**. If Landlord consents to a proposed Transfer, then the proposed transferee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder; however, any transferee of less than all of the space in the Premises shall be liable only for obligations under this Lease that are properly allocable to the space subject to the Transfer for the period of the Transfer. No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. If an Event of Default occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents against Rent. Tenant authorizes its transferees to make payments of rent directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an Event of Default hereunder. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment.

(e) **Attornment by Subtenants**. Each sublease by Tenant hereunder shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and each subtenant by entering into a sublease is deemed to have agreed that in the event of termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, take over all of the right, title and interest of Tenant, as sublandlord, under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not be (1) liable for any previous act or omission of Tenant under such sublease, (2) subject to any counterclaim, offset or defense that such subtenant might have against Tenant, (3) bound by any previous modification of such sublease not approved by Landlord in writing or by any rent or additional rent or advance rent which such subtenant might have paid for more than the current month to Tenant, and all such rent shall remain due and owing, notwithstanding such advance payment, (4) bound by any security or advance rental deposit made by such subtenant which is not delivered or paid over to Landlord and with respect to which such subtenant shall look solely to Tenant for refund or reimbursement, or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Tenant shall be deemed, automatically upon and as a condition of its occupying or using the Premises or any part thereof, to have agreed to be bound by the terms and conditions set forth in this Section 10(e). The provisions of this Section 10(e) shall be self-operative, and no further instrument shall be required to give effect to this provision.

(f)**Cancellation**. If Tenant is not then occupying at least twenty-five percent (25%) of the Premises, Landlord may, within 30 days after submission of Tenant's written request for Landlord's consent to an assignment or subletting, cancel this Lease as to the portion of the Premises proposed to be sublet or assigned as of the date the proposed Transfer is to be effective. If Landlord cancels this Lease as to any portion of the Premises, then this Lease shall cease for such portion of the Premises and Tenant shall pay to Landlord all Rent accrued through the cancellation date relating to the portion of the Premises covered by the proposed Transfer. Thereafter, Landlord may lease such portion of the Premises to the prospective transferee (or to any other person) without liability to Tenant.

(g)**Additional Compensation**. Tenant shall pay to Landlord, promptly upon receipt thereof, fifty percent (50%) of the excess of (1) all compensation received by Tenant for a Transfer less the actual out-of-pocket costs reasonably incurred by Tenant with unaffiliated third parties (i.e., brokerage commissions and tenant finish work) in connection with such Transfer (such costs shall be amortized on a straight-line basis over the term of the Transfer in question) over (2) the Rent allocable to the portion of the Premises covered thereby.

(h)**Permitted Transfers**. Notwithstanding Section 10(a), Tenant may Transfer all or part of its interest in this Lease or all or part of the Premises (a "**Permitted Transfer**") to the following types of entities (a "**Permitted Transferee**") without the written consent of Landlord, so long as (A) Tenant's obligations hereunder are assumed by such entity; and (B) the Tangible Net Worth of such entity is not less than the Tangible Net Worth of Tenant as of the date hereof:

(1) an Affiliate of Tenant;

(2) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity in which or with which Tenant, or its corporate successors or assigns, is merged or consolidated, in accordance with applicable statutory provisions governing merger and consolidation of business entities; or

(3) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity acquiring all or substantially all of Tenant's assets.

Tenant shall promptly notify Landlord of any such Permitted Transfer. Tenant shall remain liable for the performance of all of the obligations of Tenant hereunder, or if Tenant no longer exists because of a merger, consolidation, or acquisition, the surviving or acquiring entity shall expressly assume in writing the obligations of Tenant hereunder. Additionally, the Permitted Transferee shall comply with all of the terms and conditions of this Lease, including the Permitted Use, and the use of the Premises by the Permitted Transferee may not violate any other agreements affecting the Premises, the Building or the Complex, Landlord or other tenants of the Building or the Complex. No later than 30 days after the effective date of any Permitted Transfer, Tenant agrees to furnish Landlord with (A) copies of the instrument effecting any of the foregoing Transfers, (B) documentation establishing Tenant's satisfaction of the requirements set forth above applicable to any such Transfer, and (C) evidence of insurance as required under this Lease with respect to the Permitted Transferee. The occurrence of a Permitted Transfer shall not waive Landlord's rights as to any subsequent Transfers. "**Tangible Net Worth**" means the excess of total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles consistently applied ("**GAAP**"), excluding, however, from the determination of total assets all assets which would be classified as intangible assets under GAAP including goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises. Any subsequent Transfer by a Permitted Transferee shall be subject to the terms of this Section 10.

11. Insurance; Waivers; Subrogation; Indemnity.

(a)**Tenant's Insurance**. Effective as of the earlier of (1) the date Tenant enters or occupies the Premises, or (2) the Commencement Date, and continuing throughout the Term, Tenant shall maintain the following insurance policies: (A) commercial general liability insurance in amounts of \$3,000,000 per occurrence or, following the expiration of the initial Term, such other amounts as Landlord may from time to time reasonably require (and, if the use and occupancy of the Premises include any activity or matter that is or may be excluded from coverage under a commercial general liability policy [e.g., the sale, service or consumption of alcoholic beverages], Tenant shall obtain such endorsements to the commercial general liability policy or otherwise obtain insurance to insure all liability arising from such activity or matter [including liquor liability, if applicable] in such amounts as Landlord may reasonably require), insuring Tenant, Landlord, Landlord's property management company, Landlord's asset management company and, if requested in writing by Landlord, Landlord's Mortgagee, against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises and (without implying any consent by Landlord to the installation thereof) the installation, operation, maintenance, repair or removal of Tenant's Off-Premises Equipment, (B) insurance covering the full value of all alterations and improvements and betterments in the Premises, naming Landlord and Landlord's Mortgagee as additional loss payees as their interests may appear, (C) insurance covering the full value of all furniture, trade

fixtures and personal property (including property of Tenant or others) in the Premises or otherwise placed in the Project by or on behalf of a Tenant Party (including Tenant's Off-Premises Equipment), (D) contractual liability insurance sufficient to cover Tenant's indemnity obligations hereunder (but only if such contractual liability insurance is not already included in Tenant's commercial general liability insurance policy), (E) worker's compensation insurance, and (F) business interruption insurance in an amount reasonably acceptable to Landlord. Tenant's insurance shall provide primary coverage to Landlord when any policy issued to Landlord provides duplicate or similar coverage, and in such circumstance Landlord's policy will be excess over Tenant's policy. Tenant shall furnish to Landlord certificates of such insurance and such other evidence satisfactory to Landlord of the maintenance of all insurance coverages required hereunder at least ten days prior to the earlier of the Commencement Date or the date Tenant enters or occupies the Premises, and at least 15 days prior to each renewal of said insurance, and Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least 30 days before cancellation or a material change of any such insurance policies. All such insurance policies shall be in form, and issued by companies with an A.M. Best rating of A+:VII or better, reasonably satisfactory to Landlord. If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand the premium costs thereof.

(b) Landlord's Insurance. Throughout the Term of this Lease, Landlord shall maintain, as a minimum, the following insurance policies:

(1) property insurance for the Building's replacement value (excluding property required to be insured by Tenant), less a commercially-reasonable deductible if Landlord so chooses, and (2) commercial general liability insurance in an amount of not less than \$3,000,000. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary. The cost of all insurance carried by Landlord with respect to the Project shall be included in Operating Costs. The foregoing insurance policies and any other insurance carried by Landlord shall be for the sole benefit of Landlord and under Landlord's sole control, and Tenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

(c) No Subrogation; Waiver of Property Claims. Landlord and Tenant each waives any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy of the types described in this Section 11 that covers the Project, the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements, or business, or is required to be insured against under the terms hereof, regardless of whether the negligence of the other party caused such Loss (defined below). Additionally, Tenant waives any claim it may have against Landlord for any Loss to the extent such Loss is caused by a terrorist act. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party. Notwithstanding any provision in this Lease to the contrary, Landlord, its agents, employees and contractors shall not be liable to Tenant or to any party claiming by, through or under Tenant for (and Tenant hereby releases Landlord and its servants, agents, contractors, employees and invitees from any claim or responsibility for) any damage to or destruction, loss, or loss of use, or theft of any property of any Tenant Party located in or about the Project, caused by casualty, theft, fire, third parties or any other matter or cause, regardless of whether the negligence of any party caused such loss in whole or in part. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, any property of any Tenant Party located in or about the Project.

(d) Indemnity. Subject to Section 11(c), Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising from any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of, any property or inconvenience (a "**Loss**") (1) occurring in or on the Project (other than within the Premises) to the extent caused by the negligence or willful misconduct of any Tenant Parties, (2) occurring in the Premises, or (3) arising out of the installation, operation, maintenance, repair or removal of any property of any Tenant Party located in or about the Project, including Tenant's Off-Premises Equipment. It being agreed that clauses (2) and (3) of this indemnity are not intended to indemnify Landlord and its agents, employees, contractors and representatives to the extent of their own negligence or willful misconduct unless covered by the insurance maintained by Tenant or required to be maintained by Tenant under this Lease. Subject to Section 11(c), Landlord shall defend, indemnify and hold harmless Tenant and its

agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) for any Loss arising from any occurrence in the common areas of the Project to the extent caused by the negligence or willful misconduct of Landlord, its employees, contractors, agents or representatives. The indemnities set forth in this Lease shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel satisfactory to the indemnified party.

12. Subordination; Attornment; Notice to Landlord's Mortgagee.

(a)**Subordination.** This Lease shall be subordinate to any deed of trust, mortgage, or other security instrument (each, a "**Mortgage**"), or any ground lease, master lease, or primary lease (each, a "**Primary Lease**"), that now or hereafter covers all or any part of the Premises (the mortgagee under any such Mortgage, beneficiary under any such deed of trust, or the lessor under any such Primary Lease is referred to herein as a "**Landlord's Mortgagee**"). Any Landlord's Mortgagee may elect, at any time, unilaterally, to make this Lease superior to its Mortgage, Primary Lease, or other interest in the Premises by so notifying Tenant in writing. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, in confirmation of such subordination, Tenant shall execute and return to Landlord (or such other party designated by Landlord) within ten days after written request therefor such documentation (including a subordination, non-disturbance and attornment agreement), in recordable form if required, as a Landlord's Mortgagee may reasonably request to evidence (i) the subordination of this Lease to such Landlord's Mortgagee's Mortgage or Primary Lease, provided that any such documentation shall include Landlord's Mortgagee's standard non-disturbance language or (ii) if the Landlord's Mortgagee so elects, the subordination of such Landlord's Mortgagee's Mortgage or Primary Lease to this Lease. Landlord agrees to use commercially reasonable efforts to obtain a subordination, non-disturbance and attornment agreement from any existing Landlord's Mortgagee on Landlord's Mortgagee's standard form within sixty (60) days following the date of this Lease.

(b)**Attornment.** Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

(c)**Notice to Landlord's Mortgagee.** Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested or by overnight nationally recognized courier service, specifying the default in reasonable detail, to any Landlord's Mortgagee whose address has been given to Tenant, and affording such Landlord's Mortgagee a reasonable opportunity to perform Landlord's obligations hereunder.

(d)**Landlord's Mortgagee's Protection Provisions.** If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (1) liable for any act or omission of any prior lessor (including Landlord); (2) bound by any rent or additional rent or advance rent which Tenant might have paid for more than the current month to any prior lessor (including Landlord), and all such rent shall remain due and owing, notwithstanding such advance payment; (3) bound by any security or advance rental deposit made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (4) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (5) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (6) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (A) are expressly provided in this Lease, (B) relate to periods of time following the acquisition of the Building by Landlord's Mortgagee, and (C) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Project. Nothing in this Lease shall be construed to require Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

13. Rules and Regulations. Tenant shall comply with the rules and regulations of the Project which are attached hereto as Exhibit C. Landlord may, from time to time, change such rules and regulations for the safety, care, or cleanliness of the Project and related facilities, provided that such changes are applicable to all tenants of the Project, will not unreasonably interfere with Tenant's use of the Premises and are enforced by Landlord in a non-discriminatory manner. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

14. Condemnation.

(a)**Total Taking.** If the entire Building or Premises are taken by right of eminent domain or conveyed in lieu thereof (a "Taking"), this Lease shall terminate as of the date of the Taking.

(b)**Partial Taking—Tenant's Rights.** If any part of the Building becomes subject to a Taking and such Taking will prevent Tenant from conducting on a permanent basis its business in the Premises in a manner reasonably comparable to that conducted immediately before such Taking, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within 30 days after the Taking, and Basic Rent and Additional Rent shall be apportioned as of the date of such Taking. If Tenant does not terminate this Lease, then Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenable by the Taking.

(c)**Partial Taking—Landlord's Rights.** If any material portion, but less than all, of the Building becomes subject to a Taking, or if Landlord is required to pay any of the proceeds arising from a Taking to a Landlord's Mortgagee, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within 30 days after such Taking, and Basic Rent and Additional Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, Rent shall abate as provided in the last sentence of Section 14(b). Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedures.

(d)**Temporary Taking.** If all or any portion of the Premises becomes subject to a Taking for a limited period of time, this Lease shall remain in full force and effect and Tenant shall continue to perform all of the terms, conditions and covenants of this Lease, including the payment of Basic Rent and all other amounts required hereunder, provided that Tenant shall have the right to terminate this Lease if the temporary Taking (a) extends beyond 180 days or (b) is still in effect 180 days prior to the expiration date of this Lease. If any such temporary Taking terminates prior to the expiration of the Term, Tenant shall have no obligation to remove any alterations made by or on behalf of the condemning governmental authority nor to restore the Premises to the condition existing prior to such temporary Taking. Landlord shall be entitled to receive the entire award for any such temporary Taking, except that Tenant shall be entitled to receive the portion of such award which compensates Tenant for its loss of use of the Premises within the Term.

(e)**Award.** If any Taking occurs, then Landlord shall receive the entire award or other compensation for the Land, the Building, and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property which Tenant is entitled to remove under this Lease, moving costs and loss of business.

15. Fire or Other Casualty.

(a)**Repair Estimate.** If the Premises or the Building are damaged by fire or other casualty (a "**Casualty**"), Landlord shall, within 90 days after such Casualty, deliver to Tenant a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty.

(b)**Tenant's Rights.** If a material portion of the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that

conducted immediately before such Casualty and Landlord estimates that the damage caused thereby cannot be repaired within 270 days after the commencement of repairs (the “**Repair Period**”), then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within 30 days after the Damage Notice has been delivered to Tenant.

(c)**Landlord’s Rights**. If a Casualty damages the Premises or a material portion of the Building and (1) Landlord estimates that the damage to the Premises cannot be repaired within the Repair Period, (2) the damage to the Premises exceeds 50% of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, and such damage occurs during the last year of the Term and no renewal rights have been exercised prior to such Casualty, (3) regardless of the extent of damage to the Premises, the damage is not fully covered by Landlord’s insurance policies or Landlord makes a good faith commercially reasonable determination that restoring the Building would be uneconomical, or (4) Landlord is required to pay any insurance proceeds arising out of the Casualty to a Landlord’s Mortgagee, then Landlord may terminate this Lease by giving written notice of its election to terminate within 30 days after the Damage Notice has been delivered to Tenant.

(d)**Repair Obligation**. If neither party elects to terminate this Lease following a Casualty, then Landlord shall, within a reasonable time after such Casualty (but in all events within the Repair Period), begin to repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however, Landlord shall not be required to repair or replace any alterations or betterments within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant’s sole cost and expense) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Building.

(e)**Waiver of Statutory Provisions**. The provisions of this Lease, including this Section 15, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises or the Building and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises or the Building.

(f)**Abatement of Rent**. If the Premises are damaged by Casualty, Rent for the portion of the Premises rendered untenantable by the damage shall be abated on a reasonable basis from the date of damage until the completion of Landlord’s repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be), unless a Tenant Party caused such damage, in which case, Tenant shall continue to pay Rent without abatement except to the extent of insurance proceeds received by Landlord for such abated rent.

16. Personal Property Taxes. Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or in or on the Building or Project. If any taxes for which Tenant is liable are levied or assessed against Landlord or Landlord’s property and Landlord elects to pay the same, or if the assessed value of Landlord’s property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay the taxes based on such increase, then Tenant shall pay to Landlord, within 30 days following written request therefor, the part of such taxes for which Tenant is primarily liable hereunder; however, Landlord shall not pay such amount if Tenant notifies Landlord that it will contest the validity or amount of such taxes before Landlord makes such payment, and thereafter diligently proceeds with such contest in accordance with Law and if the non-payment thereof does not pose a threat of loss or seizure of the Project or interest of Landlord therein or impose any fee or penalty against Landlord.

17. Events of Default. Each of the following occurrences shall be an “**Event of Default**”:

(a)**Payment Default**. Tenant’s failure to pay Rent within five (5) business days after Landlord has delivered written notice to Tenant that the same is due (any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 or any similar or successor law); however, an Event of Default shall occur hereunder without any obligation of Landlord to give any notice if Tenant fails to pay Rent when due and, during the 12-month interval preceding such failure, Landlord has given Tenant written notice of failure to pay Rent on one or more occasions;

(b)**Abandonment**. Tenant abandons the Premises, as the term abandonment is defined in California Civil Code Section 1951.3;

(c)**Estoppel**. Tenant fails to provide any estoppel certificate after Landlord's written request therefor pursuant to Section 25(e) and such failure shall continue for five days after Landlord's second written notice thereof to Tenant;

(d)**Insurance**. Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 11(a), and such failure continues for ten (10) days following written notice from Landlord;

(e)**Mechanic's Liens**. Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic's lien filed against the Premises or the Project for any work performed, materials furnished, or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 8(d);

(f)**Other Defaults**. Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than 30 days after Landlord has delivered to Tenant written notice thereof (any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 or any similar or successor law), provided if the nature of such breach cannot be cured within such 30 day period, then Tenant shall not be deemed to be in default if Tenant commences such cure within such 30 day period and thereafter diligently prosecutes such cure to completion; and

(g)**Insolvency**. The filing of a petition by or against Tenant (the term "Tenant" shall include, for the purpose of this Section 17(g), any guarantor of Tenant's obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (4) for the reorganization or modification of Tenant's capital structure; or (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof.

18. Remedies. Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions, each and all of which shall be cumulative and non-exclusive, without notice or demand whatsoever:

(a)**Termination of Lease**. Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(1) The worth at the time of award of any unpaid Rent which has been earned at the time of such termination; plus

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

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

(4) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(5) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable Law.

The term "**Rent**" as used in this Section 18(a) shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Section 18(a)(1) and 18(a)(2) above, the "worth at the time of award" shall be computed by allowing interest at the Interest Rate set forth in Section 5 of this Lease, but in no case greater than the maximum amount of such interest permitted by Law. As used in Section 18(a)(3) above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(b)**Enforcement of Lease.** Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

(c)**Sublessees of Tenant.** Whether or not Landlord elects to terminate this Lease on account of any Event of Default by Tenant, as set forth in this Section 18, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

(d)**Efforts to Relet.** For the purposes of this Section 18, Tenant's right to possession shall not be deemed to have been terminated by efforts of Landlord to relet the Premises, by its acts of maintenance or preservation with respect to the Premises, or by appointment of a receiver to protect Landlord's interests hereunder. The foregoing enumeration is not exhaustive, but merely illustrative of acts which may be performed by Landlord without terminating Tenant's right to possession.

19. Payment by Tenant; Non-Waiver; Cumulative Remedies.

(a)**Payment by Tenant.** Upon any Event of Default, Tenant shall pay to Landlord all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (1) obtaining possession of the Premises, (2) removing and storing Tenant's or any other occupant's property, (3) repairing, restoring, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant, (4) performing Tenant's obligations which Tenant failed to perform, and (5) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the default. To the full extent permitted by law, Landlord and Tenant agree the federal and state courts of the state in which the Premises are located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b)**No Waiver.** Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any

of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c)**Cumulative Remedies.** Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity, (2) shall be cumulative, and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future. Additionally, Tenant shall defend, indemnify and hold harmless Landlord, Landlord's Mortgagee and their respective representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees) arising from Tenant's failure to perform its obligations under this Lease.

20. Intentionally Omitted.

21. Surrender of Premises. No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or termination of this Lease, Tenant shall deliver to Landlord the Premises with all improvements located therein in good repair and condition, free of Hazardous Materials placed on the Premises during the Term, broom-clean, reasonable wear and tear (and condemnation and Casualty damage not caused by Tenant, as to which Sections 14 and 15 shall control) excepted, and shall deliver to Landlord all keys to the Premises. Tenant shall remove all unattached trade fixtures, furniture, and personal property placed in the Premises or elsewhere in the Building by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, at Landlord's option, Tenant shall remove such alterations, additions, improvements, wiring, conduits and cabling (including Tenant's Off-Premises Equipment) as Landlord may request; however, Tenant shall not be required to remove any addition or improvement to the Premises or the Project if Landlord has specifically agreed in writing that the improvement or addition in question need not be removed. Landlord hereby agrees that Tenant shall not be required to remove any of the tenant improvements constructed in the Premises pursuant to Exhibit D to the extent such improvements are consistent with general office improvements. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items. The provisions of this Section 21 shall survive the end of the Term.

22. Holding Over. If Tenant fails to vacate the Premises at the end of the Term, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, (a) Tenant shall pay, in addition to the other Rent, Basic Rent equal to 125% of the Rent payable during the last month of the Term for the first month of holdover and 150% of the Rent payable during the last month of the Term for the second month and any additional months of such holdover, and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 22 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom. Following Tenant's written request, Landlord shall notify Tenant whether the Premises have been re-rented.

23. Certain Rights Reserved by Landlord. Provided that the exercise of such rights does not unreasonably interfere with Tenant's occupancy of the Premises, Landlord shall have the following rights:

(a)**Building Operations.** To decorate and to make inspections, repairs, alterations, additions, changes, or improvements, whether structural or otherwise, in and about the Project and Complex, or any

part thereof; to enter upon the Premises (after giving Tenant reasonable notice thereof, which may be oral notice, except in cases of real or apparent emergency, in which case no notice shall be required) and, during the continuance of any such work, to temporarily close doors, entryways, public space, and corridors in the Building; to interrupt or temporarily suspend Building services and facilities; to change the name of the Building and/or Complex; and to change the arrangement and location of entrances or passageways, doors, and doorways, corridors, elevators, stairs, restrooms, or other public parts of the Building;

(b)**Security.** To take such reasonable measures as Landlord deems advisable for the security of the Building and its occupants; evacuating the Building for cause, suspected cause, or for drill purposes; temporarily denying access to the Building; and closing the Building after normal business hours and on Sundays and holidays, subject, however, to Tenant's right to enter when the Building is closed after normal business hours under such reasonable regulations as Landlord may prescribe from time to time;

(c)**Prospective Purchasers and Lenders.** To enter the Premises at all reasonable hours to show the Premises to prospective purchasers or lenders; and

(d)**Prospective Tenants.** At any time during the last 12 months of the Term or at any time following the occurrence of an Event of Default, to enter the Premises at all reasonable hours to show the Premises to prospective tenants.

24. Intentionally Omitted.

25. Miscellaneous.

(a)**Landlord Transfer.** Landlord may transfer any portion of the Project and any of its rights under this Lease. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes in writing Landlord's obligations hereunder arising from and after the transfer date.

(b)**Landlord's Liability.** The liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of the Building shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Landlord in the Building, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency.

(c)**Force Majeure.** Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such party.

(d)**Brokerage.** Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than CB Richard Ellis, who represents Landlord, and NAIBT Commercial, who represents Tenant, and whose commissions shall be paid by Landlord pursuant to a separate written agreement. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through, or under the indemnifying party.

(e)**Estoppel Certificates.** From time to time, Tenant shall furnish to any party designated by Landlord, within ten (10) business days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Project, the initial form of estoppel certificate to be signed by Tenant is attached hereto as Exhibit F. If Tenant

fails to respond within such ten (10) business day period, and Landlord gives Tenant a second notice, then if Tenant fails to deliver to Landlord the certificate signed by Tenant within five (5) days after such second notice, Landlord, Landlord's Mortgagee and any prospective purchaser or mortgagee, may conclusively presume and rely upon the following facts: (1) this Lease is in full force and effect; (2) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (3) not more than one monthly installment of Basic Rent and other charges have been paid in advance; (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent or other charges; and (5) to Tenant's actual knowledge, Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

(f)**Notices.** All notices and other communications given pursuant to this Lease shall be in writing and shall be (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information, (2) hand delivered to the intended addressee, (3) sent by a nationally recognized overnight courier service, or (4) sent by facsimile transmission during normal business hours followed by a confirmatory letter sent in another manner permitted hereunder. All notices shall be effective upon delivery to the address of the addressee (even if such addressee refuses delivery thereof). The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision.

(g)**Separability.** If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h)**Amendments; Binding Effect; No Electronic Records.** This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. All notices and other communications shall be given in the manner specifically set forth in Section 25(f). The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

(i)**Quiet Enjoyment.** Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j)**No Merger.** There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

(k)**No Offer.** The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

(l)**Entire Agreement.** This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(m)**Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION

OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

(n)**Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

(o)**Recording.** Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of Landlord, and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

(p)**Water or Mold Notification.** To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises or Project, Tenant shall promptly notify Landlord thereof in writing.

(q)**Joint and Several Liability.** If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(r)**Financial Reports.** Within 15 days after Landlord's request, Tenant will furnish Tenant's most recent audited financial statements (including any notes to them) to Landlord, or, if no such audited statements have been prepared, such other financial statements (and notes to them) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements. If Tenant is a publicly traded corporation, Tenant may satisfy its obligations hereunder by providing to Landlord Tenant's most recent annual and quarterly reports. Tenant will discuss its financial statements with Landlord and, following the occurrence of an Event of Default hereunder, will give Landlord access to Tenant's books and records in order to enable Landlord to verify the financial statements. Landlord will not disclose any aspect of Tenant's financial statements that Tenant designates to Landlord as confidential except (1) to Landlord's Mortgagee or prospective mortgagees or purchasers of the Building, (2) in litigation between Landlord and Tenant, and/or (3) if required by court order. Tenant shall not be required to deliver the financial statements required under this Section 25(r) more than once in any 12-month period unless requested by Landlord's Mortgagee or a prospective buyer or lender of the Building or an Event of Default occurs.

(s)**Landlord's Fees.** Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within 30 days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(t)**Attorneys' Fees.** In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein, shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

(u)**Telecommunications.** Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Building, for the installation and operation of telecommunications systems, including voice, video, data, Internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("**Telecommunications Services**"), for part or all of Tenant's telecommunications within the

Building and from the Building to any other location without Landlord's prior written consent. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Building, applicable Laws and Landlord's policies and practices for the Building. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant Party in connection with the installation, operation or maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

(v)**Confidentiality**. Tenant acknowledges that the terms and conditions of this Lease are to remain confidential for Landlord's benefit, and may not be disclosed by Tenant to anyone, by any manner or means, directly or indirectly, without Landlord's prior written consent; however, Tenant may disclose the terms and conditions of this Lease if required by Law (including any disclosure required by the filing requirements of the Securities and Exchange Commission) or court order, and to its attorneys, accountants, employees and existing or prospective financial partners provided same are advised by Tenant of the confidential nature of such terms and conditions and agree to maintain the confidentiality thereof (in each case, prior to disclosure). Tenant shall be liable for any disclosures made in violation of this Section by Tenant or by any entity or individual to whom the terms of and conditions of this Lease were disclosed or made available by Tenant. The consent by Landlord to any disclosures shall not be deemed to be a waiver on the part of Landlord of any prohibition against any future disclosure.

(w)**Authority**. Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so. Landlord hereby represents and warrants to Tenant that Landlord is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so.

(x)**Hazardous Materials**. The term "**Hazardous Materials**" means any substance, material, or waste which is now or hereafter classified or considered to be hazardous, toxic, or dangerous under any Law relating to pollution or the protection or regulation of human health, natural resources or the environment, or poses or threatens to pose a hazard to the health or safety of persons on the Premises or in the Project. Tenant shall not use, generate, store, or dispose of, or permit the use, generation, storage or disposal of Hazardous Materials on or about the Premises or the Project except in a manner and quantity necessary for the ordinary performance of Tenant's business, and then in compliance with all Laws. If Tenant breaches its obligations under this Section 25(x), Landlord may immediately take any and all action reasonably appropriate to remedy the same, including taking all appropriate action to clean up or remediate any contamination resulting from Tenant's use, generation, storage or disposal of Hazardous Materials. Notwithstanding Landlord's indemnity contained in Section 11(d), Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against any and all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of clean up and remediation) arising from Tenant's failure to comply with the provisions of this Section 25(x). This indemnity provision shall survive termination or expiration of this Lease. Tenant shall comply with the operations and maintenance program for the Complex, a copy of which is available at the management office for the Complex.

(y)**List of Exhibits**. All exhibits and attachments attached hereto are incorporated herein by this reference.

- Exhibit A - Outline of Premises
- Exhibit B - Description of the Land
- Exhibit C - Rules and Regulations
- Exhibit D - Tenant Finish-Work
- Exhibit E - Form of Confirmation of Commencement Date Letter
- Exhibit F - Form of Tenant Estoppel Certificate
- Exhibit G - Form of Offer Notice

(z)**Prohibited Persons and Transactions.** Tenant represents and warrants that neither Tenant nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and, to Tenant's actual knowledge, none of their respective employees, officers or directors is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not Transfer this Lease to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities. Notwithstanding the foregoing, Tenant makes no representation or warranty with respect to any of Tenant's or Tenant's affiliates' shareholders if Tenant or Tenant's affiliate is a publicly traded corporation.

(aa)**Parking.** Tenant shall be entitled to 170 undesignated parking spaces, at no charge by Landlord during the initial Term, in the parking area associated with the Building (the "**Parking Area**") during the Term subject to such terms, conditions and regulations as are from time to time applicable to patrons of the Parking Area. Tenant shall be responsible for payment of any governmental charges and/or taxes in connection with such parking spaces.

Tenant shall at all times comply with all Laws respecting the use of the Parking Area. Landlord reserves the right to adopt, modify, and enforce reasonable rules and regulations governing the use of the Parking Area from time to time. Landlord may refuse to permit any person who violates such rules and regulations to park in the Parking Area, and any violation of the rules and regulations shall subject the car to removal from the Parking Area.

The parking spaces provided hereunder shall be provided on an unreserved, "first-come, first served" basis. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties.

All motor vehicles (including all contents thereof) shall be parked in the Parking Area at the sole risk of Tenant and each other Tenant Party, it being expressly agreed and understood Landlord has no duty to insure any of said motor vehicles (including the contents thereof), and Landlord is not responsible for the protection and security of such vehicles. Notwithstanding anything to the contrary contained in this Lease, Landlord shall have no liability whatsoever for any property damage or loss which might occur on the Parking Area or as a result of or in connection with the parking of motor vehicles in any of the parking spaces.

26. Renewal Option. Provided no Event of Default exists and Tenant is occupying at least 75% of the Premises at the time of such election, Tenant may renew this Lease for two additional periods of five years each, by delivering written notice of the exercise thereof to Landlord not earlier than 12 months nor later than 9 months before the expiration of the Term. The Basic Rent payable for each month during the applicable extended Term shall be the prevailing rental rate (the "Prevailing Rental Rate"), at the commencement of such extended Term, for renewals of space in the Complex or in comparable buildings in the vicinity of the Complex of equivalent quality, size, utility and location, with the length of the extended Term and the credit standing of Tenant to be taken into account, provided however, in no event shall the Prevailing Rental Rate be less than the Basic Rent payable during the month immediately preceding the commencement of the applicable extended Term. Within 30 days after receipt of Tenant's notice to renew, Landlord shall deliver to Tenant written notice of the Prevailing Rental Rate and shall advise Tenant of the required adjustment to Basic Rent, if any, and the other terms and conditions offered. If Tenant disagrees with Landlord's determination of the Prevailing Rental Rate, then Tenant may, but only within twenty (20) days after receipt of Landlord's notice, require by written notice to Landlord that the determination of the Prevailing Rental Rate be made by brokers, taking into account the requirements of this Section 26; provided that Tenant's failure to deliver such notice within such 20-day period shall be deemed to be Tenant's acceptance of Landlord's determination of the Prevailing Rental Rate. If Tenant timely delivers such notice, then, within 10 days after such delivery, each party shall select one qualified commercial real estate broker with at least 10 years experience in appraising property and buildings in the city or submarket in which the Premises are located. If Landlord or Tenant fails to select its broker within such 10-day period, then Landlord or Tenant may petition the then presiding judge of the Superior Court of the State of California for Santa Clara County to appoint such broker, subject to the criteria set forth in this Section 26, or if he or she refuses to act, either party may petition any judge having jurisdiction over Landlord and Tenant to appoint such broker. Each broker shall deliver its written determination of the Prevailing

Rental Rate, taking into account the requirements of this Section 26, to the other broker within 20 days after such broker's retention. In the event the determinations of the two brokers differ and, after good faith efforts over the succeeding 20 day period, they cannot mutually agree, the brokers shall, within 10 days thereafter, appoint a neutral third broker with the qualifications specified above and deliver their respective determinations to such third broker. If the two brokers fail to select the third broker within such 10-day period, then Landlord or Tenant may petition the then presiding judge of the Superior Court of the State of California for Santa Clara County to appoint such broker subject to the criteria set forth in this Section 26, or if he or she refuses to act, either party may petition any judge having jurisdiction over the Landlord and Tenant to appoint such broker. Within 5 days after its appointment, the third broker shall choose either the determination of Landlord's broker or Tenant's broker and such choice of the third broker shall be final and binding on Landlord and Tenant. Each party shall pay the costs of its real estate broker. The parties shall equally share the costs of any third broker. Following the determination of the Prevailing Rental Rate, Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except as follows:

- (i) Basic Rent shall be adjusted to the Prevailing Rental Rate;
- (ii) Tenant shall have no further renewal option except as expressly provided in this Lease; and
- (iii) Landlord shall lease to Tenant the Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements except as specifically provided in Landlord's notice.

Tenant's rights under this Section 26 shall terminate if (i) this Lease or Tenant's right to possession of the Premises is terminated, (ii) Tenant assigns any of its interest in this Lease or sublets more than 25% of the Premises to other than a Permitted Transferee, (iii) Tenant fails to timely exercise its option under this Section 26, time being of the essence with respect to Tenant's exercise thereof, or (iv) based on Tenant's financial statements audited by a national independent certified public accounting firm (which shall be furnished by Tenant within ten (10) days following Landlord's request), Tenant's then net worth is less than fifty (50%) of Tenant's net worth as of the date of this Lease.

27. Right of First Offer. Subject to then-existing renewal or expansion rights or options of other tenants, and provided no Event of Default then exists, Landlord shall, prior to offering the same to any party (other than the then-current tenant or occupant therein), first offer to lease to Tenant the space in the buildings commonly known as 909 Hermosa Court and 884 Hermosa Court (the "Offer Space") in an "AS-IS" condition; such offer shall be in writing, shall be given no earlier than 4 months prior to the expiration or earlier termination of the current lease for the 909 Hermosa Court Offer Space, and 6 months prior to the expiration or earlier termination of the current lease for the 884 Hermosa Court Offer Space, if any (it being understood that there shall be no such time limitation with respect to space that is not currently leased and that such offer may be given at any time with respect to such space) and specify the lease terms for the Offer Space, including the rent to be paid for the Offer Space, the term of the lease for the Offer Space and the date on which the Offer Space shall be included in the Premises (the "Offer Notice"). The Offer Notice shall be substantially similar to the Offer Notice attached to this Lease as Exhibit G. Tenant shall notify Landlord in writing whether Tenant elects to lease the entire Offer Space on the terms set forth in the Offer Notice within ten (10) days after Landlord delivers to Tenant the Offer Notice. If Tenant timely elects to lease the Offer Space, then Landlord and Tenant shall execute an amendment to this Lease, effective as of the date the Offer Space is to be included in the Premises, on the terms set forth in the Offer Notice and, to the extent not inconsistent with the Offer Notice terms, the terms of this Lease; however, Tenant shall accept the Offer Space in an "AS-IS" condition and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements except as specifically provided in the Offer Notice. Notwithstanding the foregoing, if prior to Landlord's delivery to Tenant of the Offer Notice, Landlord has received an offer to lease all or part of the Offer Space from a third party (a "Third Party Offer") and such Third Party Offer includes space in excess of the Offer Space, Tenant must exercise its rights hereunder, if at all, as to all of the space contained in the Third Party Offer.

If Tenant fails to or is unable to timely exercise its right hereunder, then such right shall lapse (except as expressly provided in this sentence), time being of the essence with respect to the exercise thereof (it being understood that Tenant's right hereunder is a one-time right only as to each Offer Space (except as expressly

provided in this sentence)), and Landlord may lease all or a portion of the Offer Space to third parties on such terms as Landlord may elect, provided however, if Landlord reduces the Basic Rent by more than ten percent (10%), Landlord shall re-offer the Offer Space to Tenant on the revised terms and Tenant shall have five (5) days in which to notify Landlord that Tenant elects to lease the Offer Space on such revised terms. Tenant may not exercise its rights under this Section 27 if an Event of Default exists or Tenant and/or Permitted Transferee is not then occupying the entire Premises. For purposes hereof, if an Offer Notice is delivered for less than all of the Offer Space but such notice provides for an expansion, right of first refusal, or other preferential right to lease some of the remaining portion of the Offer Space, then such remaining portion of the Offer Space shall thereafter be excluded from the provisions of this Section 27. Landlord shall pay a market commission to Tenant's broker described in Section 25(d) with respect to any space leased by Tenant under this Section 27 provided Tenant then acknowledges such broker as Tenant's exclusive agent, and Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, and other liability for commissions or other compensation claimed by any broker or agent other than such Tenant's broker claiming the same by, through, or under the indemnifying party.

Tenant's rights under this Section 27 shall terminate if (a) this Lease or Tenant's right to possession of the Premises is terminated, or (b) Tenant assigns any of its interest in this Lease or sublets any portion of the Premises to other than a Permitted Transferee.

LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

LANDLORD:

W2005 RPS REALTY, L.L.C., a Delaware limited liability company

By: /s/ Nancy M. Haag
Name: Nancy M. Haag
Title: Assistant Vice President
Execution Date: 7-3-07

TENANT:

RIVERBED TECHNOLOGY, INC., a Delaware corporation

By: /s/ Randy S. Gottfried
Name: Randy S. Gottfried
Title: Chief Financial Officer
Execution Date: 7/2/07

EXHIBIT A

OUTLINE OF PREMISES

A-1

EXHIBIT B

DESCRIPTION OF THE LAND

All of Parcel "A", as shown upon that certain Map entitled, "Parcel Map being all of Parcel 1, as shown on that certain 'Parcel Map' recorded in Book 394 of Maps, at Page 56, Santa Clara County Records", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on May 22, 1978 in Book 418 of Maps, at Page 46.

B-1

EXHIBIT C

RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, the Building, the parking area associated therewith, and the appurtenances thereto:

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.

2. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.

3. No signs, advertisements or notices (other than those that are not visible outside the Premises) shall be painted or affixed on or to any windows or doors or other part of the Building without the prior written consent of Landlord. No nails, hooks or screws (other than those which are necessary to hang paintings, prints, pictures, or other similar items on the Premises' interior walls) shall be driven or inserted in any part of the Building except by Building maintenance personnel. No draperies, curtains, blinds, shades, screens or other devices shall be hung at or used in connection with any window or exterior door or doors of the Premises. No awning shall be permitted on any part of the Premises. Tenant shall not place anything against or near glass partitions or doors, or windows which might appear unsightly from outside the Premises.

4. Landlord shall provide all door locks in each tenant's leased premises, at the cost of such tenant, and no tenant shall place any additional door locks in its leased premises without Landlord's prior written consent. Landlord shall furnish to each tenant a reasonable number of keys to such tenant's leased premises, at such tenant's cost, and no tenant shall make a duplicate thereof.

5. Each tenant assumes all risks of and shall be liable for all damage to articles moved in and out of the Building and injury to persons or public engaged or not engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with the foregoing.

6. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired at the expense of such tenant.

7. Tenant shall not use or keep in the Premises any toxic or hazardous materials, or any kerosene, gasoline or inflammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of office equipment or contained in ordinary office and cleaning supplies and otherwise in compliance with Laws. Tenant shall not use or permit to be used in the Premises any foul or noxious gas or substance, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building or Complex by reason of improper, objectionable or unpleasant noise, odors, or vibrations.

8. No birds or animals (other than seeing-eye dogs) shall be brought into or kept in, on or about any tenant's leased premises. No portion of any tenant's leased premises shall at any time be used or occupied as sleeping or lodging quarters.

9. Tenant shall keep its leased premises neat and clean.

10. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Building or otherwise interfere in any way with other tenants or persons having business with them.

11. No tenant shall use or keep in the Building any flammable or explosive fluid or substance (other than typical office supplies [e.g., photocopier toner] used in compliance with all Laws).

12. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.

13. Tenant shall not conduct any activity on or about the Premises or Building which will draw pickets, demonstrators, or the like.

14. All vehicles are to be currently licensed, in good operating condition, parked for business purposes having to do with Tenant's business operated in the Premises, parked within designated parking spaces, one vehicle to each space. No vehicle shall be parked as a "billboard" vehicle in the parking lot. Any vehicle parked improperly may be towed away. Tenant, Tenant's agents, employees, vendors and customers who do not operate or park their vehicles as required shall subject the vehicle to being towed at the expense of the owner or driver. Tenant shall indemnify, hold and save harmless Landlord of any liability arising from the towing or booting of any vehicles belonging to a Tenant Party.

15. Tenant will not permit any Tenant Party to bring onto the Project any handgun, firearm or other weapons of any kind, illegal drugs or, unless expressly permitted by Landlord in writing, alcoholic beverages.

16. Tenant shall not permit its employees, invitees or guests to smoke in the Premises or in any other area shared in common with other tenants in the Building, or permit its employees, invitees, or guests to loiter at the Building entrances for the purposes of smoking. Landlord may, but shall not be required to, designate an area for smoking outside the Building.

17. Landlord may waive any one or more of these rules and regulations for the benefit of Tenant or any other tenant, but no waiver by Landlord shall be construed as a waiver of the rules and regulations in favor of Tenant or any other tenant, nor prevent Landlord from thereafter enforcing the rules and regulations against any or all of other tenants.

EXHIBIT D

TENANT FINISH WORK

1. **Acceptance of Premises.** Except as set forth in this Exhibit, Tenant accepts the Premises in their “AS-IS” condition on the date that this Lease is entered into.

2. **Space Plans.**

(a) **Preparation and Delivery.** On or before the forty-fifth (45th) day following the date of this Lease, Tenant shall deliver to Landlord a space plan prepared by a design consultant reasonably acceptable to Landlord (the “Architect”) depicting improvements to be installed in the Premises (the “Space Plans”).

(b) **Approval Process.** Landlord shall notify Tenant whether it approves of the submitted Space Plans within five business days after Tenant’s submission thereof. If Landlord disapproves of such Space Plans, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within ten (10) business days after such notice, revise such Space Plans in accordance with Landlord’s objections and submit the revised Space Plans to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted Space Plans within three business days after its receipt thereof. This process shall be repeated until the Space Plans have been finally approved by Landlord and Tenant.

3. **Working Drawings.**

(a) **Preparation and Delivery.** On or before the fourteenth (14th) business day following the date on which the Space Plans are approved by Landlord and Tenant, Tenant shall provide to Landlord for its approval final working drawings prepared by the Architect of all improvements that Tenant proposes to install in the Premises; such working drawings shall include the partition layout, ceiling plan, electrical outlets and switches, telephone outlets, drawings for any modifications to the mechanical and plumbing systems of the Building, and detailed plans and specifications for the construction of the improvements called for under this Exhibit in accordance with all applicable Laws.

(b) **Approval Process.** Landlord shall notify Tenant whether it approves of the submitted working drawings within ten business days after Tenant’s submission thereof. If Landlord disapproves of such working drawings, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within three business days after such notice, revise such working drawings in accordance with Landlord’s objections and submit the revised working drawings to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted working drawings within five business days after its receipt thereof. This process shall be repeated until the working drawings have been finally approved by Tenant and Landlord.

(c) **Landlord’s Approval; Performance of Work.** If any of Tenant’s proposed construction work will affect the Building’s Structure or the Building’s Systems, then the working drawings pertaining thereto must be approved by the Building’s engineer of record. Landlord’s approval of such working drawings shall not be unreasonably withheld, provided that (1) they comply with all Laws, (2) the improvements depicted thereon do not adversely affect (in the reasonable discretion of Landlord) the Building’s Structure or the Building’s Systems (including the Building’s restrooms or mechanical rooms), or the exterior appearance of the Building, (3) such working drawings are sufficiently detailed to allow construction of the improvements in a good and workmanlike manner, and (4) the improvements depicted thereon conform to the rules and regulations promulgated from time to time by Landlord for the construction of tenant improvements. As used herein, “Working Drawings” means the final working drawings approved by Landlord, as amended from time to time by any approved changes thereto, and “Work” means all improvements to be constructed in accordance with and as indicated on the Working Drawings, together with any work required by governmental authorities to be made to other areas of the Complex as a result of the improvements indicated by the Working Drawings. Landlord’s approval of the Working Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use or

comply with any Law, but shall merely be the consent of Landlord thereto. Tenant shall, at Landlord's request, sign the Working Drawings to evidence its review and approval thereof. After the Working Drawings have been approved, Tenant shall cause the Work to be performed in accordance with the Working Drawings.

4. Contractors; Performance of Work. The Work shall be performed only by licensed contractors and subcontractors approved in writing by Landlord, which approval shall not be unreasonably withheld. All contractors and subcontractors shall be required to procure and maintain insurance against such risks, in such amounts, and with such companies as Landlord may reasonably require. Certificates of such insurance, with paid receipts therefor, must be received by Landlord before the Work is commenced. The Work shall be performed in a good and workmanlike manner free of defects, shall conform strictly with the Working Drawings, and shall be performed in such a manner and at such times as not to interfere with or delay Landlord's other contractors, the operation of the Complex, and the occupancy thereof by other tenants. All contractors and subcontractors shall contact Landlord and schedule time periods during which they may use Building facilities in connection with the Work (e.g., electricity, etc.).

5. Construction Contracts. Tenant shall enter into a construction contract with a general contractor selected by Tenant and approved by Landlord (which approval shall not be unreasonably withheld) in a form acceptable to Tenant's representative for the Work, which shall comply with the provisions of this Section 5 and provide for, among other things, (1) a one-year warranty for all defective Work; (2) a requirement that Tenant's Contractor maintain general commercial liability insurance of not less than a combined single limit of \$5,000,000, naming Landlord, Landlord's property management company, Landlord's asset management company, Landlord's Mortgagee, Tenant, and each of their respective Affiliates as additional insureds; (3) a requirement that the contractor perform the Work in accordance with the Space Plans and the Working Drawings and in a good and workmanlike manner; and (4) a requirement that the contractor is responsible for daily cleanup work and final clean up (including removal of debris) (collectively, the "Approval Criteria").

6. Change Orders. Tenant may initiate changes in the Work. Each such change must receive the prior written approval of Landlord, such approval not to be unreasonably withheld or delayed; however, if such requested change would adversely affect (in the reasonable discretion of Landlord) (a) the Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), or (b) the exterior appearance of the Building, Landlord may withhold its consent in its sole and absolute discretion. Tenant shall, upon completion of the Work, furnish Landlord with an accurate architectural "as-built" plan of the Work as constructed, which plan shall be incorporated into this Exhibit D by this reference for all purposes. If Tenant requests any changes to the Work described in the Space Plans or the Working Drawings, then such increased costs and any additional design costs incurred in connection therewith as the result of any such change shall be added to the Total Construction Costs.

7. Definitions. As used herein "Substantial Completion," "Substantially Completed," and any derivations thereof mean the Work in the Premises is substantially completed (as reasonably determined by Landlord) in accordance with the Working Drawings and the City of Sunnyvale has issued a certificate of occupancy or similar approval allowing Tenant to legally occupy the Premises. Substantial Completion shall have occurred even though minor "punch list" details of construction, decoration and mechanical adjustments remain to be completed.

8. Walk-Through; Punchlist. When Tenant considers the Work in the Premises to be Substantially Completed, Tenant will notify Landlord and within three business days thereafter, Landlord's representative and Tenant's representative shall conduct a walk-through of the Premises and identify any necessary touch-up work, repairs and minor completion items that are necessary for final completion of the Work. Tenant shall cause the contractor performing the Work to diligently prosecute to completion all such punchlist items.

9. Excess Costs. The entire cost of performing the Work (including design of and space planning for the Work and preparation of the Working Drawings and the final "as-built" plan of the Work, costs of construction labor and materials, electrical and other utility usage during construction, janitorial services, general tenant signage, related taxes and insurance costs, licenses, permits, certifications, surveys and other approvals required by Law, and the construction supervision fee referenced in Section 11 of this Exhibit, all of which costs are herein collectively called the "Total Construction Costs") in excess of the "Construction Allowance" (as hereinafter defined) shall be paid by Tenant. Upon approval of the Working Drawings and selection of a contractor, Tenant shall promptly execute a work order agreement which identifies such drawings and itemizes the Total Construction Costs and sets forth the Construction Allowance.

10. **Construction Allowance.** Landlord shall provide to Tenant a construction allowance not to exceed \$687,345.00 (the "Construction Allowance") to be applied toward the Total Construction Costs, as adjusted for any changes to the Work, provided however, if following Substantial Completion of the Work, Total Construction Costs are less than the Construction Allowance, Tenant may use up to \$229,115.00 of any remaining balance of the Construction Allowance to reimburse Tenant for Tenant's costs of furniture, fixtures and equipment and data and communications cabling upon Tenant furnishing Landlord with satisfactory evidence of such costs and Tenant's payment thereof. In addition to the Construction Allowance, Landlord will also reimburse to Tenant an amount not to exceed \$2,291.15 for the costs of a "test fit" of the Premises upon Tenant furnishing Landlord with satisfactory evidence of such costs and Tenant's payment thereof (the "Test Fit Payment"). No advance of the Construction Allowance shall be made by Landlord until Tenant has first paid to the contractor from its own funds (and provided reasonable evidence thereof to Landlord) the anticipated amount by which the projected Total Construction Costs exceed the amount of the Construction Allowance. Thereafter, Landlord shall pay to Tenant the Construction Allowance in multiple disbursements (but not more than once in any calendar month) following the receipt by Landlord of the following items: (a) a request for payment, (b) final or partial lien waivers, as the case may be, from all persons performing work or supplying or fabricating materials for the Work, fully executed, acknowledged and in recordable form, and (c) the Architect's certification that the Work for which reimbursement has been requested has been finally completed, including (with respect to the last application for payment only) any punch-list items, on the appropriate AIA form or another form approved by Landlord, and, with respect to the disbursement of the last 20% of the Construction Allowance: (1) the permanent certificate of occupancy issued for the Premises, (2) Tenant's occupancy of the Premises, and (3) delivery of the architectural "as-built" plan for the Work as constructed (and as set forth above) to Landlord's construction representative (set forth below) (collectively, a "Completed Application for Payment"). Landlord shall pay the amount requested in the applicable Completed Application for Payment to Tenant within 30 days following Tenant's submission of the Completed Application for Payment. If, however, the Completed Application for Payment is incomplete or incorrect, Landlord's payment of such request shall be deferred until 30 days following Landlord's receipt of the Completed Application for Payment. Notwithstanding anything to the contrary contained in this Exhibit, Landlord shall not be obligated to make any disbursement of the Construction Allowance during the pendency of any of the following: (A) Landlord has received written notice of any unpaid claims relating to any portion of the Work or materials in connection therewith, other than claims which will be paid in full from such disbursement, (B) there is an unbonded lien outstanding against the Complex, the Premises or Tenant's interest therein by reason of work done, or claimed to have been done, or materials supplied or specifically fabricated, or claimed to have been supplied or specifically fabricated, to or for Tenant or the Premises, (C) the conditions to the advance of the Construction Allowance are not satisfied, or (D) an Event of Default by Tenant exists. The Construction Allowance must be used (that is, the Work must be fully complete and the Construction Allowance disbursed) and the Test Fit Payment disbursed within six months following the Commencement Date or shall be deemed forfeited with no further obligation by Landlord with respect thereto.

11. **Construction Management.** Landlord or its Affiliate or agent shall supervise the Work and coordinate the relationship between the Work, the Building and the Building's Systems. In consideration for Landlord's construction supervision services, Tenant shall pay to Landlord a construction supervision fee equal to \$15,000.

12. **Construction Representatives.** Landlord's and Tenant's representatives for coordination of construction and approval of change orders will be as follows, provided that either party may change its representative upon written notice to the other:

Landlord's Representative:

Melissa Darnell
c/o CB Richard Ellis
225 W. Santa Clara Street, Suite 1050
San Jose, California 95113
Telephone: 408-453-7416
Telecopy: 408-437-3170

D-3

Tenant's Representative:

Steve Hirai
c/o Riverbed Technology, Inc.
199 Fremont Street
San Francisco, California 94105
Telephone: 415-344-4668
Telecopy: 415-344-4425

13. **Miscellaneous.** To the extent not inconsistent with this Exhibit, Sections 8(a) and 21 of the Lease shall govern the performance of the Work and Landlord's and Tenant's respective rights and obligations regarding the improvements installed pursuant thereto.

D-4

EXHIBIT E

CONFIRMATION OF COMMENCEMENT DATE

_____, 200_

Re: Lease Agreement (the "**Lease**") dated _____, 200_, between **W2005 RPS REALTY, L.L.C.**, a Delaware limited liability company ("**Landlord**"), and **RIVERBED TECHNOLOGY, INC.**, a Delaware corporation ("**Tenant**"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Landlord and Tenant agree as follows:

1. **Condition of Premises**. Tenant has accepted possession of the Premises pursuant to the Lease. Any improvements required by the terms of the Lease to be made by Landlord have been completed to the full and complete satisfaction of Tenant in all respects and Landlord has fulfilled all of its duties under the Lease with respect to such initial tenant improvements. Furthermore, Tenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date**. The Commencement Date of the Lease is _____, 200_.

3. **Expiration Date**. The Term is scheduled to expire on the last day of the __th full calendar month of the Term, which date is _____, 200_.

4. **Contact Person**. Tenant's contact person in the Premises is:

Attention: _____
Telephone: ____-____-____
Telecopy: ____-____-____

5. **Ratification**. Landlord and Tenant hereby ratifies and confirms their respective obligations under the Lease.

6. **Binding Effect; Governing Law**. Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Landlord and Tenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

Sincerely,

*[PROPERTY MANAGEMENT COMPANY SIGNATURE
BLOCK]*, on behalf of Landlord

By: _____

Name: _____

Title: _____

Agreed and accepted:

[TENANT'S SIGNATURE BLOCK], a _____

By: _____

Name: _____

Title: _____

E-2

EXHIBIT F

FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned is the Tenant under the Lease (defined below) between _____, a _____, as Landlord, and the undersigned as Tenant, for the Premises on the _____ floor(s) of the office building located at _____, _____ and commonly known as _____, and hereby certifies as follows:

1. The Lease consists of the original Lease Agreement dated as of _____, 200_ between Tenant and Landlord[*s predecessor-in-interest*] and the following amendments or modifications thereto (if none, please state "none"):

The documents listed above are herein collectively referred to as the "**Lease**" and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on _____, 200_ and the Term expires, excluding any renewal options, on _____, 200_, and Tenant has no option to purchase all or any part of the Premises or the Building or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state "none"):

5. All monthly installments of Basic Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Basic Rent is \$ _____.

6. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

7. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's actual knowledge, claims or any basis for a claim, that the undersigned has against Landlord and to the undersigned's actual knowledge, no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease. The foregoing will not preclude Tenant from exercising any unexpired inspection rights in accordance with and subject to Tenant's compliance with Section 4(b)(6) of the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

12. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

Executed as of _____, 200__.

TENANT:

_____, a _____

By: _____

Name: _____

Title: _____

F-2

EXHIBIT G
FORM OF OFFER NOTICE

[Insert Date of Notice]

BY TELECOPY AND FEDERAL EXPRESS

Re: Lease dated _____ (the "Lease") between _____, a _____ ("Landlord"), and _____, a _____ ("Tenant"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Pursuant to the Right of First Offer set forth in the Lease, enclosed please find an Offer Notice on _____. The basic terms and conditions are as follows:

LOCATION:

SIZE:

_____ rentable square feet

BASIC RENT RATE:

\$ _____ per month

TERM:

IMPROVEMENTS:

COMMENCEMENT:

PARKING TERMS:

OTHER MATERIAL TERMS:

Under the terms of the Right of First Offer, you must exercise your rights, if at all, as to the Offer Space described in this Offer Notice within ten (10) days after Landlord delivers such Offer Notice. Accordingly, you have until 5:00 p.m. Pacific time on _____, 200_, to exercise your rights under the Right of First Offer and accept the terms as contained herein, failing which your rights under the Right of First Offer shall terminate and Landlord shall be free to lease the Offer Space to any third party. If possible, any earlier response would be appreciated. Please note that your acceptance of this Offer Notice shall be irrevocable and may not be rescinded.

Upon receipt of your acceptance herein, Landlord and Tenant shall execute an amendment to the Lease memorializing the terms of this Offer Notice including the inclusion of the Offer Space in the Premises; provided, however, that the failure by Landlord and Tenant to execute such amendment shall not affect the inclusion of such Offer Space in the Premises in accordance with this Offer Notice.

THE FAILURE TO ACCEPT THIS OFFER NOTICE BY (1) DESIGNATING THE "ACCEPTED" BOX, AND (2) EXECUTING AND RETURNING THIS OFFER NOTICE TO LANDLORD WITHOUT MODIFICATION WITHIN SUCH TIME PERIOD SHALL BE DEEMED A WAIVER OF TENANT'S RIGHTS UNDER THE RIGHT OF FIRST OFFER, AND TENANT SHALL HAVE NO FURTHER RIGHTS TO THE OFFER SPACE EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE LEASE. THE FAILURE TO EXECUTE THIS LETTER WITHIN SUCH TIME PERIOD SHALL BE DEEMED A WAIVER OF THIS OFFER NOTICE.

Should you have any questions, do not hesitate to call.

Sincerely,

[please check appropriate box]

ACCEPTED

REJECTED

_____, a _____

By: _____
Name: _____
Title: _____
Date: _____

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Jerry M. Kennelly, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Riverbed Technology, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. [Paragraph omitted in accordance with SEC Release 34-47986]
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 27, 2007

/s/ Jerry M. Kennelly

Jerry M. Kennelly
President and Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Randy S. Gottfried, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Riverbed Technology, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. [Paragraph omitted in accordance with SEC Release 34-47986]
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 27, 2007

/s/ Randy S. Gottfried
Randy S. Gottfried
Chief Financial Officer
(Principal Financial Officer)

Certification of Chief Executive Officer and Chief Financial Officer**Pursuant to 18 U.S.C. Section 1350,
as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

I, Jerry M. Kennelly, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Riverbed Technology, Inc. on Form 10-Q for the quarterly period ended June 30, 2007 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Riverbed Technology, Inc.

Date: July 27, 2007

/s/ Jerry M. Kennelly
Jerry M. Kennelly
President and Chief Executive Officer
(Principal Executive Officer)

I, Randy S. Gottfried, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Riverbed Technology, Inc. on Form 10-Q for the quarterly period ended June 30, 2007 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Riverbed Technology, Inc.

Date: July 27, 2007

/s/ Randy S. Gottfried
Randy S. Gottfried
Chief Financial Officer
(Principal Financial and Accounting Officer)

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to Riverbed Technology, Inc. and will be retained by Riverbed Technology, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. This certification “accompanies” the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.

Created by 10KWizard www.10KWizard.com