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HUGHES Telematics, Inc.

Form 424B3

March 16, 2011

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Filed Pursuant to Rule 424(b)(3)

File No. 333-164930

SUPPLEMENT NO. 8 TO PROSPECTUS DATED APRIL 16, 2010

THE DATE OF THIS SUPPLEMENT IS MARCH 16, 2011

On March 16, 2011, HUGHES Telematics, Inc. filed the attached Annual Report on Form 10-K with the Securities and Exchange Commission.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-K

- x **Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal year ended December 31, 2010, or**
- .. **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
Commission file number 001-33860

HUGHES Telematics, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	26-0443717 (I.R.S. Employer Identification Number)
2002 Summit Boulevard, Suite 1800 Atlanta, Georgia (Address of principal executive offices)	30319 (Zip Code)
Registrant's telephone number, including area code: (770) 391-6400	

Securities registered pursuant to Section 12(b) of the Act: none

Securities registered pursuant to section 12(g) of the Act:

Common Stock, par value \$0.0001

(title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes .. No x

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes .. No x

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 periods that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ..

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Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐

Accelerated filer ☒

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☐

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

The aggregate market value of the common stock held by non-affiliates of the registrant, as of June 30, 2010, was \$75,388,809. As of March 14, 2011, there were 94,103,976 shares of the registrant's common stock outstanding.

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PART I

Forward-Looking Statements

We believe that some of the information in this annual report on Form 10-K constitutes forward-looking statements within the definition of the Private Securities Litigation Reform Act of 1995. You can identify these statements by forward-looking words such as *may*, *expect*, *anticipate*, *contemplate*, *believe*, *estimate*, *intends* and *continue* or similar words. You should read statements that contain these words carefully because they discuss future expectations, contain projections of future results of operations or financial condition or state other forward-looking information.

We believe it is important to communicate our expectations to our stockholders. However, there may be events in the future that we are not able to predict accurately or over which we have no control. The risk factors and cautionary language contained in Item 1A. Risk Factors provide examples of risks, uncertainties and events that may cause actual results to differ materially from the expectations described by us in such forward-looking statements. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this annual report on Form 10-K. All forward-looking statements included herein are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable laws and regulations, we undertake no obligations to update these forward-looking statements to reflect events or circumstances after the date of this annual report on Form 10-K or to reflect the occurrence of unanticipated events.

You should be aware that the occurrence of the events described in Item 1A. Risk Factors herein could have a material adverse effect on us.

Item 1. Business.

Overview

We are a telematics services company that provides a suite of real-time voice and data communications services and applications for use in vehicles and are developing additional applications for use within and outside of the automotive industry. These services are enabled through a state-of-the-art communications center designed and built to connect various mobile devices with content, services and call centers. Our system architecture enables us to manage the integration of these components and the associated service delivery in an efficient manner, allowing us to quickly adopt and implement new technologies and services.

Within the automotive industry, our communications center allows for two way voice and data communications to the vehicle and supports, among other things, critical safety and security services as well as location-based services and remote diagnostics. Since November 16, 2009, we have been the exclusive telematics service provider in the United States for all new vehicles sold by Mercedes-Benz USA, LLC (Mercedes-Benz), and we are now the preferred provider of telematics services for all Mercedes-Benz vehicles purchased prior to November 16, 2009. These services are marketed under the mbrace® brand and are enabled through a factory-installed hardware device in Mercedes-Benz vehicles. In addition, our In-Drive® solution offers services to consumers and other third parties through an aftermarket hardware device that we have developed and which we intend to distribute through relationships with companies and organizations with large customer bases for installation in existing vehicles. In August 2010, we entered into an agreement with a leading automotive insurance company to provide our In-Drive telematics services to certain customers of the insurance company and are in active discussions with other distribution partners. Through Networkfleet, Inc. (Networkfleet), our wholly-owned subsidiary, we currently offer remote vehicle monitoring and other data services to support owners and operators of fleets of vehicles.

In May 2010, we broadened our connected services beyond the automotive market to include the mobile health and wellness industry with the formation of Lifecomm, LLC (Lifecomm), a majority owned subsidiary founded with QUALCOMM Incorporated (Qualcomm), a leader in developing and delivering innovative

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digital wireless communications products and services, and American Medical Alert Corp. (AMAC), a healthcare communications company dedicated to the provision of support services to the healthcare community. Lifecomm intends to design, develop, finance and operate a mobile personal emergency response service which will permit subscribers to initiate requests for emergency assistance services through a wearable device that is able to communicate information to and support voice interactions between the subscriber and an emergency assistance call center for purposes of dispatching first responders to the subscriber's location. We expect to launch the Lifecomm service offerings in the fourth quarter of 2011.

On March 31, 2009, pursuant to the terms of the Agreement and Plan of Merger dated June 13, 2008 (as amended and restated on November 10, 2008 and March 12, 2009, the Merger Agreement), Hughes Telematics, Inc. (Old HTI), a privately held company, and Polaris Acquisition Corp. (Polaris), a publicly held blank check company, consummated the merger (the Merger) whereby Old HTI merged with and into a wholly owned direct subsidiary of Polaris with Old HTI as the surviving corporation, and immediately thereafter, Old HTI merged with and into Polaris, with Polaris as the surviving corporation. In connection with the Merger, Polaris changed its name from Polaris Acquisition Corp. to HUGHES Telematics, Inc.

Automotive Service Offerings

We offer a comprehensive set of services that can be tailored to meet the needs of our customers and partners. Many of these services are being offered today through our relationship with Mercedes-Benz, while others are expected to be offered through our In-Drive service offering.

Safety and Security The safety and security services utilize certified emergency response specialists and the most accurate and up-to-date public safety answering point location data to provide peace of mind to a driver and other family members.

Services Offered or Under Development Include:

Automatic crash notification

SOS/Emergency calling

Roadside assistance

Stolen vehicle location assistance

Automatic alarm notification

Crisis assist

Navigation The navigation services leverage vehicle connectivity to offer services to more effectively route a driver to a destination.

Services Offered or Under Development Include:

Route assistance

Point-of-interest destination downloads

Location-based traffic

Location-based weather

Turn-by-turn navigation assistance

Convenience The convenience services are designed to provide customers with an enhanced ownership experience and assistance with vehicle interaction.

Services Offered or Under Development Include:

Remote door lock/unlock

Vehicle finder

Automated maintenance alerts

Concierge

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Diagnostics The diagnostics services allow customers to proactively manage the maintenance of their vehicles.

Services Offered or Under Development Include:

Maintenance/service reminders

Automated diagnostic alerts

Emissions monitoring

Recall information

Infotainment Infotainment (information and entertainment) services provide access to music and personalized information on demand.

Services Offered or Under Development Include:

Local information

Stock prices

Sports scores

RSS feed

News

Fuel prices

Social networking

System Architecture

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Our system architecture provides the ability to connect multiple devices, content and services from different providers and seamlessly manage the integration and service delivery. Our state-of-the-art communications center consists of a redundant pair of network operation centers, containing the hardware and associated applications, telephony and data network connections necessary to interface with mobile devices via the wireless carrier networks. An integrated suite of enterprise class applications and proprietary solutions have been configured to provide a robust, customizable platform to allow automakers and other future partners the ability to create customized service offerings that enhance and extend their brands. Our systems have been built and configured for rapid scalability using open standards to offer flexibility while providing for the capability to support millions of subscribers across multiple industries using multiple languages and currencies. This architecture allows us to adapt to new technologies quickly within the automotive industry, as well as allows us to expand our service offerings to other industries. Due to the public safety nature of many of our offerings, high availability of our systems is a primary requirement. Redundancy, fail-over and disaster recovery have been considered as each element (hardware, software and telecommunication) was designed and built.

Mercedes-Benz mbrace

On November 16, 2009, we launched our first automotive manufacturer service offering with Mercedes-Benz. This service offering is marketed by Mercedes-Benz under the mbrace brand. Mercedes-Benz mbrace services bring connectivity to Mercedes-Benz drivers and begin the process of allowing them to customize their in-vehicle experiences to fit their daily needs. Through the mbrace solution, we offer thirty nine features aggregated in the categories of safety and security, navigation and convenience. The services can be accessed quickly and easily from within the vehicle or from any computer through a personalized web portal. Additionally, with the launch of mbrace, we introduced the automotive industry's first connected mobile application allowing consumers to use several convenience features such as vehicle locate and door lock/unlock from certain smartphones. We continue to work with Mercedes-Benz to expand the mbrace service offering and expect to launch additional features during 2011 and beyond.

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In-Drive

We have leveraged our patent portfolio and technology infrastructure to create an aftermarket solution for consumers that we are marketing under the In-Drive brand and which we intend to distribute through relationships with companies and organizations with large customer bases for installation in existing vehicles. The In-Drive solution includes self-installed and dealer-installed hardware options, each designed to operate with our core system architecture and allow customers to experience many of the same connected benefits as vehicle owners with factory-installed telematics units. Through our In-Drive service offering, we intend to provide a broad range of applications, including usage-based insurance, vehicle diagnostics, emergency calling, stolen vehicle location assistance and driver behavior analysis.

In the second quarter of 2009, we launched a pilot program with a leading automotive insurance company using our In-Drive aftermarket hardware device to assess, develop and test a usage-based insurance program. The pilot program was eventually expanded to include more than 1,000 vehicles owned and operated by employees of the insurance company. In the third quarter of 2010, we executed a distribution agreement with the insurance company and expect commercial launch of the program to begin in the third quarter of 2011. Pursuant to the agreement, we will configure our telematics platform to support the program and provide our aftermarket hardware device to customers of the insurance company to enable the delivery of telematics services to both the insurance company and its customers. In addition, we will be responsible for, among other things, certain website development to allow the customers to access program information and maintenance and support of the hardware devices, including warranty.

Networkfleet

Through Networkfleet, we provide fleet operators with a vehicle management solution that includes remote vehicle monitoring and other data services through an aftermarket hardware device installed on existing vehicles. Networkfleet provides a fleet management solution which includes an easy-to-use automatic vehicle location and remote vehicle diagnostics system and is targeted to the approximately 20 million local market commercial fleet customers operating throughout North America. Networkfleet allows fleet managers to monitor driver performance for unauthorized/unsafe usage and improve operating efficiency by providing access to data such as the vehicle's current location, fuel consumption, mileage, emission compliance status, maintenance alerts and actual driving speed through custom mapping and reporting. For the years ended December 31, 2010, 2009 and 2008, Networkfleet generated revenues of approximately \$35.6 million, \$33.0 million and \$30.3 million, respectively.

Automotive Telematics Industry

Introduction

Since the mid-1990's in the United States, consumer awareness and demand have grown dramatically for in-car safety and security applications, navigation systems, diagnostics capabilities and various forms of infotainment integration. The demand for telematics has risen steadily over the past few years as a result of several factors in addition to growing consumer demand. Vehicle manufacturers are looking for solutions that provide connectivity to the car for diagnostics, inventory tracking and the eventual need to update the on-board computers. Regulatory agencies are placing more emphasis on diagnostics, emissions and traffic-based navigation solutions, each of which are significantly enhanced with telematics services. And finally, manufacturers see telematics as an opportunity to innovate by offering new services within the vehicle on a frequent basis without having to deploy new hardware or physically touch the car.

With domestic automakers increasingly seeking value-added services to attract car buyers, in-vehicle telematics solutions have been moving from a premium service in limited luxury models to a standard feature found in many vehicles. Industry analyst iSuppli Corporation (iSuppli) estimated that, in 2009, 30% of vehicles sold in the United States and 20% of vehicles sold globally had an embedded telematics device installed. iSuppli

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expected the United States market, with an estimated 60% of the world's telematics users, to grow at a compound annual growth rate of 17% as demand for telematics technology and services increases. ABI Research predicted that telematics capabilities will be standard in every vehicle sold in the United States by 2015.

Competitive Landscape

Telematics services providers compete directly for long-term telematics services relationships with automakers. Some of these solutions interface with embedded, or factory-installed, devices in the vehicle while others involve aftermarket products, such as personal navigation devices (PNDs) or tethered connectivity through a smartphone. As a general rule, factory-installed solutions offer a wider range of services given the integration within the vehicle. Other parties, such as wireless phone and other handheld device providers, offer limited services and products that partially overlap with the services provided by telematics companies.

Telematics Services Providers

Telematics services providers in the United States include OnStar, Wireless Car and ATX Group. Of these telematics service providers, OnStar, a wholly-owned subsidiary of General Motors, is the most well-known, with over 6 million subscribers in the United States, Canada and China. OnStar focuses its service offerings around safety and security applications, including roadside assistance, emergency help following an airbag deployment and stolen vehicle tracking. OnStar has also introduced additional services, such as stolen vehicle slow-down and remote vehicle diagnostics. We view OnStar's success as being supportive of the broader telematics market as it has increased consumer awareness and appreciation of telematics services and illustrates the consumer's willingness to pay monthly subscription fees for the services provided. Additionally, General Motors has been vocal about the internal benefits OnStar provides the General Motors engineering teams, resulting in significant annual savings, and thereby encouraging other automakers to consider adding telematics capabilities to their vehicles. OnStar's advertising support for its solutions has produced almost 100% recognition of the OnStar brand among new car buyers in the United States. Although OnStar offers similar services to ours, it largely offers its services only to owners and lessees of vehicles sold by General Motors and therefore has not historically competed directly with us for telematics services contracts from other automakers. In press reports, OnStar executives have indicated that OnStar is exploring offering its services to other vehicle manufacturers. In addition, in January 2011, OnStar announced that it would launch a consumer oriented aftermarket product to be distributed through retail channels.

ATX Group, which was acquired by Cross County in 2008, currently provides services to Toyota, BMW, Mercedes-Benz (vehicles sold in the United States prior to November 16, 2009 or in Canada), PSA Peugeot Citroen and Rolls-Royce Motor Cars. Mercedes-Benz terminated its contract with ATX Group, effective on November 15, 2009. Starting on November 16, 2009, we became the provider to all new Mercedes-Benz vehicles manufactured for the United States market, and we are now the provider of choice for all Mercedes-Benz customers who purchased their vehicle prior to November 16, 2009.

Aftermarket Fleet Telematics Services Providers

There are over 75 aftermarket telematics suppliers that provide GPS tracking capabilities for fleets of vehicles. The market is segmented based on the type of fleet and the type of functionality required. These segments include, among others, long-haul trucking, service vehicles, municipalities, construction, school bus and emergency service vehicles. The suppliers range from Qualcomm, which is a major supplier to long haul truck fleets, to numerous small suppliers with simple web applications and no intellectual property. Networkfleet is one of the largest suppliers that serve the local fleet market, which includes cars, light-duty trucks and heavy-duty trucks. Our major competitors for aftermarket fleet telematics services are Trimble Mobile Resource Management, Fleetmatics, Discrete Wireless and Teletrac.

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Overlapping Services and/or Products

Various services and/or products overlap and consequently indirectly compete with telematics services. Such services and/or products include connected navigation systems, mobile communications, such as cellular telephones and PDAs, and providers of factory-installed, in-vehicle communications and entertainment systems.

Services

We offer a comprehensive suite of service applications that will allow us and third parties with which we have strategic relationships to achieve market differentiations. We offer consumer services directly to end-user consumers and to fleet operators, automakers, dealers, the insurance industry, location-based advertisers and users of traffic probe data through our enterprise service offerings.

Consumer Service Offerings

We intend to offer five categories of consumer service offerings: safety and security, navigation, convenience, diagnostics and infotainment. We launched our initial consumer service offering on November 16, 2009 with safety and security applications, including automatic crash notification, emergency calling, stolen vehicle location assistance and remote door unlock/lock as the core service set. Our current consumer service offering also includes both premium services such as voice delivered traffic information, point of interest and destination downloads into on-board navigation systems, concierge services, as well as a mobile application for iPhones and certain other smartphones that enable subscribers, through their smartphones to, among other things, lock/unlock their vehicle doors, locate their vehicle, manage their mbrace account, contact Mercedes-Benz roadside assistance and view the contact information for their preferred dealers. Additional consumer services are being actively developed by us or our partners and are expected to launch within the next 12 months.

Safety and Security. Our products are anchored by traditional safety and security features, including automatic crash notification, emergency calling, stolen vehicle location assistance, roadside assistance, tripped alarm notification, emergency messaging and emergency management. Through an emergency call relay center operated by our partner, Intrado Inc., we utilize trained emergency response specialists that are certified by the Association of Public-Safety Communications Officials and National Emergency Number Association and have direct public safety experience as firefighters, emergency medical technicians or police officers.

Navigation. We utilize our connectivity to the vehicle to offer unique combinations of off-board server-based and vehicle-based navigation services, including the ability for the vehicle owner to download destinations and other points of interest into the vehicle's navigation system from third party websites and operator provided route assistance. To complement traditional navigation features such as turn-by-turn directions, we expect to create several personalized navigation features to enhance the customer navigation experience such as the integration of real-time traffic data, a comprehensive list of up-to-date points of interest, geo-tagging and preferred daily routes.

Convenience. Our convenience services provide the vehicle owner an enhanced ownership experience and assistance in interacting with his or her vehicle. These services currently include access to 24-hour concierge services. Future offerings are expected to include personal calling using the embedded cellular phone, Bluetooth enabled hands-free calling, hands-free audible e-mail, family locate/geo-fencing.

Diagnostics. Our diagnostics services are planned to allow the vehicle owner to manage the maintenance and care of the vehicle proactively, saving time and money in the future. These services include systematic communications regarding status of vehicle systems, maintenance reminders, recall notifications, interactive user manuals, online diagnostic analysis, engine check emails and the ability for the vehicle owner to contact his or her preferred service location to schedule maintenance. In addition, we are working with regulators to develop a remote emissions program that would continuously check emissions metrics and notify the vehicle owner if the vehicle is not compliant, improving not only the health of the vehicle but also the environment. The United

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States Environmental Protection Agency and Department of Energy figures indicate that as many as 10% of vehicles in the United States are out of compliance with emissions standards, suggesting that the potential benefits of achieving 100% compliance could result in annual savings of as much as 6 billion gallons of gasoline, or 300 million barrels of oil equivalent to reducing consumption in the United States by as much as 4%. At today's prices, the cost savings exceed \$20 billion per year as well as eliminate over 10 million tons of greenhouse gasses and pollutants, up to 10% of today's North American pollution emissions. This service is offered on a limited basis today to Networkfleet's fleet customers in California.

Infotainment. We plan to combine information and entertainment into a suite of services which provide access to customized and location-specific information, such as sports, weather, news, gas price, traffic information, media commerce and social networking. Via Bluetooth, a USB port or our web portal, we intend to allow a vehicle owner to synchronize data from an MP3 player, a PDA, cell phone or other similar device with the vehicle which allows for access to stored music, address books, calendars and email.

Enterprise Service Offerings

We currently expect to support enterprise offerings to six key categories of users: fleet operators, automakers, automotive dealerships, the insurance industry, location-based advertising and users of traffic probe data.

Fleet Operators. Through Networkfleet, we provide an aftermarket wireless fleet management solution, including an easy-to-use automatic vehicle location and remote vehicle diagnostics system. Networkfleet targets the North American local fleet market, a market of approximately 20 million commercial vehicles that is largely composed of small fleets. Networkfleet's main product allows fleet managers to cost effectively monitor driver performance for unauthorized/unsafe usage, as well as data such as current location, fuel consumption, mileage, emission status, and actual driving speed through custom mapping and reporting. Through our relationships with automakers to factory-install hardware devices in their vehicles, we expect to increase our penetration of the local fleet market by leveraging Networkfleet's brand and expertise to sell similar services which can be activated over the air without the need for installation of aftermarket hardware.

Automakers. We believe that the value proposition to the automaker comes in many forms: product differentiation through innovative technology, connectivity to vehicles, remote quality and diagnostic capabilities and improved tools for better customer and vehicle management. We intend to work with our automaker partners to identify cost savings opportunities using real-time data collected from vehicles. The collection of real-time diagnostic information from vehicles is considered by automakers to provide valuable insight on the performance of numerous vehicle systems and parts allowing the automaker to improve the quality of its vehicles more efficiently than is possible today. Furthermore, as we provide connectivity with the vehicle's local area network that supports communication among other vehicle control units (i.e., CAN bus systems), we expect to be able to support an automaker's upgrade of vehicle software, avoiding costly recalls and without the consumer having to bring the vehicle into a dealership. We intend to also offer tools to maintain contact with the vehicle owner through our service offerings, web portal and smartphone application, which will help the automaker sustain its relationship with the customer following the lease or purchase of a vehicle.

Dealers. We intend to provide dealers with numerous revenue and cost savings opportunities. Using location tracking assistance leveraging data from either a factory-installed telematics device or our In-Drive aftermarket hardware device, dealers will be able to track their vehicle inventory and guard against theft, thus reducing insurance costs. Real-time diagnostic information is expected to enable dealers to be proactive in contacting vehicle owners, subject to a vehicle owner's prior consent, regarding preventative maintenance before a more costly problem arises. Furthermore, dealers are expected to be able to manage the schedule of their service bays more efficiently as issues can be diagnosed prior to the arrival of the vehicle. Early diagnosis of problems also allows for more efficient parts inventory management as items necessary for upcoming

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maintenance requests can be ordered in advance. Also, similar to the automaker, dealers are expected to be able to leverage our access to the customer and communicate with the vehicle owner via our web portal and smartphone application.

Insurance Industry. The insurance industry has long considered usage-based or pay as you drive insurance as an area of promise. Today, several leading automotive insurance providers are developing products that offer dynamic rating as a function of the vehicle owner's driving behavior incorporating characteristics such as miles driven, speed, sudden starts and stops, time of day and location. To this end, we have contracted with a leading automotive insurance company to assess, develop and test a usage-based insurance program. In the second quarter of 2009, we launched a pilot program with this insurance company using our In-Drive aftermarket hardware device. The pilot program was expanded to include more than 1,000 vehicles owned and operated by employees of the insurance company. In the third quarter of 2010, we executed a distribution agreement with the insurance company and expect commercial launch of the program in the third quarter of 2011.

Traffic Probe Data Users. We believe that, through Networkfleet, we are currently one of the largest providers of real-time traffic probe data on the market today. Three of the leading traffic data aggregators currently purchase our probe data as an input for their real-time and predictive traffic information products offered nationwide. As our installed vehicle base grows, we expect to have the most accurate source and network of real-time GPS probe data on the market, greatly enhancing data collected via helicopters, government sensors or other secondary tools. We expect this data to be sold to third parties for their traffic products as well as be incorporated into our own navigation product.

Automaker Relationships

At present, nearly all automobile manufacturers selling vehicles in the United States are considering implementing, or have plans to implement, a telematics solution. The underlying factors driving this interest by automakers are emerging customer demand, the potential for product differentiation and the awareness of numerous benefits to the automaker and its dealers in the form of cost savings and customer relationship tools. We currently have a long-term contract with Mercedes-Benz to be its exclusive telematics service provider for all new vehicles leased or sold in the United States beginning on November 16, 2009, and we are now the preferred provider of telematics services for all Mercedes-Benz vehicles leased or sold prior to November 16, 2009. We are pursuing opportunities with many of the other automakers serving the United States market, other than General Motors (the parent corporation of OnStar).

Until the second quarter of 2009, we also had a contract to be the telematics service provider in the United States for Chrysler LLC, now known as Old Carco LLC (Old Chrysler). On April 30, 2009, Old Chrysler filed for bankruptcy protection under Chapter 11 of the United States bankruptcy code. On June 10, 2009, substantially all of Old Chrysler's assets were sold to Chrysler Group LLC (New Chrysler), a group whose members include Italian automaker Fiat SpA, the United Auto Workers union and the United States government. At a hearing held on July 16, 2009, Old Chrysler rejected certain contracts, including our telematics services contract with Old Chrysler, and therefore, our contract was terminated. We had been in negotiations with New Chrysler concerning a new telematics services agreement. However, the parties reached an impasse in the negotiations, and as a result, we discontinued working with New Chrysler to deploy our hardware and launch our services as previously planned.

Mercedes-Benz Agreement

Telematics Services

Under our agreement with Mercedes-Benz, we provide telematics services under the mbrace brand to all new Mercedes-Benz vehicles sold or leased in the United States market. In addition, as Mercedes-Benz's preferred provider of telematics services, we are working with Mercedes-Benz to provide the opportunity for paying subscribers to the Mercedes-Benz service formerly marketed as TeleAid who purchased or leased their

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vehicle prior to November 16, 2009 to transition to our service platform, although such decision is at the subscriber's option. We also have the ability to sell services to owners of Mercedes-Benz vehicles purchased or leased prior to November 16, 2009 which are capable of receiving telematics services but who do not presently subscribe for any service.

Under the mbrace brand, we provide safety and security services, remote door lock and unlock, electronic operator manuals, automatic alarm notification, direct voice connection to a preferred dealer, direct voice connection to Mercedes-Benz, automatic maintenance calls and premium services such as voice delivered traffic information, point of interest and destination downloads into on-board navigation systems and concierge services. In addition, we launched a mobile application for iPhones and certain other smartphones that enables purchasers of most new Mercedes-Benz vehicles as well as many legacy customers who subscribe to our mbrace service, through their smartphones, to lock and unlock their vehicle doors; locate their vehicle; view their mbrace account information; contact Mercedes-Benz roadside assistance, the mbrace response center and Mercedes-Benz Financial's client care center; search for local Mercedes-Benz dealers; and view the contact information for their preferred Mercedes-Benz dealer. Subject to the consent of Mercedes-Benz, we will also be able to provide additional approved services. We will be required to provide our services to end-use consumers in accordance with specified standards and service levels. The agreement also allocates between us and Mercedes-Benz certain costs and expenses related to the provision of telematics services to end-use consumers.

Termination

Our agreement with Mercedes-Benz is scheduled to expire on June 16, 2016. Under the agreement, Mercedes-Benz may terminate the agreement with us upon the substantial breach of any of our material obligations, including the failure to satisfy certain customary automotive developmental milestones to the extent we are providing hardware to Mercedes-Benz and to maintain certain minimum service level standards. The service level standards under the agreement relate primarily to limitations on how timely our call center agents answer calls from vehicles. As these service level standards are in line with service levels currently maintained by our call center partners, management believes that we will be able to meet or exceed such requirements. Upon the expiration or termination of the agreement, we will retain the ability to continue to provide telematics services to certain then current subscribers and may renew and enter into new subscription agreements with certain other end-use consumers.

Subscriptions

Under our agreement with Mercedes-Benz, we are responsible for entering into subscription agreements with, and the billing of, vehicle owners. We are required to institute reasonable or specified protocols with regard to the telematics services we provide end-use consumers. Our agreement with Mercedes-Benz additionally allocates the responsibilities for setting and distributing the proceeds from end-use consumer subscriptions fees between the parties.

Vehicle and Subscriber Data

Under our agreement with Mercedes-Benz, the obligation to provide, and the rights to receive and use, vehicle and subscriber data are allocated between the parties. The agreement also provides for end-use consumer consent for the transmission of vehicle and subscriber data between the parties and from the parties to third parties.

Intellectual Property, Trademarks, Indemnification Rights, Required Insurance and Audit Rights

Under our agreement with Mercedes-Benz, the ownership of intellectual property developed during the term of the agreement is allocated between the respective parties and each party agrees to respect the trademarks of the other party. The agreement also imposes specific indemnification obligations between the parties, requires us to maintain certain insurance policies and provides certain audit rights.

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Lifecomm

In May 2010, we broadened our connected services beyond the automotive market to include the mobile health and wellness industry with the formation of Lifecomm, a majority owned subsidiary founded with Qualcomm and AMAC. Lifecomm intends to design, develop, finance and operate a mobile personal emergency response service which will permit subscribers to initiate requests for emergency assistance services through a wearable device that is able to communicate information to and support voice interactions between the subscriber and an emergency assistance call center for purposes of dispatching first responders to the subscriber's location. Lifecomm expects to launch its service offerings in the fourth quarter of 2011 through a Value Added Reseller Agreement with AMAC. Lifecomm is in active discussions with other potential distribution partners and also expects to pursue a direct to consumer distribution strategy.

Unlike previous generations of personal emergency response systems which utilize a customer's landline telephone, the Lifecomm device operates on a cellular network which allows the service to work when the customer is outside of the home. The solution will consist of a wearable lightweight device which can be worn as a watch, pendant or belt clip and will provide users with a convenient, one-button connection to an emergency assistance call center. Inside the device, a cellular modem will enable wireless voice and data communications and embedded GPS combined with other sensors will enable location-based tracking and monitoring of the person wearing the device. A personalized web portal for the user and/or caregiver will provide access to information about user activity and location.

Lifecomm LLC Agreement

Under the terms of the limited liability company agreement governing Lifecomm (the "LLC Agreement"), each of the initial members provided cash and/or immediate and future in-kind contributions to Lifecomm. Specifically, in exchange for approximately 54% of the membership interests of Lifecomm, we entered into (i) an Infrastructure Access Agreement with Lifecomm pursuant to which we will provide access to our telematics platform and infrastructure which will enable Lifecomm to provide service to its customers and (ii) a Services Agreement with Lifecomm pursuant to which we will provide, over the next six years, \$10.9 million of in-kind selling, general and administrative services to support the venture. In addition, we agreed to enter into a Telematics Services Agreement that will include, among other things, a per user per month fee for wireless connectivity, billing, portal access and other associated services. In exchange for approximately 36% of the membership interests, Qualcomm (i) provided \$6.0 million of cash, (ii) entered into a Know-How License Agreement pursuant to which Lifecomm licensed certain know-how previously developed by Qualcomm and also provided Lifecomm access to the LIFECOMM name and (iii) a Services Agreement with Lifecomm pursuant to which Qualcomm will contribute a portion of the value of certain future engineering and project management services, up to an agreed upon aggregate value. Finally, in exchange for approximately 10% of the membership interests, AMAC (i) provided \$4.0 million of cash and (ii) entered into a Value Added Reseller Agreement pursuant to which AMAC will be a preferred distributor of Lifecomm's products and services. In addition, pursuant to the LLC Agreement, each member agreed to fund its pro rata share of a \$2.0 million stand-by equity commitment for Lifecomm's benefit. Assuming Lifecomm draws the entire commitment, we will be required to provide approximately \$1.1 million of cash.

Lifecomm is governed by a board of directors which is comprised of three members designated by us, two members designated by Qualcomm and one member designated by AMAC. The LLC Agreement requires supermajority approval of the board of directors for certain actions, including, among other things, approval of the annual budget, increases in the capital of Lifecomm, issuances of convertible securities, debt obligations in excess of a certain threshold, certain investments and certain changes to Lifecomm's executive management team during the eighteen months following formation. The LLC Agreement requires supermajority approval of the members for certain actions, including, among others, modifications to the LLC Agreement, addition of other members, modifications to the distribution policy, specified capital events, entering into or terminating any agreement related to Lifecomm's intellectual property rights or the purchase or transfer of technology other than

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in the ordinary course of business, any winding-up dissolution or voluntary liquidation of Lifecomm (which in certain circumstances requires unanimous approval), an asset sale or other material disposition, certain transactions with affiliates, changes in the size of the board of directors and investments above a specified threshold outside of the ordinary course.

Each of the initial members have preemptive rights with respect to future issuances of securities by Lifecomm, as well as rights of first offer, drag-along rights and tag-along rights on transfers of securities by the other members. In addition, for a two year period beginning on May 12, 2014, any member (or group of members) holding at least 25% of the membership interests in Lifecomm will have the right to demand either an auction for the sale of Lifecomm or an initial public offering of Lifecomm. Should Lifecomm fail to achieve either of these liquidity events within 180 days of the demand, then to the extent at such time we hold at least 50% of the outstanding membership interests of Lifecomm and have publicly traded common stock, each other member will be entitled on a one-time basis to exchange all of its membership interests in Lifecomm for shares of our common stock.

Research and Development

For the years ended December 31, 2010, 2009 and 2008, we incurred research and development expenses of approximately \$11.6 million, \$30.5 million and \$33.6 million, respectively. Additionally, for the years ended December 31, 2010, 2009 and 2008, we capitalized approximately \$3.4 million, \$14.3 million and \$13.3 million of software development costs which, as the software is ready for its intended use, is amortized over the expected useful life of the software. Through the year ended December 31, 2009, these research and development expenditures relate primarily to the development of our factory-installed telematics solution, including the development of the network operation center, factory-installed hardware devices and other back office systems. During the year ended December 31, 2009, we ceased development of factory-installed devices. Our current research and development expenditures relate primarily to the creation of new applications for the mbrace and In-Drive service offerings, the engineering of new generations of our In-Drive and Networkfleet aftermarket hardware devices and the design of the first generation Lifecomm wearable devices.

Intellectual Property

We have established a strong intellectual property portfolio of patents and pending patents addressing a broad range of services. Key patents in the portfolio cover both the methods and processes of wireless communications from the vehicle for diagnostics, emissions performance and fuel economy, as well as technology that connects to the vehicle's on-board diagnostic connector (for aftermarket installations) to accomplish the same. We believe that portions of the portfolio in both the vehicle diagnostics and emissions areas are particularly strong and that those patents may be a meaningful source of revenue, a barrier to entry for other service providers in these areas, or provide cross-licensing opportunities with competitors. We have 22 issued patents and 41 pending patent applications. Of the pending applications, the patent office has allowed one of them. We may be required to protect our intellectual property rights from the unauthorized use by others or may have these rights challenged, invalidated or circumvented.

Approach to Privacy

Our approach to privacy is critical to our ability to gain customer acceptance of our services, while also enabling us to monetize certain of the data that is collected. Our customers, and in particular the consumers and automakers, are sensitive to certain types of information that the system will be able to access. We have retained outside privacy experts to ensure that privacy policies provide our consumers and strategic relationships with the highest level of confidence that customer privacy is maintained, while also permitting the customer, we and our strategic partners to monetize the value of such a data stream. As part of the subscription process, we require consumers to provide us and our automakers with broad rights to data, other than customer personally identifiable information (CPII), in order to subscribe. The processes are designed to ensure that sensitive information such as any CPII is highly secure, separate and cannot be associated with the vehicle data that is

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collected, unless a specific and separate authorization has been given by the consumer. Similarly, many types of quality and safety information relating to vehicles, to which automakers are acutely sensitive, is similarly accorded the highest level of security, and we expect to be a conduit for providing such data to automakers, rather than collecting it directly, unless otherwise requested specifically by the automaker.

Employees

As of December 31, 2010, we had a total of 316 employees. We believe relations with employees are good, and no employees are represented by a union. Generally, our employees are retained on an at-will basis; however, we have entered into employment agreements with certain key employees.

Item 1A. Risk Factors. Risks Relating to Our Business

To date, we have generated only net losses.

From January 9, 2006 (inception) to December 31, 2010 and for the year ended December 31, 2010, we incurred a net loss of approximately \$345.2 million and \$87.9 million, respectively, and used cash in operations of approximately \$137.8 million and \$25.1 million, respectively, in connection with the development and operation of our telematics system and the operations of our Networkfleet and Lifecomm subsidiaries. As a result of our historical net losses and our limited capital resources, our independent registered public accounting firm's report on our financial statements as of and for the year ended December 31, 2010 includes an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern. As of December 31, 2010, we had unrestricted cash, cash equivalents and short-term investments of approximately \$16.9 million and an accumulated deficit of approximately \$445.5 million. Of our consolidated cash, cash equivalents and short-term investments, approximately \$9.3 million is held by our Lifecomm subsidiary for use in that business. We believe that our cash, cash equivalents and short-term investments on hand, including the \$10.0 million raised in February 2011 through the sale of common stock in a private placement and the issuance of incremental second lien term indebtedness, and the projected cash flows to be generated by our service offerings to Mercedes-Benz vehicles and sales of our In-Drive and Lifecomm products and services, will allow us to continue operations beyond the next twelve months. Since we launched our service offerings to Mercedes-Benz vehicles less than a year and a half ago and expect to launch our In-Drive and Lifecomm products and services later this year, some or all of the assumptions underlying our projections may prove to be materially inaccurate. If so, we cannot assure you that our net losses and negative cash flow will not surpass our expectations, and thus, we may be required to raise additional capital in the future or to reduce our operating expenditures. We have been successful in the past raising capital to address our liquidity needs; however, there is no assurance that we will be successful in the future in obtaining additional financing, if needed, or that we will be able to reduce our operating expenditures. If such additional capital is required and if we are unsuccessful in obtaining additional financing, the value of your investment in our common stock will be adversely affected.

During the year ended December 31, 2010, we began generating significant revenue from our service offerings for vehicles with factory-installed hardware and have not yet generated substantial revenue from our In-Drive or Lifecomm service offerings.

Prior to the year ended December 31, 2010, substantially all of our revenues were earned through the sale of Networkfleet's products and services, and only nominal revenues had been generated from services enabled by factory-installed telematics devices. During the year ended December 31, 2010, we began growing the number of vehicles on our telematics system from our service offerings for Mercedes-Benz vehicles with factory-installed hardware. In addition, we expect to commence commercial launch of our In-Drive aftermarket products and service offering and our Lifecomm products and service offerings later this year. Our ultimate profitability is tied to the success of these efforts. We cannot assure you that we will build our subscriber base in a cost effective or timely manner or enter into additional distribution agreements which will generate material sales of either our

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In-Drive or Lifecomm products and service offerings to allow us to successfully generate sufficient revenues to operate profitably. If we fail to do so, our business will be materially and negatively impacted.

Our success depends on the success of Mercedes-Benz with which we have a strategic relationship.

Our service offerings for vehicles with factory-installed hardware are necessarily tied to having relationships with automakers and the success of those automakers. We currently only have a contract with one automaker, Mercedes-Benz, to deliver services to factory-installed telematics devices and have not yet launched either our In-Drive or Lifecomm service offerings. To the extent Mercedes-Benz decreases the volume of vehicles they manufacture for the domestic market, we will have a smaller addressable customer base. We cannot control the decisions of Mercedes-Benz or any other automaker with which we develop a strategic relationship regarding how many vehicles they manufacture or what lines, if any, they cease manufacturing in the face of general economic conditions, market pressures or internal financial demands. A significant decrease in actual production in the future by Mercedes-Benz may have a material and negative impact on our business.

Our key service agreement is with Mercedes-Benz and is subject to numerous risks, including early termination and prolonged reduction in production volume. There can be no assurances we will execute a telematics services contract with an additional automaker which could adversely affect our growth prospects.

We currently have a service agreement to provide our telematics solution to Mercedes-Benz vehicles leased or sold in the United States and expect to generate significant future revenues from this agreement. We have a long-term contract with Mercedes-Benz pursuant to which it has agreed to support the installation of telematics devices in its vehicles and permit us to exclusively provide telematics services to its new customers. If we are unable to meet the performance requirements of the contract and subsequently lose the Mercedes-Benz relationship, it would have a material adverse impact on our business and prospects. If Mercedes-Benz materially lowers its production volume for a prolonged period of time and we did not obtain additional customers or offsetting sources of revenue, our growth prospects would be materially harmed. Our prospects and future revenues may be negatively impacted by a prolonged contraction of demand for the vehicles produced by Mercedes-Benz. If we do not sign an additional agreement with another automaker or do not establish additional lines of business or otherwise expand our existing business, our growth prospects could be materially adversely affected.

Our business and growth may be significantly impacted by events in the overall global economy. Automakers, particularly United States automakers, are facing significant financial and structural challenges, and the automotive industry in general is undergoing a period of reorganization, the effects of which are difficult to predict.

A significant portion of our business and growth depends on the willingness of automakers to install a hardware device in their vehicles which support our service offerings. The business and the results of the automotive industry are tied to industry and general economic conditions. The global economic recession and related turmoil in the global financial system has had and will continue to have an impact on the business and financial condition of automakers. Global economic events and conditions could have a material adverse impact on automakers with which we have a contract or may enter into a contract, causing them to fail to meet their obligations to us. Also, we are subject to the risks arising from changes in legislation and government regulation associated with any such recession or economic slowdown. Any of these events could negatively impact our business, results of operations and financial condition.

We must meet minimum levels of service.

Our agreement with Mercedes-Benz requires us to maintain certain minimum service level standards. The agreement may be terminated by Mercedes-Benz upon a material breach by us, including upon our failure to

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satisfy such service levels. To the extent we fail to meet our material obligations under the contract and it is terminated, our business and prospects would be severely impaired.

Competition for telematics services contracts with automakers is significant.

While we have an exclusive relationship with Mercedes-Benz to provide specified telematics services to new vehicles manufactured by Mercedes-Benz for the United States market, competition for new contracts to provide services similar to our services is significant. Certain of our current and potential competitors, including OnStar, could also have significantly greater name recognition and financial, marketing, management and other resources than we do. They may be able to respond more quickly to changes in customer preferences or devote greater resources to developing and promoting their service offerings. We cannot guarantee that we can maintain our competitive position relative to our current and potential competitors, especially those with greater financial, marketing, management and other resources than we have. If we cannot maintain our competitive position, our growth prospects could be materially adversely affected.

Competition for subscribers could negatively affect our business.

Indirectly, certain of our services compete with services provided by wireless devices such as cellular telephones and carriers of mobile communications, as well as aftermarket telematics providers. As wireless providers in the U.S. market complete their service build-out for location-based services, this competition may increase significantly or could jeopardize the commercial viability of certain of our services. Consumers may opt for certain services offered by wireless carriers, such as navigation, rather than those offered by us. In addition, while we are the exclusive telematics services provider to Mercedes-Benz for all new Mercedes-Benz vehicles sold in the United States, we currently compete with the incumbent service provider, ATX Group, for certain Mercedes-Benz customers who purchased vehicles prior to the start of our contract. Although Mercedes-Benz supports us as the provider of choice for such customers, there can be no assurance that we will be successful in converting such customers to our service offering at the rates we expect or without incurring material additional costs.

We cannot assure you that automakers will expand service offerings beyond traditional telematics services or do so at the rates we expect.

The continued rate of integration of telematics into vehicles, including both traditional safety and security features, such as those we currently offer, and future service offerings, such as diagnostics, navigation with integrated traffic, convenience services and infotainment, is subject to uncertainty. The uncertainty concerning the rate of integration of both traditional and future telematics services stems from a number of issues including:

the relative early stage of the industry itself;

uncertainties regarding the longer-term appeal of telematics services; and

competitive uncertainties, including whether current or future consumer products will materially alter the industry.

Consumer products that are, or could become, direct competition for certain services include location-enabled cellular telephones; PDAs; navigation systems; factory-installed, in-vehicle communications and entertainment systems; and aftermarket telematics equipment.

As a result of these and other issues, automakers may limit the use of telematics services utilizing factory-installed devices to traditional safety and security services, or limit deployment of future services to select brands, models or pricing categories. If automakers do not integrate telematics programs into future automobiles, our business and growth prospects will suffer.

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Not all automakers should be regarded as prospects for strategic relationships, since some may resist outsourcing their telematics programs and others may not embrace our approach to telematics services.

Not all automakers will solicit the assistance of an outside service provider to perform the services component of their telematics programs and may decide instead to develop in-house telematics capabilities. If automakers in general, or potential automakers with which we are pursuing strategic relationships, in particular, conclude that the disadvantages of engaging a third-party service provider for assistance outweigh the advantages, our growth prospects will suffer. These automakers may resist using an outside telematics service provider such as us for a number of reasons, including:

the risks or perceived risks of providing third-party service providers with access to their proprietary technology or information;

a desire to retain control over all consumer-related functions;

concerns over the level of service to be expected from a third-party service provider and the ability to properly measure acceptable levels of service; and

a belief that the automaker maintains all of the infrastructure, personnel, systems and other resources necessary to manage the program internally.

For those automakers that do outsource telematics, not all will ultimately embrace our approach to telematics services. As a result, not all automakers should be regarded as prospects for strategic relationships.

We expect to launch our In-Drive products and service offering during the year ending December 31, 2011.

While we have performed extensive testing of our In-Drive product and services, we will not launch such products and services until the third quarter of 2011. The launch of the product and services involves logistical efforts and modifications to our systems that are new. Such efforts will place additional burdens on our personnel. There can be no assurances that such efforts and modifications will be satisfactory to our distribution partners or our customers. To the extent we fail to meet our material obligations under existing or future contracts with distribution partners and such contracts are terminated, our business and prospects would be severely impaired. Moreover, even if the contract is not terminated, if we fail to meet our distribution partners' or our customers' expectations, our distribution partners may reduce the future business they are willing to do with us, which could have an adverse impact on our prospects.

We expect to complete development, testing and launch of the Lifecomm device and service offering during the year ending December 31, 2011 and will not generate significant revenue from Lifecomm's service offerings until the year ending December 31, 2012.

To date, all of our revenues have been earned through automotive telematics. As part of our efforts to leverage our existing infrastructure outside of the automotive industry, we formed Lifecomm with Qualcomm and AMAC. Prior to Lifecomm generating any revenues, we have to complete development and testing of the Lifecomm device and launch the service offering which is currently expected in the fourth quarter of 2011. We cannot assure you that we will be successful in such effort. If we fail to do so, it may negatively impact our growth and future prospects.

Our business may be impaired if a third party infringes on our intellectual property rights.

Certain aspects of our service depend, in part, upon intellectual property that we have developed or will develop in the future. Monitoring infringement of intellectual property rights is difficult, and we cannot be certain that the steps we have taken will prevent unauthorized use of our intellectual property and technical know-how. If the intellectual property that we use is not adequately protected, others will be permitted to and may duplicate our service without liability. Others may also challenge, invalidate or circumvent our intellectual property rights, patents or existing sublicenses. In addition, some of the know-how and technology we have

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developed and plan to develop will not be covered by patents. Trade secret protection and contractual agreements may not provide adequate protection if there is any unauthorized use or disclosure. Other parties may have patents or pending patent applications which will later mature into patents or inventions which may block our ability to provide some of our services. We may have to resort to litigation to enforce our rights. This activity is expensive, and we may not succeed in any such litigation.

We may become involved in intellectual property or other disputes that could harm our business.

Third parties, including competitors, may already have patents on inventions, or may obtain patents on new inventions in the future, that could limit our ability to provide services in the future. Such third parties may claim that our products or services infringe their patent rights and assert claims against us. In addition, we have a *Classified Board of Directors*. Our board of directors is divided into three classes with staggered terms of office of three years each. The classification and staggered terms of office of our directors make it more difficult for a third party to gain control of our board of directors. At least two annual meetings of stockholders, instead of one, generally would be required to effect a change in a majority of the board of directors. *Removal of Directors*. Under Delaware law, directors that serve on a classified board, such as our directors, may be removed only for cause by the affirmative vote of the holders of at least a majority of the voting power of the outstanding shares of our capital stock entitled to vote. *Number of Directors, Board Vacancies, Term of Office*. Our certificate of incorporation and our bylaws provide that only the board of directors may set the number of directors. We have elected to be subject to certain provisions of Delaware law which vest in the board of directors the exclusive right, by the affirmative vote of a majority of the remaining directors, to fill vacancies on the board even if the remaining directors do not constitute a quorum. When effected, these provisions of Delaware law, which are applicable even if other provisions of Delaware law or the charter or bylaws provide to the contrary, also provide that any director elected to fill a vacancy shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred, rather than the next annual meeting of stockholders as would otherwise be the case, and until his or her successor is elected and qualifies. *Advance Notice Provisions for Stockholder Nominations and Proposals*. Our bylaws require advance written notice for stockholders to nominate persons for election as directors at, or to bring other business before, any meeting of stockholders. This bylaw provision limits the ability of stockholders to make nominations of persons for election as directors or to introduce other proposals unless we are notified in a timely manner prior to the meeting. *Amending the Bylaws*. Our certificate of incorporation permits our board of directors to adopt, alter or repeal any provision of the bylaws or to make new bylaws. Our bylaws also may be amended by the affirmative vote of our stockholders. *Authorized but Unissued Shares*. Under our certificate of incorporation, our board of directors has authority to cause the issuance of preferred stock from time to time in one or more series and to establish the terms, preferences and rights of any such series of preferred stock, all without approval of our stockholders. Nothing in our certificate of incorporation precludes future issuances without stockholder approval of the authorized but unissued shares of our common stock.

We could issue shares of preferred stock which could be entitled to dividend, liquidation and other special rights and preferences not shared by holders of our common stock or which could have anti-takeover effects.

We are authorized to issue up to 1,000,000 shares of preferred stock, which shares may be issued from time to time in one or more series as our board of directors, by resolution or resolutions, may from time to time determine. The voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations or restrictions thereof, if any, of each such series of our preferred stock may differ from those of any and all other series of preferred stock at any time outstanding, and, subject to certain limitations of our certificate of incorporation and Delaware law, our board of directors may fix or alter, by resolution or resolutions, the designation, number, voting powers, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof, of each such series of our preferred stock. The issuance of any such preferred stock could materially adversely affect the rights of holders of our common stock and, therefore, could reduce the value of our common stock.

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In addition, specific rights granted to future holders of preferred stock could be used to restrict our ability to merge with, or sell our assets to, a third party. The ability of our board of directors to issue preferred stock could discourage, delay or prevent a takeover of us, thereby preserving our control by the current stockholders.

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USE OF PROCEEDS

We intend to use all of the net proceeds from the sale of the offered securities to prepay a portion of our \$75.0 million second lien term loan dated March 14, 2011. The second lien term loan facility matures in September 2016 and interest is calculated on a variable rate. The present interest rate on the second lien term loan is 11%. We entered into the second lien term loan in connection with our refinancing of our previous credit facility.

The expenses of this offering and the fees of Knight will be paid from the proceeds of this offering.

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PLAN OF DISTRIBUTION

We have entered into an equity distribution agreement with KCA under which we may issue and sell up to \$25,000,000 of shares of our common stock from time to time through KCA as our sales agent. Sales of the shares of common stock, if any, may be made by means of ordinary brokers' transactions on the NASDAQ Capital Market at market prices and such other sales as agreed upon by us and KCA. As agent, KCA will not engage in any transactions that stabilize our common stock.

KCA, as agent, will use commercially reasonable efforts to solicit offers to purchase the shares of common stock upon receipt of a notice from us specifying the number of shares to be sold and such other matters as may be agreed upon by us and KCA. Subject to the terms and conditions of the equity distribution agreement, KCA will use commercially reasonable efforts to sell on our behalf all of the designated shares of common stock pursuant to the terms agreed to with us, including the number of shares to be offered in the placement and any minimum price below which sales may not be made. We or KCA may suspend the offering of shares of common stock by notifying the other. The obligation of KCA under the equity distribution agreement to sell shares pursuant to any notice is subject to a number of conditions, which KCA reserves the right to waive in its sole discretion.

KCA, in its capacity as agent, may arrange for or make sales in privately negotiated transactions, at the market in the existing trading market for our common stock, including sales made to or through a market maker or through an electronic communications network, or in any other manner that may be deemed to be an at the market offering as defined in Rule 415 promulgated under the Securities Act and/or any other method permitted by law.

We will pay KCA a \$75,000 facility fee within ten days after execution of the equity distribution agreement and a commission equal to 3% of the gross sales price of any such shares sold through it as agent, as set forth in the equity distribution agreement. We have also agreed to reimburse KCA for its reasonable out-of-pocket expenses, including reasonable legal fees up to \$125,000, as provided in the equity distribution agreement. The remaining sales proceeds, after deducting any expenses payable by us and any transaction fees imposed by any governmental or self-regulatory organization in connection with the sales, will equal our net proceeds for the sale of the shares. In compliance with guidelines of the Financial Industry Regulatory Authority, or FINRA, the maximum consideration or discount to be received by any FINRA member or independent broker dealer may not exceed 8% of the aggregate amount of the securities offered pursuant to this prospectus and any applicable prospectus supplement.

Settlement for sales of common stock will occur on the third business day following the date on which any sales are made in return for payment of the net proceeds to us. There is no arrangement for funds to be received in an escrow, trust or similar arrangement.

We will report at least quarterly the number of shares of common stock sold through KCA, as agent, in at-the-market offerings, the net proceeds to us and the compensation paid by us to KCA in connection with such sales of common stock.

During each period beginning with the date of any notice by us to sell shares and ending after the close of business on the purchase date for the shares referenced in the notice, we will not (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for such shares or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of such shares, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of shares or such other securities,

in cash or otherwise, without the prior written consent of KCA, other than the shares to be sold hereunder and any of our shares of common stock issued upon the conversion or exercise of any securities outstanding at the beginning of such period or any securities issued pursuant to stock-based compensation plans existing at the beginning of such period.

The offering of common stock pursuant to the equity distribution agreement will terminate upon the earlier of (i) the sale of all shares of common stock subject to the equity distribution agreement and (ii) the

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termination of the equity distribution agreement by either KCA or us in accordance with the equity distribution agreement.

In connection with the sale of the common stock hereunder, KCA may be deemed to be an underwriter within the meaning of the Securities Act of 1933, as amended, and the compensation paid to KCA may be deemed to be underwriting commissions or discounts. We have agreed to provide indemnification and contribution to KCA against certain civil liabilities, including liabilities under the Securities Act.

KCA may engage in transactions with, or perform other services for, us in the ordinary course of business.

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LEGAL MATTERS

McAfee & Taft A Professional Corporation, Oklahoma City, Oklahoma, will issue an opinion to us about certain legal matters relating to this offering and the common stock offered hereby. C. David Stinson is a shareholder with the law firm of McAfee & Taft A Professional Corporation and owns 500,000 shares of our common stock. Certain legal matters in connection with this offering will be passed upon for KCA by Morrison & Foerster, LLP, New York, New York.

EXPERTS

The consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus supplement and elsewhere in the accompanying prospectus have been so incorporated by reference in reliance upon the reports of UHY LLP, an independent registered public accounting firm, as set forth in their reports thereon and are incorporated in reliance upon such reports given on the authority of such firm, as experts in accounting and auditing.

Certain estimates of oil and natural gas reserves incorporated herein by reference were based upon engineering studies prepared by Forrest A. Garb & Associates, Inc., independent petroleum engineers. Such estimates are incorporated by reference herein in reliance on the authority of Forrest A. Garb & Associates, Inc. as an expert in such matters.

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PROSPECTUS

\$250,000,000

RAM Energy Resources, Inc.

**Senior Notes
Convertible Senior Notes
Common Stock
Preferred Stock
Warrants**

By this prospectus RAM Energy Resources, Inc. may from time to time offer senior notes, convertible notes, common stock, preferred stock and/or warrants.

This prospectus provides a general description of the securities we may offer. Supplements to this prospectus will describe the specific terms of the securities we actually offer. This prospectus may not be used to sell securities unless it is accompanied by a prospectus supplement that describes those securities.

We may sell these securities to or through underwriters, to other purchasers and/or through agents. The accompanying prospectus supplement will specify the names of any underwriters or agents.

Our common stock is quoted on the NASDAQ Capital Market under the symbol RAME.

The aggregate market value of our outstanding common stock held by non-affiliates is \$76,647,788, based on 77,967,554 shares of outstanding common stock, of which 38,323,894 are held by non-affiliates, and a per share price of \$2.00 per share based on the closing sale price of our common stock on January 12, 2010. We have not offered any securities pursuant to General Instruction I.B.6 of Form S-3 during the prior 12 calendar month period that ends on and includes the date of this prospectus.

Before you invest, you should carefully read this prospectus, any applicable prospectus supplement and any information under the heading Risk Factors.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is February 24, 2010

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**DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS
AND CAUTIONARY STATEMENTS**

This prospectus and the documents incorporated into this prospectus by reference include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, or the Exchange Act. All statements other than statements of historical fact included in or incorporated into this prospectus regarding our financial position, business strategy, plans and objectives of our management for future operations and capital expenditures are forward-looking statements. Although we believe that the expectations reflected in those forward-looking statements are reasonable, we cannot be sure that these expectations will prove to be correct.

Additional statements concerning important factors that could cause actual results to differ materially from our expectations are disclosed in this prospectus and in the documents incorporated into this prospectus. All forward-looking statements speak only as of the date of this prospectus. We do not intend to publicly update or revise any forward-looking statements as a result of new information, future events or otherwise.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf registration process, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total offering price of \$250,000,000 including the U.S. dollar equivalent of non-U.S. dollar offerings. The exhibits to our registration statement contain the full text of certain contracts and other important documents we have summarized in this prospectus. Because these summaries may not contain all the information that you may find important in deciding whether to purchase the securities we offer, you should review the full text of these documents. The registration statement and the exhibits can be obtained from the SEC as indicated under the heading **Where You Can Find More Information**.

This prospectus provides you with a general description of the securities we may offer. Each time we offer to sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read this prospectus, the applicable prospectus supplement and the additional information described below under the heading **Where You Can Find More Information**.

You should rely only on the information contained or incorporated by reference in this prospectus and in any prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making offers to sell or solicitations to buy the securities in any jurisdiction in which an offer or solicitation is not authorized or in which the person making that offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make an offer or solicitation. You should not assume that the information in this prospectus or any prospectus supplement, as well as the information we previously filed with the SEC that we incorporate by reference in this prospectus or any prospectus supplement, is accurate as of any date other than its respective date. Our business, financial condition, results of operations and prospects may have changed since those dates.

In this prospectus, **RAM Energy Resources**, **we**, **us**, and **our** mean RAM Energy Resources, Inc. and its subsidiaries. Unless otherwise stated, the dollar amounts contained in this prospectus and any accompanying prospectus supplement are presented in U.S. dollars.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC in accordance with the Exchange Act. Our SEC filings can be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549. In addition, these materials we filed electronically with the SEC are available at the SEC's World Wide Web site at <http://www.sec.gov>.

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The SEC's World Wide Web site contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. Information about the operation of the SEC's public reference facilities may be obtained by calling the SEC at 1-800-SEC-0330.

The SEC allows us to incorporate by reference the information we file with them, which means: incorporated documents are considered part of this prospectus; we can disclose important information to you by referring to those documents; and information we file with the SEC will automatically update and supersede this incorporated information.

We incorporate by reference the documents we have filed under Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, including those listed below:

Our Annual Report on Form 10-K, as amended, for the year ended December 31, 2008;

The portions of our definitive Proxy Statement on Schedule 14A for the Annual Meeting of Stockholders held on May 5, 2009 that have been incorporated by reference into our Annual Report on Form 10-K;

Our Quarterly Reports on Form 10-Q, as amended, for the quarters ended September 30, 2009, June 30, 2009 and March 31, 2009;

Our Current Reports on Form 8-K filed with the SEC on January 5, 2009, March 16, 2009, March 25, 2009, April 9, 2009, May 11, 2009, July 2, 2009, August 7, 2009, September 21, 2009, October 2, 2009, November 6, 2009 and December 1, 2009;

Any reports filed under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of this prospectus and prior to the termination of the offering made under this prospectus; and

The description of our common stock contained in our registration statement filed on Form 8-A-12G filed with the SEC on April 13, 2004, and any amendments or reports filed for the purpose of updating such description.

We will provide without charge to each person to whom a copy of this prospectus has been delivered, upon written or oral request, a copy of any or all of the documents referred to above that have been or may be incorporated in this prospectus by reference. Requests for copies should be directed to G. Les Austin, Chief Financial Officer, RAM Energy Resources, Inc., 5100 Skelly Drive, Suite 650, Tulsa, Oklahoma 74135, telephone (918) 663-2800.

RAM ENERGY RESOURCES, INC.

A summary of our business and operations is included in our Annual Report on Form 10-K, as amended, for the year ended December 31, 2008, which is incorporated herein by reference. Our offices are located at 5100 East Skelly Drive, Suite 650, Tulsa, Oklahoma 74135, and our telephone number is (918) 663-2800.

RISK FACTORS

Prior to making a decision to invest in our securities, you should carefully consider the risks discussed under the heading "Risk Factors" in Amendment No. 1 to our Annual Report on Form 10-K/A for the fiscal year ended December 31, 2008 (filed with the SEC on December 4, 2009) and in Amendment No. 1 to our Quarterly Report on Form 10-Q/A for the quarter ended September 30, 2009 (filed with the SEC on December 4, 2009), both of which are incorporated by reference into this prospectus. You should also consider similar information contained in any Annual Report on Form 10-K, Quarterly Report on Form 10-Q or other document filed by us with the SEC and incorporated

by reference into this prospectus after the date of this prospectus before deciding to invest in our securities. If applicable, we will include in any prospectus supplement a description of those significant factors that could make the offering described herein speculative or risky.

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**RATIOS OF EARNINGS TO FIXED CHARGES
AND TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS**

Our ratios of earnings to fixed charges and our ratios of earnings to combined fixed charges and preferred stock dividends were as follows for the periods indicated in the table below.

	Nine Months Ended September 30, 2009	2008	Years Ended December 31, 2007	2006	2005	2004
Ratio of Earnings to Fixed Charges(1)(2)	(4.54)(4)	(8.13)(5)	0.56	1.38	1.11	2.93
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends(1)(2)(3)	(4.54)(4)	(8.13)(5)	0.56	1.38	1.11	2.93

- (1) Earnings is calculated by adding (i) pretax income from continuing operations before adjustment to income from equity investees, (ii) fixed charges, (iii) amortization of interest capitalized, (iv) distributed income of equity investees, and (v) our share of pretax losses of equity investees for which charges arising from guarantees are included in fixed charges, and subtracting (x) interest capitalized, (y) preference security dividend requirements of consolidated subsidiaries, and (z) the minority interest in pre-tax income of subsidiaries that have not incurred fixed charges.
- (2) Fixed Charges is equal to the sum of (i) interest expensed and capitalized, (ii) amortized premiums, discounts and capitalized expenses related to indebtedness, (iii) an estimate of the interest within rental expense, and (iv) preference security dividend requirements of consolidated subsidiaries.
- (3) We have not paid any preferred stock dividends during the periods indicated.
- (4) Our earnings were insufficient to cover fixed charges by \$71.2 million during the nine months ended September 30, 2009.
- (5) Our earnings were insufficient to cover fixed charges by \$221.6 million during the year ended December 31, 2008.

USE OF PROCEEDS

Unless otherwise specified in a prospectus supplement accompanying this prospectus, we expect to use the net proceeds from the sale of our securities for general corporate purposes, which may include, among other things, reduction or refinancing of debt or other corporate obligations, the financing of capital expenditures, acquisitions and additions to our working capital.

The actual application of proceeds from the sale of any particular tranche of securities issued hereunder will be described in the applicable prospectus supplement relating to such tranche of securities. The precise amount and timing of the application of such proceeds will depend upon our funding requirements and the availability and cost of

other funds. We currently have no plans for a specific use of the net proceeds. Until we use the net proceeds from the sale of the securities for these purposes, we may place the net proceeds in temporary investments.

THE SECURITIES WE MAY OFFER

The descriptions of the securities contained in this prospectus, together with the applicable prospectus supplement, summarize all the material terms and provisions of the various types of securities that we may offer. The particular terms of the securities offered by any prospectus supplement will be described in that prospectus supplement. If indicated in an applicable prospectus supplement, the terms of the securities may differ from the terms summarized below. An applicable prospectus supplement will also contain information, where applicable, about material U.S. federal income tax considerations relating to the securities, and the securities exchange, if any, on which the securities will be listed.

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We may sell from time to time, in one or more offerings:

- (1) senior notes;
- (2) convertible notes;
- (3) common stock and related rights;
- (4) preferred stock; and
- (5) warrants.

This prospectus may not be used to sell securities unless it is accompanied by a prospectus supplement.

DESCRIPTION OF SENIOR NOTES

This section describes the general terms and provisions of the senior notes that we may issue. The applicable prospectus supplement will describe the specific terms of the senior notes offered through that prospectus supplement as well as any general terms described in this section that will not apply to those senior notes.

Any senior notes issued using this prospectus (Senior Notes) will be our direct unsecured senior obligations. The Senior Notes will be issued under an Indenture between us and a trustee chosen by us and qualified to act as a trustee under the Trust Indenture Act of 1939 (the Trustee).

We have summarized selected provisions of the Indenture below. The summary is not complete. The form of the Indenture has been filed with the SEC as an exhibit to the registration statement of which this prospectus is a part, and you should read the Indenture for provisions that may be important to you. In the summary below we have included references to article or section numbers of the Indenture so that you can easily locate these provisions. Whenever we refer in this prospectus or in the prospectus supplement to particular article or sections or defined terms of the Indenture, those article or sections or defined terms are incorporated by reference herein or therein, as applicable. Capitalized terms used in the summary have the meanings specified in the Indenture.

General

The Indenture provides that Senior Notes in separate series may be issued thereunder from time to time without limitation as to aggregate principal amount. We may specify a maximum aggregate principal amount for the Senior Notes of any series (Section 2.2). We will determine the terms and conditions of the Senior Notes, including the maturity, principal and interest, but those terms must be consistent with the Indenture.

The Senior Notes will rank equally with all of our other senior unsecured and unsubordinated debt. The Senior Notes will be subordinated in right of payment to all our secured indebtedness to the extent of the value of the assets securing such indebtedness whether existing at the date of the Indenture or subsequently incurred.

The applicable prospectus supplement will set forth the price or prices at which the Senior Notes to be offered will be issued and will describe the following terms of such Senior Notes:

- (1) the title of the Senior Notes;
- (2) any limit on the aggregate principal amount of the Senior Notes;

- (3) the dates on which the principal of the Senior Notes will mature;
- (4) the interest rate that the Senior Notes will bear and the interest payment dates for the Senior Notes or the method to determine each;
- (5) the place or places where payments on the Senior Notes will be payable;
- (6) any terms upon which the Senior Notes may be redeemed, in whole or in part, at our option;

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- (7) any provisions that would obligate us to repurchase or otherwise redeem the Senior Notes;
- (8) any addition to or change in the Events of Default;
- (9) whether the Senior Notes are convertible into our common stock, preferred stock or any of our other securities and, if so, the terms and conditions upon which conversion will be effected, including the initial conversion price or conversion rate and any adjustments thereto and the conversion period;
- (10) any addition to or change in the covenants in the Indenture; and
- (11) any other terms of the Senior Notes not inconsistent with the provisions of the Indenture .

Conversion Rights

The Senior Notes may be converted into other securities of our company, if at all, according to the terms and conditions of an applicable prospectus supplement. Such terms will include the conversion price, the conversion period, provisions as to whether conversion will be at the option of the holders of such series of Senior Notes or at the option of our company, the events requiring an adjustment of the conversion price and provisions affecting conversion in the event of the redemption of such series of Senior Notes.

Denomination, Exchange and Transfer

The Senior Notes of each series will be issuable, unless otherwise specified in the applicable prospectus supplement, only in denominations of \$1,000 and integral multiples thereof (Section 2.1).

You may present registered securities for registration of transfer, together with a duly executed form of transfer, at the office of the security registrar designated by us for that purpose with respect to any series of Senior Notes and referred to in the applicable prospectus supplement. This may be done without service charge but upon payment of any taxes and other governmental charges as described in the applicable prospectus supplement. The security registrar will effect the transfer or exchange upon being satisfied with the documents of title and identity of the person making the request. Unless we appoint another security registrar for the Indenture, the Trustee shall serve as security registrar for the Indenture. We can change the security registrar at any time without notice to the holders of the Senior Notes. We are required to maintain an office in the Borough of Manhattan in New York City, New York, where Senior Notes may be surrendered for registration or transfer (Section 4.2).

Global Notes

The Senior Notes of any series will initially be represented, in whole, by one or more global notes (the "Global Notes") that will have an aggregate principal amount equal to that of the Senior Notes they represent. Each Global Note will be registered in the name of a Depositary or its nominee identified in the applicable prospectus supplement, will be deposited with such Depositary or nominee or its custodian and will bear a legend regarding the restrictions on exchanges and registration of transfer thereof referred to below and any such other matters as may be provided for pursuant to the applicable Indenture. Global Notes will be issued in registered form and in either temporary or permanent form.

Notwithstanding any provision of the Indenture or any Senior Note described in this prospectus, no Global Note, unless its terms so expressly permit, may be exchanged in whole or in part for Senior Notes registered, and no transfer of a Global Note in whole or in part may be registered, in the name of any person other than the Depositary for such Global Note or any nominee of such Depositary unless:

(1) the Depositary has notified us that it is unwilling or unable to continue as Depositary for such Global Note or has ceased to be qualified to act as such as required by the Indenture, and in either case we fail to appoint a successor Depositary within 90 days; or

(2) we, at our option, notify the Trustee in writing that we elect to cause the issuance of notes in the name of persons other than the Depositary.

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All Senior Notes issued in exchange for a Global Note or any portion thereof will be registered in such names as the Depositary may direct (Section 2.6).

As long as the Depositary, or its nominee, is the registered holder of a Global Note, the Depositary or such nominee, as the case may be, will be considered the sole owner and Holder of such Global Note and the Senior Notes that it represents for all purposes under the Senior Notes and the Indenture (Section 2.1). Except in the limited circumstances referred to above, owners of beneficial interests in a Global Note will not be entitled to have such Global Note or any Senior Notes that it represents registered in their names, will not receive or be entitled to receive physical delivery of certificated Senior Notes in exchange for those interests and will not be considered to be the owners or Holders of such Global Note or any Senior Notes that it represents for any purpose under the Senior Notes or the Indenture. All payments on a Global Note will be made to the Depositary or its nominee, as the case may be, as the Holder of the security. The laws of some jurisdictions require that some purchasers of Senior Notes take physical delivery of such Senior Notes in definitive form. These laws may impair the ability to transfer beneficial interests in a Global Note.

Ownership of beneficial interests in a Global Note will be limited to institutions that have accounts with the Depositary or its nominee (participants) and to persons that may hold beneficial interests through participants. In connection with the issuance of any Global Note, the Depositary will credit, on its book-entry registration and transfer system, the respective principal amounts of Senior Notes represented by the Global Note to the accounts of its participants. Ownership of beneficial interests in a Global Note will be shown only on, and the transfer of those ownership interests will be effected only through, records maintained by the Depositary (with respect to participants interests) or any such participant (with respect to interests of persons held by such participants on their behalf). Payments, transfers, exchanges and other matters relating to beneficial interests in a Global Note may be subject to various policies and procedures adopted by the Depositary from time to time. None of us, any Trustee or any agent of ours will have any responsibility or liability for any aspect of the Depositary s or any participant s records relating to, or for payments made on account of, beneficial interests in a Global Note, or for maintaining, supervising or reviewing any records relating to such beneficial interests.

Payment and Paying Agents

Unless otherwise indicated in the applicable prospectus supplement, payment of interest on a Senior Note on any interest payment date will be made to the person in whose name such Senior Note is registered at the close of business on the regular record date for such interest (Section 4.1).

Unless otherwise indicated in the applicable prospectus supplement, principal of and any premium and interest on the Senior Notes of a particular series will be payable at the office of such paying agent or paying agents as we may designate for such purpose from time to time. Unless we appoint another paying agent for the Indenture, the Trustee shall serve as paying agent for the Indenture. Any other paying agents initially designated by us for the Senior Notes of a particular series will be named in the applicable prospectus supplement. We may at any time designate additional paying agents or rescind the designation of any paying agent or approve a change in the office through which any paying agent acts, except that we will be required to maintain a an office in the Borough of Manhattan in New York City, New York, where Senior Notes may be presented for payment (Section 4.2).

Subject to any applicable abandoned property law, all money paid by us to a paying agent for the payment of the principal of or any premium or interest on any Senior Note which remain unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the Holder of such Senior Note thereafter may look only to us for payment (Section 8.6).

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Consolidation, Merger and Sale of Assets

We may not consolidate with or merge into, or transfer, lease or otherwise dispose of all or substantially all of our assets to any Person (a successor Person), unless:

- (1) we are the continuing Person or the successor Person (if any) is a corporation, partnership, trust or other entity organized and validly existing under the laws of any domestic jurisdiction and expressly assumes our obligations on the Senior Notes and under the Indenture by a supplemental indenture executed and delivered to the Trustee prior to the consummation of the transaction, in a form satisfactory to the Trustee;
- (2) no Default or Event of Default shall exist or shall occur immediately after giving effect to the transaction;
- (3) immediately after giving effect to the transaction on a pro forma basis, the Net Worth of the successor Person is at least equal to the our Net Worth immediately prior to such transaction;
- (4) each Subsidiary Guarantor shall have executed and delivered to the Trustee, in a form satisfactory to the Trustee, a supplemental indenture confirming the Subsidiary Guarantor's obligations to pay the principal of and the interest on the Senior Notes pursuant to its Subsidiary Guarantee; and
- (5) the Trustee has received in form and substance reasonably satisfactory to the Trustee, an officer's certificate and an opinion of counsel stating that the transaction and each supplemental indenture in respect thereto comply with the Indenture.

Events of Default

Unless otherwise specified in the prospectus supplement, each of the following will constitute an Event of Default under the Indenture with respect to Senior Notes of any series:

- (1) failure to pay principal of or any premium on any Senior Note of that series when due;
- (2) failure to pay any interest on any Senior Notes of that series when due, continued for 30 days;
- (3) failure to perform or comply with the provisions described under Consolidation, Merger and Sale of Assets ;
- (4) failure to perform any of our other covenants in the Indenture that continues for 30 days after written notice has been given, as provided in the Indenture;
- (5) Indebtedness of ourselves, or any Restricted Subsidiary, is not paid within any applicable grace period after final maturity or is accelerated by its holders because of a default and the total amount of such Indebtedness unpaid or accelerated exceeds \$10,000,000;
- (6) any judgment or decree for the payment of money in excess of \$10,000,000 is entered against us or any Restricted Subsidiary remains outstanding for a period of 60 consecutive days following entry of such judgment and is not discharged, waived or stayed;
- (7) the Indenture, the Senior Notes or the Subsidiary Guarantees cease to be, or are asserted by us or a Subsidiary Guarantor not to be, in full force and effect, or shall be declared null and void or unenforceable, or the validity or the enforceability thereof shall be denied or contested by the Company, any Affiliate or any other Person; and

(8) certain events of bankruptcy, insolvency or reorganization affecting us or any Restricted Subsidiary. (Section 6.1).

If an Event of Default (other than an Event of Default described in clause (8) above) with respect to the Senior Notes of any series at the time outstanding occurs and is continuing, either the applicable Trustee or the Holders of at least 25% in principal amount of the then outstanding Senior Notes of that series by notice as provided in the Indenture may declare the principal amount of the Senior Notes of that to be due and payable immediately. If an Event of Default described in clause (8) above with respect to the Senior Notes of

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any series at the time outstanding occurs, the principal amount of all the Senior Notes of that series will automatically, and without any action by the applicable Trustee or any Holder, become immediately due and payable. After any such acceleration, but before a judgment or decree based on acceleration, the Holders of 662/3% of the principal amount of the then outstanding Senior Notes of that series may, under certain circumstances, rescind such acceleration and its consequences if all Events of Default, other than the non-payment of accelerated principal, premium and interest (or other specified amount), have been cured or waived as provided in the Indenture and the rescission does not conflict with any judgment or decree (Section 6.2). For information as to waiver of defaults, see Modification and Waiver below.

Subject to the provisions of the Indenture relating to the duties of the Trustee in case an Event of Default has occurred and is continuing, the Trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request or direction of any of the Holders (Section 7.1). The Holders of a majority in principal amount of the outstanding Senior Notes of any series will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Senior Notes of that series (Section 6.5).

No Holder of a Senior Note of any series will have any right to pursue a remedy with respect to the Indenture, unless:

- (1) such Holder has previously given to the Trustee written notice of a continuing Event of Default with respect to the Senior Notes of that series;
- (2) the Holders of at least 25% in principal amount of the outstanding Senior Notes of that series have made written request to the Trustee to pursue such remedy;
- (3) such Holder offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and
- (5) during such 60-day period the Holders of 662/3% in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

Notwithstanding the foregoing, the right of any Holder to receive payment of principal, premium, if any, and interest on the Senior Notes, on or after the respective due dates expressed in such Senior Notes (including in connection with a redemption or an offer to purchase the Senior Notes pursuant to the terms of the Indenture), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder (Section 6.7). We will be required to furnish to the Trustee annually a certificate by one of our officers as to whether or not we, to such officer's knowledge, are in default in the performance or observance of any of the terms, provisions and conditions of the Indenture and, if so, specifying all such known defaults (Section 4.4).

Modification and Waiver

Modifications and amendments of the Indenture may be made by us and the Trustee with the consent of the Holders of 662/3% in principal amount of the outstanding Senior Notes of each series affected by such modification or amendment; *provided, however*, that no such modification or amendment may, without the consent of the Holder of each outstanding Senior Note affected thereby:

(1) change the Stated Maturity Date of the principal of, or any installment of principal of or interest on, any Senior Note;

(2) reduce the principal amount of, or any premium or interest on, any Senior Note;

(3) reduce the amount of principal of any Senior Note payable upon acceleration of the Maturity thereof;

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- (4) change the place or currency of payment of principal of, or any premium or interest on, any Senior Note;
- (5) impair the right to institute suit for the enforcement of any payment due on or any conversion right with respect to any Senior Note;
- (6) reduce the percentage in principal amount of outstanding Senior Notes of any series, the consent of whose Holders is required for modification or amendment of the Indenture or waiver of compliance with certain provisions of the Indenture;
- (7) modify such provisions with respect to modification, amendment or waiver;
- (8) except as otherwise provided in the Indenture, consent to the assignment or transfer by us or a Subsidiary Guarantor of any of our rights and obligations under the Indenture;
- (9) alter, modify or change the ranking of any of the Senior Notes or any Subsidiary Guarantee relative to the payment of other indebtedness or obligations of us or any Subsidiary Guarantor, or otherwise adversely affect the ranking of the Senior Notes or Subsidiary Guarantees; and
- (10) release any Subsidiary Guarantee in any manner otherwise than in accordance with the terms of the Indenture, or amend, modify or change any provision of the Indenture (including the Subsidiary Guarantee) which provides for the release of any Subsidiary Guarantee (Section 9.2).

The Holders of 662/3% in principal amount of the outstanding Senior Notes of any series may waive compliance by us with certain restrictive provisions of the Indenture (Section 9.2). The Holders of 662/3% in principal amount of the outstanding Senior Notes of any series may waive any past default under the Indenture, except a default in the payment of principal, premium or interest and certain covenants and provisions of the Indenture which cannot be amended without the consent of the Holder of each outstanding Senior Note of such series (Section 9.2).

Satisfaction and Discharge

The Indenture will be discharged and will cease to be of further effect as to all outstanding Senior Notes of any series issued thereunder, when:

- (1) all outstanding Senior Notes of that series that have been authenticated (except lost, stolen or destroyed Senior Notes that have been replaced or paid and Senior Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to us) have been delivered to the Trustee for cancellation; and
- (2) we have paid or caused to be paid all other sums payable by us under the Indenture with respect to the Senior Notes of that series.

Legal Defeasance and Covenant Defeasance

We may elect, at our option at any time, to have the provisions of Section 8.2, relating to defeasance and discharge of indebtedness, which we call legal defeasance, or the provisions of Section 8.3 relating to defeasance of certain restrictive covenants applied to the Senior Notes of any series, which we call covenant defeasance.

Legal Defeasance. The Indenture provides that, upon our exercise of our option to have Section 8.2 applied to any Senior Notes, we will be discharged from all our obligations with respect to such Senior Notes (except for certain obligations to convert, exchange or register the transfer of Senior Notes, to replace stolen, lost or mutilated Senior

Notes, to maintain paying agencies and to hold monies for payment in trust) . Such defeasance or discharge may occur only if the conditions set forth below in Conditions for Legal Defeasance and Covenant Defeasance are met.

Covenant Defeasance. The Indenture provides that, upon our exercise of our option to have Section 8.3 applied to any Senior Notes, we may omit to comply with certain restrictive covenants and an Events of

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Default with respect to such restrictive covenants will not be deemed to occur in each case with respect to such Senior Notes.

Conditions for Legal Defeasance and Covenant Defeasance. The following conditions must be met in order for us Legal Defeasance or Covenant Defeasance to occur:

(1) we shall have deposited in trust for the benefit of the Holders of such Senior Notes of money or Government Securities, or both, which, through the payment of principal and interest in respect thereof in accordance with their terms, will provide money in an amount sufficient to pay the principal of and any premium and interest on such Senior Notes on the respective maturity date or redemption date in accordance with the terms of the Indenture and such Senior Notes;

(2) in the case of legal defeasance, we shall have delivered to the Trustee an opinion of counsel to the effect that we have received from, or there has been published by, the United States Internal Revenue Service a ruling, or there has been a change in tax law, in either case to the effect that Holders of such Senior Notes will not recognize gain or loss for federal income tax purposes as a result of such deposit and legal defeasance and will be subject to federal income tax on the same amount, in the same manner and at the same times as would have been the case if such deposit and legal defeasance were not to occur;

(3) in the case of covenant defeasance, we shall have delivered to the Trustee an opinion of counsel stating that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;

(4) no Event of Default or event that with the passing of time or the giving of notice, or both, shall constitute an Event of Default shall have occurred and be continuing at the time of such deposit or, with respect to any Event of Default described in clause (8) under Events of Default, at any time until 91 days after such deposit;

(5) such deposit and legal defeasance will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which we are a party or by which we are bound;

(6) we have delivered to the Trustee an opinion of counsel to the effect that such deposit shall not cause the Trustee or the trust so created to be subject to the Investment Company Act of 1940;

(7) we shall have delivered to the Trustee an officers certificate stating that the irrevocable deposit referred in clause (1) above was not made by us with the intent of preferring the Holders over any of our other creditors or any of our Subsidiary Guarantors creditors with the intent of defeating, hindering, delaying or defrauding our creditors, our Subsidiary Guarantors creditors or others;

(8) no event or condition shall exist that would prevent us from making payments of the principal of, or premium, if any, or interest on, the Senior Notes on the date of the irrevocable deposit referred to in clause (1) above or at any time during and ending on the 91st day after the date of such deposit; and

(9) we shall have delivered to the Trustee an officers certificate and an opinion of counsel, which, taken together, state that all conditions precedent provided for or relating to the legal defeasance or the covenant defeasance have been complied with (Section 8.4).

Subsidiary Guarantees

Except for certain of our subsidiaries that are specifically so designated in the Indenture, our subsidiaries will jointly and severally and unconditionally guarantee to the Holders our obligations under the Senior Notes.

Governing Law

The Indenture and the Senior Notes will be governed by, and construed in accordance with, the law of the State of New York (Section 11.8).

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DESCRIPTION OF CAPITAL STOCK

Our authorized capital consists of 100,000,000 shares of common stock, \$0.0001 par value per share and 1,000,000 shares of preferred stock, \$0.0001 par value per share. At January 12, 2010, 77,967,554 shares of common stock and no shares of preferred stock were outstanding. The following is a description of our common and preferred stock.

The following description of our capital stock summarizes general terms and provisions that apply to our capital stock. Since this is only a summary, it does not contain all of the information that may be important to you. The summary is subject to and qualified in its entirety by reference to our certificate of incorporation and our bylaws, which are filed as exhibits to the registration statement of which this prospectus is a part and incorporated by reference into this prospectus. See [Where You Can Find More Information](#).

Common Stock

Holders of our common stock are entitled to one vote per share on all matters submitted to a vote of stockholders. In addition, such holders are entitled to receive ratably such dividends, if any, as may be declared from time to time by our board of directors out of funds legally available, subject to the payment of preferential dividends with respect to any preferred stock that from time to time may be outstanding. In the event of our dissolution, liquidation or winding-up, the holders of common stock are entitled to share ratably in all assets remaining after payment of all of our liabilities and subject to the prior distribution rights of the holders of any preferred stock that may be outstanding at that time. The holders of common stock do not have cumulative voting rights or preemptive or other rights to acquire or subscribe for additional, unissued or treasury shares. All outstanding share of our common stock are fully paid and nonassessable.

Preferred Stock

We have an authorized class of preferred stock consisting of 1,000,000 shares, none of which are issued and outstanding. Our board of directors is authorized, subject to any limitations prescribed by law, without further stockholder approval, to issue shares of preferred stock from time to time. Our board of directors may designate one or more series of preferred stock. Each series of preferred stock shall have such number of shares, designations, preferences, voting powers, qualifications and special or relative rights or privileges as shall be determined by our board of directors, which may include, among others, dividend rights, voting rights, redemption and sinking fund provisions, liquidation preferences and conversion rights.

DESCRIPTION OF WARRANTS

We may issue warrants for the purchase of debt securities, common stock or other securities. Warrants may be issued independently or together with debt securities or common stock offered by any prospectus supplement and may be attached to or separate from any such offered securities. Series of warrants may be issued under a separate warrant agreement entered into between us and a bank or trust company, as warrant agent, all as will be set forth in the prospectus supplement relating to the particular issue of warrants. The warrant agent would act solely as our agent in connection with the warrants and would not assume any obligation or relationship of agency or trust for or with any holders of warrants or beneficial owners of warrants.

The following summary of certain provisions of the warrants does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the prospectus supplement relating to the particular issue of warrants offered

pursuant to such prospectus supplement for the terms of and information relating to such warrants, including, where applicable:

(1) the designation, aggregate principal amount, currencies, denominations and terms of the series of debt securities purchasable upon exercise of warrants to purchase debt securities and the price at which such debt securities may be purchased upon such exercise;

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- (2) the number of shares of common stock purchasable upon the exercise of warrants to purchase common stock and the price at which such number of shares of common stock may be purchased upon such exercise;
- (3) the designation and number of units of other securities purchasable upon the exercise of warrants to purchase other securities and the price at which such number of units of such other securities may be purchased upon such exercise;
- (4) the date on which the right to exercise such warrants shall commence and the date on which such right shall expire;
- (5) United States federal income tax consequences applicable to such warrants;
- (6) the amount of warrants outstanding as of the most recent practicable date; and
- (7) any other terms of such warrants.

Warrants will be issued in registered form only. The exercise price for warrants will be subject to adjustment as specified in the applicable prospectus supplement.

Each warrant will entitle the holder thereof to purchase such principal amount of debt securities or such number of shares of common stock or other securities at such exercise price as shall in each case be as specified in the prospectus supplement relating to the warrants, which exercise price may be subject to adjustment upon the occurrence of certain events as set forth in such prospectus supplement. After the close of business on the expiration date, or such later date to which such expiration date may be extended by us, unexercised warrants will become void. The place or places where, and the manner in which, warrants may be exercised shall be specified in the prospectus supplement relating to such warrants.

Prior to the exercise of any warrants to purchase debt securities, common stock or other securities, holders of such warrants will not have any of the rights of holders of debt securities, common stock or other securities, as the case may be, purchasable upon such exercise, including the right to receive payments of principal of, premium, if any, or interest, if any, on the debt securities purchasable upon such exercise or to enforce covenants in the applicable indenture, or to receive payments of dividends, if any, on the common stock purchasable upon such exercise, or to exercise any applicable right to vote.

BOOK ENTRY SECURITIES

Unless otherwise specified in the applicable prospectus supplement, we will issue to investors securities, other than common stock, in the form of one or more book-entry certificates registered in the name of a depository or a nominee of a depository. Unless otherwise specified in the applicable prospectus supplement, the depository will be The Depository Trust Company, also referred to as DTC. We have been informed by DTC that its nominee will be Cede & Co. Accordingly, Cede is expected to be the initial registered holder of all securities that are issued in book-entry form.

No person that acquires a beneficial interest in securities issued in book-entry form will be entitled to receive a certificate representing those securities, except as set forth in this prospectus or in the applicable prospectus supplement. Unless and until definitive securities are issued under the limited circumstances described below, all references to actions by holders or beneficial owners of securities issued in book-entry form will refer to actions taken by DTC upon instructions from its participants, and all references to payments and notices to holders or beneficial owners will refer to payments and notices to DTC or Cede, as the registered holder of such securities.

DTC has informed us that it is:

- (1) a limited-purpose trust company organized under New York Banking Law;
- (2) a banking organization within the meaning of the New York Banking Law;
- (3) a member of the Federal Reserve System;

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(4) a clearing corporation within the meaning of the New York Uniform Commercial Code; and

(5) a clearing agency registered under the Exchange Act.

DTC has also informed us that it was created to:

(1) hold securities for participants ; and

(2) facilitate the computerized settlement of securities transactions among participants through computerized electronic book-entry changes in participants accounts, thereby eliminating the need for the physical movement of securities certificates.

Participants have accounts with DTC and include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Indirect access to the DTC system also is available to indirect participants such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly.

Persons that are not participants or indirect participants but desire to buy, sell or otherwise transfer ownership of or interests in securities may do so only through participants and indirect participants. Under the book-entry system, beneficial owners may experience some delay in receiving payments, as payments will be forwarded by our agent to Cede, as nominee for DTC. DTC will forward these payments to its participants, which thereafter will forward them to indirect participants or beneficial owners. Beneficial owners will not be recognized by the applicable registrar, transfer agent, trustee or depository as registered holders of the securities entitled to the benefits of the certificate, the indenture or any deposit agreement. Beneficial owners that are not participants will be permitted to exercise their rights as an owner only indirectly through participants and, if applicable, indirect participants.

Under the current rules and regulations affecting DTC, DTC will be required to make book-entry transfers of securities among participants and to receive and transmit payments to participants. Participants and indirect participants with which beneficial owners of securities have accounts are also required by these rules to make book-entry transfers and receive and transmit such payments on behalf of their respective account holders.

Because DTC can act only on behalf of participants, who in turn act only on behalf of other participants or indirect participants, and on behalf of banks, trust companies and other persons approved by it, the ability of a beneficial owner of securities issued in book-entry form to pledge those securities to persons or entities that do not participate in the DTC system may be limited due to the unavailability of physical certificates for the securities.

DTC has advised us that it will take any action permitted to be taken by a registered holder of any securities under the certificate, the indenture or any deposit agreement only at the direction of one or more participants to whose accounts with DTC the securities are credited.

According to DTC, the information with respect to DTC has been provided to its participants and other members of the financial community for informational purposes only and is not intended to serve as a representation, warranty, or contract modification of any kind.

Unless otherwise specified in the applicable prospectus supplement, a book-entry security will be exchangeable for definitive securities registered in the names of persons other than DTC or its nominee only if:

(1) DTC notifies us that it is unwilling or unable to continue as depository for the book-entry security or DTC ceases to be a clearing agency registered under the Exchange Act at a time when DTC is required to be so registered;

(2) we execute and deliver to the applicable registrar, transfer agent, trustee and/or depositary an order complying with the requirements of the certificate, the indenture or any deposit agreement that the book-entry security will be so exchangeable; or

(3) in the case of debt securities, an event of default with respect to the applicable series of debt securities has occurred and is continuing.

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Any book-entry security that is exchangeable in accordance with the preceding sentence will be exchangeable for securities registered in such names as DTC directs.

If one of the events described in the immediately preceding paragraph occurs, DTC is generally required to notify all participants of the availability through DTC of definitive securities. Upon surrender by DTC of the book-entry security representing the securities and delivery of instructions for re-registration, the registrar, transfer agent, trustee or depository, as the case may be, will reissue the securities as definitive securities. After reissuance of the securities, such persons will recognize the beneficial owners of such definitive securities as registered holders of securities.

Except as described above:

(1) a book-entry security may not be transferred except as a whole book-entry security by or among DTC, a nominee of DTC and/or a successor depository appointed by us; and

(2) DTC may not sell, assign or otherwise transfer any beneficial interest in a book-entry security unless the beneficial interest is in an amount equal to an authorized denomination for the securities evidenced by the book-entry security.

None of us, the trustees, any registrar and transfer agent or any depository, or any agent of any of them, will have any responsibility or liability for any aspect of DTC's or any participant's records relating to, or for payments made on account of, beneficial interests in a book-entry security.

PLAN OF DISTRIBUTION

We may sell the offered securities in and outside the United States (i) through underwriters or dealers, (ii) directly to purchasers, including our affiliates and shareholders, or in a rights offering, (iii) through agents or (iv) through a combination of any of these methods. The prospectus supplement will include the following information:

- (1) the terms of the offering;
- (2) the names of any underwriters, dealers or agents;
- (3) the name or names of any managing underwriter or underwriters;
- (4) the purchase price of the securities;
- (5) the net proceeds from the sale of the securities;
- (6) any delayed delivery arrangements;
- (7) any underwriting discounts, commissions and other items constituting underwriters' compensation;
- (8) any discounts or concessions allowed or re-allowed or paid to dealers; and
- (9) any commissions paid to agents.

In addition, we may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third parties may use securities pledged by us or

borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third parties in such sale transactions will be underwriters and, if not identified in this prospectus, will be identified in the applicable prospectus supplement (or a post-effective amendment). We or one of our affiliates may loan or pledge securities to a financial institution or other third party that in turn may sell the securities using this prospectus. Such financial institution or third party may

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transfer its short position to investors in our securities or in connection with a simultaneous offering of other securities offered by this prospectus or otherwise.

Sale through Underwriters or Dealers

If we use underwriters in the sale, the underwriters will acquire the securities for their own account for resale to the public. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless we inform you otherwise in the prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions, and the underwriters will be obligated to purchase all of the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers.

Representatives of the underwriters through whom the offered securities are sold for public offering and sale may engage in over allotment, stabilizing transactions, syndicate short covering transactions and penalty bids in accordance with Regulation M under the Exchange Act. Over allotment involves syndicate sales in excess of the offering size, which creates a syndicate short position. Stabilizing transactions permit bids to purchase the offered securities so long as the stabilizing bids do not exceed a specified maximum. Syndicate covering transactions involve purchases of the offered securities in the open market after the distribution has been completed in order to cover syndicate short positions. Penalty bids permit the representative of the underwriters to reclaim a selling concession from a syndicate member when the offered securities originally sold by such syndicate member are purchased in a syndicate covering transaction to cover syndicate short positions. Such stabilizing transactions, syndicate covering transactions and penalty bids may cause the price of the offered securities to be higher than it would otherwise be in the absence of such transactions. These transactions may be effected on a national securities exchange and, if commenced, may be discontinued at any time.

Some or all of the securities that we offer through this prospectus may be new issues of securities with no established trading market. Any underwriters to whom we sell our securities for public offering and sale may make a market in those securities, but they will not be obligated to do so and they may discontinue any market making at any time without notice. Accordingly, we cannot assure you of the liquidity of, or continued trading markets for, any securities that we offer.

If we use dealers in the sale of securities, we will sell the securities to them as principals. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale. We will include in the prospectus supplement the names of the dealers and the terms of the transaction.

Direct Sales and Sales through Agents

We may sell the securities directly. In this case, no underwriters or agents would be involved. We may also sell the securities through agents designated from time to time. In the prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions payable to the agent. Unless we inform you otherwise in the prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those securities. We will describe the terms of any such sales in the prospectus supplement.

We may also make direct sales through subscription rights distributed to our existing stockholders on a pro rata basis that may or may not be transferable. In any distribution of subscription rights to our stockholders, if all of the underlying securities are not subscribed for, we may then sell the unsubscribed securities directly to third parties or we may engage the services of one or more underwriters, dealers or agents, including standby underwriters, to sell the unsubscribed securities to third parties.

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Remarketing Arrangements

Offered securities may also be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more remarketing firms, acting as principals for their own accounts or as agents for us. Any remarketing firm will be identified and the terms of its agreements, if any, with us and its compensation will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters, as that term is defined in the Securities Act, in connection with the securities remarketed.

Delayed Delivery Arrangements

If we so indicate in the prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from us at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

General Information

We may have agreements with the underwriters, dealers and agents to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments that the underwriters, dealers or agents may be required to make.

Underwriters, dealers and agents may engage in transactions with, or perform services for, us in the ordinary course of our business.

LEGAL MATTERS

McAfee & Taft A Professional Corporation, Oklahoma City, Oklahoma, will issue an opinion to us about certain legal matters relating to the securities. C. David Stinson is a shareholder with the law firm of McAfee & Taft A Professional Corporation and owns 500,000 shares of our common stock.

EXPERTS

The consolidated financial statements of RAM Energy Resources, Inc. as of December 31, 2008 and 2007, and for each of the three years in the period ended December 31, 2008, and the effectiveness of RAM Energy Resources, Inc.'s internal control over financial reporting as of December 31, 2008, incorporated herein by reference from our annual report on Form 10-K, as amended, for the year ended December 31, 2008, have been audited by UHY LLP, an independent registered public accounting firm, as set forth in their reports thereon and are incorporated in reliance upon such reports given on the authority of such firm, as experts in accounting and auditing.

Certain estimates of oil and natural gas reserves incorporated herein by reference were based upon engineering studies prepared by Williamson Petroleum Consultants, Inc., independent petroleum engineers, and Forrest A. Garb & Associates, Inc., independent petroleum engineers. Each such estimate is incorporated by reference herein in reliance on the authority of each of the respective firms as an expert in such matters.

**DISCLOSURE OF COMMISSION POSITION OF
INDEMNIFICATION FOR SECURITIES ACT LIABILITIES**

Section 145 of the Delaware General Corporation Law, under which we are incorporated, grants each corporation organized thereunder the power to indemnify any person who is or was a director, officer, employee or agent of a corporation or enterprise, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with any threatened,

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pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of being or having been in any such capacity, if he acted in good faith in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Article Eight of our Amended and Restated Certificate of Incorporation, as well as Article VII of our Amended and Restated Bylaws, provide indemnification of directors, officers and agents to the extent permitted by the Delaware General Corporation Law. These provisions may be sufficiently broad to indemnify such persons for liabilities under the Securities Act of 1933.

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

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RAM ENERGY RESOURCES, INC.

Up to \$25,000,000 of Shares of Common Stock

March 17, 2011

Knight