AUTOBYTEL INC

FORM 10-Q
(Quarterly Report)

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

Form 10-Q

[X] **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended September 30, 2014
or
[ ] **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from _____to _____.

Commission file number 1-34761

Autobytel Inc.

(Exact name of registrant as specified in its charter)

Delaware	**33-0711569**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**
18872 MacArthur Boulevard, Suite 200, Irvine, California	**92612**
(Address of principal executive offices)	**(Zip Code)**

(949) 225-4500
(Registrant's telephone number, including area code)

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

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

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

Large accelerated filer [ ]	Accelerated filer [ ]	Non-accelerated filer [ ] (Do not check if a smaller reporting company)	Smaller reporting company [X]

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

As of November 3, 2014, there were 9,028,733 shares of the Registrant's Common Stock, $0.001 par value, outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. ***Financial Statements***

AUTOBYTEL INC.
UNAUDITED CONSOLIDATED CONDENSED BALANCE SHEETS
(Amounts in thousands, except share and per-share data)

	September 30, 2014	December 31, 2013*
Assets		
Current assets:		
Cash and cash equivalents	$ 22,316	$ 18,930
Accounts receivable, net of allowances for bad debts and customer credits of $711 and $405 at September 30, 2014 and December 31, 2013, respectively	16,793	14,178
Deferred tax asset	2,346	3,517
Prepaid expenses and other current assets	547	506
Total current assets	42,002	37,131
Property and equipment, net	1,892	1,548
Equity investment	2,500	2,500
Intangible assets, net	4,563	1,821
Goodwill	20,948	13,602
Deferred tax asset	31,135	31,135
Other assets	1,232	456
Total assets	$ 104,272	$ 88,193
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 7,721	$ 5,267
Accrued expenses and other current liabilities	7,979	7,648
Convertible note payable	5,000	—
Total current liabilities	20,700	12,915
Convertible note payable	1,000	5,000
Term loan payable	7,313	—
Borrowings under credit facility	5,250	4,250
Other non-current liabilities	550	1,200
Total liabilities	34,813	23,365
Commitments and contingencies	—	—
Stockholders' equity:		
Preferred stock, $0.001 par value; 11,445,187 shares authorized; none outstanding	—	—
Common stock, $0.001 par value; 55,000,000 shares authorized and 9,028,733 and 8,909,737 shares issued and outstanding at September 30, 2014 and December 31, 2013, respectively	9	9
Additional paid-in capital	309,508	307,171
Accumulated deficit	(240,058)	(242,352)
Total stockholders' equity	69,459	64,828
Total liabilities and stockholders' equity	$ 104,272	$ 88,193

* Amounts were derived from audited financial statements

See accompanying notes to unaudited consolidated condensed financial statements.

AUTOBYTEL INC.
UNAUDITED CONSOLIDATED CONDENSED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME
(Amounts in thousands, except per-share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Revenues:				
Lead fees	$ 25,880	$ 20,653	$ 76,727	$ 55,013
Advertising	1,093	956	2,531	2,567
Other revenues	391	26	979	88
Total revenues	27,364	21,635	80,237	57,668
Cost of revenues	16,356	12,826	48,828	35,311
Gross profit	11,008	8,809	31,409	22,357
Operating expenses:				
Sales and marketing	3,336	2,745	11,078	7,122
Technology support	2,055	1,855	5,971	5,328
General and administrative	3,161	2,526	8,899	6,961
Depreciation and amortization	483	362	1,373	1,196
Litigation settlements	(25)	(66)	(118)	(205)
Total operating expenses	9,010	7,422	27,203	20,402
Operating income	1,998	1,387	4,206	1,955
Interest and other income (expense), net	(177)	24	(518)	331
Income before income tax provision	1,821	1,411	3,688	2,286
Income tax provision	697	138	1,394	292
Net income and comprehensive income	$ 1,124	$ 1,273	$ 2,294	$ 1,994
Basic earnings per common share	$ 0.12	$ 0.14	$ 0.26	$ 0.22
Diluted earnings per common share	$ 0.11	$ 0.13	$ 0.22	$ 0.21

See accompanying notes to unaudited consolidated condensed financial statements.

AUTOBYTEL INC.
UNAUDITED CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS
(Amounts in thousands)

	Nine Months Ended September 30, 2014	2013
Cash flows from operating activities:		
Net income	$ 2,294	$ 1,994
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	1,650	1,528
Provision for bad debts	236	75
Provision for customer credits	773	437
Share-based compensation	1,025	556
Gain on long-term strategic investment	—	(108)
Change in deferred tax asset	1,171	—
Changes in assets and liabilities:		
Accounts receivable	(690)	(4,728)
Prepaid expenses and other current assets	3	(54)
Other assets	(776)	(33)
Accounts payable	173	2,273
Accrued expenses and other current liabilities	331	605
Non-current liabilities	(600)	174
Net cash provided by operating activities	5,590	2,719
Cash flows from investing activities:		
Purchases of property and equipment	(925)	(648)
Advances on purchase of Advanced Mobile	—	(1,824)
Investment in AutoWeb	—	(2,500)
Change in long-term strategic investment	—	108
Investment in SaleMove	—	(150)
Purchase of AutoUSA	(10,044)	—
Net cash used in investing activities	(10,969)	(5,014)
Cash flows from financing activities:		
Borrowings under credit facility	1,000	4,250
Borrowings under term loan	9,000	—
Payments on term loan borrowings	(1,687)	—
Proceeds from exercise of stock options	502	205
Payment of contingent fee arrangement	(50)	(83)
Net cash provided by financing activities	8,765	4,372
Net increase in cash and cash equivalents	3,386	2,077
Cash and cash equivalents, beginning of period	18,930	15,296
Cash and cash equivalents, end of period	$ 22,316	$ 17,373
Supplemental disclosure of cash flow information:		
Cash paid for income taxes	$ 279	$ 83
Cash paid for interest	$ 445	$ 230

See accompanying notes to unaudited consolidated condensed financial statements.

AUTOBYTEL INC.
NOTES TO UNAUDITED CONSOLIDATED CONDENSED FINANCIAL STATEMENTS

1. Organization and Operations

Autobytel Inc. (" **Autobytel** " or the " **Company** ") is an automotive marketing services company that assists automotive retail dealers (" **Dealers** ") and automotive manufacturers (" **Manufacturers** ") market and sell new and used vehicles through the Company's programs for online lead referrals (" **Leads** "), Dealer marketing products and services, online advertising programs and mobile products.

The Company's consumer-facing automotive websites (" **Company Websites** "), including its flagship website Autobytel.com®, provide consumers with information and tools to aid them with their automotive purchase decisions and the ability to submit inquiries requesting Dealers to contact the consumers regarding purchasing or leasing vehicles (" **Vehicle Leads** "). For consumers who may not be able to secure loans through conventional lending sources, the Company Websites provide these consumers the ability to submit inquiries requesting Dealers or other lenders that may offer vehicle financing to these consumers to contact the consumers regarding vehicle financing (" **Finance Leads** "). The Company's mission for consumers is to be "Your Lifetime Automotive Advisor®" by engaging consumers throughout the entire lifecycle of their automotive needs.

The Company was incorporated in Delaware on May 17, 1996. Its principal corporate offices are located in Irvine, California. The Company's common stock is listed on The NASDAQ Capital Market under the symbol ABTL.

On January 13, 2014 (" **AutoUSA Acquisition Date** "), Autobytel and AutoNation, Inc., a Delaware corporation (" **Seller Parent** "), and AutoNationDirect.com, Inc., a Delaware corporation and subsidiary of Seller Parent (" **Seller** "), entered into and consummated a Membership Interest Purchase Agreement in which Autobytel acquired all of the issued and outstanding membership interests in AutoUSA, LLC, a Delaware limited liability company and a subsidiary of Seller (" **AutoUSA** "). AutoUSA was a (i) lead aggregator purchasing internet-generated automotive consumer leads from third parties and reselling those consumer leads to automotive vehicle Dealers; and (ii) reseller of third party products and services to automotive Dealers. See Note 4.

Effective October 1, 2013 (" **Advanced Mobile Acquisition Date** "), the Company acquired substantially all of the assets of privately-held Advanced Mobile, LLC, a Delaware limited liability company, and Advanced Mobile Solutions Worldwide, Inc., a Delaware corporation (collectively referred to in this Quarterly Report on Form 10-Q as " **Advanced Mobile** "). Advanced Mobile (now Autobytel Mobile) provides mobile marketing solutions (e.g., mobile applications, mobile portals, mobile websites, TextShield®, mobile text marketing, quick response codes, text messaging, short message service and multimedia service) for the automotive industry. TextShield® provides a web-based portal that allows Dealers to centrally manage text communications. The acquired assets consisted primarily of customer contracts, technology license rights and rights in domain names and short codes used for SMS texting. As a result of the acquisition, the Company offers Manufacturers and Dealers the ability to connect with consumers using text communication via a secure platform. In addition, Autobytel offers Dealers a comprehensive suite of mobile products, including mobile apps, mobile websites, Send2Phone capabilities and text message marketing. See Note 4.

2. Basis of Presentation

The accompanying unaudited consolidated condensed financial statements are presented on the same basis as the Company's Annual Report on Form 10-K, as amended by Amendment No. 1 on Form 10-K/A, filed with the Securities and Exchange Commission (" **SEC** ") for the year ended December 31, 2013 (" **2013 Form 10-K** "). Autobytel has made its disclosures in accordance with U.S. generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 8-03 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation with respect to interim financial statements, have been included. The statements of income and comprehensive income and cash flows for the periods ended September 30, 2014 and 2013 are not necessarily indicative of the results of operations or cash flows expected for the year or any other period. The unaudited consolidated condensed financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto in the 2013 Form 10-K.

3. Recent Accounting Pronouncements

Accounting Standards Codification 205-40 "Presentation of Financial Statements – Going Concern." In August 2014, Accounting Standards Update (" **ASU** ") No. 2014-15, "Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern" was issued. This ASU provides guidance in generally accepted accounting principles (" **GAAP** ") about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. This ASU (1) provides a definition of the term "substantial doubt," (2) requires an evaluation every reporting period including interim periods, (3) provides principles for considering the mitigating effect of management's plans, (4) requires certain disclosures when substantial doubt is alleviated as a result of consideration of management's plans, (5) requires an express statement and other disclosures when substantial doubt is not alleviated, and (6) requires an assessment for a period of one year after the date that the financial statements are issued (or available to be issued). This ASU is effective for the annual reporting period after December 15, 2016, and for annual periods and interim periods thereafter. Early application is permitted. The Company does not expect this ASU to have a material impact on the Company's consolidated financial results.

Accounting Standards Codification 606 "Revenue from Contracts with Customers." In May 2014, ASU No. 2014-09, "Revenue from Contracts with Customers (Topic 606)" was issued. This ASU requires an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The standard will replace most existing revenue recognition guidance in U.S. GAAP when it becomes effective. The new standard is effective on January 1, 2017. Early application is not permitted. The standard permits the use of either the retrospective or cumulative effect transition method. The Company is evaluating the effect that ASU 2014-09 will have on its consolidated financial statements and related disclosures. The Company has not yet selected a transition method nor has it determined the effect of the standard on the ongoing financial reporting.

4. Acquisitions

Acquisition of AutoUSA

On the AutoUSA Acquisition Date, Autobytel acquired all of the issued and outstanding membership interests in AutoUSA. The Company acquired AutoUSA to expand its reach and influence in the industry by increasing its Dealer network.

The AutoUSA Acquisition Date fair value of the consideration transferred totaled $11.9 million, which consisted of the following:

		(in thousands)
Cash (including a working capital adjustment of $44)	$	10,044
Convertible subordinated promissory note		1,300
Warrant to purchase $1.0 million of Company common stock		510
	$	11,854

As part of the consideration paid for the acquisition, the Company issued a convertible subordinated promissory note for $1.0 million (" **AutoUSA Note** ") to the Seller. The fair value of the AutoUSA Note as of the AutoUSA Acquisition Date was $1.3 million. This valuation was estimated using a binomial option pricing method. Key assumptions used by the Company's outside valuation consultants in valuing the AutoUSA Note include a market yield of 1.6% and stock price volatility of 65.0%. As the AutoUSA Note was issued with a substantial premium, the Company recorded the premium as additional paid-in capital. Interest is payable at an annual interest rate of 6% in quarterly installments. The entire outstanding balance of the AutoUSA Note is to be paid in full on January 31, 2019. At any time after January 31, 2017, the holder of the AutoUSA Note may convert all or any part, but at least 30,600 shares, of the then outstanding and unpaid principal of the AutoUSA Note into fully paid shares of the Company's common stock at a conversion price of $16.34 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The right to convert the AutoUSA Note into common stock of the Company is accelerated in the event of a change in control of the Company. In the event of default, the entire unpaid balance of the AutoUSA Note will become immediately due and payable and will bear interest at the lower of 8% per year and the highest legal rate permissible under applicable law.

The warrant to purchase 69,930 shares of Company common stock issued in connection with the acquisition (" **AutoUSA Warrant** ") was valued as of the AutoUSA Acquisition Date at $7.35 per share for a total value of $0.5 million. The Company used an option pricing model to determine the value of the AutoUSA Warrant. Key assumptions used by the Company's outside valuation consultants in valuing the AutoUSA Warrant are as follows: risk-free rate of 1.6%, stock price volatility of 65.0% and a term of 5.0 years. The AutoUSA Warrant was valued based on long-term stock price volatilities of the Company. The exercise price of the AutoUSA Warrant is $14.30 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The AutoUSA Warrant becomes exercisable on the third anniversary of the issuance date and expires on the fifth anniversary of the issuance date. The right to exercise the AutoUSA Warrant is accelerated in the event of a change in control of the Company.

The following table summarizes the fair values of the assets acquired and liabilities assumed as of September 30, 2014. Because the transaction was completed in the three months ended March 31, 2014, the Company has not yet finalized the fair values of the assets and liabilities assumed in connection with the acquisition.

	(in thousands)
Net identifiable assets acquired	$ 758
Definite-lived intangible assets acquired	3,750
Goodwill	7,346
	$ 11,854

The preliminary fair value of the acquired intangible assets was determined using the below valuation approaches. In estimating the preliminary fair value of the acquired intangible assets, the Company utilized the valuation methodology determined to be most appropriate for the individual intangible asset being valued as described below. The acquired intangible assets include the following:

	Valuation Method	**Estimated Fair Value** *(in thousands)*	**Estimated Useful Life [1]** *(years)*
Non-compete agreement	Discounted cash flow [2]	$ 90	2
Customer relationships	Excess of earnings [3]	2,660	5
Trademark/trade names	Relief from Royalty [4]	1,000	5
Total purchased intangible assets		$ 3,750	

(1) Determination of the estimated useful lives of the individual categories of purchased intangible assets was based on the nature of the applicable intangible asset and the expected future cash flows to be derived from such intangible asset. Amortization of intangible assets with definite lives are recognized over the shorter of the respective lives of the agreement or the period of time the assets are expected to contribute to future cash flows.

(2) The non-compete agreement fair value was derived by calculating the difference between the present value of the Company's forecasted cash flows with the agreement in place and without the agreement in place.

(3) The excess of earnings method estimates a purchased intangible asset's value based on the present value of the prospective net cash flows (or excess earnings) attributable to it. The value attributed to these intangibles was based on projected net cash inflows from existing contracts or relationships.

(4) The relief from royalty method is an earnings approach which assesses the royalty savings an entity realizes since it owns the asset and isn’t required to pay a third party a license fee for its use.

Some of the more significant estimates and assumptions inherent in the estimate of the fair value of the identifiable purchased intangible assets include all assumptions associated with forecasting cash flows and profitability. The primary assumptions used for the determination of the preliminary fair value of the purchased intangible assets were generally based upon the discounted present value of anticipated cash flows. Estimated years of projected earnings generally follow the range of estimated remaining useful lives for each intangible asset class.

The goodwill recognized of $7.3 million is attributable primarily to expected synergies and the assembled workforce of AutoUSA. The full amount is expected to be amortizable for income tax purposes.

The Company incurred approximately $1.1 million of acquisition-related costs related to AutoUSA in the nine months ended September 30, 2014, all of which were expensed. There were no acquisition-related costs related to AutoUSA in the three months ended September 30, 2014.

The following unaudited pro forma information presents the consolidated results of the Company and AutoUSA for the three and nine months ended September 30, 2013, with adjustments to give effect to pro forma events that are directly attributable to the acquisition and have a continuing impact, but excludes the impact of pro forma events that are directly attributable to the acquisition and are one-time occurrences. The unaudited pro forma information is presented for illustrative purposes only and is not necessarily indicative of the results of operations of future periods, the results of operations that actually would have been realized had the entities been a single company during the periods presented or the results of operations that the combined company will experience after the acquisition. The unaudited pro forma information does not give effect to the potential impact of current financial conditions, regulatory matters or any anticipated synergies, operating efficiencies or cost savings that may be associated with the acquisition. The unaudited pro forma information also does not include any integration costs or remaining future transaction costs that the companies may incur as a result of the acquisition and combining the operations of the companies.

The unaudited pro forma consolidated results of operations, assuming the acquisition had occurred on January 1, 2013, are as follows:

	Three Months Ended September 30, 2013	Nine Months Ended September 30, 2013
	(in thousands)	
Unaudited pro forma consolidated results:		
Revenues	$ 28,547	$ 87,176
Net income	1,757	3,114

Acquisition of Advanced Mobile

As of the Advanced Mobile Acquisition Date, the Company acquired substantially all of the assets of Advanced Mobile. Advanced Mobile provides mobile marketing solutions (e.g., mobile applications, mobile portals, mobile websites, TextShield®, mobile text marketing, quick response codes, text messaging, short message service and multimedia service) for the automotive industry. The acquired assets consisted primarily of customer contracts, technology license rights and rights in domain names and short codes used for SMS texting. Advanced Mobile was acquired to enable the Company to offer the automotive industry the mobile technology and resources required to exploit the expanding growth in smart phone and tablet use.

The Advanced Mobile Acquisition Date fair value of the consideration transferred totaled $3.4 million, which consisted of the following:

	(in thousands)
Cash (including working capital adjustment of $70)	$ 2,570
Contingent consideration	825
	$ 3,395

The contingent consideration arrangement (“ **Contingent Consideration** ”) requires the Company to pay up to $1.5 million of additional consideration to Advanced Mobile if certain revenue and gross profit targets are met. The fair value of the contingent consideration as of the Advanced Mobile Acquisition Date was $825,000. The fair value of the contingent consideration was estimated using a Monte Carlo Simulation. The fair value measurement is based on significant inputs not observable in the market and thus represents a Level 3 measurement as defined in ASC 820, Fair Value Measurements and Disclosures. The key assumptions used by the Company's outside valuation consultants in applying the Monte Carlo Simulation consisted of volatility inputs for both revenue and gross profit, forecasted gross margin and a weighted-average cost of capital assumption used to adjust forecasted revenue and gross margin for risk.

The following table summarizes the fair values of the assets acquired and liabilities assumed at the Advanced Mobile Acquisition Date.

	(in thousands)
Net identifiable assets acquired	$ 90
Definite-lived intangible assets acquired	1,380
Goodwill	1,925
Net assets acquired	$ 3,395

The fair value of the acquired intangible assets was determined using the below valuation approaches. In estimating the fair value of the acquired intangible assets, the Company utilized the valuation methodology determined to be most appropriate for the individual intangible asset being valued as described below. The acquired intangible assets include the following:

	Valuation Method	Estimated Fair Value	Estimated Useful Life [1]
		(in thousands)	*(years)*
Non-compete agreement	Discounted cash flow [2]	$ 110	5
Customer relationships	Excess of earnings [3]	450	2
Developed technology	Excess of earnings [3]	820	5
Total purchased intangible assets		$ 1,380	

(1) Determination of the estimated useful lives of the individual categories of purchased intangible assets was based on the nature of the applicable intangible asset and the expected future cash flows to be derived from such intangible asset. Amortization of intangible assets with definite lives are recognized over the shorter of the respective lives of the agreement or the period of time the assets are expected to contribute to future cash flows.

(2) The non-compete agreement fair value was derived by calculating the difference between the present value of the Company's forecasted cash flows with the agreement in place and without the agreement in place.

(3) The excess of earnings method estimates a purchased intangible asset's value based on the present value of the prospective net cash flows (or excess earnings) attributable to it. The value attributed to these intangibles was based on projected net cash inflows from existing contracts or relationships.

Some of the more significant estimates and assumptions inherent in the estimate of the fair value of the identifiable purchased intangible assets include all assumptions associated with forecasting cash flows and profitability. The primary assumptions used for the determination of the preliminary fair value of the purchased intangible assets were generally based upon the discounted present value of anticipated cash flows. Estimated years of projected earnings generally follow the range of estimated remaining useful lives for each intangible asset class.

The goodwill recognized of $1.9 million is attributable primarily to expected synergies and the assembled workforce of Advanced Mobile. The full amount is amortizable for income tax purposes.

The Company incurred $0.3 million of acquisition-related costs related to Advanced Mobile, all of which were expensed in 2013.

5. Computation of Basic and Diluted Net Earnings Per Share

Basic net earnings per share is computed using the weighted average number of common shares outstanding during the period. Diluted net earnings per share is computed using the weighted average number of common shares, and if dilutive, potential common shares outstanding, as determined under the treasury stock and if-converted methods, during the period. Potential common shares consist of common shares issuable upon the exercise of stock options, common shares issuable upon the exercise of warrants and common shares issuable upon conversion of convertible notes. The following are the share amounts utilized to compute the basic and diluted net earnings per share for the three and nine months ended September 30, 2014 and 2013:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Basic Shares	9,028,733	8,900,574	8,986,146	8,874,252
Weighted average dilutive securities	2,070,375	1,685,638	2,268,894	1,435,481
Dilutive Shares	11,099,108	10,586,212	11,255,040	10,309,733

For the three and nine months ended September 30, 2013 and 2014, weighted average dilutive securities included dilutive options and the warrant and convertible note issued in connection with the acquisition of Autotropolis, Inc. and Cyber Ventures, Inc. (collectively referred to in this Quarterly Report on Form 10-Q as " **Cyber** ") described below.

For the three and nine months ended September 30, 2014, 1.3 million and 1.1 million of potentially anti-dilutive shares of common stock have been excluded from the calculation of diluted net earnings per share, respectively. For the three and nine months ended September 30, 2013, 1.1 million and 1.3 million of potentially anti-dilutive shares of common stock have been excluded from the calculation of diluted net earnings per share.

On February 13, 2012, the Company announced that the Board of Directors had approved a stock repurchase program that authorized the repurchase of up to $1.5 million of Company common stock. On June 7, 2012, the Board of Directors authorized the Company to repurchase an additional $2.0 million of Company common stock. The Board of Directors approved an additional $1.0 million stock repurchase program on September 16, 2014. As of September 30, 2014, the Company is authorized to repurchase up to $3.0 million in Company common stock. Under these repurchase programs, the Company may repurchase common stock from time to time on the open market or in private transactions. This authorization does not require the Company to purchase a specific number of shares, and the Board of Directors may suspend, modify or terminate the programs at any time. The Company would fund repurchases through the use of available cash. The Company began repurchasing its common stock on March 7, 2012. No shares have been repurchased since 2012. Shares repurchased in 2012 were cancelled by the Company and returned to authorized and unissued shares.

Warrants. On September 17, 2010 (" **Cyber Acquisition Date** "), the Company acquired substantially all of the assets of Cyber. In connection with the acquisition of Cyber, the Company issued to the sellers a warrant to purchase 400,000 shares of Company common stock (" **Cyber Warrant** "). The Cyber Warrant was valued at $3.15 per share on the Cyber Acquisition Date using an option pricing model with the following key assumptions: risk-free rate of 2.3%, stock price volatility of 77.5% and a term of 8.04 years. The Cyber Warrant was valued based on historical stock price volatilities of the Company and comparable public companies as of the Cyber Acquisition Date. The exercise price of the Cyber Warrant is $4.65 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The Cyber Warrant became exercisable on September 16, 2013 and expires on the eighth anniversary of the issuance date. The Cyber Warrant had not been exercised as of September 30, 2014.

The AutoUSA Warrant issued in connection with the acquisition described in Note 4 was valued at $7.35 per share for a total value of $0.5 million. The Company used an option pricing model to determine the value of the AutoUSA Warrant. Key assumptions used in valuing the AutoUSA Warrant are as follows: risk-free rate of 1.6%, stock price volatility of 65.0% and a term of 5.0 years. The AutoUSA Warrant was valued based on long-term stock price volatilities of the Company. The exercise price of the AutoUSA Warrant is $14.30 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The AutoUSA Warrant becomes exercisable on the third anniversary of the issuance date and expires on the fifth anniversary of the issuance date. The right to exercise the AutoUSA Warrant is accelerated in the event of a change in control of the Company.

6. Share-Based Compensation

Share-based compensation expense is included in costs and expenses in the accompanying Unaudited Consolidated Condensed Statements of Income and Comprehensive Income as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
	(in thousands)			
Share-based compensation expense:				
Cost of revenues	$ 18	$ 13	$ 52	$ 38
Sales and marketing	149	35	400	111
Technology support	62	57	187	173
General and administrative	142	78	389	236
Share-based compensation costs	371	183	1,028	558
Amount capitalized to internal use software	1	1	3	2
Total share-based compensation costs	$ 370	$ 182	$ 1,025	$ 556

Service-Based Options. The Company granted the following service-based options for the three and nine months ended September 30, 2014 and 2013.

	Three months ended September 30,		Nine months ended September 30,	
	2014	2013	2014	2013
Number of service-based options granted	59,500	13,000	461,250	109,000
Weighted average grant date fair value	$ 3.88	$ 2.73	$ 6.99	$ 2.29
Weighted average exercise price	$ 8.50	$ 5.92	$ 15.44	$ 4.43

These options are valued using a Black-Scholes option pricing model and generally vest one-third on the first anniversary of the grant date and ratably over twenty-four months thereafter. The vesting of these awards is contingent upon the employee's continued employment with the Company during the vesting period.

Performance-based Options. During the nine months ended September 30, 2014, the Company granted 40,000 performance-based inducement stock options in connection with the acquisition of AutoUSA (" **AutoUSA Inducement Options** "), with a weighted average grant date fair value of $6.08, using a Black-Scholes option pricing model and weighted average exercise price of $13.62. The AutoUSA Inducement Options are subject to two vesting requirements and conditions: (i) level of achievement of performance goals based on revenue and gross margin of the Company's retail dealer services group and (ii) time vesting. No performance options were granted during the three months ended September 30, 2014.

During the nine months ended September 30, 2013, the Company granted 87,117 performance-based stock options (" **2013 Performance Options** ") to certain employees with a weighted average grant date fair value of $2.19, using a Black-Scholes option pricing model and a weighted average exercise price of $4.00. The 2013 Performance Options were subject to two vesting requirements and conditions: (i) percentage achievement of 2013 revenues and earnings before taxes, depreciation and amortization (" **EBITDA** ") goals and (ii) time vesting. Based on the Company's 2013 revenues and EBITDA performance, 83,398 of the 2013 Performance Options vested under the performance vesting condition, and one-third of these options vested on the first anniversary of the grant date, with the remainder vesting ratably over twenty-four months thereafter.

During the nine months ended September 30, 2013, in connection with the acquisition of Advanced Mobile, the Company granted 88,641 performance-based inducement stock options (" **2013 Inducement Options** ") to one employee with a weighted average grant date fair value of $3.21, using a Black-Scholes option pricing model and weighted average exercise price of $7.17. The 2013 Inducement Options are subject to two vesting requirements and conditions: (i) percentage achievement of 2014, 2015 and 2016 revenues and gross profit goals for the Advanced Mobile business and (ii) time vesting.

Market Condition Options. In 2009, the Company granted 213,650 stock options to substantially all employees with an exercise price of $1.75 and grant date fair value of $0.97, using a Black-Scholes option pricing model. One-third of these options cliff vested on the first anniversary following the grant date and the remaining two-thirds vest ratably over twenty-four months thereafter. In addition, the remaining two-thirds of the awards were subject to satisfaction of market price conditions for the Company's common stock, which conditions have been satisfied. During the nine months ended September 30, 2014, 15,793 of these market condition stock options were exercised. No market condition options were exercised in the three months ended September 30, 2014. During the three and nine months ended September 30, 2013, 596 and 5,672 of these market condition stock options were exercised, respectively.

During the nine months ended September 30, 2014, 118,996 stock options (inclusive of the 15,793 market condition stock options exercised during the period) were exercised, with aggregate weighted average exercise prices of $4.20. No stock options were exercised in the three months ended September 30, 2014. There were 30,193 and 51,931 stock options (inclusive of the 596 and 5,672 market condition stock options exercised during the period) exercised during the three and nine months ended September 30, 2013, with aggregate weighted average exercise prices of $4.37 and $3.91, respectively. The grant date fair value of stock options granted during these periods was estimated using the Black-Scholes option pricing model using the following weighted average assumptions:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Dividend yield	—	—	—	—
Volatility	56%	56%	56%	65%
Risk-free interest rate	1.5%	1.1%	1.4%	0.8%
Expected life (years)	4.3	4.3	4.3	4.3

7. Selected Balance Sheet Accounts

Property and Equipment . Property and equipment consists of the following:

	September 30, 2014	December 31, 2013
	(in thousands)	
Computer software and hardware and capitalized internal use software	$ 12,782	$ 11,924
Furniture and equipment	1,271	1,256
Leasehold improvements	957	937
	15,010	14,117
Less – Accumulated depreciation and amortization	(13,118)	(12,569)
Property and equipment, net	$ 1,892	$ 1,548

The Company periodically reviews long-lived assets to determine if there are any impairment indicators. The Company assesses the impairment of these assets, or the need to accelerate amortization, whenever events or changes in circumstances indicate that the carrying value may not be recoverable. The Company's judgments regarding the existence of impairment indicators are based on legal factors, market conditions and operational performance of our long-lived assets. If such indicators exist, the Company evaluates the assets for impairment based on the estimated future undiscounted cash flows expected to result from the use of the assets and their eventual disposition. Should the carrying amount of an asset exceed its estimated future undiscounted cash flows, an impairment loss is recorded for the excess of the asset's carrying amount over its fair value. Fair value is generally determined based on a valuation process that provides an estimate of the fair value of these assets using a discounted cash flow model, which includes assumptions and estimates.

Concentration of Credit Risk and Risks Due to Significant Customers . Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. Cash and cash equivalents are primarily maintained with two high credit quality financial institutions in the United States. Deposits held by banks exceed the amount of insurance provided for such deposits. These deposits may be redeemed upon demand.

Accounts receivable are primarily derived from fees billed to Dealers and Manufacturers. The Company generally requires no collateral to support its accounts receivables and maintains an allowance for bad debts for potential credit losses.

The Company has a concentration of credit risk with its automotive industry related accounts receivable balances, particularly with Urban Science Applications (which represents Acura, Audi, Honda, Nissan, Infiniti, Mercedes Benz, Smart, Subaru, Toyota, Volkswagen and Volvo), General Motors and Trilogy Smartleads (which represents Hyundai, Toyota, BMW and MINI). During the first nine months of 2014, approximately 28% of the Company's total revenues were derived from these three customers, and approximately 36%, or $6.4 million of gross accounts receivable, related to these three customers at September 30, 2014.

During the first nine months of 2013, approximately 28% of the Company's total revenues were derived from General Motors, Urban Science Applications and AutoNation, and approximately 37%, or $5.5 million of gross accounts receivables, related to these three customers at September 30, 2013.

Equity Investments. In September 2013, the Company entered into a Contribution Agreement with privately-held AutoWeb, Inc., a Delaware corporation (" **AutoWeb** "), in which Autobytel contributed to AutoWeb $2.5 million and assigned to AutoWeb all the ownership interests in the autoweb.com domain name and two registered trademarks related to the AutoWeb name and related goodwill in exchange for 8,000 shares of AutoWeb Series A Preferred Stock, $0.01 par value per share. The 8,000 shares of AutoWeb Series A Preferred Stock are convertible into AutoWeb Common Stock on a one-for-one basis (subject to adjustments for stock splits, stock dividends, combinations and recapitalizations) and represented 16% of all issued and outstanding common stock of AutoWeb as of September 18, 2013, on a fully diluted basis, as of this date. The Company also obtained an option to acquire an additional 5,000 shares of AutoWeb Series A Preferred Stock at a per share exercise price of $500, which option expires September 30, 2015. In connection with this investment, the Company also entered into arrangements with AutoWeb to use the AutoWeb pay-per-click, auction-driven automotive marketplace technology platform as both a publisher and as an advertiser. Upon the occurrence of a liquidation event (i.e., a liquidation, dissolution or winding up of AutoWeb; a consolidation or merger where AutoWeb is not the surviving entity; a consolidation or merger where AutoWeb is the surviving entity and either (i) the rights of the Series A Preferred Stock are changed, or (ii) the Series A Preferred Stock is exchanged for cash, securities or property; or a sale or transfer of all or substantially all of AutoWeb's assets), the Series A Preferred Stock is entitled to a liquidation preference of the greater of (i) $1,000 per share (subject to adjustments for stock splits, stock dividends, combinations and recapitalizations); and (ii) the amount that would be distributed with respect to AutoWeb's Common Stock, assuming full conversion of the Series A Preferred Stock into Common Stock.

In September 2013, the Company invested $150,000 in SaleMove, Inc., a Delaware corporation (" **SaleMove** "), in the form of a convertible promissory note. The convertible promissory note accrues interest at an annual rate of 6.0% and is due and payable in full on August 14, 2015 unless converted prior to the maturity date. The convertible note will be converted into preferred stock of SaleMove in the event of a preferred stock financing by SaleMove of at least $1.0 million prior to the maturity date of the convertible note. The Company recorded the $150,000 note as an other long-term asset on the Consolidated Balance Sheet as of September 30, 2014.

Intangible Assets. The Company amortizes specifically identified intangible assets using the straight-line method over the estimated useful lives of the assets. In connection with the acquisitions of Cyber, Advanced Mobile and AutoUSA the Company identified $9.7 million of intangible assets. The Company's intangible assets will be amortized over the following estimated useful lives (in thousands):

		September 30, 2014			December 31, 2013		
Intangible Asset	**Estimated Useful Life**	**Gross**	**Accumulated Amortization**	**Net**	**Gross**	**Accumulated Amortization**	**Net**
Trademarks/trade names/licenses/domains	5 years	$ 6,581	$ (5,495)	$ 1,086	$ 5,582	$ (5,209)	$ 373
Software and publications	3 years	1,300	(1,300)	—	1,300	(1,300)	—
Customer relationships	2-5 years	5,074	(2,495)	2,579	2,320	(1,926)	394
Employment/non-compete agreements	5 years	700	(458)	242	610	(335)	275
Developed technology	5 years	820	(164)	656	820	(41)	779
		$ 14,475	$ (9,912)	$ 4,563	$ 10,632	$ (8,811)	$ 1,821

Amortization expense for the remainder of the year and for the next five years is as follows:

Year	**Amortization Expense**
	(in thousands)
2014	$ 382
2015	1,394
2016	942
2017	926
2018	879
2019	32
	$ 4,555

Goodwill. Goodwill represents the excess of the purchase price over the fair value of net assets acquired. Goodwill is not amortized and is assessed annually for impairment or earlier, when events or circumstances indicate that the carrying value of such assets may not be recoverable. The Company did not record impairment related to goodwill as of September 30, 2014 and 2013.

As of September 30, 2014, goodwill consisted of the following (in thousands):

Goodwill as of December 31, 2013	$ 13,602
Acquisition of AutoUSA	7,346
Goodwill as of September 30, 2014	$ 20,948

Accrued Expenses and Other Current Liabilities . Accrued expenses and other current liabilities consisted of the following:

	September 30, 2014	**December 31, 2013**
	(in thousands)	
Compensation and related costs	$ 3,533	$ 3,540
Professional fees and other accrued expenses	3,526	3,209
Amounts due to customers	250	208
Other current liabilities	670	692
Total accrued expenses and other current liabilities	$ 7,979	$ 7,649

Convertible notes payable . In connection with the acquisition of Cyber, the Company issued a convertible subordinated promissory note for $5.0 million (“ **Cyber Convertible Note** ”) to the sellers. The fair value of the Cyber Convertible Note as of the Cyber Acquisition Date was $5.9 million. This valuation was estimated using a binomial option pricing method. Key assumptions used by the Company's outside valuation consultants in valuing the Cyber Convertible Note included a market yield of 15.0% and stock price volatility of 77.5%. As the Cyber Convertible Note was issued with a substantial premium, the Company recorded the premium as additional paid-in capital. Interest is payable at an annual interest rate of 6% in quarterly installments. The entire outstanding balance of the Cyber Convertible Note is to be paid in full on September 30, 2015. At any time after September 30, 2013, the holders of the Cyber Convertible Note may convert all or any part, but in 40,000 minimum share increments, of the then outstanding and unpaid principal of the Cyber Convertible Note into fully paid shares of the Company’s common stock at a conversion price of $4.65 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The right to convert the Cyber Convertible Note into common stock of the Company is accelerated in the event of a change in control of the Company. In the event of default, the entire unpaid balance of the Cyber Convertible Note will become immediately due and payable and will bear interest at the lower of 8% per year and the highest legal rate permissible under applicable law.

In connection with the acquisition of AutoUSA, the Company issued the AutoUSA Note to the Seller. The fair value of the AutoUSA Note as of the AutoUSA Acquisition Date was $1.3 million. This valuation was estimated using a binomial option pricing method. Key assumptions used by the Company's outside valuation consultants in valuing the AutoUSA Note include a market yield of 1.6% and stock price volatility of 65.0%. As the AutoUSA Note was issued with a substantial premium, the Company recorded the premium as additional paid-in capital. Interest is payable at an annual interest rate of 6% in quarterly installments. The entire outstanding balance of the AutoUSA Note is to be paid in full on January 31, 2019. At any time after January 31, 2017, the holder of the AutoUSA Note may convert all or any part, but at least 30,600 shares, of the then outstanding and unpaid principal of the AutoUSA Note into fully paid shares of the Company's common stock at a conversion price of $16.34 per share (as adjusted for stock splits, stock dividends, combinations and other similar events). The right to convert the AutoUSA Note into common stock of the Company is accelerated in the event of a change in control of the Company. In the event of default, the entire unpaid balance of the AutoUSA Note will become immediately due and payable and will bear interest at the lower of 8% per year and the highest legal rate permissible under applicable law.

Credit Facility and Term Loan . On January 13, 2014, the Company entered into a Credit Facility Amendment with Union Bank, amending the Company's existing Loan Agreement with Union Bank initially entered into on February 26, 2013, and amended on September 10, 2013 (the existing Loan Agreement, as amended to date, is referred to herein collectively as the " **Credit Facility Agreement** "). The Credit Facility Amendment provides for (i) a new $9.0 million term loan (“ **Term Loan** ”); and (ii) amendments to the Company’s existing $8.0 million revolving line of credit (“ **Revolving Loan** ”).

The Term Loan is amortized over a period of four years, with fixed quarterly principal payments of $562,500. Borrowings under the Term Loan or under the Revolving Loan bear interest at either (i) the bank's Reference Rate (prime rate) minus 0.50% or (ii) the LIBOR plus 2.50%, at the option of the Company. Interest under both the Term Loan and the Revolving Loan adjust (i) at the end of each LIBOR rate period (1, 2, 3, 6 or 12 months terms) selected by the Company, if the LIBOR rate is selected; or (ii) with changes in Union Bank's Reference Rate, if the Reference Rate is selected. The Company pays a commitment fee of 0.10% per year on the unused portion of the Revolving Loan payable quarterly in arrears. Borrowings under the Term Loan and the Revolving Loan are secured by a first priority security interest on all of the Company's personal property (including, but not limited to, accounts receivable) and proceeds thereof. The Term Loan matures December 31, 2017, and the maturity date of the Revolving Loan is March 31, 2017. Borrowings under the Revolving Loan may be used as a source to finance capital expenditures, acquisitions and stock buybacks and for other general corporate purposes. Borrowing under the Term Loan was limited to use for the acquisition of AutoUSA, and the Company drew down the entire $9.0 million of the Term Loan, together with $1.0 million under the Revolving Loan, in financing this acquisition. The outstanding balances of the Term Loan and Revolving Loan as of September 30, 2014 were $7.3 million and $5.25 million, respectively.

8. Commitments and Contingencies

Employment Agreements

The Company has employment agreements and retention agreements with certain key employees. A number of these agreements require severance payments, continuation of certain insurance benefits and acceleration of vesting of stock options in the event of a termination of employment by the Company without cause or by the employee for good reason.

Litigation

As of September 30, 2014, the Company was not the subject of any litigation as a defendant in any action or proceeding. From time to time, the Company may be involved in litigation matters arising from the normal course of its business activities. The actions filed against the Company and other litigation, even if not meritorious, could result in substantial costs and diversion of resources and management attention, and an adverse outcome in litigation could materially adversely affect its business, results of operations, financial condition and cash flows.

9. Income Taxes

On an interim basis, the Company estimates what its anticipated annual effective tax rate will be and records a quarterly income tax provision in accordance with the estimated annual rate, plus the tax effect of certain discrete items that arise during the quarter. As the fiscal year progresses, the Company refines its estimates based on actual events and financial results during the year. This process can result in significant changes to the Company's estimated effective tax rate. When this occurs, the income tax provision is adjusted during the quarter in which the estimates are refined so that the year-to-date provision reflects the estimated annual effective tax rate. These changes, along with adjustments to the Company's deferred taxes and related valuation allowance, may create fluctuations in the overall effective tax rate from quarter to quarter.

The Company’s effective tax rate for the three and nine months ended September 30, 2014 differed from the U.S. federal statutory rate primarily due to state income taxes and permanent non-deductible tax items.

The total amount of unrecognized tax benefits, excluding associated interest and penalties, was $0.6 million as of September 30, 2014, of which $0.1 million would impact the effective tax rate if recognized.

The total balance of accrued interest and penalties related to state uncertain tax positions was $26,000 and $20,000 as of September 30, 2014 and December 31, 2013, respectively. The Company recognizes interest and penalties related to state uncertain tax positions as a component of income tax expense, and the accrued interest and penalties are included in deferred and other long-term liabilities in the Company’s condensed consolidated balance sheets. There were no material interest or penalties included in income tax expense for each of the three and nine months ended September 30, 2014 and September 30, 2013.

The Company is subject to taxation in the U.S. and in various state jurisdictions. Due to expired statutes of limitation, the Company’s federal income tax returns for years prior to calendar year 2011 are not subject to examination by the U.S. Internal Revenue Service. Generally, for the majority of state jurisdictions where the Company does business, periods prior to calendar year 2010 are no longer subject to examination. The Company is currently under examination by the State of Colorado for the years 2009 through 2012, but does not anticipate any material adjustments. The Company has estimated that $0.1 million of unrecognized tax benefits related to income tax positions may be affected by the resolution of tax examinations or expiring statutes of limitation within the next twelve months. Audit outcomes and the timing of settlements are subject to significant uncertainty.

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

The Securities and Exchange Commission (" **SEC** ") encourages companies to disclose forward-looking information so that investors can better understand a company's future prospects and make informed investment decisions. This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Words such as "anticipates," "estimates," "expects," "projects," "intends," "plans," "believes," "will" and words of similar substance used in connection with any discussion of future operations or financial performance identify forward-looking statements. In particular, statements regarding expectations and opportunities, industry trends, new product expectations and capabilities, and our outlook regarding our performance and growth are forward-looking statements. This Quarterly Report on Form 10-Q also contains statements regarding plans, goals and objectives. There is no assurance that we will be able to carry out our plans or achieve our goals and objectives or that we will be able to do so successfully on a profitable basis. These forward-looking statements are just predictions and involve risks and uncertainties, many of which are beyond our control, and actual results may differ materially from these statements. Factors that could cause actual results to differ materially from those reflected in forward-looking statements include, but are not limited to, those discussed in this Item 2 and under the heading "Risk Factors" in our Annual Report on Form 10-K, as amended by Form 10-K/A, for the year ended December 31, 2013 (" **2013 Form 10-K** "). Investors are urged not to place undue reliance on forward-looking statements. Forward-looking statements speak only as of the date on which they were made. Except as may be required by law, we do not undertake any obligation, and expressly disclaim any obligation, to update or alter any forward-looking statements, whether as a result of new information, future events or otherwise. All forward-looking statements contained herein are qualified in their entirety by the foregoing cautionary statements.

You should read the following discussion of our results of operations and financial condition in conjunction with our unaudited consolidated condensed financial statements and related notes included in Part I, Item 1 of this Quarterly Report on Form 10-Q and our audited consolidated financial statements and the notes thereto in the 2013 Form 10-K.

Our corporate website is located at *www.autobytel.com* . Information on our website is not incorporated by reference in this Quarterly Report. At or through the Investor Relations section of our website we make available free of charge our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and all amendments to these reports as soon as practicable after the reports are electronically filed with or furnished to the SEC.

Unless the context otherwise requires, the terms "we", "us", "our", "Autobytel", and "Company" refer to Autobytel Inc. and its consolidated subsidiaries.

Basis of Presentation

The accompanying unaudited consolidated condensed financial statements presented herein are presented on the same basis as the 2013 Form 10-K. We have made disclosures in accordance with U.S. generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 8-03 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation with respect to interim financial statements, have been included. The statements of income and comprehensive income and cash flows for the periods ended September 30, 2014 and 2013 are not necessarily indicative of the results of operations or cash flows expected for the year or any other period. The unaudited consolidated condensed financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto in the 2013 Form 10-K.

On January 13, 2014 (" **AutoUSA Acquisition Date** "), Autobytel and AutoNation, Inc., a Delaware corporation (" **Seller Parent** "), and AutoNationDirect.com, Inc., a Delaware corporation and subsidiary of Seller Parent (" **Seller** "), entered into and consummated a Membership Interest Purchase Agreement in which Autobytel acquired all of the issued and outstanding membership interests in AutoUSA, LLC, a Delaware limited liability company and a subsidiary of Seller (" **AutoUSA** "). AutoUSA was a (i) lead aggregator purchasing internet-generated automotive consumer leads from third parties and reselling those consumer leads to automotive vehicle dealers; and (ii) reseller of third party products and services to automotive Dealers. The integration of AutoUSA was completed during the three months ended June 30, 2014, and we believe we will see benefits from the synergies associated with the AutoUSA acquisition throughout the remainder of 2014.

Effective October 1, 2013, the Company acquired substantially all of the assets of privately-held Advanced Mobile, LLC, a Delaware limited liability company, and Advanced Mobile Solutions Worldwide, Inc., a Delaware corporation (collectively referred to in this Quarterly Report on Form 10-Q as " **Advanced Mobile** "). Advanced Mobile provides mobile marketing solutions (e.g., mobile applications, mobile portals, mobile websites, TextShield®, mobile text marketing, quick response codes, text messaging, short message service and multimedia service) for the automotive industry. TextShield® provides a web-based portal that allows Dealers to centrally manage text communications. This web-based tool includes role-based permissions, a global opt out feature and the ability to monitor all text communications between dealership employees and consumers. By assisting a dealership with compliance issues surrounding text, this tool opens up a wide array of text-based marketing for dealers and allows consumers to interact with dealers using one of the most preferred methods of mobile communications. The acquired assets consisted primarily of customer contracts, technology license rights and rights in domain names and short codes used for SMS texting.

Overview

We are an automotive marketing services company that assists automotive retail dealers (" **Dealers** ") and automotive manufacturers (" **Manufacturers** ") market and sell new and used vehicles to consumers through our programs for online purchase request referrals (" **Leads** "), Dealer marketing products and services, online advertising programs and mobile products. Our consumer-facing automotive websites (" **Company Websites** "), including our flagship website Autobytel.com®, provide consumers with information and tools to aid them with their automotive purchase decisions and the ability to submit inquiries requesting Dealers to contact the consumers regarding purchasing or leasing vehicles (" **Vehicle Leads** "). For consumers who may not be able to secure loans through conventional lending sources, our Company Websites provide these consumers the ability to submit inquiries requesting Dealers or other lenders that may offer vehicle financing to these consumers to contact the consumers regarding vehicle financing (" **Finance Leads** "). The Company's mission for consumers is to be "Your Lifetime Automotive Advisor"® by engaging consumers throughout the entire lifecycle of their automotive needs.

Lead quality is measured by the conversion of Leads to actual vehicle sales. Leads are internally-generated from our Company Websites (" **Internally-Generated Leads** ") or acquired from third parties (" **Non-Internally-Generated Leads** ") that generate Leads from their websites (" **Non-Company Websites** "). We rely on detailed feedback from Manufacturer and wholesale customers to confirm the performance of our Leads. Since 2011 we have been using IHS Automotive (which acquired R.L. Polk & Co. in 2013) to evaluate the performance quality of both our Internally-Generated Leads as well as Non-Internally-Generated Leads. Our Manufacturers and wholesale customers and IHS Automotive match the Leads we deliver to our customers against vehicle sales data to provide us with buy rates (rate at which consumers who submit a new vehicle lead purchase a new vehicle within 90 days) for the Leads we deliver to our customers and information that allows us to compare these buy rates to the buy rates of the Leads we acquire from third party suppliers. Based on the most current IHS Automotive data, automotive Leads from consumers shopping on Autobytel.com have a buy rate of approximately 21% within 90 days of Lead submission.

In addition, we report a number of key metrics to our customers, allowing them to gain a better understanding of the revenue opportunities that they may realize from acquiring Leads from us. We can now optimize the mix of Leads we deliver to our Dealers based on multiple sources of quality measurements. Also, by reporting the buying behavior of potential customers, the findings also can help shape improvements to online Lead management; online advertising and dealership sales process training. By providing actionable data, we place considerable intelligence in the hands of our customers.

For the three and nine months ended September 30, 2014, our business, results of operations and financial condition were affected, and may continue to be affected in the future, by general economic and market factors, conditions in the automotive industry, the market for Leads and the market for advertising services, including, but not limited to, the following:

- The effect of unemployment on the number of vehicle purchasers;
- Pricing and purchase incentives for vehicles;
- The expectation that consumers will be purchasing fewer vehicles overall during their lifetime as a result of better quality vehicles and longer warranties;
- The impact of gasoline prices on demand for vehicles;
- Increases or decreases in the number of retail Dealers or in the number of Manufacturers and other wholesale customers in our customer base;
- Volatility in spending by Manufacturers, Dealers and others in their marketing budgets and allocations;
- The effect of changes in search engine algorithms and methodologies on our Lead generation and website advertising activities and margins; and
- The competitive impact of consolidation in the online automotive referral industry.

Results of Operations

Three Months Ended September 30, 2014 Compared to the Three Months Ended September 30, 2013

The following table sets forth certain income statement data for the three-month periods ended September 30, 2014 and 2013 (certain amounts may not calculate due to rounding):

	2014	% of total revenues	2013	% of total revenues	$ Change	% Change
	(Dollar amounts in thousands)					
Revenues:						
Lead fees	$ 25,880	95%	$ 20,653	96%	$ 5,227	25%
Advertising	1,093	4	956	4	137	14
Other revenues	391	1	26	—	365	1,404
Total revenues	27,364	100	21,635	100	5,729	26
Cost of revenues (excludes depreciation of $7 and $18 for the three months ended September 30, 2014 and 2013, respectively)	16,356	60	12,826	59	3,530	28
Gross profit	11,008	40	8,809	41	2,199	25
Operating expenses:						
Sales and marketing	3,336	12	2,745	13	591	22
Technology support	2,055	7	1,855	8	200	11
General and administrative	3,161	12	2,526	12	635	25
Depreciation and amortization	483	2	362	2	121	33
Litigation settlements	(25)	—	(66)	—	41	(62)
Total operating expenses	9,010	33	7,422	35	1,588	21
Operating income	1,998	7	1,387	6	611	44
Interest and other income (expense), net	(177)	—	24	—	(201)	(838)
Income before income tax provision	1,821	7	1,411	6	410	29
Income tax provision	697	3	138	—	559	405
Net income	$ 1,124	4%	$ 1,273	6%	$ (149)	(12%)

Leads. Purchase request revenues increased $5.2 million, or 25%, in the third quarter of 2014 compared to the third quarter of 2013 primarily due to a 20% increase in Lead volume as a result of strong demand across nearly all programs, with a major Manufacturer starting a Lead program with Autobytel as a primary supplier, as well as additional revenues from the acquisition of AutoUSA.

Advertising. Advertising revenues increased $0.1 million, or 14%, in the third quarter of 2014 compared to the third quarter of 2013 as a result of increased page views and click revenue.

Other Revenues. Other revenues increased $0.4 million in the third quarter of 2014 compared to the third quarter of 2013 due to increased sales of the Company's mobile products as a result of the Advanced Mobile acquisition in the fourth quarter of 2013.

Cost of Revenues. Cost of revenues consists of purchase request and traffic acquisition costs and other cost of revenues. Purchase request and traffic acquisition costs consist of payments made to our purchase request providers, including internet portals and on-line automotive information providers. Other cost of revenues consists of search engine marketing (" **SEM** ") and fees paid to third parties for data and content, including search engine optimization (" **SEO** ") activity, included on our websites, connectivity costs, development costs related to our websites, compensation related expense and technology license fees, server equipment depreciation and technology amortization directly related to the Company's websites. SEM, sometimes referred to as paid search marketing, is the practice of bidding on keywords on search engines to drive traffic to a website.

Cost of revenues increased $3.5 million, or 28%, in the third quarter of 2014 compared to the third quarter of 2013 primarily due to a corresponding increase in lead volume.

Sales and Marketing. Sales and marketing expense includes costs for developing our brand equity, personnel costs and other costs associated with Dealer sales, website advertising, Dealer support and bad debt expense. Sales and marketing expense in the third quarter of 2014 increased by $0.6 million, or 22%, compared to the third quarter of 2013 due principally to an increase in headcount-related expenses associated with the acquisitions of AutoUSA and Advanced Mobile.

Technology Support. Technology support expense includes compensation, benefits, software licenses and other direct costs incurred by the Company to enhance, manage, maintain, support, monitor and operate the Company's websites and related technologies, and to operate the Company's internal technology infrastructure. Technology support expense in the third quarter of 2014 increased by $0.2 million, or 11%, compared to the third quarter of 2013 due to increased headcount-related expense associated with the acquisitions of AutoUSA and Advanced Mobile.

General and Administrative. General and administrative expense consists of executive, financial and legal personnel expenses and costs related to being a public company. General and administrative expense in the third quarter of 2014 increased by $0.6 million, or 25%, compared to the third quarter of 2013 due to an increase in headcount-related compensation costs and professional fees associated with increased merger and acquisition activity.

Depreciation and amortization. Depreciation and amortization expense in the third quarter of 2014 increased $0.1 million to $0.5 million compared to the third quarter of 2013 primarily due to the addition of intangible assets related to the acquisitions of Advanced Mobile and AutoUSA offset by a portion of the intangible assets related to the acquisition of Autotropolis, Inc. and Cyber Ventures, Inc. (collectively, " **Cyber** ") being fully amortized in 2013.

Litigation settlements. Payments primarily from 2010 settlements of patent infringement claims against third parties relating to the third parties' methods of Lead delivery for the third quarter of 2014 were $25,000.

Interest and other income (expense), net. Interest and other expense was $0.2 million for the third quarter of 2014 compared to interest and other income of $24,000 for the third quarter of 2013. The third quarter of 2014 included interest expense of $0.2 million compared to $81,000 in the third quarter of 2013.

Income taxes. Income tax expense was $0.7 million in the third quarter of 2014 compared to income tax expense of $0.1 million in the third quarter of 2013. Income tax expense for the third quarter of 2014 differed from the federal statutory rate primarily due to state income taxes and permanent non-deductible tax items, while income tax for the third quarter of 2013 differed from the federal statutory rate primarily due to various state minimum taxes and the deferred tax liability related to tax deductible goodwill amortization.

Nine Months Ended September 30, 2014 Compared to the Nine Months Ended September 30, 2013

The following table sets forth certain income statement data for the nine-month periods ended September 30, 2014 and 2013 (certain amounts may not calculate due to rounding):

	2014	% of total revenues	2013	% of total revenues	$ Change	% Change
	(Dollar amounts in thousands)					
Revenues:						
Lead fees	$ 76,727	96%	$ 55,013	95%	$ 21,714	39%
Advertising	2,531	3	2,567	5	(36)	(1)
Other revenues	979	1	88	—	891	1,013
Total revenues	80,237	100	57,668	100	22,569	39
Cost of revenues (excludes depreciation of $21 and $70 for the nine months ended September 30, 2014 and 2013, respectively)	48,828	61	35,311	61	13,517	38
Gross profit	31,409	39	22,357	39	9,052	40
Operating expenses:						
Sales and marketing	11,078	14	7,122	12	3,956	56
Technology support	5,971	7	5,328	9	643	12
General and administrative	8,899	11	6,961	12	1,938	28
Depreciation and amortization	1,373	2	1,196	2	177	15
Litigation settlements	(118)	—	(205)	—	87	(42)
Total operating expenses	27,203	34	20,402	35	6,801	33
Operating income	4,206	5	1,955	4	2,251	115
Interest and other income (expense), net	(518)	—	331	—	(849)	(256)
Income before income tax provision	3,688	5	2,286	4	1,402	61
Income tax provision	1,394	2	292	1	1,102	377
Net income	$ 2,294	3%	$ 1,994	3%	$ 300	15%

Leads. Purchase request revenues increased $21.7 million, or 39%, in the first nine months of 2014 compared to the first nine months of 2013 primarily due to a 34% increase in Lead volume as a result of strong demand across nearly all programs, with a major Manufacturer starting a Lead program with Autobytel as a primary supplier, as well as additional revenues from the acquisition of AutoUSA.

Advertising. Advertising revenues decreased $36,000, or 1%, in the first nine months of 2014 compared to the first nine months of 2013 as a result of fewer direct email campaigns coupled with the timing of website advertising display revenue.

Other Revenues. Other revenues increased $0.9 million in the first nine months of 2014 compared to the first nine months of 2013 due to increased sales of the Company's mobile products as a result of the Advanced Mobile acquisition in the fourth quarter of 2013.

Cost of Revenues. Cost of revenues increased $13.5 million, or 38%, in the first nine months of 2014 compared to the first nine months of 2013 primarily due to a corresponding increase in lead volume.

Sales and Marketing. Sales and marketing expense in the first nine months of 2014 increased by $4.0 million, or 56%, compared to the first nine months of 2013 due principally to an increase in headcount-related expenses associated with the acquisitions of AutoUSA and Advanced Mobile.

Technology Support. Technology support expense in the first nine months of 2014 increased by $0.6 million, or 12%, compared to the first nine months of 2013 due to increased headcount-related expense associated with the acquisitions of AutoUSA and Advanced Mobile.

General and Administrative. General and administrative expense in the first nine months of 2014 increased by $1.9 million, or 28%, compared to the first nine months of 2013 due to an increase in headcount-related compensation costs and professional fees associated with increased merger and acquisition activity.

Depreciation and amortization. Depreciation and amortization expense in the first nine months of 2014 increased to $1.4 million compared to $1.2 million for the first nine months of 2013 primarily due to the addition of intangible assets related to the acquisitions of Advanced Mobile and AutoUSA offset by a portion of the intangible assets related to the Cyber acquisition being fully amortized in 2013.

Litigation settlements. Payments primarily from 2010 settlements of patent infringement claims against third parties relating to the third parties' methods of Lead delivery for the first nine months of 2014 were $118,000.

Interest and other income (expense), net. Interest and other expense was $0.5 million for the first nine months of 2014 compared to interest and other income of $0.3 million for the first nine months of 2013. The first nine months of 2014 included interest expense of $0.5 million compared to $0.2 million in the first nine months of 2013. The first nine months of 2013 also included receipt of $0.5 million related to early termination of a license agreement pursuant to which the Company, as licensor, had licensed certain rights in the Company's proprietary software, business procedures, and brand.

Income taxes. Income tax expense was $1.4 million in the first nine months of 2014 compared to income tax expense of $0.3 million in the first nine months of 2013. Income tax expense for the first nine months of 2014 differed from the federal statutory rate primarily due to state income taxes and permanent non-deductible tax items, while income tax for the first nine months of 2013 differed from the federal statutory rate primarily due to various state minimum taxes and the deferred tax liability related to tax deductible goodwill amortization.

Liquidity and Capital Resources

The table below sets forth a summary of our cash flows for the nine months ended September 30, 2014 and 2013:

	Nine Months Ended September 30,	
	2014	**2013**
	(in thousands)	
Net cash provided by operating activities	$ 5,590	$ 2,719
Net cash used in investing activities	(10,969)	(5,014)
Net cash provided by financing activities	8,765	4,372

Our principal sources of liquidity are our cash and cash equivalents balances and positive operating cash flow. Our cash and cash equivalents totaled $22.3 million as of September 30, 2014 compared to cash and cash equivalents of $18.9 million as of December 31, 2013.

On February 13, 2012, we announced that the Board of Directors had approved a stock repurchase program that authorized the repurchase of up to $1.5 million of Company common stock. The Board of Directors authorized us to repurchase an additional $2.0 million of Company common stock on June 7, 2012. The Board of Directors approved an additional $1.0 million stock repurchase program on September 16, 2014. As of September 30, 2014, we are authorized to repurchase up to $3.0 million in Company common stock. Under these repurchase programs, we may repurchase common stock from time to time on the open market or in private transactions. This authorization does not require us to purchase a specific number of shares, and the Board of Directors may suspend, modify or terminate the programs at any time. We would fund repurchases through the use of available cash. We began repurchasing Company common stock on March 7, 2012. No shares have been repurchased since 2012. The shares repurchased in 2012 were cancelled by the Company and returned to authorized and unissued shares.

Credit Facility and Term Loan . On January 13, 2014, the Company entered into a Credit Facility Amendment with Union Bank, amending the Company's existing Loan Agreement with Union Bank initially entered into on February 26, 2013, and amended on September 10, 2013 (the existing Loan Agreement, as amended to date, is referred to herein collectively as the " **Credit Facility Agreement** "). The Credit Facility Amendment provides for (i) a new $9.0 million term loan (" **Term Loan** "); and (ii) amendments to the Company's existing $8.0 million revolving line of credit (" **Revolving Loan** ").

The Term Loan is amortized over a period of four years, with fixed quarterly principal payments of $562,500. Borrowings under the Term Loan or under the Revolving Loan bear interest at either (i) the bank's Reference Rate (prime rate) minus 0.50% or (ii) the LIBOR plus 2.50% (an increase under the existing Revolving Loan from 1.50%), at the option of the Company. Interest under both the Term Loan and the Revolving Loan adjust (i) at the end of each LIBOR rate period (1, 2, 3, 6 or 12 months terms) selected by the Company, if the LIBOR rate is selected; or (ii) with changes in Union Bank's Reference Rate, if the Reference Rate is selected. The Company also pays a commitment fee of 0.10% per year on the unused portion of the Revolving Loan payable quarterly in arrears. Borrowings under the Term Loan and the Revolving Loan are secured by a first priority security interest on all of the Company's personal property (including, but not limited to, accounts receivable) and proceeds thereof. The Term Loan matures December 31, 2017, and the maturity date of the Revolving Loan is March 31, 2017. Borrowings under the Revolving Loan may be used as a source to finance capital expenditures, acquisitions and stock buybacks and for other general corporate purposes. Borrowing under the Term Loan was limited to use for the acquisition of AutoUSA, and the Company drew down the entire $9.0 million of the Term Loan, together with $1.0 million under the Revolving Loan, in financing this acquisition. The outstanding balances of the Term Loan and Revolving Loan as of September 30, 2014 were $7.3 million and $5.25 million, respectively.

Net Cash Provided by Operating Activities . Net cash provided by operating activities in the nine months ended September 30, 2014 of $5.6 million resulted primarily from net income of $2.3 million, as adjusted for non-cash charges to earnings, in addition to cash used to reduce accrued liabilities of $0.3 million primarily related to the payment of annual incentive compensation amounts and severance accrued in 2013 and paid in the first three months of 2014 and a $0.2 million increase in our accounts payable balance related to the timing of payments made. This was offset by a $0.7 million increase in our accounts receivable balance related to the timing of payments received from our customers as well as a $0.8 million change in other assets.

Net cash provided by operating activities in the nine months ended September 30, 2013 of $2.7 million resulted primarily from net income of $2.0 million, as adjusted for non-cash charges to earnings. In addition accounts payable increased $2.3 million offset by a $4.7 million increase in our accounts receivable balance related to the timing of payments received from our customers.

Net Cash Used in Investing Activities . Net cash used in investing activities was $11.0 million in the nine months ended September 30, 2014 primarily related to the acquisition of AutoUSA.

Net cash used in investing activities was $5.0 million in the nine months ended September 30, 2013 and was primarily related to $1.8 million in advances on the purchase of Advanced Mobile, a $2.5 million investment in AutoWeb and a $0.2 million investment in SaleMove in the form of a note receivable. We also purchased $0.6 million of property and equipment and received $0.1 million related to a final escrow payment related to our investment in Driverside.

Net Cash Provided by Financing Activities . Stock options for 118,996 shares of the Company’s common stock were exercised in the nine months ended September 30, 2014 resulting in $0.5 million cash inflow. We also borrowed $9.0 million and $1.0 million against the Term Loan and Revolving Loan, respectively, to fund the purchase of AutoUSA in the nine months ended September 30, 2014. Payments of $1.7 million were made against the Term Loan borrowings in the nine months ended September 30, 2014.

Stock options for 51,931 shares of stock were exercised in the nine months ended September 30, 2013, which resulted in $0.2 million cash inflow for the nine months ended September 30, 2013. Net cash provided by financing activities in the nine months ended September 30, 2013 also included $4.25 million in borrowings under the credit facility and was offset by contingent payments of $83,000 related to the Cyber acquisition. Our future cash flows from employee stock options, if any, will depend on the future timing, exercise price and amount of stock options exercised.

Off-Balance Sheet Arrangements

At September 30, 2014, we had no off-balance sheet arrangements as defined in Regulation S-K, Item 303(a)(4)(D)(ii).

Item 3. ***Quantitative and Qualitative Disclosures about Market Risk***

In the ordinary course of business, we are exposed to various market risk factors, including fluctuations in interest rates and changes in general economic conditions. For the three months ended September 30, 2014 there were no material changes in the information required to be provided under Item 305 of Regulation S-K from the information disclosed in Item 7A of the 2013 Form 10-K.

Item 4. ***Controls and Procedures***

As of the end of the period covered by this Quarterly Report on Form 10-Q, we carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act of 1934, as amended (" **Exchange Act** "). Based on the evaluation, our Chief Executive Officer and our Chief Financial Officer believe that, as of the end of the period covered by this Quarterly Report on Form 10-Q, our disclosure controls and procedures were effective at ensuring that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (ii) accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required financial disclosure.

As of the end of the period covered by this Quarterly Report on Form 10-Q, there were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that have materially affected, or were reasonably likely to materially affect, our internal control over financial reporting.

Our management, including our Chief Executive Officer and our Chief Financial Officer, does not expect that our disclosure controls and internal control over financial reporting will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of a simple error or mistake. Additionally, controls may be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the control.

The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, a control may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

Item 1A. Risk Factors

The following factors, which supplement or update the risk factors set forth in Part I, Item 1A, "Risk Factors" of our 2013 Form 10-K, may affect our future financial condition and results of operations. The risks described below are not the only risks we face. In addition to the risks set forth in the 2013 Form 10-K, as supplemented or superseded by the risk factors set forth below, additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially and adversely affect our business.

Security risks associated with online Leads collection and referral, advertising and e-commerce risks associated with other online fraud and scams. A significant issue for online businesses like ours is the secure transmission of confidential and personal information over public networks. Concerns over the security of transactions conducted on the internet, consumer identity theft and user privacy issues have been significant barriers to growth in consumer use of the internet, online advertising, and e-commerce. Despite our implementation of security measures, our computer systems may be susceptible to electronic or physical computer break-ins, viruses and other disruptive harms and security breaches. Advances in computer capabilities, new discoveries in the field of cryptography or other developments may specifically compromise our security measures. Because the techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Any perceived or actual unauthorized disclosure of personally identifiable information regarding website visitors, whether through breach of our network by an unauthorized party, employee theft or misuse, or otherwise, could harm our reputation and brands, substantially impair our ability to attract and retain our audiences, or subject us to claims or litigation arising from damages suffered by consumers. If consumers experience identity theft after using any of our websites, we may be exposed to liability, adverse publicity and damage to our reputation. To the extent that identity theft gives rise to reluctance to use our websites or a decline in consumer confidence in financial transactions over the internet, our business could be adversely affected. Alleged or actual breaches of the network of one of our business partners or competitors whom consumers associate with us could also harm our reputation and brands. In addition, we could incur significant costs in complying with the multitude of state, federal and foreign laws regarding the unauthorized disclosure of personal information. For example, California law requires companies to inform individuals of any security breaches that result in their personal information being stolen. Because our success depends on the acceptance of online services and e-commerce, we may incur significant costs to protect against the threat of security breaches or to alleviate problems caused by those breaches. Internet fraud has been increasing over the past few years, and the Company has experienced fraudulent use of our name and trademarks on websites in connection with the purported sale of vehicles offered on third party websites, with payments to be handled through an online escrow service purported to be owned and operated by the Company. These fraudulent on-line transactions and scams, should they continue to increase in prevalence, could affect our reputation with consumers and give rise to claims by consumers for funds transferred to the fraudulent accounts, which could materially and adversely affect our business, operating results and financial condition.

We are insured for some, but not all, of the foregoing risks. Even for those risks for which we are insured and have coverage under the terms and conditions of the applicable policies, there are no assurances given that the coverage limits would be sufficient to cover all costs, liabilities or losses we might incur or experience.

Item 5. Other Information

On October 30, 2014, the Company's Board of Directors approved the Company's Fourth Amended and Restated Bylaws, effective immediately.

The Fourth Amended and Restated Bylaws add new Article X which provides that, unless the Company consents in writing to the selection of an alternative forum, to the fullest extent permitted by law, the sole and exclusive forum for any stockholder (including any beneficial owner, within the meaning of Section 13(d) of the Securities Exchange Act of 1934, as amended) to bring (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, or employee of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the General Corporation Law of Delaware or the Certificate of Incorporation or Bylaws (as either may be amended from time to time) or (iv) any action asserting a claim governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another state court located within the State of Delaware or if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware) in all cases subject to the court's having personal jurisdiction over the indispensable parties named as defendants. In addition, if any such action is filed in a court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another state court located within the State of Delaware or if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware) (a " **Foreign Action** ") in the name of any stockholder (including any beneficial owner, within the meaning of Section 13(d) of the Exchange Act), such stockholder shall be deemed to have consented to (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce the foregoing provisions of the bylaws and (ii) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder. New Article X also adds a severability provision.

The foregoing summary is subject to, and qualified in its entirety by, the full text of the Fourth Amended and Restated Bylaws, a copy of which is filed as Exhibit 3.2 to this Quarterly Report on Form 10-Q and is incorporated by reference into this Item 5.

Item 6. Exhibits

2.1‡	Asset Purchase Agreement dated as of September 16, 2010, by and among Autotropolis, Inc., a Florida corporation, Cyber Ventures, Inc., a Florida corporation, William Ferriolo, Ian Bentley and the Ian Bentley Revocable Trust created U/A/D 3/1/2005, Autobytel Inc., a Delaware corporation, and Autobytel Acquisition Subsidiary, Inc., a Delaware corporation, which is incorporated herein by reference to Exhibit 2.1 of the Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2010 filed with the SEC on November 12, 2010 (SEC File No. 001-34761)
2.2‡	Asset Purchase Agreement dated as of September 30, 2013, by and among Autobytel Inc., a Delaware corporation, Advanced Mobile, LLC, a Delaware limited liability company, and Advanced Mobile Solutions Worldwide, Inc., a Delaware corporation, which is incorporated herein by reference to Exhibit 99.1 of the Current Report on Form 8-K filed with the SEC on October 3, 2013 (SEC File No. 001-34761)
2.3‡	Membership Interest Purchase Agreement dated as of January 13, 2014 by and among Autobytel Inc., a Delaware corporation, AutoNation, Inc., a Delaware corporation, and AutoNationDirect.com, Inc., a Delaware corporation, which is incorporated by reference to the Current Report on Form 8-K filed with the SEC on January 17, 2014 (SEC File No. 001-34761) (“ **January 17, 2014 Form 8-K** ”)
3.1	Fifth Amended and Restated Certificate of Incorporation of Autobytel Inc. (formerly Autobytel.com Inc. (“ **Autobytel** ” or the “ **Company** ”)) certified by the Secretary of State of Delaware (filed December 14, 1998), ***as amended by*** Certificate of Amendment dated March 1, 1999, Second Certificate of Amendment of the Fifth Amended and Restated Certificate of Incorporation of Autobytel dated July 22, 1999, Third Certificate of Amendment of the Fifth Amended and Restated Certificate of Incorporation of Autobytel dated August 14, 2001, Certificate of Designation of Series A Junior Participating Preferred Stock dated July 30, 2004, and Amended Certificate of Designation of Series A Junior Participating Preferred Stock dated April 24, 2009, which is incorporated herein by reference to Exhibit 3.1 of the Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 filed with the SEC on April 24, 2009 (SEC File No. 000-22239), ***as amended by*** the Fourth Certificate of Amendment of the Fifth Amended and Restated Certificate of Incorporation of Autobytel effective as of July 11, 2012, which is incorporated by reference to Exhibit 3.1 of the Current Report on Form 8-K filed with the SEC on July 12, 2012 (SEC File No. 001-34761), ***and as amended by*** Fifth Certificate of Amendment to Fifth Amended and Restated Certificate of Incorporation of Autobytel Inc. dated July 3, 2013, which is incorporated by reference to Exhibit 3.3 of the Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2013 filed with the SEC on August 1, 2013 (SEC File No. 001-34761)
3.2*	Fourth Amended and Restated Bylaws of Autobytel dated October 30, 2014
4.1	Form of Common Stock Certificate of Autobytel, which is incorporated herein by reference to Exhibit 4.1 of the Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2001 filed with the SEC on November 14, 2001 (SEC File No. 000-22239)
4.2	Tax Benefit Preservation Plan dated as of May 26, 2010, between Autobytel Inc. and Computershare Trust Company, N.A., as rights agent, together with the following exhibits thereto: Exhibit A – Form of Right Certificate; and Exhibit B – Summary of Rights to Purchase Shares of Preferred Stock of Autobytel Inc., which is incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed with the SEC on June 2, 2010 (SEC File No. 000-22239)
4.3	Certificate of Adjustment Under Section 11(m) of the Tax Benefit Preservation Plan dated July 12, 2012, which is incorporated by reference to Exhibit 4.3 to the Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2012 filed with the SEC on November 8, 2012 (SEC File No. 001-34761)
4.4	Amendment No. 1 to Tax Benefit Preservation Plan dated as of April 14, 2014 between Autobytel Inc. and Computershare Trust Company, N.A., as rights agent, which is incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed with the SEC on April 16, 2014 (SEC File No. 001-34761)
31.1*	Rule 13a-14(a)/15d-14(a) Certification by Principal Executive Officer
31.2*	Rule 13a-14(a)/15d-14(a) Certification by Principal Financial Officer
32.1*	Section 1350 Certification by Principal Executive Officer and Principal Financial Officer
101.INS††	XBRL Instance Document
101.SCH††	XBRL Taxonomy Extension Schema Document
101.CAL††	XBRL Taxonomy Calculation Linkbase Document
101.DEF††	XBRL Taxonomy Extension Definition Document
101.LAB††	XBRL Taxonomy Label Linkbase Document
101.PRE††	XBRL Taxonomy Presentation Linkbase Document

* Filed or furnished herewith.

‡ Certain schedules in this Exhibit have been omitted in accordance with Item 601(b)(2) of Regulation S-K. Autobytel will furnish supplementally a copy of any omitted schedule or exhibit to the Securities and Exchange Commission upon request; provided, however, that Autobytel may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or exhibit so furnished.

†† Furnished with this report. In accordance with Rule 406T of Regulation S-T, the information in these exhibits shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to liability under that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act of 1933, as amended, except as expressly set forth by specific reference in such filing.

SIGNATURES

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

AUTOBYTEL INC.

Date: November 5, 2014

By: /s/ Curtis E. DeWalt

Curtis E. DeWalt
Senior Vice President and Chief Financial Officer
(Duly Authorized Officer and Principal Financial Officer)

Date: November 5, 2014

By: /s/ Wesley Ozima

Wesley Ozima
Vice President and Controller
(Principal Accounting Officer)

EXHIBIT INDEX

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31.1*	Rule 13a-14(a)/15d-14(a) Certification by Principal Executive Officer
31.2*	Rule 13a-14(a)/15d-14(a) Certification by Principal Financial Officer
32.1*	Section 1350 Certification by Principal Executive Officer and Principal Financial Officer
101.INS††	XBRL Instance Document
101.SCH††	XBRL Taxonomy Extension Schema Document
101.CAL††	XBRL Taxonomy Calculation Linkbase Document
101.DEF††	XBRL Taxonomy Extension Definition Document
101.LAB††	XBRL Taxonomy Label Linkbase Document
101.PRE††	XBRL Taxonomy Presentation Linkbase Document

* Filed or furnished herewith.

‡ Certain schedules in this Exhibit have been omitted in accordance with Item 601(b)(2) of Regulation S-K. Autobytel will furnish supplementally a copy of any omitted schedule or exhibit to the Securities and Exchange Commission upon request; provided, however, that Autobytel may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or exhibit so furnished.

†† Furnished with this report. In accordance with Rule 406T of Regulation S-T, the information in these exhibits shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to liability under that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act of 1933, as amended, except as expressly set forth by specific reference in such filing.

Exhibit 3.2

FOURTH AMENDED AND RESTATED BYLAWS

of

Autobytel Inc.

(a Delaware corporation)

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FOURTH AMENDED AND RESTATED BYLAWS

of

Autobytel Inc.

(a Delaware corporation)

ARTICLE I

OFFICES

Section 1.01 REGISTERED OFFICE. The registered office of Autobytel Inc. (hereinafter called the " **Corporation** ") shall be at such place in the State of Delaware as shall be designated by the Board of Directors (hereinafter called the " **Board** ").

Section 1.02 PRINCIPAL OFFICE. The principal office for the transaction of the business of the Corporation shall be at such location, within or without the State of Delaware, as shall be designated by the Board.

Section 1.03 OTHER OFFICES. The Corporation may also have an office or offices at such other place or places, either within or without the State of Delaware, as the Board may from time to time determine or as the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 2.01 ANNUAL MEETINGS. Annual meetings of the stockholders of the Corporation for the purpose of electing directors and for the transaction of such other proper business as may come before such meetings shall be held each year at such time, date and place, if any, as the Board shall determine by resolution. In the absence of such designation, the annual meeting of stockholders shall be held at 3:00 p.m., on the third Thursday in June at the principal office of the Corporation. However, if such day falls on a legal holiday, then the meeting shall be held at the same time and place on the next succeeding full business day.

Section 2.02 SPECIAL MEETINGS. Special meetings of the stockholders of the Corporation for any purpose or purposes may be called at any time by the Board, or by a committee of the Board which has been duly designated by the Board and whose powers and authority, as provided in a resolution of the Board or in these Bylaws, include the power to call such meetings, or by the Chairman of the Board, or by the President, but such special meetings may not be called by any other person or persons; provided, however, that if and to the extent that any special meeting of stockholders may be called by any other person or persons specified in any provision of the Corporation's certificate of incorporation (" **Certificate of Incorporation** ") or any amendment thereto or any certificate filed under Section 151(g) of the General Corporation Law of the State of Delaware (or its successor statute as in effect from time to time hereafter) (" **General Corporation Law of Delaware** "), then such special meeting may also be called by, or at the direction of, the person or persons, in the manner, at the time and for the purposes so specified.

Section 2.03 PLACE OF MEETINGS. All meetings of the stockholders shall be held at such places, if any, within or without the State of Delaware, as designated by the Board and specified in the respective notices or waivers of notice thereof. In the absence of any such designation, stockholders' meetings shall be held at the principal executive office of the Corporation.

Section 2.04 NOTICE OF MEETINGS. Except as otherwise required by law, notice of each meeting of the stockholders, whether annual or special, shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. Notice may be given (i) by delivering a typewritten or printed notice thereof to such stockholder personally, (ii) by depositing such notice in the United States mail or nationally recognized overnight courier, in a postage prepaid envelope, directed to such stockholder at such stockholder's address furnished by such stockholder to the Secretary of the Corporation for such purpose or, if such stockholder shall not have furnished to the Secretary such stockholder's address for such purpose, then at such stockholder's address as it appears on the records of the Corporation, or (iii) subject to the prior consent of the stockholder to whom the notice is to be given, by email or other form of electronic transmission as permitted by Section 232 of the General Corporation Law of Delaware. Except as otherwise expressly required by law, no publication of any notice of a meeting of the stockholders shall be required. Every notice of a meeting of the stockholders shall state the place, if any, date and hour of the meeting, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting), the means of remote communication, if any, by which stockholders may be deemed present and, in the case of a special meeting, the purpose or purposes for which the meeting is called (no business other than that specified in the notice of special meeting may be transacted). The notice of any meeting at which directors are to be elected shall include the name of any nominee or nominees who, at the time of the notice, the Board intends to present for election.

An affidavit of the mailing or other means of giving any notice of any stockholders' meeting, executed by the Secretary, Assistant Secretary or any transfer agent of the Corporation giving the notice, shall, in the absence of fraud, be prima facie evidence of the giving of such notice.

Section 2.05 QUORUM. Except as otherwise provided by statute or by the certificate of incorporation, the holders of record of a majority in voting power of the shares of stock of the Corporation issued and outstanding and entitled to be voted, present in person or by proxy, shall constitute a quorum for the transaction of business at any meeting of the stockholders of the Corporation or any adjournment thereof. The stockholders present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. In the absence of a quorum at any meeting or any adjournment thereof, a majority in voting power of the shares of stock present in person or by proxy and entitled to vote thereat, or any officer entitled to preside at or to act as secretary of such meeting, may adjourn such meeting from time to time. Notice need not be given of any such adjourned meeting if the time and place, if any, thereof and the means of remote communications, if any, by which stockholders and proxy holders may be deemed present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At any such adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the meeting as originally called. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date for notice of such adjourned meeting.

Section 2.06 VOTING.

At each meeting of the stockholders, each stockholder shall be entitled to vote in person or by proxy each share or fractional share of the stock of the Corporation which has voting rights on the matter in question and which shall have been held by such stockholder and registered in such stockholder's name on the books of the Corporation on the record date for the determination of stockholders entitled to vote at such meeting.

Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors in such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes. Notwithstanding the foregoing, persons holding stock of the Corporation in a fiduciary capacity shall be entitled to vote such stock. Persons whose stock is pledged shall be entitled to vote, unless in the transfer by the pledgor on the books of the Corporation the pledgor shall have expressly empowered the pledgee to vote thereon, in which case only the pledgee, or the pledgee's proxy, may represent such stock and vote thereon. Stock having voting power standing of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety or otherwise, or with respect to which two or more persons have the same fiduciary relationship respecting the same shares, shall be voted in accordance with the provisions of the General Corporation Law of Delaware.

Any such voting rights may be exercised by the stockholder entitled thereto in person or by such stockholder's proxy appointed in accordance with the General Corporation Law of Delaware; provided, however, that no proxy shall be voted or acted upon after three (3) years from its date unless said proxy shall provide for a longer period. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date. At any meeting of the stockholders all matters, except as otherwise provided in the Certificate of Incorporation, in these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, applicable law or pursuant to any regulation applicable to the Corporation or its securities, shall be decided by the vote of a majority in voting power of the shares present in person or by proxy and entitled to vote thereat and thereon. The vote at any meeting of the stockholders on any question need not be by ballot, unless so directed by the chairman of the meeting. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by such stockholder's proxy if there be such proxy, and it shall state the number of shares voted. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the General Corporation Law of Delaware.

Section 2.07 LIST OF STOCKHOLDERS. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (ii) during ordinary business hours at the principal place of business of the Corporation. The list of stockholders must also be open to examination at the meeting as required by applicable law. If the meeting is to be held at a place, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.07 or to vote in person or by proxy at any meeting of stockholders.

Section 2.08 INSPECTOR OF ELECTION. The Corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of the inspector's ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

Section 2.09 STOCKHOLDER ACTION WITHOUT MEETINGS. Unless otherwise provided by the Certificate of Incorporation, any action required by the General Corporation Law of Delaware to be taken at any annual or special meeting of the stockholders, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the action so taken shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the books in which minutes of proceedings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

Section 2.10 ADVANCE NOTICE PROVISION FOR NOMINATION OF DIRECTORS. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided in the Certificate of Incorporation with respect to the right of holders of preferred stock of the Corporation to nominate and elect a specified number of directors in certain circumstances. Nominations of persons for election to the Board may be made at any annual meeting of stockholders or at any special meeting of stockholders called for the purpose of electing directors, (a) specified in the notice of meeting (or any supplement thereto) given by or at the discretion of the Board (or a duly authorized committee thereof), (b) by or at the direction of the Board (or any duly authorized committee thereof) or (c) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.10 and on the record date for the determination of stockholders entitled to vote at such meeting and (ii) who complies with the notice procedures set forth in this Section 2.10.

In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation.

To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation (a) in the case of an annual meeting, not less than ninety (90) days (provided that in the case of the Corporation's annual meeting to be held in 2010, the number of days shall be sixty (60) days) nor more than one hundred and twenty (120) days (provided that in the case of the Corporation's annual meeting to be held in 2010, the number of days shall be ninety (90) days) prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided , however , that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90 th) day prior to such annual meeting or the tenth (10 th) day following the day on which public announcement of the date of such meeting is first made by the Corporation; and (b) in the case of a special meeting of stockholders called for the purpose of electing directors, not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting.

To be in proper written form, a stockholder's notice to the Secretary must set forth (a) as to each person whom the stockholder proposes to nominate for election as a director (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person; (iii) (A) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by the person, and (B) the name of each nominee holder of shares of capital stock of the Corporation owned beneficially but not of record by such person or affiliates or associates of such person and the number of shares held by each such nominee; (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, stock appreciation or similar rights, hedging transactions and borrowed or loaned shares) that has been entered into as of or prior to, and is in effect as of, the date of the stockholder's notice by, or on behalf of, such person or any affiliates or associates of such person, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such person or any affiliate or associate of such person, with respect to shares of stock of the Corporation; and (v) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Securities Exchange Act of 1934, as amended (the " **Exchange Act** "), and the rules and regulations promulgated thereunder; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made (i) the name and record address of such stockholder as they appear on the Corporation's books, and of such beneficial owner, (ii) (A) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such stockholder and such beneficial owner, and (B) the name of each nominee holder of shares of capital stock of the Corporation owned beneficially but not of record by such stockholder or beneficial owner and the number of shares held by each such nominee (iii) a description of all arrangements or understandings between such stockholder and/or such beneficial owner and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such stockholder, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, stock appreciation or similar rights, hedging transactions and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (v) a representation that such stockholder is a holder of record of the stock of the Corporation as of the date of the stockholder's notice required by this Section 2.10 and that such stockholder intends to be a holder of record of stock of the Corporation on the record date for the determination of stockholders entitled to vote at such meeting; (vii) that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice, (viii) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (2) otherwise to solicit proxies or votes from stockholders in support of such nomination and (ix) any other information relating to such stockholder that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to and in accordance with Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

Notwithstanding foregoing, in the event that the number of directors to be elected to the Board is increased effective at the annual meeting and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.10. If the Chairman of the meeting determines that a nomination was not made in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 2.10, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders, and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

For purposes of this Section 2.10, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or other national news service or in a document publicly filed or furnished by the Corporation with or to the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

Compliance with this Section 2.10 shall be the exclusive means for a stockholder to make nominations.

Section 2.11 ADVANCE NOTICE PROVISION FOR PROPOSING BUSINESS AT A STOCKHOLDERS' MEETING. No business may be transacted at an annual meeting of stockholders, other than business that is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board (or any duly authorized committee thereof), (b) otherwise properly brought before the annual meeting by or at the direction of the Board (or any duly authorized committee thereof) or (c) otherwise properly brought before the annual meeting by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.11 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (ii) who complies with the notice procedures set forth in this Section 2.11.

In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation and any proposed business must constitute a proper matter for stockholder action.

To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) days (provided that in the case of the Corporation's annual meeting to be held in 2010, the number of days shall be sixty (60) days) nor more than one hundred and twenty (120) days (provided that in the case of the Corporation's annual meeting to be held in 2010, the number of days shall be ninety (90) days) prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided , however , that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation.

To be in proper written form, a stockholder's notice to the Secretary must set forth (a) as to each matter such stockholder proposes to bring before the annual meeting a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made, and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and record address of such stockholder as they appear on the Corporation's books, and of the beneficial owner, (ii) (A) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such stockholder and such beneficial owner, and (B) the name of each nominee holder of shares of capital stock of the Corporation owned beneficially but not of record by such stockholder or beneficial owner and the number of shares held by each such nominee; (iii) a description of all arrangements or understandings between such stockholder and/or beneficial owner and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and such beneficial owner and any material interest of such stockholder and/or beneficial owner in such business, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, stock appreciation or similar rights, hedging transactions and borrowed or loaned shares) that has been entered into as of or prior to, and is in effect as of, the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (v) a representation that such stockholder is a holder of record of stock of the Corporation as of the date of the giving of the stockholder's notice required by this Section 2.11 and intends to be a holder of record of stock of the Corporation on the record date for the determination of stockholders entitled to vote at such annual meeting date; (vi) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting; and (vii) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (2) otherwise to solicit proxies or votes from stockholders in support of such proposal.

The foregoing notice requirements of this Section 2.11 shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of such stockholder's intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting.

No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.11. If the Chairman of an annual meeting determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

Notwithstanding the foregoing provisions of this Section 2.11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 2.11, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders, and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

For purposes of this Section 2.11, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or other national news service or in a document publicly with or furnished by the Corporation with or to the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

Notwithstanding the foregoing provisions of this Section 2.11, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.11; provided however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit any requirements applicable to proposals as to any other business to be considered pursuant to this Section 2.11, and compliance with this Section 2.11 shall be the exclusive means for a stockholder to submit other business (other than, as provided in the fifth paragraph of this Section 2.11, matters brought properly under and in compliance with Rule 14a-8 of the Exchange Act, as may be amended from time to time). Nothing in this Section 2.11 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act.

Section 2.12 ORGANIZATION. The Chief Executive Officer, or in the absence of the Chief Executive Officer, the Chairman of the Board, shall call the meeting of the stockholders to order, and shall act as chairman of the meeting. In the absence of the Chief Executive Officer, the Chairman of the Board, and all of the Vice Presidents, the stockholders shall appoint a chairman for such meeting. The chairman of any meeting of stockholders shall determine the order of business and the procedures at the meeting, including such matters as the regulation of the manner of voting and the conduct of business. The Secretary of the Corporation shall act as secretary of all meetings of the stockholders, but in the absence of the Secretary at any meeting of the stockholders, the chairman of the meeting may appoint any person to act as secretary of the meeting.

ARTICLE III

BOARD OF DIRECTORS

Section 3.01 GENERAL POWERS. The property, business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all of the powers of the Corporation, except such as may be otherwise provided in the Certificate of Incorporation or required by applicable law.

Section 3.02 NUMBER. The authorized number of directors of the Corporation shall be six (6) members until changed by an amendment of this Section 3.02. Directors need not be stockholders in the Corporation.

Section 3.03 ELECTION OF DIRECTORS. The directors shall be elected by the stockholders of the Corporation, and at each election the persons receiving the greatest number of votes, up to the number of directors then to be elected, shall be the persons then elected. The election of directors is subject to any provisions contained in the Certificate of Incorporation relating thereto, including any provisions for a classified board.

Except as provided in Sections 3.04 and 3.05 of these Bylaws, at each annual meeting of stockholders, directors will be elected to serve from the time of election and qualification until the third annual meeting following election.

Section 3.04 RESIGNATIONS. Any director of the Corporation may resign at any time by giving notice in writing or by electronic transmission to the Board or to the Secretary of the Corporation. Any such resignation shall take effect at the time specified therein, or, if the time is not specified, it shall take effect immediately upon its delivery; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.05 VACANCIES. Except as otherwise provided in the Certificate of Incorporation or these Bylaws, any vacancy on the Board, whether because of death, resignation, disqualification, an increase in the number of directors or any other cause, may be filled by vote of the majority of the remaining directors, although less than a quorum, or by a sole remaining director. Each director so chosen to fill a vacancy shall hold office until such director's successor shall have been elected and shall qualify or until such director shall resign or shall have been removed. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Upon the resignation of one or more directors from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided hereinabove in the filling of other vacancies.

Unless otherwise provided in the Certificate of Incorporation or these Bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

Section 3.06 PLACE OF MEETING; TELEPHONE CONFERENCE MEETING. The Board may hold any of its meetings at such place or places within or without the State of Delaware as the Board may from time to time by resolution designate or as shall be designated by the person or persons calling the meeting or in the notice or waiver of notice of any such meeting. Directors may participate in any regular or special meeting of the Board by means of telephone conference or other communications equipment pursuant to which all persons participating in the meeting of the Board can hear each other, and such participation shall constitute presence in person at such meeting.

Section 3.07 FIRST MEETING. The Board shall meet as soon as practicable after each annual election of directors and notice of such first meeting shall not be required.

Section 3.08 REGULAR MEETINGS. Regular meetings of the Board may be held at such times as the Board shall from time to time by resolution determine. If any day fixed for a meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting shall be held at the same hour and place on the next succeeding business day which is not a legal holiday. Except as provided by law, notice of regular meetings need not be given.

Section 3.09 SPECIAL MEETINGS. Special meetings of the Board may be called at any time by the Chairman of the Board or the President or by any three (3) directors, to be held at the principal office of the Corporation, or at such other place or places, within or without the State of Delaware, as the person or persons calling the meeting may designate.

Notice of the time and place of special meetings shall be given to each director either (i) by mailing or otherwise sending to the director a written notice of such meeting, charges prepaid, addressed to the director at the director's respective address as it is shown upon the records of the Corporation, or if it is not so shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held, at least seventy-two (72) hours prior to the time of the holding of such meeting; (ii) by orally communicating the time and place of the special meeting to him or her at least forty-eight (48) hours prior to the time of the holding of such meeting or (iii) via facsimile, email or other electronic transmission, transmitted to the director at the director's facsimile number, email address or other electronic address as it is shown upon the records of the Corporation, at least forty-eight (48) hours prior to the time of the holding of such meeting. Either of the notices as above provided shall be due legal and personal notice to such director. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director.

Whenever notice is required to be given, either to a stockholder or a director, under any provision of the General Corporation Law of Delaware, the Certificate of Incorporation or these Bylaws, a waiver thereof, either in writing or by electronic transmission, given by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting, whether in person or by proxy, shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of directors or committee of directors need be specified in any written waiver of notice.

All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 3.10 QUORUM AND ACTION. Except as otherwise provided in these Bylaws or by law, the presence of a majority of the authorized number of directors shall be required to constitute a quorum for the transaction of business at any meeting of the Board, and all matters shall be decided at any such meeting, a quorum being present, by the affirmative vote of a majority of the directors present. In the absence of a quorum, a majority of directors present at any meeting may adjourn the same from time to time until a quorum shall be present. Notice of the time and place of holding an adjourned meeting of the Board need not be given unless the meeting is adjourned for more than twenty-four (24) hours. If the meeting is adjourned for more than twenty-four (24) hours, then notice of the time and place of the adjourned meeting shall be given before the adjourned meeting takes place, in the manner specified in Section 3.09 of these Bylaws, to the directors who were not present at the time of adjournment. The directors shall act only as a Board, and the individual directors shall have no power as such. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the quorum for that meeting.

Section 3.11 ACTION BY CONSENT. Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or of such committee, as the case may be, consent thereto in writing or by electronic transmission and such writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board or such committee. Such action by written consent shall have the same force and effect as the unanimous vote of such directors.

Section 3.12 COMPENSATION. No stated salary need be paid to directors, as such, for their services but, as fixed from time to time by resolution of the Board, the directors may receive directors' fees, compensation (including without limitation cash compensation and/or the grant of stock options or stock) and reimbursement for expenses for attendance at directors' meetings, for serving on committees and for discharging their duties; provided that nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.13 COMMITTEES. Pursuant to Section 141(c)(2) of the General Corporation Law of Delaware, the Board may, by resolution, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board will establish and maintain an Audit Committee and a Compensation Committee. Any committee of the Board, to the extent permitted by law and to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it, but no committee of the Board shall have the power or authority in reference to the following matter: (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the General Corporation Law of Delaware to be submitted to stockholders for approval or (ii) adopting, amending or repealing any bylaw of the Corporation.

The Board may designate one or more directors as alternative members of any committee who may replace any absent or disqualified member at any committee meeting. In the absence or disqualification of any member of any such committee, the members thereof present at any meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of such absent or disqualified member.

A majority of the members, or replacements thereof, of any such committee shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the members, or replacements thereof, shall constitute the act or decision of such committee.

Section 3.14 MEETINGS AND ACTIONS OF COMMITTEES. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the following provisions of Article III of these Bylaws: Section 3.06 (place of meetings; meetings by telephone), Section 3.08 (regular meetings), Section 3.09 (special meetings; notice), Section 3.10 (quorum and action), and Section 3.11 (action by consent), with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee and that special meetings of committees may also be called by resolution of the Board. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

Section 3.15 CHAIRMAN OF THE BOARD. The Board may elect a Chairman of the Board and may have one or more Vice Chairmen. The Chairman of the Board and the Vice Chairmen shall be appointed from time to time by the Board and shall have such powers and duties as shall be designated by the Board.

ARTICLE IV

OFFICERS

Section 4.01 OFFICERS. The officers of the Corporation shall be a Chief Executive Officer, a President, a Chief Financial Officer and a Secretary. The Corporation may also have, at the discretion of the Board, one or more Vice Presidents (who may include a Chief Operating Officer and a Chief Accounting Officer), one or more Assistant Vice Presidents, one or more Assistant Secretaries, and such other officers as may be appointed in accordance with the provisions of Section 4.03 of these Bylaws. One person may hold two or more offices, except that the Secretary may not also hold the office of President. The salaries of all officers of the Corporation above the rank of Vice President shall be fixed by the Board, unless at the discretion of the Board, the Board elects to fix the salaries of officers at or below the rank of Vice President.

Section 4.02 ELECTION. The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 4.03 or Section 4.05 of these Bylaws, shall be chosen annually by the Board, and each shall hold such officer's office until such officer shall resign or shall be removed or otherwise disqualified to serve, or until such officer's successor shall be elected and qualified.

Section 4.03 SUBORDINATE OFFICERS. The Board may appoint, or may authorize the Chief Executive Officer to appoint, such other officers below the rank of President as the business of the Corporation may require, including without limitation Vice Presidents and Assistant Secretaries, each of whom shall have such authority and perform such duties as are provided in these Bylaws or as the Board or the Chief Executive Officer from time to time may specify, and shall hold office until such officer shall resign or shall be removed or otherwise disqualified to serve.

Section 4.04 REMOVAL AND RESIGNATION. Any officer may be removed, with or without cause (subject to any right such officer may have under an employment contract with the Corporation), by the Board, at any regular or special meeting of the Board, or, except in case of an officer chosen by the Board, by the Chief Executive Officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving a notice, in writing or by electronic transmission, to the Board, the Chairman of the Board, the President or the Secretary of the Corporation. Any such resignation shall take effect at the date of the delivery of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective; provided that this provision shall not supersede any powers of the Board or the Chief Executive Officer pursuant to this Section 4.04.

Section 4.05 VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for the regular appointments to such office.

Section 4.06 CHIEF EXECUTIVE OFFICER. The Chief Executive Officer of the Corporation shall, subject to the control of the Board, have general supervision, direction and control of the business and affairs of the Corporation. Such officer shall preside at all meetings of stockholders and the Board. Such officer shall have the general powers and duties of management usually vested in the chief executive officer of a corporation and shall have such other powers and duties with respect to the administration of the business and affairs of the Corporation as may from time to time be assigned to such officer by the Board or as prescribed by these Bylaws. In the absence or disability of the President, the Chief Executive Officer, in addition to said officer's assigned duties and powers, shall perform all the duties of the President and when so acting shall have all the powers and be subject to all restrictions upon the President.

Section 4.07 PRESIDENT. The President shall exercise and perform such powers and duties with respect to the administration of the business and affairs of the Corporation as may from time to time be assigned to such officer by the Chief Executive Officer (unless the President is also the Chief Executive Officer) or by the Board or as is prescribed by these Bylaws. In the absence or disability of the Chief Executive Officer, the President shall perform all of the duties of the Chief Executive Officer and when so acting shall have all the powers and be subject to all the restrictions upon the Chief Executive Officer.

Section 4.08 CHIEF OPERATING OFFICER. If a Chief Operating Officer is appointed in accordance with these Bylaws, the Chief Operating Officer shall exercise and perform such powers and duties with respect to the administration of the business and affairs of the Corporation as may from time to time be assigned to the Chief Operating Officer by the Chief Executive Officer or by the Board. In the absence or disability of both the Chief Executive Officer and the President, the Chief Operating Officer shall perform all of the duties of the Chief Executive Officer and when so acting shall have all the powers and be subject to all the restrictions upon the Chief Executive Officer.

Section 4.09 CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and shares. The books of account shall at all reasonable times be open to inspection by any director for a purpose reasonably related to such individual's position as director. Unless a Treasurer for the Corporation has been appointed in accordance with these Bylaws, the Chief Financial Officer shall also be the Treasurer.

The Chief Financial Officer shall deposit all money and other valuables in the name and to the credit of the Corporation with such depositaries as may be designated by the Board. The Chief Financial Officer shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of such officer's transactions as Chief Financial Officer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

Section 4.10 VICE PRESIDENT. The Vice President(s), if any, shall exercise and perform such powers and duties with respect to the administration of the business and affairs of the Corporation as from time to time may be assigned to each of them by the President, by the Chief Executive Officer, by the Board or as is prescribed by these Bylaws. A Vice President may also be designated as a "Senior Vice President" or "Executive Vice President." In the absence or disability of the President, the Vice Presidents, in order of their rank as fixed by the Board, or if not ranked, the Vice President designated by the Board, shall perform all of the duties of the President and when so acting shall have all of the powers of and be subject to all the restrictions upon the President. A Vice President may be designated the Chief Accounting Officer who may be the Chief Financial Officer, and any person so designated shall have such powers as is customary for a Chief Accounting Officer.

Section 4.11 SECRETARY. The Secretary shall keep, or cause to be kept, a book of minutes at the principal office for the transaction of the business of the Corporation, or such other place as the Board may order, of all meetings of directors and stockholders, with the time and place of holding, whether regular or special, and if special, how authorized and the notice thereof given, the names of those present at directors' meetings, the number of shares present or represented at stockholders' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office for the transaction of the business of the Corporation or at the office of the Corporation's transfer agent, a share register, or a duplicate share register, showing the names of the stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates issued for the same, and the number and date of cancellation of every certificate surrendered for cancellation.

The Secretary shall give, or cause to be given, notice of all the meetings of the stockholders and of the Board required by these Bylaws or by law to be given and shall keep the seal of the Corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws. If for any reason the Secretary shall fail to give notice of any special meeting of the Board called by one or more of the persons identified in Section 3.09 of these Bylaws, or if the Secretary shall fail to give notice of any special meeting of the stockholders called by one or more of the persons identified in Section 2.02 of these Bylaws, then any such person or persons may give notice of any such special meeting.

Section 4.12 ASSISTANT SECRETARY. The Assistant Secretary, if any, or, if there is more than one, the Assistant Secretaries in the order determined by the Board (or if there be no such determination, then in the order of their election) shall, in the absence of the Secretary or in the event of the Secretary's inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

ARTICLE V

CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.

Section 5.01 EXECUTION OF CONTRACTS. The Board, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances; and unless so authorized by the Board or by these Bylaws or in the case of the Chief Executive Officer, Chief Operating Officer or Chief Financial Officer, within the agency power of such officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount. Unless so authorized or ratified by the Board or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 5.02 CHECKS, DRAFTS, ETC. All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of or payable to the Corporation, shall be signed or endorsed by such person or persons and in such manner as, from time to time shall be determined by resolution of the Board. Each such person shall give such bond, if any, as the Board may require.

Section 5.03 DEPOSIT. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select, or as may be selected by any officer or officers, assistant or assistants, agent or agents, attorney or attorneys, of the Corporation to whom such power shall have been delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of the Corporation, the President, the Chief Executive Officer, the Chief Financial Officer or any Vice President (or any other officer or officers, assistant or assistants, agent or agents, or attorney or attorneys of the Corporation who shall be determined by the Board from time to time) may endorse, assign and deliver checks, drafts and other orders for the payment of money which are payable to the order of the Corporation.

Section 5.04 GENERAL AND SPECIAL BANK ACCOUNTS. The Board from time to time may authorize the opening and keeping of general and special bank accounts with such banks, trust companies or other depositories as the Board may select or as may be selected by an officer or officers, assistant or assistants, agent or agents, or attorney or attorneys of the Corporation to whom such power shall have been delegated by the Board. The Board may make such special rules and regulations with respect to such bank accounts, not inconsistent with the provisions of these Bylaws, as it may deem expedient.

ARTICLE VI

SHARES AND THEIR TRANSFER

Section 6.01 CERTIFICATES FOR STOCK. The shares of the Corporation shall be represented by certificates, provided that the Board may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by the Chairman or Vice Chairman of the Board, if any, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the Corporation certifying the number of shares owned by such holder in the Corporation. Any of or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Certificates for shares shall be of such form as the Board may designate and shall state the name of the record holder of the shares represented thereby; its number; date of issuance; the number of shares for which it is issued; a summary statement or reference to the powers, designations, preferences or other special rights of such stock and the qualifications, limitations or restrictions of such preferences and/or rights, if any; a statement or summary of liens, if any; a conspicuous notice of restrictions upon transfer or registration of transfer, if any; a statement as to any applicable voting trust agreement; if the shares be assessable, or, if assessments are collectible by personal action, a plain statement of such facts.

In the case of uncertificated shares, except as otherwise determined by the Board, the Corporation shall, within a reasonable time after the issuance or transfer of uncertificated stock, send to the registered owner thereof a written notice setting forth the above. Notices to registered owners shall be in such form as the Board may designate.

A record shall be kept of the respective names of the persons, firms or corporations owning the stock of the Corporation, either represented by certificates or uncertificated, the number and class of shares respectively owned, and the respective dates thereof, and in case of cancellation, the respective dates of cancellation. Every certificate surrendered to the Corporation for exchange or transfer shall be canceled, and no new certificate or certificates shall be issued in exchange for any existing certificate until such existing certificate shall have been so canceled, except in cases provided for in Section 6.04 of these Bylaws.

Section 6.02 TRANSFER OF STOCK. Transfer of shares of stock of the Corporation shall be made only on the books of the Corporation by the registered holder thereof, or by the registered holder's attorney thereunto authorized by power of attorney duly executed and filed with the Secretary, or with a transfer clerk or a transfer agent appointed as provided in Section 6.03 of these Bylaws, and (i) in the case of certificated shares, upon surrender of the certificate or certificates for such shares properly endorsed and the payment of all taxes thereon, and (ii) in the case of uncertificated shares, upon receipt of proper instructions from the registered owner of the uncertificated shares and the Corporation's satisfaction that the transfer complies with all applicable law including applicable tax laws. The person in whose name shares of stock stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation. Whenever any transfer of shares shall be made for collateral security, and not absolutely, such fact shall be stated expressly in the entry of transfer if, when the certificate or certificates shall be presented to the Corporation for transfer or when the proper instruction from the registered owner of the uncertificated shares for transfer shall be received by the Corporation, as the case may be, both the transferor and the transferee request the Corporation to do so.

Section 6.03 REGULATIONS. The Board may make such rules and regulations as it may deem expedient, not inconsistent with these Bylaws, concerning the issue, transfer and registration of certificated and uncertificated shares of the Corporation and the issue of any notices or statements in connection with uncertificated shares. The Board may appoint, or authorize any officer or officers to appoint, one or more transfer clerks or one or more transfer agents and one or more registrars, and may require all certificates for stock and all notices or statements in connection with uncertificated shares to bear the signature or signatures of any of them.

Section 6.04 LOST, STOLEN, DESTROYED AND MUTILATED CERTIFICATES. In any case of loss, theft, destruction or mutilation of any certificate of stock, another may be issued, or book-entry for an uncertificated share may be entered, at the Corporation's option, in its place upon proof of such loss, theft, destruction or mutilation and upon the giving of a bond of indemnity to the Corporation in such form and in such sums as the Board may direct and in the case of mutilation, upon surrender of the mutilated certificate; provided, however, that a new certificate may be issued, or book-entry for an uncertificated share may be entered, without requiring any bond when, in the judgment of the Board, it is proper to do so.

Section 6.05 RECORD DATE.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix a record date, which shall not be more than sixty (60) days prior to such other action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(c) If stockholder action by written consent is not eliminated or restricted by the Corporation's Certificate of Incorporation, in order that the Corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date for determining stockholders entitled to express consent to corporate action in writing without a meeting is fixed by the Board, (i) when no prior action of the Board is required by law, the record date for such purpose shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law, and (ii) if prior action by the Board is required by law, the record date for such purpose shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

Section 6.06 REPRESENTATION OF SHARES OF OTHER CORPORATIONS. The President or any Vice President and the Secretary or any Assistant Secretary of the Corporation are authorized to vote, represent and exercise on behalf of the Corporation all rights incident to all shares of, or interests in, any other entity or entities standing in the name of the Corporation. The authority herein granted to said officers to vote or represent on behalf of the Corporation any and all shares or interests held by the Corporation in any other entity or entities may be exercised either by such officers in person or by any person authorized so to do by proxy or power of attorney duly executed by said officers.

Section 6.07 SPECIAL DESIGNATION ON CERTIFICATES.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then (i) in the case of certificated shares, the powers, the designations, the preferences, the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights, or (ii) in the case of uncertificated shares, except as otherwise determined by the Board, the Corporation shall, within a reasonable time after the issuance or transfer of uncertificated stock, send to the registered owner thereof a written notice setting forth the powers, the designations, the preferences, the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights which would otherwise have been required to be set forth or stated on the face or back of the share certificate, or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. The above can be set forth on the same notice as provided in Section 6.01 of these Bylaws.

ARTICLE VII

INDEMNIFICATION

Section 7.01 ACTIONS OTHER THAN BY OR IN THE RIGHT OF THE CORPORATION. The Corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware as the same now exists or may hereafter be amended, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or as a member of any committee or similar body, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 7.02 ACTIONS BY OR IN THE RIGHT OF THE CORPORATION. The Corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware as the same now exists or may hereafter be amended, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or as a member of any committee or similar body, against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 7.03 DETERMINATION OF RIGHT OF INDEMNIFICATION. Any indemnification under Section 7.01 or 7.02 of these Bylaws (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Sections 7.01 and 7.02 of these Bylaws. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (i) by a majority vote of the directors who were not parties to such action, suit or proceeding, even though less than a quorum; (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum; (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or (iv) by the stockholders.

Section 7.04 INDEMNIFICATION AGAINST EXPENSES OF SUCCESSFUL PARTY. Notwithstanding the other provisions of this Article VII, to the extent that a present or former director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 7.01 or 7.02 of these Bylaws, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection therewith.

Section 7.05 ADVANCE OF EXPENSES. Expenses (including attorneys' fees) incurred by a present or former officer or director in defending a civil or criminal action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board upon receipt of an undertaking by or on behalf of the director or officer, to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Article VII. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board deems appropriate.

Section 7.06 OTHER RIGHTS AND REMEDIES. The indemnification and advancement of expenses provided by, or granted pursuant to, the other Sections of this Article VII shall not be deemed exclusive and are declared expressly to be nonexclusive of any other rights to which those seeking indemnification or advancements of expenses may be entitled under any bylaw , agreement, vote of stockholders or disinterested directors or otherwise, both as to action in said person's official capacity and as to action in another capacity while holding such office.

Section 7.07 INSURANCE. Upon resolution passed by the Board, the Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or as a member of any committee or similar body against any liability asserted against any such person and incurred by said person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify said person against such liability under the provisions of this Article VII.

Section 7.08 CONSTITUENT CORPORATIONS. For the purposes of this Article VII, references to "the Corporation" include in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent, of such constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or as a member of any committee or similar body shall stand in the same position under the provisions of this Article VII with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

Section 7.09 EMPLOYEE BENEFIT PLANS. For the purposes of this Article VII, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article VII.

Section 7.10 TERM. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VII shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7.11 SEVERABILITY. If any part of this Article VII shall be found, in any action, suit or proceeding or appeal therefrom or in any other circumstances or as to any particular officer, director, employee or agent to be unenforceable, ineffective or invalid for any reason, the enforceability, effect and validity of the remaining parts or of such parts in other circumstances shall not be affected, except as otherwise required by applicable law.

Section 7.12 AMENDMENTS. The foregoing provisions of this Article VII shall be deemed to constitute a contract between the Corporation and each of the persons entitled to indemnification and/or advancement of expenses hereunder, for as long as such provisions remain in effect. Any amendment to the foregoing provisions of this Article VII which limits or otherwise adversely affects the scope of indemnification, advancement of expenses or other rights of any such persons hereunder shall, as to such persons, apply only to claims arising, or causes of action based on actions or events occurring, after such amendment and delivery of notice of such amendment is given to the person or persons so affected. Until notice of such amendment is given to the person or persons whose rights hereunder are adversely affected, such amendment shall have no effect on such rights of such persons hereunder. Any person entitled to indemnification and/or advancement of expenses under the foregoing provisions of this Article VII shall, as to any act or omission occurring prior to the date of receipt of such notice, be entitled to indemnification and/or advancement of expenses to the same extent as had such provisions continued as Bylaws of the Corporation without such amendment.

ARTICLE VIII

RECORDS AND REPORTS

Section 8.01 MAINTENANCE OF RECORDS. The Corporation shall, either, at its principal executive office or at such place or places as designated by the Board, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books and other records of its business and properties.

Section 8.02 INSPECTION BY DIRECTORS. Any director shall have the right to examine the Corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to such person's position as a director in accordance with applicable law.

ARTICLE IX

MISCELLANEOUS

Section 9.01 SEAL. The Board shall provide a corporate seal, which shall be in the form of a circle and shall bear the name of the Corporation and words and figures showing that the Corporation was incorporated in the State of Delaware and showing the year of incorporation.

Section 9.02 WAIVER OF NOTICES. Any waiver of notice, either in writing or by electronic transmission, given by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in a waiver of notice.

Section 9.03 LOANS AND GUARANTIES. To the extent not prohibited by law, the Corporation may lend money to, or guarantee any obligation of, and otherwise assist any officer or other employee of the corporation or of its subsidiaries, including any officer who is a director, whenever, in the judgment of the Board, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured or secured in such manner as the Board shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing contained in this Section 9.03 shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

Section 9.04 GENDER. All personal pronouns used in these Bylaws shall include the other genders, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 9.05 AMENDMENTS. These Bylaws, or any of them, may be rescinded, altered, amended or repealed, and new bylaws may be made (i) by resolution of the Board or (ii) by the stockholders, by the vote of a majority of the voting power of the outstanding shares of voting stock of the Corporation, at an annual meeting of stockholders, without previous notice, or at any special meeting of stockholders, provided that notice of such proposed amendment, modification, repeal or adoption is given in the notice of special meeting; provided, however, that Section 2.02 of these Bylaws can only be amended if that Section as amended would not conflict with the Corporation's Certificate of Incorporation. Any bylaw made or altered by the stockholders may be altered or repealed by the Board or may be altered or repealed by the stockholders.

ARTICLE X

FORUM FOR ADJUDICATION OF DISPUTES

Section 10.01. FORUM. Unless the Corporation consents in writing to the selection of an alternative forum, to the fullest extent permitted by law, the sole and exclusive forum for any stockholder (including any beneficial owner, within the meaning of Section 13(d) of the Exchange Act) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, or employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the General Corporation Law of Delaware or the Certificate of Incorporation or Bylaws (as either may be amended from time to time) or (iv) any action asserting a claim governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another state court located within the State of Delaware, or if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware) in all cases subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

Section 10.02. PERSONAL JURISDICTION. If any action the subject matter of which is within the scope of Section 10.01 of these Bylaws is filed in a court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another state court located within the State of Delaware, or if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware) (a "Foreign Action") in the name of any stockholder (including any beneficial owner, within the meaning of Section 13(d) of the Exchange Act), such stockholder shall be deemed to have consented to (a) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce Section 10.01 of these Bylaws and (b) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

Section 10.03. ENFORCEABILITY. Any person or entity purchasing or otherwise acquiring any interest in shares of stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article X. If any provision of this Article X shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article X (including, without limitation, each portion of any sentence of this Article X containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

CERTIFICATE OF SECRETARY

The undersigned certifies:

(1) That the undersigned is duly elected and acting Secretary of Autobytel Inc., a Delaware corporation (" **Corporation** "); and

(2) That the foregoing Fourth Amended and Restated Bylaws constitute the Bylaws of the Corporation as duly adopted by the Board of Directors at a meeting held on October 30, 2014, to be effective October 30, 2014.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Corporation as of October 30, 2014.

/s/ Glenn E. Fuller

Glenn E. Fuller, Secretary

[SEAL]

Exhibit 31.1

CERTIFICATION

I, Jeffrey H. Coats, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Autobytel Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2014

/s/ Jeffrey H. Coats

Jeffrey H. Coats

President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, Curtis E. DeWalt, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Autobytel Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2014

/s/ Curtis E. DeWalt

Curtis E. DeWalt,
Senior Vice President and
Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Autobytel Inc. (the " *Company* ") on Form 10-Q for the period ended September 30, 2014 (the " *Report* "), we, Jeffrey H. Coats, President and Chief Executive Officer of the Company, and Curtis E. DeWalt, Senior Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Jeffrey H. Coats
Jeffrey H. Coats
President and Chief Executive Officer
November 5, 2014

/s/ Curtis E. DeWalt
Curtis E. DeWalt
Senior Vice President and
Chief Financial Officer
November 5, 2014

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signatures that appear in typed form within the electronic version of this written statement required by Section 906, has been provided to Autobytel Inc. and will be retained by Autobytel Inc. and furnished to the Securities and Exchange Commission or its staff upon request.