

FTI CONSULTING INC  
Form 424B4  
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PROSPECTUS

## **FTI Consulting, Inc.**

### **3<sup>3</sup>/<sub>4</sub>% Convertible Senior Subordinated Notes due July 15, 2012**

### **and the Shares of Common Stock Issuable upon Conversion of the Notes**

We issued the notes in a private placement in July 2005. This prospectus may be used by selling securityholders to sell their notes and the shares of our common stock issuable upon conversion of their notes.

The notes will mature on July 15, 2012. We will pay interest on the notes on July 15 and January 15 of each year. The first interest payment will be made on January 15, 2006.

The notes may be converted at any time prior to maturity (unless earlier repurchased or exchanged), following the satisfaction of one or more conditions described herein, at the option of the holder into the consideration described below at the initial conversion rate of 31.9980 shares of our common stock per \$1,000 in principal amount of notes, which is equal to an initial conversion price of \$31.25 per share. In respect of each \$1,000 in principal amount of notes, the conversion consideration will consist of (a) cash in an amount equal to the lesser of (i) the principal amount of each note or (ii) the conversion value (as described in this prospectus) of such note, and (b) a number of shares of our common stock equal to the sum of the daily trading share amounts (calculated as described in this prospectus) for each of the 20 consecutive trading days during the applicable conversion reference period (as described in this prospectus). On November 11, 2005, the last reported sale price for our common stock on the New York Stock Exchange was \$29.81 per share. The common stock is listed under the symbol FCN .

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The notes are our general unsecured obligations and are subordinated to all of our existing and future senior indebtedness. The notes rank *pari passu* with any of our future indebtedness and senior to any future subordinated indebtedness. Substantially all of our domestic subsidiaries have guaranteed the notes on a senior subordinated, unsecured basis.

Upon the occurrence of certain fundamental changes, as described in this prospectus, we will have the option to adjust the conversion rate and related conversion obligation so that the consideration otherwise payable on conversion of the notes in shares of our common stock will be payable instead in shares of the surviving or acquiring company. If we do not exercise this option upon a fundamental change, or if it does not apply, you will have the option, in certain cases, to require us to repurchase any notes you hold at a price equal to 100% of the principal amount of the notes plus accrued interest to the date of repurchase or, in certain cases, to convert your notes into conversion consideration at an increased conversion rate based on the price paid per share of our common stock in the fundamental change transaction.

The notes were sold initially to qualified institutional buyers and are currently trading in the Private Offerings, Resales and Trading through Automated Linkages ( PORTAL ) system of the National Association of Securities Dealers, Inc. Notes sold by means of this prospectus will not be eligible for trading in the PORTAL system. We have not applied, and do not intend to apply, for listing of the notes on any national securities exchange or automated quotation system.

We will not receive any proceeds from the sale by the selling securityholders of the notes or the shares of our common stock. Other than selling commissions and fees and stock transfer taxes, we will pay all expenses of the registration of the notes and the common stock and certain other expenses, as set forth in the registration rights agreement we have entered into with the holders of the notes.

**You should carefully review the Risk Factors beginning on page 5 of this prospectus before investing in the notes and common stock issuable upon conversion of the notes.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

**The date of this prospectus is January 13, 2006**

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**ADDITIONAL INFORMATION**

This prospectus is part of a registration statement on Form S-3 that we have filed with the Securities Exchange Commission, or SEC, under the Securities Act. This prospectus does not contain all of the information set forth in the registration statement. For further information about us and the notes, you should refer to the registration statement. This prospectus summarizes material provisions of contracts and other documents to which we refer you. Since this prospectus may not contain all of the information that you find important, you should review the full text of these documents. We have filed these documents as exhibits to our registration statement.

The registration statements (including exhibits and schedules thereto) and the annual, quarterly and special reports, proxy statements and other information we file with the SEC may be read and copied at the public reference facilities of the SEC, Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington D.C. 20549. Please call the SEC at 1-888-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public from the SEC's web site at [www.sec.gov](http://www.sec.gov) or from our web site at [www.fticonsulting.com](http://www.fticonsulting.com). However, the information on our web site does not constitute a part of this prospectus.

You should rely only upon the information provided in this prospectus. We have not authorized anyone to provide you with different information. You should not assume that the information in this document is accurate as of any date other than that on the front cover of this prospectus.

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

We are incorporating by reference into this prospectus certain information we file with the SEC, which means that we are disclosing important information to you by referring you to those documents. The information incorporated by reference is deemed to be part of this prospectus, except for any information superseded by information contained directly in this prospectus. This prospectus incorporates by reference the following documents, each of which we previously filed with the SEC:

our annual report on Form 10-K for the year ended December 31, 2004;

our quarterly report on Form 10-Q for the three months ended March 31, 2005;

our quarterly report on Form 10-Q for the six months ended June 30, 2005;

our quarterly report on Form 10-Q for the nine months ended September 30, 2005;

our definitive proxy statement on Schedule 14A relating to our 2005 annual meeting of stockholders;

our current reports on Form 8-K filed on February 23, 2005, February 24, 2005, March 2, 2005, April 22, 2005, May 3, 2005, May 23, 2005, May 24, 2005, June 2, 2005, July 19, 2005, July 29, 2005, August 3, 2005, August 10, 2005, August 12, 2005, October 28, 2005, November 1, 2005, November 2, 2005, November 18, 2005, November 22, 2005, January 9, 2006 and January 12, 2006; and

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the description of our common stock contained in filings we have made under the Securities and Exchange Act of 1934, as amended (the Exchange Act ), and any amendments or reports filed for the purpose of updating such description.

These reports contain important information about us and our finances.

All documents that we file with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, from the date of this prospectus to the end of the offering of the notes and common stock issuable upon conversion of the notes under this document shall also deemed to be incorporated herein by reference and will automatically update information in this prospectus.

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Any statements made in this prospectus or in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or in any other subsequently filed document that is also incorporated or deemed to be incorporated by reference into this prospectus modifies or supercedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus. Unless expressly incorporated into this registration statement, a report furnished on Form 8-K under the Exchange Act shall not be incorporated by reference into this registration statement. Information furnished under Items 2.02 and 7.01 of our Current Reports on Form 8-K, including the related exhibits, are not incorporated by reference in this registration statement.

You may request a copy of these filings, at no cost, by writing or calling us at the following address or telephone number:

Corporate Secretary

FTI Consulting, Inc.

500 East Pratt Street, Suite 1400

Baltimore, Maryland 21202

(410) 951-4800

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference in this document.

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**CAUTIONARY NOTICE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus includes forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Forward-looking statements include statements concerning our plans, objectives, goals, strategies, future events, future revenues or performance, capital expenditures, compensation arrangements, financing needs, plans or intentions relating to acquisitions, business trends and other information that is not historical information. When used in this prospectus, the words *estimates*, *expects*, *anticipates*, *projects*, *plans*, *intends*, *believes*, *forecasts* and variations of such words or similar expressions are intended to identify forward-looking statements. All forward-looking statements, including, without limitation, management's examination of historical operating trends, are based upon our current expectations and various assumptions. Our expectations, beliefs and projections are expressed in good faith and we believe there is a reasonable basis for them. However, there can be no assurance that management's expectations, beliefs and projections will result or be achieved.

There are a number of risks and uncertainties that could cause our actual results to differ materially from the forward-looking statements contained in this prospectus. Important factors that could cause our actual results to differ materially from the forward-looking statements we make in this prospectus are set forth in this prospectus, including under the heading **Risk Factors**. As stated elsewhere in this prospectus, such risks, uncertainties and other important factors relate to, among others:

retention of qualified professionals and senior management;

conflicts resulting in our inability to represent certain clients;

former employees joining competing businesses;

ability to manage utilization and pricing rates;

damage to our reputation as a result of claims involving the quality of our services;

competition;

costs of integrating any future acquisitions;

industry trends;

changes in demand for our services; and

changes in our leverage.

There may be other factors that may cause our actual results to differ materially from the forward-looking statements.

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All forward-looking statements attributable to us or persons acting on our behalf apply only as of the date of this prospectus and are expressly qualified in their entirety by the cautionary statements included in this prospectus. We undertake no obligation to publicly update or revise any forward-looking statements to reflect subsequent events or circumstances and do not intend to do so.

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**PROSPECTUS SUMMARY**

*This summary contains basic information about FTI Consulting, Inc. It likely does not contain all the information that is important to you. You should read the entire prospectus, including the consolidated financial statements and related notes thereto incorporated by reference herein, before making an investment decision. Except as otherwise indicated herein, or as the context may otherwise require, the references to FTI, we, us and our refer to FTI Consulting, Inc., a Maryland corporation and the issuer of the notes.*

**Our Company**

We are a leading provider of forensic/litigation/technology ( forensic ), corporate finance/restructuring ( corporate finance ) and economic consulting services in the United States. Our experienced team of professionals, many of whom are widely recognized as experts in their respective fields, provide high-caliber consulting services to a broad range of clients. We began operations in 1982 as a consulting firm focused on providing forensic investigation, scientific and trial support services, and have evolved through internal growth and strategic acquisitions. We believe clients retain us because of our recognized expertise and capabilities in highly specialized areas, as well as our reputation for satisfying clients' needs. During 2004, we staffed large and complex assignments for our clients which include 95 of the top 100 U.S. law firms, 20 of the 25 largest U.S. commercial banks and 181 corporate clients in the Fortune 500. Representative clients to date include Wyeth, Tower Automotive and the U.S. Departments of Justice and the Interior.

Our professionals have experience providing testimony in many areas, including: fraud, damages, lost profits, valuation, accountant's liability and malpractice, contract disputes, patent infringement, price fixing, purchase price disputes, solvency and insolvency, fraudulent conveyance, preferences, disclosure statements, trademark and copyright infringement and the financial impact of government regulations. We have strong capabilities in highly specialized industries, including telecommunications, health care, transportation, utilities, chemicals, energy, commercial and investment banking, pharmaceuticals, tobacco, retail and information technology. As of September 30, 2005, we had 1,291 total employees, including 966 revenue-generating consultants, across 24 U.S. cities, London, England and Melbourne, Australia.

We are a publicly traded company with our common stock listed on the New York Stock Exchange, or NYSE stock market, under the symbol FCN.

Our executive offices relocated in January 2006 and are now located at 500 East Pratt Street, Suite 1400, Baltimore, Maryland 21202.

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**The Notes**

*The following is a brief summary of the terms of the notes. For a more complete description of the terms of the notes, see Description of Notes in this prospectus.*

Issuer	FTI Consulting, Inc.
Securities Offered	\$150,000,000 principal amount of 3 <sup>3</sup> / <sub>4</sub> % Convertible Senior Subordinated Notes due July 15, 2012.
Maturity Date	July 15, 2012, unless earlier repurchased or converted.
Interest	3 <sup>3</sup> / <sub>4</sub> % per year on the principal amount, payable on July 15 and January 15 of each year, beginning on January 15, 2006.
Conversion Conditions	<p>The notes are convertible by the holders into the consideration described below opposite the caption Conversion Consideration at an initial conversion rate of 31.9980 shares of our common stock per \$1,000 principal amount of notes (which is equivalent to an initial conversion price of \$31.25 per share). The convertible notes may be converted only under the following circumstances:</p> <p style="padding-left: 40px;">prior to June 15, 2012, during any conversion period (as defined in this prospectus) if the closing sale price of our common stock for at least 20 trading days in the 30 consecutive trading day period ending on the first day of such conversion period is greater than 120% of the applicable conversion price on the first day of the conversion period;</p> <p style="padding-left: 40px;">prior to June 15, 2012, during the five consecutive business day period following any five consecutive trading day period in which the trading price of a note for each day of that trading period was less than 95% of the closing sale price of our common stock on such corresponding trading day, as multiplied by the applicable conversion rate;</p> <p style="padding-left: 40px;">at any time on or after June 15, 2012; or</p> <p style="padding-left: 40px;">upon the occurrence of specified corporate transactions.</p>
Conversion Consideration	For each \$1,000 in principal amount of notes, the conversion consideration shall consist of (i) an amount of cash equal to the lesser of (a) the principal amount of such note, or (b) the conversion value of such note, and (ii) a number of shares of our common stock (the residual value shares ) equal to the sum of the daily trading share amounts (calculated as described in this prospectus) for each of the 20 consecutive trading days during the applicable conversion reference period (as described in this prospectus). We may elect to pay cash to holders of notes

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surrendered for conversion in lieu of all or a portion of the residual value shares issuable upon conversion of such notes.

### Ranking and Guarantees

The notes are our general unsecured obligations and are subordinated to all of our existing and future senior indebtedness. The notes rank

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*pari passu* with any of our future senior subordinated indebtedness and senior to any future subordinated indebtedness. Substantially all of our domestic subsidiaries have guaranteed the notes on a senior subordinated, unsecured basis.

Concurrently with the offering of the notes, we offered \$200.0 million in aggregate principal amount of 7<sup>5</sup>/<sub>8</sub>% senior notes due 2013 (the senior notes ). The senior notes constitute our only outstanding senior indebtedness. As of September 30, 2005, we had \$91.4 million of revolving availability under our senior secured credit facility, all borrowings under which constitute senior secured indebtedness.

Optional Redemption

We do not have the right to redeem the notes.

Sinking Fund

None.

Repurchase at Option of Holder Upon a Fundamental Change

Subject to our rights described under Description of Notes Public Acquirer Change of Control below, if we undergo a fundamental change (as defined under Description of Notes Repurchase at Option of the Holder Upon a Fundamental Change ), holders have, subject to certain exceptions, the right, at their option, to require us to purchase for cash all of their notes or any portion of the principal amount thereof that is equal to \$1,000 or an integral multiple of \$1,000. The cash price we are required to pay is equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest, if any, to, but not including, the fundamental change repurchase date.

Adjustment to Conversion Rate Upon a Fundamental Change

Subject to our rights described under Description of Notes Public Acquirer Change of Control below, if a holder elects to convert notes in connection with a fundamental change, we will in certain circumstances increase the conversion rate by a specified number of additional shares, depending on our common stock price at that time, as described under Description of Notes Adjustment to Conversion Rate Upon a Fundamental Change.

Public Acquirer Change of Control

In the case of a public acquirer change of control (as defined under Description of Notes Public Acquirer Change of Control ), we may, in lieu of permitting a repurchase at the holders option and increasing the conversion rate of the notes as described under Description of Notes Adjustment to Conversion Rate upon a Fundamental Change, elect to adjust the conversion rate and the related conversion obligation such that from and after the effective date of such public acquirer change of control, holders of the notes will be entitled to convert their notes into a number of shares of public acquirer common stock by adjusting the conversion rate in effect immediately before the public acquirer change of control as described in Description of Notes Public Acquirer Change of Control.

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Use of Proceeds	We will not receive any of the proceeds from the sale of any securities offered by this prospectus.
Trading	The notes are currently trading in the PORTAL system. Notes sold by means of this prospectus will not be eligible for trading on the PORTAL system. We do not intend to list the notes for trading on any national or other securities exchange or on the Nasdaq National Market. Our common stock is traded on the New York Stock Exchange under the symbol FCN.
Registration Rights	We have agreed, for the benefit of the holders of the notes, to use commercially reasonable efforts to cause the shelf registration statement of which this prospectus is a part, to be declared effective by February 28, 2006.
Risk Factors	See Risk Factors and other information in this prospectus for a discussion of factors that you should consider carefully before deciding to invest in the notes.

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**RISK FACTORS**

*In addition to the risks below, other risks and uncertainties not known to us or that we deem to be immaterial may also materially adversely affect our business operations. All of the following risks could materially and adversely affect our business, financial condition or results of operations. In such a case, you could lose all of or a part of your original investment. You should carefully consider the risks described below as well as other information and data included in this prospectus before making an investment decision with respect to the notes.*

**Risks Related to Our Business**

**Our failure to retain qualified professionals or hire additional qualified professionals would have a negative effect on our future growth and financial performance as well as on client engagements, services and relationships.**

Our business involves the delivery of professional forensic, corporate finance and economic consulting services. In the consulting business, professional acumen, trust and relationships are critical elements of a company's ability to deliver high quality professional services. Our professionals have highly specialized skills. They also develop strong bonds with the clients they service. Our continued success depends upon our ability to attract and retain our staff of professionals who have expertise, reputations and client relationships critical to maintaining and developing our business. We face intense competition in recruiting and retaining highly qualified professionals that we must employ to continue our service offerings. As of September 30, 2005, substantially all of the senior managing directors had written employment agreements with us. Many of our employment agreements will expire between 2006 and 2008 because of the timing of our acquisitions and our 2004 initiative to enter into written agreements with our senior professionals. We monitor these expirations carefully to commence dialogues with professionals regarding their employment well in advance of the actual contract expiration dates. Our goal is to renew employment agreements when advisable and to stagger the expirations of the agreements if possible. Because of the high concentration of contract expirations between 2006 and 2008, we may experience high turnover or other adverse consequences, such as higher costs, loss of clients and engagements, or difficulty staffing engagements, if we are unable to renegotiate employment arrangements or the costs of retaining qualified professionals become higher. We cannot assure you that we will be able to attract and retain enough qualified professionals to maintain or expand our business. Moreover, competition has been increasing our costs of retaining or hiring qualified professionals, a trend which could harm our operating margins and results of operations.

We have begun to focus on renegotiating new long-term employment agreements with key senior managing directors. In connection with those discussions, we may offer a senior managing director the opportunity to participate in all or a portion of the benefits under an incentive compensation package that includes cash, which may be in the form of an unsecured general recourse forgivable loan, and significant additional payments upon the execution of and during the term of such employment agreement in the form of stock option and restricted stock awards, or alternatively, cash equivalents, if we do not have adequate equity securities available under stockholder approved equity plans. Any new employment agreements entered into with senior managing directors may not have staggered termination dates, so that we could face similar retention issues at the end of the terms of those agreements, although this risk could be reduced in light of our intention to include automatic one-year renewal options in the new employment agreements beginning at the end of their initial terms unless either party provides to the other prior notice that he or she does not intend to renew. While we hope that we enter into new long-term employment contracts with a significant number of senior managing directors there is no assurance we will do so. The aggregate principal amount of all loans made to senior managing directors through 2006 could exceed \$50.0 million, of which some or all of the principal amount and accrued interest could be forgivable by us upon the passage of time or certain other events, such as death or disability or termination by us without cause or by the employee with good reason. If all the other compensation features described above were to be implemented, the equity awards to such senior managing directors would also be significant.

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**Our clients may preclude us from representing multiple clients in connection with the same engagement or competitive matter; our other practices may be precluded from accepting engagements from clients with respect to the same or competitive matter for which another practice has been engaged to provide services; and we may be required to forego potential business prospects in order to win engagements, which could harm our revenues, results of operations and client relationships and engagements.**

We follow internal practices to assess real and potential relationships between and among our clients, engagements, practices and professionals. For example, we generally will not represent parties adverse to each other in the same matter. Under bankruptcy rules we generally may not represent both a debtor and its creditors on the same engagement. Under federal bankruptcy laws, we are required to notify the U.S. Trustee of real or potential conflicts. The U.S. Trustee could find that we no longer meet the disinterestedness standard because of real or potential conflicts, and order us to resign and refund fees that have been paid to us. In some cases we could be ordered to refund fees that were not paid to us, but rather to the sellers of businesses that we acquired. We may not have recourse to recover any or all of any refunded fees from such sellers. Future relationships may require us to decline or resign from client engagements. New acquisitions may require us to resign from current client engagements because of relationship issues that are not currently identifiable. In addition, businesses that we acquire may not be free to accept engagements they could have accepted prior to our acquiring them because of relationship issues. Our inability to accept engagements from clients or prospective clients, represent multiple clients in connection with the same or competitive engagements, and any requirement that we resign from client engagements may negatively impact our revenues, revenue growth and results of operations.

**If our former professionals go into business in competition with us or join our competitors, our client engagements and relationships could decline, financial performance and growth could slow or decline, and employee morale could suffer, and we may not have legal recourse.**

Typically, our professionals have a close relationship with the clients they serve, not only based on their expertise but also on bonds of personal trust and confidence. Although our clients generally contract for services with us as a company, and not with individual professionals, in the event that professionals leave, such clients would not be prohibited from hiring those professionals to perform future engagements. Clients could also decide to transfer active engagements to professionals who leave. The engagement letters that we typically enter into with clients do not obligate them to continue to use our services. Typically, our engagement letters permit clients to terminate our services at any time. Furthermore, while in some cases, the termination of an ongoing engagement by a client could constitute a breach of the client's contract with us, we could decide that preserving the overall client relationship is more important than seeking damages for the breach, and for that or other reasons that are not currently identifiable, decide not to pursue any legal remedies that might be available to us. We would make the determination whether to pursue any legal actions against a client on a case-by-case basis.

All of our written employment agreements with our senior managing directors include noncompetition and nonsolicitation arrangements. These noncompetition agreements have generally been drafted to comply with state reasonableness standards. However, states generally interpret noncompetition clauses narrowly. Therefore, a state may hold certain restrictions on competition to be unenforceable. In the case of former Ringtail employees residing in Australia, the noncompetition provisions have been drafted to comply with Australian law. In the event an employee departs, we will consider any legal remedies we may have against such professional on a case-by-case basis. However, we may decide that preserving cooperation and a professional relationship, or other concerns, outweigh the benefits of any possible legal recovery. Therefore, we may determine not to pursue legal action, even if available.

In the first quarter of 2004, we experienced the unanticipated departures of about 60 professionals in our former FTI/Policano & Manzo restructuring practice. We have strived to build relationships and reassure our professionals and clients of our interest in them and our ability to provide services comparable to those provided by the departing professionals. Those departures had a negative impact on our financial results for 2004. In the fourth quarter of 2004, we entered into a monetary settlement of arbitration proceedings brought against those former employees and the company they formed to compete with us.





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### **Our profitability will suffer if we are not able to manage utilization and pricing rates of our professional staff.**

We calculate the utilization rate for our professional staff by dividing the number of hours that all of our professionals worked on client assignments during a period by the total available working hours for all of our professionals, assuming a 40-hour work week and a 52-week year. Available working hours include vacation and professional training days, but exclude holidays. The hourly rates we charge our clients for our services and the number of hours our professionals are able to charge our clients for our services are affected by the level of expertise and experience of the professionals working on a particular engagement and, to a lesser extent, the pricing and staffing policies of our competitors. If we fail to manage our utilization rates for our professionals or maintain or increase the hourly rates we charge our clients for our services, we may experience adverse consequences, such as non-revenue generating professionals, the loss of clients and engagements and the inability to appropriately staff engagements, and our profitability will suffer.

Demand for our corporate finance professionals declined in early 2004 primarily as a result of general economic conditions, including the strengthening of the economy, the availability of credit, low interest rates, fewer mergers and acquisitions and fewer large bankruptcy proceedings. Our operating profit margins declined in 2004 due to the slow down in our corporate finance business and due to lower utilization rates in that practice and our recently acquired businesses relative to our historical experiences. We also experienced lower utilization in our forensic practice during late 2003 and the early part of 2004 resulting from the absorption of the professionals who joined us in connection with our acquisition of the dispute advisory services of KPMG LLP. Many of the billable professionals that resigned during the first quarter of 2004 were among our highest utilized and billing professionals, which also contributed to our lower utilization rates and operating profit margins in 2004.

### **We rely heavily on our senior management team and practice leaders for the success of our business.**

We rely heavily on our senior management team and practice leaders to manage our practices. Given the highly specialized nature of our services and the scale of our operations, these people must have a thorough understanding of our service offerings as well as the skills and experience necessary to manage a large organization. If one or more members of our senior management team or our practice leaders leave and we cannot replace them with a suitable candidate quickly, we could experience difficulty in managing our business properly, and this could harm our business prospects, client relationships, employee morale and results of operations.

### **Any claims involving the quality of our services could harm our overall professional reputation, which could harm our ability to compete for new business opportunities, retain and attract clients and engagements, and hire and retain qualified professionals.**

Many of our engagements involve complex analysis and the exercise of professional judgment. Therefore, we are subject to the risk of professional liability. Often, our engagements involve matters that, if resolved unfavorably, may result in a severe impact on the client's business, cause the client a substantial monetary loss or prevent the client from pursuing business opportunities. Since our ability to attract new clients and generate engagements depends upon our ability to maintain a high degree of client satisfaction as well as our reputation among industry professionals, any claims against us involving the quality of our services may be more damaging than similar claims against businesses in other industries.

We do not generally indemnify our clients; however, in certain cases, such as with clients who are governmental agencies or authorities, we may agree to indemnify them and their affiliates against third party liabilities. Indemnification provisions are negotiated on a contract-by-contract basis and in some cases may be reciprocal or may be coupled with limitations on the amount and type of damages that can be recovered.

Any claim by a client or a third party against us could expose us to professional or other liabilities in excess of our insurance limits. We maintain a limited amount of liability insurance. The damages and/or expenses resulting from any successful claims against us, for indemnity or otherwise, in excess of our insurance limits would have to be borne directly by us and could seriously harm our profitability, financial resources and reputation.

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### **Our clients may terminate our engagements with little or no notice, which may cause us to experience unexpected declines in our profitability and utilization.**

Much of our business involves large client engagements that we staff with a substantial number of professionals. The engagement letters that we typically enter into with clients do not obligate them to continue to use our services. Typically, our engagement letters permit clients to terminate our services at any time. If our clients unexpectedly cancel engagements with us or curtail the scope of our engagements, we may be unable to replace the lost revenues from those engagements, quickly eliminate costs associated with those engagements, or quickly find other engagements to utilize our professionals. Any decrease in revenues without a corresponding reduction in our costs will likely harm our profitability.

### **We face intense competition in our business. If we fail to compete effectively, we may miss new business opportunities or lose existing clients and our revenues and profitability may decline. Parties from whom we acquire assets may reenter the marketplace to compete with us in the future.**

The market for our consulting services is highly competitive. Our competitors range from large organizations, such as the national accounting firms and the large management consulting companies that offer a broad range of consulting services, to small firms and independent contractors that provide one specialized service. Some of our competitors have significantly more financial resources, larger professional staffs and greater brand recognition than we do. Since our business depends in a large part on professional relationships, our business has low barriers of entry for professionals wanting to start their own firms. In addition, it is relatively easy for professionals to change employers. We cannot assure you that we will continue to compete successfully for new business opportunities or retain our existing clients or professional employees.

In connection with our acquisitions, we generally obtain nonsolicitation agreements from the professionals we hire as well as noncompetition agreements from senior managers and professionals. In some cases we enter into Noncompetition or nonsolicitation arrangements generally with sellers. We cannot assure you that any one or more of the parties from whom we acquire assets or a business who do not join us, or persons who join us if upon expiration or breach of their agreements not to compete or solicit, will not compete with us in the future. Also, the duration of those agreements are limited ranging from three to five years after the acquisition date. Certain activities may be carved out of or otherwise may not be prohibited by those arrangements. Also, in some cases we may agree to restraints on our ability to compete with the sellers of those businesses with respect to certain practice areas or locations. Competition may harm our expected revenues growth and results of operations and cause the actual profitability of the business to differ materially from our expectations and the expectations of the investing public. A failure to meet these expectations could cause the price of our stock to decline. In connection with the acquisition in 2002 of certain assets and liabilities of the U.S. Business Recovery Services ( BRS ) division of PricewaterhouseCoopers LLP ( PwC ), we obtained a three-year agreement from PwC not to compete with us. On December 23, 2003, we filed an action in the Supreme Court of the State of New York against PwC seeking enforcement of the noncompetition covenants, damages, and injunctive and other equitable relief. On November 3, 2004, we entered into a settlement and release in the action, which enforced the current non-compete until August 31, 2005.

### **We may have difficulty integrating our acquisitions, or convincing clients to allow assignment of their contracts to us, which may cause our client engagements to decline, with a consequent detrimental effect on our financial results.**

The process of integrating our acquisitions into our existing operations may result in unforeseen operating difficulties and may require significant financial, operational and managerial resources that would otherwise be available for the operation, development and expansion of our existing business. To the extent that we have miscalculated our ability to integrate and properly manage any or all of our acquisitions, we may have difficulty in achieving our operating and strategic objectives.

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A substantial amount of our growth has been due to acquisitions. During 2002, we acquired the BRS practice. During 2003, we completed three significant acquisitions: Lexecon, the former dispute advisory business of KPMG

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LLP and Ten Eyck, all of which occurred in the fourth quarter. On February 28, 2005, we acquired substantially all of the assets and assumed certain liabilities of the Ringtail group. Ringtail is a leading developer of litigation support and knowledge management technologies for law firms. On May 31, 2005, we acquired substantially all of the assets and assumed certain liabilities of Cambio from certain of the individual owners of Cambio Partners, LLC ( Cambio Partners ), the direct parent of Cambio, and certain of its investors. Cambio is a leading provider of change management solutions for hospital and health systems. On January 6, 2006, we completed our acquisition of all of the outstanding common stock of Competition Policy Associates, Inc., which we refer to as Compass, and related assets from the stockholders of Compass. Compass is a top competition economics consulting firm, with offices in Washington, D.C. and San Francisco. Compass practice involves sophisticated economic analysis in the context of antitrust disputes, mergers and acquisitions, regulatory and policy debates, and general commercial litigation across a broad range of industries in the United States, Europe and the Pacific Rim. The extent of integration of these businesses at this time differs. Some of the integration challenges we face include differences in corporate cultures and management styles, additional or conflicting government regulation, disparate company policies and practices and client conflict issues. All of our acquisitions in 2003, our Ringtail and Cambio acquisitions in 2005 and a portion of our acquisition of the Compass business in 2006, were structured as asset transactions. Asset transactions generally necessitate receipt of third party consents to assign client engagements. All clients might not affirmatively consent to an assignment. In addition, in some cases there are no written client contracts memorializing an engagement. Such engagements will only continue at the pleasure of those clients. In certain cases, such as government contracts and bankruptcy engagements, the consents of clients cannot be solicited until after the acquisition has closed. Further, such contracts may be subject to security clearance requirements or bidding provisions with which we might not be able to comply. There is no assurance that local, state and federal governments will agree to novate their contracts to us. In addition, in an engagement that involves a bankruptcy case, we must make a filing with the applicable U.S. Trustee, at which time such U.S. Trustee may find that we are no longer disinterested. In connection with such bankruptcy cases, we may be required to resign and to refund fees collected in connection with those engagements. We could be responsible for returning fees even if they were not paid to us, but rather to the company from whom we acquired the business. In some cases, we may not have legal recourse to demand that the seller of the business reimburse us.

### **Our corporate finance practice has an increased risk of fee nonpayment.**

Many of our clients have engaged us because they are experiencing financial distress. We recognize that these clients may not have sufficient funds to continue operations or to pay for our services. We typically do not receive retainers before we begin performing services on a client's behalf in connection with a significant amount of our corporate finance business. In the cases that we have received retainers, we cannot assure you that the retainers will adequately cover our fees for the services we perform on behalf of these clients. We are not always able to obtain retainers from clients in bankruptcy as the bankruptcy court must approve our retainers for those clients. Even if a bankruptcy court approves our retainer or engagement, a bankruptcy court has the discretion to require us to return all, or a portion of, our fees. Therefore, we face the risk of nonpayment, which can result in write-offs. For the three years ended December 31, 2004, and the nine months ended September 30, 2005 we wrote off a total of approximately \$17.2 million and \$2.3 million, respectively, of uncollectible fees in all practices. Our total write-offs exclude unbilled fee adjustments and amounts attributable to our applied sciences practice, which we sold in 2003. More write-offs than we expect in any period would have a negative impact on our results of operations.

### **If the size, complexity and number of debt defaults, bankruptcy or restructuring actions or other factors affecting demand for our corporate finance services declines, our revenues and profitability could suffer.**

Our corporate finance practice provides various restructuring and restructuring-related services to companies in financial distress or their creditors or other stakeholders. A number of factors affect demand for this practice's services. These include:

the availability and level of lending activity, interest rates and over-leveraging of companies;

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over-expansion by various businesses;

merger and acquisition activity;

management problems; and

the general economic factors resulting in the decline in the economy in the U.S.

Notwithstanding increases in debt, we have also seen a decline of the mega-bankruptcy cases, resulting in a greater portion of our business being comprised of engagements relating to bankruptcy and restructuring matters involving mid-size companies, primarily as a result of general economic conditions, including the strengthening of the economy, the availability of credit, low interest rates and fewer mergers and acquisitions. In our experience, mid-size bankruptcy and restructuring engagements are more susceptible to cyclical factors such as holidays and vacations. The shift to mid-size engagements could result in lower utilization during the third and fourth quarters due to these factors. Declines in demand for our restructuring, turnaround and bankruptcy services as well as smaller engagements could result in lower revenues and decrease our overall profitability.

**If we fail to find suitable acquisition candidates, or if we are unable to take advantage of opportunistic acquisition situations, our ability to expand may be curtailed.**

The number of suitable acquisition candidates may decline if the competition for acquisition candidates increases. As a result, we may be unable to make acquisitions or be forced to pay more or agree to less advantageous acquisition terms for the companies that we are able to acquire. Alternatively, at the time an acquisition opportunity presents itself, internal and external pressures (including, but not limited to, borrowing capacity under our senior secured credit facility or the availability of alternative financing), may cause us to be unable to pursue or complete an acquisition. Our ability to grow our business, particularly through acquisitions, may depend on our ability to raise capital by selling equity or debt securities or obtaining additional debt financing. We cannot assure you, however, that we will be able to obtain financing when we need it or on terms acceptable to us. In any case, we may be unable to grow our business or expand our service offerings as quickly as we have in the past, and our profitability may decline.

**We may not manage our growth effectively, and our profitability may suffer.**

We have experienced rapid growth in recent years. This rapid expansion of our business may strain our management team, human resources and information systems. We cannot assure you that we can successfully manage the integration of any businesses we may acquire or that they will result in the financial, operational and other benefits that we anticipate. To manage our growth successfully, we may need to add qualified managers and employees and periodically update our operating, financial and other systems, as well as our internal procedures and controls. We also must effectively motivate, train and manage a larger professional staff. Such expansion may result in significant expenditures. If we fail to add qualified managers or manage our growth effectively, our business, results of operations and financial condition may be harmed.

**Our revenues, operating income and cash flows are likely to fluctuate.**

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We have experienced fluctuating revenues, operating income and cash flows and expect that this will occur from time to time in the future. We may experience fluctuations in our annual or quarterly revenues and operating income because of the timing of our client assignments, the types of assignments we are working on at different times, hiring trends and decreased productivity because of vacations taken by our professionals. This means our profitability will likely decline if we experience an unexpected variation in the number or timing of client assignments or during the third quarter when substantial numbers of professionals take vacations, which reduces their utilization rates. We may also experience future fluctuations in our cash flows because of the timing of the payment of incentive compensation to our professionals, which we generally pay during the first quarter of each year. Also, the timing of any future acquisitions and the cost of integrating them may cause fluctuations in our operating results.

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**A significant portion of Lexecon's revenues results from relationships with clients and industry professionals maintained by Daniel Fischel, Dennis Carlton and Joseph P. Kalt. The loss of one or more of them could decrease our revenues and our profitability.**

The success of our acquisition of Lexecon will depend upon our retention of Daniel Fischel, Dennis Carlton and Joseph P. Kalt. They have reputations in the field of economics for highly specialized expertise as well as important relationships with existing clients and industry professionals. Their reputations and relationships are critical to retaining and gaining new client engagements, particularly large, complex matters. We have written five-year employment agreements with Messrs. Fischel, Carlton and Kalt. The loss of Messrs. Fischel, Carlton or Kalt could harm the success of our acquisition of the Lexecon practice.

**We have a different system of governance and management from the companies from whom we made our acquisitions, which could cause senior professionals who joined us from the acquired companies to leave us.**

Lexecon, the dispute advisory services, or DAS business, of KPMG LLP that we acquired in 2003, and the BRS business shared many of the management practices and policies of their parent companies. We believe our management practices and policies differ from the practices and policies of those companies, including, but not limited to, the manner in which potential conflicts of interest were handled. In some cases, these different management practices and policies may lead to workplace dissatisfaction on the part of those professionals with our way of conducting business. The loss of one or more key professionals may harm our business and results of operations.

### **Risks Related to the Notes**

**Increased leverage may harm our financial condition and results of operations.**

At September 30, 2005, we had approximately \$350.0 million of outstanding debt. The notes do not restrict our future incurrence of indebtedness and we may incur additional indebtedness in the future. Our level of indebtedness will have several important effects on our future operations, including, without limitation:

we will have additional cash requirements in order to support the payment of interest on our outstanding indebtedness;

increases in our outstanding indebtedness and leverage will increase our vulnerability to adverse changes in general economic and industry conditions, as well as to competitive pressure; and depending on the levels of our outstanding debt, our ability to obtain additional financing for working capital, capital expenditures, general corporate and other purposes may be limited.

Our ability to make payments of principal and interest on our indebtedness depends upon our future performance, which will be subject to general economic conditions, industry cycles and financial, business and other factors affecting our operations, many of which are beyond our control. If we are unable to generate sufficient cash flow from operations in the future to service our debt, we may be required, among other things:



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to seek additional financing in the debt or equity markets;

to refinance or restructure all or a portion of our indebtedness, including the notes;

to sell selected assets;

to reduce or delay planned capital expenditures; or

to reduce or delay planned operating expenditures.

Such measures might not be sufficient to enable us to service our debt. In addition, any such financing, refinancing or sale of assets might not be available on economically favorable terms.

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**The notes and related guarantees are subordinated to our and the guarantors' existing and future senior debt. Your right to receive payment on the notes is junior to our and the guarantors' senior obligations, including those under our senior secured credit facility and the senior notes.**

The notes are unsecured, senior subordinated obligations of ours and the guarantee of the notes by certain of our subsidiaries are unsecured, senior subordinated obligations of those guarantors. By their express terms, the notes and note guarantees are junior in right of payment to all of our and the guarantors' existing and future senior debt, including our senior secured credit facility and the senior notes. Any debt that we or the guarantors incur will be senior to the notes, unless the terms of that debt expressly provide that it ranks equal with, or is subordinated to, the notes. As a result, upon any distribution to our creditors or the creditors of the guarantors in a bankruptcy, liquidation or reorganization or similar proceeding relating to us or the guarantors or to our or their property, the holders of our and the guarantors' senior debt will be entitled to be paid in full before any payment may be made with respect to these notes or the note guarantees. In addition, under the subordination provisions contained in the indenture, we and the guarantors may be prevented from making payments in respect of the notes and the guarantees if a payment default on senior debt occurs, and the holders of senior debt may temporarily block us and the guarantors from making payments on the notes and the note guarantees if certain types of non-payment defaults on senior debt occur.

In the event of a bankruptcy, liquidation or reorganization or similar proceeding relating to us or the guarantors, holders of the notes and of any other senior subordinated debt that we or the guarantors may issue in the future will participate in the assets remaining after we and the guarantors have paid all of our and their senior debt in full. In any of these cases, we and the guarantors may not have sufficient funds to pay all of our creditors and holders of notes may receive less, ratably, than the holders of our senior debt. Furthermore, because the indenture requires that amounts otherwise payable to holders of the notes in a bankruptcy or similar proceeding be paid to holders of senior debt instead, holders of the notes may receive less, ratably, than holders of trade payables in any such proceeding, because those creditors have not agreed to be subordinated.

Our senior debt outstanding as of September 30, 2005 was \$350.0 million, which consisted exclusively of our senior notes and our convertible notes, and we also had \$100.0 million of revolving availability under our senior secured credit facility, subject to outstanding letters of credit of \$8.6 million. We are permitted to borrow substantial additional indebtedness, including senior debt, in the future under the terms of the indenture.

**We may not have sufficient cash to pay, or may not be permitted to pay, the cash portion of the conversion consideration upon conversion of the notes.**

Upon conversion of the notes, we will be required to pay to the holder of a note a cash payment equal to the lesser of the principal amount of the notes being converted or the conversion value of those notes as described in this prospectus. As a result, we may be required to pay significant amounts in cash to holders of the notes upon conversion. We may not have sufficient cash funds to pay the conversion consideration at the time of conversion. In addition, those payments could be construed to be a prepayment of principal on subordinated debt, and our existing and future senior debt may prohibit us from making those payments, or may restrict our ability to do so by requiring that we satisfy certain covenants relating to the making of restricted payments. The senior notes indenture generally allows these payments, and our senior secured credit facility permits these payments in some, but not all, circumstances. See "Description of Notes Conversion Consideration" for a description of the circumstances under which our senior secured credit facility will permit us to pay the required cash portion of the conversion consideration upon conversion of the notes. Moreover, our senior secured credit facility and the indenture governing our senior notes could be subsequently amended to, and other senior debt instruments that we may enter into in the future could, further prohibit or restrict our ability to make those cash payments upon conversion of the notes. In addition, our ability to make payments on the notes, including upon conversion under any circumstance, may be restricted by the subordination provisions of the indenture governing the notes. See "Description of Notes Subordination." If we are unable to pay the conversion consideration, we could seek consent from our lenders to make the payment. If we are unable to obtain their consent, we could attempt to refinance their debt. If we were



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unable to obtain a consent or refinance the debt, we would be prohibited from paying the cash portion of the conversion consideration, in which case we would have an event of default under the indenture governing the notes.

**Your right to receive payments on these notes could be adversely affected if any of our non-guarantor subsidiaries declare bankruptcy, liquidate, or reorganize.**

Some but not all of our subsidiaries have guaranteed the notes. In the event of a bankruptcy, liquidation or reorganization of any of our non-guarantor subsidiaries, holders of their indebtedness and their trade creditors will generally be entitled to payment of their claims from the assets of those subsidiaries before any assets are made available for distribution to us.

As of September 30, 2005, the notes were effectively junior to \$0.3 million of indebtedness and other liabilities (including trade payables) of our non-guarantor subsidiaries. Our non-guarantor subsidiaries generated 0.7% of our consolidated revenues in the nine-month period ended September 30, 2005 and held 3.3% of our consolidated assets as of that date.

**The contingent conversion feature of the notes could result in your receiving less than the full conversion value of your notes.**

The notes are convertible into conversion consideration only if specified conditions are met. If the specific conditions for conversion are not met, you will not be able to convert your notes, and you may not be able to receive the full value of the consideration into which the notes would otherwise be convertible.

**We may not have sufficient cash to purchase the notes, if required, upon a fundamental change.**

You may require us to purchase all or any portion of your notes upon a fundamental change, which generally is defined as the occurrence of any of the following: (i) our common stock is not traded on a national securities exchange or listed on The Nasdaq Stock Market; (ii) any person acquires more than 50% of the total voting power of all shares of our capital stock; (iii) certain mergers, consolidations, sales or transfers involving us occur; or (iv) our board of directors does not consist of continuing directors. In certain situations, you will not have a repurchase right even if a fundamental change has occurred. See [Description of Notes Repurchase at Option of the Holder Upon a Fundamental Change](#) and [Description of Notes Public Acquirer Change of Control](#). In addition, we may not have sufficient cash funds to repurchase the notes upon such a fundamental change. Certain instruments governing our indebtedness restrict, and instruments governing our future indebtedness may restrict, our ability to repay the purchase price. If we are prohibited from repurchasing the notes, we could seek consent from our lenders to repurchase the notes. If we are unable to obtain their consent, we could attempt to refinance their debt. If we were unable to obtain a consent or refinance the debt, we would be prohibited from repurchasing the notes upon a fundamental change. If we were unable to repurchase the notes upon a fundamental change, it would result in an event of default under the indenture. An event of default under the indenture could result in a further event of default under our other then-existing debt. In addition, the occurrence of the fundamental change may be an event of default under our other debt, which could have a significant adverse affect on our financial condition.

**The make-whole adjustment for notes converted in connection with a fundamental change may not adequately compensate you for the lost option time value of your notes as a result of such fundamental change.**

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If a fundamental change occurs, under certain circumstances, we will increase the conversion rate according to a make-whole formula on notes converted in connection with such fundamental change. The amount of the increase will be determined based on the date on which the fundamental change becomes effective and the price paid per share of our common stock in the transaction constituting the fundamental change, as described below under Description of the Notes Adjustment to Conversion Rate Upon a Fundamental Change. Although the

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make-whole increase is designed to compensate you for the lost option time value of your notes as a result of such fundamental change, the amount of the make-whole increase is only an approximation of such lost value and may not adequately compensate you for such loss. In addition, if the market price of our common shares at the time of such fundamental change is greater than \$120.00 per common share or less than \$24.04 per common share (in each case, subject to adjustment), we will not adjust the conversion rate of the notes.

### **There is no public market for the notes and transfers of the notes will be restricted.**

There is currently no public market for the notes. Although the notes that were sold to qualified institutional buyers under Rule 144A are eligible for trading in PORTAL, any notes resold under this prospectus will no longer trade in the PORTAL system. We cannot predict whether an active trading market for the notes will develop or, if such market develops, how liquid it will be. We do not intend to apply for listing of the notes on any securities exchange or other stock market. Accordingly, no market for the notes may develop, and any market that develops may not last.

Even if an active trading market were to develop, the notes could trade at prices that may be lower than the initial offering price of the notes, or the holders could experience difficulty or an inability to resell the notes. Whether or not the notes will grade at lower prices depends on many factors, including prevailing interest rate, the market for similar securities, the price of our shares of common stock, our performance and other factors.

### **The notes are not protected by restrictive covenants.**

The indenture governing the notes does not contain any financial or operating covenants or restrictions on the payment of dividends, the incurrence of indebtedness or the issuance or repurchase of securities by us or any of our subsidiaries. The indenture contains no covenants or other provisions to afford protection to holders of the notes in the event of a fundamental change involving us except to the extent described under [Description of Notes](#) [Repurchase at Option of the Holder Upon a Fundamental Change](#).

### **If you hold notes, you are not entitled to any rights with respect to our common stock, but you are subject to all changes made with respect to our common stock.**

If you hold notes, you are not entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock), but you are subject to all changes affecting the common stock. You will only be entitled to rights on the common stock if and when we deliver shares of common stock to you in exchange for your notes and in limited cases under the antidilution adjustments of the notes. For example, if an amendment is proposed to our certificate of incorporation or bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to delivery of the common stock, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes in the powers, preferences or special rights of our common stock.

### **If any or all of our outstanding notes are converted into shares of our common stock, existing common stockholders will experience immediate dilution and, as a result, our stock price may go down.**

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The notes offered hereby are convertible, at the option of the holder, into conversion consideration that may include shares of our common stock. We have reserved shares of our authorized common stock for issuance upon conversion of the notes. If any or all of the notes are converted into shares of our common stock, our existing stockholders will experience immediate dilution and our common stock price may be subject to downward pressure.

**Any adverse rating of the notes may cause their trading price to fall.**

In the future, one or more rating agencies may rate the notes. If any rating agency rates the notes, it may assign a lower rating than that which is expected by investors. A rating agency, following any initial or

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subsequent rating, may also lower ratings on the notes. If a rating agency assigns a lower than expected rating on the notes or reduces its rating on the notes in the future, the trading price of the notes could decline.

**The market price of the notes could be significantly affected by the market price of our common stock, which can be volatile, and other factors.**

We expect that the market price of the notes will be significantly affected by the market price of our common stock. This may result in greater volatility in the market price of the notes than would be expected for nonconvertible debt securities. The market price of our common stock will likely continue to fluctuate in response to the following factors, some of which are beyond our control:

quarterly fluctuations in our operating and financial results;

changes in financial estimates and recommendations by financial analysts;

failure to maintain an effective system of internal controls or to implement changes to address reportable conditions;

developments related to litigation involving us;

fluctuations in the share price and operating results of our competitors;

changes in government regulation or the failure to meet regulatory requirements;

acquisitions and financings including the issuance of substantial number of shares of our common stock as consideration in acquisitions;

stock repurchases we may execute;

sale of a substantial number of shares held by the existing shareholders in the public market, including shares issued upon exercise of outstanding options or upon the conversion of convertible debt securities; and

general conditions in the consulting industry.

**Shares eligible for public sale after the date of this prospectus could adversely affect our stock price.**

As of September 30, 2005, we had approximately 3.1 million shares of common stock underlying vested stock options that, upon exercise of such options, would be currently eligible for sale in the public market. We have on file a registration statement on Form S-8 under the Securities



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Act covering the shares underlying these options. We cannot predict the effect, if any, that market sales of those shares of common stock or the availability of those shares of common stock for sale will have on the market price of our common stock from time to time. The sale of a substantial number of shares held by the existing stockholders in the public market, including shares issued upon exercise of outstanding options or warrants, whether pursuant to a public offering or otherwise, or the perception that these sales could occur, could adversely affect the market price of our common stock. Such sale could materially impair our ability to raise capital through an offering of equity securities in the future at a time and price we deem appropriate.

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**Summary Consolidated Financial Data and Other Operating Information**

We have derived the following summary historical consolidated income statement, cash flow and other financial data for the years ended December 31, 2002, 2003 and 2004 from our consolidated financial statements, which have been audited by Ernst & Young LLP, an independent registered public accounting firm. We derived the summary historical consolidated income statement, cash flow and other financial data for the nine months ended September 30, 2004 and 2005 and the summary consolidated balance sheet data as of September 30, 2005 from our unaudited consolidated financial statements. We prepared the summary unaudited interim financial data on a basis consistent with the audited consolidated financial statements as of and for the year ended December 31, 2004. In management's opinion, the unaudited interim consolidated financial information reflects all adjustments that are necessary for a fair presentation of the results for the interim periods presented. All adjustments made were normal and recurring accruals. You should not expect the results of operations for the interim periods to necessarily be an indication of the results for a full year or any future period. You should read the following data in conjunction with Selected Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations and the consolidated financial statements and related notes thereto, which are incorporated by reference in this prospectus.

We have prepared the following summary unaudited pro forma consolidated income statement data for the year ended December 31, 2004 and for the nine months ended September 30, 2005 giving effect to the Transactions (as defined below), as if they had occurred on January 1, 2004.

As used in this prospectus, the term "Transactions" means, collectively:

the offering of the notes and the concurrent offering of the senior notes on August 2, 2005 (which we refer to together as the Offerings);

the repayment, using \$142.5 million of the net proceeds from the Offerings, of all of our outstanding term loan borrowings under our senior secured credit facility;

the repurchase, using approximately \$125.4 million of the net proceeds from the Offerings, of shares of our common stock in connection with the Offerings; and

our payment of fees and expenses in connection with the foregoing.

The unaudited pro forma consolidated financial statements have been derived by the application of pro forma adjustments to our historical consolidated financial statements for the year ended December 31, 2004 and the nine-months ended September 30, 2005. The unaudited pro forma adjustments are based on estimates, available information and certain assumptions that we believe are reasonable and may be revised as additional information becomes available. The pro forma adjustments include:

The elimination of interest expense due to the repayment of amounts due under our senior secured credit facility, including the amortization and write-off of deferred financing costs attributable to our prepayment of term loans in the amount of \$5.3 million for the year ended December 31, 2004 and \$6.3 million for the nine months ended September 30, 2005.

The addition of interest expense related to the Offerings (all of which are assumed to be outstanding for each period presented) in the amount of \$22.6 million for the year ended December 31, 2004 and \$17.0 million for the nine months ended September 30, 2005. The

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additional interest expense includes the amortization of deferred financing costs attributable to the Offerings.

The adjustment to the income tax provision resulting from the adjustments above was calculated using our effective tax rate which was 42.1% for the year ended December 31, 2004 and 42.0% for the nine months ended September 30, 2005.

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The weighted average shares outstanding were adjusted to reflect the weighted average effect of the repurchase of 5.2 million shares of our common stock in connection with the Offerings. The notes may have a dilutive effect on earnings per share in any period in which the market price of our common stock exceeds the conversion price for the notes even if the notes are not convertible.

The pro forma adjustments exclude the impact of the interest rate swap agreements we entered into subsequent to the closing of the Transactions and the forward contract portion of the accelerated stock repurchase transaction we finalized with one of the underwriters of the Offerings subsequent to the closing of the Transactions. For more detailed information, see notes 5 and 7 to our unaudited quarterly consolidated financial statements for the nine months ended September 30, 2005, which are incorporated by reference in this prospectus.

We have presented the unaudited pro forma financial data for informational purposes only. You should not consider the pro forma consolidated income statement and balance sheet data to be indicative of what the actual results would have been had the transactions described above been completed on the dates indicated nor should you expect the pro forma results to be an indication of the results of operations or financial condition as of any future date or for any future period. You should read the following data in conjunction with Selected Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations and the consolidated financial statements and related notes thereto, which are incorporated by reference in this prospectus.

**Average Billable Rate per Hour.** Effective January 1, 2005, we modified our calculation of average billable rate per hour to include revenue realization adjustments and success fees earned as part of employee revenues. Average billable rates per hour for 2003 and 2004 have been adjusted to conform to our current presentation. The average billable rate per hour for 2002 is not available on a basis comparable to our current calculation. Prior to modifying our calculation, our average billable rate per hour was \$311 for the year ended December 31, 2002, \$363 for the year ended December 31, 2003, \$354 for the year ended December 31, 2004 and \$353 for the nine months ended September 30, 2004.

**Ratio of Earnings to Fixed Charges.** For the purpose of computing the ratio of earnings to fixed charges, earnings consist of income from continuing operations, before income taxes plus fixed charges. Fixed charges consist of:

interest on all indebtedness and amortization of deferred financing costs; and

the portion of rental expense that we believe is representative of interest.

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	Year Ended December 31,			Nine Months Ended		Pro Forma	
				September 30,	September 30,	Year	Nine Months
	2002	2003	2004	2004	2005	Ended December 31, 2004	Ended September 30, 2005
	(dollars in thousands, except per share and average billable rate data)						
	(unaudited)				(unaudited)		
<b>INCOME STATEMENT DATA:</b>							
Revenues	\$ 224,113	\$ 375,695	\$ 427,005	\$ 322,118	\$ 373,720	\$ 427,005	\$ 373,720
Direct cost of revenues	108,104	176,429	234,970	176,994	202,878	234,970	202,878
Selling, general and administrative expense	51,647	81,761	106,730	76,348	90,030	106,730	90,030
Amortization of other intangible assets	1,033	3,680	6,836	4,220	4,309	6,836	4,309
Operating income	63,329	113,825	78,469	64,556	76,503	78,469	76,503
Interest and other expenses, net	(4,717)	(4,196)	(6,086)	(4,178)	(9,879)	(23,388)	(20,563)
Litigation settlement gains (losses), net			1,672		(991)	1,672	(991)
Income from continuing operations before income tax provision	58,612	109,629	74,055	60,378	65,633	56,753	54,949
Income tax provision	23,704	44,838	31,177	25,117	27,566	23,893	23,079
Income from continuing operations	34,908	64,791	42,878	35,261	38,067	32,860	31,870
Income (loss) from discontinued operations	2,254	(5,322)					
Net income	\$ 37,162	\$ 59,469	\$ 42,878	\$ 35,261	\$ 38,067	\$ 32,860	\$ 31,870
<b>Earnings per common share net income</b>							
Basic	\$ 1.16	\$ 1.45	\$ 1.02	\$ 0.84	\$ 0.91	\$ 0.89	\$ 0.85
Diluted	\$ 1.09	\$ 1.41	\$ 1.01	\$ 0.83	\$ 0.90	\$ 0.88	\$ 0.83
<b>Weighted average number of common shares outstanding</b>							
Basic	32,031	40,925	42,099	42,135	41,760	36,883	37,671
Diluted	34,197	42,046	42,512	42,534	42,404	37,296	38,315
<b>CASH FLOW DATA:</b>							
Net cash provided by operating activities	\$ 80,657	\$ 100,177	\$ 58,443	\$ 30,232	\$ 43,503		
Net cash used in investing activities	(156,386)	(231,741)	(13,693)	(8,551)	(57,658)		
Net cash provided by (used in) financing activities	72,779	127,423	(24,811)	(18,459)	103,708		
<b>OTHER FINANCIAL DATA:</b>							
Capital expenditures	8,777	10,612	11,939	6,694	12,077		
<b>SELECTED OPERATING INFORMATION:</b>							
Revenue-generating professionals	610	827	745	726	966		
Utilization rates	88%	83%	77%	78%	79%		
Average billable rate per hour	N/A	\$ 347	\$ 343	\$ 341	\$ 337		

**CREDIT STATISTICS:**

Ratio of earnings to fixed charges	9.2x	15.7x	8.3x	9.0x	6.1x	3.1x	3.2x
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September 30, 2005

(in thousands)

(unaudited)

**BALANCE SHEET DATA:**

Cash and cash equivalents	\$	115,257
Working capital		195,837
Total assets		924,316
Long-term debt, including fair value hedge adjustment of \$748		349,252
Stockholders' equity		444,100

**Table of Contents****RATIO OF EARNINGS TO FIXED CHARGES**

The following table sets forth our ratio of earnings to fixed charges for the periods shown:

	Year Ended December 31,					Nine Months Ended September 30,	
	2000	2001	2002	2003	2004	2004	2005
Ratio of earnings to fixed charges	1.7x	4.8x	9.2x	15.7x	8.3x	9.0x	6.1x

For the purpose of computing the ratio of earnings to fixed charges, earnings consist of income from continuing operations, before income taxes plus fixed charges. Fixed charges consist of:

interest on all indebtedness and amortization of deferred financing costs; and

the portion of rental expense that we believe is representative of interest.

**USE OF PROCEEDS**

The selling securityholders will receive all the proceeds from the sale of the notes and shares of our common stock sold under this prospectus. We will not receive any cash proceeds from the sale of these securities.

We used the net proceeds from the offering of the notes and the concurrent offering of the senior notes (which we refer to together as the Offerings ) to repay \$142.5 million of term loan indebtedness under our senior secured credit facility and to repurchase approximately \$125.4 million of our common stock through a combination of direct share repurchases and an accelerated stock buyback program.

**PRICE RANGE AND DIVIDEND HISTORY OF OUR COMMON STOCK**

Our common stock trades on the New York Stock Exchange under the symbol FCN. The following table lists the high and low sale prices per share for our common stock as reported on the New York Stock Exchange for the periods indicated. The prices for periods in 2003 have been adjusted to give effect to the three-for-two stock split that was paid as a stock dividend on June 4, 2003 to stockholders of record on May 7, 2003.

High Low

<b>Fiscal Year Ended December 31, 2003</b>		
Quarter Ended March 31	\$ 30.93	\$ 25.53
Quarter Ended June 30	32.45	22.60
Quarter Ended September 30	27.60	17.00
Quarter Ended December 31	24.58	16.79
<b>Fiscal Year Ended December 31, 2004</b>		
Quarter Ended March 31	\$ 24.14	\$ 13.55
Quarter Ended June 30	17.49	14.56
Quarter Ended September 30	19.65	15.37
Quarter Ended December 31	21.30	17.51
<b>Fiscal Year Ending December 31, 2005</b>		
Quarter Ended March 31	\$ 21.95	\$ 17.20
Quarter Ended June 30	22.66	19.02
Quarter Ended September 30	26.37	20.66
Quarter Ended December 31	30.54	23.79

On January 10, 2006, the last reported sale price of our common stock on NYSE was \$28.38 per share.

We have not declared or paid any cash dividends on our common stock to date and we do not anticipate paying any cash dividends on our shares of common stock in the foreseeable future because we intend to retain our earnings, if any, to finance the expansion of our business, make acquisitions and for general corporate purposes. Our senior secured credit facility and the indenture governing the senior notes restrict our ability to pay dividends.



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**DESCRIPTION OF OTHER INDEBTEDNESS**

**Senior Secured Credit Facility**

*General.* On November 28, 2003 we and certain of our subsidiaries entered into an amended and restated credit agreement with Bank of America, as administrative agent, and Wachovia Bank, SunTrust Bank, Comerica Bank, Sovereign Bank, National City Bank, PNC Bank and U.S. Bank, as lenders, providing for the senior secured credit facility.

The senior secured credit facility, as amended to date, consists of a \$100.0 million senior secured revolving line of credit maturing on November 28, 2008. In connection with the Offerings, we amended our senior secured credit facility to facilitate the offering of the senior notes and the convertible notes, adjust our financial covenants and effect certain other changes.

We use letters of credit primarily as security deposits for our office facilities. Letters of credit reduce the availability under our revolving line of credit. As of September 30, 2005, we had \$8.6 million of outstanding letters of credit.

Our obligations under the senior secured credit facility are guaranteed by substantially all of our subsidiaries. Our obligations under the senior secured credit facility are secured by substantially all of our and our subsidiaries' assets.

*Interest rates and fees.* The borrowings under the senior secured credit facility bear interest at an annual rate equal to the Eurodollar rate plus an applicable margin or an alternative base rate defined as the higher of (1) the lender's announced prime rate or (2) the federal funds rate plus the sum of 50 basis points and an applicable margin.

*Voluntary prepayments.* We are not subject to any penalties for early payment of debt under the senior secured credit facility.

*Covenants.* The senior secured credit facility contains financial, affirmative and negative covenants that we believe are usual and customary for a senior secured credit agreement. The negative covenants in the senior secured credit facility include, among other things, limitations on our ability to:

incur additional indebtedness;

create liens;

pay dividends;

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make distributions or repurchases of our capital stock;

consolidate, merge or sell all or substantially all of our assets;

guarantee obligations of other entities;

enter into hedging agreements;

enter into transactions with our affiliates; and

engage in any business other than the consulting business.

In addition, the senior secured credit facility requires us to comply with certain financial ratios, each as defined in the amended and restated credit agreement, including, among other things:

total indebtedness to earnings before interest, taxes, depreciation and amortization, or EBITDA;

total senior indebtedness to EBITDA;

EBITDA to specified financial charges; and

maintenance of a minimum net worth.

**Table of Contents****Senior Notes**

*General.* Contemporaneous with the offering of the notes, we offered \$200.0 million in aggregate principal amount of our 7<sup>5</sup>/<sub>8</sub>% senior notes due 2013. The senior notes are our general unsecured obligations and are guaranteed on a senior unsecured basis by substantially all of our existing and future domestic subsidiaries. The senior notes were issued pursuant to an indenture among us, the guarantors and Wilmington Trust Company, as trustee. Interest on the senior notes is payable at the rate of 7<sup>5</sup>/<sub>8</sub>% per annum and is payable semi-annually in arrears in cash on each June 15 and December 15. The senior notes will mature on June 15, 2013.

*Ranking.* The senior notes are our senior unsecured obligations and rank *pari passu* in right of payment with all of our existing and future senior indebtedness and rank senior in right of payment to all of our existing and future subordinated indebtedness, including the notes. The senior notes are effectively subordinated to our existing and future secured indebtedness to the extent of the collateral securing such indebtedness, as well as to all liabilities, including trade payables, of our subsidiaries that do not guarantee the senior notes.

*Optional Redemption.* We have the right to redeem all or part of the senior notes at the redemption prices (expressed as percentages of principal amount) set forth below if redeemed during the twelve-month period beginning on June 15 of the years set forth below, plus, in each case, accrued and unpaid interest, if any, to the date of redemption:

<u>Year</u>	<u>Percentage</u>
2009	103.813%
2010	101.906%
2011 and thereafter	100.000%

We also have the right, at any time prior to June 15, 2009, to redeem on one or more occasions up to 35% of the aggregate principal amount of senior notes with the proceeds of certain sales of our equity securities at a redemption price of 107.625% of the principal amount, plus accrued and unpaid interest, if any, to the redemption date; *provided* that at least 65% of the aggregate principal amount of senior notes originally remains outstanding after the occurrence of each such redemption and the redemption occurs within 90 days of the date we consummate a sale of our equity securities.

In addition, we may redeem the senior notes, in whole or in part, at any time prior to June 15, 2009, at a redemption price equal to 100% of the principal amount of the senior notes plus a *make-whole* premium, determined by reference to United States treasuries plus a spread of 50 basis points, plus accrued and unpaid interest to the date of redemption.

*Repurchase at the Option of Holders.* If we experience certain types of change of control, the senior note indenture requires that we make an offer to all holders of the senior notes to repurchase their senior notes at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of redemption. In addition, if we sell certain types of assets, the senior notes indenture requires that, to the extent we do not apply the proceeds from the asset sale in accordance with the senior notes indenture, we use the net proceeds of that asset sale to make an offer to all holders of the senior notes to repurchase their senior notes, up to the amount of such net proceeds, at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of redemption.

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*Covenants.* The indenture governing the senior notes contains several restrictive covenants that are much more extensive than the restrictive covenants contained in the indenture governing the notes. The senior note indenture includes covenants that limit our ability and the ability of our subsidiaries to:

incur additional indebtedness and issue preferred stock;

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pay dividends or make other distributions in respect of our capital stock or to make other restricted payments;

make certain investments;

create certain liens;

allow restrictions on the ability of our subsidiaries to make distributions or transfer assets to us;

enter into certain transactions with affiliates;

sell assets;

enter into certain mergers and consolidations;

enter into new lines of business; and

amend the subordination provisions contained in the indenture governing the notes.

The foregoing restrictive covenants are incurrence-based, meaning that they limit our ability to take certain actions or allow certain events to occur. The senior notes indenture does not contain any financial covenants, and therefore we are not required to maintain any specified financial condition.

*Events of Default.* The senior notes indenture contains customary events of default, in some cases subject to grace periods, that could result in the acceleration of the senior notes prior to stated maturity if those events of default are not cured or waived. The senior notes indenture contains a cross-default to any acceleration of, or default in the payment of principal on, indebtedness that has an aggregate principal amount outstanding that exceeds \$25.0 million. We also will have an event of default if we fail to pay certain judgments against us in an amount over \$25.0 million or if we or any of our significant subsidiaries experience certain types of bankruptcy or insolvency.

*Special Interest.* The senior notes were issued in a private placement exempt from the registration requirements of the federal securities laws. We have entered into a registration rights agreement with the initial purchasers of the senior notes in which we agreed to register a substantially identical series of senior notes with the SEC and to conduct an exchange offer pursuant to which we will offer to exchange the newly registered series of senior notes for all outstanding senior notes that were issued in the private placement. If we do not meet certain deadlines for registering the new series of senior notes or for completing the exchange offer, we will be required to pay special interest in addition to the regular interest on the senior notes. During any default in our registration obligations, special interest will accrue in an amount equal to 0.25% per annum of the principal amount during the first 90 days of the default. The rate of special interest will increase an additional 25 basis points during each subsequent 90-day period that a registration default continues, up to a maximum of 1.0% per annum.

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**DESCRIPTION OF NOTES**

In this section of the prospectus entitled Description of Notes, when we refer to FTI, we, our, or us, we are referring to FTI Consulting, Inc. not to any of its subsidiaries.

We issued the notes under an indenture dated as of August 2, 2005 among us, our subsidiaries that guaranteed the notes, and Wilmington Trust Company, as trustee, in a private transaction that was not subject to the registration requirements of the Securities Act. The terms of the notes include those stated in the indenture.

The following description is a summary of the material provisions of the indenture and the registration rights agreement. It does not restate those agreements in their entirety. We urge you to read the indenture and the registration rights agreement because they, and not this description, define your rights as a holder of the notes. Copies of the indenture and the registration rights agreement are available as set forth below under Additional Information. Certain defined terms used in this description but not defined below have the meanings assigned to them in the indenture.

The registered holder of a note will be treated as the owner of it for all purposes. Only registered holders have rights under the indenture.

**Brief Description of the Notes and Note Guarantees**

*The Notes*

The notes are:

general unsecured obligations of ours;

subordinated in right of payment to all our existing and future senior debt (as defined below), including indebtedness under the Credit Agreement and the senior notes;

*pari passu* in right of payment with any of our future senior subordinated indebtedness;

senior in right of payment to any future indebtedness that is contractually subordinated to the notes; and

unconditionally guaranteed on a senior subordinated, unsecured basis by the guarantors (as defined below).

*The Note Guarantees*

The notes are guaranteed by all of our subsidiaries that guaranteed the senior notes.

Each guarantee of the notes is:

a general unsecured obligation of the guarantor;

subordinated in right of payment to all existing and future senior debt of that guarantor, including such guarantor's guarantee of indebtedness under the Credit Agreement and the senior notes;

*pari passu* in right of payment with any future senior subordinated Indebtedness of that guarantor; and

senior in right of payment to any future indebtedness that is designated by us as subordinated or otherwise contractually subordinated to the notes.

As of September 30, 2005, we and the guarantors had total senior debt of approximately \$350.0 million, which consisted exclusively of our senior notes and convertible notes, and we also had \$100.0 million of revolving availability under our senior secured credit facility, subject to outstanding letters of credit of \$8.6 million. As indicated above and as discussed in detail below under the caption "Subordination," payments on

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the notes and under the note guarantees are subordinated to the payment of senior debt. Except to the limited extent described below under Limitation on Layering Indebtedness, the indenture does not restrict our and the guarantors' ability to incur additional senior debt, although their ability to do so may be limited by other instruments governing our indebtedness, including the Credit Agreement and the indenture governing the senior notes. As of September 30, 2005, we did not have any indebtedness that is *pari passu* with or subordinated in right of payment to the notes.

Not all of our subsidiaries have guaranteed the notes. As of September 30, 2005, the following entities did not guarantee the notes: FTI Capital Advisors, LLC; FTI Consulting Limited; FTI Financial Services Limited; and FTI Ringtail (Aust) Pty Ltd. See Risk Factors. The repayment of the notes will be effectively subordinated to substantially all of the debt and other liabilities of our subsidiaries that do not guarantee the notes. The notes are effectively subordinated in right of payment to all indebtedness and other liabilities and commitments (including trade payables and lease obligations) of our non-guarantor subsidiaries. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor subsidiaries, the non-guarantor subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to us. The non-guarantor subsidiaries generated 0.7% of our consolidated revenues in the nine-month period ended September 30, 2005 and held 3.3% of our consolidated assets as of September 30, 2005.

## **General**

The notes are convertible into cash and, under some circumstances, common stock as described under Conversion of Notes and Conversion Consideration. We issued \$150.0 million in aggregate principal amount of notes. We may, without the consent of the holders of the notes, issue additional notes having the same ranking and the same interest rate, maturity and other terms as the notes. Any of these additional notes will, together with the notes, constitute a single series of notes under the indenture. Holders of such additional notes will have the right to vote together with holders of the notes as one class. FTI issued the notes only in denominations of \$1,000 or in integral multiples of \$1,000 in excess thereof. The notes will mature on July 15, 2012, unless earlier converted by you or purchased by us at your option upon a fundamental change.

Neither we nor our subsidiaries are restricted from paying dividends, incurring debt, or issuing or repurchasing our securities under the indenture. In addition, there are no financial covenants in the indenture. You are not protected under the indenture in the event of a highly leveraged transaction or a change in control of FTI, except to the extent described under Repurchase at Option of the Holder Upon a Fundamental Change.

The notes bear interest at the annual rate of 3<sup>3</sup>/<sub>4</sub>% commencing on August 2, 2005. Interest is payable on July 15 and January 15 of each year, beginning January 15, 2006, subject to limited exceptions if the notes are converted or purchased prior to the interest payment date. The record dates for the payment of interest are July 1 and January 1. We will not, however, pay accrued interest on any notes that are converted except under the limited circumstances described under Conversion Consideration. We may, at our option, pay interest on the notes by check mailed to the holders. However, beneficial owners of notes issued in global form will be paid by wire transfer in immediately available funds in accordance with The Depository Trust Company's settlement procedures, and a holder of certificated notes with an aggregate principal amount in excess of \$2.0 million will be paid by wire transfer in immediately available funds upon its election if the holder has provided us with wire transfer instructions at least 10 business days prior to the payment date. Interest on the notes is paid on the basis of a 360-day year comprised of twelve 30-day months. We are not required to make any payment on the notes due on any day which is not a business day until the next succeeding business day. The payment made on the next succeeding business day is treated as though it were paid on the original due date and no interest accrues on the payment for the additional period of time.

We will maintain an office in New York, New York where the notes may be presented for registration, transfer, exchange or conversion. This office will initially be an office or agency of the trustee. The notes were issued in fully-registered book entry form, without coupons, and are represented by one or more global notes.





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There will be no service charge for any registration of transfer or exchange of notes. We may, however, require holders to pay a sum sufficient to cover any tax or other governmental charge payable in connection with certain transfers or exchanges as described under Conversion Procedures.

## **Note Guarantees**

The notes are guaranteed by the same subsidiaries that guarantee our senior notes. As of January 9, 2006, the guarantors were each of FTI, LLC, a Maryland limited liability company; FTI Repository Services, LLC, a Maryland limited liability company; Lexecon, LLC, a Maryland limited liability company; Technology & Financial Consulting, Inc., a Texas corporation; Teklicon, Inc., a California corporation; FTI Cambio LLC, a Maryland limited liability company; FTI IP, LLC, a Maryland limited liability company; FTI Compass, LLC, a Maryland limited liability company and FTI Investigations, LLC, a Maryland limited liability company. However, not all of our subsidiaries will guarantee the notes. The note guarantees are joint and several obligations of the guarantors. The obligations of each guarantor under its note guarantee are limited as necessary to prevent that note guarantee from constituting a fraudulent conveyance under applicable law. See Risk Factors Federal and state statutes allow courts, under specific circumstances, to void the notes and the guarantees and require noteholders to return payments received from us or the guarantors. A note guarantee with respect to a note will automatically terminate immediately prior to such note's conversion.

Guarantors may, without the consent of the holders of notes, consolidate with, merge with or into or transfer all or substantially all of their assets to any other corporation organized under the laws of the United States or any of its political subdivisions, *provided* that:

the surviving corporation assumes all of the guarantor's obligations under the indenture;

at the time of such transaction, no event of default with respect to the notes, and no event which, after notice or lapse of time, would become an event of default with respect to the notes, shall have happened and be continuing; and

certain other conditions are met.

The note guarantee of the guarantor will be released:

in connection with any sale or other disposition of all or substantially all of the assets of that guarantor (including by way of merger or consolidation); or

in connection with any sale of all of the capital stock of a guarantor.

The indenture provides that if we or any of our subsidiaries acquire or create a subsidiary after the date of the indenture, then, subject to certain exceptions, such subsidiary will execute a guarantee in accordance with the terms of the indenture and deliver an opinion of counsel.

## **Subordination**

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The indebtedness and other obligations evidenced by the notes and the note guarantees are subordinated, to the extent provided in the indenture, to the prior payment in full in cash of all of our senior debt, whether outstanding on the date of the indenture or thereafter incurred. The term *senior debt* means:

all indebtedness for money borrowed, for reimbursement of drawings under letters of credit and all hedging obligations (including, without limitation, all obligations now or hereafter existing under our senior secured credit facility (including principal, interest (including interest accruing after the filing of, or which would have accrued but for the filing of, a petition by or against us under applicable bankruptcy law, at the rate provided in the document with respect thereto, whether or not such interest is allowed as a claim after such filing in any proceeding under such law), fees and other amounts due in connection therewith) and the senior notes); and

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any deferrals, renewals, refinancings, replacements or extensions of any of the above,

except that senior debt does not include:

any liability for federal, state, local or foreign or other taxes owed or owing by us;

any indebtedness that by its terms expressly provides that it is *pari passu* in right of payment with the notes or subordinated in right of payment to the notes;

any intercompany indebtedness of ours to any of our affiliates; or

any trade payables.

As of September 30, 2005, we had \$350.0 million of senior debt outstanding, and we also had \$100.0 million of revolving availability under our senior secured credit facility, subject to outstanding letters of credit of \$8.6 million.

The indenture provides that in the event of our insolvency, bankruptcy, receivership, liquidation, reorganization or similar proceeding or liquidation, dissolution or winding up or any assignment for the benefit of creditors or marshalling of assets and liabilities, payments by us on the notes will be subordinated in right of payment to the prior payment in full in cash, or in other forms of consideration if permitted, of all of our senior debt. As a result of these subordination provisions, in the event of our liquidation, insolvency or any similar event described above, holders of our senior debt may receive more, ratably, and holders of the notes may receive less, ratably, than our other creditors. In the event of any acceleration of the notes because of an event of default with respect to the notes, holders of any of our senior debt would be entitled to payment in full in cash of all senior debt before the holders of notes are entitled to receive any payment or distribution from us other than any payment or distribution in the form of permitted junior securities (as defined below) and payments made from the trust described under Satisfaction and Discharge. We are required to promptly notify holders of senior debt if payment of the notes is accelerated because of an event of default with respect to the notes.

The term *permitted junior securities* means any equity securities or subordinated securities of ours or any successor obligor that, in the case of any such subordinated securities, are subordinated in right of payment to all senior debt or any securities issued in exchange for senior debt that may at the time be outstanding to at least the same extent as the notes are so subordinated.

We also may not make payments of principal, interest or other amounts in respect of the notes or repurchase the notes (except for payment in the form of permitted junior securities) if any of the following occurs:

a default in the payment of the principal, interest or other amounts on designated senior debt (as defined below) occurs and is continuing;

any other default on designated senior debt occurs and the maturity of such designated senior debt is accelerated and such acceleration has not been subsequently rescinded; or

any other default (other than the ones specified above) occurs and is continuing with respect to designated senior debt that permits holders of designated senior debt or their representatives to accelerate the maturity of such designated senior debt, and the trustee receives a payment blockage notice from us or representatives of such designated senior debt.

The term *designated senior debt* means any and all indebtedness and related obligations outstanding under our senior secured credit facility and the senior notes. The instrument, agreement or other document evidencing such designated senior debt may place limitations and conditions on the right of such senior debt to exercise the rights of designated senior debt.

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The foregoing prohibitions regarding payments by us on the notes will end:

in case of a prohibition based on (1) a payment default or (2) a nonpayment default where the maturity of such designated senior debt is accelerated, when all amounts in respect of such designated senior debt have been paid in full in cash or the default is cured, waived in writing or ceases to exist and any acceleration has been rescinded; and

in case of a prohibition based on a nonpayment default (other than the ones specified above), 179 days after the receipt of the payment blockage notice, unless (1) earlier terminated by the written notice of the person who gave the payment blockage notice, (2) all amounts on the designated senior debt have been paid in full in cash or (3) the default giving rise to the payment blockage notice is cured, waived in writing or ceases to exist, unless the designated senior debt has been accelerated.

Notwithstanding the foregoing, we are permitted to make payments on the notes if we and the trustee receive written notice approving such payment from the representative of the designated senior debt with respect to which the payment default has occurred and is continuing. No new payment blockage period based on a nonpayment default may start unless 360 days have elapsed since the beginning of the effectiveness of the prior payment blockage notice. No nonpayment default that existed or was continuing on the date of delivery of any payment blockage notice to the trustee may be the basis for a subsequent payment blockage notice, unless such default has been cured or waived for a period of at least 90 days. The subordination provisions will not prevent the occurrence of any event of default under the indenture. If the trustee or any holder receives any payment that should not have been made to it in contravention of subordination provisions before all senior debt is paid in full in cash, then such payment will be held in trust for the holders of senior debt.

Except to the limited extent described below under **Limitation on Layering Indebtedness**, the indenture does not prohibit us or our subsidiaries from incurring, creating, assuming or guaranteeing senior debt or any other indebtedness or liabilities, nor does it limit our ability to do so. We expect from time to time to incur additional indebtedness and other liabilities, including senior debt. If we or our subsidiaries incur additional indebtedness, our ability to pay our obligations on the notes could be affected. We also expect that our subsidiaries may from time to time incur additional indebtedness and other liabilities.

## **Conversion of Notes**

Subject to the conditions described below, you may convert your notes, in denominations of \$1,000 principal amount or integral multiples thereof, into cash and, under certain circumstances, shares of our common stock, initially at a conversion rate of 31.9980 shares of our common stock per \$1,000 principal amount of notes (which is equivalent to an initial conversion price of \$31.25 per share). See **Conversion Consideration** for the determination of the cash payment and, if applicable, the portion of the consideration deliverable in shares of our common stock. The conversion rate in effect at any given time is referred to in this prospectus as the *applicable conversion rate* and will be subject to adjustments as described below under **Anti-Dilution Adjustments** and **Adjustments to Conversion Rate Upon a Fundamental Change**, but will not be adjusted for accrued interest. The *applicable conversion price* at any given time is equal to the principal amount of a note divided by the applicable conversion rate.

You may surrender notes for conversion at the applicable conversion rate prior to the stated maturity of the notes under any of the following circumstances:

prior to June 15, 2012, during any conversion period (as defined below) if the closing sale price (as defined below) of our common stock for at least 20 trading days in the 30 consecutive trading day period ending on the first day of such conversion period is greater

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than 120% of the applicable conversion price on the first day of the conversion period (the *sale price condition* );

prior to June 15, 2012, during the five consecutive business day period following any five consecutive trading day period in which the trading price (as defined below) of a note for each day of that trading

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period was less than 95% of the closing sale price of our common stock on such corresponding trading day as multiplied by the applicable conversion rate (the *trading price condition* );

at any time on or after June 15, 2012; or

upon the occurrence of specified corporate transactions discussed below.

The term *trading day* means a day during which trading in securities generally occurs on The New York Stock Exchange or, if our common stock is not then listed on The New York Stock Exchange or another United States national securities exchange nor quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States, on the principal other market on which our common stock is then traded or quoted.

If the notes are subject to purchase following a fundamental change, your conversion rights on the notes so subject to purchase will expire at the close of business on the last business day before the purchase date or such earlier date as the notes are presented for purchase, unless we default in the payment of the purchase price, in which case your conversion right will terminate at the close of business on the date the default is cured and the notes are purchased. If you have submitted your notes for purchase upon a fundamental change, you may only convert your notes if you withdraw your election in accordance with the indenture.

### ***Conversion Upon Satisfaction of Sale Price Condition***

Prior to June 15, 2012, you may surrender any of your notes for conversion during any conversion period if the closing sale price (as defined below) of our common stock for at least 20 trading days in the 30 consecutive trading day period ending on the first day of such conversion period is greater than 120% of the applicable conversion price on the first day of the conversion period. A *conversion period* will be the period from and including the eleventh trading day in a fiscal quarter up to but not including the eleventh trading day of the following fiscal quarter.

The *closing sale price* of our common stock on any date means the last reported per share sale price (or, if no last sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on such date as reported in composite transactions for the principal U.S. securities exchange on which our common stock then is listed, or if our common stock is not listed on a U.S. national or regional exchange, as reported on the NASDAQ National Market, or if our common stock is not quoted on the NASDAQ National Market, as reported on the principal other market on which our common stock is then traded. In the absence of such quotations, our board of directors will make a good faith determination of the closing sale price.

The conversion agent, which will initially be Wilmington Trust Company, will, upon our request, determine if the notes are convertible as a result of satisfaction of the sale price condition and notify us and the trustee.

### ***Conversion Upon Satisfaction of Trading Price Condition***



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Prior to June 15, 2012, you may surrender any of your notes for conversion during the five consecutive business day period following any five consecutive trading day period in which the trading price for a note for each day of that trading period was less than 95% of the closing sale price of our common stock on such corresponding trading day multiplied by the applicable conversion rate. We will pay you cash no later than the third business day following the specified five trading day averaging period.

The *trading price* of the notes on any date of determination means the average of the secondary market bid quotations per note obtained by the conversion agent for \$5.0 million principal amount of the notes at approximately 3:30 p.m., New York City time, on such determination date from two independent nationally recognized securities dealers we select, which may include either or both of the initial purchasers; *provided* that

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if at least two such bids cannot reasonably be obtained by the conversion agent, but one such bid can reasonably be obtained by the conversion agent, this one bid will be used. If the conversion agent cannot reasonably obtain at least one bid for \$5.0 million principal amount of the notes from a nationally recognized securities dealer or, in our reasonable judgment, the bid quotations are not indicative of the secondary market value of the notes, then the trading price of the notes will equal (a) the then-applicable conversion rate of the notes multiplied by (b) the closing sale price of our common stock on such determination date. Any such determination will be conclusive absent manifest error.

The conversion agent will, on our behalf, determine if the notes are convertible as a result of satisfaction of the trading price condition and notify us and the trustee; *provided, however*, that the conversion agent will have no obligation to determine the trading price of the notes unless we have requested such determination and we will have no obligation to make such request unless requested to do so by a holder of the notes. At such time, we will instruct the conversion agent to determine the trading price of the notes beginning on the next trading day and on each successive trading day until the trading price of the notes is greater than or equal to 95% of the product of the closing sale price of our common stock multiplied by the applicable conversion rate.

### ***Conversion After June 15, 2012***

You may surrender any of your notes for conversion at any time on or after June 15, 2012.

### ***Conversion Upon Specified Corporate Transactions***

Even if none of the conditions described above has occurred, if we elect to:

distribute to all or substantially all holders of our common stock certain rights or warrants entitling them to purchase, for a period expiring within 60 days of the declaration date for such distribution, our common stock at less than the current market price (as described in clause (4) under *Anti-Dilution Adjustments* below), or

distribute to all or substantially all holders of our common stock our assets, debt securities or certain rights or warrants to purchase our securities, which distribution has a per share value exceeding 10% of the closing sale price of our common stock on the day preceding the declaration date for such distribution,

then we must notify you at least 20 days prior to the ex-dividend date for such distribution. Once we have given that notice, even if your notes are not otherwise convertible at that time, you may surrender your notes for conversion at any time until the earlier of the close of business on the business day prior to the ex-dividend date or our announcement that such distribution will not take place. You may not exercise this right to convert if you may participate in the distribution without conversion.

In addition, if a fundamental change under clauses (2), (3) or (4) of the definition of that term set forth under *Repurchase at Option of the Holder Upon a Fundamental Change* occurs, you may surrender any of your notes for conversion during the period starting on the 15th day prior to the anticipated effective date of the fundamental change and ending at the close of business on the 15th day after the actual effective date of such transaction or, if such transaction results in holders having a right to require us to repurchase their notes, the second business day preceding the fundamental change repurchase date (as specified in the fundamental change repurchase right notice described under *Repurchase at Option of the Holder Upon a Fundamental Change* ). In connection with such a fundamental change, we must send you a fundamental change conversion

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right notice at least 15 trading days prior to the anticipated effective date of the fundamental change in which we will notify you that, among other things, you will have the right to convert the notes. Upon such a conversion in connection with certain fundamental changes, as defined herein, you will receive any increase in the conversion rate described in Adjustment to Conversion Rate Upon a Fundamental Change (subject to our rights described under Public Acquirer Change of Control ). If a fundamental change occurs, you may also have the right, at

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your option, to require us to repurchase all or a portion of your notes as described under **Repurchase at Option of the Holder Upon a Fundamental Change**.

Upon any determination by us, the conversion agent or the trustee that you are or will be entitled to convert your notes in accordance with the foregoing provisions, we will issue a press release and publish the information on our website.

## **Conversion Consideration**

If you surrender your notes for conversion, you will receive, in respect of each \$1,000 principal amount of notes:

cash in the amount equal to the lesser of:

- (1) the principal amount of each note, or
- (2) the conversion value (as described below); and

to the extent the conversion value exceeds \$1,000, a number of shares of our common stock (which we refer to as the *residual value shares*) equal to the sum of the daily trading share amounts (calculated as described below) for each of the 20 consecutive trading days in the applicable conversion reference period (as described below); *provided, however*, we will pay cash in lieu of fractional shares otherwise issuable upon conversion of the notes.

The *applicable conversion reference period* means the 20 consecutive trading days beginning on the third trading day following the conversion date or, if we elect to pay cash to holders of notes in lieu of all or a portion of the residual value shares as described below, the third trading day after the conversion retraction period (as defined below) ends.

The *conversion value* is equal to (1) the applicable conversion rate, multiplied by (2) the average of the closing sale prices of our common stock for each of the 20 consecutive trading days in the applicable conversion period.

The *daily trading share amount* for each day in the applicable conversion period is equal to the greater of:

zero; or

a number of shares determined by the following formula:

$$(\text{Closing Sale Price} \times \text{Applicable Conversion Rate}) - \$1,000$$

20 x Closing Sale Price

The indenture governing the notes requires us to pay the required cash portion of the conversion consideration upon conversion of the notes. We expect that our senior secured credit facility will allow us to pay the required cash portion of the conversion consideration for conversions:

at any time on or after June 15, 2012;

upon satisfaction of the sale price condition;

upon satisfaction of the trading price condition, but only in an aggregate amount not to exceed \$12.5 million.

Our senior secured credit facility will not allow us to pay the required cash portion of the conversion consideration for conversions:

upon satisfaction of the trading price condition, to the extent the aggregate amount of such payments exceeds \$12.5 million;

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in the event of the specified corporate transactions described above; or

upon the occurrence of a fundamental change as described below.

Accordingly, we may not be able to pay the conversion consideration upon conversion. See **Risk Factors** **Risks Related to the Notes** We may not have sufficient cash to pay, or may not be permitted to pay, the cash portion of the conversion consideration upon conversion of the notes.

We may elect to pay cash to holders of notes surrendered for conversion in lieu of all or a portion of the residual value shares issuable upon conversion of such notes. If we do so elect to pay cash, we will notify you through the trustee of the dollar amount to be satisfied in cash (expressed as a percentage of each residual value share that will be paid in cash in lieu of our common stock) at any time on or before the date that is three business days following receipt of your notice of conversion (the *cash settlement notice period* ). If we timely elect to pay cash for any portion of the residual value shares otherwise issuable to you, you may retract the conversion notice at any time during the two business day period immediately following the cash settlement notice period (the *conversion retraction period* ). If we do not make such an election, no retraction can be made (and a conversion notice shall be irrevocable). In addition, if we choose to settle all or any portion of the residual value shares in cash in connection with conversions within 20 days prior to the maturity date, we will send, on or prior to the maturity date, a single notice to the trustee of the residual value shares to be satisfied in cash.

The amount of cash payable in respect of each residual value share otherwise issuable upon conversion shall equal the sum of the residual cash value (as defined below) for such share calculated for each day of the conversion reference period. The *residual cash value* for each date shall be the product of (1) the percentage of each residual value share otherwise issuable upon conversion which we elect to pay in cash and (2) the cash value of the daily trading share amount for such date. The cash value of the daily trading share amount shall be determined by multiplying the daily trading share amount for such date by the closing sale price of our common stock for such date.

The number of fractional shares to be paid, if any, will be determined by the closing sale price on the applicable trading day.

We will determine the conversion value, the daily trading share amount, the calculation of the excess of the conversion value over the principal amount and the number of shares deliverable to you in satisfaction of such excess (assuming that we do not elect to pay such excess in cash). We may not have the financial resources, and we may not be able to arrange for financing, to pay the principal amount of notes that are surrendered for conversion. See **Risk Factors** **Risks related to the notes and our common stock** We may be unable to repurchase notes as required upon a fundamental change or to pay the principal amount of the notes in cash upon conversion. Our senior secured credit facility and the senior notes may not allow us to pay the principal amount of the notes surrendered for conversion. Our failure to pay the principal amount of the notes when converted would result in an event of default with respect to the notes, whether or not the subordination provisions permit the payment. An event of default may, in turn, cause a default under our other indebtedness, including senior indebtedness. See **Subordination**.

## **Conversion Procedures**

If you wish to exercise your conversion right, you must deliver an irrevocable conversion notice, together, if the notes are in certified form, with the certificated security (the date of such delivery of notice and all other requirements for conversion having been satisfied, the *conversion date* ), to the conversion agent who will, on your behalf, convert the notes into the conversion consideration described above under **Conversion Consideration**. You may obtain copies of the required form of the conversion notice from the conversion agent. Upon conversion, we will satisfy our conversion obligation with respect to the principal amount of the notes to be converted in cash, with any remaining amount to be satisfied in shares of our common stock (or, at our election,



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cash or a combination of cash and shares of our common stock), as described under Conversion Consideration. Shares of our common stock and cash deliverable upon conversion will be delivered through the conversion agent no later than the third business day following the applicable conversion reference period (except as described under Adjustment to Conversion Rate Upon a Fundamental Change ).

We will not issue fractional shares of our common stock upon conversion of the notes. In lieu of fractional shares otherwise issuable (calculated on an aggregate basis in respect of all the notes you have surrendered for conversion), you will be entitled to receive cash in an amount equal to the value of such fractional shares, based on the applicable stock price.

Upon conversion of notes, you generally will not receive any cash payment of interest. By delivering to the holder the cash payment and the number of shares of our common stock, if any, issuable upon conversion, we will satisfy all of our obligations with respect to the notes through the conversion date. That is, accrued but unpaid interest, if any, will be deemed to be paid in full rather than canceled, extinguished or forfeited. We will not adjust the conversion rate to account for accrued interest.

If you surrender your notes for conversion between a record date and the opening of business on the next interest payment date (except for notes or portions of notes subject to purchase following a fundamental change on a purchase date occurring during the period from the close of business on a record date and ending on the opening of business on the first business day after the next interest payment date, or if that interest payment date is not a business day, the second business day after the interest payment date), you must pay funds equal to the interest payable on the principal amount being converted. As a result of the foregoing provisions, if the exception described in the preceding sentence does not apply and you surrender your notes for conversion on a date that is not an interest payment date, you will not receive any interest for the period from the interest payment date next preceding the date of conversion or for any later period. If you convert notes, we will pay any documentary stamp or similar issue or transfer tax due on the issue of shares of our common stock upon the conversion, unless the tax is due because you request the shares to be issued or delivered in a name other than your own, in which case you will pay the tax. Certificates representing our common stock will be issued or delivered only after all applicable taxes and duties payable by you, if any, have been paid.

## **Anti-dilution Adjustments**

The conversion rate will be subject to adjustment, without duplication, upon the occurrence of any of the following events:

- (1) *stock dividends in common stock* we pay a dividend or make a distribution on our common stock, payable exclusively in shares of our common stock;
- (2) *issuance of rights or warrants* we issue to all or substantially all holders of our common stock rights or warrants that allow the holders to purchase shares of our common stock for a period expiring within 60 days from the date of issuance of the rights or warrants at less than the current market price; *provided* that the conversion rate will be readjusted to the extent that the rights or warrants are not exercised prior to their expiration and as a result no additional shares are delivered or issued pursuant to such rights or warrants;
- (3) *stock splits and combinations* we:

subdivide or split the outstanding shares of our common stock into a greater number of shares;



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combine or reclassify the outstanding shares of our common stock into a smaller number of shares; or

issue by reclassification of the shares of our common stock any shares of our capital stock;

- (4) *distribution of indebtedness, securities or assets* we distribute to all or substantially all holders of our common stock evidences of indebtedness, securities or assets or certain rights to purchase our

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securities (*provided, however*, that if these rights are only exercisable upon the occurrence of specified triggering events, then the conversion rate will not be adjusted until the triggering events occur), but excluding:

dividends or distributions described in paragraph (1) above;

rights or warrants described in paragraph (2) above;

dividends or distributions paid exclusively in cash described in paragraph (6), (7) or (8) below (the *distributed assets* ), in which event (other than in the case of a spin-off as described below), the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

the conversion rate by

a fraction, the numerator of which is the current market price of our common stock and the denominator of which is the current market price of our common stock minus the fair market value, as determined by our board of directors, whose determination in good faith will be conclusive, of the portion of those distributed assets applicable to one share of common stock.

For purposes of this section (unless otherwise stated), the *current market price* of our common stock means the average of the closing sale prices of our common stock for the five consecutive trading days ending on the trading day prior to the earlier of the record date or the ex-dividend trading day for such distribution, and the new conversion rate will take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

Notwithstanding the foregoing, in cases where (a) the fair market value per share of the distributed assets equals or exceeds the current market price of our common stock, or (b) the current market price of our common stock exceeds the fair market value per share of the distributed assets by less than \$1.00, in lieu of the foregoing adjustment, you will have the right to receive upon conversion, in addition to shares of our common stock, if any, the amount and type of distributed assets you would have received if you had converted your notes immediately prior to the record date.

- (5) *spin-offs* we distribute to all or substantially all holders of our common stock shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit, which we refer to as a *spin-off*, in which case the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

the conversion rate by

an adjustment factor equal to the sum of the daily adjustments (as described below) for each of the 10 consecutive trading days beginning on the effective date of the spin-off.

The *daily adjustment* for any given trading day is equal to a fraction:

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the numerator of which is the closing price of our common stock on that trading day plus the closing price of the portion of those shares of capital stock or similar equity interests so distributed applicable to one share of our common stock on that trading day, and

the denominator of which is the product of 10 and the closing price of our common stock on that trading day.

The adjustment to the conversion rate in the event of a spin-off will occur on the tenth trading day from, and including, the effective date of the spin-off.

- (6) *cash distributions* we make a distribution consisting exclusively of cash to all or substantially all holders of outstanding shares of common stock, in which event the conversion rate will be adjusted by multiplying:

the conversion rate by

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a fraction, the numerator of which is the current market price of our common stock, and the denominator of which is the current market price of our common stock, minus the amount per share of such distribution.

Notwithstanding the foregoing, in cases where (a) the per share amount of such distribution equals or exceeds the current market price of our common stock or (b) the current market price of our common stock exceeds the per share amount of such distribution by less than \$1.00, in lieu of the foregoing adjustment, you will have the right to receive upon conversion, in addition to shares of our common stock, if any, such distribution you would have received if you had converted your notes immediately prior to the record date. For purposes of this clause (6), the *current market price* of our common stock means the average of the closing sale prices of our common stock for the five consecutive trading days ending on the trading day prior to the ex-dividend trading day for such cash distribution, and the new conversion rate will take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

- (7) *tender or exchange offers* we (or one of our subsidiaries) make a payment in respect of a tender offer or exchange offer for our common stock, in which event, to the extent the cash and value of any other consideration included in the payment per share of our common stock exceeds the closing sale price of our common stock on the trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer, as the case may be, the conversion rate will be adjusted by multiplying:

the conversion rate by

a fraction, the numerator of which will be the sum of (a) the fair market value, as determined by our board of directors, of the aggregate consideration payable for all shares of our common stock we purchase in the tender or exchange offer and (b) the product of (i) the number of shares of our common stock outstanding less any such purchased shares and (ii) the closing sale price of our common stock on the trading day next succeeding the date of the expiration of the tender or exchange offer, and the denominator of which will be the product of (a) the number of shares of our common stock outstanding, including any such purchased shares, and (b) the closing sale price of our common stock on the trading day next succeeding the date of expiration of the tender or exchange offer.

- (8) *repurchases* we (or one of our subsidiaries) make a payment in respect of a repurchase for our common stock the consideration for which exceeded the then-prevailing market price of our common stock (such amount, the *repurchase premium* ), and that repurchase, together with any other repurchases of our common stock by us (or one of our subsidiaries) involving a repurchase premium concluded within the preceding 12 months, resulted in the payment by us of an aggregate consideration exceeding an amount equal to 10% of the market capitalization of our common stock, the conversion rate will be adjusted by multiplying:

the conversion rate by

a fraction, the numerator of which is the current market price of our common stock and the denominator of which is (a) the current market price of our common stock, minus (b) the quotient of (i) the aggregate amount of all of the repurchase premiums paid in connection with such repurchases and (ii) the number of shares of common stock outstanding on the day next succeeding the date of the repurchase triggering the adjustment, as determined by our board of directors;

*provided* that no adjustment to the conversion rate will be made to the extent the conversion rate is not increased as a result of the above calculation and *provided further* that the repurchases of our common stock effected by us or our agent in conformity with Rule 10b-18 under the Securities and Exchange Act of 1934, as amended (the *Exchange Act* ) will not be included in any adjustment to the conversion rate made under this clause (8).

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For purposes of this clause (8):

the market capitalization will be calculated by multiplying the current market price of our common stock by the number of shares of common stock then outstanding on the date of the repurchase triggering the adjustment immediately prior to such repurchase,

the current market price will be the average of the closing sale prices of our common stock for the five consecutive trading days beginning on the trading day next succeeding the date of the repurchase triggering the adjustment, and

in determining the repurchase premium, the *then-prevailing market price* of our common stock will be the average of the closing sale prices of our common stock for the five consecutive trading days ending on the relevant repurchase date.

If a payment would cause an adjustment to the conversion rate under both clause (7) and clause (8), the provisions of clause (7) shall control.

In the event of a taxable distribution to holders of our common stock which results in an adjustment of the conversion rate, you may, in certain circumstances, be deemed to have received a distribution subject to U.S. federal income tax as a dividend. In certain other circumstances, the absence of such an adjustment may result in a taxable dividend to the holders of our common stock. See Certain United States Federal Income Tax Consequences. In addition to these adjustments, we may increase the conversion rate as our board of directors considers advisable to avoid or diminish any income tax to holders of our common stock or rights to purchase our common stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes. We may also, from time to time, to the extent permitted by applicable law, increase the conversion rate by any amount for any period of at least 20 days if our board of directors has determined that such increase would be in our best interests. If our board of directors makes such a determination, it will be conclusive. We will give you at least 15 days notice, with a copy to the trustee and calculation agent, of such an increase in the conversion rate. Any increase, however, will not be taken into account for purposes of determining whether the closing price of our common stock equals or exceeds 105% of the conversion price in connection with an event that otherwise would be a fundamental change as defined below.

No adjustment to the conversion rate or your ability to convert will be made if you otherwise participate in the distribution without conversion or in certain other cases.

The applicable conversion rate will not be adjusted:

upon the issuance of any shares of our common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in shares of our common stock under any plan;

upon the issuance of any shares of our common stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by us or any of our subsidiaries;

upon the issuance of any shares of our common stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding bullet and outstanding as of the date the notes were first issued;

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for a change in the par value of the common stock; or

for accrued and unpaid interest, if any.

If you will receive common stock upon conversion of your notes, you will also receive the associated rights under any stockholder rights plan we may adopt, whether or not the rights have separated from the common stock at the time of conversion unless, prior to conversion, the rights have expired, terminated or been exchanged.

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In the case of reclassifications, consolidations, mergers, sales or transfers of assets or other transactions that cause our common stock to be converted into the right to receive other securities, cash or property, upon conversion of your notes, you will be entitled to receive the same type of consideration that you would have been entitled to receive if you had converted the notes into our common stock immediately prior to any of these events, except as set forth below under Public Acquirer Change of Control.

Simultaneously with an adjustment of the conversion rate, we will disseminate a press release detailing the new conversion rate and other relevant information and publish the information on our website.

## **Redemption**

We do not have the option to redeem the notes.

No sinking fund is provided for the notes.

## **Repurchase at Option of the Holder Upon a Fundamental Change**

If a fundamental change (as defined below) occurs at any time prior to maturity, you will have the right (subject to our rights described under Public Acquirer Change of Control ) to require us to repurchase any or all of your notes for cash, or any portion of the initial principal amount thereof that is equal to \$1,000 or an integral multiple thereof. The cash price we are required to pay is equal to 100% of the principal amount of the notes to be purchased plus accrued and unpaid interest, if any, to (but not including) the fundamental change repurchase date, unless such fundamental change repurchase date falls after a record date and on or prior to the corresponding interest payment date, in which case we will pay the full amount of accrued and unpaid interest payable on such interest payment date to the holder of record at the close of business on the corresponding record date. For a discussion of the U.S. federal income tax treatment of a holder receiving cash, see Certain United States Federal Income Tax Consequences.

At least 15 trading days prior to the expected effective date of a fundamental change, we will provide to all holders of the notes and the trustee and paying agent and calculation agent a notification (the *fundamental change conversion right notice* ) stating:

if applicable, whether we will elect to adjust the conversion rate and related conversion obligation as described under Public Acquirer Change of Control or issue additional shares upon conversion as described under Adjustment to Conversion Rate Upon a Fundamental Change ; or

whether we expect that holders will have the right to require us to repurchase their notes as described in this section.

We must also state in the fundamental change conversion right notice that the holders of the notes have the right to convert their notes in accordance with the provisions of the indenture described under Conversion of Notes Conversion Upon Specified Corporate Transactions.

A *fundamental change* will be deemed to have occurred at the time after the notes are originally issued that any of the following occurs:

- (1) our common stock (or other common stock into which the notes are convertible) is neither traded on the New York Stock Exchange or another U.S. national securities exchange nor quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States; or
- (2) any person, including any syndicate or group deemed to be a person under Section 13(d)(3) of the Exchange Act, acquires beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of our capital stock entitling the person to exercise 50% or more of the total voting power of all shares of our capital stock entitled to vote generally in elections of directors, other than an acquisition by us, any of our subsidiaries or any of our employee benefit plans; or



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- (3) we merge or consolidate with or into any other person (other than a subsidiary), another person merges with or into us, or we convey, sell, transfer or lease all or substantially all of our assets to another person, other than any transaction:

that does not result in a reclassification, conversion, exchange or cancellation of our outstanding common stock;

pursuant to which the holders of our common stock immediately prior to the transaction have the entitlement to exercise, directly or indirectly, 50% or more of the voting power of all shares of capital stock entitled to vote generally in the election of directors of the continuing or surviving corporation immediately after the transaction; or

which is effected solely to change our jurisdiction of incorporation and results in a reclassification, conversion or exchange of outstanding shares of our common stock solely into shares of common stock of the surviving entity; or

- (4) at any time our continuing directors do not constitute a majority of our board of directors (or, if applicable, a successor person to us).

However, notwithstanding the foregoing, holders of the notes will not have the right to require us to repurchase any notes under clauses (2), (3) or (4) (and we will not be required to deliver the fundamental change repurchase right notice incidental thereto), if either:

the closing sale price of our common stock for any five trading days within the period of 10 consecutive trading days ending immediately after the later of the fundamental change or the public announcement of the fundamental change, in the case of a fundamental change relating to an acquisition of capital stock under clause (2) above, or the period of 10 consecutive trading days ending immediately before the fundamental change, in the case of a fundamental change relating to a merger, consolidation, asset sale or otherwise under clause (3) above or a change in the board of directors under clause (4) above, equals or exceeds 105% of the applicable conversion price of the notes in effect on each of those five trading days; or

at least 90% of the consideration paid for our common stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights) in a merger or consolidation or a conveyance, sale, transfer or lease otherwise constituting a fundamental change under clause (2) and/or clause (3) above consists of shares of common stock traded on the New York Stock Exchange or another U.S. national securities exchange or quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or will be so traded or quoted immediately following the merger or consolidation) and, as a result of the merger or consolidation, the notes become convertible into such shares of such common stock.

For purposes of these provisions, whether a person is a *beneficial owner* will be determined in accordance with Rule 13d-3 under the Exchange Act, and *person* includes any syndicate or group that would be deemed to be a *person* under Section 13(d)(3) of the Exchange Act.

The term *continuing directors* means, as of any date of determination, any member of our board of directors who (a) was a member of our board of directors on August 2, 2005 or (b) becomes a member of our board of directors subsequent to that date and was appointed, nominated for election or elected to our board of directors with the approval of a majority of the continuing directors who were members of our board of directors at the time of such appointment, nomination or election.

The term *capital stock* means (a) in the case of a corporation, corporate stock, (b) in the case of an association or business entity, shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distribution of the assets of, the issuing person.



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In addition to the fundamental change conversion right notice required to be sent prior to certain fundamental changes described above, on or before the 15th day after the date on which a fundamental change transaction becomes effective (which fundamental change results in the holders of notes having the right to cause us to repurchase their notes) (the *effective date* ), we will provide to all holders of the notes and the trustee and paying agent and calculation agent a notice of the occurrence of the fundamental change and of the resulting repurchase right (the *fundamental change repurchase right notice* ). The fundamental change repurchase right notice will state, among other things:

the events causing a fundamental change;

if we have elected to adjust the conversion rate and related conversion obligation as described under *Public Acquirer Change of Control* pursuant to a fundamental change that falls under clause (2), (3) or (4) of the definition of fundamental change, the conversion rate, any adjustments to the conversion rate and the details of the public acquirer common stock;

the effective date of the fundamental change;

the last date on which a holder may exercise the repurchase right;

the fundamental change repurchase price;

the fundamental change repurchase date;

the name and address of the paying agent and the conversion agent;

that the notes with respect to which a repurchase notice has been given by the holder may be converted only if the holder withdraws the repurchase notice in accordance with the terms of the indenture; and

the procedures that holders must follow to require us to repurchase their notes.

Simultaneously with providing such fundamental change repurchase right notice, we will issue a press release and publish the information through a public medium customary for such press releases, as we as publish the information on our website.

To exercise the repurchase right, you must deliver, before the close of business on the second business day immediately preceding the fundamental change repurchase date, the notes to be purchased, duly endorsed for transfer, together with the repurchase notice duly completed, to the paying agent. Your repurchase notice must state:

if certificated, the certificate numbers of the notes to be delivered for repurchase;

the portion of the principal amount of notes to be purchased, which must be \$1,000 or an integral multiple thereof; and

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that the notes are to be purchased by us pursuant to the applicable provisions of the notes and the indenture.

If the notes are not in certificated form, your repurchase notice must comply with appropriate procedures of The Depository Trust Company.

You may withdraw any repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the business day prior to the fundamental change repurchase date. The notice of withdrawal will state:

the principal amount of the withdrawn notes;

if certificated notes have been issued, the certificate numbers of the withdrawn notes; and

the principal amount, if any, that remains subject to the repurchase notice.

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If the notes are not in certificated form, the notice of withdrawal must comply with appropriate procedures of The Depository Trust Company.

We will be required to repurchase the notes no less than 20 and no more than 35 days after the date of our mailing of the fundamental change repurchase right notice with respect to the occurrence of the relevant fundamental change, subject to extension to comply with applicable law. To receive payment of the repurchase price, you must either effect book-entry transfer or deliver the notes, together with necessary endorsements, to the office of the paying agent after delivery of the repurchase notice. Holders will receive payment of the fundamental change repurchase price promptly following the later of the fundamental change repurchase date or the time of book-entry transfer or the delivery of the notes. If the paying agent holds money or securities sufficient to pay the fundamental change repurchase price of the notes on the business day following the fundamental change repurchase date, then:

the notes will cease to be outstanding and interest, if any, will cease to accrue (whether or not book-entry transfer of the notes is made or whether or not the note is delivered to the paying agent); and

all other rights of the holder will terminate (other than the right to receive the fundamental change repurchase price upon delivery or transfer of the notes).

We will under the indenture:

comply with the provisions of Rule 13e-4 and Rule 14e-1, if applicable, under the Exchange Act;

file a Schedule TO or any successor or similar schedule, if required, under the Exchange Act; and

otherwise comply with all applicable federal and state securities laws in connection with any offer by us to purchase the notes upon a fundamental change.

The rights of the holders to require us to repurchase their notes upon a fundamental change could discourage a potential acquirer of us. The fundamental change repurchase feature, however, is not the result of management's knowledge of any specific effort to accumulate shares of our common stock, or to obtain control of us by any means, or part of a plan by management to adopt a series of anti-takeover provisions. Instead, the fundamental change repurchase feature is a standard term contained in other offerings of debt securities similar to the notes that have been marketed by the initial purchasers. The terms of the fundamental change repurchase feature resulted from negotiations between the initial purchasers and us.

The term fundamental change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement, if applicable, that we offer to repurchase the notes upon a fundamental change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

The definition of fundamental change includes a phrase relating to the conveyance, transfer, sale, lease or disposition of all or substantially all of our consolidated assets. There is no precise, established definition of the phrase substantially all under applicable law. Accordingly, the ability of a holder of the notes to require us to repurchase its notes as a result of the conveyance, transfer, sale, lease or other disposition of less than all of our assets may be uncertain.

The terms of existing or future senior debt instruments could prohibit us from repurchasing any notes, or provide that certain fundamental changes would constitute a default thereunder. If a fundamental change occurs at a time when we are prohibited from repurchasing notes, we could seek the consent of the holders of the applicable senior debt to the repurchase of notes or could attempt to refinance the applicable senior debt that contains such prohibitions. If we do not obtain such a consent or repay such senior debt, we will remain prohibited from repurchasing any notes. In such case, our failure to purchase tendered notes would constitute an event of default under the indenture, which may, in turn, constitute a default under such senior debt.

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Our ability to repurchase notes may be limited by restrictions on our ability to obtain funds for such repurchase through dividends, loans or other distributions from our subsidiaries and the terms of our then existing borrowing agreements. We cannot assure you that we would have the financial resources, or would be able to arrange financing, to pay the repurchase price in cash for all the notes that might be delivered by holders of notes seeking to exercise the repurchase right. In addition, we have, and may in the future incur, other indebtedness with similar fundamental change provisions permitting holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

### **Adjustment to Conversion Rate Upon a Fundamental Change**

If and only to the extent that you convert your notes in connection with a fundamental change described in clause (2), (3) or (4) of the definition of fundamental change (and subject to our rights described under *Public Acquirer Change of Control* ), we will increase the conversion rate for the notes surrendered for conversion by a number of additional shares (the *additional shares* ) as described below; *provided, however*, that no increase will be made in the case of a fundamental change if at least 90% of the consideration paid for our common stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights) in such fundamental change transaction consists of shares of capital stock traded on the New York Stock Exchange or another U.S. national securities exchange or quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or that will be so traded or quoted immediately following the transaction) and as a result of such transaction or transactions the notes become convertible solely into such common stock.

The number of additional shares will be determined by reference to the table below, based on the effective date of the fundamental change and the price (the *stock price* ) paid per share of our common stock in such fundamental change transaction. If holders of our common stock receive only cash in such fundamental change transaction, the stock price will be the cash amount paid per share. Otherwise, the stock price will be the average of the last closing prices of our common stock on each of the five consecutive trading days prior to but not including the effective date of such fundamental change.

A conversion of notes by a holder will be deemed for these purposes to be *in connection with* a fundamental change if the conversion notice is received by the conversion agent on or subsequent to the effective date of the fundamental change and prior to the 45th day following the effective date of the fundamental change (or, if earlier and to the extent applicable, the close of business on the second business day immediately preceding the fundamental change repurchase date (as specified in the fundamental change repurchase right notice described under *Repurchase at Option of the Holder Upon a Fundamental Change* )).

The stock prices set forth in the first row of the following table (i.e., the column headers) will be adjusted as of any date on which the conversion rate of the notes is adjusted, as described above under *Anti-dilution Adjustments*. The adjusted stock prices will equal the stock prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. The number of additional shares will be adjusted in the same manner and for the same events as the conversion rate as set forth under *Anti-dilution Adjustments* above.

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The following table sets forth the hypothetical increase in the conversion rate, expressed as a number of additional shares issuable per \$1,000 initial principal amount of notes as a result of a fundamental change that occurs in the corresponding period:

Effective Date of Change Control	Stock Price (\$)												
	24.04	27.50	30.00	32.50	35.00	40.00	45.00	50.00	55.00	60.00	80.00	100.00	120.00
August 2, 2005	9.60	7.71	6.73	5.98	5.38	4.49	3.86	3.38	3.01	2.70	1.88	1.39	1.07
July 15, 2006	9.15	7.19	6.21	5.47	4.89	4.05	3.47	3.04	2.70	2.42	1.69	1.26	0.97
July 15, 2007	8.74	6.67	5.66	4.92	4.35	3.56	3.03	2.65	2.35	2.11	1.48	1.10	0.85
July 15, 2008	8.36	6.12	5.06	4.30	3.75	3.01	2.54	2.21	1.97	1.77	1.24	0.93	0.72
July 15, 2009	8.08	5.55	4.40	3.62	3.07	2.39	2.00	1.74	1.54	1.39	0.98	0.74	0.57
July 15, 2010	7.94	4.95	3.65	2.82	2.28	1.69	1.39	1.21	1.07	0.97	0.69	0.52	0.40
July 15, 2011	7.81	4.39	2.78	1.83	1.31	0.87	0.71	0.63	0.56	0.51	0.36	0.27	0.22
July 15, 2012	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The stock prices and additional share amounts set forth above are based upon a closing sale price of \$24.04 on July 28, 2005 and an initial conversion price of \$31.25.

The exact stock price and conversion dates may not be set forth on the table; in which case, if the stock price is:

between two stock price amounts on the table or the conversion date is between two dates on the table, the number of additional shares will be determined by straight-line interpolation between the number of additional shares set forth for the higher and lower stock price amounts and the two dates, as applicable, based on a 365-day year;

more than \$120.00 per share (subject to adjustment), no additional shares will be issued upon conversion; and

less than \$24.04 per share (subject to adjustment), no additional shares will be issued upon conversion.

Notwithstanding the foregoing, in no event will the total number of shares issuable upon conversion of a note exceed 41.5973 per \$1,000 initial principal amount of the notes, after giving effect to the make whole adjustment and any related increase in the conversion rate described above, subject to anti-dilution adjustments described under Anti-dilution Adjustments.

**Public Acquirer Change of Control**

Notwithstanding the foregoing, in the case of a public acquirer change of control (as defined below), we may, in lieu of permitting a repurchase at the holder's option or adjusting the conversion rate as described under Adjustment to Conversion Rate Upon a Fundamental Change, elect to adjust the conversion rate and the related conversion obligation such that from and after the effective date of such public acquirer change of control, holders of the notes will be entitled to convert their notes into a number of shares of public acquirer common stock (as defined below) by adjusting the conversion rate in effect immediately before the public acquirer change of control by a fraction:



the numerator of which will be (a) in the case of a share exchange, consolidation, merger or binding share exchange, pursuant to which our common stock is converted into cash, securities or other property, the fair market value of all cash and any other consideration (as determined by our board of directors) paid or payable per share of common stock or (b) in the case of any other public acquirer change of control, the average of the last reported sale price of our common stock for the five consecutive trading days prior to but excluding the effective date of such public acquirer change of control, and

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the denominator of which will be the average of the last reported sale prices of the public acquirer common stock for the five consecutive trading days prior to but excluding the effective date of such public acquirer change of control.

If we elect to adjust the conversion rate and conversion obligation as described in this section, we must send you a fundamental change conversion right notice at least 15 trading days prior to the expected effective date of the fundamental change that is also a public acquirer change of control, as described under **Repurchase at Option of the Holder Upon a Fundamental Change**. If we elect to adjust the conversion rate and conversion obligation in connection with a public acquirer change of control, holders of the notes will not have the right to receive additional shares as described under **Adjustment to Conversion Rate Upon a Fundamental Change** or to require us to repurchase such notes in connection with the fundamental change that is also a public acquirer change of control.

A *public acquirer change of control* means any event constituting a fundamental change that gives holders the right to cause us to repurchase the notes as described above under **Repurchase at Option of the Holder Upon a Fundamental Change** and the acquirer has a class of common stock traded on a U.S. national securities exchange or quoted on The Nasdaq Stock Market or another established automated over-the-counter-trading market in the United States or which will be so traded or quoted when issued or exchanged in connection with such fundamental change (the *public acquirer common stock*). If an acquirer does not itself have a class of common stock satisfying the foregoing requirement, it will be deemed to have *public acquirer common stock* if the acquirer is majority owned directly or indirectly by a corporation that has a class of common stock satisfying the foregoing requirement; in such case, all references to public acquirer common stock will refer to such class of common stock. For purposes of public acquirer common stock, *majority owned* means having beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the total voting power of all shares of the respective entity's capital stock that are entitled to vote generally in the election of directors.

## **Limitation on Layering of Indebtedness**

We will not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is contractually subordinate or junior in right of payment to any senior debt of ours and senior in right of payment to the notes. No such Indebtedness will be considered to be senior by virtue of being secured on a first or junior priority basis.

## **Consolidation, Merger and Sale of Assets**

We may not consolidate with or merge into any person in a transaction in which we are not the surviving person or convey, transfer or lease our properties and assets substantially as an entirety to any successor person, unless:

- (1) the successor person, if any, is:
  - (a) a corporation organized and existing under the laws of the United States, any state of the United States, or the District of Columbia, and
  - (b) such person assumes our obligations on the notes and under the indenture;
- (2) immediately after giving effect to the transaction, no default or event of default will have occurred and be continuing; and

- (3) other conditions specified in the indenture are met.

**Events of Default**

Each of the following constitutes an event of default under the indenture:

- (1) we fail to pay principal or premium, if any, on any note when due, whether or not prohibited by the subordination provisions of the indenture;

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- (2) we fail to pay any interest, including any additional interest, on any note when due if such failure continues for 30 days, whether or not prohibited by the subordination provisions of the indenture;
- (3) we fail to perform any other agreement required of us in the indenture if such failure continues for 60 days after notice is given in accordance with the indenture;
- (4) we fail to pay the purchase price of any note when due (including, without limitation the delivery of cash as a return of principal or premium, any cash in lieu of fractional shares, and any shares, as the case may be, upon conversion of notes within the time period required by the indenture);
- (5) we fail to provide timely notice of a fundamental change, if required by the indenture, if such failure continues for 30 days after notice of our failure to do so;
- (6) any indebtedness for money borrowed by us or one of our significant subsidiaries (all or substantially all of the outstanding voting securities of which are owned, directly, or indirectly, by us) in an aggregate outstanding principal amount in excess of \$25.0 million is not paid at final maturity or upon acceleration and such indebtedness is not discharged, or such acceleration is not cured or rescinded, within 10 days after written notice as provided in the indenture;
- (7) failure by us or any of our significant subsidiaries to pay final and non-appealable judgments entered by a court or courts of competent jurisdiction, the aggregate uninsured portion of which is at least \$25.0 million, if the judgments are not paid, discharged or stayed within 30 days;
- (8) except as permitted by the indenture, any note guarantee of a significant subsidiary (or combination of note guarantees of any group of subsidiaries that, taken together, would constitute a significant subsidiary) is held in any judicial proceeding to be unenforceable, invalid or for any reason not to be in full force and effect, or any significant subsidiary (or group of subsidiaries that, taken together, would constitute a significant subsidiary), or any Person acting on its or their behalf, denies or disaffirms its or their obligations under its note guarantee or note guarantees; and
- (9) certain events in bankruptcy, insolvency or reorganization of us or any of our significant subsidiaries.

The term *significant subsidiary* has the meaning set forth in Rule 1-02(w) of Regulation S-X under the Exchange Act.

If an event of default, other than an event of default described in clause (9) above with respect to us, occurs and is continuing, either the trustee or the holders of at least 25% in aggregate principal amount of the outstanding notes may declare the principal amount of the notes to be due and payable immediately; *provided* that so long as any indebtedness incurred pursuant to our senior secured credit facility is outstanding, such acceleration will not be effective until the earlier of (1) the acceleration of such indebtedness under an existing or future credit facility or (2) five business days after receipt by the senior debt representative for such credit facility of written notice of such acceleration. However, after such acceleration, but before a judgment or decree based on acceleration, the holders of a majority in aggregate principal amount of outstanding notes may, under certain circumstances, rescind and annul the acceleration if all events of default, other than the non-payment of principal of notes that have become due solely by such declaration of acceleration, have been cured or waived as provided in the indenture. If an event of default arising from events of insolvency, bankruptcy or reorganization with respect to FTI occurs, then the principal of, and accrued interest on, all the notes will automatically become immediately due and payable without any declaration or other act on the part of the holders of the notes or the trustee. For information as to waiver of defaults, see Meetings, Modification and Waiver below.

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Subject to the trustee's duties in the case of an event of default, the trustee will not be obligated to exercise any of its rights or powers at the request of the holders, unless the holders have offered to the trustee reasonable indemnity. Subject to the indenture, applicable law and the trustee's indemnification, the holders of a majority in aggregate principal amount of the outstanding notes will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee with respect to the notes.

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No holder will have any right to institute any proceeding under the indenture, or for the appointment of a receiver or a trustee, or for any other remedy under the indenture unless:

the holder has previously given the trustee written notice of a continuing event of default;

the holders of at least 25% in aggregate principal amount of the notes then outstanding have made a written request and have offered reasonable indemnity to the trustee to institute such proceeding as trustee; and

the trustee has failed to institute such proceeding within 60 days after such notice, request and offer, and has not received from the holders of a majority in aggregate principal amount of the notes then outstanding a direction inconsistent with such request within 60 days after such notice, request and offer.

However, the above limitations do not apply to a suit instituted by a holder for the enforcement of payment of the principal of or any premium or interest on any note on or after the applicable due date or the right to convert the note in accordance with the indenture.

Generally, the holders of a majority of the aggregate principal amount of outstanding notes may waive any default or event of default unless:

we fail to pay principal, premium or interest on any note when due;

we fail to convert any note into common stock in accordance with the provisions of the note and the indenture; or

we fail to comply with any of the provisions of the indenture that would require the consent of the holder of each outstanding note affected.

We are required to furnish to the trustee, on an annual basis, a statement by our officers as to whether or not FTI, to the officers' knowledge, is in default in the performance or observance of any of the terms, provisions and conditions of the indenture, specifying any known defaults.

## **Meetings, Modification and Waiver**

The indenture contains provisions for convening meetings of the holders of notes to consider matters affecting their interests.

We and the trustee may amend or supplement the indenture or the notes with the consent of the holders of a majority in aggregate principal amount of the outstanding notes. In addition, the holders of a majority in aggregate principal amount of the outstanding notes may waive our compliance in any instance with any provision of the indenture without notice to the note holders. However, no amendment, supplement or waiver may be made without the consent of the holder of each outstanding note if such amendment, supplement or waiver would:

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change the stated maturity of the principal of, or interest on, any note;

reduce the principal amount of or any premium or interest on any note;

reduce the amount of principal payable upon acceleration of the maturity of any note;

change the place or currency of payment of principal of, or any premium or interest on, any note;

impair the right to institute suit for the enforcement of any payment on, or with respect to, any note;

modify the subordination provisions of the notes in a manner adverse to holders;

modify the provisions with respect to the purchase right of the holders upon a fundamental change in a manner adverse to holders;

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adversely affect the right of holders to convert notes other than as provided in the indenture;

reduce the percentage in principal amount of outstanding notes required for modification or amendment of the indenture;

reduce the percentage in principal amount of outstanding notes necessary for waiver of compliance with certain provisions of the indenture or for waiver of certain defaults;

reduce the percentage required for the adoption of a resolution or for a quorum required at any meeting of holders of notes at which a resolution is adopted; or

modify provisions with respect to modification and waiver (including waiver of events of default), except to increase the percentage required for modification or waiver or to provide for consent of each affected holder of notes.

We and the trustee may amend or supplement the indenture or the notes without notice to, or the consent of, the note holders to, among other things, cure any ambiguity, defect or inconsistency or make any other change that does not adversely affect the rights of any note holder.

## **Registration Rights**

We and the guarantors entered into a registration rights agreement with the initial purchasers of the notes. As required under the registration rights agreement, we have, at our expense, filed with the SEC a shelf registration statement, of which this prospectus is a part, covering resales of the notes and the shares of common stock issuable upon conversion of the notes (the notes, note guarantees and common stock issuable upon conversion of the notes being referred to as the *registrable securities* ). In the registration rights agreement we and the guarantors also agreed, for the benefit of the holders of the registrable securities that we and the guarantors will, at our expense:

use our commercially reasonable efforts to cause the shelf registration statement to be declared effective under the Securities Act of 1933, as amended (the *Securities Act* ), by February 28, 2006; and

use our commercially reasonable efforts to keep effective the shelf registration statement until the earliest of (a) the sale of all outstanding registrable securities registered under the shelf registration statement; (b) the expiration of the period referred to in Rule 144(k) of the Securities Act with respect to the notes held by non-affiliates of FTI; and (c) two years after the effective date of the shelf registration statement.

We are permitted to suspend the use of this prospectus in connection with the sale of registrable securities during prescribed periods of time for reasons relating to pending corporate developments, the acquisition or divestiture of assets and other events, including SEC review of our periodic reports filed under the Exchange Act. The periods during which we can suspend the use of this prospectus may not, however, exceed a total of 30 days in any 90-day period or a total of 90 days in any 12-month period. We will provide to each holder of registrable securities copies of this prospectus, notify each holder when the shelf registration statement has become effective and take certain other actions required to permit public resales of the registrable securities.

Additional interest will accrue on the notes if on or prior to February 28, 2006, the shelf registration statement is not declared effective. In that case, additional interest will accrue on any notes which are then restricted securities, from and including the day following the registration



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default until the registration default has been cured. Additional interest will be paid semi-annually in arrears, with the first semi-annual payment due on the first interest payment date following the date on which the additional interest began to accrue. In no event will additional interest accrue on any shares of common stock into which the notes have been converted. In addition, in no event will additional interest be payable in connection with a registration default relating to a failure to register the common stock deliverable upon a conversion of the notes.

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The rates at which additional interest will accrue will be as follows:

0.25% of the principal amount per annum to and including the 90th day after the registration default; and

0.50% of the principal amount per annum from and after the 91st day after the registration default.

In addition, additional interest will accrue on any notes if:

the shelf registration statement ceases to be effective, or we otherwise prevent or restrict holders of registrable securities from making sales under the shelf registration statement, for more than 30 days, whether or not consecutive, during any 90-day period; or

the shelf registration statement ceases to be effective, or we otherwise prevent or restrict holders of registrable securities from making sales under the shelf registration statement, for more than 90 days, whether or not consecutive, during any 12-month period.

In either event, additional interest will accrue at a rate of 0.50% *per annum* from the 31st day of the 90-day period or the 91st day of the 12-month period, until the earlier of the following:

the time the shelf registration statement again becomes effective or the holders of registrable securities are again able to make sales under the shelf registration statement, depending on which event triggered the increase in interest rate; or

the earliest of (a) the sale of all outstanding registrable securities registered under the shelf registration statement; (b) the expiration of the period referred to in Rule 144(k) of the Securities Act with respect to the notes held by non-affiliates of FTI; and (c) two years after the effective date of the shelf registration statement.

We agreed in the registration rights agreement to use our commercially reasonable efforts to cause the shares of common stock issuable upon conversion of the notes to be quoted on The New York Stock Exchange. However, if the common stock is not then quoted on The New York Stock Exchange, we will use our reasonable best efforts to cause the shares of common stock issuable upon conversion of the notes to be quoted or listed on whichever exchange or market the common stock is then primarily traded, upon effectiveness of the shelf registration statement.

This summary of certain provisions of the registration rights agreement is not complete and is subject to, and qualified in its entirety by reference to, all the provisions of the registration rights agreement, a copy of which will be made available to beneficial owners of the notes upon request to us.

## **Satisfaction and Discharge**

We may discharge our obligations under the indenture while notes remain outstanding if all outstanding notes have or will become due and payable at their scheduled maturity within one year and we have deposited with the trustee or a paying agent an amount sufficient to pay and

discharge all outstanding notes on the date of their scheduled maturity; *provided, however*, that the foregoing will not discharge our obligation to effect conversion, registration of transfer or exchange of securities in accordance with the terms of the indenture.

**Transfer and Exchange**

We have initially appointed the trustee as the security registrar, paying agent and conversion agent, acting through its corporate trust office. We reserve the right to:

vary or terminate the appointment of the security registrar, paying agent or conversion agent;

act as the paying agent;

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appoint additional paying agents or conversion agents; or

approve any change in the office through which any security registrar or any paying agent or conversion agent acts.

## **Purchase and Cancellation**

All notes surrendered for payment, registration of transfer or exchange or conversion will, if surrendered to any person other than the trustee, be delivered to the trustee. All notes delivered to the trustee will be cancelled promptly by the trustee. No notes will be authenticated in exchange for any notes cancelled as provided in the indenture.

We may, to the extent permitted by law, purchase notes in the open market or by tender offer at any price or by private agreement. Any notes purchased by us may, to the extent permitted by law, be reissued or resold or may, at our option, be surrendered to the trustee for cancellation. Any notes surrendered for cancellation may not be reissued or resold and will be promptly cancelled. Any notes held by us or one of our subsidiaries will be disregarded for voting purposes in connection with any notice, waiver, consent or direction requiring the vote or concurrence of note holders.

## **Replacement of Notes**

We will replace mutilated, destroyed, stolen or lost notes at your expense upon delivery to the trustee of the mutilated notes, or evidence of the loss, theft or destruction of the notes satisfactory to us and the trustee. In the case of a lost, stolen or destroyed note, indemnity satisfactory to the trustee and us may be required at the expense of the holder of such note before a replacement note will be issued.

## **Calculations in Respect of the Notes**

We will be responsible for making many of the calculations called for under the notes. These calculations include, but are not limited to, determination of the closing sale price of our common stock in the absence of reported or quoted prices, adjustments to the conversion rate and amounts of additional interest, if any, payable on the notes. We will make all these calculations in good faith and, absent manifest error, our calculations will be final and binding on the holders of notes. We will provide a schedule of our calculations to the trustee, and the trustee is entitled to rely conclusively on the accuracy of our calculations without independent verification.

## **No Personal Liability of Directors, Officers, Employees or Stockholders**

No director, officer, employee, incorporator or stockholder of ours, as such, will have any liability for any of our obligations under the notes or the indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

**Governing Law**

The indenture and the notes are governed by, and will be construed in accordance with, the laws of the State of New York.

**Concerning the Trustee**

Wilmington Trust Company has agreed to serve as the trustee under the indenture. The trustee will be permitted to deal with us and any of our affiliates with the same rights as if it were not trustee. However, under the Trust Indenture Act, if the trustee acquires any conflicting interest and there exists a default with respect to the notes, the trustee must eliminate such conflict or resign.

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The holders of a majority in principal amount of all outstanding notes will have the right to direct the time,