

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 7
to
Form S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

VirnetX Holding Corporation*(Exact Name of Registrant as Specified in Its Charter)*

Delaware
*(State or Other Jurisdiction of
Incorporation or Organization)*

5615 Scotts Valley Drive, Suite 110
Scotts Valley, California 95066
(831) 438-8200

77-0390628
*(I.R.S. Employer
Identification Number)*

*(Address, Including Zip Code, and Telephone Number,
Including Area Code, of Registrant's Principal Executive Offices)*

Kendall Larsen
Chief Executive Officer
VirnetX Holding Corporation
5615 Scotts Valley Drive, Suite 110
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(831) 438-8200

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box:

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box:

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. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to be Registered | Proposed Maximum Aggregate Offering Price ⁽²⁾ | Amount of Registration Fee ⁽¹⁾ |
|--|--|---|
| Common Stock, par value \$0.0001 | \$30,000,000 ⁽³⁾ | \$ 1,179.00 |
| Warrants to purchase Common Stock | — | — |
| Total Registration Fee | | 1,179.00 * |

(1) Calculated pursuant to Rule 457(o) on the basis of the maximum aggregate offering price of all of the securities to be registered. Pursuant to Rule 457(g), no separate registration fee is required for the Warrants because we are registering those Securities in the same registration statement as the underlying common stock.

(2) Includes the common stock underlying the warrants to purchase shares of common stock that are being offered to the public as well as the shares of common stock underlying the underwriter's warrant disclosed in the prospectus included in this amendment. In accordance with Rule 416 under the Securities Act of 1933 in order to prevent dilution, a presently indeterminable number of shares of common stock are registered hereunder which may be issued in the event of a stock split, stock dividend or similar transaction. No additional registration fee has been paid for these shares of common stock.

(3) The registrant has previously paid a registration fee to the Securities and Exchange Commission for an offering with a proposed maximum aggregate offering price of \$30,000,000. The prospectus included in this amendment reflects a reduction in the proposed maximum aggregate offering price. This prospectus contemplates an offering, at an assumed offering price of \$1.75 per share and associated warrants, with a proposed maximum aggregate offering price of \$18,750,000 (including proceeds from exercise of the warrants offered hereby, but excluding proceeds from exercise of the over-allotment option granted to the underwriter). There are therefore no additional registration fees remaining to be paid by the registrant.

* Previously paid.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS (Subject to Completion)

Dated January 16, 2009

**3,000,000 Shares of Common Stock
Warrants to Purchase 4,500,000 Shares of Common Stock**

VIRNETX HOLDING CORPORATION

We are offering 3,000,000 shares of our common stock, warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$2.00 per share, warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$3.00 per share, and warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$4.00 per share. This prospectus also covers the offer and sale of 4,500,000 shares of common stock issuable upon exercise of the warrants offered hereby.

Our common stock is currently listed on the American Stock Exchange under the symbol "VHC." We do not intend to apply for listing of the warrants on any securities exchange. On January 14, 2009, the last reported sales price of our common stock as reported on the American Stock Exchange was \$1.49 per share.

Our business and an investment in our common stock and warrants involve significant risks. These risks are described under the caption "Risk Factors" beginning on page 8 of this prospectus.

Gilford Securities Incorporated has agreed to act as the underwriter in connection with this offering.

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

| | <i>Per Share of Common Stock and Associated Warrants</i> | <i>Total⁽¹⁾</i> |
|--|--|----------------------------|
| Public Offering Price | \$ | \$ |
| Underwriting Discount* | \$ | \$ |
| Offering Proceeds before expenses** | \$ | \$ |

* See section entitled "Underwriting" on page 69 of this prospectus.

** Our underwriter is offering these shares on a firm commitment basis and expects that delivery of shares will be made on or about _____, 2009. We have granted the underwriter a 45-day option to purchase up to 450,000 additional shares and warrants to purchase up to an additional 225,000 shares at an exercise price of \$2.00 per share, an additional 225,000 shares at an exercise price of \$3.00 per share and an additional 225,000 shares at an exercise price of \$4.00 per share from us at the public offering price, less the underwriting discount, to cover over-allotments. In addition, we will issue the underwriter a warrant to purchase 300,000 shares of our common stock. The underwriter's over-allotment option and the underwriter's warrant are subject to adjustment for stock splits, stock dividends or similar transactions.

(1) Table excludes shares of common stock issuable upon exercise of warrants offered hereby.

Gilford Securities Incorporated

, 2009

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This prospectus does not contain all of the information set forth in the registration statement of which this prospectus is a part, as permitted by the rules and regulations of the Securities and Exchange Commission. For additional information regarding us and the offered securities, please refer to the registration statement of which this prospectus is a part. Before purchasing any of the offered securities, you should carefully read this prospectus, together with the additional information described under the section of this prospectus titled “Where You Can Find More Information” on page 68. In particular, you should carefully consider the risks and uncertainties described under the section titled “Risk Factors” in this prospectus starting on page 7 before you decide whether to purchase any of the offered securities. These risks and uncertainties, together with those not known to us or those that we may deem immaterial, could impair our business and ultimately affect the price of our common stock.

You should rely only on the information contained in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. No offers are being made hereby in any jurisdiction where the offer or sale is not permitted. You should assume that the information in this prospectus is accurate only as of the date on the cover. Our business, financial condition, results of operations and prospects may have changed since that date.

PROSPECTUS SUMMARY

The following summary provides an overview of certain information about our company and the offering and may not contain all the information that may be important to you. This summary is qualified in its entirety by and should be read together with the information contained in other parts of this prospectus. You should carefully read this entire prospectus before making a decision about whether to invest in the offered securities.

The Company

We are developing and commercializing software and technology solutions for securing real-time communications over the Internet. Our patented GABRIEL Connection Technology™ combines industry standard encryption protocols with our patented techniques for automated domain name system, or DNS, lookup mechanisms, enabling users to create a secure communication link using secure domain names. We also intend to establish the exclusive secure domain name registry in the United States and other key markets around the world. Our software and technology solutions provide the security platform required by next-generation Internet-based applications such as instant messaging, or IM, voice over Internet protocol, or VoIP, mobile services, streaming video, file transfer and remote desktop. Our technology generates secure connections on a “zero-click” or “single-click” basis, significantly simplifying the deployment of secure real-time communication solutions by eliminating the need for end users to enter any encryption information.

We intend to license our patents and our GABRIEL Connection Technology™ to original equipment manufacturers, or OEMs, within the IP-telephony, mobility, fixed-mobile convergence and unified communications markets. The leaders in these markets include Alcatel-Lucent, Avaya Inc., Cisco Systems, Inc., Juniper Networks, Inc., LM Ericsson Telephone Company, Motorola, Inc., NEC Corporation, Nokia Corporation, Nortel Networks Corporation, Samsung Electronics Co. Ltd. and Sony Ericsson Mobile Communications AB, among others. We also intend to license our patent portfolio, technology, and software, including our secure domain name registry service, to communication service providers as well as to system integrators. We believe that the market opportunity for our software and technology solutions is large and expanding. As part of our licensing strategy, in March 2008, we hired ipCapital Group, a leading advisor on licensing technology and intellectual property, to initiate discussions with several major potential licensees. Since its founding in 1998, ipCapital Group has supported the licensing efforts of clients across a variety of technologies and markets, resulting in transactions representing several hundred million dollars of value. We are currently in discussions with prospective customers in our target markets.

Our portfolio of intellectual property is the foundation of our business model. We currently have 11 patents in the United States and eight international patents, as well as several pending U.S. and foreign patent applications. Our patent portfolio is primarily focused on securing real-time communications over the Internet, as well as related services such as the establishment and maintenance of a secure domain name registry. Our software and technology solutions also have additional applications in operating systems and network security. The core development team behind our patent portfolio, technology, and software has worked together for over ten years and is the same team that invented and developed this technology while working at Science Application International Corporation, or SAIC. SAIC is a FORTUNE 500® scientific, engineering, and technology applications company that uses its deep domain knowledge to solve problems of vital importance to the nation and the world, in national security, energy and the environment, critical infrastructure, and health. In 2006, we acquired this patent portfolio, which now serves as the foundation of our planned licensing and service offerings. We expect to derive the majority of our revenue from license fees and royalties associated with these patents. We also intend to continue our research and development efforts to further strengthen and expand our patent portfolio, and over time, we plan to leverage this portfolio to develop a product suite that can be sold to enterprise customers and developers.

Industry Overview

The Internet is increasingly evolving into a rich medium used by individuals and businesses to conduct commerce, share information and engage in real-time communications including email, text messaging, IM,

and voice and video calls. This communications experience is richer and more complex than ever before. Session initiation protocol, or SIP, was developed to enable the convergence of voice and data networks and today is the predominant industry standard for establishing multimedia communications over the Internet such as voice, video, instant messaging, presence information and file transfer. SIP as well as other real-time collaboration-protocols such as XMPP, use DNS lookup as their primary means of connecting Internet devices but is an open architecture that remains inherently unsecure. As the workforce becomes increasingly dispersed, mobile features enabled by Internet protocol-based communications such as presence, unified messaging, find me/follow me, white-boarding and document sharing have become more commonplace. However, the development of the security infrastructure for these applications has lagged behind the adoption of next-generation networks, leaving them vulnerable to a multitude of threats including man-in-middle, eavesdropping, domain hijacking, distributed denial of service, or DDoS, spam over Internet telephony, or SPIT, and spam over instant messaging, or SPIM. These threats continue to highlight the need for securing these next-generation networks.

We believe that accessing a diversity of services from a single device, anytime and anywhere, and the ability to access these same services from a range of devices, are emerging as key market requirements. The portions of the IP-telephony, mobility, fixed-mobile convergence and unified communications markets that could benefit from our software and technology solutions are forecasted to grow from approximately \$59 billion in total revenues in 2006 to approximately \$162 billion in total revenues by 2011, representing a compound annual growth rate, or CAGR, of approximately 23%. This growing trend represents a significant opportunity for VirnetX to license its patent portfolio, technology and software, and establish its secure domain name registry.

Our Solutions

Our software and technology solutions, including GABRIEL Connection Technology™, our secure domain name registry, and our patents are designed to secure all types of real-time communications over the Internet. Our patented GABRIEL Connection Technology™ combines industry standard encryption protocols with our patented techniques for automated DNS lookup mechanisms, enabling users to create a secure communication link using secure domain names. Our technology can be built into network infrastructure, operating systems or silicon chips developed for a communication or computing device to secure real-time communications over the Internet between any number of devices. Our technology automatically encrypts data allowing organizations and individuals to establish communities of secure, registered users and transmit information between multiple devices, networks and operating systems. These secure network communities, which we call secure private domains, or SPDs, are designed to be fully-customizable and support rich content applications such as IM, VoIP, mobile services, streaming video, file transfer and remote desktop in a secure environment. Our approach is a unique and patented solution that provides the robust security platform required by these rich content applications and real-time communications over the Internet. The key benefits and features of our technology include the following:

- **Automatic and seamless to the user.** After a one-time registration, users connect securely on a “zero-click” or “single-click” basis.
- **Secure data communications.** Users create secure networks with people they trust and communicate over a secure channel.
- **Control of data at all times.** Users can secure and customize their unified communication and collaboration applications such as file sharing and remote desktop with policy-based access and secure presence information.
- **Authenticated users.** Users know they are communicating with authenticated users with secure domain names.

- **Application-agnostic technology.** Our solution provides security at the IP layer of the network by using patented techniques for automated DNS lookup mechanisms to make connections between secure domain names, thereby obviating the need to provide application specific security.

Competitive Strengths

We believe the following competitive strengths will enable our success in the marketplace:

- **Unique patented technology.** We are focused on developing innovative technology for securing real-time communications over the Internet, and establishing the exclusive secure domain name registry in the United States and other key markets around the world. Our unique solutions combine industry standard encryption methods and communication protocols with our patented techniques for automated DNS lookup mechanisms. Our technology and patented approach enables users to create a secure communication link by generating secure domain names. We have a strong portfolio comprised of 11 patents in the United States and eight international patents, as well as several pending U.S. and foreign patent applications. Our portfolio includes patents and pending patent applications in the United States and other key markets that support our secure domain name registry service for the Internet.
- **Scalable licensing business model.** Our intellectual property portfolio is the foundation of our business model. We are actively engaged in commercializing our intellectual property portfolio by pursuing licensing agreements with OEMs, service providers and system integrators within the IP-telephony, mobility, fixed-mobile convergence and unified communications end-markets. We have engaged ipCapital Group to accelerate our patent and technology licensing program with customers and to expand the depth of our intellectual property portfolio, and we are actively pursuing our first licensing agreements. We believe that our licensing business model is highly scalable and has the potential to generate strong margins once we achieve significant revenue growth.
- **Highly experienced research and development team.** Our research and development team is comprised of nationally recognized network security and encryption technology scientists and experts that have worked together as a team for over ten years and, collectively, have over 120 years of experience in the field. During their careers, this team has developed several cutting-edge technologies for U.S. national defense, intelligence and civilian agencies, many of which remain critical to our national security today. Prior to joining VirnetX, our team worked for SAIC during which time they invented the technology that is the foundation of our patent portfolio, technology, and software. Based on the collective knowledge and experience of our development team, we believe that we have one of the most experienced and sophisticated groups of security experts researching vulnerability and threats to real-time communication over the Internet and developing solutions to mitigate these problems.

Our Strategy

Our strategy is to become the market leader in securing real-time communications over the Internet and to establish our GABRIEL Communications Technology™ as the industry standard security platform. Key elements of our strategy are to:

- Implement a patent and technology licensing program to commercialize our intellectual property, including our GABRIEL Connection Technology™.
- Establish VirnetX as the exclusive universal registry of secure domain names and to enable our customers to act as registrars for their users and broker secure communication between users on different registries.
- Leverage our patent portfolio, technology and software to develop a suite of products that can be sold directly to end-user enterprises.

In furtherance of our strategy, in March 2008, we engaged ipCapital Group to help us support and grow our licensing business. The ipCapital Group is a leading advisor on licensing technology and intellectual

property. Through our alliance with ipCapital Group, we are actively engaged in discussions with several potential customers in our target markets. ipCapital Group is led by John Cronin. Prior to founding ipCapital Group, Mr. Cronin was a distinguished inventor at IBM for 17 years where he patented 100 inventions, published over 150 technical papers, received IBM's "Most Distinguished Inventor Award," and was recognized as IBM's "Top Inventor." As a member of the senior technical staff and the prestigious IBM Academy, Mr. Cronin led an intellectual asset team that spearheaded efforts to produce and manage the development of intellectual property at IBM. Eventually known as "The IBM Patent Factory," this select group supported the division that increased IBM's annual licensing revenue from \$30 million in 1992 to more than \$1 billion in 1997 when Mr. Cronin left IBM. Since its founding in 1998, ipCapital Group has supported the licensing efforts of clients across a variety of technologies and markets, resulting in transactions representing several hundred million dollars of value.

Microsoft Litigation

We filed a patent infringement lawsuit against Microsoft Corporation on February 15, 2007. The lawsuit involves three patents and 18 claims. The patent infringement claims extend to eight Microsoft products including Windows Vista, Windows XP, Server 2003, Server 2008 and Office Communicator, among others. On March 31, 2008, Microsoft filed a Motion to Dismiss our patent infringement case against it. On June 3, 2008, the court held that VirnetX has constitutional standing to file its complaint and on that basis denied Microsoft's motion to dismiss. Also pursuant to the June 2008 court decision, SAIC joined us in our lawsuit as a plaintiff. On November 19, 2008, the court granted our motion to amend our infringement contentions, permitting us to provide increased specificity and citations to Microsoft's proprietary documents and source code to support our infringement case against Microsoft's accused products, including, among other things, Windows XP, Vista, Server 2003, Server 2008, Live Communication Server, Office Communication Server and Office Communicator. Microsoft was ordered to provide further information regarding its non-infringement contentions and invalidity contentions in light of the amended infringement contentions. A "Markman" hearing is scheduled for February 17, 2009. After the hearing, the Court will make certain determinations regarding the scope of our patent claims. The trial is scheduled to begin on October 12, 2009.

Corporate Information

Our principal executive offices are located at 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, and our phone number is (831) 438-8200. We maintain a website at www.virnetx.com. Information contained on our website does not comprise a part of this prospectus.

In November 2006, we acquired certain patents from SAIC. In July 2007, we effected a reverse merger between PASW, Inc., a publicly traded company with limited operations, and VirnetX, which became our principal operating subsidiary. As a result of this merger, the former security holders of VirnetX came to own a majority of our outstanding common stock. On October 29, 2007, we changed our name from PASW, Inc. to VirnetX Holding Corporation.

VirnetX™ and GABRIEL Connection Technology™ are our trademarks in the United States. This prospectus includes product names, trade names and trademarks of other companies. All other product names, trade names and trademarks appearing in this prospectus are the property of their respective holders.

The Offering

| | |
|---|---|
| Securities offered: | 3,000,000 shares of our common stock and warrants to purchase 4,500,000 shares of our common stock (as described in more detail below). |
| Offering price: | We anticipate that the offering price of each share of our common stock and associated warrants will be \$. |
| Description of the warrants: | We are offering three types of warrants for each share of our common stock offered hereby. The warrants will be issued in registered form under a warrant agency agreement between Corporate Stock Transfer, Inc., as warrant agent, and us. The three types of warrants have similar terms but are exercisable at different prices. For each share purchased at the closing of the offering, an investor will receive a warrant to purchase 0.5 shares of our common stock at \$2.00 per share, 0.5 shares of our common stock at \$3.00 per share and 0.5 shares of our common stock at \$4.00 per share (fractional shares will be rounded up). All warrants will be exercisable on or after the applicable closing date of this offering through and including the 18-month anniversary of the first closing date. All warrants will also include a call feature that gives us the right to require the holder of the warrant to exercise the warrant when our average closing stock price over five consecutive trading days is equal to or exceeds two times the applicable warrant's purchase price, failing which the warrant will terminate. |
| Common stock outstanding before the offering: | 34,899,985 shares of our common stock. |
| Common stock outstanding after the offering: | 37,899,985 shares of our common stock. |
| Use of proceeds: | To fund product development, pursue our litigation strategy and for general working capital needs. We anticipate that our existing cash and cash equivalents, together with net proceeds from this offering, at an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised, may only be sufficient to fund our operations for the next five months. See the "Liquidity and Capital Resources" section in this prospectus for additional information. |
| Amex symbol: | VHC |
| Risk factors: | See "Risk Factors" beginning on page 7 of this prospectus and the other information in this prospectus for a discussion of factors you should consider before you decide to invest in our securities. |

Unless otherwise noted in this prospectus, all information in this prospectus related to the number of shares of our common stock to be outstanding or beneficially owned after this offering:

- is based on 34,899,985 shares of common stock outstanding as of December 31, 2008;
- assumes no exercise of the underwriter's over-allotment option;
- assumes no exercise of the warrants to purchase 4,500,000 shares of our common stock offered hereby;
- assumes no exercise of the 300,000 shares of our common stock issuable upon exercise of the warrant to be issued to the underwriter at the closing of this offering;
- excludes 300,000 shares of our common stock issuable upon exercise of the warrant issued to the underwriter in connection with our previous public offering which closed on December 31, 2007; and
- excludes 4,318,596 shares of our common stock issuable upon exercise of stock options outstanding as of December 31, 2008.

Summary Financial Data

The summary financial data set forth below is derived from our financial statements and notes thereto, and should be read in conjunction with, and is qualified in its entirety by reference to, our consolidated financial statements and notes thereto and the information contained under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations," in each case appearing elsewhere in this prospectus.

For accounting purposes, VirnetX Holding Corporation was a publicly-held shell company prior to the merger with VirnetX.

In light of the fact that VirnetX was deemed to be the acquiror in the Merger, the historical financial information of VirnetX has been presented as the historical financial information of the Company throughout this prospectus.

Statement of Operations Data

| | Nine Months Ended September 30, 2008 | Nine Months Ended September 30, 2007 | Year Ended December 31, 2007 | Year Ended December 31, 2006 | For the Period August 2, 2005 (Date of Inception) to December 31, 2005 |
|-------------------------------------|--|--|------------------------------------|------------------------------------|--|
| Revenue: | \$ 107,955 | \$ 46,664 | \$ 74,866 | \$ — | \$ — |
| Total operating expenses: | 9,253,611 | 4,571,749 | 8,725,210 | 1,407,675 | 882,478 |
| Total other income (expenses), net: | 142,454 | (23,111) | (41,820) | 6,336 | — |
| Net loss: | <u>\$ (9,003,202)</u> | <u>\$ (4,548,196)</u> | <u>\$ (8,692,164)</u> | <u>\$ (1,401,339)</u> | <u>\$ (882,478)</u> |

Balance Sheet and Other Data

| | As of September 30, 2008 | As of December 31, 2007 | As of December 31, 2006 | As of December 31, 2005 |
|--|--------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Cash and cash equivalents: | \$ 2,260,170 | \$ 8,589,447 | \$ 139,997 | \$ 86,552 |
| Total assets: | 3,079,152 | 9,279,166 | 195,123 | 147,722 |
| Accounts payable and accrued expenses: | 1,467,412 | 531,790 | 87,386 | — |
| Total stockholders' equity (deficit): | \$ 1,407,740 | \$ 8,495,376 | \$ 107,737 | \$ (82,278) |

RISK FACTORS

You should carefully consider the following material risks in addition to the other information set forth in this prospectus before making any investment in the offered securities. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently believe to be immaterial may also adversely affect our business. If any of these risk factors occurs, you could lose substantial value or your entire investment in the offered securities.

Risks Related To Existing and Future Litigation

We have commenced legal proceedings against Microsoft, and we expect such litigation to be time-consuming and costly, which may adversely affect our financial condition and our ability to operate our business.

On February 15, 2007, we initiated a lawsuit by filing a complaint against Microsoft in the United States District Court for the Eastern District of Texas, Tyler Division, pursuant to which we allege that Microsoft infringes two of our patents regarding the creation of virtual private networks, or VPNs. We seek damages and injunctive relief. On April 5, 2007, we filed an amended complaint, pursuant to which we allege that Microsoft infringes a third patent. We anticipate that these legal proceedings may continue for several years and may require significant expenditures for legal fees and other expenses. The time and effort required of our management to effectively pursue the Microsoft lawsuit may adversely affect our ability to operate our business, since time spent on matters related to the lawsuit will take away from the time spent on managing and operating our business. Microsoft has counterclaimed for declarations that the three patents are not infringed, are invalid and are unenforceable. If Microsoft's counterclaims are successful, they may preclude our ability to commercialize our initial products. Additionally, we anticipate that our legal fees will be material and will negatively impact our financial condition and results of operations and may result in our inability to continue our business.

While we believe Microsoft infringes our patents, we can provide no assurance that we will be successful in our lawsuit.

We believe that Microsoft infringes on three of our patents, but obtaining and collecting a judgment against Microsoft may be difficult or impossible. Patent litigation is inherently risky and the outcome is uncertain. Microsoft is a large, well-financed company with substantially greater resources than us. We believe that Microsoft will devote a substantial amount of resources in an attempt to prove that either their products do not infringe our patents or that our patents are not valid and are unenforceable. At this time, we cannot predict the outcome of this litigation.

We are devoting a substantial amount of our financial and management resources to the Microsoft litigation, and if we are unsuccessful in this lawsuit, our financial condition may be so adversely affected, we may not survive.

Currently, we are devoting substantial time, effort and financial resources to our lawsuit against Microsoft. We are a development stage company with no finished product, and, although our business strategy is focused primarily on bringing patented products to market, our business strategy also depends greatly on obtaining a judgment in our favor from the courts and collecting such judgment before our financial resources are depleted. In the event we are not awarded and do not subsequently obtain monetary and injunctive relief, we may not have enough financial resources to continue our operations.

The burdens of being a public company may adversely affect our ability to pursue the Microsoft litigation.

As a public company, our management must devote substantial time, attention and financial resources to comply with U.S. securities laws. This may have a material adverse affect on management's ability to effectively pursue the Microsoft litigation as well as our other business initiatives. In addition, our disclosure obligations under U.S. securities laws require us to disclose information publicly that will be available to

Microsoft as well as any other future litigation opponents. We may, from time to time, be required to disclose information that will have a material adverse affect on our litigation strategies. This information may enable our litigation opponents to develop effective litigation strategies that are contrary to our interests.

We may commence additional legal proceedings against third parties who we believe are infringing on our intellectual property rights, and if we are forced to litigate to defend our intellectual property rights, or to defend claims by third parties against us relating to intellectual property rights, legal fees and court injunctions could adversely affect our financial condition or end our business.

Disputes regarding the ownership of technologies and intellectual property rights are common and we may have intellectual property infringement claims against other parties in addition to our claims against Microsoft. If we decide to commence actions against any additional parties, doing so may be expensive and time-consuming, which may adversely affect our financial condition and results of operations. Moreover, there can be no assurance that we would be successful in these additional legal proceedings and the existence and outcome of any such litigation could harm our business. In addition, commencing lawsuits may lead to potential counterclaims which may preclude our ability to develop and commercialize our initial products.

Risks Related to Our Business and Our Industry

We are a development stage company with virtually no revenues.

We are a development stage company with a very small amount of revenue and do not expect to generate additional revenues unless and until after our patent portfolio, or part of it, is commercialized. We do not anticipate launching any new products into the market until the first quarter of 2009, at the earliest. We will need to raise additional capital to fund our operations and our litigation against Microsoft and there can be no assurance that we will be successful in doing so on acceptable terms or at all. We anticipate that our existing cash and cash equivalents, together with net proceeds from this offering, at an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised, may only be sufficient to fund our operations for the next five months. See the “Liquidity and Capital Resources” section in this prospectus for additional information.

We anticipate incurring operating losses and negative cash flows for the foreseeable future resulting in uncertainty of future profitability and limitations on our operations.

We anticipate that we will incur operating losses and negative cash flows in the foreseeable future, and we will accumulate increasing deficits as we increase our expenditures for:

- our lawsuit against Microsoft;
- infrastructure;
- sales and marketing;
- research and development;
- personnel; and
- general business enhancements.

We need to significantly increase our revenue if we are to attain profitability and there is no assurance that we will be able to do so. In the event that we are unable to achieve profitability or raise sufficient funding to cover our losses, we may not be able to meet our obligations as they come due, raising substantial doubts as to our ability to continue as a going concern.

Our business plan for commercializing our patents and technology is new and unproven, and therefore we can provide no assurance that we will be successful in pursuing it.

We intend to develop products to provide a security platform for real-time communications; however, this is not a defined market. We expect to depend on our intellectual property licensing fees for the majority of our revenues. Our ability to generate licensing fees is highly dependent on mainstream market adoption of real-time communications based on SIP or using DNS lookup protocols as well as customer adoption of our GABRIEL Communication Technology™ and our secure domain name registry. We cannot assure you that customers will adopt our products and services, or that we will succeed in building a profitable business based on our business plan.

We may or may not be able to capitalize on potential market opportunities related to our licensing strategy or our patent portfolio.

Our business strategy calls for us to enter into licensing relationships with the leading companies in our target market in order to reach a larger end-user base than we could reach through direct sales and marketing efforts. We have engaged ipCapital Group to help develop our licensing strategy and to introduce the Company to five potential strategic licensees of the Company's technology. In connection with this engagement, we agreed to pay ipCapital Group 10% of the royalties of each resulting licensing arrangement, up to an aggregate maximum of \$2 million per licensee, or \$10 million in the aggregate. There can be no assurance that we will be able to capitalize on the potential market opportunity. Our inability to generate licensing revenues associated with the potential market opportunity could result from a number of factors, including, but not limited to:

- our capital resources may be insufficient;
- our management team may not have sufficient bandwidth to successfully capitalize on all of the opportunities identified by ipCapital Group;
- we may not be successful in entering into licensing relationships with our targeted customers on commercially acceptable terms; and
- the validity of our patents underlying the licensing opportunity is currently being challenged in our litigation against Microsoft.

We will need additional capital to pursue our litigation strategy, conduct our operations and develop our products, and our ability to obtain the necessary funding is uncertain.

We expect to utilize a substantial portion of the proceeds of this offering to finance our litigation with Microsoft. We will require significant additional capital from sources including equity and/or debt financings, license arrangements, grants, collaborative research arrangements and/or other sources in order to develop and commercialize our products and continue operations. If we are not able to raise additional capital when needed, our business will fail. We anticipate that our existing cash and cash equivalents, together with net proceeds from this offering, at an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised, may only be sufficient to fund our operations for the next five months. There can be no assurance that we will be able to close this offering on acceptable terms or at all, especially in the current capital markets environment.

Our business greatly depends on the growth of IM, VoIP, mobile services, streaming video, file transfer and remote desktop and other next-generation Internet-based applications.

We cannot assure you that next-generation Internet-based applications such as instant messaging, or IM, voice over Internet protocol, or VoIP, mobile services, streaming video, file transfer and remote desktop will continue to gain widespread market acceptance. The Internet may ultimately prove not to be a viable commercial marketplace for such applications for a number of reasons, including:

- unwillingness of consumers to shift to VoIP and use other such next-generation Internet-based applications;
- refusal to purchase security products to secure information transmitted through such applications;

- perception by the licensees of unsecure communication and data transfer;
- lack of concern for privacy by licensees and users;
- limitations on access and ease of use;
- congestion leading to delayed or extended response times;
- inadequate development of Internet infrastructure to keep pace with increased levels of use; and
- increased government regulations.

If the market for IM, VoIP, mobile services, streaming video, file transfer and remote desktop does not grow as anticipated, our business would be adversely affected.

The success of our products that secure IM, VoIP, mobile services, streaming video, file transfer and remote desktop, among other real-time communications applications, depends on the growth in the number of users, which in turn depends on the Internet gaining more widespread acceptance as the basis for these real-time communications applications. These real-time communications applications are still in early stages of market acceptance and we cannot assure you that they will continue to develop a broader audience. For example, potential new users may view VoIP as unattractive relative to traditional telephone services for a number of reasons, including the need to purchase computer headsets or the perception that the price advantage for VoIP is insufficient to justify the perceived inconvenience.

While the use of IM and other next-generation Internet-based applications has grown rapidly in personal and professional use, there can be no assurance that users will pay to secure their use of such applications.

Many services such as Microsoft, Yahoo! and America Online offer IM free of charge. However, security solutions for these services are not free, and OEMs may not want to adopt such security solutions if users of IM do not see the value and do not want to pay for such security solutions. If personal and professional users of IM and other next-generation Internet-based solutions do not want to pay for the security solutions, we will have difficulty marketing and selling our products and technologies.

We expect that we will experience long and unpredictable sales cycles, which may impact our quarterly operating results.

We expect that our sales cycles will be long and unpredictable due to a number of uncertainties such as:

- the need to educate potential customers about our patent rights and our product and service capabilities;
- customers' willingness to invest potentially substantial resources and modify their network infrastructures to take advantage of our products;
- customers' budgetary constraints;
- the timing of customers' budget cycles; and
- delays caused by customers' internal review processes.

We expect that we will be substantially dependent on a concentrated number of customers. If we are unable to establish, maintain or replace our relationships with customers and develop a diversified customer base, our revenues may fluctuate and our growth may be limited.

We expect that for the foreseeable future, a significant portion of our revenues will be generated from a limited number of customers. There can be no guarantee that we will be able to obtain such customers, or if we do so, to sustain our revenue levels from these customers. If we cannot establish, maintain or replace the limited group of customers that we anticipate will generate a substantial majority revenues, or if they do not generate revenues at the levels or at the times that we anticipate, our ability to maintain or grow our revenues will be adversely affected.

If we do not successfully develop our planned products and services in a cost-effective manner to customer demand in the rapidly evolving market for Internet and IP-based communications services, our business may fail.

The market for communications services is characterized by rapidly changing technology, evolving industry standards, changes in customer needs and frequent new service and product introductions. We are currently focused on developing products to provide security solutions for real-time communications. Our future success will depend, in part, on our ability to use new technologies effectively, to continue to develop our technical expertise, to enhance our existing services and to develop new services that meet changing customer needs on a timely and cost-effective basis. We may not be able to adapt quickly enough to changing technology, customer requirements and industry standards. If we fail to use new technologies effectively, to develop our technical expertise and new services, or to enhance existing services on a timely basis, either internally or through arrangements with third parties, our product and service offerings may fail to meet customer needs, which would adversely affect our revenues and prospects for growth.

In addition, if we are unable, for technological, legal, financial or other reasons, to adapt in a timely manner to changing market conditions or customer requirements, we could lose customers, strategic alliances and market share. Sudden changes in user and customer requirements and preferences, the frequent introduction of new products and services embodying new technologies and the emergence of new industry standards and practices could render our existing products, services and systems obsolete. The emerging nature of products and services in the technology and communications industry and their rapid evolution will require that we continually improve the performance, features and reliability of our products and services. Our success will depend, in part, on our ability to:

- design, develop, launch and/or license our planned products, services and technologies that address the increasingly sophisticated and varied needs of our prospective customers; and
- respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis.

The development of our planned products and services and other patented technology involves significant technological and business risks and requires substantial expenditures and lead time. We may be unable to use new technologies effectively. Updating our technology internally and licensing new technology from third-parties may also require us to incur significant additional expenditures.

If our products do not gain market acceptance, we may not be able to fund future operations.

A number of factors may affect the market acceptance of our planned products or any other products we develop or acquire, including, among others:

- the price of our products relative to other products that seek to secure real-time communication;
- the perception by users of the effectiveness of our products;
- our ability to fund our sales and marketing efforts; and
- the effectiveness of our sales and marketing efforts.

If our products do not gain market acceptance, we may not be able to fund future operations, including the development of new products and/or our sales and marketing efforts for our current products, which inability would have a material adverse effect on our business, financial condition and operating results.

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

Our products are highly technical and complex and, when deployed, may contain errors or defects. In addition, we rely on third parties for software development and technology services, and there may be errors in the development processes used by our third party counterparts that may adversely affect our end products.

Despite testing, some errors in our products may only be discovered after a product has been installed and used by customers. Any errors or defects discovered in our products after commercial release could result in failure to achieve market acceptance, loss of revenue or delay in revenue recognition, loss of customers and increased service and warranty cost, any of which could adversely affect our business, operating results and financial condition. In addition, we could face claims for product liability, tort or breach of warranty, including claims relating to changes to our products made by our channel partners. The performance of our products could have unforeseen or unknown adverse effects on the networks over which they are delivered as well as on third-party applications and services that utilize our services, which could result in legal claims against us, harming our business. Furthermore, we expect to provide implementation, consulting and other technical services in connection with the implementation and ongoing maintenance of our products, which typically involves working with sophisticated software, computing and communications systems. We expect that our contracts with customers will contain provisions relating to warranty disclaimers and liability limitations, which may not be upheld. Defending a lawsuit, regardless of its merit, is costly and may divert management's attention and adversely affect the market's perception of us and our products. In addition, if our business liability insurance coverage proves inadequate or future coverage is unavailable on acceptable terms or at all, our business, operating results and financial condition could be adversely impacted.

Malfunctions of third-party communications infrastructure, hardware and software exposes us to a variety of risks we cannot control.

In addition, our business will also depend upon the capacity, reliability and security of the infrastructure owned by third parties that we will use to deploy our offerings. We have no control over the operation, quality or maintenance of a significant portion of that infrastructure or whether or not those third parties will upgrade or improve their equipment. We depend on these companies to maintain the operational integrity of our connections. If one or more of these companies is unable or unwilling to supply or expand its levels of service to us in the future, our operations could be severely interrupted. Also, to the extent the number of users of networks utilizing our future products suddenly increases, the technology platform and secure hosting services which will be required to accommodate a higher volume of traffic may result in slower response times or service interruptions. System interruptions or increases in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of the networks to users. In addition, users depend on real-time communications; outages caused by increased traffic could result in delays and system failures. These types of occurrences could cause users to perceive that our solution does not function properly and could therefore adversely affect our ability to attract and retain licensees, strategic partners and customers.

System failure or interruption or our failure to meet increasing demands on our systems could harm our business.

The success of our license and service offerings will depend on the uninterrupted operation of various systems, secure data centers and other computer and communication networks that we establish. To the extent the number of users of networks utilizing our future products suddenly increases, the technology platform and hosting services which will be required to accommodate a higher volume of traffic may result in slower response times, service interruptions or delays or system failures. Our systems and operations will also be vulnerable to damage or interruption from:

- power loss, transmission cable cuts and other telecommunications failures;
- damage or interruption caused by fire, earthquake, and other natural disasters;
- computer viruses or software defects; and
- physical or electronic break-ins, sabotage, intentional acts of vandalism, terrorist attacks and other events beyond our control.

System interruptions or failures and increases or delays in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of the networks to users. These types of

occurrences could cause users to perceive that our solution does not function properly and could therefore adversely affect our ability to attract and retain licensees, strategic partners and customers.

Any significant problem with our systems or operations could result in lost revenue, customer dissatisfaction or lawsuits against us. A failure in the operation of our secure domain name registration system could result in the inability of one or more registrars to register and maintain secure domain names for a period of time. A failure in the operation or update of the master directory that we plan to maintain could result in deletion or discontinuation of assigned secure domain names for a period of time. The inability of the registrar systems we establish, including our back office billing and collections infrastructure, and telecommunications systems to meet the demands of an increasing number of secure domain name requests could result in substantial degradation in our customer support service and our ability to process registration requests in a timely manner.

If we experience security breaches, we could be exposed to liability and our reputation and business could suffer.

We will retain certain confidential customer information in our secure data centers and secure domain name registry. It will be critical to our business strategy that our facilities and infrastructure remain secure and are perceived by the marketplace to be secure. Our secure domain name registry operations will also depend on our ability to maintain our computer and telecommunications equipment in effective working order and to reasonably protect our systems against interruption, and potentially depend on protection by other registrars in the shared registration system. The secure domain name servers that we will operate will be critical hardware to our registry services operations. Therefore, we expect to have to expend significant time and money to maintain or increase the security of our facilities and infrastructure.

Security technologies are constantly being tested by computer professionals, academics and “hackers.” Advances in the techniques for attacking security solutions could make some or all of our products obsolete or unmarketable. Likewise, if any of our products are found to have significant security vulnerabilities, then we may need to dedicate engineering and other resources to eliminate the vulnerabilities and to repair or replace products already sold or licensed to our customers. Despite our security measures, our infrastructure may be vulnerable to physical break-ins, computer viruses, attacks by hackers or similar disruptive problems. It is possible that we may have to expend additional financial and other resources to address such problems. Any physical or electronic break-in or other security breach or compromise of the information stored at our secure data centers and domain name registration systems may jeopardize the security of information stored on our premises or in the computer systems and networks of our customers. In such an event, we could face significant liability and customers could be reluctant to use our services. Such an occurrence could also result in adverse publicity and therefore adversely affect the market’s perception of the security of electronic commerce and communications over IP networks as well as of the security or reliability of our services.

We may incur significant expenses and damages because of liability claims.

An actual or perceived breach of our security solutions could result in a product liability claim against us. A substantial product liability claim against us could harm our operating results and financial condition. In addition, any actual or perceived breach of our security solution, whether or not caused by the failure of one of our products, could hurt our reputation and cause potential customers to turn to our competitors’ products.

Our ability to sell our solutions will be dependent on the quality of our technical support, and our failure to deliver high-quality technical support services could have a material adverse effect on our sales and results of operations.

If we do not effectively assist our customers in deploying our products, succeed in helping our customers quickly resolve post-deployment issues and provide effective ongoing support, or if potential customers perceive that we may not be able achieve to the foregoing, our ability to sell our products would be adversely affected, and our reputation with potential customers could be harmed. In addition, as we expand our

operations internationally, our technical support team will face additional challenges, including those associated with delivering support, training and documentation in languages other than English. As a result, our failure to deliver and maintain high-quality technical support services to our customers could result in customers choosing to use our competitors' products instead of ours in the future.

There has been increased competition for security solutions in the real-time communications industry, as more companies seek to provide products and services similar to our proposed products and services, and because larger and better-financed competitors may affect our ability to operate our business and achieve profitability, our business may fail.

We expect competition for our products and services to be intense. We expect to compete directly against other companies offering similar security products and services that will compete directly with our proposed products and services. We also expect that we will compete against established vendors within the IP-telephony, mobility, fixed-mobile convergence and unified communications markets. These companies may incorporate other competitive technologies into their product offerings, whether developed internally or by third parties. For the foreseeable future, substantially all of our competitors are likely to be larger, better-financed companies that may develop products superior to our proposed products, which could create significant competitive advantages for those companies. Our future success depends on our ability to compete effectively with our competitors. As a result, we may have difficulty competing with larger, established competitor companies. Generally, these competitors have:

- substantially greater financial, technical and marketing resources;
- a larger customer base;
- better name recognition; and
- more expansive product offerings.

These competitors are likely to command a larger market share than us, which may enable them to establish a stronger competitive position, in part, through greater marketing opportunities. Further, our competitors may be able to respond more quickly to new or emerging technologies and changes in user preferences and to devote greater resources to developing and operating networks of affinity websites. These competitors may develop products or services that are comparable or superior. If we fail to address competitive developments quickly and effectively, we may not be able to remain a viable entity.

If we are not able to adequately protect our patented rights, our operations would be negatively impacted.

Our ability to compete largely depends on the superiority, uniqueness and value of our technology and intellectual property. To protect our intellectual property rights, we rely on a combination of patent, trademark, copyright and trade secret laws, confidentiality agreements with our employees and third parties, and protective contractual provisions. Further, we can give no assurances that infringement or invalidity claims (or claims for indemnification resulting from infringement claims) will not be asserted or prosecuted against us or that any such assertions or prosecutions will not materially adversely affect our business. Regardless of whether any such claims are valid or can be successfully asserted, defending against such claims could cause us to incur significant costs and could divert resources away from our other activities. In addition, assertion of infringement claims could result in injunctions that prevent us from distributing our products. Despite these efforts, any of the following may reduce the value of our intellectual property:

- our applications for patents, trademarks and copyrights relating to our business may not be granted and, if granted, may be challenged or invalidated;
- issued trademarks, copyrights, or patents may not provide us with any competitive advantages;
- our efforts to protect our intellectual property rights may not be effective in preventing misappropriation of our technology; or

- our efforts may not prevent the development and design by others of products or technologies similar to or competitive with, or superior to those we develop.

In addition, we may not be able to effectively protect our intellectual property rights in certain foreign countries where we may do business in the future or from which competitors may operate. While we have numerous pending international patents, obtaining such patents will not necessarily protect our technology or prevent our international competitors from developing similar products or technologies. Our inability to adequately protect our patented rights would have a negative impact on our operations and revenues.

In addition, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights in Internet-related businesses are uncertain and still evolving. Because of the growth of the Internet and Internet related businesses, patent applications are continuously and simultaneously being filed in connection with Internet-related technology. There are a significant number of U.S. and foreign patents and patent applications in our areas of interest, and we believe that there has been, and is likely to continue to be, significant litigation in the industry regarding patent and other intellectual property rights.

If we fail to meet our obligations to SAIC, we may lose our rights to key technologies on which our business depends.

Our business depends on our rights to and under the patents we obtained from SAIC. Our agreements with SAIC impose various obligations on us, including payment obligations and minimum royalties that we must pay to SAIC. If SAIC believes that we have failed to meet these obligations, SAIC could seek to limit or reacquire the assigned patent rights, which could lead to costly and time-consuming litigation and, potentially, a loss of our rights in these patents. During the period of any such litigation, our ability to carry out the development and commercialization of potential products could be significantly and negatively affected. The loss or restriction of our rights in our patents would result in our inability to continue our business.

When we attempt to implement our secure domain name registry services business, we may be subject to government and industry regulation and oversight which may impede our ability to achieve our business strategy.

The U.S. government has historically controlled the authoritative domain name system, or DNS, root server since the inception of the Internet. On July 1, 1997, the President of the United States directed the U.S. Secretary of Commerce to privatize the management of the domain name system in a manner that increases competition and facilitates international participation in its management.

On September 29, 2006, the U.S. Department of Commerce extended its delegation of authority by entering into a new agreement with the Internet Corporation for Assigned Names and Numbers, or ICANN, a California non-profit corporation headquartered in Marina Del Rey, California. ICANN is responsible for managing the accreditation of registry providers and registrars that manage the assignment of top level domain names associated with the authoritative DNS root directory. Although other DNS root directories are possible to create and manage privately without accreditation from ICANN, the possibility of conflicting name and number assignments makes it less likely that users would widely adopt a top level domain name associated with an alternative DNS root directory provided by a non-ICANN-accredited registry service.

On June 26, 2008, ICANN announced that it will be relaxing its prior position and will begin to issue generic top level domain names, or gTLDs, more broadly than it had previously. ICANN expects to begin to take applications for gTLDs in April or May of 2009 with an application fee of \$100,000 or more per application. ICANN expects the first of these customized gTLDs to be issued in the fourth quarter of 2009.

We are currently evaluating whether we will apply to become an ICANN-accredited registry provider with respect to one or more customized gTLDs, or create our own alternative DNS root directory to manage the assignment of non-standard secure domain names. We have not yet begun discussions with ICANN and we cannot assure you that we will be successful in obtaining ICANN accreditation for our registry service on terms acceptable to us or at all. Whether or not we obtain accreditation from ICANN, we will be subject to

the ongoing risks arising out of the delegation of the U.S. government's responsibilities for the domain name system to the U.S. Department of Commerce and ICANN and the evolving government regulatory environment with respect to domain name registry services.

The laws governing online secure communications are largely unsettled, and if we become subject to various government regulations, costs associated with those regulations may materially adversely affect our business.

The current regulatory environment for our services remains unclear. We can give no assurance that our planned product offerings will be in compliance with local, state and/or U.S. federal laws or other laws. Further, we can give no assurance that we will not unintentionally violate such laws or that such laws will not be modified, or that new laws will be enacted in the future which would cause us to be in violation of such laws.

VoIP services are not currently subject to all of the same regulations that apply to traditional telephony. The U.S. Federal Communications Commission has imposed some traditional telephony requirements on VoIP such as disability access requirements and other obligations. It is possible that federal and state legislatures may seek to impose increased fees and administrative burdens on VoIP, data and video providers. Such regulations could result in substantial costs depending on the technical changes required to accommodate the requirements, and any increased costs could erode the pricing advantage over competing forms of communication and adversely affect consumer adoption of VoIP products generally.

The use of the Internet and private IP networks to provide voice, video and other forms of real-time, two-way communications services is a relatively recent development. Although the provisioning of such services is currently permitted by U.S. law and is largely unregulated within the United States, several foreign governments have adopted laws and/or regulations that could restrict or prohibit the provisioning of voice communications services over the Internet or private IP networks. More aggressive domestic or international regulation of the Internet in general, and Internet telephony providers and services specifically, may materially and adversely affect our business, financial condition, operating results and future prospects, particularly if increased numbers of governments impose regulations restricting the use and sale of IP telephony services.

In addition to regulations addressing Internet telephony and broadband services, other regulatory issues relating to the Internet in general could affect our ability to provide our planned security solutions. Congress has adopted legislation that regulates certain aspects of the Internet, including online content, user privacy, taxation, liability for third-party activities and jurisdiction. In addition, a number of initiatives pending in Congress and state legislatures would prohibit or restrict advertising or sale of certain products and services on the Internet, which may have the effect of raising the cost of doing business on the Internet generally.

Telephone carriers have petitioned governmental agencies to enforce regulatory tariffs, which, if granted, would increase the cost of online communication, and such increase in cost may impede the growth of online communication and adversely affect our business.

The growing popularity and use of the Internet has burdened the existing telecommunications infrastructures, and many high traffic areas have begun to experience interruptions in service. As a result, certain local telephone carriers have petitioned governmental agencies to enforce regulatory tariffs on IP telephony traffic that crosses over the traditional telephone networks. If any of these petitions or the relief that they seek is granted, the costs of communicating via online could increase substantially, potentially adversely affecting the growth in the use of online secure communications. Any of these developments could have an adverse effect on our business.

The departure of Kendall Larsen, our Chief Executive Officer and President, and/or other key personnel could compromise our ability to execute our strategic plan and may result in additional severance costs to us.

Our success largely depends on the skills, experience and efforts of our key personnel, including Kendall Larsen, our Chief Executive Officer and President. We have no employment agreements with any of our key

executives that prevent them from leaving us at any time. In addition, we do not maintain key person life insurance for any of our officers or key employees. The loss of Mr. Larsen, or our failure to retain other key personnel, would jeopardize our ability to execute our strategic plan and materially harm our business.

We will need to recruit and retain additional qualified personnel to successfully grow our business.

Our future success will depend in part on our ability to attract and retain qualified operations, marketing and sales personnel as well as engineers. Inability to attract and retain such personnel could adversely affect our business. Competition for engineering, sales, marketing and executive personnel is intense, particularly in the technology and Internet sectors and in the regions where our facilities are located. We can provide no assurance that we will attract or retain such personnel.

Growth of internal operations and business may strain our financial resources.

We intend to significantly expand the scope of our operating and financial systems in order to build our business. Our growth rate may place a significant strain on our financial resources for a number of reasons, including, but not limited to, the following:

- the need for continued development of the financial and information management systems;
- the need to manage relationships with future licensees, resellers, distributors and strategic partners;
- the need to hire and retain skilled management, technical and other personnel necessary to support and manage our business; and
- the need to train and manage our employee base.

The addition of new infrastructure services, networks, vertical categories and affinity websites and the attention they demand, on top of the attention demanded by our pending litigation with Microsoft, may also strain our management resources. We cannot give you any assurance that we will adequately address these risks and, if we do not, our ability to successfully expand our business could be adversely affected.

If we expand into international markets, our inexperience outside the United States would increase the risk that our international expansion efforts will not be successful, which would in turn limit our prospects for growth.

We may explore expanding our business to outside the United States. Expansion into international markets requires significant management attention and financial resources. In addition, we may face the following risks associated with any expansion outside the United States:

- challenges caused by distance, language and cultural differences;
- legal, legislative and regulatory restrictions;
- currency exchange rate fluctuations;
- economic instability;
- longer payment cycles in some countries;
- credit risk and higher levels of payment fraud;
- potentially adverse tax consequences; and
- other higher costs associated with doing business internationally.

These risks could harm our international expansion efforts, which would in turn harm our business prospects.

We will continue to incur significant costs as a result of being a public company.

As a public company, we will continue to incur significant legal, accounting and other expenses that VirnetX did not incur as a private company. We expect the laws, rules and regulations governing public

companies to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, and these costs could be material to us.

In connection with audits of our financial statements, our independent auditors identified material weaknesses in our internal controls over financial reporting.

During the course of their audit of our 2007 financial statements, our independent auditors concluded that our internal controls over financial reporting suffered from certain “material weaknesses” as defined in standards established by the Public Company Accounting Oversight Board and the American Institute of Certified Public Accountants.

Farber Hass Hurley LLP noted the following matters involving our internal control over financial reporting that are considered to be material weaknesses in connection with their audit of our 2007 financial statements:

- Farber Hass Hurley LLP proposed, and we recorded, adjustments to our accounting for equity transactions during 2007;
- Farber Hass Hurley LLP noted that our controls over financial disclosures need to be improved; and
- Farber Hass Hurley LLP noted that certain expenses within 2007 were not timely accrued prior to receipt of billing statements.

Prior to becoming our subsidiary, VirnetX was a development stage, privately held company that historically did not formalize or document internal controls over financial reporting, utilized the cash basis of accounting and was not required to have its financial statements audited or reviewed. Prior to becoming our subsidiary, VirnetX engaged independent auditors to audit its financial statements for certain prior periods. During the course of that audit, VirnetX’s independent auditors concluded that VirnetX’s internal controls over financial reporting suffered from certain “material weaknesses” and “significant deficiencies” over its internal controls over financial reporting as defined in standards established by the Public Company Accounting Oversight Board and the American Institute of Certified Public Accountants. Because VirnetX is now our wholly-owned subsidiary, the material weaknesses in VirnetX’s internal controls over financial reporting have resulted in our having material weaknesses and significant deficiencies in our internal controls over financial reporting. We have commenced a process of developing, adopting and implementing policies and procedures to address such material weaknesses, and management believes it has addressed the material weaknesses identified by Farber Hass Hurley LLP in the course of the audit of our 2007 financial statements. However, that process has been and may continue to be time consuming and costly and there can be no assurance that our audit firm will not continue to identify these and other material weaknesses and significant deficiencies in the course of the audit of our 2008 financial statements.

Our inability to become compliant with the internal controls requirements of Section 404 of the Sarbanes Oxley Act could negatively affect our stock price and limit our ability to raise additional financing.

Burr, Pilger & Mayer LLP, the independent audit firm retained to audit the 2005 and 2006 financial statements for our principal operating subsidiary resigned on October 26, 2007. The reason for the resignation was concern that we would not become compliant with the internal controls requirements of Section 404 of the Sarbanes Oxley Act by December 31, 2007 due to an insufficient quantity of experienced resources involved with the financial reporting and period closing process. Our management has concluded that, as of December 31, 2007, we were not compliant with these internal control requirements and, although we are pursuing compliance, there can be no assurance we will be successful in becoming compliant in future periods. Our lack of compliance with internal controls requirements of Section 404 of the Sarbanes Oxley Act could negatively affect our stock price, make us less attractive to our stockholders, jeopardize our listing status and limit our ability to raise additional financing.

Our ability to sell our solutions will be dependent on the quality of our technical support, and our failure to deliver high-quality technical support services could have a material adverse effect on our sales and results of operations.

If we do not effectively assist our customers in deploying our products, succeed in helping our customers quickly resolve post-deployment issues and provide effective ongoing support, or if potential customers perceive that we may not be able achieve the foregoing, our ability to sell our products would be adversely affected, and our reputation with potential customers could be harmed. In addition, as we expand our operations internationally, our technical support team will face additional challenges, including those associated with delivering support, training and documentation in languages other than English. As a result, our failure to deliver and maintain high-quality technical support services to our customers could result in customers choosing to use our competitors' products instead of ours in the future.

Risks Related to Our Stock

Trading in our common stock is limited and the price of our common stock may be subject to substantial volatility.

Our common stock is listed on the American Stock Exchange, or AMEX, but its daily trading volume has been limited and sporadic. Also, there can be no assurance that we will remain listed on the AMEX. In the past several months, the market price of our common stock has experienced significant fluctuation. Between January 1, 2008 and December 31, 2008, the reported last sale price for our common stock has ranged from \$7.06 to \$0.89 per share. We expect the price of our common stock to continue to be volatile as a result of a number of factors, including, but not limited to, the following:

- developments in our pending litigation against Microsoft;
- quarterly variations in our operating results;
- large purchases or sales of common stock;
- actual or anticipated announcements of new products or services by us or competitors;
- general conditions in the markets in which we compete; and
- economic and financial conditions.

Purchasers in this offering will immediately experience substantial dilution in net tangible book value and may experience further dilution.

The public offering price of our common stock is substantially higher than \$0.03, the net tangible book value per share of our common stock as of September 30, 2008. Therefore, if you purchase our common stock in this offering, and assuming no warrants are exercised, you will incur an immediate dilution of \$1.60 in net tangible book value per share from the price you paid, based on an assumed public offering price of \$1.75 per share.

The exercise of outstanding options to purchase shares of our common stock at a weighted average exercise price of \$3.54 per share will result in further dilution.

Because ownership of our common shares is concentrated, you and other investors will have minimal influence on stockholder decisions.

As of December 31, 2008, our officers and directors beneficially owned an aggregate of 9,385,618 shares, or 26.16% of our outstanding common stock. In addition, a group of stockholders that, as of December 31, 2007, held 4,766,666 shares, or 13.7% of our outstanding common stock, have entered into a voting agreement with us that requires them to vote all of their shares of our voting stock in favor of the director nominees approved by our Board of Directors at each director election going forward, and in a manner that is proportional to the votes cast by all other voting shares as to any other matters submitted to the stockholders

for a vote. As a result, our existing officers and directors could significantly influence shareholder actions of which you disapprove or that are contrary to your interests. This ability to exercise significant influence could prevent or significantly delay another company from acquiring or merging with us.

Large portions of our outstanding common shares were released from contractual restrictions on July 5, 2008 and December 31, 2008, and sales of those shares may drive down the price of our stock.

Stockholders who received our common shares as a result of the merger between PASW, Inc. and VirnetX entered into a lock-up agreement restricting sales of their shares until July 5, 2008. Subsequently, certain of our stockholders signed a lock-up agreement with the underwriter in connection with our public offering in December 2007, which restricted sales of their shares until December 31, 2008. Sales of the shares released from lock-up on July 5, 2008 may have driven down the price of our stock. Certain of these additional shares were released after the first quarter of 2008, and certain of the shares were released on December 31, 2008. Sales of such additional shares may drive down the price of our stock. The 8,489,545 shares that became eligible for trading on December 31, 2008 represented 24.3% of our outstanding common stock as of December 31, 2009.

Our protective provisions could make it more difficult for a third party to successfully acquire us even if you would like to sell your shares to them.

We have a number of protective provisions that could delay, discourage or prevent a third party from acquiring control of us without the approval of our Board of Directors. Our protective provisions include:

- **A staggered Board of Directors:** This means that only one or two directors (since we have a five-person Board of Directors) will be up for election at any given annual meeting. This has the effect of delaying the ability of stockholders to effect a change in control of us since it would take two annual meetings to effectively replace at least three directors which represents a majority of the Board of Directors.
- **Blank check preferred stock:** Our Board of Directors has the authority to establish the rights, preferences and privileges of our 10,000,000 authorized, but unissued, shares of preferred stock. Therefore, this stock may be issued at the discretion of our Board of Directors with preferences over your shares of our common stock in a manner that is materially dilutive to existing stockholders. In addition, blank check preferred stock can be used to create a “poison pill” which is designed to deter a hostile bidder from buying a controlling interest in our stock without the approval of our Board of Directors. We have not adopted such a “poison pill;” but our Board of Directors has the ability to do so in the future, very rapidly and without stockholder approval.
- **Advance notice requirements for director nominations and for new business to be brought up at stockholder meetings:** Stockholders wishing to submit director nominations or raise matters to a vote of the stockholders must provide notice to us within very specific date windows and in very specific form in order to have the matter voted on at a stockholder meeting. This has the effect of giving our Board of Directors and management more time to react to stockholder proposals generally and could also have the effect of disregarding a stockholder proposal or deferring it to a subsequent meeting to the extent such proposal is not raised properly.
- **No stockholder actions by written consent:** No stockholder or group of stockholders may take actions rapidly and without prior notice to our Board of Directors and management or to the minority stockholders. Along with the advance notice requirements described above, this provision also gives our Board of Directors and management more time to react to proposed stockholder actions.
- **Super majority requirement for stockholder amendments to the By-laws:** Stockholder proposals to alter or amend our By-laws or to adopt new By-laws can only be approved by the affirmative vote of at least 66²/₃% of the outstanding shares.

- **Elimination of the ability of stockholders to call a special meeting of the stockholders:** Only the Board of Directors or management can call special meetings of the stockholders. This could mean that stockholders, even those who represent a significant block of our shares, may need to wait for the annual meeting before nominating directors or raising other business proposals to be voted on by the stockholders.

Securities analysts may not cover our common stock and this may have a negative impact on our common stock's market price.

The trading market for our common stock may depend on the research and reports that securities analysts publish about us or our business. We do not have any control over these analysts. There is no guarantee that securities analysts will cover our common stock. If securities analysts do not cover our common stock, the lack of research coverage may adversely affect our common stock's market price. If we are covered by securities analysts, and our stock is downgraded, our stock price would likely decline. If one or more of these analysts ceases to cover us or fails to publish regularly reports on us, we could lose or fail to gain visibility in the financial markets, which could cause our stock price or trading volume to decline.

We may seek to raise additional funds, finance acquisitions or develop strategic relationships by issuing capital stock that would dilute your ownership.

We have financed our operations, and we expect to continue to finance our operations, acquisitions and develop strategic relationships, by issuing equity or convertible debt securities, which could significantly reduce the percentage ownership of our existing stockholders. Furthermore, any newly issued securities could have rights, preferences and privileges senior to those of our existing stock. Moreover, any issuances by us of equity securities may be at or below the prevailing market price of our stock and in any event may have a dilutive impact on your ownership interest, which could cause the market price of stock to decline. We may also raise additional funds through the incurrence of debt or the issuance or sale of other securities or instruments senior to our common shares. The holders of any debt securities or instruments we may issue would have rights superior to the rights of our common stockholders.

We have no current intention of declaring or paying any cash dividends on our common stock.

We do not plan to declare or pay any cash dividends on our common stock. Our current policy is to use all funds and any earnings in the operation and expansion of our business.

FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. All statements other than statements of historical facts contained in this prospectus, including statements regarding our future financial position, business strategy and plans and objectives of management for future operations, are forward-looking statements. The words “believe,” “may,” “will,” “estimate,” “continue,” “anticipate,” “intend,” “expect” and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions described in “Risk Factors” and elsewhere in this prospectus. These risks are not exhaustive. Other sections of this prospectus include additional factors which could adversely impact our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for our management to predict all risk factors, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. You should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur and actual results could differ materially from those projected in the forward-looking statements.

ABOUT THIS PROSPECTUS

As used in this prospectus:

- “VirnetX” refers to VirnetX, Inc., a Delaware corporation;
- “VirnetX Holding Corporation” refers to VirnetX Holding Corporation, a Delaware corporation, formerly PASW, Inc., on and after our reincorporation which became effective on March 30, 2007 and name change which became effective on October 29, 2007, and refers to PASW, Inc., a California corporation, prior to that date;
- “the merger” refers to the merger which became effective on July 5, 2007, by and among VirnetX, VirnetX Holding Corporation and a wholly-owned subsidiary of VirnetX Holding Corporation, whereby VirnetX merged with, and became, a wholly-owned subsidiary of VirnetX Holding Corporation and VirnetX Holding Corporation issued shares of its common stock to the stockholders of VirnetX as consideration for the merger; and
- “we,” “our,” “us” and “the company” refer to VirnetX Holding Corporation and its wholly-owned subsidiaries, including VirnetX, collectively, on a consolidated basis after giving effect to the merger.

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of the offered securities, assuming gross proceeds of \$5.3 million (which is the amount of gross proceeds received by us, based upon an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised), will be approximately \$4.1 million, after deducting the underwriter's fees and expense reimbursement and other estimated expenses of this offering.

We expect to use all of the proceeds received from the sale of our shares of common stock and the associated warrants in this offering. We will have significant discretion in the use of any net proceeds raised in this offering less than all of the proceeds currently anticipated. Investors will be relying on the judgment of our management regarding the application of the proceeds of any sale of the securities. We may invest the net proceeds received from this offering temporarily until we use them for their stated purpose. We anticipate that the net proceeds obtained from this offering will be used to fund development activities, pursue our litigation strategy and for general working capital needs. We anticipate that our existing cash and cash equivalents, together with net proceeds from this offering, at an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised, may only be sufficient to fund our operations for the next five months. See the "Liquidity and Capital Resources" section in this prospectus for additional information.

DIVIDEND POLICY

We have not in the past paid, and do not expect for the foreseeable future to pay, dividends on our common stock. Instead, we anticipate that all of our earnings, if any, in the foreseeable future will be used for working capital and other general corporate purposes. Any future determination to pay dividends on our common stock will be at the discretion of our board of directors and will depend upon, among other factors, our results of operations, financial condition, capital requirements and contractual restrictions.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This report, including this Management's Discussion and Analysis of Financial Condition and Results of Operations contains "forward-looking" statements within the meaning of the Private Securities Litigation Reform Act of 1995, which provides a "safe harbor" for statements about future events, products and future financial performance that are based on the beliefs of, estimates made by and information currently available to our management. Except for the historical information contained herein, the outcome of the events described in these forward-looking statements is subject to risks and uncertainties. See "Risk Factors" for a discussion of these risks and uncertainties. The following discussion should be read in conjunction with and is qualified in its entirety by reference to our consolidated financial statements included elsewhere in this prospectus. Actual results and the outcome or timing of certain events may differ significantly from those stated or implied by these forward-looking statements due to the factors listed under "Risk Factors," and from time to time in our other filings with the Securities and Exchange Commission, or SEC. For this purpose, using the terms "believe," "expect," "expectation," "anticipate," "can," "should," "would," "could," "estimate," "appear," "based on," "may," "intended," "potential," "indicate," "are emerging" and "possible" or similar statements are forward-looking statements that involve risks and uncertainties that could cause our actual results and the outcome and timing of certain events to differ materially from those stated or implied by these forward-looking statements. By making forward-looking statements, we have not assumed any obligation to, and you should not expect us to, update or revise those statements because of new information, future events or otherwise.

As used herein, "we," "us," "our," or the "Company" means VirnetX Holding Corporation and its wholly-owned subsidiaries, including VirnetX, collectively, on a consolidated basis after giving effect to the merger.

Company Overview

We are a development stage company focused on commercializing a patent portfolio for securing real-time communications over the Internet. These patents were acquired by our principal operating subsidiary, VirnetX, from Science Applications International Corporation, or SAIC. SAIC is a FORTUNE 500® scientific, engineering, and technology applications company that uses its deep domain knowledge to solve problems of vital importance to the nation and the world, in national security, energy and the environment, critical infrastructure, and health.

In December 2007, we closed an underwritten public offering of 3.45 million shares of our common stock, raising gross proceeds of \$13.8 million before underwriting discounts and commissions and offering expenses. In connection with the 2007 offering, our common shares began trading on the American Stock Exchange under the ticker symbol "VHC." Our principal business activities to date are our efforts to commercialize our patent portfolio. We also conduct the remaining activities of PASW, Inc., which are generally limited to the collection of royalties on certain Internet-based communications by a wholly-owned Japanese subsidiary of ours pursuant to the terms of a single license agreement. The revenue generated by this agreement is not significant.

Although we believe we may derive revenues in the future from our principal patent portfolio and are currently endeavoring to develop certain of those patents into marketable products, we have not done so to date. Because we have limited capital resources, our revenues are insignificant and our expenses, including but not limited to those we expect to incur in our patent infringement case against Microsoft, are substantial, we may be unable to successfully complete our business plans, our business may fail and your investment in our securities may become worthless. See "Risk Factors" for additional information.

We are in the development stage and consequently we are subject to the risks associated with development stage companies including: the need for additional financings; the uncertainty that our patent and technology licensing program development efforts will produce revenue bearing licenses for us; the uncertainty that our development initiatives will produce successful commercial products as well as the marketing and

customer acceptance of such products; competition from larger organizations; dependence on key personnel; uncertain patent protection; and dependence on corporate partners and collaborators. To achieve successful operations, we will require additional capital to continue research and development and marketing efforts. No assurance can be given as to the timing or ultimate success of obtaining future funding.

Recent Developments

We announced our GABRIEL Connection Technology™ on April 1, 2008. Our GABRIEL Connection Technology™ is designed to secure all types of real-time communications over the Internet. This technology uses industry standard encryption methods with our patented DNS lookup mechanisms to create a secure communication link between users intending to communicate in real time over the Internet. This technology automatically encrypts data allowing organizations and individuals to establish communities of secure, registered users to transmit information between multiple devices and operating systems. These secure network communities, which we call secure private domains, or SPDs, are designed to be fully-customizable and support applications such as IM, VoIP, mobile services, streaming video, file transfer and remote desktop in a completely secure environment.

On May 14, 2008, we announced jointly with ipCapital Group the completion and results of ipCapital Group's evaluation of our business model, product, patent portfolio, technology and software. The goal of the evaluation was to determine the potential commercialization value range to potential licensing partners in IP telephony, mobility, fixed-mobile convergence and unified communications markets. Based on ipCapital Group's proprietary ipValue Model, the estimated potential commercialization value range of our business model, product, patent portfolio, technology and software indicates a significant market opportunity. We are currently in discussions with prospective customers in our target markets.

On March 31, 2008, Microsoft filed a motion to dismiss our patent infringement case against it. On June 3, 2008, the court denied Microsoft's motion to dismiss. The court ruled that VirnetX has "constitutional standing" to sue for patent infringement. Also pursuant to the court decision, on June 10, 2008, SAIC joined us in our lawsuit as a plaintiff.

On August 26, 2008, we were awarded another U.S. patent, number 7,418,504, by the U.S. Patent and Trademark Office. The new patent, titled "Agile network protocol for secure communications using secure domain names" describes a system for establishing a secure communication link using secure domain names. In conjunction with the issuance of this patent, we will seek to commercialize these exclusive rights in the United States by establishing the secure domain name registry service for the Internet. Additional information about the patent can be found on www.uspto.gov.

On October 23, 2008, our Board of Directors authorized the establishment of an advisory board and we concurrently entered into advisory board agreements with John Cronin, Paul Henderson, and John F. Slitz. The members of our advisory board collaborate with and provide advice and assistance to us, with a focus on facilitating the development and commercialization of our licensing program. We will strategically select members of our advisory board, including those appointed on October 23, 2008, who are well-informed and well-connected in fields relevant to our software and technology solutions, market direction, and future plans. Additional biographical information regarding the advisors appointed on October 23, 2008 is included under the section of this prospectus entitled "Management."

On November 19, 2008, the court granted our motion to amend our infringement contentions, permitting us to provide increased specificity and citations to Microsoft's proprietary documents and source code to support our infringement case against Microsoft's accused products, including, among other things, Windows XP, Vista, Server 2003, Server 2008, Live Communication Server, Office Communication Server and Office Communicator. Microsoft was ordered to provide further information regarding its non-infringement contentions and invalidity contentions in light of the amended infringement contentions. Microsoft was also ordered to provide additional e-mail discovery to us. Microsoft was not required to search disaster recovery tapes for additional information.

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. The critical accounting policies we employ in the preparation of our consolidated financial statements are those which involve impairment of long-lived assets, income taxes, fair value of financial instruments and stock-based compensation.

Impairment of Long-Lived Assets

We identify and record impairment losses on long-lived assets used in operations when events and changes in circumstances indicate that the carrying amount of an asset might not be recoverable, but not less than annually. Recoverability is measured by comparison of the anticipated future net undiscounted cash flows to the related assets' carrying value. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the projected discounted future net cash flows arising from the asset.

Income Taxes

We account for income taxes under the liability method. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

Fair Value of Financial Instruments

Carrying amounts of our financial instruments, including cash and cash equivalents, accounts payable, and accrued liabilities, approximate their fair values due to their short maturities.

Stock-Based Compensation

We account for share-based compensation in accordance with Statement of Financial Accounting Standards, or SFAS, No. 123 (revised 2004), "*Share-Based Payment*," or SFAS 123(R), which requires the measurement and recognition of compensation expense in the statement of operations for all share-based payment awards made to employees and directors including employee stock options based on estimated fair values. Using the modified retrospective transition method of adopting SFAS 123(R), the financial statements presented herein reflect compensation expense for stock-based awards as if the provisions of SFAS 123(R) had been applied from the date of our inception.

In addition, as required by Emerging Issues Task Force Consensus No. 96-18, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling Goods or Services*, we record stock and options granted to non-employees at fair value of the consideration received or the fair value of the equity investments issued as they vest over the performance period.

Recent Accounting Pronouncements

In December 2007, the Financial Accounting Standards Board, or FASB, issued SFAS No. 141 (revised 2007), "*Business Combinations*" and SFAS No. 160, "*Accounting and Reporting of Noncontrolling Interests in Consolidated Financial Statements — an amendment to ARB No. 51.*" These standards will significantly change the accounting and reporting for business combination transactions and noncontrolling (minority) interests in consolidated financial statements, including capitalizing at the acquisition date the fair value of acquired in-process research and development, and, remeasuring and writing down these assets, if necessary, in subsequent periods during their development. These new standards will be applied prospectively for business

combinations that occur on or after January 1, 2009, except that presentation and disclosure requirements of SFAS 160 regarding noncontrolling interests shall be applied retroactively. The implementation of these standards is not expected to have a material impact on the consolidated statements of operations or financial position.

In December 2007, the FASB ratified EITF No. 07-1, “*Accounting for Collaborative Agreements.*” This standard provides guidance regarding financial statement presentation and disclosure of collaborative agreements, as defined, which includes arrangements regarding the developing and commercialization of products and product candidates. EITF 07-01 is effective as of January 1, 2009. Implementation of this standard is not expected to have a material impact on the consolidated statements of operations or financial position.

In June 2007, the FASB ratified EITF 07-3, “*Accounting for Nonrefundable Advance Payments for Goods or Services to be used in Future Research and Development Activities.*” This standard requires that nonrefundable advance payments for goods and services that will be used or rendered in future research and development activities pursuant to executory contractual arrangements be deferred and recognized as an expense in the period the related goods are delivered or services are performed. EITF No. 07-3 became effective as of January 1, 2008 and it did not have a material impact on the consolidated statements of operations or financial position upon adoption.

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, or SFAS No. 157, “*Fair Value Measurements.*” SFAS No. 157 provides guidance for using fair value to measure assets and liabilities. It also responds to investors’ request for expanded information about the extent to which companies measure assets and liabilities at fair value, the information used to measure fair value, and the effect of fair valued measurements on earnings. SFAS No. 157 applies whenever standards require (or permit) assets or liabilities to be measured at fair value, and does not expand the use of fair value in any new circumstances. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years, with early adoption permitted, except for the impact of FASB Staff Position, or FSP, 157-2. FSP 157-2 deferred the adoption of SFAS 157 for non financial assets and liabilities until years ended after November 15, 2008. The Company must adopt these requirements no later than the first quarter of 2008.

On March 19, 2008, the FASB issued SFAS No. 161, “*Disclosures about Derivative Instruments and Hedging Activities,*” an amendment of FASB Statement No. 133, or SFAS No. 161. SFAS No. 161 requires enhanced disclosures about an entity’s derivative and hedging activities. These enhanced disclosures will discuss (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity’s financial position, financial performance, and cash flows. SFAS No. 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. We have not determined the impact, if any SFAS No. 161 will have on our consolidated financial statements.

**Nine Months Ended September 30, 2008
Compared with Nine Months Ended September 30, 2007**

Results of Operations

Revenue — Royalties

Revenue generated increased to \$107,955 for the nine months ended September 30, 2008 from \$46,664 for the nine months ended September 30, 2007. Our revenue in 2008 was solely limited to the royalties earned under our single license agreement through our Japan subsidiary. We expect the revenue from this license to decrease substantially in the future. We do not intend to seek additional licenses or other revenue through our Japan subsidiary.

Research and Development Expenses

Research and development costs include expenses paid to outside development consultants and compensation related expenses for our engineering staff. Research and development costs are expensed as incurred.

Our research and development expenses increased by \$165,095 to \$633,335 for the nine months ended September 30, 2008, from \$468,240 for the nine months ended September 30, 2007. This increase is primarily due to increased engineering activities for product development and the addition of one engineer, bringing the total number of engineers we employ to four. We expect research and development expenses to increase as employees are hired to provide in-house research and development. While we expect to use outside contractors for additional product development on a limited basis, we expect those costs to remain level or decline.

Selling, General and Administrative Expenses

Selling, general and administrative expenses include management and administrative personnel, as well as outside legal, accounting, and consulting services.

Our selling, general and administrative expenses increased by \$4,516,767 to \$8,620,276 for the nine months ended September 30, 2008 from \$4,103,509 for the nine month period ended September 30, 2007.

Within selling, general and administrative expenses, legal fees increased by \$2,166,735 to \$4,618,256 for the nine months ended September 30, 2008 from \$2,451,521 for the nine months ended September 30, 2007. The increase in fees incurred was due primarily to our patent infringement litigation against Microsoft and the filing of a Form S-1 registration statement on September 24, 2008.

In addition, during the nine months ended September 30, 2008, we made our first minimum annual royalty payment of \$50,000 to SAIC pursuant to the patent license and assignment agreement, as amended, by and between VirnetX and SAIC. As of September 30, 2008, we had not received any royalty revenue on the patents nor begun to amortize the related intangible asset.

Also within selling, general and administrative expenses, expenses increased by \$2,350,032 to \$4,002,020 for the nine months ended September 30, 2008, from \$1,651,988 for the nine month period ended September 30, 2007. The increase was due principally to stock options granted to our employees and directors. In addition, we increased the number of employees and resources in order to comply with the requirements associated with being an SEC reporting company.

Once we begin to generate royalty revenues, we expect that our selling expenses will increase significantly as we must make payments to ipCapital Group and SAIC with respect to such revenues and as we begin to expand our sales force.

Fiscal Year Ended December 31, 2007 Compared to the Fiscal Year Ended December 31, 2006 and Inception Through December 31, 2005

Results of Operations

Revenue — Royalties

We generated only nominal revenue of \$74,866 during the period from July 5, 2007 (the closing date of the merger between us and VirnetX) to December 31, 2007. We generated no revenue prior to July 5, 2007. Our revenue in 2007 was solely limited to the royalties earned under our single license agreement through our Japan subsidiary. We expect the revenue from this license to decrease substantially in the future. We do not intend to seek additional licenses or other revenue through our Japan subsidiary.

Research and Development Expenses

Research and development costs include expenses paid to outside development consultants and compensation-related expenses for our engineering staff. Research and development costs are expensed as incurred.

Our research and development expenses increased from \$56,000 for the period from August 2, 2005 (date of inception) to December 31, 2005 to \$554,187 for 2006 and to \$684,316 for 2007, primarily as a result of increased engineering activities for product development. We expect research and development expenses to increase as employees are hired to provide in-house research and development. While we expect to use outside contractors for additional product development on a limited basis, we expect those costs to remain level or decline.

Selling, General and Administrative Expenses

Selling, general and administrative expenses include management and administrative personnel, as well as outside legal, accounting, and consulting services.

Our selling, general and administrative expenses increased from \$826,478 for the period from August 2, 2005 (date of inception) to December 31, 2005, to \$853,488 for 2006 and to \$8,040,894 for 2007.

Within selling, general and administrative expenses, professional fees, primarily legal fees, increased from \$12,481 in the period from August 2, 2005 (date of inception) to December 31, 2005 to \$133,199 in 2006 and to \$5,286,525 in 2007. The fees were incurred to pursue the litigation with Microsoft, assist in the merger between VirnetX and VirnetX Holding Corporation, audit the financial statements, assist in obtaining financing and to assist in contract negotiations and in general corporate matters. Legal fees may continue to increase as our patent infringement litigation moves forward and we incur the costs associated with being an SEC reporting company.

Also within selling, general and administrative expenses, compensation expenses changed from \$799,920 in the period from August 2, 2005 (date of inception) to December 31, 2005 to \$613,757 in 2006 and to \$2,152,000 in 2007. The compensation expense was higher in 2005 than 2006 due to the higher proportion of stock based compensation expense in 2005. The increase from 2006 to 2007 is due principally to stock-based compensation expense related to stock options granted to our employees and directors and an increase in the number of our employees as we added resources to comply with reporting requirements.

Other selling, general and administrative expenses increased from \$14,077 in the period from August 2, 2005 (date of inception) to December 31, 2005 to \$106,532 in 2006 and to \$602,639 in 2007 as we incurred costs related to building our infrastructure, litigation support and completing the merger.

Once we begin to generate royalty revenues, we expect that our selling expenses will increase significantly as we must make payments to ipCapital Group and SAIC with respect to such revenues and as we begin to expand our sales force.

Liquidity and Capital Resources

We are in the development stage and have raised capital since our inception through the issuance of our equity securities. As of September 30, 2008, we had approximately \$2,260,170 in cash. We expect to finance future cash needs primarily through proceeds from equity or debt financings, loans, and/or collaborative agreements with corporate partners. We have used the net proceeds from the sale of common and preferred stock for general corporate purposes, which have included funding research and development, litigation efforts and working capital needs.

We anticipate that our existing cash and cash equivalents, together with net proceeds from this offering, at an assumed public offering price of \$1.75 per share and associated warrants and assuming no warrants are exercised, may only be sufficient to fund our operations for the next five months.

To obtain additional capital when needed, we expect to evaluate alternative financing sources, including, but not limited to, the issuance of equity or debt securities, corporate alliances, joint ventures and licensing agreements; however, there can be no assurance that funding will be available on favorable terms, if at all. We cannot assure you that we will successfully commercialize our products and services or that our products and services will gain sufficient market acceptance to enable us to earn a profit. If we are unable to obtain additional capital or generate sufficient revenue from such efforts, we may be required to cease operations or

to reduce cash used in our business, including the termination of commercialization efforts that may appear to be promising, the sale of our patent portfolio or other assets, the abandonment of our litigation with Microsoft or others and the reduction in overall operating activities.

We believe that our 2009 average cash requirement to fund operations will average approximately \$950,000 per month. We anticipate our monthly cash requirements will increase significantly as we increase our expenditures for:

- our lawsuit against Microsoft;
- infrastructure;
- sales and marketing;
- research and development;
- personnel; and
- general business enhancements.

We may exceed those projected amounts if we increase these expenditures in response to business conditions we do not currently expect or for other reasons. The process of developing new security solutions is inherently complex, time-consuming, expensive and uncertain. We must make long-term investments and commit significant resources before knowing whether our patented technology offerings will achieve market acceptance. We are unable to predict when we will begin to generate material net cash inflows from our patent and technology licensing program and our secure domain name registry service.

Off-Balance Sheet Arrangements

As of December 31, 2008, we did not have any off balance sheet arrangements except for operating lease commitments and the contingent portion of our royalty obligation under our royalty agreement with SAIC as discussed in the notes to the financial statements.

BUSINESS

The Company

We are developing and commercializing software and technology solutions for securing real-time communications over the Internet. Our patented GABRIEL Connection Technology™ combines industry standard encryption protocols with our patented techniques for automated domain name system, or DNS, lookup mechanisms, enabling users to create a secure communication link using secure domain names. We also intend to establish the exclusive secure domain name registry in the United States and other key markets around the world. Our software and technology solutions provide the security platform required by next-generation Internet-based applications such as instant messaging, or IM, voice over Internet protocol, or VoIP, mobile services, streaming video, file transfer and remote desktop. Our technology generates secure connections on a “zero-click” or “single-click” basis, significantly simplifying the deployment of secure real-time communication solutions by eliminating the need for end users to enter any encryption information.

We intend to license our patents and our GABRIEL Connection Technology™ to original equipment manufacturers, or OEMs, within the IP-telephony, mobility, fixed-mobile convergence and unified communications markets. The leaders in these markets include Alcatel-Lucent, Avaya Inc., Cisco Systems, Inc., Juniper Networks, Inc., LM Ericsson Telephone Company, Motorola, Inc., NEC Corporation, Nokia Corporation, Nortel Networks Corporation, Samsung Electronics Co. Ltd. and Sony Ericsson Mobile Communications AB, among others. We also intend to license our patent portfolio, technology and software, including our secure domain name registry service, to communication service providers as well as to system integrators. We believe that the market opportunity for our software and technology solutions is large and expanding. As part of our licensing strategy, in March 2008, we hired ipCapital Group, a leading advisor on licensing technology and intellectual property, to initiate discussions with several major potential licensees. Since its founding in 1998, ipCapital Group has supported the licensing efforts of clients across a variety of technologies and markets, resulting in transactions representing several hundred million dollars of value. We are currently in discussions with prospective customers in our target markets.

Our portfolio of intellectual property is the foundation of our business model. We currently have 11 patents in the United States and eight international patents, as well as several pending U.S. and foreign patent applications. Our patent portfolio is primarily focused on securing real-time communications over the Internet, as well as related services such as the establishment and maintenance of a secure domain name registry. Our software and technology solutions also have additional applications in operating systems and network security. The core development team behind our patent portfolio, technology, and software has worked together for over ten years and is the same team that invented and developed this technology while working at Science Application International Corporation, or SAIC. SAIC is a FORTUNE 500® scientific, engineering, and technology applications company that uses its deep domain knowledge to solve problems of vital importance to the nation and the world, in national security, energy and the environment, critical infrastructure, and health. In 2006, we acquired this patent portfolio, which now serves as the foundation of our planned licensing and service offerings. We expect to derive the majority of our revenue from license fees and royalties associated with these patents. We also intend to continue our research and development efforts to further strengthen and expand our patent portfolio, and over time, we plan to leverage this portfolio to develop a product suite that can be sold to enterprise customers and developers.

Industry Overview

The Internet is increasingly evolving into a rich medium used by individuals and businesses to conduct commerce, share information and engage in real-time communications including email, text messaging, IM, and voice and video calls. This communications experience is richer and more complex than ever before. Session initiation protocol, or SIP, was developed to enable the convergence of voice and data networks and today is the predominant industry standard for establishing multimedia communications over the Internet such as voice, video, instant messaging, presence information and file transfer. SIP, as well as other real-time

collaboration protocols such as XMPP, use DNS lookup as its primary means of connecting Internet devices but is an open architecture that remains inherently unsecure.

We believe that accessing a diversity of services from a single device, anytime and anywhere, and the ability to access these same services from a range of devices, are emerging as key market requirements. The portions of the IP-telephony, mobility, fixed-mobile convergence and unified communications markets that could benefit from our software and technology solutions are forecasted to grow from approximately \$59 billion in total revenues in 2006 to approximately \$162 billion in total revenues by 2011, representing a compound annual growth rate, or CAGR, of approximately 23%. This growing trend represents a significant opportunity for VirnetX to license its patent portfolio, technology and software, and establish its secure domain name registry.

IP Telephony

IP telephony includes technologies that use Internet Protocol's packet-switched connections to exchange voice, fax, and other forms of information traditionally carried over the dedicated circuit-switched connections of the public switched telephone network, or PSTN. The adoption of IP telephony has helped businesses significantly lower network operating costs by using a common network for voice and data. As the workforce becomes increasingly dispersed, mobile features enabled by Internet protocol-based communications such as presence, unified messaging, peer-to-peer applications, find me/follow me, white-boarding and document sharing have become more commonplace. However, the development of the related security infrastructure has lagged behind, leaving next-generation networks vulnerable to a multitude of threats including man-in-middle, eavesdropping, domain hijacking, distributed denial of service, or DDoS, spam over Internet telephony, or SPIT, and spam over instant messaging, or SPIM. These threats continue to highlight the need for securing next-generation networks. As the use of IP telephony systems extends beyond the boundaries of an organization's private network, security is likely to become an even bigger concern. Worldwide revenue from IP telephony products like IP-PBX including IP phones, service provider VoIP and IMS equipment, VoIP gateways and hosted VoIP services for businesses is forecasted to grow from approximately \$15 billion in 2006 to approximately \$43 billion in 2011, representing a CAGR of approximately 24%. We believe our unique and patented solution provides the robust security platform required for providing on-demand secure communication links between enterprises intending to communicate securely without manually configuring the connections. We believe a standard security solution such as ours will further accelerate the adoption of IP telephony products in the market and allow enterprises to take full advantage of these rich content applications and real-time communications over the Internet, thereby significantly increasing their return on investment.

Fixed-Mobile Convergence

Fixed-mobile convergence is an environment where wireline and wireless phones work together with Internet Protocol to deliver services (voice, video, data and combinations thereof) uniformly across multiple access networks, including, among others, WiMAX, WiFi, cellular and fixed. We believe that the fixed-mobile convergence infrastructure equipment revenue will grow from approximately \$9 million in 2006 to over \$406 million in revenue in 2011, representing a CAGR of approximately 116%. Additionally, according to a thought leadership paper entitled "Road to Full Convergence" published by Fixed-Mobile Convergence Alliance, or FMCA, an alliance of leading operators representing a customer base of over 850 million customers, consumers increasingly feel the need to be connected and have real-time access to media streams, blogs and breaking news. During the past ten years, users have become increasingly technologically sophisticated and are now demanding greater functionality from the Internet. Today, the Internet is used for commerce, social networking, online dating and a number of other forms of media-rich, real-time communication and collaboration. Mobile devices like dual mode (cellular/WiFi) phones lie at the center of this transition and have become the device with the closest proximity and relationship to the user. We believe that accessing a diversity of services from a single device, anytime and anywhere, and the ability to access the same services from a range of devices, is emerging as a key market requirement. Worldwide total dual mode cellular/WiFi phone revenue was approximately \$17 billion in 2006 and is expected to grow to over \$76 billion

in 2011, representing a CAGR of approximately 35%. The strong projected growth for converged cellular/WiFi phones and related services in enterprise and consumer market segments represents a significant opportunity for VirnetX's patent portfolio, technology, and software to become the industry standard for securing real-time communication.

IP Mobility

Smartphones are multi-functional devices that handle a wide variety of business-critical applications and support increasingly complex functions including, enhanced data processing, Internet access, e-mail access, calendars and scheduling, contact management and the ability to view electronic documents. Users have continual access to these applications while on the move making them an increasingly essential business tool for the mobile worker. These devices enable mobile workers to have similar functionality inside or outside the office thereby increasing employee efficiency. However, it is critical that this mobile environment have the same level of security as an enterprise's internal network. Worldwide revenue from IP mobility products like smartphones and mobile data cards is expected to grow from approximately \$26 billion in 2006 to approximately \$41 billion by 2011, representing a CAGR of approximately 9%. We believe in order to realize the full functionality of IP mobility, several challenges including security must be overcome. When users are mobile, connections and data need to cross multiple network boundaries, each of which poses a security threat. Wireless networks present unique threats because rogue users can enter the enterprise network through wireless access points that may not be sufficiently protected as part of an organization's IT security protocols. Providing authenticated access to the wireless networks and enterprise applications through the wireless domain are important requirements and represent a significant market opportunity for VirnetX's patented technology and secure domain names to provide users fully authenticated secure access on a "zero-click" or "single-click" basis.

Unified Communications

The need to enhance productivity is putting increasing demand on instant access to, and the management of, rapidly expanding real-time information. Mobile collaboration, and the ability to conduct business whether inside or outside of the office, are high priorities. Business and consumer users are nomadic and expect instant access everywhere. The ability to establish multiple secure simultaneous network connections and provide IP sessions with strong security and encryption will be critical to widespread deployment of next-generation networks. A shortcoming of this new communications environment is that the various modes of communication operate independently from one another and do not integrate easily, if at all. As the number of devices grows, individual points of contact multiply and communication becomes more sophisticated and increasingly vulnerable.

The idea behind unified communications is to organize the array of communication methodologies, integrating the various fragmented ways individuals communicate today into a single communications experience, ultimately increasing utility and productivity. The basic components comprising unified communications include: a directory for storing addresses, various modes of communication with each user/contact (desk phone, mobile phone, IM, etc.), message storage for all messages regardless of communication method and secure presence of a user's status for each mode of communication (available, away, busy, etc.). Worldwide unified communications market generated approximately \$377 million in revenue in 2006 and is forecasted to grow rapidly over the next few years generating approximately \$813 million in revenue in 2011, representing a CAGR of approximately 17%. We believe the growth in unified communication products may not reach its full potential due to the lack of transparent and seamless security as users hesitate to place their presence information online for all to see and as organizations block access due to the lack of credentials verified by a neutral third party. Our solutions help address these concerns and should enable significant growth in the unified communications market.

Our Solutions

Our software and technology solutions, including our secure domain name registry, our patents and our GABRIEL Connection Technology™ are designed to secure all types of real-time communications over the Internet. Our technology uses industry standard encryption methods with our patented DNS lookup mechanisms to create a secure communication link between users intending to communicate in real time over the Internet. Our technology can be built into network infrastructure, operating systems or silicon chips developed for a communication or computing device to secure real-time communications over the Internet between any number of devices. Our technology automatically encrypts data allowing organizations and individuals to establish communities of secure, registered users and transmit information between multiple devices, networks and operating systems. These secure network communities, which we call secure private domains, or SPDs, are designed to be fully-customizable and support rich content applications such as IM, VoIP, mobile services, streaming video, file transfer and remote desktop in a completely secure environment. Our approach is a unique and patented solution that provides the robust security platform required by these rich content applications and real-time communications over the Internet. The key benefits and features of our technology include the following:

- **Automatic and seamless to the user.** After a one-time registration, users connect securely on a “zero-click” or “single-click” basis.
- **Secure data communications.** Users create secure networks with people they trust and communicate over a secure channel.
- **Control of data at all times.** Users can secure and customize their unified communication and collaboration applications such as file sharing and remote desktop with policy-based access and secure presence information.
- **Authenticated users.** Users know they are communicating with authenticated users with secure domain names.
- **Application-agnostic technology.** Our solution provides security at the IP layer of the network by using patented DNS lookup mechanisms to make connections between secure domain names, thereby obviating the need to provide application specific security.

Competitive Strengths

We believe the following competitive strengths will enable our success in the marketplace:

- **Unique patented technology.** We are focused on developing innovative technology for securing real-time communications over the Internet, and establishing the exclusive secure domain name registry in the United States and other key markets around the world. Our unique solutions combine industry standard encryption methods and communication protocols with our patented techniques for automated DNS lookup mechanisms. Our technology and patented approach enables users to create a secure communication link by generating secure domain names. We have a strong portfolio comprised of 11 patents in the United States and eight international patents, as well as several pending U.S. and foreign patent applications. Our portfolio includes patents and pending patent applications in the United States and other key markets that support our secure domain name registry service for the Internet.
- **Scalable licensing business model.** Our intellectual property portfolio is the foundation of our business model. We are actively engaged in commercializing our intellectual property portfolio by pursuing licensing agreements with OEMs, service providers and system integrators within the IP-telephony, mobility, fixed-mobile convergence and unified communications end-markets. We have engaged ipCapital Group to accelerate our patent and technology licensing program with customers and to expand the depth of our intellectual property portfolio, and we are actively pursuing our first licensing agreements. We believe that our licensing business model is highly scalable and has the potential to generate strong margins once we achieve significant revenue growth.

- **Highly experienced research and development team.** Our research and development team is comprised of nationally recognized network security and encryption technology scientists and experts that have worked together as a team for over ten years and, collectively, have over 120 years of experience in the field. During their careers, this team has developed several cutting-edge technologies for U.S. national defense, intelligence and civilian agencies, many of which remain critical to our national security today. Prior to joining VirnetX, our team worked for SAIC during which time they invented the technology that is the foundation of our patent portfolio, technology, and software. Based on the collective knowledge and experience of our development team, we believe that we have one of the most experienced and sophisticated groups of security experts researching vulnerability and threats to real-time communication over the Internet and developing solutions to mitigate these problems.

Our Strategy

Our strategy is to become the market leader in securing real-time communications over the Internet and to establish our GABRIEL Communications Technology™ as the industry standard security platform. Key elements of our strategy are to:

- Implement a patent and technology licensing program to commercialize our intellectual property, including our GABRIEL Connection Technology™.
- Establish VirnetX as the exclusive universal registry of secure domain names and to enable our customers to act as registrars for their users and broker secure communication between users on different registries.
- Leverage our existing patent portfolio and technology to develop a suite of products that can be sold directly to end-user enterprises.

In furtherance of our strategy, in March 2008, we engaged ipCapital Group to help us support and grow our licensing business. The ipCapital Group is a leading advisor on licensing technology and intellectual property. Through our alliance with ipCapital Group, we are actively engaged in discussions with several potential customers in our target markets. ipCapital Group is led by John Cronin. Prior to founding ipCapital Group, Mr. Cronin was a distinguished inventor at IBM for 17 years where he patented 100 inventions, published over 150 technical papers, received IBM's "Most Distinguished Inventor Award," and was recognized as IBM's "Top Inventor." As a member of the senior technical staff and the prestigious IBM Academy, Mr. Cronin led an intellectual asset team that spearheaded efforts to produce and manage the development of intellectual property at IBM. Eventually known as "The IBM Patent Factory," this select group supported the division that increased IBM's annual licensing revenue from \$30 million in 1992 to more than \$1 billion in 1997 when Mr. Cronin left IBM. Since its founding in 1998, ipCapital Group has supported the licensing efforts of clients across a variety of technologies and markets, resulting in transactions representing several hundred million dollars of value.

License and Service Offerings

We plan to offer a diversified portfolio of license and service offerings focused on securing real-time communications over the Internet, including:

- **VirnetX patent licensing:** Customers who want to develop their own implementation of the VirnetX code module for supporting secure domain names, or who want to use their own techniques that are covered by our patent portfolio for establishing secure communication links, will purchase a patent license. The number of patents licensed, and therefore the cost of the patent license to the customer, will depend upon which of the patents are used in a particular product or service. These licenses will typically include an initial license fee, as well as an ongoing royalty.
- **GABRIEL Connection Technology™ Software Development Kit, or SDK:** OEM customers who want to adopt the GABRIEL Connection Technology™ as their solution for establishing secure connections using secure domain names within their products will purchase an SDK license. The

software development kit consists of object libraries, sample code, testing and quality assurance tools and the supporting documentation necessary for a customer to implement our technology. These tools are comprised of software for a secure domain name connection test server, a relay test server and a registration test server. Customers will pay an up-front license fee to purchase an SDK license and a royalty fee for every product shipped with the embedded VirnetX code module.

- **Secure domain name registrar service:** Customers, including service providers, telecommunication companies, ISPs, system integrators and OEMs can purchase a license to our secure domain name registrar service. We provide the software suite and technology support to enable such customers to provision devices with secure domain names and facilitate secure connections between registered devices. This suite includes the following server software modules:
 - **Registrar server software:** Enables customers to operate as a secure domain name registrar that provisions devices with secure domain names. The registrar server software provides an interface for our customers to register new virtual private domains and sub-domain names. This server module must be enrolled with the VirnetX secure domain name master registry to obtain its credentials before functioning as an authorized registrar.
 - **Connection server software:** Allows customers to provide connection services to enrolled devices. The connection services include registration of presence information for authenticated users and devices, presence information query request services, enforcement of policies and support for communication with peers behind firewalls.
 - **Relay server software:** Allows customers to dynamically maintain connections and relay data to private IP addresses for network devices that reside behind firewalls.

Secure domain name registrar service customers will enter into a technology licensing and revenue sharing agreement with VirnetX whereby we will typically receive an up-front licensing fee for the secure domain name registrar technology, as well as ongoing annual royalties for each secure domain name issued by the customer.

- **Secure domain name master registry and connection service:** As part of enabling the secure domain name registrar service, we will maintain and manage the secure domain name master registry. This service will enroll all secure domain name registrar customers and generate the credentials required to function as an authorized registrar. It also provides connection services and universal name resolution, presence information and secure connections between authorized devices with secure domain names.
- **Technical support services:** We intend to provide high-quality technical support services to licensees and customers for the rapid customization and deployment of GABRIEL Connection Technology™ in an individual customer's products and services.

Our research and development team was the team responsible for inventing the patents that form the foundation of the technology we intend to license to OEMs and service providers globally. This team has worked together for over ten years and, collectively, has over 120 years of experience in engineering and technology. We intend to leverage this experience and continue investing in research and development and, over time, expect to strengthen and expand our patent portfolio, technology, and software. While we are currently focused on securing real-time communications over the Internet and establishing the first and only secure domain name registry, we believe our existing and future intellectual property portfolio will extend to additional areas including, among others, network security and operating systems for fixed and mobile devices.

Customers

We are currently focused on commercializing our technology and are actively pursuing our first licensing agreements. We intend to license our patents and our GABRIEL Connection Technology™ to original equipment manufacturers, or OEMs, within the IP-telephony, mobility, fixed-mobile convergence and unified communications markets. We also intend to license our patent portfolio, technology and software, including our secure domain name registry service, to communication service providers as well as to system integrators.

Marketing and Sales

We plan to employ a leveraged, partner-oriented, marketing strategy for our patent and technology licensing program. The marketing strategy for our patent and technology licensing program will primarily be focused on OEMs. We have engaged ipCapital Group to accelerate our patent and technology licensing program with these customers and are actively pursuing our first licensing agreements.

We plan to directly market our domain name registry services to our service provider and system integrator customers. ipCapital Group is also focused on building our marketing efforts with these potential customers. Additionally, we hope to leverage our relationship with SAIC to extend our offering to departments and agencies within the federal government. SAIC is a FORTUNE 500® scientific, engineering, and technology applications company that uses its deep domain knowledge to solve problems of vital importance to the nation and the world, in national security, energy and the environment, critical infrastructure, and health.

Once we begin generating revenue, we intend to build a sales force that will be responsible for managing existing accounts and pursuing licensing and sales opportunities with new customers.

Competition

We believe our technology and solutions will compete primarily against various proprietary security solutions. We group these solutions into three main categories:

- Proprietary or home-grown application specific security solutions have been developed by vendors and integrated directly into their products for our target markets including IP-telephony, mobility, fixed-mobile convergence, and unified communications. These proprietary solutions have been developed due to the lack of standardized approaches to securing real-time communications. This approach has led to corporate networks that are isolated and, as a result, restrict enterprises to using these next-generation networks within the boundaries of their private network. These solutions generally do not provide security for communications over the Internet or require network administrators to manually exchange keys and other security parameters with each destination network outside their corporate network boundary. The cost-savings and other benefits of IP-based real-time communications are significantly limited by this approach to securing real-time communications.
- A session border controller, or SBC, is a device used in networks to exert control over the signaling and media streams involved in establishing, conducting and terminating VoIP calls. Signaling protocols such as SIP and XMPP, transfer information including endpoint IP addresses and port numbers in a manner that prevents this information from being seen by a traditional firewall or network address translation, or NAT, device, and reaching the intended destination. SBCs are used in physical networks to address these limitations and enable real-time session traffic to cross the boundaries created by firewalls and other NAT devices and enable VoIP calls to be established successfully. However, SBCs must decrypt and analyze every single data packet for the information to be transmitted successfully, thereby preventing end-to-end encryption. This network design results in SBCs becoming a single point of congestion on the network, as well as a single point of failure. SBCs are also limited to the physical network they secure.
- SIP firewalls, or SIP-aware firewalls, and application layer gateways, manage and protect the traffic, flow and quality of VoIP and other SIP-related communications. They perform real-time network address translation and dynamic firewall functions and support multiple signaling protocols, and media

functionality, allowing secure interconnection and the flow of IP media streams across multiple networks. While SIP firewalls assist in analyzing SIP traffic transmitted over the corporate network to filter out various threats, they do not necessarily encrypt the traffic. As a result, this traffic is not entirely secure from end-to-end nor is it protected against threats like man-in-middle and eavesdropping.

Intellectual Property and Patent Rights

Our intellectual property is primarily comprised of trade secrets, patented know-how, issued and pending patents and technological innovation.

We have a strong portfolio comprised of 11 patents in the United States and eight international patents, as well as several pending U.S. and foreign patent applications. Our patent portfolio is primarily focused on securing real-time communications over the Internet, as well as related services such as the establishment and maintenance of a secure domain name registry. Our software and technology solutions also have additional applications in operating systems and network security.

We have included a list of our U.S. patents below. Each patent below is publicly accessible on the Internet website of the U.S. Patent and Trademark Office at www.uspto.gov. The various terms of our issued U.S. and foreign patents will expire during the period from 2019 to 2024.

| U.S. Patent Number | Title of Patent |
|---------------------------|--|
| 6,502,135 | Agile network protocol for secure communications with assured system availability |
| 6,618,761 | Agile network protocol for secure communications with assured system availability |
| 6,826,616 | Method for establishing secure communication link between computers of virtual private network |
| 6,834,310 | Preventing packet flooding of a computer on a computer network |
| 6,839,759 | Method for establishing secure communication link between computers of virtual private network without user entering any cryptographic information |
| 6,907,473 | Agile network protocol for secure communications with assured system availability |
| 7,010,604 | Agile network protocol for secure communications with assured system availability |
| 7,133,930 | Agile network protocol for secure communications with assured system availability |
| 7,188,180 | Method for establishing secure communication link between computers of virtual private network |
| 7,209,479 | Third party VPN certification |
| 7,418,504 | Agile network protocol for secure communications using secure domain names |

Notwithstanding anything to the contrary set forth in any of the Company's filings under the Securities Act of 1933 or the Securities Exchange Act of 1934 that might incorporate future filings, including this registration statement, of which this prospectus forms a part, in whole or in part, the information set forth on the United States Patent and Trademark Office, or the USPTO Website, shall not be deemed to be a part of or incorporated by reference into any such filings. The Company does not warrant the accuracy or completeness of the USPTO Website, or the adequacy of the USPTO Website, and expressly disclaims liability for errors or omissions on such website.

Assignment of Patents

Most of our issued patents were originally acquired from SAIC pursuant to an assignment agreement by and between VirnetX and SAIC dated December 21, 2006, and a patent license and assignment agreement by and between VirnetX and SAIC dated August 12, 2005, as amended on November 2, 2006, including documents prepared pursuant to the November amendment, and as further amended on March 12, 2008. VirnetX recorded the assignment from SAIC with the U.S. Patent and Trademark Office on December 21, 2006.

Key terms of these agreements are as follows:

- **Patent assignment.** SAIC unconditionally and irrevocably conveyed, transferred, assigned and quitclaimed all its right, title and interest in and to the patents and patent applications, as specifically set forth on Exhibit A to the assignment document recorded with the U.S. Patent and Trademark Office, including, without limitation, the right to sue for past infringement.
- **License to SAIC outside the field of use.** On November 2, 2006, we granted to SAIC an exclusive, royalty free, fully paid, perpetual, worldwide, irrevocable, sublicensable and transferable right and license permitting SAIC and its assignees to make, have made, import, use, offer for sale, and sell products and services covered by, and to make improvements to, the patents and patent applications we acquired from SAIC, solely outside our field of use. We have, and retain, all right, title and interest to all our patents within our field of use. Our field of use is defined as the field of secure communications in the following areas: virtual private networks, or VPNs; secure VoIP; electronic mail, or e-mail; video conferencing; communications logging; dynamic uniform resource locators, or URLs; denial of service; prevention of functional intrusions; IP hopping; voice messaging and unified messaging; live voice and IP PBXs; voice web video conferencing and collaboration; IM; minimized impact of viruses; and secure session initiation protocol or SIP. Our field of use is not limited by any predefined transport mode or medium of communication (for example, wire, fiber, wireless, or mixed medium). On March 12, 2008, SAIC relinquished the November 2, 2006, exclusive grant back license outside our field of use, as well as any right to obtain such exclusive license in the future. Effective March 12, 2008, we granted to SAIC a non-exclusive, royalty free, fully paid, perpetual, worldwide, irrevocable, sublicensable and transferable right and license permitting SAIC and its assignees to make, have made, import, use, offer for sale, and sell products and services covered by, and to make improvements to, the patents and patent applications we acquired from SAIC, solely outside our field of use.
- **Compensation obligations.** As consideration for the assignment of the patents and for the rights we obtained from SAIC as a result of the March 12, 2008 amendment, we are required to make payments to SAIC based on the revenue generated from our ownership or use of the patents assigned to us by SAIC.
 - Our compensation obligation includes payment of royalties, in an amount equal to (a) 15% of all gross revenues generated by us in our field of use less (1) trade, quantity and cash discounts allowed, (2) commercially reasonable commissions, discounts, refunds, rebates, chargebacks, retroactive price adjustments and other allowances which effectively reduce the net selling price, and which are based on arms length terms and are customary and standard in VirnetX's industry, and (3) actual product returns and allowances; (b) 15% of all non-license gross revenues generated by us outside our field of use less (1) trade, quantity and cash discounts allowed, (2) commercially reasonable commissions, discounts, refunds, rebates, chargebacks, retroactive price adjustments and other allowances which effectively reduce the net selling price, and which are based on arms length terms and are customary and standard in VirnetX's industry, and (3) actual product returns and allowances; and (c) 50% of all license revenues generated by us outside our field of use less (1) trade, quantity and cash discounts allowed, (2) commercially reasonable commissions, discounts, refunds, rebates, chargebacks, retroactive price adjustments and other allowances which effectively reduce the net selling price, and which are based on arms length terms and are customary and standard in VirnetX's industry, and (3) actual product returns and allowances.
 - Royalty payments are calculated based on each quarter and payment is due within 30 days following the end of each quarter.
 - Beginning 18 months after January 1, 2007, we must make a minimum guaranteed annual royalty payment of \$50,000.
 - The maximum cumulative royalty paid in respect to our revenue-generating activities in our field of use shall be no more than \$35 million.

- In addition to the royalties, in the circumstances and subject to the limitations specified in the November amendment, SAIC shall be entitled to receive 10% of any proceeds, revenues, monies or any other form of consideration paid for the acquisition of VirnetX by Microsoft or any other party alleged to be infringing the patents or patent applications we acquired from SAIC, up to a maximum amount of \$35 million. Any such payments to SAIC shall be credited against the \$35 million maximum cumulative royalty payable with respect to our revenue-generating activities in our field of use.
- In the event that VirnetX receives any proceeds, recovery or other form of compensation (other than acquisition proceeds) as a result of any action or proceeding brought by VirnetX against Microsoft or certain other alleged infringing companies to resolve a claim of infringement or enforcement relating to the patents and patent applications we acquired from SAIC, or as a result of negotiations with such entities, as further consideration for the assignment of the patents, in lieu of any amounts otherwise owing to SAIC we must pay to SAIC 35% of the excess of such proceeds over all costs incurred in connection with any such litigation, without a cap. Any payment to SAIC of amounts with respect to such proceeds shall be credited against the \$35 million maximum cumulative royalty payable with respect to our revenue-generating activities in our field of use.
- In the event that VirnetX receives any proceeds, recovery or other form of compensation as a result of any action or proceeding brought by VirnetX against parties other than Microsoft and certain other alleged infringing companies, with respect to which VirnetX is required to notify SAIC of infringement under the terms of the November amendment to resolve a claim of infringement or enforcement relating to the patents and patent applications we acquired from SAIC, or as a result of negotiations with such entities (other than acquisition proceeds) as further consideration for the assignment of the patents, in lieu of any amounts otherwise owing to SAIC we must pay to SAIC 25% of the excess of such proceeds over all costs incurred in connection with any such litigation, without a cap. Any payment to SAIC of amounts with respect to such proceeds shall be credited against the \$35 million maximum cumulative royalty payable with respect to our revenue-generating activities in our field of use.
- **Reversion to SAIC upon breach or default.** We must convey, transfer, assign and quitclaim to SAIC all of our right, title and interest in and to the patents or patent applications we acquired from SAIC, upon the first occurrence of the following reversion events:
 - our failure to pay SAIC an aggregate cumulative amount of at least \$7.5 million within seven years after January 1, 2007;
 - our failure to pay the \$50,000 minimum annual royalty that has not been cured within 90 days after our receipt of written notice of such failure; or
 - for the period prior to the date of our full payment of the \$35 million maximum cumulative royalty, any termination of the August 2005 agreement with SAIC, as amended.

If a reversion event occurs due to our failure to pay SAIC an aggregate cumulative amount of at least \$7.5 million within seven years after January 1, 2007, then we will receive from SAIC a non-exclusive license to the reverting patents in our field of use.

- **Rights to bring and control actions for infringement and enforcement.** In addition to the exclusive right to bring and control any action or proceeding with respect to infringement or enforcement of our patents, and to collect damages and fees for past, present and future infringement, both in and outside of our field of use, we also have the first right to negotiate with or bring a lawsuit against any and all third parties for purposes of enforcing our patents, regardless of the field of use.
- **Security agreement.** We granted SAIC a security interest in some of our intellectual property, including the patents and patent applications we obtained from SAIC, to secure our payment obligations to SAIC described above.

Government Regulation

The laws governing online secure communications remain largely unsettled, even in areas where there has been legislative action. It may take years to determine whether and how existing laws governing intellectual property, privacy and libel apply to online media. Such legislation may interfere with the growth in use of online secure communications and decrease the acceptance of online secure communications as a viable solution, which could adversely affect our business.

Due to the Internet's popularity and increasing use, new laws regulating secure communications may be adopted. These laws and regulations may cover, among other things, issues relating to privacy, pricing, taxation, telecommunications over the Internet, content, copyrights, distribution and quality of products and services. We intend to comply with all new laws and regulations as they are adopted.

The U.S. government has historically controlled the authoritative domain name system, or DNS, root server since the inception of the Internet. On July 1, 1997, the President of the United States directed the U.S. Secretary of Commerce to privatize the management of the domain name system in a manner that increases competition and facilitates international participation in its management.

On September 29, 2006, the U.S. Department of Commerce extended its delegation of authority by entering into a new agreement with the Internet Corporation for Assigned Names and Numbers, or ICANN, a California non-profit corporation headquartered in Marina Del Rey, California. ICANN is responsible for managing the accreditation of registry providers and registrars that manage the assignment of top level domain names associated with the authoritative DNS root directory. Although other DNS root directories are possible to create and manage privately without accreditation from ICANN, the possibility of conflicting name and number assignments makes it less likely that users would widely adopt a top level domain name associated with an alternative DNS root directory provided by a non-ICANN-accredited registry service.

On June 26, 2008, ICANN announced that it will be relaxing its prior position and will begin to issue generic top level domain names, or gTLDs, more broadly than it had previously. ICANN expects to begin to take applications for gTLDs in April or May of 2009 with an application fee of \$100,000 or more per application. ICANN expects the first of these customized gTLDs to be issued in the fourth quarter of 2009.

We are currently evaluating whether we will apply to become an ICANN-accredited registry provider with respect to one or more customized gTLDs, or create our own alternative DNS root directory to manage the assignment of non-standard secure domain names. We have not yet begun discussions with ICANN and we cannot assure you that we will be successful in obtaining ICANN accreditation for our registry service on terms acceptable to us or at all. Whether or not we obtain accreditation from ICANN, we will be subject to the ongoing risks arising out of the delegation of the U.S. government's responsibilities for the domain name system to the U.S. Department of Commerce and ICANN and the evolving government regulatory environment with respect to domain name registry services.

Employees

As of December 31, 2008, we had 12 full-time employees.

Facilities

Our principal executive offices are located at 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066. Between July 1, 2008 and August 31, 2009, we will lease this property for approximately \$3,150 per month. We have no other properties.

Corporate Overview and History

PASW, Inc. was incorporated in the State of California in November 1992. PASW, Inc. reincorporated in the State of Delaware in March 2007. From inception until January 2003, PASW, Inc. was engaged in the business of developing and licensing software that enabled Internet and web based communications. In January 2003, PASW, Inc. sold all of its operating assets and became a publicly traded company with limited operations.

VirnetX, Inc., which we refer to throughout this prospectus as VirnetX, was incorporated in the State of Delaware in August 2005. In November 2006, VirnetX acquired certain patents from SAIC. In July 2007, we effected a reverse merger between PASW, Inc., and VirnetX, which became our principal operating subsidiary. As a result of this merger, the former security holders of VirnetX came to own a majority of our outstanding common stock. On October 29, 2007, we changed our name from PASW, Inc. to VirnetX Holding Corporation.

MANAGEMENT

The following table sets forth the respective names, ages and positions of each of our directors, and executive officers as of December 31, 2008. There are no family relationships between any of the persons named below. All of our directors were elected to the Board of Directors on July 5, 2007.

Executive Officers and Directors

| Name | Age | Position |
|-------------------|-----|---|
| Kendall Larsen | 51 | President, Chief Executive Officer and Director |
| William E. Sliney | 70 | Chief Financial Officer (Interim) |
| Edmund C. Munger | 64 | Director |
| Scott C. Taylor | 47 | Director |
| Michael F. Angelo | 49 | Director |
| Thomas M. O'Brien | 42 | Director |

Kendall Larsen. Mr. Larsen has been our President since July 5, 2007 and has been our Chief Executive Officer and a Director since June 10, 2007. Mr. Larsen has held the same positions with VirnetX since its inception in August 2005. From April 2003 to July 2005, Mr. Larsen focused on pre-incorporation activities related to VirnetX. From April 2002 to April 2003, Mr. Larsen was a Limited Partner at Osprey Ventures, L.P., a venture fund that makes investments primarily in business and consumer technology companies. From October 2000 to April 2002, he was Senior Vice President and General Manager of the Security Products Division of Phoenix Technologies Ltd., a software and firmware developer. Prior to March 2003, and for a period of over 20 years, Mr. Larsen has held senior executive positions at various leading technology companies, including RSA Security, Inc., Xerox Corporation, Rolm/International Business Machines Corporation, Novell, Inc., General Magic, Inc., and Ramp Networks. Mr. Larsen holds a B.S. in Economics from the University of Utah.

William E. Sliney. Mr. Sliney has been our Chief Financial Officer on an interim and part-time basis since July 5, 2007. Mr. Sliney previously served as our President, Chief Financial Officer and Secretary. He also served as our Chairman of the Board from October 2000 to August 2001 and was a member of our Board of Directors from October 2000 to July 5, 2007. From March 2004 to March 2006, he was also a director of Enterra Energy Trust (NYSE: ENT), an oil and gas trust based in Calgary, Alberta that acquires, operates, and exploits petroleum and natural gas assets in Canada and in the United States. Before joining us, Mr. Sliney was the Chief Financial Officer of Legacy Software Inc. from 1995 to 1998. From 1993 to 1994, Mr. Sliney was Chief Executive Officer of Gump's, a high end department store retailer based in San Francisco. Mr. Sliney received an M.B.A. from the Anderson School at UCLA.

Edmund C. Munger. Mr. Munger has been a Director since July 5, 2007. He has been the Chief Technology Officer of VirnetX since July 2006 and a director of VirnetX since July 2006. From July 1987 to June 2006, Mr. Munger held various positions including Associate Division Manager, Division Manager, Chief System Architect and Assistant Vice President at Science Applications International Corporation, or SAIC. Prior to SAIC, Mr. Munger was the chief system architect for the FBI's Counterterrorism Data Warehouse Prototype, and has worked on several advanced defense systems. Mr. Munger is named as a co-inventor on substantially all of the patents in the VirnetX patent portfolio. Mr. Munger received a M.S. in Naval Architecture and Marine Engineering from MIT and a B.S. in Naval Science from the United States Naval Academy.

Scott C. Taylor. Mr. Taylor has been a Director since July 5, 2007. Mr. Taylor has recently been promoted to Executive Vice President and General Counsel and had previously served as the Vice President of Corporate Legal Services for Symantec Corporation since February 2007. From January 2002 to February 2007, Mr. Taylor worked for Phoenix Technologies Ltd. Prior to 2002, Mr. Taylor has worked at Narus Inc, Symantec Corporation, Pillsbury Madison & Sutro LLP (now Pillsbury Winthrop Shaw Pittman LLP), ICF Incorporated (now ICF Consulting) and the U.S. Securities and Exchange Commission in various roles.

Mr. Taylor was admitted to practice law in the State of California in 1993 and is an advisory Board Member at Langtech (IT infrastructure consulting and outsourced management). He is the Co-chair of General Counsel Committee (and former board member) of the Silicon Valley Campaign for Legal Services and maintains a Top Secret security clearance with the U.S. government. Mr. Taylor has a B.A. in International Relations from Stanford University and a J.D. from George Washington University.

Michael F. Angelo. Mr. Angelo has been a Director since July 2007. He has been a Senior Architect at NetIQ Corporation since August 2005. From October 2003 to August 2005, Mr. Angelo was a Security Architect and Manager, Government Engagements SBU with Microsoft Corporation. From July 1989 to October 2003, Mr. Angelo was a Staff Fellow at both Hewlett Packard Company and Compaq Computer Corp. Mr. Angelo also served as Senior Systems Programmer at the John von Neumann National Supercomputer Center from September 1985 to July 1989. He was a Sub-Chairman of the National Institute of Standards and Technology Board of Assessment for Programs/National Research Council responsible for the CISD review, for fiscal years 2000-2001 and 2001-2002, and a technology contributor and participant on the U.S. Commerce Department's Information Systems Technical Advisory Council, or ISTAC, from 1999 to the present. Mr. Angelo was named a distinguished lecturer for 2004 and 2005 by Sigma XI, the Scientific Research Society. He currently holds 49 patents, most in the area of security and authentication, and was also named the 2003 Inventor of the Year for the City of Houston by the Houston Intellectual Property Lawyers Association.

Thomas M. O'Brien. Mr. O'Brien has been a Director since July 2007. He has been Senior Vice President of Reit Management & Research LLC, an institutional manager of real estate, public real estate investment trusts, or REITs, and other public companies, since April 2006 and served as a Vice President from May 1996 to April 2006. During the last five years, Mr. O'Brien has held various positions with public entities managed by Reit Management or its affiliates, including serving as: (1) Chief Executive Officer and President of TravelCenters of America LLC (AMEX: TA), since February 2007 and a Managing Director since October 2006; (2) Chief Executive Officer and President of RMR Funds, a group of publicly traded closed-end investment management companies which invest in equity and fixed income securities in the United States and international real estate, hospitality and finance sectors, from 2003 to May 2007; and (3) Executive Vice President of Hospitality Properties Trust (NYSE: HPT), a REIT that invests in hotels and travel centers, from 2002 to 2003 and Chief Financial Officer from 1996 to 2002. From 1988 to 1996, Mr. O'Brien was a senior manager with Arthur Andersen LLP where he served a number of public company clients. Mr. O'Brien graduated cum laude from the University of Pennsylvania, Wharton School of Business, with a B.S. in Economics.

Significant Employees

Robert Dunham Short III. Mr. Short has been the Chief Scientist for VirnetX since May 2006. From February 2000 to April 2007, Mr. Short was Assistant Vice President and Division Manager at Science Applications International Corporation, or SAIC. From 1994 to February 2000, he also held various other positions at SAIC. Prior to SAIC, he worked at ARCO Power Technologies, Inc. (Atlantic Richfield Petroleum), Sperry Corporate Technology Center and Sperry Research Center. Mr. Short is named as a co-inventor on substantially all of the patents in the VirnetX patent portfolio. He holds a TS/SCI security clearance. He has a Ph.D in Electrical Engineering from Purdue University along with a M.S. in Mathematics and a B.S. in Electrical Engineering from Virginia Tech.

Kathleen Sheehan. Ms. Sheehan is our Chief Administrative Officer. Prior to this position, she served as our Vice President, Administration and Human Resources since February 2005. From September 2004 until February 2005, Ms. Sheehan focused on equity raise and pre-incorporation activities related to VirnetX. Ms. Sheehan also served as the Treasurer and Chief Financial Officer of VirnetX from March 2006 until July 2007. From September 2002 to September 2004, Ms. Sheehan was a Commercial Property Manager for JBD Properties, a real estate developer. Ms. Sheehan's experience includes Executive Recruiter at Armen and Associates, Senior Director of Human Resources at CHW Advertising and Human Resource and Office Manager at Realtime Consulting, Inc./MODIS.

Sameer Mathur. Mr. Mathur has been the Vice President of Corporate Development and Marketing for VirnetX since July 2007. Prior to that date, Mr. Mathur was the Vice President of Business Development of VirnetX since April 2006. From March 2004 to April 2006, Mr. Mathur was Product Line Manager for SonicWALL Inc. From April 2003 to March 2004, Mr. Mathur was Senior Product Manager for Zone Labs Inc, a leading provider of Internet security software. From June 1996 to April 2003, he was Senior Product Marketing Manager of Phoenix Technologies Ltd. Prior to June 1996, Mr. Mathur worked in various engineering and marketing roles for OEC Japan, IBM Japan, and Pertech Computers Ltd. Mr. Mathur has a B.S. in Engineering from Gujarat University, India.

Dr. Victor Larson. Dr. Larson is the Director of Research and Development and a co-inventor of the VirnetX technologies. Prior to joining VirnetX, Dr. Larson worked for over 20 years doing system engineering, software design and technical program management under contract to many branches of the Department of Defense and the intelligence community. Dr. Larson worked on numerous advanced prototypes to implement new solutions to secure communications, remote sensing data extraction and processing, intelligence information extraction and data visualization. Dr. Larson holds a Ph.D. in Information Technology from George Mason University, an M.S. in Mechanical Engineering from Rensselaer Polytechnic Institute, and a B.S. in Mechanical Engineering from Virginia Tech.

Greg Wood. Mr. Wood has been with VirnetX since October 2007 and has been our Senior Director of Corporate Communications since May 2008. His executive brand experience includes McDonalds, Safeway, Nissan, Burger King, Taco Bell, Nutri-System, Supercuts and Pacific Gas & Electric with advertising agencies that include J. Walter Thompson, Chiat/Day, Tracy-Locke/BBDO, Hoefer Dietrich & Brown and Crossover Creative. Mr. Wood's areas of marketing expertise include strategic branding, new business development, direct, licensing, product merchandising, consumer education, multicultural, investor relations and public relations. Mr. Wood holds a B.A. degree from the University of California, Davis.

Advisory Board Members

The VirnetX advisory board collaborates with and provides advice and assistance to the Company, with a focus on facilitating the development and commercialization of the Company's licensing program.

John Cronin. Mr. Cronin has been a member of our advisory board since October 2008. He is Managing Director and Chairman of ipCapital Group. John spent over 17 years at IBM Corporation and became its top inventor with over 100 patents and 150 patent publications. He created and ran "The IBM Patent Factory" which was essential to helping IBM become number one in US patents and the team contributed to the start of and success of IBM's successful licensing program. Mr. Cronin holds a BSEE, an MSEE, and a B.A. degree in Psychology from the University of Vermont.

Paul Henderson. Mr. Henderson has been a member of our advisory board since October 2008. He is Managing Director of Clarify LLC, a business advisory firm specializing in intellectual property strategy for both early stage and established companies. Prior to this, Mr. Henderson was Director of IP acquisition at Hewlett Packard, or HP. Mr. Henderson also managed HP's Product Generation Consulting Group, providing internal advisory and consulting services to senior leaders of HP businesses. Mr. Henderson holds MBAs from UC Berkeley Haas School of Business and Columbia Graduate School of Business and a degree in Chemical Engineering from the University of Washington.

John F. Slitz. Mr. Slitz has been a member of our advisory board since October 2008. He is the founder of World Series of Golf, Inc. and has been its Chairman of the Board of Directors since 2003. Mr. Slitz was also Vice President of IBM from 2005 to 2007. From 2002 to 2005, Mr. Slitz served as Chief Executive Officer and President of Systems Research and Development (acquired by IBM in 2005). From 2000 to 2002, he was a venture partner at Osprey Ventures, focusing on investments in middleware software companies. Mr. Slitz was also a principal at Slitz & Company, a consulting firm to software and Internet companies. From 1997 to 1999, he was Senior Vice President of Marketing with Novell, Inc. Mr. Slitz holds a B.A. in Economics from SUNY at Cortland, MALS in Psychology/Sociology from the Graduate Faculty New School for Social Research, and an MBA in Management from Farleigh-Dickinson University.

EXECUTIVE COMPENSATION

COMPENSATION DISCUSSION AND ANALYSIS

Objectives and Philosophy of Executive Compensation

We maintain a peer-based executive compensation program comprised of multiple elements. We conducted our benchmarking analysis by evaluating:

- early and late stage private companies using a semi-annual survey of private, venture-backed companies that have received at least one (1) round of financing from a professional U.S.-based venture capital firm. This semi-annual survey was prepared by CompensationPro (a Dow Jones company). Of the companies in this survey, over one-half are in the information technology business and the remainder are divided between healthcare, products and services and other companies;
- a key comparable company, Medivation, Inc., which also completed a reverse merger followed by an underwritten direct primary public offering. This company had similar market capitalization compared to us and was similarly early stage and pre-revenue at the time of their reverse merger, although this company is a medical device company; and
- public company peers using data we gathered from the SEC filings of ten public companies with the same industry code as us and otherwise in a comparable industry, having a market capitalization of between \$25 million and \$500 million, and in a similar geographic region.

The primary objectives of our peer-based executive compensation program are:

- attracting and retaining the most talented and dedicated executives possible;
- correlating annual and long-term cash and stock incentives to achievement of measurable performance objectives; and
- aligning executives' incentives with stockholder value creation.

To achieve these objectives, we implement and maintain compensation plans that tie a substantial portion of each executive's overall compensation to key strategic financial and operational goals such as the establishment and maintenance of key strategic relationships, the development of our product candidates, the identification and advancement of additional product candidates, and the performance of our common stock price. Our compensation committee's approach emphasizes the setting of compensation at levels the committee believes are competitive with executives in other companies of similar size and stage of development operating in the information technology industry while taking into account our relative performance and our own strategic goals.

Tax Deductibility of Executive Compensation

Our compensation committee and our Board have considered the potential future effects of Section 162(m) of the Internal Revenue Code on the compensation paid to our executive officers. Section 162(m) disallows a tax deduction for any publicly held corporation for individual compensation exceeding \$1.0 million in any taxable year for any of our executive officers, unless compensation is performance based. In approving the amount and form of compensation for our executive officers, our compensation committee will continue to consider all elements of the cost to us of providing such compensation, including the potential impact of Section 162(m).

Role of Executive Officers

Our compensation committee exclusively makes all compensation decisions with regard to our chief executive officer and it approves recommendations regarding compensation for our other employees. Our president and chief executive officer generally attends compensation committee meetings and sometimes makes recommendations to our compensation committee regarding the amount and form of the compensation

of the other executive officers and key employees. He is not present for any of the executive sessions or for any discussion of his own compensation.

Elements of Executive Compensation

Executive compensation consists of the following elements:

- **Base salary.** Base salaries for our executives are established based on the scope of their responsibilities, taking into account competitive market compensation paid by other companies for similar positions. Generally, the program is designed to deliver executive base salaries within the range of salaries for executives with the requisite skills in similar positions with similar responsibilities at comparable companies, in line with our compensation philosophy. Executives with more experience, critical skills, and/or considered key performers may be compensated above the range as part of our strategy for attracting, motivating and retaining highly experienced and high performing employees. Base salaries are reviewed annually and adjusted from time to time to realign salaries with market levels after taking into account individual responsibilities, performance, and experience. This review occurs each year in the fourth quarter and adjustments are made from time to time to ensure market competitiveness.
- **Discretionary annual incentive bonus.** Each year, our compensation committee establishes a target discretionary annual incentive bonus pool based on a percentage of an executive's base salary and the achievement of corporate and individual objectives. Our compensation committee has the sole authority to award discretionary annual incentive bonuses to our chief executive officer and has authority along with our Board to award discretionary annual incentive bonuses to other employees. Our compensation committee utilizes annual incentive bonuses to compensate officers for achieving financial and operational goals and for achieving individual annual performance objectives. These objectives vary depending on the individual executive, but relate generally to strategic factors such as establishment and maintenance of key strategic relationships, development and implementation of our licensing strategy, development of our product, identification and advancement of additional products, and to financial factors such as raising capital, improving our results of operations, and increasing the price per share of our common stock.
- **Long-term incentive program.** We believe that long-term performance is achieved through an ownership culture that encourages high performance by our executive officers through the use of stock and stock-based awards. Our 2007 Stock Plan was established to provide our employees, including our executive officers, with incentives to help align those employees' interests with the interests of stockholders. Our compensation committee believes that the use of stock and stock-based awards offers the best approach to achieving our compensation goals. We have historically elected to use stock options as the primary long-term equity incentive vehicle.
- **Stock option grants.** Stock option grants are made at the commencement of employment, may be made annually based upon performance and, occasionally, following a significant change in job responsibilities or to meet other special retention objectives. Our compensation committee reviews and approves stock option awards to executive officers based upon a review of competitive compensation data, its assessment of individual performance, a review of each executive's existing long-term incentives, and retention considerations. In determining the number of stock options to be granted to executives, we take into account the individual's position, scope of responsibility, ability to affect profits and stockholder value, the individual's historic and recent performance, and the value of stock options in relation to other elements of the individual executive's total compensation. We expect to continue to use stock options as a long-term incentive vehicle because:
 - stock options align the interests of executives with those of the stockholders, support a pay-for-performance culture, foster employee stock ownership, and focus the management team on increasing value for the stockholders;
 - stock options are performance based and all the value received by the recipient of a stock option is based on the growth of the stock price;

- stock options help to provide a balance to the overall executive compensation program as base salary and our discretionary annual bonus program focus on short-term compensation, while the vesting of stock options increases stockholder value over the longer term; and
- the vesting period of stock options encourages executive retention and the preservation of stockholder value.

Stock Ownership Guidelines

We have not adopted stock ownership guidelines and our 2007 Stock Plan has provided the principal method for our executive officers to acquire equity in the Company. We currently do not require our directors or executive officers to own a particular amount of our common stock. Our compensation committee is satisfied that stock and option holdings among our directors and executive officers are sufficient at this time to provide motivation and to align this group's interests with those of our stockholders.

Perquisites

Our executive officers participate in the same group insurance and employee benefit plans as our other salaried employees. At this time we do not provide special benefits or other perquisites to our executive officers.

Change of Control Arrangements

Our 2007 Stock Plan allows our Board to determine the terms and condition of awards issued thereunder. Our Board has made the determination that all options issued under our 2007 Stock Plan will include the provision that in the event of a "Change of Control" (as defined in our 2007 Stock Plan), all unvested shares underlying the option will vest and become exercisable immediately prior to the consummation of such Change of Control transaction.

Named Executive Officers' Compensation

Base Salary

Mr. Larsen is our president and chief executive officer, as well as a director. At a compensation committee meeting held on December 31, 2007, Mr. Larsen's base salary was increased for the fiscal year 2008 from \$245,000 in 2007 to \$275,000 in 2008. In approving such an increase to Mr. Larsen's base salary for the fiscal year 2008, the compensation committee conducted the benchmarking analysis discussed above and acknowledged the past services of Mr. Larsen in connection with the merger and the increased responsibilities of Mr. Larsen in performing the duties of a principal executive officer of a fully-operating public company following the merger. Relative to the benchmarking surveys described above, his base salary is above the 75th percentile for early and late stage private companies, below our key comparable company and between the median and the 75th percentile of our public company peers. Mr. Larsen, a founder of VirnetX, has driven the organization's performance, leading it from inception, through the early start-up phase and through several rounds of financing. Mr. Larsen will be critical to our ability to pursue our licensing strategy going forward.

Mr. Sliney is our chief financial officer and his base salary is below the median of early stage private companies, below the median for late stage private companies and our public company peers, and below our key comparable company. In establishing Mr. Sliney's base salary, our compensation committee primarily considered Mr. Sliney's experience in public company work, his transactional and strategic skills, his level of responsibility, past contributions to our performance and expected contributions to our further success.

Discretionary Annual Incentive Bonus

Actual bonus awards for each Named Executive Officer are listed in “Executive Compensation — Summary Compensation Table” on page 32 of this report. No bonuses were paid to Mr. Larsen or Mr. Sliney in the fiscal year 2008.

Long-Term Incentive Program

In determining the amount of the stock option grants made to Mr. Larsen and to Mr. Sliney in 2008, our compensation committee evaluated data derived from the same benchmarking analysis described above that was used to establish cash compensation amounts.

In 2008, Mr. Larsen was not granted any options such that the aggregate of all of his equity incentive shares outstanding under our 2007 Stock Plan represents a fully diluted percentage ownership of the Company that was below the median for early stage private companies, and between the median and the 75th percentile for late stage private companies. In addition, the Black-Scholes option value of all of his equity incentive shares outstanding under our 2007 Stock Plan is higher than our key comparable company and between the median and 75th percentile of our public company peers.

In 2008, Mr. Sliney was not granted any options such that the aggregate of all of his equity incentive shares outstanding under our 2007 Stock Plan represents a fully diluted percentage ownership of the Company that was below the median for early stage private companies, and at the median for late stage private companies. In addition, the Black-Scholes option value of all of his equity incentive shares outstanding under our 2007 Stock Plan is below our key comparable company and between the median and 75th percentile of our public company peers.

Summary Compensation Table

The table that follows shows the compensation earned for the last three (3) fiscal years by our “Named Executive Officers,” as defined in Item 407(m) of Regulation S-K:

| Name & Principal Position | Year | Salary (\$) | Bonus (\$) | Stock Awards (\$) | Option Awards (\$)(1) | Non-Equity Incentive Plan Compensation (\$) | Change in Pension Value and Nonqualified Deferred Compensation Earnings (\$) | All Other Compensation (\$)(2) | Total (\$) |
|---------------------------|------|-------------|------------|-------------------|-----------------------|---|--|--------------------------------|------------|
| Kendall Larsen | 2008 | 275,000 | | | | | | | 275,000 |
| Chief Executive Officer, | 2007 | 245,000 | 244,211 | | 1,015,612 | | | — | 1,504,823 |
| President and Director | 2006 | 237,039 | | — | 7,665 | | | — | 244,704 |
| William E. Sliney | 2008 | 98,442(3) | | | | | | | 98,442 |
| Chief Financial Officer | 2007 | 36,460(4) | 15,313 | | 1,882,146 | | | | 1,933,919 |
| | 2006 | — | — | — | — | | | 30,000 | 30,000 |

(1) The amounts in this column reflect the estimated grant date present value of (1) \$4.761 for the stock options granted to Kendall Larsen during fiscal year 2007, and (2) \$4.913 for the stock options granted to William E. Sliney during fiscal year 2007, which have been calculated using the Black-Scholes stock option pricing model. Reference Note 6 “Stock Plan” in our Form 10-K for the period ended December 31, 2007, filed with the SEC on March 31, 2008, identifies the assumptions made in the valuation of option awards in accordance with SFAS 123(R).

(2) The amounts in this column reflect compensation earned by the Named Executive Officer for consulting services he provided to the Company.

(3) Mr. Sliney’s annual base salary was decreased to \$43,752 in June 2008 when increases in our support staff, including the hiring of a corporate controller, enabled Mr. Sliney to reduce his workload.

(4) Mr. Sliney became our Chief Financial Officer in October 2007 with an annual base salary of \$175,000. The salary earned by Mr. Sliney in 2007 reflects approximately three (3) months of service as our Chief Financial Officer.

2008 Grants of Plan-Based Awards

The following table reflects that no grants of stock options were made during the fiscal year ended December 31, 2008 to our Named Executive Officers:

| Name | Grant Date | Approval Date | Estimated Future Payouts Under Non-Equity Incentive Plan Awards | | | Estimated Future Payouts Under Equity Incentive Plan Awards | | | All Other Stock Awards: Number of Shares | All Other Stock Awards: Number of Securities Underlying Options | Exercise or Base Price of Option Awards (\$/share) | Grant Date Fair Value of Stock or Option Awards (\$)(2) |
|--|------------|---------------|---|-------------|--------------|---|------------|----------------|--|---|--|---|
| | | | Threshold (\$) | Target (\$) | Maximum (\$) | Threshold (#)(1) | Target (#) | Maximum (#)(1) | | | | |
| Kendall Larsen Chief Executive Officer, President & Director | n/a | n/a | n/a | n/a | n/a | — | n/a | — | n/a | n/a | n/a | |
| William E. Sliney Chief Financial Officer | n/a | n/a | n/a | n/a | n/a | — | n/a | — | n/a | n/a | n/a | |

(1) Our equity incentive plan does not include thresholds or maximums as defined in Item 402(d) of Regulation S-K.

Outstanding Equity Awards at 2008 Fiscal Year-End

The following table sets forth, for each of our Named Executive Officers, the number and exercise price of unexercised options, and the number and market value of stock awards that have not vested as of the end of fiscal year 2008:

| Name | Number of Securities Underlying Unexercised Options Exercisable (#) | Number of Securities Underlying Unexercised Options Unexercisable (#) | Equity Incentive Plan Awards Number of Securities Underlying Unexercised Unearned Options (#) | Option Exercise Price (\$) | Option Expiration Date |
|--|---|---|---|----------------------------|---------------------------|
| Kendall Larsen Chief Executive Officer, President and Director | 99,290 | 155,545 | — | 6.468 | 12/31/2012 ⁽¹⁾ |
| William E. Sliney Chief Financial Officer | 103,755 | 279,340 | — | 5.88 | 12/30/2017 |

(1) As Mr. Larsen is a holder of more than 10% of the Company's equity, per our equity incentive plan, his options expire five (5) years from grant.

Option Exercises and Stock Vested in Fiscal Year 2008

The following table shows the options exercised and stock vested held by our Named Executive Officers in the fiscal year 2008:

| Name | Options Awards | | Stock Awards | |
|--|---|---------------------------------|--|--------------------------------|
| | Number of Shares Acquired on Exercise (#) | Value Realized on Exercise (\$) | Number of Shares Acquired on Vesting (#) | Value Realized on Vesting (\$) |
| Kendall Larsen Chief Executive Officer, President and Director | — | — | n/a | n/a |
| William E. Sliney Chief Financial Officer | — | — | n/a | n/a |

Pension Benefits for Fiscal Year 2008

None. We do not maintain a pension plan as such term is described in Item 402(h) of Regulation S-K.

Nonqualified Deferred Compensation for Fiscal Year 2008

None. We do not maintain a nonqualified defined contribution or other nonqualified deferred compensation plan as such term is described in Item 402(i) of Regulation S-K.

Transactions with Related Persons

Our Code of Ethics requires each of our directors, employees, officers, and consultants to disclose any significant interest in any related party transaction and that interest must be approved in writing by our legal department. If it is determined that the transaction is required to be reported under SEC rules, then the transaction will be subject to the review and approval by our audit committee of our Board. A copy of our Code of Ethics is available on our website at www.virnetx.com in the "Corporate Governance" link under the "Investors" tab.

The charter of our audit committee affirms that one of our audit committee's responsibilities is to review and approve material related party transactions and related party transactions that are required to be disclosed in our public filings. We annually require each of our directors and executive officers to complete a directors' and officers' questionnaire that elicits information about related party transactions as such term is defined by SEC rules and regulations. These procedures are intended to determine whether any such related party transaction impairs the independence of a director or presents a conflict of interest on the part of a director, employee, or officer.

The following is a description of each transaction in the last fiscal year and each currently proposed transaction in which:

- we have been or are to be a participant;
- the amount involved exceeds \$120,000; and
- any of our directors, executive officers, holders of more than 5% of our capital stock, or any immediate family member of, or person sharing the household with, any of these individuals, had or will have a direct or indirect material interest.

Stock Option Grants

We have granted stock options to our executive officers and certain of our directors under our 2007 Stock Plan.

In connection with the consummation of the merger between VirnetX Holding Corporation and VirnetX, we assumed certain obligations under an Advisory Service Agreement dated November 6, 2006 by and between VirnetX and MDB Capital Group LLC, as amended by the terms of that certain Release Agreement between the same parties, which was executed on July 5, 2007. MDB Capital Group was a stockholder of VirnetX prior to the merger and Christopher Marlett, a principal at MDB Capital Group, is currently one of our stockholders as a result of the merger. Christopher Marlett, as of December 31, 2008 beneficially owned approximately 5.14% of our issued and outstanding shares of common stock. MDB Capital Group's affiliates include Anthony DiGiandomenico and Robert Levande, each of whom is one of our existing stockholders as a result of the merger.

Additionally, in connection with the consummation of the merger, we entered into the following agreements and transactions with certain of our directors, executive officers and 5% stockholders:

Indemnification Agreements

We entered into Indemnification Agreements with each person who became one of VirnetX Holding Corporation's directors or officers in connection with the consummation of the merger, pursuant to which, among other things, we will indemnify such directors and officers to the fullest extent permitted by Delaware law, and provide for advancement of legal expenses under certain circumstances.

Registration Rights Agreement

Effective as of July 5, 2007, we entered into a Registration Rights Agreement with all of the persons who were issued shares of our common stock and securities convertible into shares of our common stock in the merger.

Pursuant to the Registration Rights Agreement, commencing six months after the closing of the merger, the security holders have a right to request that we register for resale (a) the shares of common stock issued to such persons in the merger and (b) the shares of common stock underlying convertible notes, options and warrants issued to such persons in the merger. We are required to cause each such registration statement filed as a result of such requests to be declared effective under the Securities Act as promptly as possible after the filing thereof and to keep such registration statement continuously effective under the Securities Act until the earlier of (1) the date when all shares included in the registration statement have been sold; (2) the date that all shares can be sold pursuant to Rule 144; and (3) one year from the effective date of such registration statement.

Additionally, the Registration Rights Agreement provides the security holders with "piggyback" registration rights such that at any time there is not an effective registration statement covering the common stock described above and we file a registration statement relating to an offering for our own account or the account of others under the Securities Act, other than in connection with any acquisition of any entity or business or equity securities issuable in connection with stock options or other employee benefit plans and other than in connection with this offering, then we are required to send notice to the security holders of such intended filing at least 20 days prior to filing such registration statement and we are required to automatically include in such registration statement all shares of common stock issued in the merger and all shares of common stock underlying convertible notes, options and warrants issued in the merger.

Each security holder also has indemnified us, our directors, officers, agents, and certain other control persons against damages arising out of or based upon: (1) such security holder's failure to comply with the prospectus delivery requirements of the Securities Act or (2) such security holder's provision of any untrue or alleged untrue statement of a material fact to be contained in any registration statement or prospectus, or arising out of or relating to any such security holder's omission or alleged omission of a material fact required to be stated therein or necessary to make the statements contained in such registration statement or prospectus not misleading.

Lock-Up Agreements

Effective as of July 5, 2007, we entered into a lock-up agreement with certain of the persons who were issued shares of our common stock in the merger and all persons who exchanged VirnetX options for VirnetX Holding Corporation options in the merger, pursuant to which we imposed certain restrictions on the sale of our common stock or any securities convertible into or which may be exercised to purchase any shares of our common stock acquired in connection with the merger for a period of at least 12 months after the consummation of the merger. That lock-up agreement expired on July 5, 2008. In addition, all of our officers and directors, as well as certain of our stockholders, entered into a lock-up agreement with the underwriter of our December 2007 public offering, which restricts sales of their shares until December 31, 2008. Certain of those shares are now no longer subject to the transfer restrictions of such underwriter's lock-up agreement from our December 2007 offering. Only shares beneficially owned by our directors and officers, which

represent 26.16% of our outstanding common stock as of December 31, 2008, currently remain subject to the provisions of such underwriter's lock-up agreement.

Transactions Between the Company and William E. Sliney

From March 2002 until July 5, 2007, the Company utilized the office space and equipment of its then officer, William E. Sliney, at no cost. Management estimates the value thereof to be immaterial.

Promoters and Control Persons

Glenn Russell was a founder and owned approximately 60% of the outstanding shares of VirnetX Holding Corporation immediately prior to the merger between VirnetX Holding Corporation and VirnetX. Mr. Russell received no compensation in connection with the merger between VirnetX and VirnetX Holding Corporation. Mr. Russell's historical compensation from VirnetX Holding Corporation in his capacity as its Chief Executive Officer prior to the merger has been disclosed in VirnetX Holding Corporation's reports filed with the SEC under the Securities Exchange Act of 1934, as amended.

On December 12, 2007, we entered into a Voting Agreement with the following stockholders that collectively own 4,766,666 shares of our common stock, representing approximately 13.66% of our 34,899,985 shares outstanding as of December 31, 2008:

- San Gabriel Fund, LLC
- JMW Fund, LLC
- John P. McGrain
- The John P. McGrain Grantor Retained Annuity Trust u/t/d/ June 25, 2007
- John P. McGrain, SEP IRA
- John P. McGrain, 401K
- The Westhampton Special Situations Fund, LLC
- The Kirby Enterprise Fund, LLC
- Kearney Properties, LLC
- Kearney Holdings, LLC
- Charles F. Kirby, Roth IRA
- Charles F. Kirby

The Voting Agreement requires each of the above stockholders to vote all of the shares of our voting stock held by them from time to time in favor of the directors nominated by our Board of Directors and in a manner proportional to all the other votes cast by shares present and voting with respect to any other matter brought to the stockholders for a vote. This voting arrangement is an initial and continuing listing requirement for our common stock to be and remain listed on the American Stock Exchange.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires our officers and directors, and persons who own more than 10% of a registered class of our equity securities, to file reports of ownership on Form 3 and changes in ownership on Form 4 or Form 5 with the SEC. Such officers, directors, and 10% stockholders are also

required by SEC rules to furnish us with copies of all Section 16(a) forms they file. Based solely on our review of the copies of such forms we received, we believe that during the 2007 fiscal year all Section 16(a) filing requirements applicable to our officers, directors, and 10% stockholders were satisfied.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth the beneficial ownership of our common stock as of December 31, 2008 by:

- all persons known to us, based on statements filed by such persons pursuant to Section 13(d) or 13(g) of the Exchange Act, to be the beneficial owners of more than 5% of our common stock and based on the records of U.S. Stock Transfer Corporation, our transfer agent;
- each director;
- each of our Named Executive Officers in the table under “Executive Compensation — Summary Compensation Table”; and
- all current directors and executive officers as a group.

Except as otherwise noted and subject to applicable community property laws, the persons named in this table have, to our knowledge, sole voting and investing power for all of the shares of common stock held by them.

This table lists applicable percentage ownership based on 34,899,985 shares of common stock outstanding as of December 31, 2008. Options to purchase shares of our common stock that are exercisable within 60 days of December 31, 2008 are deemed to be beneficially owned by the persons holding these options for the purpose of computing the number of shares owned by, and percentage ownership of, that person, but are not treated as outstanding for the purpose of computing any other person’s number of shares owned or ownership percentage.

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Except as indicated by footnote, and subject to applicable community property laws, each person identified in the table possesses sole voting and investment power with respect to all capital stock shown to be held by that person. The address of each executive officer and director, unless indicated otherwise, is c/o VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066.

| <u>Name and Address of Beneficial Owner</u> | <u>Number of Shares Beneficially Owned(1)</u> | <u>Percent of Class(2)</u> |
|--|---|----------------------------|
| 5% or Greater Stockholders: | | |
| Gregory Hugh Bailey 15 Barbary Place, Suite 809 Toronto, Canada | 2,343,342 ⁽¹⁰⁾ | 6.71% |
| Kendall Larsen | 8,402,482 ⁽³⁾ | 24.01% |
| Robert M. Levande 575 Madison Ave. Suite 1006 New York, NY 10022 | 2,084,101 ⁽⁴⁾ | 5.97% |
| Blue Screen LLC 7663 Fisher Island Drive Miami, Florida 33109 | 1,764,428 ⁽⁵⁾ | 5.06% |
| Christopher A. Marlett Living Trust 420 Wilshire Boulevard, Suite 1020 Santa Monica, California 90401 | 1,792,766 ⁽⁶⁾ | 5.14% |
| Directors and Executive Officers: | | |
| Kendall Larsen | 8,402,482 ⁽³⁾ | 24.01% |
| Edmund C. Munger | 760,200 ⁽⁷⁾ | 2.14% |
| William E. Sliney | 103,921 ⁽⁸⁾ | * |
| Thomas M. O'Brien | 25,833 ⁽⁹⁾ | * |
| Michael F. Angelo | 67,349 ⁽⁹⁾ | * |
| Scott C. Taylor | 25,833 ⁽⁹⁾ | * |
| All directors and executive officers as a group (6 persons): | 9,385,618⁽³⁾⁽⁷⁾⁽⁸⁾⁽⁹⁾ | 26.16% |

- (1) Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to securities. Shares of common stock subject to options and warrants which are exercisable or convertible at or within 60 days of December 31, 2008 are deemed outstanding for computing the percentage of the person holding such option or warrant but are not deemed outstanding for computing the percentage of any other person. The indication herein that shares are beneficially owned is not an admission on the part of the listed stockholder that he, she or it is or will be a direct or indirect beneficial owner of those shares.
 - (2) Based upon 34,899,985 shares of common stock issued and outstanding on December 31, 2008.
 - (3) Includes 99,290 shares issuable pursuant to options exercisable within 60 days.
 - (4) Includes 1,876,521 shares held by Robert M. Levande, who has voting and investment power with respect to the 207,580 shares held by the Arthur Brown Trust FBO Carolyn Brown Levande.
 - (5) Includes 103,790 shares held by Nicholas Lewin directly who has voting and investment power with respect to the 1,660,638 shares held by Blue Screen LLC.
 - (6) Christopher A. Marlett has voting and investment power with respect to the 1,792,766 shares held by the Christopher A. Marlett Living Trust.
 - (7) Includes 691,933 shares issuable pursuant to options exercisable within 60 days.
 - (8) Includes 103,755 shares issuable pursuant to options exercisable within 60 days.
 - (9) Includes 25,833 shares issuable pursuant to options exercisable within 60 days.
 - (10) Includes 2,275,075 shares directly held by Gregory H. Bailey who has voting and investment power with respect to the 68,267 shares held by Palantir Group, Inc.
- (*) Less than 1%.

CORPORATE GOVERNANCE

Our Corporate Governance Guidelines

Our Board of Directors has established guidelines that it follows in matters of corporate governance. The following is a summary of those guidelines. A complete copy of the documents underlying our guidelines is available online at www.virnetx.com in the “Corporate Governance” link under the “Investors” tab, or in paper form upon request to our corporate secretary.

Role of the Board

Our directors are appointed to oversee the actions and results of our management. They were selected for their educational background, professional experience, knowledge of our business, integrity, professional reputation, independence, wisdom and ability to represent the best interests of our stockholders. Their responsibilities include:

- providing general oversight of the business;
- approving corporate strategy;
- approving major management initiatives;
- providing oversight of legal and ethical conduct;
- overseeing our management of significant business risks;
- selecting, compensating, and evaluating directors;
- evaluating Board processes and performance; and
- reviewing and implementing recommendations and reports of the compensation committee on our compensation practices.

Composition of the Board of Directors

Mix of Independent Directors and Officer-Directors

Our Board has determined that it is beneficial for us and our stockholders to have a Board with a majority of independent directors and for our chief executive officer to also be a Board member. Other officers may, from time to time, be Board members, but no officer other than the chief executive officer should expect to be elected to our Board by virtue of his or her office.

Selection of Director Candidates

Our Board is responsible for selecting candidates for Board membership and for establishing the criteria to be used in identifying potential candidates. Our Board delegates the screening process to the nominating and corporate governance committee.

Independence Determinations

Our Board annually determines the independence of directors based on a review by the directors and the nominating and corporate governance committee. No director is considered independent unless our Board has determined that he or she has no material relationship with the Company, either directly or as a partner, stockholder, or officer of an organization that has a material relationship with the Company.

We have adopted the following standards for director independence in compliance with the American Stock Exchange and Item 407 of Regulation S-K’s corporate governance listing standards:

- no director qualifies as “independent” if such person has a relationship which, in the determination of at least a majority of the Board, would interfere with exercise of independent judgment in carrying out the responsibilities of a director;

- a director who is an officer or employee of us or our subsidiaries, or one whose immediate family member is an executive officer of us or our subsidiaries, is not “independent” until three years after the end of such employment relationship;
- a director who accepts, or whose immediate family member accepts, more than \$100,000 in compensation from us or any of our subsidiaries during any period of 12 consecutive months within the three years preceding the determination of independence, other than certain permitted payments such as compensation for Board or Board committee service, payments arising solely from investments in our securities, compensation paid to a family member who is a non-executive employee of us or a subsidiary of ours, or benefits under a tax-qualified retirement plan is not considered “independent”;
- a director who is, or who has a family member who is, a partner in, or a controlling stockholder or an executive officer of, any organization to which we made, or from which we received, payments for property or services that exceed 5% of the recipient’s consolidated gross revenues for that year, or \$200,000, whichever is more, is not “independent” until three years after falling below such threshold;
- a director who is employed, or one whose immediate family member is employed, as an executive officer of another company where any of our, or any of our subsidiaries’, present executives serve on that company’s compensation committee is not “independent” until three years after the end of such service or employment relationship; and
- a director who is, or who has a family member who is, a current partner of our independent registered public accounting firm, Farber Hass Hurley LLP, or was a partner or employee of Farber Hass Hurley LLP who worked on our audit is not “independent” until three years after the end of such affiliation or employment relationship.

Our Board has determined that Michael F. Angelo, Thomas M. O’Brien and Scott C. Taylor meet the aforementioned independence standards. There are no family relationships among any of our directors or executive officers.

Director Compensation and Equity Ownership

Our compensation committee annually reviews director compensation. Any recommendations for changes are made to our full Board by our compensation committee.

In order to align directors’ incentives with the creation of stockholder value, we believe that directors should hold meaningful equity ownership positions in the Company; accordingly, a significant portion of overall director compensation is in the form of equity of the Company.

Board Meetings and Committees and Annual Meeting Attendance

Our Board held a total of nine meetings and acted by written consent four times during the calendar year ended December 31, 2008. Mr. O’Brien attended eight out of the nine Board meetings; otherwise, every director has attended every Board meeting and the meetings of all committees to which he is a member. Since June 29, 2007, our Board had a standing audit committee, compensation committee and nominating and corporate governance committee. Our audit committee charter, compensation committee charter, and nominating and corporate governance committee charter, each as adopted by the Board, are posted on our website at www.virnetx.com in the “Corporate Governance” link under the “Investors” tab.

We encourage, but do not require, our Board members to attend our annual meetings of stockholders. We expect all Board members to be present at this Annual Meeting.

Stockholders’ Communications Process

Any of our stockholders who wish to communicate with our Board, a committee of our Board, our non-management directors as a group, or any individual member of our Board, may send correspondence to our

Corporate Secretary at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066.

Our Corporate Secretary will compile and submit on a periodic basis all stockholder correspondence to our entire Board, or, if and as designated in the communication, to a committee of our Board, our non-management directors as a group, or an individual Board member. The independent directors of our Board review and approve the stockholders' communications process periodically to ensure effective communication with stockholders.

Code of Ethics

We have adopted a Code of Ethics for all employees and directors to prohibit conflicts of interest between our employees and the Company. A copy of our Code of Ethics is available on our website at <http://www.virnetx.com/> in the "Corporate Governance" link under the "Investors" tab, or by writing to us at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, Attention: Investor Relations.

We intend to post on our website any amendment to, or waiver from, a provision of our Code of Ethics within four (4) business days following the date of such amendment or waiver. We do not anticipate any such amendments or waivers.

Committees of the Board of Directors

| <u>Director</u> | <u>Nominating and Corporate Governance Committee</u> | <u>Compensation Committee</u> | <u>Audit Committee</u> |
|-------------------|--|-----------------------------------|----------------------------|
| Michael F. Angelo | Chair | X | X |
| Kendall Larsen | | | |
| Edmund C. Munger | | | |
| Thomas M. O'Brien | X | X | Chair |
| Scott C. Taylor | X | Chair | X |

Nominating and Corporate Governance Committee Matters

Membership and Independence

Our nominating and corporate governance committee met once during the fiscal year ended December 31, 2008.

Messrs. Angelo, O'Brien and Taylor, each of whom is a non-employee member of our Board, comprise our nominating and corporate governance committee. Mr. Angelo is the chairman of our nominating and corporate governance committee. Our Board has determined that each of Messrs. Angelo, O'Brien and Taylor meet current SEC and American Stock Exchange requirements for independence. The nominating and corporate governance committee is responsible for, among other things:

- assisting our Board in identifying prospective director nominees and recommending to the Board director nominees for each annual meeting of stockholders, vacancy or newly created director position;
- developing and recommending to our Board governance principles applicable to us, including the Code of Ethics;
- overseeing the evaluation of our Board and management; and
- delegating such of its authority and responsibilities as it deems proper to members of the committee or a subcommittee.

A more detailed description of our nominating and corporate governance committee's functions can be found in our nominating and corporate governance committee charter at www.virnetx.com in the "Corporate Governance" link under the "Investors" tab, or by writing to us at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, Attention: Investor Relations.

Stockholder Recommendations and Nominees

The policy of our nominating and corporate governance committee is to consider properly submitted recommendations for candidates to our Board from stockholders. In evaluating such recommendations, our nominating and corporate governance committee seeks to achieve a balance of experience, knowledge, integrity, and capability on our Board and to address the membership criteria set forth under "Director Qualifications" below. Any stockholder recommendations for consideration by our nominating and corporate governance committee should include the candidate's name, biographical information, information regarding any relationships between the candidate and the Company within the last three years, at least three personal references, a statement of recommendation of the candidate from the stockholder, a description of Common Stock beneficially owned by the stockholder, a description of all arrangements between the candidate and the recommending stockholder and any other person pursuant to which the candidate is being recommended, a written indication of the candidate's willingness to serve on our Board, and a written indication to provide such other information as the nominating and corporate governance committee may reasonably request.

Stockholder recommendations to our Board should be sent to our Corporate Secretary at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066.

Director Qualifications

Our nominating and corporate governance committee evaluates and recommends candidates for membership on our Board consistent with criteria established by the committee. Our nominating and corporate governance committee has not formally established any specific, minimum qualifications that must be met by each candidate for our Board or specific qualities or skills that are necessary for one or more of the members of our Board to possess. However, our nominating and corporate governance committee, when considering a potential non-incumbent candidate, will factor into its determination the following qualities of a candidate: educational background, professional experience, including whether the person is a current or former chief executive officer or chief financial officer of a public company or the head of a division of a large international organization, knowledge of our business, integrity, professional reputation, independence, wisdom and ability to represent the best interests of our stockholders.

Identification and Evaluation of Nominees for Directors

Our nominating and corporate governance committee uses a variety of methods for identifying and evaluating nominees for director. Our nominating and corporate governance committee regularly assesses the appropriate size and composition of our Board, the needs of our Board and the respective committees of our Board and the qualifications of candidates in light of these needs. Candidates may come to the attention of the nominating and corporate governance committee through stockholders, management, current members of our Board, or search firms. The evaluation of these candidates may be based solely upon information provided to the committee or may also include discussions with persons familiar with the candidate, an interview of the candidate, or other actions the committee deems appropriate, including the use of third parties to review candidates.

Audit Committee Matters

Membership and Independence

Our audit committee met eight times during the fiscal year ended December 31, 2008.

Messrs. Angelo, O'Brien and Taylor, each of whom is a non-employee member of our Board, comprise our audit committee. Mr. O'Brien is the chairman of our audit committee. Our Board has determined that Messrs. Angelo, O'Brien and Taylor each satisfy the requirements for independence under the rules and regulations of the American Stock Exchange and the SEC. Our Board has also determined that Mr. O'Brien qualifies as an "audit committee financial expert" as defined in the SEC rules and satisfies the financial sophistication requirements of the American Stock Exchange. Our audit committee was established in accordance with Section 3(a)(58) (A) of the Securities Exchange Act of 1934, as amended, or the Exchange Act.

Responsibilities

Our audit committee's responsibilities include the following:

- appointment of and approval of compensation for our independent public accounting firm, including oversight of its independence;
- oversight of our accounting and financial reporting processes;
- oversight of the audits of our financial statements;
- oversight of the effectiveness of our internal control over financial reporting; and
- preparing the audit committee report that the SEC requires in our annual proxy statement.

A more detailed description of our audit committee's functions can be found in our audit committee charter at www.virnetx.com in the "Corporate Governance" link under the "Investors" tab, or by writing to us at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, Attention: Investor Relations.

Compensation Committee Matters

Membership and Independence

Messrs. Angelo, O'Brien and Taylor, each of whom is a non-employee member of our Board, comprise our compensation committee. Mr. Taylor is the chairman of our compensation committee. Our Board has determined that each member of our compensation committee meets the requirements for independence under the rules of the American Stock Exchange, and is a "non-employee director" within the meaning of the Exchange Act, and is an "outside director," within the meaning of the Code.

Scope of Authority

Our compensation committee's responsibilities include the following:

- exclusive authority for determining our chief executive officer's compensation;
- determining for other executive officers: annual base salary, annual incentive bonus, including the specific goals and amount, equity compensation, employment agreements, severance arrangements and change in control agreements/provisions, and any other benefits or compensation arrangement, including delegating its authority on these matters with regard to our non-officer employees and consultants to appropriate supervisory personnel;
- evaluating and recommending to our Board compensation plans, policies, and programs for our chief executive officer and other executive officers;
- administering our equity incentive plans; and
- preparing the compensation committee report that the SEC requires in our annual proxy statement.

Except with respect to determining the chief executive officer's compensation, the Committee may delegate its authority to a subcommittee of the committee and, to the extent permitted by applicable law, the

committee may delegate to officers or appropriate supervisory personnel the authority to grant stock awards to non-executive, non-director employees.

A more detailed description of our compensation committee's functions can be found in our compensation committee charter at www.virnetx.com in the "Corporate Governance" link under the "Investors" tab, or by writing to us at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, Attention: Investor Relations.

Our Compensation Committee's Processes and Procedures

Our compensation committee's primary processes for establishing and overseeing executive compensation include:

- **Meetings.** Our compensation committee acted by written consent one time during the fiscal year ended December 31, 2008; and
- **Role of executive officers.** Our president and chief executive officer generally attends compensation committee meetings and sometimes makes recommendations to our compensation committee regarding the amount and form of the compensation of the other executive officers and key employees. He is not present for any of the executive sessions or for any discussion of his own compensation.

Directors' compensation is established by our Board upon the recommendation of our directors and our compensation committee.

Compensation Committee Interlocks and Insider Participation

None of Messrs. Angelo, O'Brien and Taylor, who comprise our compensation committee, has served as one of our officers or employees in the past year. Other than our subsidiaries, no executive officer currently serves, or in the past year has served, as a member of a board or compensation committee of another entity where that entity's executive officer serves on our Board or compensation committee.

DESCRIPTION OF SECURITIES

On a post-split basis, we are authorized to issue an aggregate of 110,000,000 shares of capital stock, 100,000,000 of which are shares of common stock, par value \$0.0001 per share, and 10,000,000 of which are shares of preferred stock, par value \$0.0001 per share. As of December 31, 2008, on a post-split basis, 34,899,985 shares of our common stock were issued and outstanding and no shares of our preferred stock were issued and outstanding.

Common Stock

All outstanding shares of our common stock are of the same class and have equal rights and attributes.

Voting. The holders of our common stock are entitled to one vote per share on all matters submitted to a vote of stockholders. Our common stock does not have cumulative voting rights. Persons who hold a majority of the outstanding shares of our common stock entitled to vote on the election of directors can elect all of the directors who are eligible for election.

Dividends. Subject to the preferential dividend rights and consent rights of any series of preferred stock that we may from time to time designate, holders of our common stock are entitled to share equally in dividends, if any, as may be declared from time to time by our Board of Directors out of funds legally available.

Liquidation and dissolution. In the event of our liquidation, dissolution or winding up, subject to the preferential liquidation rights of any series of preferred stock that we may from time to time designate, the holders of our common stock are entitled to share ratably in all of our assets remaining after payment of all liabilities and preferential liquidation rights.

Preferred Stock

Our Certificate of Incorporation authorizes the issuance of shares of preferred stock with designations, rights and preferences determined from time to time by our Board of Directors. Accordingly, our Board of Directors is empowered, without stockholder approval, to issue preferred stock with dividend, liquidation, conversion, voting, or other rights which could adversely affect the voting power or other rights of the holders of the common stock. In the event of issuance, the preferred stock could be utilized, under certain circumstances, as a method of discouraging, delaying or preventing a change in control of the Company.

The descriptions of our common stock and preferred stock above are only summaries and are qualified in their entirety by the provisions of our Certificate of Incorporation and By-Laws, copies of which are attached or referenced as exhibits to the registration statement of which this prospectus forms a part.

Warrants Issued in Previous Securities Offerings

On a post-split basis, warrants for the issuance of 266,667 shares of our common stock were issued in July 2007 and exercisable at \$0.75 per share. All of these warrants were net exercised by the warrant holders on January 21, 2008 and March 26, 2008. The net aggregate shares issued in the amount of 232,771 are issued and outstanding.

In addition, we issued warrants to purchase 300,000 shares of our common stock at \$4.80 per share to the underwriter of our December 2007 stock issuance. Those warrants are first exercisable in 2008 and expire in 2012. These warrants provide for anti-dilution protection in the event of stock splits and dividends.

Warrants to be Issued as Part of this Offering

We are offering three types of warrants in this offering: warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$2.00 per share; warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$3.00 per share; and warrants to purchase 1,500,000 shares of our common stock at an exercise price of \$4.00 per share. We refer to the three types of warrants, collectively, as the warrants. The warrants will be issued in registered form under a warrant agency agreement between Corporate Stock Transfer, Inc., as warrant agent, and us. Each form of warrant issued pursuant to this offering is an exhibit to

the warrant agency agreement. You should review a copy of the warrant agency agreement, which has been filed as an exhibit to the registration statement of which this prospectus is a part, for a complete description of the terms and conditions applicable to the warrants. The following is a brief summary of the warrants and is subject in all respects to the provisions contained in the warrants.

Each warrant represents the right to purchase 0.5 additional shares of our common stock at an exercise price equal to either \$2.00, \$3.00, or \$4.00, subject to adjustment as described below, and depending on the particular warrant. Each warrant may be exercised on or after the applicable closing date of this offering through and including the 18-month anniversary of the first closing date. The warrants may be exercised by surrendering to the warrant agent the warrant certificate evidencing the warrants to be exercised with the accompanying exercise notice, appropriately completed, duly signed and delivered, together with cash payment of the exercise price.

Upon surrender of the warrant certificate, with the exercise notice appropriately completed and duly signed and cash payment of the exercise price, on and subject to the terms and conditions of the warrant, we will deliver or cause to be delivered, to or upon the written order of such holder, the number of whole shares of common stock to which the holder is entitled, which shares may be delivered in book-entry form. If less than all of the warrants evidenced by a warrant certificate are to be exercised, a new warrant certificate will be issued for the remaining number of warrants.

Holders of warrants will be able to exercise their warrants only if a registration statement relating to the shares of common stock underlying the warrants is then in effect, or the exercise of such warrants is exempt from the registration requirements of the Securities Act. A holder of a warrant also will be able to exercise warrants only if the shares of common stock underlying the warrant are qualified for sale or are exempt from qualification under the applicable securities or blue sky laws of the states in which such holder (or other persons to whom it is proposed that shares be issued on exercise of the warrants) reside.

All warrants will include a company call feature that will give the company the right to require the holder of the warrant to exercise the warrant when the Company's average closing stock price on the American Stock Exchange, or any successor national securities exchange thereto, equals or exceeds two times the applicable warrant's purchase price on any five consecutive trading days.

The exercise price and the number of shares underlying the warrants are subject to appropriate adjustment in the event of stock splits, stock dividends on our common stock, stock combinations or similar events affecting our common stock. In addition, in the event we consummate any merger, consolidation, sale or other reorganization event in which our common stock is converted into or exchanged for securities, cash or other property or we consummate a sale of substantially all of our assets, then following such event, the holders of the warrants will be entitled to receive upon exercise of the warrants the kind and amount of securities, cash or other property which the holders would have received had they exercised the warrants immediately prior to such reorganization event.

No fractional shares of common stock will be issued in connection with the exercise of a warrant. In lieu of fractional shares, we will round up such fractional interest to the next whole share. A warrant may be transferred by a holder without our consent, upon surrender of the warrant to us, properly endorsed (by the holder executing an assignment in the form attached to the warrant). The warrants will not be listed on any securities exchange or automated quotation system and we do not intend to arrange for any exchange or quotation system to list or quote the warrants.

Anti-Takeover Effects of Delaware Law, our Certificate of Incorporation and our By-Laws

We have a number of protective provisions that could delay, discourage or prevent a third party from acquiring the company without the approval of our Board of Directors. Our protective provisions include:

- **A staggered Board of Directors:** This means that only one or two directors (since we have a five-person Board of Directors) will be up for election at any given annual meeting. This has the effect of delaying the ability of stockholders to effect a change in control of the Board of Directors since it will

take two annual meetings to effectively replace at least three directors which represents a majority of the Board of Directors;

- **Blank check preferred stock:** Our Board of Directors has the authority to establish the rights, preferences and privileges of our 10,000,000 authorized but unissued shares of preferred stock. Therefore, this stock may be issued at the discretion of our Board of Directors with preferences over your shares of common stock in a manner that is materially dilutive to existing stockholders. In addition, blank check preferred stock can be used to create a “poison pill” which is designed to deter a hostile bidder from buying a controlling interest in our stock without the approval of our Board of Directors. We have not adopted such a “poison pill,” but our Board of Directors will have the ability to do so in the future very rapidly and without stockholder approval;
- **Advance notice requirements for director nominations and for new business to be brought up at stockholder meetings:** Stockholders wishing to submit director nominations or raise matters to a vote of the stockholders must provide notice to us within very specific date windows in order to have the matter voted on at the meeting. This has the effect of giving our Board of Directors and management more time to react to stockholder proposals generally and could also have the effect of delaying a stockholder proposal to a subsequent meeting to the extent such proposal is not raised in a timely manner for an upcoming meeting;
- **Elimination of stockholder actions by written consent:** This has the effect of eliminating the ability of a stockholder or a group of stockholders representing a majority of the outstanding shares to take actions rapidly and without prior notice to our Board of Directors and management or to the minority stockholders. Along with the advance notice requirements described above, this provision also gives our Board of Directors and management more time to react to proposed stockholder actions;
- **Super majority requirement for stockholder amendments to the By-laws:** Our By-laws may be altered or amended or new By-laws adopted by the affirmative vote of at least $66\frac{2}{3}\%$ of the outstanding shares. This has the effect of requiring a substantially greater vote of the stockholders to approve any changes to our By-laws; and
- **Elimination of the ability of stockholders to call a special meeting of the stockholders:** Only the Board of Directors or management can call special meetings of the stockholders. This could mean that stockholders, even those who represent a significant block of shares, may need to wait for the annual meeting before nominating directors or raising other business proposals to be voted on by the stockholders.

Transfer Agent, Registrar and Warrant Agent

The transfer agent and registrar for our common stock and warrant agent for our warrants sold in this offering is Corporate Stock Transfer, Inc. of Denver, Colorado.

MARKET PRICE OF AND DIVIDENDS ON COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

Market Information

Our common stock was previously traded in the over-the-counter market on the Nasdaq OTC Bulletin Board under the symbols “VNXH” and prior to that “PASW.” On December 26, 2007, our common stock began trading on the AMEX under the symbol “VHC.” The following table shows the price range of our common stock, as reported on the OTC Bulletin Board and on the American Stock Exchange for each quarter ended during the last two fiscal years and the first three quarters of fiscal 2008 on a post-split basis.

| <u>Quarter Ended</u> | <u>High</u> | <u>Low</u> |
|----------------------|-------------|------------|
| 3/31/06 | \$0.60 | \$0.36 |
| 6/30/06 | \$0.53 | \$0.21 |
| 9/30/06 | \$0.50 | \$0.30 |
| 12/31/06 | \$0.90 | \$0.36 |
| 3/31/07 | \$5.97 | \$0.63 |
| 6/30/07 | \$5.10 | \$3.36 |
| 9/30/07 | \$5.10 | \$3.96 |
| 12/31/07 | \$6.75 | \$4.08 |
| 3/31/08 | \$6.95 | \$4.26 |
| 6/30/08 | \$7.06 | \$3.50 |
| 9/30/08 | \$7.06 | \$1.26 |
| 12/31/08 | \$2.85 | \$0.89 |

Holders

As of December 31, 2008, there were 96 holders of record of our common stock.

Dividends

We have not paid any cash dividends on our common stock, and do not anticipate paying cash dividends in the foreseeable future. Our current policy is to retain earnings, if any, to fund operations, and the development and growth of our business. Any future determination to pay cash dividends will be at the discretion of our Board of Directors and will be dependent upon our financial condition, operation results, capital requirements, applicable contractual restrictions, restrictions in our organizational documents, and any other factors that our Board of Directors deems relevant.

Securities Authorized for Issuance Under Equity Compensation Plans

On April 17, 1998, when we operated under the name PASW, Inc., we adopted an equity incentive program. Under this program, we may grant incentive stock options, non-statutory stock options, stock appreciation rights, stock bonuses and rights to acquire restricted stock to employees, directors and consultants (except for incentive stock options which may only be granted to employees). The number of shares of common stock initially reserved for issuance under this program was 150,580 shares post-split. As of September 30, 2008, there were no outstanding options or rights under this program and we don't intend to grant any equity incentives in the future under this plan.

In connection with the merger between VirnetX Holding Corporation and VirnetX, our Board of Directors approved our adoption of the VirnetX 2005 Stock Plan, as amended, to cover grants of stock options and restricted stock units to our employees and consultants. Our Board of Directors renamed this stock plan the VirnetX 2007 Stock Plan. The total number of shares of our common stock reserved for issuance under the VirnetX 2007 Stock Plan is 11,624,469, of which as of October 31, 2007, there were 4,028,418 shares remaining available for future grants. Our stockholders approved the VirnetX 2007 Stock Plan at our 2008 annual stockholders' meeting.

LEGAL PROCEEDINGS

We believe Microsoft Corporation is infringing certain of our patents. Accordingly, we commenced a lawsuit against Microsoft on February 15, 2007 by filing a complaint in the United States District Court of the Eastern District of Texas, Tyler Division. Pursuant to the complaint, we allege that Microsoft infringes two of our U.S. patents: U.S. Patent No. 6,502,135 B1, entitled “Agile Network Protocol for Secure Communications with Assured System Availability,” and U.S. Patent No. 6,839,759 B2, entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network Without User Entering Any Cryptographic Information.” On April 5, 2007, we filed an amended complaint specifying certain accused products at issue and alleging infringement of a third, recently issued U.S. patent: U.S. Patent No. 7,188,180 B2, entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network.” We are seeking both damages, in an amount subject to proof at trial, and injunctive relief. Microsoft answered the amended complaint and asserted counterclaims against us on May 4, 2007. Microsoft counterclaimed for declarations that the three patents are not infringed, are invalid and are unenforceable. Microsoft seeks an award of its attorneys’ fees and costs. We filed a reply to Microsoft’s counterclaims on May 24, 2007. Discovery has begun, a Markman hearing on claim construction is scheduled for February 2009, and the trial is scheduled to begin on October 12, 2009. We have served our infringement contentions directed to certain of Microsoft’s operating system and unified messaging and collaboration applications. On March 31, 2008, Microsoft filed a Motion to Dismiss for lack of standing, which was denied by the court pursuant to an order dated June 3, 2008. Also pursuant to that court decision, on June 10, 2008, SAIC joined us in our lawsuit as a plaintiff. On November 19, 2008, the court granted our motion to amend our infringement contentions, permitting us to provide increased specificity and citations to Microsoft’s proprietary documents and source code to support our infringement case against Microsoft’s accused products, including, among other things, Windows XP, Vista, Server 2003, Server 2008, Live Communication Server, Office Communication Server and Office Communicator. Microsoft was ordered to provide further information regarding its non-infringement contentions and invalidity contentions in light of the amended infringement contentions. Microsoft was also ordered to provide additional e-mail discovery to us. Microsoft was not required to search disaster recovery tapes for additional information.

Except for those filing that are “under seal” because they contain confidential information, filings made by the parties to the United States District Court of the Eastern District of Texas, Tyler Division in connection with this lawsuit are publicly available, after registration and payment of a fee, on the Public Access to Court Electronic Records, or PACER, website. In order to review such filings made in connection with this lawsuit, please follow the following instructions:

- Go to www.pacer.uscourts.gov
- Click “Register for PACER” and register
- On PACER Web Links page, scroll down and click “Texas Eastern District Court”
- Click “Court Information”
- Click “Reports” at top of page
- Click “Docket Sheet”
- Enter “6:07-cv-80” in case number box
- Click “Run Report”

Notwithstanding anything to the contrary set forth in any of the Company’s filings under the Securities Act of 1933 or the Securities Exchange Act of 1934 that might incorporate future filings, including this registration statement, of which this prospectus forms a part, in whole or in part, the information set forth on the Public Access to Court Electronic Records, or PACER, website shall not be deemed to be a part of or incorporated by reference into any such filings. The Company does not warrant the accuracy or completeness of the PACER website, or the adequacy of the PACER website and expressly disclaims liability for errors or omissions on such website.

Because we have determined that Microsoft’s alleged unauthorized use of our patents would cause us severe economic harm and the failure to cause Microsoft to discontinue its use of such patents could result in

the termination of our business, we have dedicated a significant portion of our economic resources, to date, to the prosecution of the Microsoft litigation and expect to continue to do so for the foreseeable future.

Although we believe Microsoft infringes three of our patents and we intend to vigorously prosecute this case, at this stage of the litigation the outcome cannot be predicted with any degree of reasonable certainty. Additionally, the Microsoft litigation will be costly and time-consuming, and we can provide no assurance that we will obtain a judgment against Microsoft for damages and/or injunctive relief. Should the District Court issue a judgment in favor of Microsoft, and in connection with such judgment determine that we had acted in bad faith or with fraudulent intent, or we were otherwise found to have exhibited inequitable conduct, the Court could award attorney fees to Microsoft, which would be payable by us.

In the near term, we will dedicate significant time and resources to the Microsoft litigation. The risks associated with such dedication of time and resources are set forth in the “Risk Factors” section of this prospectus.

One or more potential intellectual property infringement claims may also be available to us against certain other companies who have the resources to defend against any such claims. Although we believe these potential claims are worth pursuing, commencing a lawsuit can be expensive and time-consuming, and there is no assurance that we will prevail on such potential claims. In addition, bringing a lawsuit may lead to potential counterclaims which may preclude our ability to commercialize our initial products, which are currently in development.

Currently, we are not a party to any other pending legal proceedings, and are not aware of any proceeding threatened or contemplated against us by any governmental authority or other party.

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses including attorneys’ fees, judgments, fines and amounts paid in settlement in connection with various actions, suits or proceedings, whether civil, criminal, administrative or investigative other than an action by or in the right of the corporation, a derivative action, if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, if they had no reasonable cause to believe their conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses including attorneys’ fees incurred in connection with the defense or settlement of such actions, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation’s certificate of incorporation, bylaws, agreement, a vote of stockholders or disinterested directors or otherwise.

Our Certificate of Incorporation provides that we will indemnify and hold harmless, to the fullest extent permitted by Section 145 of the Delaware General Corporation Law, as amended from time to time, each person that such section grants us the power to indemnify.

The Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for:

- any breach of the director’s duty of loyalty to the corporation or its stockholders;
- acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- payments of unlawful dividends or unlawful stock repurchases or redemptions; or
- any transaction from which the director derived an improper personal benefit.

Our Certificate of Incorporation provides that, to the fullest extent permitted by applicable law, none of our directors will be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director. Any repeal or modification of this provision will be prospective only and will not adversely affect any limitation, right or protection of a director of our company existing at the time of such repeal or modification.

UNDERWRITING

Subject to the terms and conditions of an underwriting agreement, Gilford Securities Incorporated has agreed to purchase 3,000,000 shares of common stock, warrants to purchase 1,500,000 shares at an exercise price of \$2.00 per share, warrants to purchase 1,500,000 shares at an exercise price of \$3.00 per share and warrants to purchase 1,500,000 shares at an exercise price of \$4.00 per share from us. The underwriting agreement will provide that our underwriter is committed to purchase all shares and associated warrants offered in this offering, other than those covered by the over-allotment option described below. In the underwriting agreement, our underwriter's obligations are subject to approval of certain legal matters by their counsel, including, without limitation, the authorization and validity of the securities offered hereby, and of various other customary conditions, representations and warranties contained in the underwriting agreement, such as receipt by our underwriter of officers' certificates and legal opinions of our counsel.

The shares of common stock sold in this offering will be listed on the American Stock Exchange, subject to notice of issuance. We do not intend to apply for listing of the warrants offered in this offering on any securities exchange.

Commissions and Discounts

Our underwriter has advised us that it proposes to offer the shares and associated warrants directly to the public at the price set forth on the cover page of this prospectus, and to certain dealers that are members of the Financial Industry Regulatory Authority, Inc., or FINRA, at such price less a concession not in excess of \$ per share and associated warrants. Our underwriter may allow, and the selected dealers may reallow, a concession not in excess of \$ per share and associated warrants to certain brokers and dealers. After the offering, the offering price and concessions and discounts to brokers and dealers and other selling terms may from time to time be changed by our underwriter.

We have agreed to pay our underwriter a cash payment of 7% of the aggregate public offering price of the shares and associated warrants offered (including any shares and associated warrants offered upon exercise of the over-allotment option). We have agreed to pay our underwriter up to \$35,000 as a reimbursement for our underwriter's travel, due diligence and other road show expenses and expenses incurred by the underwriter's counsel. In addition, we have paid approximately \$186,000 in fees and expenses of our underwriter's outside legal counsel for services performed as placement agent's counsel for a best-efforts placement of equity securities by us that we did not pursue.

The following table sets forth the public offering price and underwriting discount to be paid by us to our underwriter and the proceeds, before expenses, to us. The underwriting agreement between the underwriter and us has been filed as an exhibit to the registration statement filed with the SEC in connection with this offering. This information assumes either no exercise or full exercise by our underwriter of its over-allotment option.

| | <u>Per Share and Associated Warrants</u> | <u>Without Option(1)</u> | <u>With Option</u> |
|-----------------------------|--|------------------------------|------------------------|
| Public offering price | \$ | \$ | \$ |
| Discount | \$ | \$ | \$ |
| Proceeds before expenses(2) | \$ | \$ | \$ |

(1) We have granted our underwriter an option, exercisable for 45 days after the date of this prospectus, to purchase a number of shares of common stock and associated warrants equal to 15% of the number of shares and associated warrants sold in this offering by us solely to cover over-allotments, if any, at the same price as the initial shares and associated warrants offered.

(2) The offering expenses are estimated to be \$1,239,679.

Underwriter Warrants

In addition, we have agreed pursuant to the terms and conditions of an underwriter's warrant agreement to issue to our underwriter at the closing of this offering, for nominal consideration, warrants to purchase 300,000 shares of common stock (representing a number of shares of common stock equal to 10% of the number of shares sold in this offering), exclusive of the over-allotment option. These warrants will be exercisable for a four year period commencing on the first anniversary of the closing date of this offering at an exercise price equal to 120% of the price of our common stock offered by this prospectus, or \$ per share. These warrants will be restricted from sale, transfer, assignment or hypothecation for a period of one year from the closing of this offering by our underwriter, except to officers of our underwriter and broker-dealers participating in this offering and their bona fide officers and partners, by operation of law or by reason of our reorganization. The FINRA views these warrants as underwriting compensation and requires that the warrants be locked up for 180 days following the effectiveness of this offering pursuant to FINRA Conduct Rule 2710 (g)(1).

Our underwriter has been granted certain demand and piggyback registration rights under these warrants, which rights will expire on the fifth and seventh anniversaries, respectively, of the effective date of the registration statement of which this prospectus is a part.

These warrants contain provisions for appropriate adjustment in the event of any merger, consolidation, recapitalization, reclassification, stock dividend, stock split or similar transaction. The warrants do not entitle our underwriter or a permissible transferee to any rights as a shareholder until the warrants are exercised and shares of our common stock are purchased pursuant to the exercise of the warrants.

These warrants and the shares of our common stock issuable upon their exercise may not be offered for sale except in compliance with the applicable provisions of the Securities Act of 1933, as amended. We are registering the shares of our common stock issuable upon exercise of the warrants in the registration statement of which this prospectus forms a part.

Electronic Distribution; Directed Share Program

Our underwriter has advised us that it will not engage in any electronic offer, sale or distribution of our shares. Neither we nor our underwriter will use any third party to host or provide access to our preliminary prospectus on the Internet.

We will not have a directed share program for our employees or any others.

Price Stabilization, Short Positions and Penalty Bids

Until the distribution of the shares is completed, SEC rules may limit our underwriter from bidding for and purchasing our common stock. In connection with this offering, however, our underwriter may engage in stabilizing transactions, over-allotment transactions, covering transactions and penalty bids in accordance with Regulation M under the Securities Exchange Act of 1934, as amended.

- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- Over-allotment involves sales by our underwriter of shares and associated warrants in excess of the number of shares and associated warrants our underwriter is obligated to purchase, which creates a short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares and associated warrants over-allotted by our underwriter is not greater than the number of shares and associated warrants that it may purchase in the over-allotment option. In a naked short position, the number of shares and associated warrants involved is greater than the number of shares and associated warrants in the over-allotment option. Our underwriter may close out any covered short position by either exercising its over-allotment option or purchasing shares in the open market.

- Covering transactions involve the purchase of common stock in the open market after the distribution has been completed in order to cover short positions. In determining the source of shares to close out the short position, our underwriter will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which it may purchase shares through the over-allotment option. If our underwriter sells more shares than could be covered by the over-allotment option (a naked short position) the position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if our underwriter is concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in this offering.
- Penalty bids permit our underwriter to reclaim a selling concession from a selected dealer when the common stock originally sold by the selected dealer is purchased in a stabilizing covering transaction to cover short positions.

These stabilizing transactions, covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result, the price of our common stock may be higher than the price that might otherwise exist in the open market. Neither we nor our underwriter makes any prediction or any representation as to the direction or magnitude of any effect that the transactions described above may have on the price of our common stock. Neither we nor our underwriter makes any representation that our underwriter will engage in these transactions. These transactions may be effected on the American Stock Exchange or otherwise and, if commenced, may be discontinued without notice at any time.

Lock-Up Arrangements

We and each of our executive officers and directors have agreed to lock-up provisions regarding future transfers or sales of our equity securities for a period of 90 days after this offering, subject to extension in certain circumstances, as described in our agreement with the underwriter.

Our officers and directors who beneficially own 9,130,097 shares of common stock, including 716,956 shares issuable upon exercise of stock options, have agreed with our underwriter not to sell their shares of common stock for 90 days from the closing of this offering without the written consent of our underwriter. Following the expiration of the lock-up agreement with our underwriter, shares of our common stock held beneficially by our officers and directors will remain subject to holding period restrictions on sale or other transfer under Rule 144 of the Securities Act.

Our underwriter has no present intention to waive or shorten the lock-up period. The granting of any waiver of release would be conditioned, in the judgment of our underwriter, on such sale not materially adversely impacting the prevailing trading market for our common stock on the American Stock Exchange. Specifically, factors such as average trading volume, recent price trends and the need for additional public float in the market for our common stock would be considered in evaluating such a request to waive or shorten the lockup period.

Indemnification

We have agreed to indemnify our underwriter and its controlling persons against specified liabilities, including liabilities under the Securities Act or to contribute to payments that our underwriter may be required to make for such liabilities. However, we have been advised that in the opinion of the SEC, indemnification for liabilities arising under the Securities Act is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

LEGAL MATTERS

The validity of the offered securities will be passed upon for us by Orrick, Herrington & Sutcliffe LLP, Menlo Park, California. Lowell Ness, a partner of Orrick, Herrington & Sutcliffe LLP, is our Secretary. As of

the completion of this offering, Orrick, Herrington & Sutcliffe LLP and partners in that firm beneficially own an aggregate of 124,548 shares of our common stock. Certain legal matters will be passed upon for the underwriter by DLA Piper LLP (US), East Palo Alto, California and New York, New York.

EXPERTS

The consolidated financial statements of VirnetX Holding Corporation as of and for the periods therein indicated included in the prospectus have been audited by the independent registered public accounting firm of Farber Hass Hurley LLP, to the extent and for the periods set forth in their report appearing in this prospectus, and are included in reliance upon such report given upon the authority of Farber Hass Hurley LLP as experts in auditing and accounting. The financial statements of VirnetX, Inc. as of December 31, 2006 and 2005 and for the year ended December 31, 2006 and the period from August 1, 2005 (date of inception) to December 31, 2005 included in the prospectus have been included in reliance upon such report given upon the authority of Burr, Pilger & Mayer LLP as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form S-1 with the SEC of which this prospectus is a part under the Securities Act with respect to the offered securities. This prospectus does not contain all of the information included in the registration statement, and statements contained in this prospectus concerning the provisions of any document are not necessarily complete. For further information about us and the offered securities covered by this prospectus, you should read the registration statement including its exhibits.

COMMISSION POSITION ON INDEMNIFICATION

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and their respective controlling persons, or otherwise, we have been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

PROVISION FOR INDEMNIFICATION

Delaware General Corporation Law

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent to the company. The Delaware General Corporation Law provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for any breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions or for any transaction from which the director derived an improper personal benefit.

Certificate of Incorporation

Our Certificate of Incorporation provides that the personal liability of the directors of the company shall be eliminated to the fullest extent permitted by the provisions of Section 102(b)(7) of the Delaware General Corporation Law, as the same may be amended and supplemented.

Our Certificate of Incorporation provides that the company shall, to the fullest extent permitted by the provisions of Section 145 of the Delaware General Corporation Law, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said section from and against any and all of the expenses, liabilities or other matters referred to in or covered by said section, and the indemnification provided for therein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall 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.

Indemnification Agreements

We have also entered into indemnification agreements with our directors and officers. The indemnification agreements provide indemnification to our directors and officers under certain circumstances for acts or omissions which may not be covered by directors' and officers' liability insurance.

Liability Insurance

We have also obtained directors' and officers' liability insurance, which insures against liabilities that our directors or officers may incur in such capacities.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
VirnetX Holding Corporation

We have audited the accompanying consolidated balance sheet of VirnetX Holding Corporation (the “Company”; a development stage enterprise) as of December 31, 2007, and the related consolidated statements of operations, stockholders’ equity (deficit) and cash flows for the year ended December 31, 2007 and the period from August 2, 2005 (date of inception) to December 31, 2007. These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with auditing standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. The Company has determined that it is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company as of December 31, 2007, and the results of their operations and their cash flows for the year ended December 31, 2007 and the period from August 2, 2005 (date of inception) to December 31, 2007, in conformity with accounting principles generally accepted in the United States of America.

/s/ Farber Hass Hurley LLP

Granada Hills, California
March 31, 2008

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Stockholders of
VirnetX, Inc.

We have audited the accompanying balance sheet of VirnetX, Inc., (a development stage enterprise) as of December 31, 2006 and the related statements of operations, stockholders' equity (deficit), and cash flows for the year ended December 31, 2006 and the period from August 2, 2005 (date of inception) to December 31, 2005. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (United States) and in accordance with the auditing standards of the Public Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amount and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of VirnetX, Inc., as of December 31, 2006, and the results of its operations and cash flows for the year ended December 31, 2006 and for the period from August 2, 2005 (date of inception) to December 31, 2005, in conformity with accounting principles generally accepted in the United States of America.

/s/ Burr, Pilger & Mayer LLP

Palo Alto, CA
April 30, 2007, except for the
effects of the 1-for-3 reverse
stock split discussed in Note 1
as to which the date is March 31, 2008.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)

CONSOLIDATED BALANCE SHEETS

| | As of December 31, 2007 | As of December 31, 2006 | | |
|---|-------------------------------|-------------------------------|-----------|-------|
| ASSETS | | | | |
| Current assets: | | | | |
| Cash and cash equivalents | \$ 8,589,447 | \$ 139,997 | | |
| Accounts receivable | 5,860 | — | | |
| Prepaid expenses and other current assets | 399,201 | 26,945 | | |
| Total current assets | 8,994,508 | 166,942 | | |
| Property and equipment, net | 32,658 | 27,087 | | |
| Intangible and other assets | 252,000 | 1,094 | | |
| Total assets | <u>\$ 9,279,166</u> | <u>\$ 195,123</u> | | |
| LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT) | | | | |
| Current liabilities: | | | | |
| Accounts payable and accrued liabilities | \$ 531,790 | \$ 87,386 | | |
| Current portion of long-term obligation | 48,000 | — | | |
| Total current liabilities | 579,790 | 87,386 | | |
| Long-term obligation, net of current portion | 204,000 | — | | |
| Commitments and contingencies: | — | — | | |
| Stockholders' equity (deficit): | | | | |
| Preferred stock, par value \$0.0001 per share | | | | |
| Authorized: 10,000,000 shares and 12,285,715, shares at December 31, 2007 and December 31, 2006, respectively | | | | |
| Issued and outstanding: 0 shares and 1,404,000 shares, at December 31, 2007 and December 31, 2006, respectively Liquidation preference: \$0 and \$1,404,000, at December 31, 2007 and December 31, 2006, respectively | | | 1,377,625 | |
| Common stock, par value \$0.0001 per share | | | | |
| Authorized: 100,000,000 shares and 20,000,000 shares, at December 31, 2007 and December 31, 2006, respectively | | | | |
| Issued and outstanding: 34,667,214 shares and 17,582,009 shares, at December 31, 2007 and December 31, 2006, respectively | | | 3,467 | 1,758 |
| Additional paid-in capital | 19,467,890 | 1,012,321 | | |
| Due from stockholder | — | (150) | | |
| Deficit accumulated during the development stage | (10,975,981) | (2,283,817) | | |
| Total stockholders' equity (deficit) | 8,495,376 | 107,737 | | |
| Total liabilities and stockholders' equity (deficit) | <u>\$ 9,279,166</u> | <u>\$ 195,123</u> | | |

The accompanying notes are an integral part of these consolidated financial statements.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
CONSOLIDATED STATEMENTS OF OPERATIONS

| | <u>Year Ended December 31, 2007</u> | <u>Year Ended December 31, 2006</u> | <u>Period from August 2, 2005 (Date of Inception) to December 31, 2005</u> | <u>Cumulative from August 2, 2005 (Date of Inception) to December 31, 2007</u> |
|--|---|---|--|--|
| Revenue — Royalties | \$ 74,866 | \$ — | \$ — | \$ 74,866 |
| Operating expenses: | | | | |
| Research and development | 684,316 | 554,187 | 56,000 | 1,294,503 |
| Selling, general and administrative | 8,040,894 | 853,488 | 826,478 | 9,720,860 |
| Total operating expenses | <u>8,725,210</u> | <u>1,407,675</u> | <u>882,478</u> | <u>11,015,363</u> |
| Loss from operations | (8,650,344) | (1,407,675) | (882,478) | (10,940,497) |
| Interest and other income (expense), net | (41,820) | 6,336 | — | (35,484) |
| Net loss | <u>\$ (8,692,164)</u> | <u>\$ (1,401,339)</u> | <u>\$ (882,478)</u> | <u>\$ (10,975,981)</u> |
| Basic and diluted loss per share | <u>\$ (.36)</u> | <u>\$ (.08)</u> | <u>\$ (.06)</u> | |
| Weighted average shares outstanding | 24,312,287 | 17,087,462 | 15,217,092 | |

The accompanying notes are an integral part of these consolidated financial statements.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)

| | Series A Preferred Stock | | Common Stock | | Additional Paid-in Capital | Due from Stockholder | Deficit Accumulated During Development Stage | Total Stockholders' Equity (Deficit) |
|--|--------------------------|------------------|-------------------|-----------------|----------------------------------|-------------------------|--|--|
| | Shares | Amount | Shares | Amount | | | | |
| Balance at inception (August 2, 2005) | — | \$ — | — | \$ — | \$ — | \$ — | \$ — | \$ — |
| Common stock issued to founders | — | — | 13,285,107 | 1,329 | (1,129) | — | — | 200 |
| Proceeds from issuance of restricted stock units to employees at \$0.0001 per share in October 2005 | — | — | 3,321,277 | 332 | (252) | — | — | 80 |
| Stock-based compensation from restricted stock units | — | — | — | — | 799,920 | — | — | 799,920 |
| Net loss | — | — | — | — | — | — | (882,478) | (882,478) |
| Balance at December 31, 2005 | — | — | 16,606,384 | 1,661 | 798,539 | — | (882,478) | (82,278) |
| Proceeds from issuance of preferred stock at \$1.00 per share in February 2006, net of issuance cost of \$26,375 | 1,404,000 | 1,377,625 | — | — | — | — | — | 1,377,625 |
| Proceeds from issuance of restricted stock units to employees at \$0.01 per share in March and October 2006 | — | — | 975,625 | 97 | 1,953 | (150) | — | 1,900 |
| Stock-based compensation: | | | | | | | | |
| Restricted stock units | — | — | — | — | 130,210 | — | — | 130,210 |
| Stock-based compensation: | | | | | | | | |
| Employee stock options | — | — | — | — | 81,619 | — | — | 81,619 |
| Net loss | — | — | — | — | — | — | (1,401,339) | (1,401,339) |
| Balance at December 31, 2006 | 1,404,000 | 1,377,625 | 17,582,009 | 1,758 | 1,012,321 | (150) | (2,283,817) | 107,737 |
| Proceeds from exercise of options | — | — | 124,548 | 12 | 29,988 | — | — | 30,000 |
| Shares issued for merger | — | — | 1,665,800 | 167 | — | — | — | 167 |
| Debt converted to stock, net | — | — | 2,016,016 | 202 | 1,499,648 | 150 | — | 1,500,000 |
| Stock issued for cash at \$0.75 per share, net | — | — | 4,000,000 | 400 | 2,953,249 | — | — | 2,953,649 |
| Stock issued for cash at \$4.00 per share, net | — | — | 3,450,000 | 345 | 11,776,773 | — | — | 11,777,118 |
| Stock based compensation | — | — | — | — | 818,869 | — | — | 818,869 |
| Preferred stock converted to common stock | (1,404,000) | (1,377,625) | 5,828,841 | 583 | 1,377,042 | — | — | — |
| Net loss | — | — | — | — | — | — | (8,692,164) | (8,692,164) |
| Balance at December 31, 2007 | — | \$ — | 34,667,214 | \$ 3,467 | \$ 19,467,890 | \$ — | \$ (10,975,981) | \$ 8,495,376 |

The accompanying notes are an integral part of these consolidated financial statements.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
CONSOLIDATED STATEMENTS OF CASH FLOWS

| | Year Ended December 31, 2007 | Year Ended December 31, 2006 | Period from August 2, 2005 (Date of Inception) to December 31, 2005 | Cumulative Period from August 2, 2005 (Date of Inception) to December 31, 2007 |
|--|------------------------------------|------------------------------------|--|--|
| Cash flows from operating activities: | | | | |
| Net loss | \$ (8,692,164) | \$(1,401,339) | \$ (882,478) | \$(10,975,981) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | | | |
| Stock-based compensation | 818,869 | 211,829 | 799,920 | 1,830,618 |
| Depreciation and amortization | 18,609 | 7,689 | — | 26,298 |
| Changes in assets and liabilities: | | | | |
| Prepaid expenses and other current assets | (392,256) | 34,225 | (61,170) | (419,201) |
| Other assets | — | (1,094) | — | (1,094) |
| Accounts payable | 444,404 | 87,386 | — | 531,790 |
| Net cash used in operating activities | <u>(7,802,538)</u> | <u>(1,061,304)</u> | <u>(143,728)</u> | <u>(9,007,570)</u> |
| Cash flows from investing activities: | | | | |
| Purchase of property and equipment | (22,955) | (34,776) | — | (57,731) |
| Cash acquired in acquisition | 14,009 | — | — | 14,009 |
| Net cash used in investing activities | <u>(8,946)</u> | <u>(34,776)</u> | <u>—</u> | <u>(43,722)</u> |
| Cash flows from financing activities: | | | | |
| Issuance of notes payable | 250,000 | — | — | 250,000 |
| Repayment of notes payable | (250,000) | — | — | (250,000) |
| Proceeds from issuance of preferred stock, net of issuance costs | — | 1,147,625 | — | 1,147,625 |
| Proceeds from issuance of restricted stock units | — | 1,900 | 280 | 2,180 |
| Proceeds from advance from preferred stockholders | — | — | 230,000 | 230,000 |
| Proceeds from exercise of options | 30,000 | — | — | 30,000 |
| Proceeds from convertible debt | 1,500,000 | — | — | 1,500,000 |
| Proceeds from sale of common stock | 14,730,934 | — | — | 14,730,934 |
| Net cash provided by financing activities | <u>16,260,934</u> | <u>1,149,525</u> | <u>230,280</u> | <u>17,640,739</u> |
| Net increase in cash and cash equivalents | 8,449,450 | 53,445 | 86,552 | 8,589,447 |
| Cash and cash equivalents, beginning of period | 139,997 | 86,552 | — | — |
| Cash and cash equivalents, end of period | <u>\$ 8,589,447</u> | <u>\$ 139,997</u> | <u>\$ 86,552</u> | <u>\$ 8,589,447</u> |
| Supplemental disclosure of cash flow information: | | | | |
| Cash paid during the year for taxes | \$ 800 | \$ 800 | \$ — | \$ 1,600 |
| Cash paid during the year for interest | 41,630 | — | — | 41,630 |
| Supplemental disclosure of noncash investing and financing activities: | | | | |
| Conversion of advance into preferred stock | \$ — | \$ 230,000 | \$ — | \$ 230,000 |
| Royalty obligation assumed to obtain intangible assets | \$ 252,000 | \$ — | \$ — | \$ 252,000 |

The accompanying notes are an integral part of these consolidated financial statements.

**VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)**

NOTES TO FINANCIAL STATEMENTS

Note 1 Formation and Business of the Company

VirnetX Holding Corporation (“we,” “us,” “our” or the “Company”) is a development stage company focused on commercializing a patent portfolio for providing solutions for secure real-time communications such as instant messaging, or “IM,” and voice over Internet protocol, or “VoIP.”

In July 2007 we effected a merger between PASW, Inc., a company which had at the time of the merger, publicly traded common stock with limited operations, and VirnetX, Inc., which became our principal operating subsidiary. As a result of this merger, the former security holders of VirnetX, Inc. came to own a majority of our outstanding common stock.

Under generally accepted accounting principles in the United States, the accompanying financial statements have been prepared as if VirnetX, Inc., a company whose inception date was August 2, 2005, who is our predecessor for accounting purposes, had acquired PASW, Inc. on July 5, 2007. Accordingly, the accompanying statement of operations include the operations of VirnetX, Inc. from August 2, 2005 to December 31, 2007 and the operations of PASW, Inc. from July 5, 2007 to December 31, 2007. The historical share activity of VirnetX, Inc. has been retroactively restated to account for the 12.454788 to one exchange rate which was applicable to certain convertible instruments as explained in Note 10 and Note 11 and for our one for three reverse stock split which was implemented on October 29, 2007.

Our principal business activities to date are our efforts to commercialize our patent portfolio. We also conduct the remaining activities of PASW, Inc., which are generally limited to the collection of royalties on certain Internet-based communications by a wholly owned Japanese subsidiary of PASW pursuant to the terms of a single license agreement. The revenue generated by this agreement is not significant.

Although we believe we may derive revenues in the future from our principal patent portfolio and are currently endeavoring to develop certain of those patents into marketable products, we have not done so to date. As such, we are in the development stage and consequently are subject to the risks associated with development stage companies, including the need for additional financings, the uncertainty that our patent and technology licensing program development efforts will produce revenue-bearing licenses for us, the uncertainty that our development initiatives will produce successful commercial products as well as the uncertainty of marketing and customer acceptance of such products.

These financial statements are prepared on a going concern basis that contemplates the realization of assets and discharge of liabilities in the normal course of business. We have incurred net operating losses and negative cash flows from operations. At December 31, 2007, we had a deficit accumulated in the development stage of \$10,975,891. However, management believes the \$8,589,000 cash on hand at December 31, 2007 is sufficient to meet our working capital needs for 2008 or until significant revenue is generated from operations.

Note 2 Summary of Significant Accounting Policies

Basis of Presentation

The consolidated financial statements include the accounts of the VirnetX Holding Company, a development stage enterprise, and its wholly owned subsidiaries. All intercompany transactions have been eliminated.

These financial statements reflect the historical results of VirnetX, Inc. and subsequent to the merger date of July 5, 2007, the historical consolidated results of VirnetX Holding Corporation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

Revenue Recognition

We recognize revenue in accordance with SEC Staff Accounting Bulletin 104. We are a licensor of software and generate revenue primarily from the one-time sales of licensed software. Generally, revenue is recognized upon shipment of the licensed software. For multiple element license arrangements, the license fee is allocated to the various elements based on fair value. When a multiple element arrangement includes rights to a post-contract customer support, the portion of the license fee allocated to each function is recognized ratably over the term of the arrangement.

Cash and Cash Equivalents

We consider all highly liquid investments purchased with original maturities of three months or less at the date of purchase to be cash equivalents.

Property and Equipment

Property and equipment are stated at historical cost, less accumulated depreciation and amortization. Depreciation and amortization are computed using the accelerated and straight line methods over the estimated useful lives of the assets, which range from five to seven years. Repair and maintenance costs are charged to expense as incurred.

Concentration of Credit Risk and Other Risks and Uncertainties

Our cash and cash equivalents are primarily maintained at one financial institution in the United States. Deposits held with this financial institution may exceed the amount of insurance provided on such deposits. The balances are insured by the Federal Deposit Insurance Corporation up to \$100,000. During the year ended December 31, 2007 we had, at times, funds that were uninsured. The uninsured balance at December 31, 2007 was in excess of \$8,000,000. We have not experienced any losses on our deposits of cash and cash equivalents.

Intangible Assets

We record intangible assets at cost, less accumulated amortization. Amortization of intangible assets is provided over their remaining estimated useful lives, which range from 3 to 16 years, on either a straight line basis or as revenue is generated by the assets.

Impairment of Long-Lived Assets

We identify and record impairment losses on intangible and other long-lived assets used in operations when events and changes in circumstances indicate that the carrying amount of an asset might not be recoverable. Recoverability is measured by comparison of the anticipated future net undiscounted cash flows to the related assets' carrying value. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the projected discounted future net cash flows arising from the asset.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

Research and Development

Research and development costs include expenses paid to outside development consultants and compensation related expenses for our engineering staff. Research and development costs are expensed as incurred. Acquired research and development costs are expensed upon acquisition and are part of total research and development expense.

Income Taxes

We account for income taxes under the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

Effective January 1, 2007, we have adopted FASB Interpretation No. 48, or FIN 48, Accounting for Uncertainty in Income Taxes using the prospective method allowed by FIN 48. The adoption of FIN 48 did not have a material impact on our financial statements.

Fair Value of Financial Instruments

Carrying amounts of our financial instruments, including cash and cash equivalents, accounts payable, notes payable, and accrued liabilities approximate their fair values due to their short maturities. The carrying amount of our minimum royalty payment obligation approximates fair value because it is recorded at a discounted calculation.

Stock-Based Compensation

Our accounting for share-based compensation is in accordance with Statement of Financial Accounting Standards No. 123 (revised 2004), “*Share-Based Payment*,” or SFAS 123(R), which requires the measurement and recognition of compensation expense in the statement of operations for all share-based payment awards made to employees and directors including employee stock-options based on estimated fair values. Using the modified retrospective transition method of adopting SFAS 123(R), the herein financial statements presented reflect compensation expense for stock-based awards as if the provisions of SFAS 123(R) had been applied from the date of inception.

In addition, as required by Emerging Issues Task Force Consensus No. 96-18, “*Accounting for Equity Instruments that are Issued to Other than Employees for Acquiring, or in Conjunction with Selling Goods or Services*,” we record stock and options granted to non-employees at fair value of the consideration received or the fair value of the equity instruments issued as they vest over the performance period.

Earnings Per Share

SFAS No. 128, “*Earnings Per Share*” requires presentation of basic earnings per share, or Basic EPS, and diluted earnings per share, or Diluted EPS. Basic earnings per share is computed by dividing earnings available to common stockholders by the weighted average number of outstanding common shares during the period. Diluted earnings per share is computed by dividing net income by the weighted average number of share outstanding including potentially dilutive securities such as options, warrants and convertible debt. Since we incurred a loss for the period, any common stock equivalents have been excluded because their effect would be anti-dilutive.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)

NOTES TO FINANCIAL STATEMENTS — (Continued)

Recent Accounting Pronouncements

In December 2007, the Financial Accounting Standards Board, or FASB, issued SFAS No. 141(R), “*Business Combinations*” and SFAS No. 160, “*Accounting and Reporting of Noncontrolling Interests in Consolidated Financial Statements — an amendment to ARB No. 51.*” These Standards will significantly change the accounting and reporting for business combination transactions and noncontrolling (minority) interests in consolidated financial statements, including capitalizing at the acquisition date the fair value of acquired in-process research and development, and, remeasuring and writing down these assets, if necessary, in subsequent periods during their development. These new standards will be applied prospectively for business combinations that occur on or after January 1, 2009, except that presentation and disclosure requirements of SFAS 160 regarding noncontrolling interests shall be applied retroactively. The implementation of these standards is not expected to have a material impact on the consolidated statements of operations or financial position.

In December 2007, the FASB ratified EITF No. 07-1, “*Accounting for Collaborative Agreements.*” This standard provides guidance regarding financial statement presentation and disclosure of collaborative agreements, as defined, which includes arrangements regarding the developing and commercialization of products and product candidates. EITF 07-01 is effective as of January 1, 2009. Implementation of this standard is not expected to have a material impact on the consolidated statements of operations or financial position.

In June 2007, the FASB ratified EITF 07-3, “*Accounting for Nonrefundable Advance Payments for Goods or Services to be used in Future Research and Development Activities.*” This standard requires that nonrefundable advance payments for goods and services that will be used or rendered in future research and development activities pursuant to executory contractual arrangements be deferred and recognized as an expense in the period the related goods are delivered or services are performed. EITF No. 07-3 became effective as of January 1, 2008 and it did not have a material impact on the consolidated statements of operations or financial position upon adoption.

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, or SFAS No. 157, “*Fair Value Measurements.*” SFAS No. 157 provides guidance for using fair value to measure assets and liabilities. It also responds to investors’ request for expanded information about the extent to which companies measure assets and liabilities at fair value, the information used to measure fair value, and the effect of fair valued measurements on earnings. SFAS No. 157 applies whenever standards require (or permit) assets or liabilities to be measured at fair value, and does not expand the use of fair value in any new circumstances. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years, with early adoption permitted, except for the impact of FASB Staff Position (FSP) 157-2. FSP 157-2 deferred the adoption of SFAS 157 for non financial assets and liabilities until years ended after November 15, 2008. The Company must adopt these requirements no later than the first quarter of 2008.

On March 19, 2008, the FASB issued SFAS No. 161, “*Disclosures about Derivative Instruments and Hedging Activities*”, an amendment of FASB Statement No. 133, or SFAS No. 161. SFAS No. 161 requires enhanced disclosures about an entity’s derivative and hedging activities. These enhanced disclosures will discuss (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity’s financial position, financial performance, and cash flows. SFAS No. 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. We have not determined the impact, if any SFAS No. 161 will have on our consolidated financial statements.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

Note 3 Property

Our major classes of property and equipment were as follows:

| | <u>December 31</u> | |
|-------------------------------|--------------------|-----------------|
| | <u>2007</u> | <u>2006</u> |
| Office furniture | \$ 10,129 | \$ 9,150 |
| Computer equipment | 48,827 | 25,626 |
| Total | 58,956 | 34,776 |
| Less accumulated depreciation | (26,298) | (7,689) |
| | <u>\$ 32,658</u> | <u>\$27,087</u> |

Depreciation expense for the years ended December 31, 2007 and 2006 was \$18,609 and \$7,689, respectively. There was no depreciation expense for the period from August 2, 2005 (date of inception) to December 31, 2005.

Note 4 Patent Portfolio

As of December 31, 2007, we had ten issued U.S. and 8 issued foreign technology related patents, in addition to pending U.S. and foreign patent applications. The term of our issued U.S. and foreign patents runs through the period 2019 to 2024. Most of our issued patents were acquired by our principal operating subsidiary, VirnetX, Inc., from Science Applications International Corporation, or SAIC, pursuant to an Assignment Agreement dated December 21, 2006, and a Patent License and Assignment Agreement dated August 12, 2005, as amended on November 2, 2006, including documents prepared pursuant to the November amendment, and as further amended on March 12, 2008. We are required to make payments to SAIC based on the revenue generated from our ownership or use of the patents assigned to us by SAIC. Minimum annual royalty payments of \$50,000 are due beginning in 2008. Royalty amounts vary depending upon the type of revenue generating activities, and certain royalty categories are subject to maximums and other limitations. SAIC is entitled to receive a portion of the proceed revenues, monies or any form of consideration paid for the acquisition of VirnetX or from the settlement of certain patent infringement claims of ours. We have granted SAIC a security interest in some of our intellectual property, including the patents and patent applications we obtained from SAIC, to secure these payment obligations.

Generally upon our default of our agreement with SAIC and certain other events, we are required to convey to SAIC our interests in the patents and patent applications acquired from SAIC without consideration.

At December 31, 2007, in accordance with SFAS 142, "Accounting for Goodwill and Other Intangible Assets", we recorded the fair value of the \$50,000 annual guaranteed payments we have agreed to pay to SAIC in 2008 through 2012 as a liability, calculated using a discount rate of 8%. This liability will accrue interest at the 8% rate during the period it is outstanding. We recorded a related asset equal in amount to the liability as an intangible asset which will be amortized over the expected revenue generating period of our agreement with SAIC.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

As of December 31, 2007, the expected amortization of the intangible assets is as follows:

| | |
|------------|------------------|
| 2008 | \$ 48,000 |
| 2009 | 48,000 |
| 2010 | 48,000 |
| 2011 | 48,000 |
| 2012 | 48,000 |
| Thereafter | 12,000 |
| Total | <u>\$252,000</u> |

As of December 31, 2007, the obligation matures as follows:

| | |
|------------|------------------|
| 2008 | \$ 48,000 |
| 2009 | 44,000 |
| 2010 | 40,000 |
| 2011 | 36,000 |
| 2012 | 32,000 |
| Thereafter | 52,000 |
| Total | <u>\$252,000</u> |

Note 5 Commitments

We lease our office facility under a non-cancelable operating lease that expires in August 2012.

Rent expense for the years ended December 31, 2007 and 2006 was \$14,925 and \$8,209 respectively. For the period from August 2, 2005 (date of inception) to December 31, 2005, there was no rent expense.

Note 6 Stock Plan

In 2005, VirnetX, Inc. adopted the 2005 Stock Plan, or the Plan, which was assumed by us upon the closing of the transaction between VirnetX Holding Corporation and VirnetX, Inc. on July 5, 2007. The Plan provides for the granting of stock options and restricted stock units to employees and consultants of ours. Stock options granted under the Plan may be incentive stock options or nonqualified stock options. Incentive stock options, or ISOs, may only be granted to our employees (including officers and directors). Nonqualified stock options, or NSOs, may be granted to our employees and consultants.

Options under the Plan may be granted for a period of up to ten years and at prices no less than 85% of the estimated fair market value of the shares on the date of grant as determined by the board of directors, provided, however, that the exercise price of an ISO and NSO shall not be less than 100% or 85% of the estimated fair market value of the shares at the date of grant, respectively, and the exercise price of an ISO and NSO granted to a 10% shareholder shall not be less than 110% of the estimated fair value of the shares on the date of grant.

**VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)**

NOTES TO FINANCIAL STATEMENTS — (Continued)

Activity under the Plan is as follows:

| | Shares Available for Grant | Options Outstanding | |
|---|----------------------------|---------------------|---------------------------------|
| | | Number of Shares | Weighted Average Exercise Price |
| Shares reserved for the Plan at inception | 11,624,469 | — | — |
| Restricted stock units granted | (3,321,277) | — | — |
| Options granted | — | — | — |
| Options exercised | — | — | — |
| Options cancelled | — | — | — |
| Balance at December 31, 2005 | <u>8,303,192</u> | <u>—</u> | <u>—</u> |
| Restricted stock units granted | (1,058,657) | — | — |
| Options granted | (1,868,218) | 1,868,218 | \$.24 |
| Options exercised | — | — | — |
| Options cancelled | — | — | — |
| Balance at December 31, 2006 | <u>5,376,317</u> | <u>1,868,218</u> | <u>\$.24</u> |
| Restricted stock units granted | — | — | — |
| Options granted | (2,324,925) | 2,324,925 | 4.96 |
| Options exercised | — | (124,548) | .24 |
| Options cancelled | — | — | — |
| Balance at December 31, 2007 | <u>3,051,392</u> | <u>4,068,595</u> | <u>\$ 2.94</u> |

Note 7 Stock-Based Compensation

We account for equity instruments issued to employees in accordance with the provision of SFAS 123(R) which requires that such issuances be recorded at their fair value on the grant date. The recognition of the expense is subject to periodic adjustment as the underlying equity instrument vests.

We have elected to adopt the modified retrospective application method as provided by SFAS 123(R) and, accordingly, financial statement amounts for the periods presented herein reflect results as if the fair value method of expensing equity awards had been applied from inception.

Stock-based compensation expense is included in general and administrative expense for each period as follows:

| Stock-Based Compensation by Type of Award | Year Ended December 31, 2007 | Year Ended December 31, 2006 | Year Ended December 31, 2005 | Cumulative Period from August 2, 2005 (Date of Inception) to December 31, 2007 |
|---|------------------------------|------------------------------|------------------------------|--|
| Restricted stock units | \$ 0 | \$ 130,210 | \$ 799,920 | \$ 930,130 |
| Employee stock options | 818,869 | 81,619 | 0 | 900,488 |
| Total stock-based compensation | <u>\$ 818,869</u> | <u>\$ 211,829</u> | <u>\$ 799,920</u> | <u>\$ 1,830,618</u> |

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(A DEVELOPMENT STAGE ENTERPRISE)

NOTES TO FINANCIAL STATEMENTS — (Continued)

As of December 31, 2007, the unrecorded deferred stock-based compensation balance related to stock options was \$8,806,496, which will be amortized as expense over an estimate weighted average vesting amortization period of approximately 3.1 years.

The fair value of each option grant was estimated on the date of grant using the following assumptions:

| | <u>Year Ended December 31, 2007</u> | <u>Year Ended December 31, 2006</u> |
|-------------------------|---|---|
| Volatility | 100% | 100% |
| Risk-free interest rate | 3.32% | 4.77% |
| Expected life | 6.5years | 6years |
| Expected dividends | 0% | 0% |

Based on the Black-Scholes option pricing model, the weighted average estimated fair value of employee stock option grants was \$4.96 and \$.19 for the years ended December 31, 2007 and 2006, respectively.

The expected life was determined using the simplified method outlined in Staff Accounting Bulletin No. 107, or SAB 107, taking the average of the vesting term and the contractual term of the option. Expected volatility of the stock options was based upon historical data and other relevant factors, such as the volatility of comparable publicly-traded companies at a similar stage of life cycle. The Company has not provided an estimate for forfeitures because the Company has no history of forfeited options and believes that all outstanding options at December 31, 2007 will vest. In the future, the Company may change this estimate based on actual and expected future forfeiture rates.

The following table summarizes activity under the equity incentive plans for the indicated periods:

| | <u>Number of Shares</u> | <u>Weighted Average Exercise Price</u> | <u>Weighted Average Remaining Contractual Term (Years)</u> | <u>Aggregate Intrinsic Value</u> |
|----------------------------------|-----------------------------|--|--|--|
| Outstanding at December 31, 2005 | — | \$ — | — | \$ — |
| Options granted | 1,868,218 | 0.24 | — | — |
| Options exercised | — | — | — | — |
| Options cancelled | — | — | — | — |
| Outstanding at December 31, 2006 | 1,868,218 | 0.24 | — | — |
| Options granted | 2,324,925 | 4.96 | 9.7 | — |
| Options exercised | (124,548) | 0.24 | — | \$ 468,300 |
| Options cancelled | — | — | — | — |
| Outstanding at December 31, 2007 | <u>4,068,595</u> | <u>\$ 2.94</u> | <u>9.1</u> | <u>\$ 11,961,669</u> |

Intrinsic value is calculated at the difference between the market price of the Company's stock on the last trading day of the year (\$5.88) and the exercise price of the options. For options exercised, the intrinsic value is the difference between market price and the exercise price on the date of exercise.

**VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)**

NOTES TO FINANCIAL STATEMENTS — (Continued)

The following table summarizes information about stock options at December 31, 2007:

| Range of Exercise Price | Options Outstanding | | | Options Vested and Exercisable | | |
|-------------------------|---------------------|---|---------------------------------|--------------------------------|---------------------------------|---|
| | Number Outstanding | Weighted Average Remaining Contractual Life (Years) | Weighted Average Exercise Price | Number Exercisable | Weighted Average Exercise Price | Weighted Average Remaining Contractual Life (Years) |
| \$ 0.24 | 1,743,690 | 8.4 | \$ 0.24 | 560,669 | \$ 0.24 | 8.4 |
| 4.20 | 1,347,899 | 9.5 | 4.20 | 572,925 | 4.20 | 9.5 |
| 5.88 - 6.47 | 977,026 | 9.9 | 6.00 | — | — | — |
| | <u>4,068,595</u> | <u>9.1</u> | <u>\$ 2.94</u> | <u>1,133,594</u> | <u>\$ 2.24</u> | <u>8.9</u> |

Note 8 Warrants

During 2007, we issued warrants to purchase 266,667 of our common shares at \$.75 per share in conjunction with the July stock issuance. The warrants expire in 2012. We issued warrants to purchase 300,000 of our common shares at \$4.80 per share to the underwriter of our December 2007 stock issuance. Those warrants are first exercisable in 2008 and expire in 2012.

Note 9 Earnings Per Share

Basic earnings per share is based on the weighted average number of shares outstanding for a period. Diluted earnings per share is based upon the weighted average number of shares and potentially dilutive common shares outstanding. Potential common shares outstanding principally include stock options, warrants, restricted stock units and other equity awards under our stock plan. Since the Company has incurred losses, the effect of any common stock equivalent would be anti-dilutive.

The following table sets forth the basic and diluted earnings per share calculations (in 000s, except per share information):

| | Period Ended December 31, | | |
|---|---------------------------|------------|-----------|
| | 2007 | 2006 | 2005 |
| Net loss | \$ (8,692) | \$ (1,401) | \$ (882) |
| Weighted average number of shares outstanding | 24,312 | 17,087 | 15,217 |
| Basic earnings (loss) per share | \$ (0.36) | \$ (0.08) | \$ (0.06) |

For the years ended December 31, 2007 and 2006, there were the following stock equivalents:

| | 2007 | 2006 |
|----------|------------------|------------------|
| Options | 4,068,595 | 1,868,218 |
| Warrants | 566,667 | — |
| | <u>4,635,262</u> | <u>1,868,218</u> |

Note 10 Preferred Stock

Our Amended and Restated Certificate of Incorporation, as amended in October 2007, authorizes us to issue 10,000,000 shares of \$.0001 par value per share preferred stock having rights, preferences and privileges to be designated by our Board of Directors. There were no shares of preferred stock outstanding at

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)

NOTES TO FINANCIAL STATEMENTS — (Continued)

December 31, 2007. All of the VirnetX, Inc. preferred stock converted into VirnetX, Inc. common stock on a 1-for-1 basis immediately prior to the merger between us and VirnetX, Inc., so at the date of the merger, each preferred share of VirnetX, Inc. converted to 12.454788 shares of our common stock. These shares were subsequently adjusted for the impact of the one for three reverse split in October 2007. The VirnetX, Inc. preferred stock outstanding at December 31, 2006 consisted of the following:

| <u>Series</u> | <u>Date Issued</u> | <u>Original Issue Price</u> | <u>Shares Authorized</u> | <u>Shares Outstanding</u> |
|--------------------|--------------------|---------------------------------|------------------------------|-------------------------------|
| Series A Preferred | March 27, 2006 | \$ 1.00 | 2,000,000 | 1,404,000 |

The preferred stock at December 31, 2006 had voting rights equal to an equivalent number of the common stock into which it was convertible, and voted together as one class with the common stock.

The preferred stock at December 31, 2006 were entitled to receive dividends prior to and in preference to any declaration or payment of dividends on the common stock, at the rate of \$0.08 per share per annum on each outstanding share of Series A preferred stock, payable quarterly. Such dividends were payable only when and if declared by the Board of Directors and are not cumulative. No such dividends were ever declared or paid. After payment of such dividends, any additional dividends would be distributed among Series A preferred stock and common stock pro rata based on the number of shares of common stock then held by each holder (assuming conversion of all such Series A preferred stock into common stock.)

The preferred stock at December 31, 2006 had a preference in liquidation of \$1,404,000 or \$1.00 per share. In the event of liquidation, the holders of Series A preferred shares were entitled to receive preference on any distribution of any assets equal to \$1.00 per share, plus any declared but unpaid dividends. The remaining assets, if any, would then be distributed among the holders of common stock and preferred stock, pro rata based on the number of shares of common stock held by each holder, assuming the conversion of all such redeemable convertible preferred stock, until the holders of a the Series A preferred stock shall have received an aggregate of \$2.00 per share. If VirnetX, Inc.'s legally available assets were insufficient to satisfy the liquidation preferences, the assets would be distributed ratably among the holders of the Series A preferred stock, in proportion to the amounts each holder would receive if VirnetX, Inc. had sufficient assets and funds to pay the full preferential amount.

The preferred stock at December 31, 2006 had conversion rights, at the option of the holder, into a number of fully paid and non assessable shares of common stock as is determined by dividing \$1.00 by the conversion price applicable to such share, determined as hereafter provided, in effect on the due date the certificate is surrendered for conversion. The initial conversion price per share of Series A preferred stock was \$1.00 and was subject to adjustments in accordance with antidilution provisions, including stock splits and stock dividends, contained in VirnetX, Inc.'s certificate of incorporation. Each share of Series A preferred stock automatically converted into shares of common stock at the conversion price at the time in effect for such share immediately upon the earlier of (1) VirnetX, Inc.'s sale of its common stock in a firm commitment underwritten public offering resulting in aggregate cash proceeds to VirnetX, Inc. of not less than \$8 million, (2) any reverse merger yielding working capital to VirnetX, Inc. of at least \$8 million and resulting in VirnetX, Inc.'s shares being registered under Securities Exchange Act of 1934, (3) the date specified by the written consent or agreement of the holders of a majority of the then outstanding shares of Series A preferred stock.

At December 31, 2006, VirnetX, Inc. had reserved sufficient shares of common stock for issuance upon conversion of the convertible preferred stock.

At December 31, 2006 and 2007, the Series A preferred stock was not mandatorily redeemable.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

Note 11 Common Stock

Each share of common stock has the right to one vote. The holders of common stock are entitled to receive dividends whenever funds are legally available and when declared by the Board of Directors, subject to the prior rights of holders of all classes of stock outstanding having priority rights as to dividends. No dividends have been declared by the Board from inception through December 31, 2007. The Company's restated articles of incorporation authorizes the Company to issue up to 100,000,000 shares of \$.0001 par value common stock.

In August 2005, the Company issued 13,285,107 shares to founders for aggregate proceeds of \$200.

The Company also issued Restricted Stock Units, or RSUs, to employees and consultants as discussed in Note 7.

All share amounts have been retroactively restated to reflect the conversion rate of 12.454788/1 used to effect the merger between VirnetX, Inc. and VirnetX Holding Corporation and the reverse stock split of $\frac{1}{3}$ effective in October 2007.

Note 12 Employee Benefit Plan

During 2007, we sponsored a defined contribution, 401K plan, covering substantially all our employees. The Company's matching contribution to the plan in 2007 was approximately \$5,600. There was no plan in 2006 or 2005.

Note 13 Convertible Debt

In February 2007 we borrowed \$500,000 from a group of preferred shareholders. The note accrued interest at 6% and was convertible into our common stock at \$.75 per share upon the completion of the transaction in which VirnetX, Inc. came to be our wholly owned subsidiary, or the "Transaction." Also in February 2007 we borrowed \$1,000,000 from a third party. That note paid interest, in cash, at 10% and was convertible into our common stock at \$.75 per share upon the completion of the Transaction. A portion, \$350,000 of the proceeds of that note were placed as a retainer with our litigation counsel. The same investor purchased \$3,000,000 in common stock at \$.75 per share, net of expenses of approximately \$47,000. That deposit was placed in an escrow account which was released at the close of the Transaction.

Note 14 Short Term Borrowings

During 2007 we borrowed funds on a short-term basis. In June 2007 we borrowed \$50,000 at 10% interest. These funds were repaid in July 2007. In December 2007, we borrowed \$200,000 in the aggregate from two investors. These funds were repaid, with an aggregate of \$2,000 interest, in December 2007.

Note 15 Income Taxes

The Company has Federal and state net operating loss carryforwards of approximately \$9,100,000 available to offset future taxable income. The Federal and state loss carryforwards expire beginning in 2025 and 2015 respectively. There are restrictions on the ability of the Company to utilize the benefit in any one year. As a result, the Company has fully reserved any deferred tax benefit from these net operating loss carryforwards.

The Company has Federal and state tax credit carryforwards of approximately \$300,000 to reduce future income tax expense. The Federal tax credits expire beginning in 2025. The state tax credits currently do not have an expiration date.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

The components of the income tax provision are as follows:

| | Period Ended December 31, | | |
|--|---------------------------|--------------|--------------|
| | 2007 | 2006 | 2005 |
| Provision for income taxes at the federal & state statutory rate | \$ (3,200,000) | \$ (600,000) | \$ (390,000) |
| Stock-based compensation | 300,000 | 100,000 | 350,000 |
| Research and development credits | (100,000) | (200,000) | — |
| Valuation allowance | 3,000,000 | 700,000 | 40,000 |
| Tax provision | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |

The elements of deferred taxes are as follows:

| | Period Ended December 31, | | |
|---|---------------------------|-------------|-------------|
| | 2007 | 2006 | 2005 |
| Tax benefit of net operating loss carryforwards | \$ 3,400,000 | \$ 500,000 | \$ 40,000 |
| Research and development credits | 300,000 | 200,000 | — |
| Subtotal | 3,700,000 | 700,000 | 40,000 |
| Less valuation allowance | (3,700,000) | (700,000) | (40,000) |
| | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |

The change in the deferred tax valuation allowance was an increase of \$3,000,000, \$660,000 and \$40,000 in the periods ended 2007, 2006 and 2005, respectively.

Note 16 Merger of VirnetX, Inc. and VirnetX Holding Corporation

In July 2007, VirnetX Holding Corporation consummated a reverse triangular merger in which the Company's wholly-owned subsidiary merged with and into VirnetX, Inc. with VirnetX, Inc. as the surviving Corporation to the merger. As a result of the merger VirnetX, Inc. became a wholly-owned subsidiary of the Company, and the pre-merger shareholders of VirnetX Inc. exchanged their shares in VirnetX, Inc. for shares of the common stock of the Company. As a result, the VirnetX, Inc. is considered the acquiror of VirnetX Holding Corporation for accounting purposes.

The key terms of the merger include the following:

- Our officers and directors, except for the chief financial officer, were replaced upon completion of the transaction so that the officers and directors of VirnetX, Inc. became our officers and directors.
- VirnetX, Inc.'s convertible notes payable for \$1,000,000 and \$500,000 were converted into the Company's common stock in July 2007.
- VirnetX, Inc.'s escrowed convertible note proceeds of \$3,000,000 were released from escrow and converted into the Company's common stock in July 2007.
- The Company issued 29,551,398 shares of our common stock and options to purchase 1,743,670 shares of common stock to the pre-merger shareholders, convertible note holders and option holders of VirnetX, Inc. in exchange for 100% of the issued and outstanding capital stock and securities of VirnetX, Inc. Additionally, we issued to MDB Capital Group LLC and its affiliates, warrants to purchase an aggregate of 266,667 shares of our common stock of the Company pursuant to the provisions of the MDB Service Agreement, which we assumed from VirnetX, Inc. in connection with the merger.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

Note 17 Litigation

We believe Microsoft Corporation is infringing certain of our patents. Accordingly, we commenced a lawsuit against Microsoft on February 15, 2007 by filing a complaint in the United States District Court for the Eastern District of Texas, Tyler Division. Pursuant to the complaint, we allege that Microsoft infringes two of our U.S. patents: U.S. Patent No. 6,502,135 B1, entitled “Agile Network Protocol for Secure Communications with Assured System Availability,” and U.S. Patent No. 6,839,759 B2, entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network Without User Entering Any Cryptographic Information.” On April 5, 2007, we filed an amended complaint specifying certain accused products at issue and alleging infringement of a third, recently issued U.S. patent: U.S. Patent No. 7,188,180 B2, entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network.” We are seeking both damages, in an amount subject to proof at trial, and injunctive relief. Microsoft answered the amended complaint and asserted counterclaims against us on May 4, 2007. Microsoft counterclaimed for declarations that the three patents are not infringed, are invalid and are unenforceable. Microsoft seeks an award of its attorneys’ fees and costs. We filed a reply to Microsoft’s counterclaims on May 24, 2007. Discovery has begun and the trial is scheduled to begin on October 12, 2009. We have served our infringement contentions directed to certain of Microsoft’s operating system and unified messaging and collaboration applications. On March 31, 2008, Microsoft filed a Motion to Dismiss for lack of standing, which was denied by the court pursuant to an order dated June 3, 2008. Also pursuant to that court decision, on June 10, 2008, SAIC joined us in our lawsuit as a plaintiff. On November 19, 2008, the court granted our motion to amend our infringement contentions, permitting us to provide increased specificity and citations to Microsoft’s proprietary documents and source code to support our infringement case against Microsoft’s accused products, including, among other things, Windows XP, Vista, Server 2003, Server 2008, Live Communication Server, Office Communication Server and Office Communicator. Microsoft was ordered to provide further information regarding its non-infringement contentions and invalidity contentions in light of the amended infringement contentions. Microsoft was also ordered to provide additional e-mail discovery to VirnetX. Microsoft was not required to search disaster recovery tapes for additional information.

Although we believe Microsoft infringes three of our patents and we intend to vigorously prosecute this case, at this stage of the litigation the outcome cannot be predicted with any degree of reasonable certainty. Additionally, the Microsoft litigation will be costly and time-consuming, and we can provide no assurance that we will obtain a judgment against Microsoft for damages and/or injunctive relief. Should the District Court issue a judgment in favor of Microsoft, and in connection with such judgment determine that we had acted in bad faith or with fraudulent intent, or we were otherwise found to have exhibited inequitable conduct, the Court could award attorney fees to Microsoft, which would be payable by us.

Because the outcome of this litigation cannot be estimated at this time, we have made no provision for loss or expenses in the accompanying financial statements.

VIRNETX HOLDING CORPORATION
(A DEVELOPMENT STAGE ENTERPRISE)
NOTES TO FINANCIAL STATEMENTS — (Continued)

Note 18 Quarterly Financial Information (unaudited)

| | <u>First</u> | <u>Second</u> | <u>Third</u> | <u>Fourth</u> |
|---------------------------|---|---------------|--------------|---------------|
| | (amounts in thousands except per share) | | | |
| 2007 | | | | |
| Revenue | \$ 0 | \$ 0 | \$ 47 | \$ 28 |
| Loss from operations | (410) | (1,526) | (2,589) | (4,125) |
| Net loss | (410) | (1,572) | (2,566) | (4,144) |
| Net loss per common share | \$ (0.02) | \$ (0.10) | \$ (0.09) | \$ (.015) |
| 2006 | | | | |
| Revenue | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Loss from operations | (376) | (340) | (294) | (398) |
| Net loss | (374) | (349) | (284) | (394) |
| Net loss per common share | \$ (0.02) | \$ (0.02) | \$ (0.02) | \$ (0.02) |

VIRNETX HOLDING CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)

| | <u>September 30,</u> <u>2008</u> | <u>December 31,</u> <u>2007</u> |
|--|-------------------------------------|------------------------------------|
| ASSETS | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 2,260,170 | \$ 8,589,447 |
| Accounts receivable, net | 4,144 | 5,860 |
| Prepaid expense and other current assets | 529,531 | 399,201 |
| Total current assets | 2,793,845 | 8,994,508 |
| Property and equipment, net | 33,307 | 32,658 |
| Intangible and other assets | 252,000 | 252,000 |
| Total assets | \$ 3,079,152 | \$ 9,279,166 |
| LIABILITIES AND STOCKHOLDERS' EQUITY | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | \$ 1,467,412 | \$ 531,790 |
| Current portion long-term obligation | 44,000 | 48,000 |
| Total current liabilities | 1,511,412 | 579,790 |
| Long-term obligation, net of current portion | 160,000 | 204,000 |
| Commitments and contingencies | | |
| Stockholders' equity: | | |
| Preferred stock, par value \$0.0001 per share, authorized 10,000,000 shares, issued and outstanding: | | |
| 0 shares at September 30, 2008 and December 31, 2007, respectively | 0 | 0 |
| Common stock, par value \$0.0001 per share, authorized 100,000,000 shares, issued and outstanding: | | |
| 34,899,985 shares at September 30, 2008 and 34,667,214 at December 31, 2007, respectively | 3,489 | 3,467 |
| Additional paid-in capital | 21,383,434 | 19,467,890 |
| Accumulated deficit | (19,979,183) | (10,975,981) |
| Total stockholders' equity | 1,407,740 | 8,495,376 |
| Total liabilities and stockholders' equity | \$ 3,079,152 | \$ 9,279,166 |

See accompanying notes to condensed consolidated financial statements

VIRNETX HOLDING CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

| | Three Months Ended <u>September 30, 2008</u> | Three Months Ended <u>September 30, 2007</u> | For the period August 2, 2005 (Date of Inception) to <u>September 30, 2008</u> |
|--|--|--|---|
| Revenue — royalties | \$ 23,905 | \$ 46,664 | \$ 182,821 |
| Operating expense | | | |
| Research and development | 215,513 | 200,062 | 1,927,839 |
| General and administrative | 2,755,568 | 2,435,262 | 18,341,135 |
| Total operating expense | (2,971,081) | (2,635,324) | (20,268,974) |
| Loss from operations | (2,947,176) | (2,588,660) | (20,086,153) |
| Interest and other income, net | 24,301 | 22,377 | 106,970 |
| Net loss | \$ (2,922,875) | \$ (2,566,283) | \$ (19,979,183) |
| Basic and diluted loss per share | \$ (0.08) | \$ (0.08) | |
| Weighted average shares outstanding | 34,899,985 | 30,580,000 | |

| | Nine Months Ended <u>September 30, 2008</u> | Nine Months Ended <u>September 30, 2007</u> | For the period August 2, 2005 (Date of Inception) to <u>September 30, 2008</u> |
|--|---|---|---|
| Revenue — royalties | \$ 107,955 | \$ 46,664 | \$ 182,821 |
| Operating expense | | | |
| Research and development | 633,335 | 468,240 | 1,927,839 |
| General and administrative | 8,620,276 | 4,103,509 | 18,341,135 |
| Total operating expense | (9,253,611) | (4,571,749) | (20,268,974) |
| Loss from operations | (9,145,656) | (4,525,085) | (20,086,153) |
| Interest and other income (expense), net | 142,454 | (23,111) | 106,970 |
| Net loss | \$ (9,003,202) | \$ (4,548,196) | \$ (19,979,183) |
| Basic and diluted loss per share | \$ (0.26) | \$ (0.41) | |
| Weighted average shares outstanding | 34,866,480 | 11,135,000 | |

See accompanying notes to condensed consolidated financial statements

VIRNETX HOLDING CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

| | Nine Months Ended September 30, 2008 | Nine Months Ended September 30, 2007 | For the period August 2, 2005 (Date of Inception) to September 30, 2008 |
|---|--|--|--|
| Cash flows from operating activities: | | | |
| Net loss | \$ (9,003,202) | \$ (4,548,196) | \$ (19,979,183) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | | |
| Depreciation | 13,470 | 12,425 | 39,768 |
| Stock-based compensation | 1,915,544 | 348,572 | 3,746,162 |
| (Increase) in current assets | (128,614) | (561,195) | (548,909) |
| Increase in accounts payable and accrued expenses | 937,644 | 678,622 | 1,469,434 |
| Net cash used in operating activities | (6,265,158) | (4,069,772) | (15,272,728) |
| Cash flow from investing activities: | | | |
| Cash acquired in acquisition | 0 | 0 | 14,009 |
| Purchase of fixed assets | (14,119) | (17,401) | (71,850) |
| Net cash used in investing activities | (14,119) | (17,401) | (57,841) |
| Cash flow from financing activities: | | | |
| Proceeds from convertible debt | 0 | 1,500,000 | 1,500,000 |
| Payment of long-term obligation | (50,000) | 0 | (50,000) |
| Proceeds from sale of common stock | 0 | 2,983,439 | 14,730,934 |
| Proceeds from issuance of preferred stock | 0 | 0 | 1,147,625 |
| Proceeds from issuance of restricted stock and options | 0 | 0 | 262,180 |
| Net cash used in financing activities | (50,000) | 4,483,439 | 17,590,739 |
| Net increase (decrease) in cash | (6,329,277) | 396,266 | 2,260,170 |
| Cash — beginning | 8,589,447 | 139,997 | 0 |
| Cash — ending | <u>\$ 2,260,170</u> | <u>\$ 536,263</u> | <u>\$ 2,260,170</u> |

See accompanying notes to condensed consolidated financial statements

VIRNETX HOLDING CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1 — Basis of Presentation

Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States, or GAAP, have been condensed or omitted. Results of operations for the interim periods presented are not necessarily indicative of results which may be expected for any other interim period or for the year as a whole. The accompanying unaudited interim financial statements include all adjustments (consisting of normal recurring adjustments) which are, in the opinion of management, necessary for a fair presentation. The information contained in this quarterly report on Form 10-Q should be read in conjunction with the audited financial statements and related notes for the year ended December 31, 2007 which are contained in the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission, or the SEC, on March 31, 2008.

Note 2 — Formation and Business of the Company

VirnetX Holding Corporation ("we," "us," "our" or the "Company") is a development stage company focused on commercializing a patent portfolio for providing solutions for secure real-time communications such as instant messaging, or IM, and voice over Internet protocol, or VoIP.

In July 2007 we effected a merger between PASW, Inc., a company which had at the time of the merger, publicly traded common stock with limited operations, and VirnetX, Inc., which became our principal operating subsidiary. As a result of this merger, the former security holders of VirnetX, Inc. came to own a majority of our outstanding common stock.

Under GAAP, the accompanying financial statements have been prepared as if VirnetX, Inc., a company with an inception date of August 2, 2005 and which is our predecessor for accounting purposes, had acquired PASW, Inc. on July 5, 2007. Accordingly, the accompanying statements of operations include the consolidated results for the periods ended September 30, 2008 as well as the deficit accumulated during the development stage, which includes the operations of VirnetX, Inc. from August 2, 2005 to September 30, 2008 and the operations of PASW, Inc. from July 5, 2007 to September 30, 2008. The historical share activity of VirnetX, Inc. has been retroactively restated to account for the exchange rate used in affecting the merger and for a one for three reverse stock split completed on October 29, 2007.

Our principal business activities to date are our efforts to commercialize our patent portfolio. We also conduct the remaining activities of PASW, Inc., which are generally limited to the collection of royalties on certain Internet-based communications by a wholly owned Japanese subsidiary of PASW, Inc. pursuant to the terms of a single license agreement. The revenue generated by this agreement is not significant.

Although we believe we may derive revenues in the future from our principal patent portfolio and are currently endeavoring to develop certain of those patents into marketable products, we have not done so to date. As such, we are in the development stage and consequently are subject to the risks associated with development stage companies, including the need for additional financings, the uncertainty that our patent and technology licensing program development efforts will produce revenue-bearing licenses for us, the uncertainty that our development initiatives will produce successful commercial products as well as the uncertainty of marketing and customer acceptance of such products.

Note 3 — Earnings Per Share

SFAS No. 128, "Earnings Per Share" requires presentation of basic earnings per share and diluted earnings per share. Basic earnings per share are computed by dividing earnings available to common stockholders by the weighted average number of outstanding common shares during the period. Diluted earnings per share is computed by dividing net income by the weighted average number of shares outstanding

VIRNETX HOLDING CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Unaudited) — (Continued)

including potentially dilutive securities such as options, warrants and convertible debt. Because we incurred a loss for each period presented, all such potentially dilutive securities have been excluded because their effect would be anti-dilutive.

Note 4 — Patent Portfolio

As of September 30, 2008, we had 11 issued U.S. and eight issued foreign technology related patents, and have several pending U.S. and foreign patent applications. The term of our issued U.S. and foreign patents runs through the period 2019 to 2024. Most of our issued patents were acquired by our principal operating subsidiary, VirnetX, Inc., from Science Applications International Corporation, or SAIC, pursuant to an Assignment Agreement dated December 21, 2006, and a Patent License and Assignment Agreement dated August 12, 2005, as amended on November 2, 2006, including documents prepared pursuant to the November amendment, and as further amended on March 12, 2008. We are required to make payments to SAIC based on the revenue generated from our ownership or use of the patents assigned to us by SAIC. Minimum annual royalty payments of \$50,000 are due beginning in 2008. Royalty amounts vary depending upon the type of revenue generating activities, and certain royalty categories are subject to maximums and other limitations. We have granted SAIC a security interest in some of our intellectual property, including the patents and patent applications we obtained from SAIC, to secure these payment obligations.

Generally upon our default of our agreement with SAIC and certain other events, we are required to convey to SAIC our interests in the patents and patent applications acquired from SAIC without consideration.

During the nine months ended September 30, 2008, we made our first minimum annual payment of \$50,000 to SAIC. As of September 30, 2008, we had not received any royalty revenue on the patents nor begun to amortize the related intangible asset.

Note 5 — Commitments

We lease our office facility under a non-cancelable operating lease that ends in 2012. We recognize rent expense on a straight-line basis over the term of the lease.

| <u>For the Period</u> | <u>Minimum Required Lease Payments in Period</u> |
|-------------------------------------|--|
| October 1 through December 31, 2008 | \$ 9,409 |
| 2009 | 42,100 |
| 2010 | 53,400 |
| 2011 | 58,900 |
| 2012 | 40,300 |
| | <u>\$ 204,109</u> |

Note 6 — Stock Plan

In 2005, VirnetX, Inc. adopted the 2005 Stock Plan, or the Plan, which was assumed by us upon the closing of the transaction between VirnetX Holding Corporation and VirnetX, Inc. on July 5, 2007. The Plan provides for the granting of stock options and restricted stock units to our employees, directors and consultants. Stock options granted under the Plan may be incentive stock options or nonqualified stock options. Incentive stock options, or ISOs, may only be granted to our employees (including officers and directors). Nonqualified stock options, or NSOs, may be granted to our employees and consultants.

VIRNETX HOLDING CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Unaudited) — (Continued)

Options under the Plan may be granted for a period of up to ten years and at prices not less than 85% of the estimated fair market value of the shares on the date of grant as determined by the board of directors, provided, however, that the exercise price of an ISO and NSO shall not be less than 100% or 85% of the estimated fair market value of the shares at the date of grant, respectively, and the exercise price of an ISO and NSO granted to a 10% shareholder shall not be less than 110% of the estimated fair value of the shares on the date of grant.

There were 4,318,596 options outstanding at September 30, 2008 and 4,068,595 at December 31, 2007 with an average exercise price of \$4.34 at September 30, 2008 and \$2.94 at December 31, 2007. As of September 30, 2008, there were 2,801,391 shares available to be granted under the Plan.

There were 100,000 options granted during the period July 1, 2008 through September 30, 2008. No options were exercised in the nine months ended September 30, 2008.

Note 7 — Stock-Based Compensation

We account for equity instruments issued to employees in accordance with the provisions of Statement of Financial Accounting Standard No. 123 (revised 2004), *Shared-Based Payment*, or SFAS 123(R), which requires that such issuances be recorded at their fair value on the grant date. Expense recognized is subject to periodic adjustment as the underlying equity instrument vests. We have elected to adopt the modified retrospective application method as provided by SFAS 123(R) and, accordingly, financial statement amounts for the periods presented herein reflect results as if the fair value method of expensing equity awards had been applied from inception.

Stock-based compensation expense is included in general and administrative expense for each period ended September 30, 2008. Total stock-based compensation expense was \$678,646 and \$1,915,544 for the three and nine months ended September 30, 2008 respectively.

As of September 30, 2008, the unrecorded deferred stock-based compensation balance related to stock options was \$7,886,317, which will be amortized as expense over the related vesting period. As of September 30, 2008, the weighted average vesting period was approximately 2.0 years.

The fair value of option grants was estimated on the date of grant using the following assumptions:

| | Period Ended September 30, 2008 | Year Ended December 31, 2007 |
|---|--|------------------------------------|
| Volatility | 190.00% | 100.00% |
| Risk-free interest rate | 3.83% | 3.32% |
| Expected life | 6.3 years | 6.5 years |
| Expected dividends | 0.00% | 0.00% |
| Weighted-average grant date fair value of stock options granted | \$ 3.54 | \$ 4.96 |

The expected life was determined using the simplified method outlined in Staff Accounting Bulletin No. 107, extended by SAB 110, using the average of the vesting term and the contractual term of the option. Expected volatility of the stock options was based upon historical data and other relevant factors, such as the volatility of comparable publicly-traded companies at a similar stage of life cycle. The Company has not provided an estimate for forfeitures because the Company has no history of forfeited options and believes that all outstanding options at September 30, 2008 will vest. In the future, the Company may change this estimate based on actual and expected future forfeiture rates.

Note 8 — Warrants

During 2007, we issued warrants to purchase 266,667 shares of our common stock at \$0.75 per share. The warrants expire in 2012. In January 2008, 233,334 of these warrants were exercised in a cashless exercise transaction. As a result of the January 2008 exercise, a total of 203,911 shares of our common stock were issued. In March 2008, 33,333 of these warrants were exercised in a cashless exercise transaction. As a result of the March 2008 exercise, a total of 28,860 shares of our common stock were issued.

During 2007, we issued warrants to purchase 300,000 shares of our common stock at \$4.80 per share to the underwriter of our December 2007 stock issuance. Those warrants are first exercisable in 2008 and expire in 2012.

Note 9 — Litigation

We believe Microsoft Corporation is infringing certain of our patents. Accordingly, we commenced a lawsuit against Microsoft on February 15, 2007 by filing a complaint in the United States District Court for the Eastern District of Texas, Tyler Division, or the District Court. Pursuant to the complaint, we allege that Microsoft infringes two of our U.S. patents: U.S. Patent No. 6,502,135 B1, entitled "Agile Network Protocol for Secure Communications with Assured System Availability," and U.S. Patent No. 6,839,759 B2, entitled "Method for Establishing Secure Communication Link between Computers of Virtual Private Network without User Entering Any Cryptographic Information." On April 5, 2007, we filed an amended complaint specifying certain accused products at issue and alleging infringement of a third, recently issued U.S. patent: U.S. Patent No. 7,188,180 B2, entitled "Method for Establishing Secure Communication Link between Computers of Virtual Private Network." We are seeking both damages, in an amount subject to proof at trial, and injunctive relief. Microsoft answered the amended complaint and asserted counterclaims against us on May 4, 2007. Microsoft counterclaimed for declarations that the three patents are not infringed, are invalid and are unenforceable. Microsoft seeks an award of its attorneys' fees and costs. We filed a reply to Microsoft's counterclaims on May 24, 2007. We have served our infringement contentions directed to certain of Microsoft's operating system and unified messaging and collaboration applications.

A Markman hearing on claim construction is scheduled for February 2009, and the trial is scheduled to begin on October 12, 2009. On March 31, 2008, Microsoft filed its Motion to Dismiss our case. On June 3, 2008, the court denied the Motion to Dismiss filed by Microsoft. The court's order denying Microsoft's motion expressly confirms our constitutional standing to sue for patent infringement. Also pursuant to the court decision on June 10, 2008, SAIC joined us in our lawsuit as a plaintiff. On November 19, 2008, the court granted our motion to amend our infringement contentions, permitting us to provide increased specificity and citations to Microsoft's proprietary documents and source code to support our infringement case against Microsoft's accused products, including, among other things, Windows XP, Vista, Server 2003, Server 2008, Live Communication Server, Office Communication Server and Office Communicator. Microsoft was ordered to provide further information regarding its non-infringement contentions and invalidity contentions in light of the amended infringement contentions. Microsoft was also ordered to provide additional e-mail discovery to us. Microsoft was not required to search disaster recovery tapes for additional information.

Although we believe Microsoft infringes three of our patents and we intend to vigorously pursue this case, at this stage of the litigation the outcome cannot be predicted. Additionally, the Microsoft litigation will be costly and time-consuming, and we can provide no assurance that we will obtain a judgment against Microsoft for damages and/or injunctive relief. Should the District Court issue a judgment in favor of Microsoft, and in connection with such judgment determine that we had acted in bad faith or with fraudulent intent, or we were otherwise found to have exhibited inequitable conduct, the Court could award attorney fees to Microsoft, which would be payable by us.

Because the outcome of this litigation cannot be estimated at this time, we have made no provision for loss or future expenses in the accompanying financial statements.

**3,000,000 Shares of Common Stock
Warrants to Purchase 4,500,000 Shares of Common Stock
VIRNETX HOLDING CORPORATION**

PROSPECTUS

Gilford Securities Incorporated

, 2009

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The following table sets forth all expenses to be paid by us in connection with this offering based on an assumed public offering price of \$1.75. All amounts shown are estimates other than the registration fee and assume no exercise of warrants.

| | <u>Amount to be Paid</u> |
|---------------------------------|--------------------------|
| SEC registration fee | \$ 1,179 |
| Printing and engraving | 90,000 |
| Underwriter's fees and expenses | 402,500 |
| Legal fees and expenses | 300,000 |
| Accounting fees and expenses | 13,000 |
| Miscellaneous | 333,000 |
| Total | 1,139,679 |

Item 15. Indemnification of Directors and Officers.

Delaware General Corporation Law

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent to the company. The Delaware General Corporation Law provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for any breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions or for any transaction from which the director derived an improper personal benefit.

Certificate of Incorporation

Our Certificate of Incorporation provides that the personal liability of the directors of the company shall be eliminated to the fullest extent permitted by the provisions of Section 102(b)(7) of the Delaware General Corporation Law, as the same may be amended and supplemented.

Our Certificate of Incorporation provides that the company shall, to the fullest extent permitted by the provisions of Section 145 of the Delaware General Corporation Law, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said section from and against any and all of the expenses, liabilities or other matters referred to in or covered by said section, and the indemnification provided for therein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such

office, and shall 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.

Indemnification Agreements

We have also entered into indemnification agreements with our directors and officers. The indemnification agreements provide indemnification to our directors and officers under certain circumstances for acts or omissions which may not be covered by directors' and officers' liability insurance.

Liability Insurance

We have also obtained directors' and officers' liability insurance, which insures against liabilities that our directors or officers may incur in such capacities.

Item 16. Exhibits.

A list of exhibits included as part of this registration statement is set forth in the Exhibit Index.

Item 17. Undertakings.

(a)

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to

such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- i. Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- ii. Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- iii. The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- iv. Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

The undersigned registrant will provide to the underwriter at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

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

In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For determining any liability under the Securities Act, treat the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430(A) and contained in a form of prospectus filed by the undersigned registrant pursuant to Rule 424(b)(1), or (4) or 497(h) under the Securities Act as part of this registration statement as of the time the SEC declared it effective.

(2) For determining any liability under the Securities Act, treat each post-effective amendment that contains a form of prospectus as a new registration statement for the securities offered in the registration statement, and that offering of the securities at that time as the initial bona fide offering of those securities.

The undersigned registrant hereby further undertakes that:

For determining liability under the Securities Act to any purchaser: Each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to any purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-1 and has duly caused this Amendment No. 7 to the Registration Statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Scotts Valley, State of California, on January 16, 2009.

VIRNETX HOLDING CORPORATION

By: /s/ KENDALL LARSEN

Name: Kendall Larsen

Title: President and Chief Executive Officer

In accordance with the requirements of the Securities Act, this Registration Statement on Form S-1 was signed by the following persons in the capacities and on the dates stated:

| <u>Signature and Name</u> | <u>Capacity</u> | <u>Date</u> |
|---|---|------------------|
| <u>/s/ KENDALL LARSEN</u> Kendall Larsen | President, Chief Executive Officer (Principal Executive Officer) and Director | January 16, 2009 |
| <u>*</u> William E. Sliney | Chief Financial Officer (Principal Accounting and Financial Officer) | January 16, 2009 |
| <u>*</u> Edmund C. Munger | Director | January 16, 2009 |
| <u>*</u> Scott C. Taylor | Director | January 16, 2009 |
| <u>*</u> Michael F. Angelo | Director | January 16, 2009 |
| <u>*</u> Thomas M. O'Brien | Director | January 16, 2009 |

*By: /s/ KENDALL LARSEN
Kendall Larsen
Attorney-in-fact

EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|---|
| 1.1 | Form of Underwriting Agreement between VirnetX Holding Corporation and Gilford Securities Incorporated |
| 2.1 | Agreement and Plan of Merger of PASW, Inc., a Delaware corporation and PASW, Inc., a California corporation dated May 25, 2007 ⁽¹⁾ |
| 2.2 | Certificate of Merger filed with the Secretary of State of the State of Delaware on May 30, 2007 ⁽¹⁾ |
| 2.3 | Agreement and Plan of Merger and Reorganization among PASW, Inc., VirnetX Acquisition, Inc. and VirnetX, Inc. dated as of June 12, 2007 ⁽¹⁾ |
| 3.1 | Certificate of Incorporation of the Company ⁽¹⁾ |
| 3.2 | By-Laws of the Company ⁽¹⁾ |
| 4.1 | Form of Warrant Agency Agreement by and between VirnetX Holding Corporation and Corporate Stock Transfer, Inc. as Warrant Agent |
| 4.2 | Form of Underwriter's Warrant |
| 5.1 | Opinion of Orrick, Herrington & Sutcliffe LLP* |
| 10.1 | Amendment No. 2 to Patent License and Assignment Agreement by and between VirnetX, Inc. and Science Applications International Corporation, dated as of March 12, 2008 ⁽²⁾ |
| 10.2 | IP Brokerage Agreement by and between ipCapital Group, Inc. and VirnetX, Inc., effective as of March 13, 2008 ⁽²⁾ |
| 10.3 | Engagement Letter by and between VirnetX Holding Corporation and ipCapital Group, Inc. dated March 12, 2008 ⁽²⁾ |
| 21.1 | Subsidiaries of the Registrant ⁽³⁾ |
| 23.1 | Consent of Farber Hass Hurley LLP, Independent Auditors |
| 23.2 | Consent of Burr, Pilger & Mayer LLP, Independent Accountants |
| 23.3 | Consent of Orrick, Herrington & Sutcliffe LLP (contained in Exhibit 5.1) |
| 24.1 | Power of Attorney (contained in the signature pages hereto) |
| 99.1 | 2007 Stock Plan ⁽⁴⁾ |

* Previously filed.

(1) Incorporated by reference to the Company's Form 8-K filed with the Securities and Exchange Commission on July 12, 2007.

(2) Incorporated by reference to the Company's Form 8-K filed with the Securities and Exchange Commission on March 18, 2008.

(3) Incorporated by reference to the Company's Form 10-K filed with the Securities and Exchange Commission on March 31, 2008.

(4) Incorporated by reference to the Company's Form S-8 filed with the Securities and Exchange Commission on March 25, 2008.

3,000,000 Shares
and Warrants to Purchase 4,500,000 Shares
VIRNETX HOLDING CORPORATION
Common Stock
UNDERWRITING AGREEMENT

Gilford Securities Incorporated
777 Third Avenue, 17th Floor
New York, New York 10017

New York, New York
January ____, 2009

Ladies and Gentlemen:

In connection with a public offering (the "**Offering**") of common stock, \$0.0001 par value per share ("**Common Stock**"), and associated warrants to purchase Common Stock, of VirnetX Holding Corporation, a Delaware corporation (the "**Company**"), the Company proposes to issue and sell to Gilford Securities Incorporated (the "**Underwriter**" or "**you**") pursuant to this Underwriting Agreement (the "**Agreement**") (a) 3,000,000 shares of Common Stock (the "**Primary Offering Shares**") and (b) associated warrants to purchase an aggregate of 4,500,000 shares of Common Stock, comprising, for each Primary Offering Share offered, (i) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$2.00 per share, (ii) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$3.00 per share and (iii) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$4.00 per share (the associated warrants collectively, the "**Primary Offering Warrants**", and, together with the Primary Offering Shares, the "**Primary Offering Securities**"). The date on which the Securities and Exchange Commission (the "**Commission**") declared the Registration Statement (as defined below) of the Company effective under the Securities Act of 1933, as amended (the "**Act**"), is referred to herein as the "**Effective Date**." In addition, the Company proposes to grant to the Underwriter the option referred to in Section 2(b) to purchase all or any part of (a) an aggregate of 450,000 additional shares of Common Stock (the "**Over-Allotment Shares**") and (b) associated warrants to purchase an aggregate of 675,000 additional shares of Common Stock, comprising, for each Over-Allotment Share purchased, (i) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$2.00 per share, (ii) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$3.00 per share and (iii) one warrant to purchase 0.5 shares of Common Stock at an exercise price of \$4.00 per share (the associated warrants collectively, the "**Over-Allotment Warrants**"; the Over-Allotment Warrants together with the Primary Offering Warrants, the "**Public Warrants**"; the Over-Allotment Warrants together with the Over-Allotment Shares, the "**Over-Allotment Securities**"; the Over-Allotment Securities together with the Primary Offering Securities, the "**Securities**").

The Company confirms the agreements made by it with respect to the purchases of the Securities by the Underwriter, as follows:

1. Representations, Warranties and Agreements of the Company. The Company represents and warrants to, and agrees with the Underwriter that as of the date hereof, the Applicable Time and each Closing Date (all as hereinafter defined) that:

(a)(i) A registration statement of the Company on Form S-1 (File No. 333-153645) (including all pre-effective amendments thereto, the “**Initial Registration Statement**”) in respect of the Securities has been filed with the Securities and Exchange Commission (the “**Commission**”) pursuant to the Securities Act of 1933, as amended (the “**Securities Act**”). The Company meets the requirements for use of Form S-1 under the Securities Act, and the rules and regulations of the Commission thereunder (the “**Rules and Regulations**”). The Initial Registration Statement and any post-effective amendment thereto, each in the form heretofore delivered to the Underwriter, and, excluding exhibits thereto, have been declared effective by the Commission in such form and meet the requirements of the Securities Act and the Rules and Regulations. Other than (x) a registration statement, if any, increasing the size of the offering filed pursuant to Rule 462(b) under the Securities Act and the Rules and Regulations (a “**Rule 462(b) Registration Statement**”) and (y) the Prospectus (as defined below) contemplated by this Agreement to be filed pursuant to Rule 424(b) of the Rules and Regulations in accordance with Section 3(a) hereof, no other document with respect to the offer and sale of the Securities has heretofore been filed with the Commission. No stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been initiated or threatened by the Commission. The prospectus filed as part of the registration statement in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement and any prospectus subject to completion included in the Registration Statement or any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations is hereinafter called a “**Preliminary Prospectus**.” The various parts of the Initial Registration Statement and the Rule 462(b) Registration Statement, if any, in each case including all exhibits thereto and (i) the information contained in the Prospectus filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations and (ii) the documents incorporated by reference in the Rule 462(b) Registration Statement at the time the Rule 462(b) Registration Statement became effective, are hereinafter collectively called the “**Registration Statements**.” The prospectus included in the Initial Registration Statement at the time of effectiveness thereof, as supplemented by the final prospectus relating to the offer and sale of the Stock and Warrants, in the form filed pursuant to and within the time limits described in Rule 424(b) under the Rules and Regulations, is hereinafter called the “**Prospectus**.” Any reference to any Registration Statement shall be deemed to refer to and include the documents incorporated by reference therein.

(ii) As of the Applicable Time and as of each Closing Date, as the case may be, the Pricing Prospectus (as defined below) and the information included on Schedule I hereto all considered together (collectively, the “**General Disclosure Package**”), did not include and will not include any untrue statement of a material fact and did not and will not omit to state a

material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from the Pricing Prospectus, in reliance upon, and in conformity with, written information furnished to the Company by the Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter Information as defined below. As used in this paragraph (a)(i) and elsewhere in this Agreement:

“**Applicable Time**” means [___] [A/P].M., New York time, on the date of this Agreement or such other time as agreed to by the Company and the Underwriter.

“**Pricing Prospectus**” means the Preliminary Prospectus, as amended and supplemented immediately prior to the Applicable Time, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof.

(b) The Commission has not issued any order preventing or suspending the use of any Preliminary Prospectus. At the time the Registration Statement became effective and at all times subsequent thereto up to and on each Closing Date: (i) the Registration Statement and Prospectus will in all material respects conform to the requirements of the Act and the Rules and Regulations; and (ii) neither the Registration Statement nor the Prospectus will include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make statements therein not misleading (in light of the circumstances under which they were made in the case of the Prospectus); *provided, however*, that the Company makes no representations, warranties or agreements as to information contained in or omitted from the Registration Statement or Prospectus in reliance upon, and in conformity with, written information furnished to the Company by or on behalf of the Underwriter specifically for use in the preparation thereof. It is understood that the statements set forth in the Pricing Prospectus and the Prospectus under the heading “**Underwriting**” in the first paragraph thereunder (concerning the terms of the offering by the Underwriter), the third paragraph thereunder (concerning hedging, short sale or derivative transactions) and the eighth paragraph thereunder (concerning stabilizing transactions) and the identity of counsel to the Underwriter under the heading “**Legal Matters**” constitute, for purposes of this section, the only information furnished in writing by or on behalf of the Underwriter for inclusion in the Pricing Prospectus, the Registration Statement and the Prospectus (“**Underwriter Information**”).

(c) Each of the Company and its subsidiaries has been duly incorporated and is validly existing as a corporation in good standing, or the substantial equivalent thereof, under the laws of the jurisdiction of its incorporation with full corporate power and authority to own its properties and conduct its business as described in the General Disclosure Package and the Prospectus and is duly qualified or licensed to do business as a foreign corporation and is in good standing in each other jurisdiction in which the nature of its business or the character or location of its properties requires such qualification, except where the failure to so qualify will not materially adversely affect the Company’s business, properties or financial condition.

(d) As of each Closing Date, the authorized, issued and outstanding securities (including, but not limited to, all shares of capital stock, options, warrants, convertible instruments, and notes and debentures of any kind) of the Company will be as set forth in the

General Disclosure Package and the Prospectus (which provides in detail all the terms of all such securities, the owners thereof, the amount authorized and the amount outstanding) which, other than any securities issued in the Offering, shall not change prior to the last Closing Date. All of such outstanding securities have been duly authorized, validly issued, fully paid and are non-assessable, and other than as set forth in the General Disclosure Package and the Prospectus: (i) none of the Company's capital stock is subject to preemptive rights under Delaware law or any other similar rights or any liens or encumbrances suffered or permitted by the Company; (ii) there are no outstanding debt securities issued by the Company; (iii) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, any shares of capital stock of the Company or any of its subsidiaries, or contracts, commitments, understandings or arrangements by which the Company or any of its subsidiaries is or may become bound to issue additional shares of capital stock of the Company or any of its subsidiaries or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, any shares of capital stock of the Company or any of its subsidiaries; (iv) except as disclosed in the Registration Statement, there are no agreements or arrangements under which the Company or any of its subsidiaries is obligated to register the sale of any of their securities under the Securities Act; (v) there are no outstanding securities of the Company or any of its subsidiaries which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any of its subsidiaries is or may become bound to redeem a security of the Company or any of its subsidiaries; (vi) there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities, the Underwriter's Warrant (as hereinafter defined) or the shares of Common Stock issuable upon exercise of the Public Warrants or the Underwriter's Warrant (the "Underlying Shares"); and (vii) the Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. There have been no prior offers or sales of securities of the Company in the United States except, to the extent required by applicable law, as disclosed in the Registration Statement, and all prior sales of securities of the Company were either registered under applicable federal and state securities laws or exempt from such registration, and no security holder has any rescission rights with respect thereto. The capital stock and other securities of the Company conform in all material respects to all statements relating thereto contained in the Registration Statement and Prospectus.

(e) The Securities, when paid for, issued and delivered pursuant to this Agreement, and the Underlying Shares, when paid for, issued and delivered pursuant to the Public Warrants and the Warrant Agreement (as defined below), will have been duly authorized, validly issued and delivered, and will be fully paid, non-assessable and free of preemptive rights of any securityholder of the Company and entitled to the rights and preferences provided by the Company's Certificate of Incorporation and Bylaws, both as amended, which will be in form and substance filed as exhibits to the Registration Statement. None of the filing of the Registration Statement, the offering or sale of the Securities as contemplated by this Agreement, the issuance of the Underwriter's Warrant or the issuance of the Underlying Shares pursuant to the Public Warrants and the Warrant Agreement gives rise to any rights, other than those which have been waived or satisfied for or relating to the registration of any securities of the Company under the Act or the laws of any jurisdiction of the United States of America, except as described in the

Registration Statement. The terms of the Securities and the Underlying Shares conform in all material respects to the description thereof in the General Disclosure Package, the Registration Statement and the Prospectus.

(f) This Agreement, the Public Warrants and the Warrant Agreement have been, and at each Closing Date will be, duly and validly authorized, executed and delivered by the Company, and assuming due execution by the other parties thereto, are and will constitute valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and that the Company makes no representation or warranty as to the enforceability of (i) the provisions purporting to govern indemnification or contribution under the securities laws of any jurisdiction or (ii) any choice of law provisions. The Company has full power and authority to authorize, issue and sell the Securities to be sold by it hereunder on the terms and conditions set forth herein and to issue the Underwriter's Warrant and the Underlying Shares pursuant to the Public Warrants and the Underwriter's Warrant, and no consent, approval, authorization or other order of any governmental authority is required in connection with such authorization, execution and delivery or in connection with the authorization, issuance and sale of the Securities or the Underlying Shares, except as may be required and have been made under the Act, or state or federal securities laws.

(g) Except for events that would not have a material adverse effect on the condition (financial or otherwise), net worth or properties of the Company and its subsidiaries taken as a whole (a "**Material Adverse Effect**"), neither the Company nor any subsidiary is in violation, breach or default of or under, and consummation of the transactions herein contemplated and the fulfillment of the terms of this Agreement and the Warrant Agreement will not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the property or assets of the Company or any subsidiary pursuant to the terms of any material agreement, indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries may be bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, nor will such action result in any violation of the provisions of the Certificate of Incorporation, the Bylaws, or other organizational documents, as the case may be, of the Company or any of its subsidiaries, as amended, or any statute or any order, rule or regulation applicable to the Company or any of its subsidiaries, of any court or of any regulatory authority or other governmental body having jurisdiction over the Company or any of its subsidiaries.

(h) The Company and each of its subsidiaries has good and marketable title to all properties and assets described in the General Disclosure Package and the Prospectus as owned by each of them, free and clear of all liens, charges, encumbrances or restrictions, except as disclosed in the financial statements set forth in the General Disclosure Package and the Prospectus or such as are not material in relation to their business taken as a whole; all of the material leases and subleases under which the Company and each of its subsidiaries is the lessor or sublessor of properties or assets or under which the Company or each of its subsidiaries holds

properties or assets as lessee or sublessee as described in the General Disclosure Package and the Prospectus are in full force and effect, and, except as described in the General Disclosure Package and the Prospectus, neither the Company nor any of its subsidiaries is in default in any material respect with respect to any of the terms or provisions of any of such leases or subleases, and no claim has been asserted by anyone adverse to rights of the Company and each of its subsidiaries as lessor, sublessor, lessee or sublessee under any of the leases or subleases mentioned above, or affecting or questioning the right of the Company or any of its subsidiaries to continued possession of the leased or subleased premises or assets under any such lease or sublease except as described or referred to in the General Disclosure Package and the Prospectus; and the Company and each of its subsidiaries owns or leases all such properties described in the General Disclosure Package and the Prospectus as are necessary to its operations as now conducted and, except as otherwise stated in the General Disclosure Package and the Prospectus, as proposed to be conducted as set forth in the General Disclosure Package and the Prospectus. The Company owns or controls, directly or indirectly, only the following corporations, partnerships, limited liability partnerships, limited liability companies, associations or other entities: Alera Systems, Inc., Network Research Corp., Pacific Acquisition Corporation, PASW Europe Limited and VirnetX, Inc.

(i) Burr, Pilger & Mayer LLP (the “**Predecessor Auditor**”), which has certified the financial statements for VirnetX, Inc. included or incorporated by reference in the General Disclosure Package and the Registration Statement and the Prospectus, is an independent registered public accounting firm within the meaning of Article 2-01 of Regulation S-X and the Public Company Accounting Oversight Board (United States) (the “**PCAOB**”). Except as disclosed in the Registration Statement and as pre-approved in accordance with the requirements set forth in Section 10A of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), the Predecessor Auditor has not been engaged by the Company to perform any “prohibited activities” (as defined in Section 10A of the Exchange Act).

(ii) Farber Hass Hurley LLP (the “**Auditor**”), which has certified certain financial statements included or incorporated by reference in the Registration Statement and the Prospectus, is an independent registered public accounting firm within the meaning of Article 2-01 of Regulation S-X and the PCAOB. Except as disclosed in the Registration Statement and as pre-approved in accordance with the requirements set forth in Section 10A of the Exchange Act, the Auditor has not been engaged by the Company to perform any “prohibited activities” (as defined in Section 10A of the Exchange Act).

(j) The financial statements and schedules together with related notes set forth in the General Disclosure Package, the Prospectus and each Registration Statement present fairly the financial position and results of operations and changes in cash flow position of the Company on the basis stated in the General Disclosure Package and the Prospectus, at the respective dates and for the respective periods to which they apply. Said statements and schedules and related notes have been prepared in accordance with generally accepted accounting principles in the jurisdiction(s) identified in the General Disclosure Package and the Prospectus applied on a basis which is consistent during the periods involved. Except as disclosed in the General Disclosure Package, Registration Statement and Prospectus, the

Company's internal accounting controls and procedures are sufficient to cause the Company and each subsidiary to prepare financial statements that comply in all material respects with generally accepted accounting principles in the jurisdiction(s) identified in the General Disclosure Package and the Prospectus applied on a consistent basis during the periods involved. Except as disclosed in the General Disclosure Package, Registration Statement and Prospectus, since the formation of the Company, nothing has been brought to the attention of the Company's management that would result in any reportable condition relating to the Company's internal accounting procedures, weaknesses or controls.

(k) Subsequent to the respective dates as of which information is given in the General Disclosure Package, Registration Statement and Prospectus and except as otherwise disclosed or contemplated therein, neither the Company nor any of its subsidiaries has: (i) incurred any liabilities or obligations, direct or contingent, not in the ordinary course of business, or entered into any transaction not in the ordinary course of business; (ii) had any change in its capital stock, or any incurrence of short-term or long-term debt; (iii) issued options, warrants or other rights to purchase its capital stock; or (iv) had an adverse change or any development involving, so far as can now be reasonably foreseen, a prospective adverse change in their condition (financial or otherwise), net worth, results of operations, business, key personnel or properties, individually or which taken together, would have a Material Adverse Effect.

(l) Except as disclosed in the General Disclosure Package, Prospectus and Registration Statement, there is not now pending or, to the knowledge of the Company, threatened, any material action, suit, proceeding, inquiry, arbitration or investigation to which the Company or any of its subsidiaries or any of their officers or directors is a party or subject to that might result in a Material Adverse Effect, nor are there any actions, suits or proceedings related to environmental matters or related to discrimination on the basis of age, sex, religion or race; and no labor disputes involving the employees of the Company or any of its subsidiaries exist or to the knowledge of the Company, are threatened which might be expected to have a Material Adverse Effect.

(m) The Company and each of its subsidiaries has filed all necessary tax returns required to be filed as of the date hereof and have paid all taxes shown as due thereon; and there is no tax deficiency that has been, or to the knowledge of the Company, may be, asserted against the Company or any of its subsidiaries.

(n) The Company and its subsidiaries own or possess the valid right to use all (i) valid and enforceable patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, Internet domain name registrations, copyrights, copyright registrations, licenses, trade secret rights (the "**Intellectual Property Rights**") and (ii) inventions, software, works of authorships, trade marks, service marks, trade names, databases, formulae, know how, Internet domain names and other intellectual property (including trade secrets and other unpatented and/or unpatentable proprietary confidential information, systems, or procedures) (collectively, the "**Intellectual Property Assets**") necessary to conduct their respective businesses as currently conducted, and as proposed to be conducted and described in the General Disclosure Package, Registration Statement and the Prospectus. The Company and

its subsidiaries have not received any opinion from their legal counsel concluding that any activities of their respective businesses infringe, misappropriate, or otherwise violate, valid and enforceable Intellectual Property Rights of any other person, and have not received written notice of any challenge, which is to their knowledge still pending, by any other person to the rights of the Company and its subsidiaries with respect to any Intellectual Property Rights or Intellectual Property Assets owned or used by the Company or its subsidiaries. To the knowledge of the Company, the Company and its subsidiaries' respective businesses as now conducted do not give rise to any infringement of, any misappropriation of, or other violation of, any valid and enforceable Intellectual Property Rights of any other person. All licenses for the use of the Intellectual Property Rights described in the Registration Statement and the Prospectus are valid, binding upon, and enforceable by or against the parties thereto in accordance to its terms. The Company has complied in all material respects with, and is not in breach nor has received any asserted or threatened claim of breach of any Intellectual Property license, and the Company has no knowledge of any breach or anticipated breach by any other person to any Intellectual Property license. Except as described in the Registration Statement and the Prospectus, no claim has been made against the Company alleging the infringement by the Company of any patent, trademark, service mark, trade name, copyright, trade secret, license in or other intellectual property right or franchise right of any person. The Company has taken all reasonable steps to protect, maintain and safeguard its Intellectual Property Rights, including the execution of appropriate nondisclosure and confidentiality agreements. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other person in respect of, the Company's right to own, use, or hold for use any of the Intellectual Property Rights as owned, used or held for use in the conduct of the business as currently conducted. With respect to the use of the software in the Company's business as it is currently conducted or proposed to be conducted, the Company has not experienced any material defects in such software including any material error or omission in the processing of any transactions other than defects which have been corrected, and to the knowledge of the Company, no such software contains any device or feature designed to disrupt, disable, or otherwise impair the functioning of any software or is subject to the terms of any "open source" or other similar license that provides for the source code of the software to be publicly distributed or dedicated to the public. The Company has at all times complied with all applicable laws relating to privacy, data protection, and the collection and use of personal information collected, used, or held for use by the Company in the conduct of the Company's business. No claims have been asserted or threatened against the Company alleging a violation of any person's privacy or personal information or data rights and the consummation of the transactions contemplated hereby will not breach or otherwise cause any violation of any law related to privacy, data protection, or the collection and use of personal information collected, used, or held for use by the Company in the conduct of the Company's business. The Company takes reasonable measures to ensure that such information is protected against unauthorized access, use, modification, or other misuse. The Company has taken all necessary actions to obtain ownership of all works of authorship and inventions made by its employees, consultants and contractors during the time they were employed by or under contract with the Company and which relate to the Company's business. All founders and key employees have signed confidentiality and invention assignment agreements with the Company.

(o) Neither the Company, nor any of its subsidiaries, has directly or indirectly, at any time (i) made or failed to disclose fully any contributions to any candidate for political office in violation of law or (ii) made any payment to any state, federal or foreign governmental officer or official, or other person charged with similar public or quasi-public duties, other than payments or contributions required or allowed by applicable law.

(p) Except as disclosed in the General Disclosure Package, Registration Statement and Prospectus, the Company's and each of its subsidiary's internal accounting controls and procedures are sufficient to cause each of them to comply in all material respects with the Foreign Corrupt Practices Act of 1977, the Sarbanes-Oxley Act of 2002, and the Rules and Regulations, each as in effect as of the date hereof.

(q) On each Closing Date, all transfer or other taxes (including franchise, capital stock or other tax, other than income taxes, imposed by any jurisdiction) if any, that are required to be paid in connection with the sale and transfer of the Securities hereunder will have been fully paid or provided for by the Company and all laws imposing such taxes will have been complied with in all material respects.

(r) All contracts and other documents that are, under the Rules and Regulations, required to be described in or filed as exhibits to the Registration Statement have been so described or filed, as the case may be.

(s) Other than as set forth in the General Disclosure Package, Registration Statement and Prospectus, no other firm, corporation or person has any rights to underwrite or place an offering of any of the Company's securities.

(t) Except as described in the General Disclosure Package, Registration Statement and Prospectus, no holder of any securities of the Company has the right to include such securities in the Registration Statement and Prospectus.

(u) Neither the Company nor any of its subsidiaries has any material contingent liabilities.

(v) The Company has no material subsidiary corporations, except as disclosed in the General Disclosure Package, Registration Statement and Prospectus, nor has it any equity interest in any partnership, joint venture, association or other entity, except as disclosed in the General Disclosure Package, Registration Statement and Prospectus. Except as described in the General Disclosure Package, Registration Statement and Prospectus, the Company owns all of the outstanding securities of each of its subsidiaries.

(w) The Commission has not issued an order preventing or suspending the use of any Preliminary Prospectus with respect to the offer and sale of the Securities and each Preliminary Prospectus, as of its date, has conformed in all material respects with the requirements of the Act and the Rules and Regulations and did not include any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not

misleading (in light of the circumstances under which they were made in the case of the Prospectus).

(x) Neither the Company, nor, to the Company's knowledge, any of its officers, directors, employees or shareholders, has taken or will take, directly or indirectly, any action designed to cause or result in, or which has constituted or which might reasonably be expected to constitute, the stabilization or manipulation of the price of any of the securities of the Company.

(y) The Registration Statement accurately discloses any and all unregistered securities sold by the Company since formation. All of such securities were sold in transactions exempt from the registration provisions of the Act and not in violation of Section 5 thereof.

(z) Other than as set forth in the General Disclosure Package, Registration Statement and Prospectus, the Company has not entered into any agreement pursuant to which any person is entitled, either directly or indirectly, to compensation from the Company for services as a finder in connection with the Offering, and the Company agrees to indemnify and hold harmless the Underwriter against any losses, claims, damages or liabilities, which shall include, but not be limited to, all costs to defend against any such claim, so long as such claim arises out of agreements made or allegedly made by the Company.

(aa) Except as set forth in the Registration Statement, based upon written representations received by the Company, no officer, director or five percent or greater shareholder of the Company has any direct or indirect affiliation or association with any member of the Financial Industry Regulatory Authority ("**FINRA**") and no beneficial owner of the Company's unregistered securities has any direct or indirect affiliation or association with any FINRA member. The Company will advise the Underwriter and the FINRA if, to its knowledge, any five percent or greater shareholder of the Company is or becomes an affiliate or associated person of a FINRA member participating in the distribution of the Securities.

(bb) The Company and each of its subsidiaries is in compliance in all material respects with all laws and regulations respecting the employment of its employees and employment practices, terms and conditions of employment and wages and hours relating thereto. There are no pending investigations involving the Company or any of its subsidiaries by any governmental agency responsible for the enforcement of such laws and regulations. There is no unfair labor practice charge or complaint against the Company or any of its subsidiaries pending before any governmental agency or body or any strike, picketing, boycott, dispute, slowdown or stoppage pending, or to the knowledge of the Company, threatened, against or involving the Company or any of its subsidiaries or any predecessor entity. No question concerning representation exists respecting the employees of the Company or any of its subsidiaries and no collective bargaining agreement or modification thereof is currently being negotiated by the Company or any of its subsidiaries. No grievance or arbitration proceeding is pending under any expired or existing collective bargaining agreements of the Company or any of its subsidiaries, if any.

(cc) Each certificate signed by any officer of the Company and delivered to the Underwriter or counsel to the Underwriter shall be deemed to be a representation and warranty by the Company to the Underwriter as to the matters covered thereby.

(dd) None of the Company, its subsidiaries, any of their affiliates, or any person acting on any of their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the Offering to be integrated with prior offerings by the Company for purposes of the Act or any applicable shareholder approval provisions. None of the Company, its subsidiaries, their affiliates or any person acting on any of their behalf will take any action or steps referred to in the preceding sentence that would cause the Offering to be integrated with other offerings.

(ee) The Company and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's Certificate of Incorporation, as amended, or Bylaws, as amended, stock option plan, or the laws of Delaware that is or could become applicable as a result of the transactions contemplated by this Agreement including, without limitation, the Company's issuance of the Securities, the Underwriter's Warrant and the Underlying Shares.

(ff) As of the date hereof, Kendall Larsen (the "**Key Executive**") is employed by the Company on a full-time basis, and, to the best of the Company's knowledge, is not planning to cease being employed by the Company on a full-time basis in his current capacity and the Company is not aware of any circumstances related to the employment of the Key Executive, apart from circumstances related to the operation of the Company as a whole, that could result in cessation of his full-time employment in his current capacity.

(gg) The Company acknowledges and agrees that (i) the purchase and sale of the Securities is an arms' length commercial transaction between the Company and the Underwriter, (ii) in connection therewith, the Underwriter is acting as principal and not the agent or fiduciary of the Company, and (iii) the Underwriter has not assumed an advisory responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement.

2. Purchase, Delivery and Sale of the Securities.

(a) Subject to the terms and conditions of this Agreement, and upon the basis of the representations, warranties and agreements, herein contained, the Company agrees to issue and sell to the Underwriter and the Underwriter agrees to buy from the Company, an aggregate of 3,000,000 shares of Common Stock, and Primary Offering Warrants to purchase an aggregate of 4,500,000 shares of Common Stock, comprised of (i) warrants to purchase an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$2.00 per share, (ii) warrants to purchase an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$3.00 per share, and (iii) warrants to purchase an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$4.00 per share, at \$ • per share of Common Stock and associated Primary

Offering Warrants (the offering price less 7%), at the place and time herein specified. The price at which the Underwriter shall sell the Securities to the public shall be \$• per share of Common Stock and associated Primary Offering Warrants.

Delivery of the Primary Offering Securities against payment therefor shall take place at the offices of the Underwriter, 777 Third Avenue, 17th Floor, New York, New York 10017 (or at such other place as may be designated by agreement between the Underwriter and the Company) at 9:00 a.m., New York time, not later than three business days following the first date that any of the Securities are released to the Underwriter, such time and date of payment and delivery for the Primary Offering Securities being hereinafter referred to as the “**First Closing Date**.”

(b) In addition, subject to the terms and conditions of this Agreement, and upon the basis of the representations, warranties and agreements herein contained, the Company hereby grants an option to the Underwriter (the “**Over-Allotment Option**”) to purchase all or any part of (i) an aggregate of an additional 450,000 Over-Allotment Shares and (ii) Over-Allotment Warrants to purchase an aggregate of an additional 675,000 shares of Common Stock, comprised of (x) warrants to purchase an aggregate of 225,000 shares of Common Stock at an exercise price of \$2.00 per share, (yi) warrants to purchase an aggregate of 225,000 shares of Common Stock at an exercise price of \$3.00 per share, and (z) warrants to purchase an aggregate of 225,000 shares of Common Stock at an exercise price of \$4.00 per share, at the same price per share of Common Stock and associated Over-Allotment Warrants as the Underwriter shall pay for the Primary Offering Securities. This option may be exercised one or more times within 45 days after the Effective Date upon written notice by the Underwriter to the Company advising as to the amount of Over-Allotment Securities to which the option is being exercised. Delivery of the Over-Allotment Securities against payment therefor shall take place at the offices of the Underwriter as identified above (or at such other place as may be designated by agreement between the Underwriter and the Company) on such date as shall be determined by the Underwriter but shall not be earlier than four nor later than 10 full business days after each exercise of the Over-Allotment Option (but in no event more than 55 days after the Effective Date), nor in any event prior to the First Closing Date (each such closing for the purchase of Over-Allotment Securities, together with the First Closing Date, a “**Closing Date**”). The Over-Allotment Option may be exercised only to cover over-allotments in the sale by the Underwriter of the Primary Offering Securities. No Over-Allotment Securities shall be delivered unless all Primary Offering Securities shall have been delivered to the Underwriter as provided herein.

(c) The Company shall deliver, or cause to be delivered, a credit representing the Primary Offering Shares and the Primary Offering Warrants to an account or accounts at The Depository Trust Company (“**DTC**”) for the account of the Underwriter at the First Closing Date, against the irrevocable release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The Company shall deliver, or cause to be delivered, a credit representing the Over-Allotment Shares and the Over-Allotment Warrants to an account or accounts at DTC for the account of the Underwriter, at the First Closing Date or another Closing Date, as the case may be, against the irrevocable release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The Company shall cause the Warrant Agent to issue to the Underwriter at the First Closing Date the Underwriter’s Warrant contemplated by the Underwriter’s Warrant Agreement dated as of the date hereof between the Company and the Underwriter.

3. Covenants of the Company. The Company covenants and agrees with the Underwriter that:

(a) The Company will file the Prospectus and any amendment or supplement thereto with the Commission in the manner and within the time period required by Rule 424(b) under the Act. The Company will not at any time after the Effective Date, file any amendment to the Registration Statement or supplement the Prospectus unless you have previously been

furnished with a copy and to which you or your counsel shall have reasonably objected in writing or which is not in compliance with the Act and the Rules and Regulations. At any time prior to the completion by the Underwriter of the distribution of the securities contemplated hereby (but in no event more than nine months after the date on which the Registration Statement shall have become or been declared effective under the Act), the Company will prepare and file with the Commission, promptly upon your request, any amendments or supplements to the Registration Statement or Prospectus which, in the opinion of counsel to the Company and the Underwriter, may be reasonably necessary or advisable in connection with the distribution of the Securities contemplated hereby and as mutually agreed by the Company and the Underwriter.

As soon as the Company is advised thereof, the Company will advise the Underwriter, and provide the Underwriter copies of any written advice, of the receipt of any comments of the Commission, of the effectiveness under the Act of any post-effective amendment to the Registration Statement, of the filing of any supplement to the Prospectus or any amended Prospectus, of any request made by the Commission for an amendment of the Registration Statement or for supplementing of the Prospectus or for additional information with respect thereto, of the issuance by the Commission or any state or regulatory body of any stop order or other order or threat thereof suspending the effectiveness of the Registration Statement or any order preventing or suspending the use of any Preliminary Prospectus or Pricing Prospectus, or of the suspension of the qualification of the Securities for offering in any jurisdiction, or of the institution of any proceedings for any of such purposes, and will use its best efforts to prevent the issuance of any such order, and, if issued, to obtain as soon as possible the lifting thereof.

The Company has caused to be delivered to the Underwriter copies of each Preliminary Prospectus, and the Company has consented and hereby consents to the use of such copies for the purposes permitted by the Act. The Company authorizes the Underwriter and dealers to use the Prospectus in connection with the sale of the Securities for such period as in the opinion of counsel to the Underwriter and the Company the use thereof is required to comply with the Act and the Rules and Regulations. In case of the occurrence, at any time within such period as a Prospectus is required under the Act to be delivered in connection with sales by the Underwriter or dealers, of any event of which the Company has knowledge and which materially affects the Company or the securities of the Company, or which in the opinion of counsel for the Company or counsel for the Underwriter should be set forth in an amendment to the Registration Statement or a supplement to the Prospectus in order to make the statements therein not then misleading, or in case it shall be necessary to amend or supplement the Prospectus to comply with law or with the Rules and Regulations, the Company will notify you promptly and forthwith prepare and furnish to you copies of such amended Prospectus or of such supplement to be attached to the Prospectus, in such quantities as you may reasonably request, in order that the Prospectus, as so amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements in the Prospectus not misleading in light of the circumstances under which they were made. The preparation and furnishing of any such amendment or supplement to the Registration Statement or amended Prospectus or supplement to be attached to the Prospectus shall be without expense to the Underwriter, except that in case the Underwriter is required, in connection with the sale of the Securities to deliver a Prospectus nine months or more after the Effective Date, the Company will, upon request of the Underwriter, amend or supplement the Registration Statement and Prospectus and furnish the

Underwriter with reasonable quantities of prospectuses complying with Section 10(a)(3) of the Act at the Company's expense.

The Company represents and agrees that it has not made and will not, hereof, make any offer relating to the Securities that would constitute an "issuer writing prospectus" as defined in Rule 433 of the Rules and Regulations or that would otherwise constitute a "free writing prospectus" as defined in Rule 405 of the Rules and Regulations.

The Company will comply in all material respects with the Act, the Rules and Regulations and the Exchange Act and the rules and regulations promulgated thereunder in connection with the offering and issuance of the Securities. Until the Underwriter shall notify the Company of the completion of the Offering, the Company will not, and will cause its affiliated purchasers (as defined in Regulation M under the Exchange Act) not to, either alone or with one or more other persons, bid for or purchase, for any account in which it or any of its affiliated purchasers has a beneficial interest, any Common Stock, or attempt to induce any person to purchase any Common Stock; and not to, and to cause its affiliated purchasers not to, make bids or purchase for the purpose of creating actual, or apparent, active trading in or of raising the price of the Common Stock.

(b) The Company will furnish such information as may be required and to otherwise cooperate and use its best efforts to qualify or register the Securities for sale under the securities or "blue sky" laws of such jurisdictions as you may reasonably designate and will make such applications and furnish such information as may be required for that purpose and to comply with such laws, provided the Company shall not be required to qualify as a foreign corporation or a dealer in securities or to execute a general consent of service of process in any jurisdiction in any action other than one arising out of the offering or sale of the Securities. The Company will, from time to time, prepare and file such statements and reports as are or may be required to continue such qualification in effect for so long a period as you may reasonably request.

(c) For so long as the Company is a reporting company under either Section 12 or 15(d) of the Exchange Act, the Company, at its expense and in reasonable detail, will furnish to its shareholders an annual report (including financial statements audited by independent public accountants as required by the Act), and will furnish to the Underwriter during the period ending three years from the Effective Date hereof, (i) as soon as practicable after the end of each fiscal year, but no earlier than the filing of such information with the Commission, a balance sheet of the Company as at the end of such fiscal year, together with statements of income, and cash flow of the Company for such fiscal year, all in reasonable detail and accompanied by a copy of the certificate or report thereon of independent accountants; (ii) as soon as practicable after the end of each of the first three fiscal quarters of each fiscal year, but no earlier than the filing of such information with the Commission, consolidated summary financial information of the Company for such quarter in reasonable detail; (iii) as soon as they are publicly available, a copy of all reports (financial or other) mailed to shareholders; (iv) as soon as they are available, a copy of all non-confidential reports and financial statements furnished to or filed with the Commission or any securities exchange or automated quotation system on which any class of securities of the Company is listed; (v) copies of each press release,

news item and article with respect to the Company's affairs released by the Company; and (vi) such other information as you may from time to time reasonably request. To the extent that the information required by this Section 3(c) may be filed with the Commission via the EDGAR electronic filing system, the filing of such information via the EDGAR electronic filing system shall satisfy the Company's obligations under this Section 3(c).

(d) In the event the Company has an active subsidiary or subsidiaries, such financial statements referred to in subsection (c) above will be on a consolidated basis to the extent the accounts of the Company and its subsidiary or subsidiaries are consolidated in reports furnished to its shareholders generally.

(e) Subject to this Section 3(e), on or prior to the Effective Date, all officers and directors of the Company as of the Effective Date shall agree in writing (in the form annexed hereto as **Exhibit A**), not to sell, transfer or otherwise dispose of (in any manner whatsoever, including public dispositions pursuant to Rule 144 under the Act) any Common Stock or securities exercisable or convertible into Common Stock for a period of ninety (90) days from the Effective Date, or any longer period required by any state securities commission or the American Stock Exchange ("**Amex**"), without the prior written consent of the Underwriter and, if applicable, the securities commission of such states or the Amex. The Company further agrees not to permit, cause, suffer or assist in any such sales, dispositions or transfers. In addition, without the prior written consent of the Underwriter, the Company shall not sell or offer for sale any of its securities for a period of ninety (90) days following the Effective Date except pursuant to options, warrants and convertible securities issued and outstanding on the date of filing of the Registration Statement or pursuant to any employee stock option plan.

(f) On the Effective Date, the Company shall have taken the necessary action to register the Securities and the Company will make all filings required to, and will have obtained approval for the listing of the Shares and the Underlying Shares (other than those issuable upon exercise of the Underwriter's Warrant) on the Amex and, so long as the Company remains a reporting company under the Exchange Act, it will use its best efforts to maintain such listing or a listing on the Nasdaq Stock Market, American Stock Exchange or New York Stock Exchange, or any similar national exchange or quotation system, for at least five years from the Effective Date.

(g) For a period of at least five years from the Effective Date the Company will engage an independent registered public accounting firm as its auditor.

(h) On the Effective Date, the terms and conditions of all material transactions and proposed transactions between the Company and each of its subsidiaries, on the one hand, and any of the Company's officers, directors, affiliates or the beneficial owners of five percent or more of any class of the Company's equity securities (including, by way of example, but not limitation, employment agreements, loans, leases, license and service agreements), on the other hand, shall be reasonably satisfactory to the Underwriter.

(i) Until the Offering has been terminated or concluded, as the case may be, the Company will not issue a press release or engage in any publicity, other than promotion by

the Company of its products and services and other press releases in the ordinary course of its business, without the Underwriter's prior written consent, which consent shall not be unreasonably withheld or delayed.

(j) For a period of three years from the Effective Date, the Underwriter may appoint an observer reasonably acceptable to the Company's Board of Directors who will be able to attend all meetings of the Board of Directors and who need not be the same person from meeting to meeting. The Underwriter shall also have the right to written notice of, and agendas with respect thereto, no later than notice to other directors of each meeting and to obtain copies of the minutes, if requested, from all Board of Directors meetings for three years following the Effective Date, whether or not an observer attends or participates in any such Board meeting. The Company agrees to reimburse the Underwriter immediately upon the Underwriter's request therefor for any reasonable and documented food, travel and lodging expenses directly incurred by the Underwriter in connection with its designee or observer attending Company Board of Directors meetings. Nothing in this Section 3(j) shall require the Company or its Board of Directors to waive its attorney-client privilege with respect to deliberations and meetings and materials with respect thereto.

(k) The Company shall direct the Depository Trust Company, or such other depository of the Company's securities, to deliver a "special security position report" to the Underwriter on a daily basis for the first 30 days after the Effective Date and on a weekly basis for the first six months after the Effective Date, each at the Company's sole expense.

(l) For a period of five years following the Effective Date, the Company will maintain registration with the Commission pursuant to Sections 12(b) or 12(g) of the Exchange Act. In the event the Company fails to maintain registration with the Commission pursuant to Sections 12(b) or 12(g) during such five year period, the Company will provide reasonable access to an independent accountant designated by the Underwriter, to all books, records and other documents or statements that reflect the Company's financial status at least once each quarter, at the Company's reasonable expense.

(m) For a period of one year from the Effective Date, so long as the Company is a reporting company under either Sections 12 or 15(d) of the Exchange Act, the Company shall: (i) retain a transfer agent reasonably acceptable to the Underwriter for the securities of the Company; and (ii) direct such transfer agent to furnish, at the Company's sole expense, the Underwriter with weekly transfer sheets as to each of the Company's securities as prepared by the Company's transfer agent and copies of lists of shareholders when requested by the Underwriter.

(n) The Company will deliver to the Underwriter two manually executed copies of the Registration Statement including all financial statements and exhibits filed therewith, and of all amendments thereto when filed with the Commission, and will deliver to the Underwriter such number of conformed copies of the Registration Statement, including such financial statements and of all amendments thereto, as the Underwriter may reasonably request. The Company will deliver to or upon the Underwriter's order, from time to time until the Effective Date, as many copies of any Preliminary Prospectus filed with the Commission prior to

the Effective Date as the Underwriter may reasonably request. The Company will deliver to the Underwriter on the Effective Date and thereafter for so long as a Prospectus is required to be delivered under the Act, from time to time, as many copies of the Prospectus, in final form, or as thereafter amended or supplemented, as the Underwriter may from time to time reasonably request.

(o) If at any time during the three year period following the Effective Date, the Company's securities are no longer listed for trading on the Amex or another national securities market or exchange, the Company shall, at its own expense, undertake to list the Company's securities in the appropriate recognized securities manual or manuals published by Standard & Poor's Corporation and such other manuals as the Underwriter may designate, such listings to contain the information required by such manuals and the Uniform Securities Act (the "**Manuals**") and maintain such listing during said three year period, the Company shall take such action as may be reasonably requested by the Underwriter to obtain a secondary market trading exemption in such states as may be reasonably requested by the Underwriter.

(p) At the First Closing Date, the Company shall execute and deliver to you the Underwriter's Warrant Agreement (the "**Warrant Agreement**") substantially in the form filed as an Exhibit to the Registration Statement, representing the right to purchase 300,000 shares of Common Stock (representing 10 % of the Primary Offering Shares) (the "**Underwriter's Warrant**"). The purchase price for the Underwriter's Warrant shall be \$.0001 per share of Common Stock covered by the Underwriter's Warrant and it shall be exercisable at 120% of the offering price of the shares of Common Stock at any time during the four-year period commencing on the first anniversary of the First Closing Date.

(q) As promptly as practicable after the last Closing Date, the Company will prepare, at its own expense, hard cover "bound volumes" relating to the offering, and will distribute such volumes to the individuals designated by the Underwriter or counsel to the Underwriter.

(r) The Company will apply the net proceeds from the sale of the Securities substantially for the purposes set forth under "Use of Proceeds" in the Prospectus.

(s) The Company will make generally available to its securityholders and deliver to the Underwriter as soon as it is practicable to do so but in no event later than 90 days after the end of 12 months after its current fiscal quarter, an earnings statement (which need not be audited) covering a period of at least 12 consecutive months beginning after the Effective Date, which shall satisfy the requirements of Section 11(a) of the Act.

(t) The Company will reserve and keep available the maximum number of unissued Underlying Shares and Over-Allotment Securities.

(u) For such period as the Company's securities are registered under the Exchange Act, the Company will use reasonable best efforts to hold an annual meeting of shareholders for the election of directors within 180 days after the end of each of the Company's

fiscal years and, will provide the Company's shareholders with the audited financial statements and annual reports as required by the Exchange Act and the rules and regulations thereunder.

(v) The Company represents that it has not taken and agrees that it will not take, directly or indirectly, any action designed to or which has constituted or which might reasonably be expected to cause or result in the stabilization or manipulation of the price of any of the Securities.

4. Conditions of Underwriter's Obligation. The obligations of the Underwriter to purchase and pay for the Securities are subject to the accuracy as of the Applicable Time, and as of each Closing Date to the continuing accuracy, of and compliance with the representations and warranties of the Company herein, to the performance by the Company of its obligations hereunder, and to the following conditions:

(a) (i) The Registration Statement shall be effective under the Act; (ii) on or prior to each Closing Date no stop order suspending the effectiveness of the Registration Statement under the Act or any applicable state securities law shall have been issued and no proceedings for that or a similar purpose shall have been instituted or shall be pending or, to the knowledge of the Company, shall be threatened or contemplated by the Commission or any state securities commission; (iii) to the knowledge of the Company, no stop order suspending the effectiveness of the qualification or registration of the Securities under the securities or "blue sky" laws of any jurisdiction (whether or not a jurisdiction which you shall have specified) shall be threatened or contemplated by the authorities of any such jurisdiction or shall have been issued and remain in effect; (iv) any request for additional information on the part of the Commission or any such authorities shall have been complied with to the satisfaction of the Commission, such authorities and the Underwriter; and (v) after the date hereof no amendment or supplement to the Registration Statement or the Prospectus shall have been filed unless a copy thereof was first submitted to the Underwriter and the Underwriter did not object thereto. If required, the Prospectus shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) under the Act.

(b) You shall have received the opinion, dated as of each Closing Date, of Orrick, Herrington & Sutcliffe LLP, counsel for the Company, in form and substance satisfactory to the Underwriter, to the effect specified in **Exhibit B** attached hereto.

The foregoing opinion shall also cover such matters incident to the transactions contemplated hereby as the Underwriter shall reasonably request. In rendering such opinion, such counsel may rely upon certificates of any officer of the Company or public officials as to matters of fact.

Such counsel shall also have furnished to the Underwriter a written statement, addressed to the Underwriter and dated the Closing Date, in form and substance satisfactory to the Underwriter, to the effect that (x) such counsel has acted as counsel to the Company in connection with the preparation of the Registration Statement and the Prospectus, and each amendment or supplement thereto made by the Company prior to the Closing Date, (y) based on such counsel's examination of the Registration Statement and the Prospectus, and each

amendment or supplement thereto made by the Company prior to the Closing Date and the documents incorporated by reference in the Registration Statement or the Prospectus and any further amendment or supplement to any such incorporated document made by the Company prior to the Closing Date, and such counsel's investigations made in connection with the preparation of the Registration Statement and the Prospectus, and each amendment or supplement thereto made by the Company prior to the Closing Date, and conferences with certain officers and employees of and with auditors for and counsel to the Company, such counsel has no reason to believe that (I) the registration statement for the Offering or any amendment thereto, at the Applicable Time, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading, or that the Prospectus or any amendment or supplement thereto, at the respective date thereof or at the Closing Date, contained or contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; or (II) any document incorporated by reference in the Prospectus, when they were filed with the Commission, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; it being understood that such counsel need express no opinion as to the financial statements or other financial data contained in the Registration Statement, the Prospectus or an incorporated document. The foregoing statement may be qualified by a statement to the effect that such counsel has not independently verified the accuracy, completeness or fairness of the statements contained in the Registration Statement or the Prospectus and takes no responsibility therefor except to the extent set forth in paragraphs (xii) and (xiii) of the opinion delivered pursuant to this clause (b).

(c) All corporate proceedings and other legal matters relating directly or indirectly to this Agreement, the Registration Statement, the Prospectus and other related matters shall be reasonably satisfactory to the Underwriter.

(d) You shall have received a letter on the date of this Agreement and again on and as of each Closing Date from Farber Hass Hurley & McEwen LLP, independent registered public accounting firm for the Company, substantially in the form and substance satisfactory to the Underwriter, stating that:

(i) they are an independent registered public accounting firm with respect to the Company within the meaning of the Act and the applicable rules and regulations;

(ii)(A) the financial statements and the schedules included in the Registration Statement and the Prospectus (other than the financial statements and schedules of VirnetX, Inc. as of and for the years ended December 31, 2005 and 2006) audited by them comply, in their opinion, as to form in all material respects with the applicable accounting requirements of the Act and the Rules and Regulations; and (B) as to the financial statements and schedules of VirnetX, Inc. as of and for the years ended December 31, 2005 and 2006 included in the Registration Statement and the Prospectus, nothing has come to their attention

that would lead them to believe that such financial statements and schedules do not comply as to form in all material respects with the applicable accounting requirements of the Act and the Rules and Regulations;

(iii) on the basis of inquiries and procedures conducted by them (not constituting an audit in accordance with generally accepted auditing standards), including a reading of the latest available unaudited interim financial statements or other financial information of the Company (with an indication of the date of the latest available unaudited interim financial statements), inquiries of officers of the Company who have responsibility for financial and accounting matters, review of minutes of all meetings of the shareholders, the Board of Directors and the audit committee of the Company and other specified inquiries and procedures, nothing has come to their attention as a result of the foregoing inquiries and procedures that causes them to believe that:

(A) as of a specified date not more than five days prior to the date of such letters, there has not been any change in the capital stock, increase in long-term debt or decrease in consolidated net current assets or stockholders' equity or in any other item appearing in the Company's financial statements as to which the Underwriter may request advice, in each case as compared with amounts shown in the balance sheet as of the date of the most recent financial statements included in the Prospectus and Registration Statement, except in each case for changes, increases or decreases that the Prospectus and Registration Statement discloses have occurred or will occur;

(B) during the period from (and including) the date of the financial statements in the Registration Statement and the Prospectus to such specified date there was any decrease in consolidated net sales or in the total or per-share amounts of income before extraordinary items or of net income or any other material change in such other items appearing in the Company's financial statements as to which the Underwriter may request advice, in each case as compared with the corresponding period in the preceding year, except in each case for increases, changes or decreases that the Prospectus discloses have occurred or will occur;

(C) the unaudited interim financial statements of the Company appearing in the Registration Statement and the Prospectus comply as to form in all material respects with the applicable accounting requirements of the Act and the Rules and Regulations and are fairly presented in conformity with generally accepted accounting principles and practices on a basis substantially consistent with the audited financial statements included in the Registration Statements or the Prospectus; and

(iv) they have compared specific dollar amounts, numbers of shares, percentages of revenues and earnings, statements and other financial information pertaining to the Company set forth in the Prospectus in each case to the extent

that such amounts, numbers, percentages, statements and information may be derived from the general accounting records, including work sheets, of the Company and excluding any questions requiring an interpretation by legal counsel, with the results obtained from the application of specified readings, inquiries and other appropriate procedures (which procedures do not constitute an examination in accordance with generally accepted auditing standards) set forth in the letters and found them to be in agreement.

Such letters shall also set forth such other information as may be reasonably requested by counsel for the Underwriter. Any changes, increases or decreases in the items set forth in such letters which, in the judgment of the Underwriter, are materially adverse with respect to the financial position or results of operations of the Company shall be deemed to constitute a failure of the Company to comply with the conditions of the obligations to the Underwriter hereunder.

(e) You shall have received an opinion from DLA Piper LLP (US), your counsel, dated the Closing Date, with respect to such matters as the Underwriter may reasonably require, and the Company shall have furnished to such counsel such documents as they request for enabling them to pass upon such matters.

(f) (i) the representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects with the same effect as if made on and as of the Closing Dates, taking into account the Over-Allotment Option Closing Date(s) and the effect of the transactions contemplated hereby, and the Company shall have performed all of its obligations hereunder and satisfied all of the conditions on its part to be satisfied at or prior to such Closing Date; (ii) the Registration Statement and the Prospectus and any amendments or supplements thereto shall contain all statements which are required to be stated therein in accordance with the Act and the Rules and Regulations, and shall in all material respects conform to the requirements thereof, and none of the General Disclosure Package, the Registration Statement or the Prospectus nor any amendment or supplement thereto shall contain, as of the Applicable Time, the time of this Agreement and each Closing Date, any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading (in light of the circumstances under which they were made in the case of the Prospectus); (iii) there shall have been, since the respective dates as of which information is given, no material adverse change, or to the Company's knowledge, any development involving a prospective material adverse change, in the business, properties, condition (financial or otherwise), results of operations, capital stock, long-term or short-term debt or general affairs of the Company from that set forth in the General Disclosure Package, the Registration Statement and the Prospectus, except changes which the General Disclosure Package, the Registration Statement and Prospectus indicate might occur after the Applicable Time and the Company shall not have incurred any material liabilities or entered into any material agreement not in the ordinary course of business other than as referred to in the General Disclosure Package, the Registration Statement and Prospectus; (iv) except as set forth in the General Disclosure Package and the Prospectus, no action, suit or proceeding at law or in equity shall be pending or, to the knowledge of the Company, threatened against the Company which would be required to be set forth in the Registration Statement, and no proceedings shall be pending or, to the knowledge of the Company, threatened against the

Company before or by any commission, board or administrative agency, wherein an unfavorable decision, ruling or finding would materially and adversely affect the business, property, condition (financial or otherwise), results of operations or general affairs of the Company; and (v) you shall have received, at such Closing Date, a certificate signed by each of the chief executive officer and the principal financial officer of the Company, dated as of such Closing Date, evidencing compliance with the provisions of this subsection (f).

(g) No action shall have been taken by the Commission or the FINRA, the effect of which would make it improper, at any time prior to a Closing Date, for members of the FINRA to execute transactions in the Securities and no proceedings for the taking of such action shall have been instituted or shall be pending, or, to the knowledge of the Underwriter or the Company, shall be contemplated by the Commission or the FINRA. The Company and the Underwriter represent that at the date hereof each has no knowledge that any such action is in fact contemplated against it by the Commission or the FINRA. The Company shall advise the Underwriter of any FINRA affiliation of any of its officers, directors, or shareholders or their affiliates.

(h) Prior to the Effective Date, the Underwriter shall have received clearance from the FINRA as to the amount of compensation allowable or payable to the Underwriter, as described in the Registration Statement.

(i) If any of the conditions herein provided for in this section shall not have been fulfilled in all material respects as of the date indicated, this Agreement and all obligations of the Underwriter under this Agreement may be canceled at, or at any time prior to, each Closing Date by the Underwriter notifying the Company of such cancellation in writing at or prior to the applicable Closing Date. Any such cancellation shall be without liability of the Underwriter to the Company.

(j) McDermott Will & Emery LLP, special patent counsel to the Company, shall have furnished to the Underwriter such counsel's written opinion, addressed to the Underwriter and dated each Closing Date, in form and substance reasonably satisfactory to the Underwriter, to the effect that to the best of such counsel's knowledge, the statements in the Registration Statement and the Prospectus (and any similar section or information contained in the General Disclosure Package) under the captions "Risk Factors-Risks related to existing and future litigation—We have commenced legal proceedings against Microsoft, and we expect such litigation to be time-consuming and costly, which may adversely affect our financial condition and our ability to operate our business," "Business—Intellectual Property and Patent Rights," "—Assignment of Patents," and "Legal Proceedings" in so far as such statements describe certain legal proceedings or assignment of patent documents, fairly summarize in all material respects the matters referred to therein.

(k) The Underwriter shall have received such other documents and items as it or its counsel has reasonably requested and are satisfied with all other items relating directly and/or indirectly to the Company and the Offering.

5. Conditions of the Obligations of the Company. The obligation of the Company to sell and deliver the Securities is subject to the condition that on or prior to each Closing Date, no stop order suspending the effectiveness of the Registration Statement under the Act and any applicable state securities law shall have been issued and no proceedings for that or a similar purpose shall have been instituted or shall be pending or, or to the knowledge of the Company, threatened or contemplated by the Commission or any state securities commission. Further, the obligation of the Company to sell and deliver the Securities is subject to the accuracy of the representations of the Underwriter contained in Section 12.

6. Indemnification.

(a) The Company agrees (i) to indemnify and hold harmless the Underwriter and each person, if any, who controls the Underwriter within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act against any losses, claims, damages or liabilities, joint or several (which shall, for all purposes of this Agreement, include, but not be limited to, all reasonable costs of defense and investigation and all reasonable attorneys' fees), to which the Underwriter or such controlling person may become subject, under the Act or otherwise, and (ii) to reimburse, as incurred, each such Underwriter and each such controlling persons for any legal or other expenses reasonably incurred in connection with investigating, defending against or appearing as a third party witness in connection with any losses, claims, damages or liabilities; insofar as such losses, claims, damages or liabilities (or actions in respect thereof) relating to (i) and (ii) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in (A) the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto, (B) any blue sky application or other document executed by the Company specifically for that purpose containing written information specifically furnished by the Company and filed in any state or other jurisdiction in order to qualify any or all of the Securities under the securities laws thereof (any such application, document or information being hereinafter called a "**Blue Sky Application**"), or arise out of or are based upon the omission or alleged omission to state in the Registration Statement, any Preliminary Prospectus, Prospectus, or any amendment or supplement thereto, or in any Blue Sky Application, a material fact required to be stated therein or necessary to make the statements therein not misleading (in light of the circumstances under which they were made in the case of the Prospectus); provided, however, that the Company will not be required to indemnify the Underwriter and any controlling persons or be liable in any such case to the extent, but only to the extent, that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written Underwriter Information furnished to the Company by or on behalf of the Underwriter specifically for use in the preparation of the Registration Statement or any such amendment or supplement thereof or any such Blue Sky Application or any such Preliminary Prospectus or the Prospectus or any such amendment or supplement thereto; provided, further that the indemnity with respect to any Preliminary Prospectus shall not be applicable on account of any losses, claims, damages, liabilities or litigation arising from the sale of Securities to any person if a copy of the Prospectus was not delivered to such person at or prior to the written confirmation of the sale to such person. This indemnity will be in addition to any liability which the Company may otherwise have.

(b) The Underwriter will indemnify and hold harmless the Company, each of its directors, each of its officers who have signed the Registration Statement, and each person, if any, who controls the Company within the meaning of the Act, against any losses, claims, damages or liabilities (which shall, for all purposes of this Agreement, include, but not be limited to, all costs of defense and investigation and reasonable attorneys' fees) to which the Company or any such director, officer or controlling person may become subject under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or the alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading (in light of the circumstances under which they were made in the case of the Prospectus), in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendment or supplement thereto, or any Blue Sky Application in reliance upon and in conformity with written Underwriter Information furnished to the Company by the Underwriter specifically for use in the preparation thereof.

(c) Promptly after receipt by an indemnified party under this section of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this section, notify in writing the indemnifying party of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under this section. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, subject to the provisions herein stated, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. The indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party if the indemnifying party has assumed the defense of the action with counsel reasonably satisfactory to the indemnified party; provided that the reasonable fees and expenses of such counsel shall be at the expense of the indemnifying party if (i) the employment of such counsel has been specifically authorized in writing by the indemnifying party or (ii) the named parties to any such action (including any impleaded parties) include both the indemnified party and the indemnifying party and in the reasonable judgment of the counsel to the indemnified party, it is advisable for the indemnified party to be represented by separate counsel (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of such indemnified party, it being understood, however, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the

same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the indemnified party, which firm shall be designated in writing by the indemnified party (other than local counsel)). No settlement of any action against an indemnified party shall be made without the consent of the indemnified party, which shall not be unreasonably withheld. The indemnified party shall not settle any action without the consent of the indemnifying party, which consent shall not be unreasonably withheld. If it is ultimately determined that indemnification is not permitted, then an indemnified party will return all monies advanced to the indemnifying party.

7. Contribution. In circumstances in which the indemnity agreement provided for in Section 6 is unavailable or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages or liabilities (or actions in respect thereof), each indemnifying party, in order to provide for just and equitable contribution, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect (i) the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party on the other from the offering of the Securities or (ii) if the allocation provided by the foregoing clause (i) is not permitted by applicable law, not only such relative benefits but also the relative fault of the indemnifying party or parties on the one hand and the indemnified party on the other in connection with the statements or omissions or alleged statements or omissions that resulted in such losses, claims, damages or liabilities (or actions in respect thereof). The relative benefit received by the Company on the one hand and the Underwriter on the other shall be deemed to be in the same proportion as the total proceeds from the offering (before deducting expenses) received by the Company to the total underwriting discounts and commissions received by the Underwriter. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriter, the parties' relative intents, knowledge, access to information and opportunity to correct or prevent such statement or omission, and any other equitable considerations appropriate in the circumstances. The Company and the Underwriter agree that it would not be equitable if the amount of such contributions were determined by pro rata or per capita allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the first sentence of this Section 7. Notwithstanding any other provision of this Section 7, the Underwriter shall not be obligated to make contributions hereunder that in the aggregate exceed the total compensation received by the Underwriter under this Agreement, less the aggregate amount of any damages that such Underwriter has otherwise been required to pay in respect of the same or any substantially similar claim, and no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person, if any, who controls the Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, shall have the same rights to contribution as the Company.

8. Costs and Expenses; Reimbursement of Underwriter's Expenses. The Company agrees to pay, or reimburse if paid by the Underwriter, whether or not the transactions contemplated hereby are consummated or this Agreement is terminated: (a) the costs incident to the authorization, issuance, sale, preparation and delivery of the Securities to the Underwriter and any taxes payable in that connection; (b) the costs incident to the registration of the Securities under the Securities Act; (c) the costs incident to the preparation, printing and distribution of the registration statements for the Offering, any Preliminary Prospectus, the Prospectus, any amendments, supplements and exhibits thereto or any document incorporated by reference therein and the costs of printing, reproducing and distributing this Agreement, and any closing documents by mail, telex or other means of communications; (d) the fees and expenses (including related fees and expenses of counsel for the Underwriter, which fees and expenses, together with the fees and expenses of counsel for the Underwriter referenced in clause (f) below, shall not exceed \$15,000 in aggregate) incurred in connection with securing any required review by FINRA of the terms of the sale of the Securities and any filings made with FINRA, if applicable; (e) any applicable listing or other fees; (f) the fees and expenses (including related fees and expenses of counsel to the Underwriter) of qualifying the Securities under the securities laws of the applicable jurisdictions and of preparing, printing and distributing wrappers, Blue Sky Memoranda and Legal Investment Surveys; (g) the cost of preparing and printing stock certificates; (h) all fees and expenses of the registrar and transfer agent of the shares of Common Stock and of the Warrant agent of the Public Warrants; (i) travel and all other reasonable out-of-pocket expenses of the Underwriter (including the reasonable fees and disbursements of the Underwriter's counsel), provided that any such expense reimbursement paid to the Underwriter, together with the expense reimbursement provided for in item (j) below, shall not exceed \$35,000; (j) the costs and expenses relating to investor presentations on any "road show" undertaken in connection with the marketing of the offering of the Securities, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the officers of the Company and such consultants, including the cost of any aircraft chartered in connection with the road show, provided that any such expense reimbursement paid to the Underwriter, together with the expense reimbursement provided for in item (i) above, shall not exceed \$35,000; and (k) all other costs and expenses incident to the offering of the Securities or the performance of the obligations of the Company under this Agreement (including, without limitation, the fees and expenses of the Company's counsel and the Company's independent accountants), provided that, except to the extent otherwise provided in this Section 8, the Underwriter shall pay its own costs and expenses, including the fees and expenses of its counsel and the expenses of advertising any offering of the Securities made by the Underwriter. The Underwriter acknowledges that the Company has previously paid approximately \$186,000 of legal fees and disbursements of DLA Piper LLP (US) in connection with a best-efforts placement (in which such law firm was acting as placement agent counsel) that was not pursued.

Notwithstanding anything to the contrary in this Agreement, if (a) this Agreement shall have been terminated pursuant to Section 10, (b) the Company shall fail to tender the Securities for delivery to the Underwriter for any reason not permitted under this Agreement, (c) the Underwriter shall decline to purchase the Securities for any reason permitted under this Agreement or (d) the sale of the Securities is not consummated because any condition to the obligations of the Underwriter set forth herein is not satisfied or because of the refusal, inability or failure on the part of the Company to perform any agreement herein or to satisfy any condition or to comply with the provisions hereof, then in addition to the payment of amounts in accordance with the preceding paragraph, the Company shall reimburse the Underwriter for the fees and expenses of Underwriter's counsel and for such other accountable out-of-pocket expenses as shall

have been reasonably incurred by it in connection with this Agreement and the proposed purchase of the Securities, including, without limitation, travel and lodging expenses of the Underwriter, without giving effect to any limitations thereon contained in this Section 8, and upon demand the Company shall pay the full amount borne by the Underwriter to the Underwriter.

9. Effective Date. The Agreement shall become effective upon its execution, except that the Underwriter may, at the Underwriter's option, delay its effectiveness until 11:00 a.m. New York time on the first full business day following the Effective Date, or at such earlier time on such business day after the Effective Date as the Underwriter in its discretion shall first commence the offering of the Securities. The time of the Offering shall mean the time when the Securities are first generally offered by you to dealers by letter or telegram. This Agreement may be terminated by you at any time before it becomes effective as provided above, except that Sections 3, 6, 7, 8, 13, 14, 15, 16 and 17 shall remain in effect notwithstanding such termination.

10. Termination.

(a) After this Agreement becomes effective, this Agreement, except for Sections 3, 6, 7, 8, 12, 14, 15, 16 and 17 hereof, may be terminated at any time prior to the First Closing Date, any additional Closing Date, and the Over-Allotment Option referred to in Section 2(b) hereof, if exercised, may be cancelled at any time prior to a Closing Date, by the Underwriter if in the Underwriter's judgment it is impracticable to offer for sale or to enforce contracts made for the sale of the Securities agreed to be purchased hereunder by reason of: (i) the Company having sustained a material adverse loss, whether or not insured, by reason of fire, earthquake, flood, accident or other calamity, or from any labor dispute or court or government action, order or decree; (ii) trading in securities on the New York Stock Exchange, Inc., the Amex or the Nasdaq Stock Market having been suspended or limited; (iii) material governmental restrictions having been imposed on trading in securities generally (not in force and effect on the date hereof); (iv) a banking moratorium having been declared by United States or New York State authorities; (v) an outbreak of major international hostilities, a substantial terrorist attack, or other national or international calamity having occurred involving the United States or; (vi) the passage by the Congress of the United States or by any state legislative body of similar impact, of any act or measure, or the adoption of any orders, rules or regulations by any governmental body or any authoritative accounting institute or board, or any governmental executive, which is reasonably believed likely by the Underwriter to have a material adverse impact on the business, financial condition or financial statements of the Company or the market for the securities offered hereby; (vii) any material adverse change in the financial or securities markets beyond normal market fluctuations having occurred since the date of this Agreement; (viii) any material adverse change having occurred, since the respective dates as of which information is given in the Registration Statement and Prospectus, in the earnings, business prospects or general condition of the Company, financial or otherwise, whether or not arising in the ordinary course of business; (ix) a pending or threatened legal or governmental proceeding or action relating generally to the Company's business, or a notification having been received by the Company of the threat of any such proceeding or action, which could, in the reasonable judgment of the Underwriter, materially adversely affect the Company; (x) the Company is merged or consolidated into or acquired by another company or group or there exists a binding

legal commitment for the foregoing or any other material change of ownership or control occurs; or (xi) the Company shall not have timely complied in all material respects with any material term, condition or provision on their part to be performed, complied with or fulfilled (including but not limited to those set forth in this Agreement) in connection with the Offering.

(b) If you elect to prevent this Agreement from becoming effective or to terminate this Agreement as provided in this Section 10, the Company shall be promptly notified by you by telephone, confirmed in writing.

11. Warrant Agreement and Warrant Controlling. In the event of any conflict in the terms of this Agreement and the Warrant Agreement or the Underwriter's Warrant, the language in the form of the Warrant Agreement and the Underwriter's Warrant shall control.

12. Representations and Warranties of the Underwriter. The Underwriter represents and warrants to the Company that it is registered and in good standing as a broker/dealer in all jurisdictions in which it will seek purchasers for the Securities and that it has adequate net capital requirements to consummate the transactions contemplated by this Agreement.

13. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Agreement or contained in certificates of officers of the Company submitted pursuant hereto, shall be deemed to be representations, warranties and agreements at each Closing Date, and such representations, warranties and agreements of the Company and the indemnity agreements contained in Section 6 hereof shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter, the Company, any controlling person of the Underwriter or the Company, and shall survive termination of this Agreement or the issuance and delivery of the Securities and the Underwriter's Warrant.

14. Notices. Any communications specifically required hereunder to be in writing, if sent to the Underwriter, will be mailed, delivered or faxed and confirmed to them at Gilford Securities Incorporated, 777 Third Avenue, 17th Floor, New York, New York 10017, Attention: Robert A. Maley, facsimile number (212) 223-1683, with a copy (which shall not constitute notice) sent to DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attention: Christopher C. Paci, facsimile number (212) 884-8470; if sent to the Company, will be mailed, delivered or faxed and confirmed to it at VirnetX Holding Corporation, 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California 95066, Attention: Kendall Larsen, Chief Executive Officer, facsimile number (831) 438-8700; with a copy (which shall not constitute notice) sent to Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025-1015, Attention: Lowell D. Ness, facsimile number (650) 614-7401. Notice shall be deemed to have been duly given if mailed or transmitted by facsimile with receipt confirmation.

15. Parties in Interest. The Agreement herein set forth is made solely for the benefit of the Underwriter, the Company, any person controlling the Company or the Underwriter, and directors of the Company, nominees for directors (if any) named in the Prospectus, its officers who have signed the Registration Statement, and their respective executors, administrators,

successors, assigns and no other person shall acquire or have any right under or by virtue of this Agreement. The term “**successors and assigns**” shall not include any purchaser, as such purchaser, of the Securities (exclusive of the Over-Allotment Securities).

16. Applicable Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without regard to the conflicts of laws principles thereof. The parties hereto hereby irrevocably agree that any suit or proceeding arising directly or indirectly pursuant to or under this Agreement, shall be brought solely in a federal or state court located in the City, County and State of New York. By its execution hereof, the parties hereby covenant and irrevocably submit to the *in personam* jurisdiction of the federal and state courts located in the City, County and State of New York and agree that any process in any such action may be served upon any of them personally, or by certified mail or registered mail upon them or their agent, return receipt requested, with the same full force and effect as if personally served upon them in New York City. The parties hereto expressly and irrevocably waive any claim that any such jurisdiction is not a convenient forum for any such suit or proceeding and any defense or lack of *in personam* jurisdiction with respect thereto. In the event of any such action or proceeding, the party prevailing therein shall be entitled to payment from the other party hereto of its reasonable counsel fees and disbursements.

17. Counterparts. This agreement may be executed in one or more counterparts each of which shall be deemed to constitute an original and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties (including by fax, followed by original copies by overnight mail).

18. Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior written or oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may not be amended except in writing, signed by the Underwriter and the Company.

[Remainder of page intentionally left blank]

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return this agreement, whereupon it will become a binding agreement between the Company and the Underwriter in accordance with its terms.

Very truly yours,

VIRNETX HOLDING CORPORATION

By: _____
Name: _____
Title: _____

The foregoing Underwriting Agreement is hereby confirmed and accepted as of the date first above written.

GILFORD SECURITIES INCORPORATED

By: _____
Robert A. Maley
President

LIST OF SCHEDULES AND EXHIBITS

| | | |
|-------------------|---|--|
| Schedule I | | Orally Conveyed Information |
| Exhibit A | - | Form of Lock-up Agreement |
| Exhibit B | - | Form of Opinion of Orrick, Herrington & Sutcliffe LLP |

Schedule I

Orally Conveyed Information

Exhibit A

[Form of Lock-Up Agreement]

_____, 2009

GILFORD SECURITIES INCORPORATED
777 Third Avenue, 17th Floor
New York, New York 10017

Re: VIRNETX HOLDING CORPORATION — Registration Statement on Form S-1

Dear Sirs:

This Agreement is being delivered to you in connection with the proposed Underwriting Agreement (the “Underwriting Agreement”) between VirnetX Holding Corporation, a Delaware corporation (the “Company”), and Gilford Securities Incorporated (“Gilford” or the “Underwriter”), and the other parties thereto (if any), relating to the proposed public offering of 3,000,000 shares of the common stock, par value \$0.0001 per share (the “Common Stock”), of the Company, and warrants to purchase up to 4,500,000 shares of Common Stock. The aggregate shares of Common Stock so proposed to be sold is hereinafter referred to as the “Stock” and the number of shares of Common Stock issuable upon exercise of the Warrants is hereinafter referred to as the “Warrant Stock.” The Warrant Stock, together with the Stock and the Warrants, is referred to herein as the “Securities.”

In order to induce you to enter into the Underwriting Agreement, and in light of the benefits that the offering of the Securities will confer upon the undersigned in its capacity as a securityholder and/or an officer, director or employee of the Company, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees with the Underwriter that, during the period beginning on and including the date of the Underwriting Agreement through and including the date that is the 90th day after the date of the Underwriting Agreement (the “Lock-Up Period”), the undersigned will not, without the prior written consent of the Underwriter, directly or indirectly, (i) offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of, or announce the intention to otherwise dispose of, any shares of Common Stock (including, without

limitation, Common Stock which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations promulgated under the Securities Act of 1933, as the same may be amended or supplemented from time to time (such shares, the “Beneficially Owned Shares”) or securities convertible into or exercisable or exchangeable for Common Stock, (ii) enter into any swap, hedge or similar agreement or arrangement that transfers in whole or in part, the economic risk of ownership of the Beneficially Owned Shares or securities convertible into or exercisable or exchangeable for Common Stock, whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition, or (iii) engage in any short selling of the Common Stock or securities convertible into or exercisable or exchangeable for Common Stock. If (i) the Company issues an earnings release or material news or a material event relating to the Company occurs during the last 17 days of the Lock-Up Period, or (ii) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the Lock-Up Period, the Lock-Up Period shall be extended and the restrictions imposed by this Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

The restrictions set forth in the immediately preceding paragraph shall not apply to:

- (1) if the undersigned is a natural person, any transfers made by the undersigned (a) as a bona fide gift to any member of the immediate family (as defined below) of the undersigned or to a trust the beneficiaries of which are exclusively the undersigned or members of the undersigned’s immediate family, (b) by will or intestate succession upon the death of the undersigned or (c) as a bona fide gift to a charity or educational institution,
- (2) if the undersigned is a corporation, partnership, limited liability company or other business entity, any transfers to any shareholder, partner or member of, or owner of a similar equity interest in, the undersigned, as the case may be, if, in any such case, such transfer is not for value, and
- (3) if the undersigned is a corporation, partnership, limited liability company or other business entity, any transfer made by the undersigned (a) in connection with the sale or other bona fide transfer in a single transaction of all or substantially all of the undersigned’s capital stock, partnership interests, membership interests or other similar equity interests, as the case may be, or all or substantially all of the undersigned’s assets, in any such case not undertaken for the purpose of avoiding the restrictions imposed by this agreement or (b) to another corporation, partnership, limited liability company or other business entity so long as the transferee is an affiliate (as defined below) of the undersigned and such transfer is not for value;

provided, however, that in the case of any transfer described in clause (1), (2) or (3) above, it shall be a condition to the transfer that (A) the transferee executes and delivers to the Underwriter, not later than one business day prior to such transfer, a written agreement, in substantially the form of this agreement (it being understood that any references to “immediate family” in the agreement executed by such transferee shall expressly refer only to the immediate family of the undersigned and not to the immediate family of the transferee) and otherwise satisfactory in form and substance to the Underwriter, and (B) if the undersigned is required to file a report under Section 16(a) of the Securities Exchange Act of 1934, as amended, reporting a reduction in beneficial ownership of shares of Common Stock or Beneficially Owned Shares or any securities convertible into or exercisable or exchangeable for Common Stock or Beneficially Owned Shares during the Lock-Up Period (as the same may be extended as described above), the undersigned shall include a statement in such report to the effect that, in the case of any transfer pursuant to clause (1) above, such transfer is being made as a gift or by will or intestate succession or, in the case of any transfer pursuant to clause (2) above, such transfer is being made to a shareholder, partner or member of, or owner of a similar equity interest in, the undersigned and is not a transfer for value or, in the case of any transfer pursuant to clause (3) above, such transfer is being made either (a) in connection with the sale or other bona fide transfer in a single transaction of all or substantially all of the undersigned’s capital stock, partnership interests, membership interests or other similar equity interests, as the case may be, or all or substantially all of the undersigned’s assets or (b) to another corporation, partnership, limited liability company or other business entity that is an affiliate of the undersigned and such transfer is not for value. For purposes of this paragraph, “immediate family” shall mean a spouse, child, grandchild or other lineal descendant (including by adoption), father, mother, brother or sister of the undersigned; and “affiliate” shall have the meaning set forth in Rule 405 under the Securities Act of 1933, as amended.

In order to enable this covenant to be enforced, the undersigned hereby consents to the placing of legends or stop transfer instructions with the Company’s transfer agent with respect to any Common Stock or securities convertible into or exercisable or exchangeable for Common Stock.

The undersigned further agrees that (i) it will not, during the Lock-Up Period (as the same may be extended as described above), make any demand or request for or exercise any right with respect to the registration under the Securities Act of 1933, as amended, of any shares of Common Stock or other Beneficially Owned Shares or any securities convertible into or exercisable or exchangeable for Common Stock or other Beneficially Owned Shares, and (ii) the Company may, with respect to any Common Stock or other Beneficially Owned Shares or any securities convertible into or exercisable or exchangeable for Common Stock or other Beneficially Owned Shares owned or held (of record or beneficially) by the undersigned, cause the transfer agent or other registrar to enter stop transfer instructions and implement stop transfer procedures with respect to such securities during the Lock-Up Period (as the same may be extended as described above).

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this agreement and that this agreement has been duly authorized (if the undersigned is not a natural person), executed and delivered by the undersigned and is a valid and binding agreement of the undersigned. This agreement and all authority herein conferred are irrevocable and shall survive the death or incapacity of the undersigned (if a natural person) and shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

The undersigned acknowledges and agrees that whether or not any public offering of Securities actually occurs depends on a number of factors, including market conditions.

Very truly yours,

(Name of Stockholder — Please Print)

(Signature)

(Name of Signatory if Stockholder is an entity — Please Print)

(Title of Signatory if Stockholder is an entity — Please Print)

Address: _____

Exhibit B

Form of Opinion of Orrick, Herrington & Sutcliffe LLP

- (i) The Company and VirnetX, Inc. have been duly incorporated and are validly existing as corporations or other legal entities in good standing under the laws of their respective jurisdictions of organization and have all power and authority necessary to own their respective properties and to conduct the businesses in which they are engaged as described in the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement.
 - (ii) The Company and VirnetX, Inc. are duly qualified to do business and are in good standing as foreign corporations in California and Delaware.
 - (iii) The Company has an authorized capitalization as set forth in under the heading “capitalization” in the Pricing Prospectus and the Prospectus; and the authorized capital stock of the Company conforms as to legal matters to the description thereof contained in the General Disclosure Package and the Prospectus.
 - (iv) The Securities, the Underwriter’s Warrant, and the shares of Common Stock issuable upon exercise of the Public Warrants and the Underwriter’s Warrant (the “Warrant Stock”) have been duly and validly authorized for issuance and sale to the Underwriter pursuant to the Underwriting Agreement; when issued and delivered by the Company pursuant to the Underwriting Agreement and against payment of the consideration therefor, the Securities and the Warrant Stock will be validly issued and fully paid and nonassessable. The form of certificate used to evidence the Primary Offering Shares and Over-Allotment Shares complies in all material respects with all applicable statutory requirements, all applicable requirements of the charter and by-laws of the Company and all applicable requirements of the American Stock Exchange.
 - (v) All the issued shares of capital stock (or analogous ownership interests, as applicable) of VirnetX, Inc. have been duly and validly authorized and issued, are fully paid and nonassessable and, except to the extent set forth in the General Disclosure Package and the Prospectus, are owned by the Company directly or indirectly through one or more wholly-owned subsidiaries, free and clear of any claim, lien, encumbrance, security interest, restriction upon voting or transfer or any other claim of any third party; and none of the outstanding shares of capital stock (or analogous ownership interests, as applicable) of any subsidiary of the Company was issued in violation of the preemptive or similar rights of any securityholder of such subsidiary.
 - (vi) There are no preemptive or other rights to subscribe for or to purchase, nor any restriction upon the voting or transfer of, any of the Securities, the Underwriter’s Warrant, or the Warrant Stock, pursuant to the Company’s charter or by-laws or any agreement or other instrument known to such counsel.
 - (vii) The Underwriting Agreement has been duly authorized, executed and delivered by the Company.
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(viii) [Reserved].

- (ix) The Warrant Agent Agreement has been duly authorized, executed and delivered by the Company is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms.
- (x) The execution, delivery and performance of this Agreement by the Company, the issuance and sale of the Securities, the Underwriter's Warrant and the Warrant Stock and the consummation by the Company of the transactions contemplated hereby and thereby will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the properties or assets of the Company or any of its subsidiaries is subject, nor will such actions result in any violation of the charter or by-laws (or analogous governing instruments, as applicable) of the Company or of any of its subsidiaries or any law, statute, rule, regulation, judgment, order or decree of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets.
- (xi) Except for the registration of the Securities and the shares of Common Stock issuable upon exercise of the Underwriter's Warrant under the Securities Act and such consents, approvals, authorizations, registrations or qualifications as may be required under the Exchange Act and applicable state securities laws in connection with the sale of the Securities and the Underwriter's Warrant to the Underwriter, no consent, approval, authorization or order of, or filing, qualification or registration with, any court or governmental or non-governmental agency or body, which has not been obtained or taken and is not in full force and effect, is required for the execution, delivery and performance of this Agreement by the Company, the offer, issue and sale of the Securities and the Underwriter's Warrant or the consummation by the Company of the transactions contemplated hereby or thereby.
- (xii) The statements under the heading " Risk Factors—Risks relating to existing and future litigation—We have commenced legal proceedings against Microsoft, and we expect such litigation to be time-consuming and costly, which may adversely affect our financial condition and our ability to operate our business," "—If we fail to meet our obligations to SAIC, we may lose our rights to key technologies on which our business depends," "—When we attempt to implement our secure domain name registry services business, we may be subject to government and industry regulation and oversight which may impede our ability to achieve our business strategy," "—The laws governing online secure communications are largely unsettled, and if we become subject to various government regulations, costs associated with those regulations may materially adversely affect our business," "—Risks related to our stock—Our protective provisions could make it more difficult for a third party to successfully acquire us even if you would like to sell your shares to them," "Business—Assignment of Patents," "Litigation," "Government Regulation," "Executive Compensation—Transactions with Related Persons—Indemnification Agreements," "—Registration Rights Agreement," "—Lockup Agreements," "Corporate Governance," "Description of Securities," "Legal
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Proceedings,” “Indemnification of Officers and Directors” and “Plan of Distribution” in the Prospectus (and any similar section or information contained in the General Disclosure Package), to the extent that such statements purport to constitute summaries of matters of law or regulation, legal conclusions or legal proceedings or summaries of documents referred to therein, fairly summarize the matters described therein in all material respects.

- (xiii) The description in the Registration Statement, the General Disclosure Package and the Prospectus of statutes, legal or governmental proceedings and contracts and other documents are fairly summarized in all material respects and there are no pending legal or governmental proceedings or contracts or other documents to which the Company or any of its subsidiaries is a party or to which the property of the Company or any of its subsidiaries is subject that are required to be described in the General Disclosure Package or the Prospectus or a document incorporated by reference therein or to be filed as exhibits to the Registration Statements or a document incorporated by reference therein which are not described or filed as required.
 - (xiv) Neither the Company nor VirnetX, Inc. (i) is in violation of its charter or by-laws (or analogous governing instrument, as applicable), (ii) is in default, and no event has occurred, which, with notice or lapse of time or both, would constitute a default, in the due performance or observance of any term, covenant or condition contained in any agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject that is listed as an exhibit to the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2007 or any Quarterly Report on Form 10-K for any quarters in 2008 or any Current Report on Form 8-K in 2008 or (iii) is in violation of any law, statute, ordinance, governmental rule, regulation or court decree to which it or its property or assets may be subject or has failed to obtain any license, permit, certificate, franchise or other governmental or non-governmental authorization or permit necessary for the ownership of its property or to the conduct of its business as described in the General Disclosure Package and the Prospectus.
 - (xv) Other than as set forth in the General Disclosure Package and the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or asset of the Company or any of its subsidiaries is the subject which, singularly or in the aggregate, if determined adversely to the Company or any of its subsidiaries, might have a Material Adverse Effect or would prevent or adversely affect the ability of the Company to perform its obligations under this Agreement; and, to the best of such counsel’s knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others.
 - (xvi) Each Registration Statement was declared effective under the Securities Act as of the date and time specified in such opinion, the Rule 462(b) Registration Statement, if any, was filed with the Commission on the date specified therein and became effective immediately upon such filing, the Prospectus was filed with the Commission pursuant to the subparagraph of Rule 424(b) and in compliance with Rules 430A of the Rules and Regulations on the date specified in such opinion and no stop order suspending the
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effectiveness of any Registration Statement or any part thereof has been issued and, to the knowledge of such counsel, no proceeding for that purpose is pending or threatened by the Commission.

- (xvii) The Registration Statements and any amendments thereto made by the Company prior to the Closing Date (other than the financial statements and other financial data contained therein, as to which such counsel need express no opinion), at the Applicable Time and as of the date of this Agreement, complied as to form in all material respects with the requirements of the Securities Act and the Rules and Regulations; the Pricing Prospectus (other than the financial statements and other financial data contained therein, as to which such counsel need express no opinion), as of the Applicable Time, complied as to form in all material respects with the requirements of the Securities Act; and the Prospectus and any amendments or supplements thereto made by the Company prior to the Closing Date (other than the financial statements and other financial data contained therein, as to which such counsel need express no opinion), as of the respective date thereof, complied as to form in all material respects with the requirements of the Securities Act and the Rules and Regulations; and the documents incorporated by reference in the Pricing Prospectus and the Prospectus when they were filed with the Commission complied as to form in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission thereunder.
- (xviii) To the best of such counsel's knowledge, no person or entity has the right to require registration of shares of Common Stock or other securities of the Company because of the filing or effectiveness of the Registration Statements or otherwise, except for persons and entities who have expressly waived such right or who have been given proper notice and have failed to exercise such right within the time or times required under the terms and conditions of such right.
- (xix) The Company is not, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the General Disclosure Package and the Prospectus will not be, an "investment company" within the meaning of such term as defined in the Investment Company Act and the rules and regulations of the Commission thereunder.

WARRANT AGENCY AGREEMENT

WARRANT AGENCY AGREEMENT (the "Agreement") dated as of ___, 2009, by and between VirnetX Holding Corporation, a Delaware corporation, with offices at 5615 Scotts Valley Drive, Suite 110, Scotts Valley, California, 95066 (the "Company"), and Corporate Stock Transfer, Inc. a Colorado corporation, with offices at 3200 Cherry Creek South Drive, Suite 430, Denver, Colorado 80209 ("CST" or the "Warrant Agent").

WHEREAS, the Company is engaged in a public offering (the "Offering") of up to 3,000,000 shares of the Company's common stock, \$0.0001 par value per share (the "Common Stock"), and warrants to purchase up to an aggregate of 4,500,000 shares of Common Stock, which securities have been registered for sale under a Registration Statement on Form S-1 (File No. 333-153645) declared effective on January ___, 2009; and

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance by the Company at the consummation of the Offering of (a) warrants to purchase (i) an aggregate of 1,500,000 shares of Common stock, at an exercise price of \$2.00 per share (the "\$2.00 Public Warrants"), (ii) an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$3.00 per share (the "\$3.00 Public Warrants") and (iii) an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$4.00 per share (the "\$4.00 Public Warrants"); (collectively, the "Public Warrants"), and (b) a warrant (the "Underwriter's Warrant") to purchase 300,000 shares of Common Stock to Gilford Securities Incorporated (the "Underwriter") or its designees pursuant to an Underwriter's Warrant Agreement between the Company and the Underwriter (the Underwriter's Warrant together with the Public Warrants, the "Warrants" subject to adjustment, and other matters as provided herein.

NOW, THEREFORE, for the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Appointment of Warrant Agent. The Company hereby appoints CST to act as Warrant Agent for the Company in connection with the issuance, registration, transfer, exchange, redemption and exercise of the Warrants in accordance with the provisions set forth in the Warrants and this Agreement, and CST hereby accepts such appointment.

2. Form of Warrants; Incorporation by Reference. The Warrants shall be in registered form only. The Public Warrants shall be substantially in the forms set forth in Exhibit A, Exhibit B, and Exhibit C attached hereto. The form of the warrant certificate issued in connection with the Underwriter's Warrant shall be substantially in the form set forth in Annex A attached hereto. The terms and provisions of the Warrants are hereby incorporated by reference herein and made a part hereof.

3. Indemnification; Limitation of Liability.

(a) The Company agrees to indemnify the Warrant Agent and its officers, directors, employees and agents for, and to hold them harmless against, any loss, claim, liability or expense, incurred without gross negligence, willful misconduct or bad faith on the part of the Warrant Agent or any such officer, director, employee or agent, arising out of or in connection with the administration of the Warrants, including the costs and expenses of defending against any claim or liability arising out of or resulting from the administration of the Warrants or in connection with the exercise or performance of any of its powers or duties hereunder or under the Warrants.

(b) The obligations of the Company under this Section 3 shall survive any termination of this Agreement, including any termination under any bankruptcy, insolvency or similar law, or any removal or resignation of the Warrant Agent.

4. Miscellaneous Provisions.

4.1. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns.

4.2. Termination. This Agreement shall terminate upon the earlier of (a) the expiration of the Warrants, or (b) the resignation or removal of the Warrant Agent, in each case pursuant to the terms of the Warrants.

4.3. Notices. Unless provided for differently elsewhere in this Agreement, any notice, statement or demand authorized by this Agreement to be given or made by the Warrant Agent or by the holder of any Warrant to or on the Company shall be sufficiently given when so delivered if by hand or overnight delivery or if sent by certified mail or private courier service within five days after deposit of such notice, postage prepaid, or sent by facsimile transmission (with confirmation of receipt), addressed (until another address is filed in writing by the Company with the Warrant Agent), as follows:

VirnetX Holding Corporation
5615 Scotts Valley Drive, Suite 110
Scotts Valley, California 95066
Attention: Kendall Larsen, Chief Executive Officer

with copy to:

Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
Attention: Lowell D. Ness, Esq.

Unless provided for differently elsewhere in this Agreement, any notice, statement or demand authorized by this Agreement to be given or made by the holder of any Warrant or by the Company to or on the Warrant Agent shall be sufficiently given when so delivered if by hand or overnight delivery or if sent by certified mail or private courier service within five days after deposit of such notice, postage prepaid, or sent by facsimile transmission (with confirmation of receipt) addressed (until another address is filed in writing by the Warrant Agent with the Company), as follows:

Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209
Attn: Carylyn Bell
Fax No.: (303) 282-5800

with a copy to:

Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
Attention: Lowell D. Ness, Esq.
Fax No.: (650) 474-0452

and

DLA Piper LLP (US)
1251 Avenue of the Americas
New York, NY 10020-1104
Attention: Christopher C. Paci
Fax No.: (212) 884-8470

4.4. Applicable Law. The validity, interpretation, and performance of this Agreement and of the Warrants shall be governed in all respects by the laws of the State of New York, without giving effect to conflicts of law principles that would result in the application of the substantive laws of another jurisdiction. The Company hereby agrees that any action, proceeding or claim against it arising out of or relating in any way to this Agreement shall be brought and enforced in the courts of the State of New York or the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenience forum. Any such process or summons to be served upon the Company may be served by transmitting a copy thereof by registered or certified mail, return receipt requested, postage prepaid, addressed to it at the address set forth in Section 4.3 hereof. Such mailing shall be deemed personal service and shall be legal and binding upon the Company in any action, proceeding or claim.

4.5. Examination of the Warrant Agreement. A copy of this Agreement shall be available at all reasonable times at the office of the Warrant Agent in Denver, Colorado, for inspection by the registered holder of any Warrant. The Warrant Agent may require any such holder to submit his Warrant for inspection by it.

4.6. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

4.7. Effect of Headings. The Section headings herein are for convenience only and are not part of this Agreement and shall not affect the interpretation thereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

VIRNETX HOLDING CORPORATION

By: _____
Name: Kendall Larsen
Title: Chief Financial Officer

CORPORATE STOCK TRANSFER, INC.

By: _____
Name:
Title:

Exhibit A

Form of Public Warrant — \$2.00 Exercise Price

THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Warrant No. ____

Date of Issuance: January ____, 2009

Number of Shares: _____
(subject to adjustment)

VIRNETX HOLDING CORPORATION
COMMON STOCK PURCHASE WARRANT
(\$2.00 EXERCISE PRICE)

VirnetX Holding Corporation, a Delaware corporation (the "Company"), for value received, hereby certifies that _____, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before July ____, 2010 (the "Expiration Date") ____ shares of the Company's Common Stock (the "Common Stock") at a per share purchase price equal to two dollars (\$2.00) (the "Purchase Price"), as adjusted from time to time pursuant to the provisions of this Warrant. The shares purchasable upon exercise of this Warrant, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock".

This Warrant is issued pursuant to, and is subject to the terms and conditions of:

1. **Number of Shares.** Subject to the terms and conditions hereinafter set forth, the Registered Holder is entitled, upon surrender of this Warrant, to purchase from the Company the number of shares (subject to adjustment as provided herein) of Warrant Stock first set forth above.

2. **Exercise.**

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of Corporate Stock Transfer, Inc. (the "Warrant Agent"), or at such other office or agency as the Warrant Agent may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check or wire transfer, or under the circumstances described in Section 2(b), pursuant to the cashless exercise provisions of Section 2(b).

(b) **Cashless Exercise.** Notwithstanding anything contained herein to the contrary, if an effective registration statement covering the Warrant Stock that is the subject of the Exercise Notice is not available for the resale of such Warrant Stock (the “Unavailable Warrant Shares”), the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Warrant Agent upon such exercise in payment of the Purchase Price, elect instead to receive upon such exercise the “Net Number” of shares of Common Stock determined according to the following formula (a “Cashless Exercise”):

$$\text{Net Number} = \frac{(A \times B) - (A \times C)}{B}$$

For purposes of the foregoing formula:

A= the total number of shares with respect to which this Warrant is then being exercised.

B= the closing sale price of the shares of Common Stock on the date immediately preceding the date of the Exercise Notice.

C= the Purchase Price then in effect for the applicable Warrant Stock at the time of such exercise.

(c) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Warrant Agent as provided in Section 2(a). At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 2(d) shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(d) **Notification to Company.** The Warrant Agent shall notify the Company immediately upon receipt by the Warrant Agent of payment of the applicable Purchase Price from the Registered Holder pursuant to Section 2(a). The Warrant Agent shall transfer each payment made by the Registered Holder hereof pursuant to Section 2(a) to the Company in immediately available funds no later than 5:00 p.m. (New York City time) on the date of exercise of the Warrant (and, pending such transfer, shall hold each such payment for the benefit of the Registered Holder hereof in a segregated trust account).

(e) **Delivery to Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within twenty (20) days thereafter, the Warrant Agent, at the Company’s expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates, or book-entry position, for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Sections 2(a) or 2(b), as applicable.

(f) The Company's obligations to issue and cause the Warrant Agent to deliver Warrant Stock in accordance with the terms hereof are absolute and unconditional upon satisfaction by the Registered Holder of the conditions to exercise this Warrant set forth in Sections 2(a) or 2(b), as applicable, irrespective of any action or inaction by the Registered Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation, or termination, or any breach or alleged breach by the Registered Holder or any other person of any obligation to the Company (other than the Registered Holder's obligations with respect to the exercise hereof in accordance with Sections 2(a) or 2(b), as applicable), or any violation or alleged violation of law by the Registered Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligations of the Company or the Warrant Agent to the Registered Holder in connection with the issuance of Warrant Stock. Nothing herein shall limit a Registered Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Warrant Agent's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

3. **Company Call.** If, prior to the exercise or earlier expiration of this Warrant pursuant to the terms hereof, the average closing stock price of the Common Stock on the American Stock Exchange, or any successor national securities exchange thereto, equals or exceeds two (2) times the Purchase Price on any five (5) consecutive trading days, the Company shall be entitled, at its option, to direct the Warrant Agent to issue a notice (a "**Call Notice**") to the Registered Holder of this Warrant to the effect that the Company is exercising its rights pursuant to this Section 3. Upon receipt of a Call Notice (which receipt will be deemed to occur on the one (1) business day following the dispatch of such Call Notice by the Warrant Agent by a nationally recognized overnight courier), the Registered Holder shall have until 5.00 p.m., Denver, Colorado time, on the 10th business day following receipt of the Call Notice to exercise the Warrant, for that number of shares of Warrant Stock covered by the Call Notice, in accordance with Section 2 hereof. Upon the expiration of such 10 business day period, if not sooner exercised, this Warrant will terminate with respect to the number of shares specified in the Call Notice and the Registered Holder's rights and the Company's obligations hereunder with respect to the number of shares specified in the Call Notice will cease without payment of consideration. Notwithstanding the foregoing provisions of this Section 3, the Company may not issue a Call Notice unless and until a registration statement is effective, or no longer required, with respect to the resale of the Warrant Stock.

4. **Adjustments.**

(a) **Stock Splits and Dividends.** If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar

corporate reorganization on or after the date hereof, then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 4.

(c) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 4, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Reorganizations, Mergers and Consolidations.** If at any time or from time to time after the date hereof there is a reorganization of the Company (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4) or a merger or consolidation of the Company with or into another corporation, then, as a part of such reorganization, merger or consolidation, provision shall be made so that the Registered Holder of this Warrant thereafter shall be entitled to receive, upon exercise of this Warrant, the number of shares of stock or other securities or property of the Company, or of such successor corporation resulting from such reorganization, merger or consolidation, to which a holder of Common Stock would have been entitled on such reorganization, merger or consolidation. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the Registered Holder of this Warrant after the reorganization, merger or consolidation to the end that the provisions of this Section 4 (including adjustment of the Purchase Price then in effect and number of shares issuable upon exercise of this Warrant, as applicable) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This Section 4(d) shall similarly apply to successive reorganizations, mergers and consolidations. Notwithstanding the foregoing, if any such reorganization, merger or consolidation constitutes or results in (a) a “going private” transaction as defined in Rule 13e-3 under the Exchange Act, (b) an acquisition of the Company primarily for cash, or (c) an acquisition, merger or sale with or into a Person not traded on an Eligible Market (as defined below), then the Company (or any such successor or surviving entity) shall require that the Registered Holder waive the above requirements of this Section 4(d) in exchange for a payment of cash on the closing date of such reorganization, merger or consolidation, equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the closing date of such reorganization, merger or consolidation, provided that the per share consideration to be received by the holders of shares of Common Stock upon the consummation of such reorganization, merger or consolidation is less than the Exercise Price. Concurrently with such payment, this Warrant shall be cancelled. “Black Scholes Value” means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the “OV” function on Bloomberg determined as of the day immediately following the public announcement of the applicable reorganization, merger or consolidation and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of such date and (ii) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg. “Eligible Market” means the American Stock Exchange, The New York Stock Exchange, Inc., The Nasdaq Capital Market, The NASDAQ Global Market or The NASDAQ Global Select Market.

(e) **Pro Rata Rights Upon Distributions of Assets.** If the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock (which dividend or other distribution has not already been given to the Registered Holders of the Warrants), including, without limitation, any distribution of cash, equity or debt securities or rights or warrants to subscribe for or purchase any equity or debt security, or other property or assets at

any time after the issuance of this Warrant and prior to the Expiration Date, then, in each such case (in each case, "Distributed Property"), the Registered Holder shall be entitled upon exercise of this Warrant for the purchase of any or all of the Warrant Stock, to receive the amount of Distributed Property which would have been payable to the Registered Holder had such Registered Holder been the holder of such Warrant Stock on the record date for the determination of shareholders entitled to such Distributed Property. The Company will at all times set aside and keep available for distribution to such holder upon exercise of this Warrant a portion of the Distributed Property to satisfy the distribution to which such Registered Holder is entitled pursuant to the preceding sentence.

5. Transfers.

(a) **Registration Statement.** Each holder of this Warrant acknowledges that this Warrant and the Warrant Stock have been registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a registration statement on Form S-1 (File No. 333-153645) which must be amended on a post-effective basis from time to time in order to maintain its accuracy and keep it up-to-date, and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant or any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Securities Act as to the sale of any such securities and registration or qualification of such securities under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect and as described in Section 15.

(b) **Transferability.** Prior to the Expiration Date and subject to compliance with any applicable securities laws and the conditions set forth in this Section 5, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Warrant Agent, together with a written assignment of this Warrant substantially in the form attached hereto as Exhibit B duly executed by the Registered Holder or its agent or attorney, and funds sufficient to pay any transfer taxes payable upon the making of such transfer. If a registration statement is not then effective, the transferee shall also sign an investment letter in form and substance reasonably satisfactory to the Warrant Agent and the Company. Upon such surrender and, if required, such payment, the Warrant Agent shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Stock without having a new Warrant issued.

6. No Impairment. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13) at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holder of this Warrant against impairment.

7. Notices of Certain Transactions. In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

8. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

9. **Fully Paid and Non-assessable.** The Company covenants that all Warrant Stock shall, upon issuance and the payment of the applicable Purchase Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and non-assessable.

10. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Warrant Agent at the principal office of the Warrant Agent, the Warrant Agent will, subject to the provisions of Section 5, issue and deliver to or upon the order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Warrant Agent of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Warrant Agent, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Warrant Agent will issue, in lieu thereof, a new Warrant of like tenor.

12. **Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Warrant Agent and (b) if to the Warrant Agent, to the address set forth below or subsequently modified by written notice to the Registered Holder.

Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209
Attn: Carylyn Bell
Fax No.: (303) 282-5800

with a copy to:

Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
Attention: Lowell D. Ness, Esq.
Fax No.: (650) 474-0452

13. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company. Notwithstanding the foregoing, the Company shall provide the Registered Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

14. **No Fractional Shares.** No fractional shares of Common Stock shall be issued upon exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable upon exercise of this Warrant, the Company shall round up such fractional interest to the next whole share.

15. **Warrant Legends.**

(a) Each Warrant shall contain a legend in substantially the following form:

“THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

(b) Each certificate representing the Warrant Stock, unless a registration statement is not then effective, shall contain a legend substantially in the following form:

“THE SHARES REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD OR TRANSFERRED WITHOUT AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

16. [RESERVED]

17. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

18. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of New York, without giving effect to principles of conflicts of law.

19. **Survival of Representations.** Unless otherwise set forth in this Warrant, the representations, warranties and covenants contained in or made pursuant to this Warrant shall survive the execution and delivery of this Warrant.

20. **Successors and Assigns.** The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

21. **Counterparts.** This Warrant may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

22. **Attorney’s Fees.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney’s fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

23. **Severability.** If one or more provisions of this Warrant are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

24. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

25. **Remedies, Other Obligations, Breaches and Injunctive Relief.** The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Registered Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Registered Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Registered Holder shall be entitled to seek, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required

26. **Warrant Agent.**

(a) **Registration of Warrants.** The Warrant Agent will keep a register in which the Warrant Agent will provide for the registration of Warrants and the registration of transfers of Warrants representing whole numbers of Warrants. The Company and the Warrant Agent may treat the person in whose name any Warrants is registered on such register as the owner thereof for all purposes. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Warrant Agent in accordance with Section 12 requesting such change.

(b) **Limitation on Liability.** The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of the Warrants in reliance upon any instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement or other paper or document in good faith believed by it to be genuine and to be signed, executed and, where necessary, verified and acknowledged, by the proper person or persons.

(c) **Duties of Warrant Agent.** The Warrant Agent shall undertake only the specific duties and obligations imposed hereunder upon the following terms and conditions, by all of which the Company and the Registered Holder shall be bound:

(i) The Warrant Agent may consult with legal counsel (who may or may not be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and

protection to the Warrant Agent as to any action taken or omitted by it in good faith and in accordance with such opinion, provided the Warrant Agent shall have exercised reasonable care in the selection by it of such counsel.

(ii) Whenever in the performance of its duties hereunder the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter may be deemed to be conclusively proved and established by a certificate signed by an executive officer of the Company and delivered to the Warrant Agent and such certificate shall be full authorization to the Warrant Agent for any action taken or suffered in good faith by it hereunder in reliance upon such certificate.

(iii) The Warrant Agent shall be liable hereunder only for its own gross negligence, willful misconduct or bad faith.

(iv) The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained herein or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(v) The Warrant Agent shall not have any responsibility in respect of and makes no representation as to the validity of this Warrant or the execution and delivery hereof (except the due execution hereof by the Warrant Agent), nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Warrant, nor shall it by any act hereunder be deemed to make any representation or warranty as to the Warrant Shares.

(vi) The Warrant Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Chief Executive Officer and the Chief Financial Officer of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with instructions of any such officer.

(vii) The Warrant Agent and any stockholder, director, officer, or employee of the Warrant Agent may buy, sell, or deal in any of the Warrants or other securities of the Company or otherwise act as fully and freely as though it were not Warrant Agent hereunder, so long as such persons do so in full compliance with all applicable laws. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(viii) The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either by itself or by or through its attorneys or agents.

(ix) The Warrant Agent shall act solely as the agent of the Company hereunder. The Warrant Agent shall not be liable except for the failure to perform such duties as are specifically set forth herein, and no implied covenants or obligations shall be read into this Warrant against the Warrant Agent, whose duties shall be determined solely by the express provisions hereof. The Warrant Agent shall not be deemed to be a fiduciary.

(x) The Warrant Agent shall not have any duty to calculate or determine any adjustments with respect either to the Purchase Price or to the kind and amount of property receivable by the Registered Holder upon the exercise of this Warrant.

(xi) The Warrant Agent shall not be responsible for any failure on the part of the Company to comply with any of its covenants and obligations contained herein.

(xii) The Warrant Agent shall not be under any obligation or duty to institute, appear in, or defend any action, suit, or legal proceeding in respect hereof, unless first indemnified to its satisfaction, provided that this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without such indemnity. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or, proceeding instituted against it arising out of or in connection with this Warrant.

(xiii) The Company will perform, execute, acknowledge, and deliver or cause to be performed, executed, acknowledged, and delivered all such further acts, instruments, and assurances as may be required by the Warrant Agent in order to enable it to carry out or perform its duties hereunder.

(d) **Change of Warrant Agent.** The Warrant Agent may resign and be discharged from its duties hereunder upon thirty (30) days notice in writing sent to the Company by registered or certified mail, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested, at the expense of the Warrant Agent; provided, however, that no such resignation or discharge shall become effective until a successor Warrant Agent shall have been appointed hereunder. The Company may remove the Warrant Agent or any successor Warrant Agent upon thirty (30) days, notice in writing, sent to the Warrant Agent or successor Warrant Agent, as the case may be, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested; provided, further, however, that no such removal shall become effective until a successor Warrant Agent shall have been appointed hereunder. If the Warrant Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall promptly appoint a successor to the Warrant Agent, which may be designated as an interim Warrant Agent. If an interim Warrant Agent is designated, the Company shall then appoint a permanent successor to the Warrant Agent, which may be the interim Warrant Agent. If the Company shall fail to make such appointment of a permanent successor within a period of thirty (30) days after such removal or within sixty (60) days after notification in writing of such resignation or incapacity by the resigning or incapacitated Warrant Agent or by the Registered Holder of a Warrant, then the Warrant Agent or any Registered Holder of a Warrant may apply to any court of competent jurisdiction for the appointment of such a successor. Any entity which may be merged or consolidated with or which shall otherwise succeed to substantially all of the trust or agency business of the Warrant Agent shall be deemed to be the successor Warrant Agent without any further action.

27. **Entire Agreement.** This Warrant and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Warrant to be duly executed as of the day and year first above written.

THE COMPANY:

VIRNETX HOLDING CORPORATION

By: _____
(Signature)

Name: _____

Title: _____

Address:

5615 Scotts Valley Drive, Suite 110

Scotts Valley, California 95066

Fax: (831) 438-8700

THE WARRANT AGENT:

CORPORATE STOCK TRANSFER, INC.

By: _____
(Signature)

Name: _____

Title: _____

Address:

3200 Cherry Creek South Drive, Suite 430

Denver, Colorado 80209

Fax: (303) 282-5800

VirnetX Holding Corporation — \$2.00 Common Stock Purchase Warrant

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Corporate Stock Transfer, Inc.** Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. ___, hereby irrevocably elects to purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of \$ _____, representing the full Purchase Price for such shares at the price per share provided for in such Warrant.

Payment shall take the form of (check applicable box):

in lawful money of the United States; or

the cancellation of such amount of Warrant Stock as is necessary, in accordance with the formula set forth in Section 2(b), to exercise this Warrant with respect to the maximum amount of Warrant Stock purchasable pursuant to the cashless exercise procedure set forth in Section 2(b).

The undersigned acknowledges that it has reviewed the representations and warranties of the Registered Holder set forth in the Warrant and by its signature below hereby makes such representations and warranties to the Company and the Warrant Agent. Defined terms contained in such representations and warranties shall have the meanings assigned to them in the Warrant, provided that the term "Securities" shall refer to the Warrant Stock.

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address:

Fax: _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of capital stock covered thereby set forth below, unto:

Name of Assignee

Address/Facsimile Number

No. of Shares

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Fax: _____

Exhibit B

Form of Public Warrant — \$3.00 Exercise Price

THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Warrant No. ____

Date of Issuance: January ____, 2009

Number of Shares: _____
(subject to adjustment)

VIRNETX HOLDING CORPORATION
COMMON STOCK PURCHASE WARRANT
(\$3.00 EXERCISE PRICE)

VirnetX Holding Corporation, a Delaware corporation (the "Company"), for value received, hereby certifies that _____, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before July ____, 2010 (the "Expiration Date") ____ shares of the Company's Common Stock (the "Common Stock") at a per share purchase price equal to three dollars (\$3.00) (the "Purchase Price"), as adjusted from time to time pursuant to the provisions of this Warrant. The shares purchasable upon exercise of this Warrant, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock".

This Warrant is issued pursuant to, and is subject to the terms and conditions of:

1. **Number of Shares.** Subject to the terms and conditions hereinafter set forth, the Registered Holder is entitled, upon surrender of this Warrant, to purchase from the Company the number of shares (subject to adjustment as provided herein) of Warrant Stock first set forth above.

2. **Exercise.**

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of Corporate Stock Transfer, Inc. (the "Warrant Agent"), or at such other office or agency as the Warrant Agent may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check or wire transfer, or under the circumstances described in Section 2(b), pursuant to the cashless exercise provisions of Section 2(b).

(b) **Cashless Exercise.** Notwithstanding anything contained herein to the contrary, if an effective registration statement covering the Warrant Stock that is the subject of the Exercise Notice is not available for the resale of such Warrant Stock (the “Unavailable Warrant Shares”), the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Warrant Agent upon such exercise in payment of the Purchase Price, elect instead to receive upon such exercise the “Net Number” of shares of Common Stock determined according to the following formula (a “Cashless Exercise”):

$$\text{Net Number} = \frac{(A \times B) - (A \times C)}{B}$$

For purposes of the foregoing formula:

A= the total number of shares with respect to which this Warrant is then being exercised.

B= the closing sale price of the shares of Common Stock on the date immediately preceding the date of the Exercise Notice.

C= the Purchase Price then in effect for the applicable Warrant Stock at the time of such exercise.

(c) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Warrant Agent as provided in Section 2(a). At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 2(d) shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(d) **Notification to Company.** The Warrant Agent shall notify the Company immediately upon receipt by the Warrant Agent of payment of the applicable Purchase Price from the Registered Holder pursuant to Section 2(a). The Warrant Agent shall transfer each payment made by the Registered Holder hereof pursuant to Section 2(a) to the Company in immediately available funds no later than 5:00 p.m. (New York City time) on the date of exercise of the Warrant (and, pending such transfer, shall hold each such payment for the benefit of the Registered Holder hereof in a segregated trust account).

(e) **Delivery to Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within twenty (20) days thereafter, the Warrant Agent, at the Company’s expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates, or book-entry position, for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Sections 2(a) or 2(b), as applicable.

(f) The Company's obligations to issue and cause the Warrant Agent to deliver Warrant Stock in accordance with the terms hereof are absolute and unconditional upon satisfaction by the Registered Holder of the conditions to exercise this Warrant set forth in Sections 2(a) or 2(b), as applicable, irrespective of any action or inaction by the Registered Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation, or termination, or any breach or alleged breach by the Registered Holder or any other person of any obligation to the Company (other than the Registered Holder's obligations with respect to the exercise hereof in accordance with Sections 2(a) or 2(b), as applicable.), or any violation or alleged violation of law by the Registered Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligations of the Company or the Warrant Agent to the Registered Holder in connection with the issuance of Warrant Stock. Nothing herein shall limit a Registered Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Warrant Agent's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

3. **Company Call.** If, prior to the exercise or earlier expiration of this Warrant pursuant to the terms hereof, the average closing stock price of the Common Stock on the American Stock Exchange, or any successor national securities exchange thereto, equals or exceeds two (2) times the Purchase Price on any five (5) consecutive trading days, the Company shall be entitled, at its option, to direct the Warrant Agent to issue a notice (a "**Call Notice**") to the Registered Holder of this Warrant to the effect that the Company is exercising its rights pursuant to this Section 3. Upon receipt of a Call Notice (which receipt will be deemed to occur on the one (1) business day following the dispatch of such Call Notice by the Warrant Agent by a nationally recognized overnight courier), the Registered Holder shall have until 5.00 p.m., Denver, Colorado time, on the 10th business day following receipt of the Call Notice to exercise the Warrant, for that number of shares of Warrant Stock covered by the Call Notice, in accordance with Section 2 hereof. Upon the expiration of such 10 business day period, if not sooner exercised, this Warrant will terminate with respect to the number of shares specified in the Call Notice and the Registered Holder's rights and the Company's obligations hereunder with respect to the number of shares specified in the Call Notice will cease without payment of consideration. Notwithstanding the foregoing provisions of this Section 3, the Company may not issue a Call Notice unless and until a registration statement is effective, or no longer required, with respect to the resale of the Warrant Stock.

4. **Adjustments.**

(a) **Stock Splits and Dividends.** If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar

corporate reorganization on or after the date hereof, then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 4.

(c) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 4, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Reorganizations, Mergers and Consolidations.** If at any time or from time to time after the date hereof there is a reorganization of the Company (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4) or a merger or consolidation of the Company with or into another corporation, then, as a part of such reorganization, merger or consolidation, provision shall be made so that the Registered Holder of this Warrant thereafter shall be entitled to receive, upon exercise of this Warrant, the number of shares of stock or other securities or property of the Company, or of such successor corporation resulting from such reorganization, merger or consolidation, to which a holder of Common Stock would have been entitled on such reorganization, merger or consolidation. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the Registered Holder of this Warrant after the reorganization, merger or consolidation to the end that the provisions of this Section 4 (including adjustment of the Purchase Price then in effect and number of shares issuable upon exercise of this Warrant, as applicable) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This Section 4(d) shall similarly apply to successive reorganizations, mergers and consolidations. Notwithstanding the foregoing, if any such reorganization, merger or consolidation constitutes or results in (a) a “going private” transaction as defined in Rule 13e-3 under the Exchange Act, (b) an acquisition of the Company primarily for cash, or (c) an acquisition, merger or sale with or into a Person not traded on an Eligible Market (as defined below), then the Company (or any such successor or surviving entity) shall require that the Registered Holder waive the above requirements of this Section 4(d) in exchange for a payment of cash on the closing date of such reorganization, merger or consolidation, equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the closing date of such reorganization, merger or consolidation, provided that the per share consideration to be received by the holders of shares of Common Stock upon the consummation of such reorganization, merger or consolidation is less than the Exercise Price. Concurrently with such payment, this Warrant shall be cancelled. “Black Scholes Value” means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the “OV” function on Bloomberg determined as of the day immediately following the public announcement of the applicable reorganization, merger or consolidation and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of such date and (ii) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg. “Eligible Market” means the American Stock Exchange, The New York Stock Exchange, Inc., The Nasdaq Capital Market, The NASDAQ Global Market or The NASDAQ Global Select Market.

(e) **Pro Rata Rights Upon Distributions of Assets.** If the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock (which dividend or other distribution has not already been given to the Registered Holders of the Warrants), including, without limitation, any distribution of cash, equity or debt securities or rights or warrants to subscribe for or purchase any equity or debt security, or other property or assets at

any time after the issuance of this Warrant and prior to the Expiration Date, then, in each such case (in each case, "Distributed Property"), the Registered Holder shall be entitled upon exercise of this Warrant for the purchase of any or all of the Warrant Stock, to receive the amount of Distributed Property which would have been payable to the Registered Holder had such Registered Holder been the holder of such Warrant Stock on the record date for the determination of shareholders entitled to such Distributed Property. The Company will at all times set aside and keep available for distribution to such holder upon exercise of this Warrant a portion of the Distributed Property to satisfy the distribution to which such Registered Holder is entitled pursuant to the preceding sentence.

5. Transfers.

(a) **Registration Statement.** Each holder of this Warrant acknowledges that this Warrant and the Warrant Stock have been registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a registration statement on Form S-1 (File No. 333-153645) which must be amended on a post-effective basis from time to time in order to maintain its accuracy and keep it up-to-date, and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant or any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Securities Act as to the sale of any such securities and registration or qualification of such securities under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect and as described in Section 15.

(b) **Transferability.** Prior to the Expiration Date and subject to compliance with any applicable securities laws and the conditions set forth in this Section 5, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Warrant Agent, together with a written assignment of this Warrant substantially in the form attached hereto as Exhibit B duly executed by the Registered Holder or its agent or attorney, and funds sufficient to pay any transfer taxes payable upon the making of such transfer. If a registration statement is not then effective, the transferee shall also sign an investment letter in form and substance reasonably satisfactory to the Warrant Agent and the Company. Upon such surrender and, if required, such payment, the Warrant Agent shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Stock without having a new Warrant issued.

6. No Impairment. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13) at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holder of this Warrant against impairment.

7. Notices of Certain Transactions. In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

8. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

9. **Fully Paid and Non-assessable.** The Company covenants that all Warrant Stock shall, upon issuance and the payment of the applicable Purchase Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and non-assessable.

10. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Warrant Agent at the principal office of the Warrant Agent, the Warrant Agent will, subject to the provisions of Section 5, issue and deliver to or upon the order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Warrant Agent of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Warrant Agent, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Warrant Agent will issue, in lieu thereof, a new Warrant of like tenor.

12. **Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Warrant Agent and (b) if to the Warrant Agent, to the address set forth below or subsequently modified by written notice to the Registered Holder.

Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209
Attn: Carylyn Bell
Fax No.: (303) 282-5800

with a copy to:

Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
Attention: Lowell D. Ness, Esq.
Fax No.: (650) 474-0452

13. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company. Notwithstanding the foregoing, the Company shall provide the Registered Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

14. **No Fractional Shares.** No fractional shares of Common Stock shall be issued upon exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable upon exercise of this Warrant, the Company shall round up such fractional interest to the next whole share.

15. **Warrant Legends.**

(a) Each Warrant shall contain a legend in substantially the following form:

“THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

(b) Each certificate representing the Warrant Stock, unless a registration statement is not then effective, shall contain a legend substantially in the following form:

“THE SHARES REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD OR TRANSFERRED WITHOUT AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

16. [RESERVED]

17. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

18. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of New York, without giving effect to principles of conflicts of law.

19. **Survival of Representations.** Unless otherwise set forth in this Warrant, the representations, warranties and covenants contained in or made pursuant to this Warrant shall survive the execution and delivery of this Warrant.

20. **Successors and Assigns.** The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

21. **Counterparts.** This Warrant may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

22. **Attorney’s Fees.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney’s fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

23. **Severability.** If one or more provisions of this Warrant are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

24. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

25. **Remedies, Other Obligations, Breaches and Injunctive Relief.** The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Registered Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Registered Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Registered Holder shall be entitled to seek, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required

26. **Warrant Agent.**

(a) **Registration of Warrants.** The Warrant Agent will keep a register in which the Warrant Agent will provide for the registration of Warrants and the registration of transfers of Warrants representing whole numbers of Warrants. The Company and the Warrant Agent may treat the person in whose name any Warrants is registered on such register as the owner thereof for all purposes. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Warrant Agent in accordance with Section 12 requesting such change.

(b) **Limitation on Liability.** The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of the Warrants in reliance upon any instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement or other paper or document in good faith believed by it to be genuine and to be signed, executed and, where necessary, verified and acknowledged, by the proper person or persons.

(c) **Duties of Warrant Agent.** The Warrant Agent shall undertake only the specific duties and obligations imposed hereunder upon the following terms and conditions, by all of which the Company and the Registered Holder shall be bound:

(i) The Warrant Agent may consult with legal counsel (who may or may not be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and

protection to the Warrant Agent as to any action taken or omitted by it in good faith and in accordance with such opinion, provided the Warrant Agent shall have exercised reasonable care in the selection by it of such counsel.

(ii) Whenever in the performance of its duties hereunder the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter may be deemed to be conclusively proved and established by a certificate signed by an executive officer of the Company and delivered to the Warrant Agent and such certificate shall be full authorization to the Warrant Agent for any action taken or suffered in good faith by it hereunder in reliance upon such certificate.

(iii) The Warrant Agent shall be liable hereunder only for its own gross negligence, willful misconduct or bad faith.

(iv) The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained herein or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(v) The Warrant Agent shall not have any responsibility in respect of and makes no representation as to the validity of this Warrant or the execution and delivery hereof (except the due execution hereof by the Warrant Agent), nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Warrant, nor shall it by any act hereunder be deemed to make any representation or warranty as to the Warrant Shares.

(vi) The Warrant Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Chief Executive Officer and the Chief Financial Officer of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with instructions of any such officer.

(vii) The Warrant Agent and any stockholder, director, officer, or employee of the Warrant Agent may buy, sell, or deal in any of the Warrants or other securities of the Company or otherwise act as fully and freely as though it were not Warrant Agent hereunder, so long as such persons do so in full compliance with all applicable laws. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(viii) The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either by itself or by or through its attorneys or agents.

(ix) The Warrant Agent shall act solely as the agent of the Company hereunder. The Warrant Agent shall not be liable except for the failure to perform such duties as are specifically set forth herein, and no implied covenants or obligations shall be read into this Warrant against the Warrant Agent, whose duties shall be determined solely by the express provisions hereof. The Warrant Agent shall not be deemed to be a fiduciary.

(x) The Warrant Agent shall not have any duty to calculate or determine any adjustments with respect either to the Purchase Price or to the kind and amount of property receivable by the Registered Holder upon the exercise of this Warrant.

(xi) The Warrant Agent shall not be responsible for any failure on the part of the Company to comply with any of its covenants and obligations contained herein.

(xii) The Warrant Agent shall not be under any obligation or duty to institute, appear in, or defend any action, suit, or legal proceeding in respect hereof, unless first indemnified to its satisfaction, provided that this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without such indemnity. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or, proceeding instituted against it arising out of or in connection with this Warrant.

(xiii) The Company will perform, execute, acknowledge, and deliver or cause to be performed, executed, acknowledged, and delivered all such further acts, instruments, and assurances as may be required by the Warrant Agent in order to enable it to carry out or perform its duties hereunder.

(d) **Change of Warrant Agent.** The Warrant Agent may resign and be discharged from its duties hereunder upon thirty (30) days notice in writing sent to the Company by registered or certified mail, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested, at the expense of the Warrant Agent; provided, however, that no such resignation or discharge shall become effective until a successor Warrant Agent shall have been appointed hereunder. The Company may remove the Warrant Agent or any successor Warrant Agent upon thirty (30) days, notice in writing, sent to the Warrant Agent or successor Warrant Agent, as the case may be, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested; provided, further, however, that no such removal shall become effective until a successor Warrant Agent shall have been appointed hereunder. If the Warrant Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall promptly appoint a successor to the Warrant Agent, which may be designated as an interim Warrant Agent. If an interim Warrant Agent is designated, the Company shall then appoint a permanent successor to the Warrant Agent, which may be the interim Warrant Agent. If the Company shall fail to make such appointment of a permanent successor within a period of thirty (30) days after such removal or within sixty (60) days after notification in writing of such resignation or incapacity by the resigning or incapacitated Warrant Agent or by the Registered Holder of a Warrant, then the Warrant Agent or any Registered Holder of a Warrant may apply to any court of competent jurisdiction for the appointment of such a successor. Any entity which may be merged or consolidated with or which shall otherwise succeed to substantially all of the trust or agency business of the Warrant Agent shall be deemed to be the successor Warrant Agent without any further action.

27. **Entire Agreement.** This Warrant and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Warrant to be duly executed as of the day and year first above written.

THE COMPANY:

VIRNETX HOLDING CORPORATION

By: _____
(Signature)

Name: _____

Title: _____

Address:

5615 Scotts Valley Drive, Suite 110

Scotts Valley, California 95066

Fax: (831) 438-8700

THE WARRANT AGENT:

CORPORATE STOCK TRANSFER, INC.

By: _____
(Signature)

Name: _____

Title: _____

Address:

3200 Cherry Creek South Drive, Suite 430

Denver, Colorado 80209

Fax: (303) 282-5800

VirnetX Holding Corporation — \$3.00 Common Stock Purchase Warrant

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Corporate Stock Transfer, Inc.** Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. ___, hereby irrevocably elects to purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of \$_____, representing the full Purchase Price for such shares at the price per share provided for in such Warrant.

Payment shall take the form of (check applicable box):

in lawful money of the United States; or

the cancellation of such amount of Warrant Stock as is necessary, in accordance with the formula set forth in Section 2(b), to exercise this Warrant with respect to the maximum amount of Warrant Stock purchasable pursuant to the cashless exercise procedure set forth in Section 2(b).

The undersigned acknowledges that it has reviewed the representations and warranties of the Registered Holder set forth in the Warrant and by its signature below hereby makes such representations and warranties to the Company and the Warrant Agent. Defined terms contained in such representations and warranties shall have the meanings assigned to them in the Warrant, provided that the term "Securities" shall refer to the Warrant Stock.

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address:

Fax: _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of capital stock covered thereby set forth below, unto:

Name of Assignee

Address/Facsimile Number

No. of Shares

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Fax: _____

Exhibit C

Form of Public Warrant — \$4.00 Exercise Price

THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Warrant No. ____

Date of Issuance: January ____, 2009

Number of Shares: _____
(subject to adjustment)

VIRNETX HOLDING CORPORATION
COMMON STOCK PURCHASE WARRANT
(\$4.00 EXERCISE PRICE)

VirnetX Holding Corporation, a Delaware corporation (the "Company"), for value received, hereby certifies that _____, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before July ____, 2010 (the "Expiration Date") ____ shares of the Company's Common Stock (the "Common Stock") at a per share purchase price equal to four dollars (\$4.00) (the "Purchase Price"), as adjusted from time to time pursuant to the provisions of this Warrant. The shares purchasable upon exercise of this Warrant, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock".

This Warrant is issued pursuant to, and is subject to the terms and conditions of:

1. **Number of Shares.** Subject to the terms and conditions hereinafter set forth, the Registered Holder is entitled, upon surrender of this Warrant, to purchase from the Company the number of shares (subject to adjustment as provided herein) of Warrant Stock first set forth above.

2. **Exercise.**

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of Corporate Stock Transfer, Inc. (the "Warrant Agent"), or at such other office or agency as the Warrant Agent may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check or wire transfer, or under the circumstances described in Section 2(b), pursuant to the cashless exercise provisions of Section 2(b).

(b) **Cashless Exercise.** Notwithstanding anything contained herein to the contrary, if an effective registration statement covering the Warrant Stock that is the subject of the Exercise Notice is not available for the resale of such Warrant Stock (the “Unavailable Warrant Shares”), the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Warrant Agent upon such exercise in payment of the Purchase Price, elect instead to receive upon such exercise the “Net Number” of shares of Common Stock determined according to the following formula (a “Cashless Exercise”):

$$\text{Net Number} = \frac{(A \times B) - (A \times C)}{B}$$

For purposes of the foregoing formula:

A= the total number of shares with respect to which this Warrant is then being exercised.

B= the closing sale price of the shares of Common Stock on the date immediately preceding the date of the Exercise Notice.

C= the Purchase Price then in effect for the applicable Warrant Stock at the time of such exercise.

(c) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Warrant Agent as provided in Section 2(a). At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 2(d) shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(d) **Notification to Company.** The Warrant Agent shall notify the Company immediately upon receipt by the Warrant Agent of payment of the applicable Purchase Price from the Registered Holder pursuant to Section 2(a). The Warrant Agent shall transfer each payment made by the Registered Holder hereof pursuant to Section 2(a) to the Company in immediately available funds no later than 5:00 p.m. (New York City time) on the date of exercise of the Warrant (and, pending such transfer, shall hold each such payment for the benefit of the Registered Holder hereof in a segregated trust account).

(e) **Delivery to Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within twenty (20) days thereafter, the Warrant Agent, at the Company’s expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates, or book-entry position, for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Sections 2(a) or 2(b), as applicable.

(f) The Company's obligations to issue and cause the Warrant Agent to deliver Warrant Stock in accordance with the terms hereof are absolute and unconditional upon satisfaction by the Registered Holder of the conditions to exercise this Warrant set forth in Sections 2(a) or 2(b), as applicable, irrespective of any action or inaction by the Registered Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation, or termination, or any breach or alleged breach by the Registered Holder or any other person of any obligation to the Company (other than the Registered Holder's obligations with respect to the exercise hereof in accordance with Sections 2(a) or 2(b), as applicable.), or any violation or alleged violation of law by the Registered Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligations of the Company or the Warrant Agent to the Registered Holder in connection with the issuance of Warrant Stock. Nothing herein shall limit a Registered Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Warrant Agent's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

3. **Company Call.** If, prior to the exercise or earlier expiration of this Warrant pursuant to the terms hereof, the average closing stock price of the Common Stock on the American Stock Exchange, or any successor national securities exchange thereto, equals or exceeds two (2) times the Purchase Price on any five (5) consecutive trading days, the Company shall be entitled, at its option, to direct the Warrant Agent to issue a notice (a "**Call Notice**") to the Registered Holder of this Warrant to the effect that the Company is exercising its rights pursuant to this Section 3. Upon receipt of a Call Notice (which receipt will be deemed to occur on the one (1) business day following the dispatch of such Call Notice by the Warrant Agent by a nationally recognized overnight courier), the Registered Holder shall have until 5.00 p.m., Denver, Colorado time, on the 10th business day following receipt of the Call Notice to exercise the Warrant, for that number of shares of Warrant Stock covered by the Call Notice, in accordance with Section 2 hereof. Upon the expiration of such 10 business day period, if not sooner exercised, this Warrant will terminate with respect to the number of shares specified in the Call Notice and the Registered Holder's rights and the Company's obligations hereunder with respect to the number of shares specified in the Call Notice will cease without payment of consideration. Notwithstanding the foregoing provisions of this Section 3, the Company may not issue a Call Notice unless and until a registration statement is effective, or no longer required, with respect to the resale of the Warrant Stock.

4. **Adjustments.**

(a) **Stock Splits and Dividends.** If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar

corporate reorganization on or after the date hereof, then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 4.

(c) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 4, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Reorganizations, Mergers and Consolidations.** If at any time or from time to time after the date hereof there is a reorganization of the Company (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4) or a merger or consolidation of the Company with or into another corporation, then, as a part of such reorganization, merger or consolidation, provision shall be made so that the Registered Holder of this Warrant thereafter shall be entitled to receive, upon exercise of this Warrant, the number of shares of stock or other securities or property of the Company, or of such successor corporation resulting from such reorganization, merger or consolidation, to which a holder of Common Stock would have been entitled on such reorganization, merger or consolidation. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the Registered Holder of this Warrant after the reorganization, merger or consolidation to the end that the provisions of this Section 4 (including adjustment of the Purchase Price then in effect and number of shares issuable upon exercise of this Warrant, as applicable) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This Section 4(d) shall similarly apply to successive reorganizations, mergers and consolidations. Notwithstanding the foregoing, if any such reorganization, merger or consolidation constitutes or results in (a) a “going private” transaction as defined in Rule 13e-3 under the Exchange Act, (b) an acquisition of the Company primarily for cash, or (c) an acquisition, merger or sale with or into a Person not traded on an Eligible Market (as defined below), then the Company (or any such successor or surviving entity) shall require that the Registered Holder waive the above requirements of this Section 4(d) in exchange for a payment of cash on the closing date of such reorganization, merger or consolidation, equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the closing date of such reorganization, merger or consolidation, provided that the per share consideration to be received by the holders of shares of Common Stock upon the consummation of such reorganization, merger or consolidation is less than the Exercise Price. Concurrently with such payment, this Warrant shall be cancelled. “Black Scholes Value” means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the “OV” function on Bloomberg determined as of the day immediately following the public announcement of the applicable reorganization, merger or consolidation and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of such date and (ii) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg. “Eligible Market” means the American Stock Exchange, The New York Stock Exchange, Inc., The Nasdaq Capital Market, The NASDAQ Global Market or The NASDAQ Global Select Market.

(e) **Pro Rata Rights Upon Distributions of Assets.** If the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock (which dividend or other distribution has not already been given to the Registered Holders of the Warrants), including, without limitation, any distribution of cash, equity or debt securities or rights or warrants to subscribe for or purchase any equity or debt security, or other property or assets at

any time after the issuance of this Warrant and prior to the Expiration Date, then, in each such case (in each case, "Distributed Property"), the Registered Holder shall be entitled upon exercise of this Warrant for the purchase of any or all of the Warrant Stock, to receive the amount of Distributed Property which would have been payable to the Registered Holder had such Registered Holder been the holder of such Warrant Stock on the record date for the determination of shareholders entitled to such Distributed Property. The Company will at all times set aside and keep available for distribution to such holder upon exercise of this Warrant a portion of the Distributed Property to satisfy the distribution to which such Registered Holder is entitled pursuant to the preceding sentence.

5. Transfers.

(a) **Registration Statement.** Each holder of this Warrant acknowledges that this Warrant and the Warrant Stock have been registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a registration statement on Form S-1 (File No. 333-153645) which must be amended on a post-effective basis from time to time in order to maintain its accuracy and keep it up-to-date, and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant or any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Securities Act as to the sale of any such securities and registration or qualification of such securities under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect and as described in Section 15.

(b) **Transferability.** Prior to the Expiration Date and subject to compliance with any applicable securities laws and the conditions set forth in this Section 5, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Warrant Agent, together with a written assignment of this Warrant substantially in the form attached hereto as Exhibit B duly executed by the Registered Holder or its agent or attorney, and funds sufficient to pay any transfer taxes payable upon the making of such transfer. If a registration statement is not then effective, the transferee shall also sign an investment letter in form and substance reasonably satisfactory to the Warrant Agent and the Company. Upon such surrender and, if required, such payment, the Warrant Agent shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Stock without having a new Warrant issued.

6. No Impairment. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13) at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holder of this Warrant against impairment.

7. Notices of Certain Transactions. In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

8. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

9. **Fully Paid and Non-assessable.** The Company covenants that all Warrant Stock shall, upon issuance and the payment of the applicable Purchase Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and non-assessable.

10. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Warrant Agent at the principal office of the Warrant Agent, the Warrant Agent will, subject to the provisions of Section 5, issue and deliver to or upon the order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Warrant Agent of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Warrant Agent, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Warrant Agent will issue, in lieu thereof, a new Warrant of like tenor.

12. **Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Warrant Agent and (b) if to the Warrant Agent, to the address set forth below or subsequently modified by written notice to the Registered Holder.

Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209
Attn: Carylyn Bell
Fax No.: (303) 282-5800

with a copy to:

Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
Attention: Lowell D. Ness, Esq.
Fax No.: (650) 474-0452

13. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company. Notwithstanding the foregoing, the Company shall provide the Registered Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

14. **No Fractional Shares.** No fractional shares of Common Stock shall be issued upon exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable upon exercise of this Warrant, the Company shall round up such fractional interest to the next whole share.

15. **Warrant Legends.**

(a) Each Warrant shall contain a legend in substantially the following form:

“THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE SOLD OR TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY AND THE WARRANT AGENT THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

(b) Each certificate representing the Warrant Stock, unless a registration statement is not then effective, shall contain a legend substantially in the following form:

“THE SHARES REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD OR TRANSFERRED WITHOUT AN EFFECTIVE AND CURRENT REGISTRATION STATEMENT OR POST-EFFECTIVE AMENDMENT THERETO FOR SUCH SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, (THE “ACT”) OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT. THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.”

16. [RESERVED]

17. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

18. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of New York, without giving effect to principles of conflicts of law.

19. **Survival of Representations.** Unless otherwise set forth in this Warrant, the representations, warranties and covenants contained in or made pursuant to this Warrant shall survive the execution and delivery of this Warrant.

20. **Successors and Assigns.** The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

21. **Counterparts.** This Warrant may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

22. **Attorney’s Fees.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney’s fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

23. **Severability.** If one or more provisions of this Warrant are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

24. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

25. **Remedies, Other Obligations, Breaches and Injunctive Relief.** The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Registered Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Registered Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Registered Holder shall be entitled to seek, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required

26. **Warrant Agent.**

(a) **Registration of Warrants.** The Warrant Agent will keep a register in which the Warrant Agent will provide for the registration of Warrants and the registration of transfers of Warrants representing whole numbers of Warrants. The Company and the Warrant Agent may treat the person in whose name any Warrants is registered on such register as the owner thereof for all purposes. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Warrant Agent in accordance with Section 12 requesting such change.

(b) **Limitation on Liability.** The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of the Warrants in reliance upon any instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement or other paper or document in good faith believed by it to be genuine and to be signed, executed and, where necessary, verified and acknowledged, by the proper person or persons.

(c) **Duties of Warrant Agent.** The Warrant Agent shall undertake only the specific duties and obligations imposed hereunder upon the following terms and conditions, by all of which the Company and the Registered Holder shall be bound:

(i) The Warrant Agent may consult with legal counsel (who may or may not be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and

protection to the Warrant Agent as to any action taken or omitted by it in good faith and in accordance with such opinion, provided the Warrant Agent shall have exercised reasonable care in the selection by it of such counsel.

(ii) Whenever in the performance of its duties hereunder the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter may be deemed to be conclusively proved and established by a certificate signed by an executive officer of the Company and delivered to the Warrant Agent and such certificate shall be full authorization to the Warrant Agent for any action taken or suffered in good faith by it hereunder in reliance upon such certificate.

(iii) The Warrant Agent shall be liable hereunder only for its own gross negligence, willful misconduct or bad faith.

(iv) The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained herein or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(v) The Warrant Agent shall not have any responsibility in respect of and makes no representation as to the validity of this Warrant or the execution and delivery hereof (except the due execution hereof by the Warrant Agent), nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Warrant, nor shall it by any act hereunder be deemed to make any representation or warranty as to the Warrant Shares.

(vi) The Warrant Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Chief Executive Officer and the Chief Financial Officer of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with instructions of any such officer.

(vii) The Warrant Agent and any stockholder, director, officer, or employee of the Warrant Agent may buy, sell, or deal in any of the Warrants or other securities of the Company or otherwise act as fully and freely as though it were not Warrant Agent hereunder, so long as such persons do so in full compliance with all applicable laws. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(viii) The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either by itself or by or through its attorneys or agents.

(ix) The Warrant Agent shall act solely as the agent of the Company hereunder. The Warrant Agent shall not be liable except for the failure to perform such duties as are specifically set forth herein, and no implied covenants or obligations shall be read into this Warrant against the Warrant Agent, whose duties shall be determined solely by the express provisions hereof. The Warrant Agent shall not be deemed to be a fiduciary.

(x) The Warrant Agent shall not have any duty to calculate or determine any adjustments with respect either to the Purchase Price or to the kind and amount of property receivable by the Registered Holder upon the exercise of this Warrant.

(xi) The Warrant Agent shall not be responsible for any failure on the part of the Company to comply with any of its covenants and obligations contained herein.

(xii) The Warrant Agent shall not be under any obligation or duty to institute, appear in, or defend any action, suit, or legal proceeding in respect hereof, unless first indemnified to its satisfaction, provided that this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without such indemnity. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or, proceeding instituted against it arising out of or in connection with this Warrant.

(xiii) The Company will perform, execute, acknowledge, and deliver or cause to be performed, executed, acknowledged, and delivered all such further acts, instruments, and assurances as may be required by the Warrant Agent in order to enable it to carry out or perform its duties hereunder.

(d) **Change of Warrant Agent.** The Warrant Agent may resign and be discharged from its duties hereunder upon thirty (30) days notice in writing sent to the Company by registered or certified mail, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested, at the expense of the Warrant Agent; provided, however, that no such resignation or discharge shall become effective until a successor Warrant Agent shall have been appointed hereunder. The Company may remove the Warrant Agent or any successor Warrant Agent upon thirty (30) days, notice in writing, sent to the Warrant Agent or successor Warrant Agent, as the case may be, and to the Registered Holders of the Warrants by first class registered or certified mail, return receipt requested; provided, further, however, that no such removal shall become effective until a successor Warrant Agent shall have been appointed hereunder. If the Warrant Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall promptly appoint a successor to the Warrant Agent, which may be designated as an interim Warrant Agent. If an interim Warrant Agent is designated, the Company shall then appoint a permanent successor to the Warrant Agent, which may be the interim Warrant Agent. If the Company shall fail to make such appointment of a permanent successor within a period of thirty (30) days after such removal or within sixty (60) days after notification in writing of such resignation or incapacity by the resigning or incapacitated Warrant Agent or by the Registered Holder of a Warrant, then the Warrant Agent or any Registered Holder of a Warrant may apply to any court of competent jurisdiction for the appointment of such a successor. Any entity which may be merged or consolidated with or which shall otherwise succeed to substantially all of the trust or agency business of the Warrant Agent shall be deemed to be the successor Warrant Agent without any further action.

27. **Entire Agreement.** This Warrant and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Warrant to be duly executed as of the day and year first above written.

THE COMPANY:

VIRNETX HOLDING CORPORATION

By: _____
(Signature)

Name: _____

Title: _____

Address:

5615 Scotts Valley Drive, Suite 110

Scotts Valley, California 95066

Fax: (831) 438-8700

THE WARRANT AGENT:

CORPORATE STOCK TRANSFER, INC.

By: _____
(Signature)

Name: _____

Title: _____

Address:

3200 Cherry Creek South Drive, Suite 430

Denver, Colorado 80209

Fax: (303) 282-5800

VirnetX Holding Corporation — \$4.00 Common Stock Purchase Warrant

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Corporate Stock Transfer, Inc.** Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. ___, hereby irrevocably elects to purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of \$_____, representing the full Purchase Price for such shares at the price per share provided for in such Warrant.

Payment shall take the form of (check applicable box):

in lawful money of the United States; or

the cancellation of such amount of Warrant Stock as is necessary, in accordance with the formula set forth in Section 2(b), to exercise this Warrant with respect to the maximum amount of Warrant Stock purchasable pursuant to the cashless exercise procedure set forth in Section 2(b).

The undersigned acknowledges that it has reviewed the representations and warranties of the Registered Holder set forth in the Warrant and by its signature below hereby makes such representations and warranties to the Company and the Warrant Agent. Defined terms contained in such representations and warranties shall have the meanings assigned to them in the Warrant, provided that the term "Securities" shall refer to the Warrant Stock.

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address:

Fax: _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of capital stock covered thereby set forth below, unto:

Name of Assignee

Address/Facsimile Number

No. of Shares

**ACKNOWLEDGED AND AGREED TO BY
THE REGISTERED HOLDER:**

(Registered Holder)

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Fax: _____

Annex A

Form of Underwriter's Warrant Certificate

VIRNETX HOLDING CORPORATION

WARRANT CERTIFICATE

THE WARRANTS REPRESENTED BY THIS CERTIFICATE AND THE OTHER SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (i) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, (ii) TO THE EXTENT APPLICABLE, RULE 144 UNDER SUCH ACT (OR ANY SIMILAR RULE UNDER SUCH ACT RELATING TO THE DISPOSITION OF SECURITIES), OR (iii) AN OPINION OF COUNSEL, IF SUCH OPINION SHALL BE REASONABLY SATISFACTORY TO COUNSEL FOR THE ISSUER, THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.

THE TRANSFER OR EXCHANGE OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE IS RESTRICTED IN ACCORDANCE WITH THE WARRANT AGREEMENT REFERRED TO HEREIN.

EXERCISABLE ON OR BEFORE
5:30 P.M. EASTERN TIME ON JANUARY __, 2014

NO. W- _____ Warrants

This Warrant Certificate ("Warrant Certificate") certifies that Gilford Securities Incorporated, or its assigns, is the registered holder ("Holder") of Warrants (as defined in the Underwriter's Warrant Agreement between the Company and Holder dated as of January __, 2009 (the "Warrant Agreement")) of VirnetX Holding Corporation (the "Company"). Each Warrant permits Holder to purchase, at any time from January __, 2009 ("Purchase Date") until 5:30 p.m. Eastern Time on January __, 2014 (the "Expiration Time"), one share of the Company's Common Stock (the "Shares") at the initial exercise price, subject to adjustment in certain events, of \$__ per share (120% of the public offering price) (the "Exercise Price").

No Warrant may be exercised after the Expiration Time, at which time all Warrants evidenced hereby, unless exercised prior thereto, shall thereafter be void.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants issued pursuant to the Warrant Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Warrant Agreement.

The Warrant Agreement provides that upon the occurrence of certain events, the Exercise Price and the type or number of the Company's securities issuable thereupon may be adjusted.

Upon the exercise of less than all of the Warrants evidenced by this Certificate, the Company shall forthwith issue to Holder a new Warrant Certificate representing such number of unexercised Warrants.

The Company may deem and treat Holder as the absolute owner of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone)

for the purpose of any exercise hereof, and of any distribution to Holder, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

[Remainder of This Page Intentionally Left Blank; Signature Page to Follow]

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Warrant Certificate to be duly executed.

Dated as of January ___, 2009

VIRNETX HOLDING CORPORATION

By: _____
Kendall Larsen
Chief Executive Officer

CORPORATE STOCK TRANSFER, INC., as
Warrant Agent

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF SUBSCRIPTION (CASH EXERCISE)

(To be signed only upon exercise of Warrant)

TO: Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209

The undersigned holder of Warrant Certificate number _____ (the "Warrant Certificate"), representing _____ Warrants (as defined in the Warrant Certificate) of VirnetX Holding Corporation (the "Company"), which Warrant Certificate is being delivered herewith, hereby irrevocably elects to purchase _____ Shares (as defined in the Warrant Certificate), and herewith makes payment of \$_____ therefore, all in accordance with the Warrant Certificate and the Warrant Agreement referred to in the Warrant Certificate. Certificates for the Shares shall be issued in the name of _____ and delivered to the following address:

By: _____
Name: _____
Social Security Number or Tax Identification Number: _____
Date: _____

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Address

Social Security Number or
Tax Identification Number

EXHIBIT B

FORM OF SUBSCRIPTION (CASHLESS EXERCISE)

TO: Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209

The undersigned holder of Warrant Certificate number _____ (the "Warrant Certificate"), representing _____ Warrants (as defined in the Warrant Certificate) of VirnetX Holding Corporation (the "Company"), which Warrant Certificate is being delivered herewith, hereby irrevocably elects to purchase (on a cashless exercise basis in accordance with the formula set forth in Section 3.1(b) of the Warrant Agreement referred to in the Warrant Certificate (the "Warrant Agreement")) _____ Shares (as defined in the Warrant Certificate), all in accordance with the Warrant Certificate and the Warrant Agreement. Certificates for the Shares shall be issued in the name of _____ and delivered to the following address:

By: _____
Name: _____
Social Security Number or Tax Identification Number: _____
Date: _____

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Address

Social Security Number or
Tax Identification Number

FORM OF ASSIGNMENT

(To be exercised by the registered holder if such Holder desires to transfer the Warrant Certificate)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers
unto:

Print Name of Transferee

Address

City State Zip Code

this Warrant Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer the within Warrant Certificate on the books of the within-named Company, with full power of substitution.

Dated: _____

Signature:

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Social Security Number or Other Identifying Number of Assignee

UNDERWRITER'S WARRANT AGREEMENT

Underwriter's Warrant Agreement (the "Agreement"), dated as of January ___, 2009, between VirnetX Holding Corporation (the "Company") and Gilford Securities Incorporated (the "Underwriter").

WITNESSETH:

WHEREAS, the Underwriter has agreed, pursuant to the underwriting agreement dated as of January ___, 2009 between the Company and the Underwriter (the "Underwriting Agreement"), to act as the underwriter in connection with the Company's proposed public offering of up to 3,000,000 shares of the Company's common stock, \$0.0001 par value per share (the "Common Stock"), and warrants to purchase (i) an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$2.00 per share, (ii) an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$3.00 per share and (iii) an aggregate of 1,500,000 shares of Common Stock at an exercise price of \$4.00 per share, at the public offering price of \$___ per share of Common Stock and associated warrants (the "Public Offering"); and

WHEREAS, the Company proposes to issue to the Underwriter and/or member firms of the Financial Industry Regulatory Authority ("FINRA") participating in the Public Offering and the bona fide officers and partners thereof as permitted by Rule 2710(c)(7)(A) and (B) (the "Rule") of the NASD Conduct Rules (each, a "Holder," and collectively, the "Holders"), warrants ("Warrants") to purchase up to 300,000 shares of Common Stock (the "Shares"); and

WHEREAS, the Warrants to be issued pursuant to this Agreement will be issued on the First Closing Date (as such term is defined in the Underwriting Agreement) by the Company to the Holders in consideration for, and as part of the compensation in connection with, the Underwriter acting as underwriter pursuant to the Underwriting Agreement.

NOW, THEREFORE, in consideration of the premises, the payment to the Company of \$.0001 per Warrant, the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant and Period.

(a) The above recitals are true and correct. The Public Offering has been registered under a Registration Statement on Form S-1 (File No. 333-153645) and declared effective by the Securities and Exchange Commission (the "Commission") on January ___, 2009 (the "Effective Date"). This Agreement, relating to the purchase of the Warrants, is entered into pursuant to the Underwriting Agreement between the Company and the Underwriter in connection with the Public Offering.

(b) Pursuant to the Warrants, the Holders are hereby granted the right to purchase from the Company, at any time during the period commencing on the first anniversary of the First Closing Date and expiring upon the fifth anniversary of the First Closing Date (the "Expiration Time"), up to 300,000 shares of Common Stock of the Company at an initial exercise price (subject to adjustment as provided in Section 7 hereof) of \$___ per share

(representing 120% of the public offering price per share of the Common Stock and associated warrants in the Public Offering) (the “Exercise Price” or “Purchase Price”), subject to the terms and conditions of this Agreement.

(c) Except as specifically otherwise provided herein, the Shares shall bear the same terms and conditions as such securities described under the caption “Description of Securities” in the Registration Statement, and as designated in the Company’s Amended and Restated Certificate of Incorporation and any amendments thereto, and the Holders shall have registration rights under the Securities Act of 1933, as amended (the “Act”), for the Shares, as more fully described in Section 6 of this Agreement.

2. Warrant Certificates. The warrant certificates (“Warrant Certificates”) delivered and to be delivered pursuant to this Agreement shall be in the form set forth in the form of Warrant Certificate, attached hereto and made a part hereof, with such appropriate insertions, omissions, substitutions, and other variations as required or permitted by this Agreement.

3. Exercise of Warrant.

3.1 Full Exercise.

(a) The Holder may effect a cash exercise of the Warrants by surrendering to the Company the Warrant Certificate, together with a Subscription in the form of Exhibit A attached thereto, duly executed by such Holder, at any time during the period commencing on the first anniversary of the First Closing Date and expiring upon the fifth anniversary of the First Closing Date, at the Company’s principal office, accompanied by payment in cash or by certified or official bank check payable to the order of the Company in the amount of the aggregate purchase price (the “Aggregate Price”), subject to any adjustments provided for in this Agreement. The aggregate price hereunder for each Holder shall be equal to the Exercise Price multiplied by the number of Shares that are the subject of each Holder’s Warrant (as adjusted as hereinafter provided).

(b) The Holder may effect a cashless exercise of the Warrants by delivering the Warrant Certificate to the Company together with a Subscription in the form of Exhibit B attached thereto, duly executed by such Holder, in which case no payment of cash will be required. Upon such cashless exercise, the number of Shares to be purchased by each Holder shall be determined by dividing: (i) the number obtained by multiplying the number of Shares that are the subject of each Holder’s Warrant Certificate by the amount, if any, by which the then Market Value (as hereinafter defined) exceeds the Purchase Price; by (ii) the then per share Market Value. In no event shall the Company be obligated to issue any fractional securities and, at the time it causes a certificate or certificates to be issued, it shall pay the Holder in lieu of any fractional securities or shares to which such Holder would otherwise be entitled, by Company check, in an amount equal to such fraction multiplied by the Market Value. The “Market Value” shall be determined on a per Share basis as of the close of the business day preceding the date of exercise, which determination shall be made as follows: (a) if the Common Stock is listed for trading on a national or regional stock exchange or is included on an inter-dealer quotation system, the average closing sale price quoted on such exchange or inter-dealer quotation system which is published in The Wall Street Journal for the 10 trading days immediately preceding the

date of exercise, or if no trade of the Common Stock shall have been reported during such period, the last sale price so quoted for the next day prior thereto on which a trade in the Common Stock was so reported; or (b) if the Common Stock is not so listed, admitted to trading or included, the average of the closing highest reported bid and lowest reported ask price as quoted on the OTC Bulletin Board or in the "Pink Sheets" published by the National Daily Quotation Bureau for the first day immediately preceding the date of exercise on which the Common Stock is traded.

3.2 Partial Exercise. The Warrants may also be exercised from time to time in part by surrendering the Warrant Certificate in the manner specified in Section 3.1 hereof, except that with respect to a cash exercise, the Purchase Price payable shall be equal to the number of Shares being purchased hereunder multiplied by the per Share Purchase Price, subject to any adjustments provided for in this Agreement. Upon any such partial exercise, the Company, at its expense, will forthwith issue to the Holder a new Warrant Certificate or Warrants of like tenor calling in the aggregate for the number of securities (as constituted as of the date hereof) for which the Warrant Certificate shall not have been exercised, issued in the name of the Holder or as such Holder (upon payment by such Holder of any applicable transfer taxes) may direct.

4. Issuance of Certificates.

(a) Upon the exercise of the Warrants, the issuance of certificates for shares of Common Stock shall be made forthwith (and, in any event within three business days thereafter) without charge to the Holder thereof including, without limitation, any tax which may be payable in respect of the issuance thereof, and such certificates shall (subject to the provisions of Section 5 and Section 6 hereof) be issued in the name of, or in such names as may be directed by, the Holder thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder and the Company shall not be required to issue or deliver such certificates unless or until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

(b) The Warrant Certificates and the certificates representing the shares of Common Stock shall be executed on behalf of the Company by manual or facsimile signature of the then present Chairman or Vice Chairman of the Board of Directors or President or Vice President of the Company. Warrant Certificates shall be dated the date of execution by the Company upon initial issuance, division, exchange, substitution or transfer.

5. Restriction on Transfer of Warrants. The Holder of a Warrant Certificate, by acceptance thereof, covenants and agrees that the Warrants may not be sold, transferred, assigned, hypothecated or otherwise disposed of, in whole or in part, for a period of one year from the effectiveness of the Offering, except (a) to a FINRA member firm that participated in the Public Offering and the bona fide officers or partners thereof, (b) by operation of law, or (c) by reason of reorganization of the Company.

6. Registration Rights.

6.1 Registration Under the Securities Act of 1933. The Warrants and the Shares (collectively the “Registrable Securities”) have not been registered under the Securities Act of 1933, as amended (the “Act”). Upon exercise, in part or in whole, of the Warrants, certificates representing the Shares shall bear the following legend in the event there is no current registration statement effective with the Commission at such time as to such securities:

The securities represented by this certificate may not be offered or sold except pursuant to (i) an effective registration statement under the Securities Act of 1933, as amended, (ii) to the extent applicable, Rule 144 under the Securities Act (or any similar rule under the Securities Act relating to the disposition of securities), or (iii) an opinion of counsel, if such opinion shall be reasonably satisfactory to counsel to the issuer, that an exemption from registration under the Securities Act and applicable state securities laws is available.

6.2 Piggyback Registration.

(a) If, at any time commencing on the first anniversary of the Effective Date and expiring seven years after the Effective Date, the Company prepares and files a post-effective amendment to the Registration Statement, or a new Registration Statement under the Act, or files a Notification on Form 1-A or otherwise registers securities under the Act, or files a similar disclosure document with the Commission (each such filing, a “Registration Document”) as to any of its securities under the Act (other than under a Registration Statement pursuant to Form S-8 or Form S-4), it will give written notice by registered mail, at least 20 days prior to the filing of such Registration Document to the Underwriter and to all other Holders of the Registrable Securities of its intention to do so. The Company shall include all Registrable Securities in such Registration Documents with respect to which the Company has received written requests for inclusion therein within 15 days of actual receipt of the Company’s notice.

(b) No Holder of Registrable Securities may participate in any registration hereunder which is underwritten unless such holder completes and executes all documents as are reasonable and customary in such offerings.

(c) The Company shall have the right at any time after it shall have given written notice pursuant to this Section 6.2 (irrespective of whether a written request for inclusion of any Registration Securities shall have been made) to elect not to file any such Registration Document, or to withdraw the same after the filing but prior to the effective date thereof.

6.3 Demand Registration.

(a) Expenses to be Paid by the Company. At any time commencing on the first anniversary of the Effective Date until the fifth anniversary of the Effective Date, Holders of Registrable Securities representing more than 50% of such securities at that time outstanding (a “Majority of Holders”) shall have the right (which right is in addition to the registration rights under Section 6.2 and Section 6.3(b) hereof), exercisable by written notice to the Company, to have the Company prepare and file with the Commission, on one occasion, a registration statement and/or such other documents, including a prospectus, and/or any other appropriate disclosure document as may be reasonably necessary in the opinion of both counsel for the Company and counsel for the

Majority of Holders, in order to comply with the provisions of the Act, so as to permit a public offering and sale of their respective Registrable Securities for 12 consecutive months (or such longer period of time as permitted by the Act) by such Majority of Holders and any other Holders of any of the Registrable Securities who notify the Company within 20 days after receipt of notice by registered or certified mail from the Company of such request (“Demand Registration”). A Demand Registration shall not be counted as a Demand Registration hereunder until such Demand Registration has been declared effective by the Commission and maintained continuously effective for a period of at least 12 months or such shorter period when all Registrable Securities included therein have been sold in accordance with such Demand Registration. The Company shall pay all costs (excluding transfer taxes, if any, and the Holders’ pro-rata portions of the selling discount or commissions), fees and expenses in connection with all registration statements filed pursuant to Section 6.2 and this Section 6.3(a) including, without limitation, the Company’s legal and accounting fees, printing expenses, blue sky fees and expenses and the fees and expenses of one legal counsel to the Holders, so chosen by the Holders.

(b) Expenses to be Paid by the Holder(s). At any time commencing one year after the First Closing Date until the Expiration Time, a Majority of Holders shall have the right (which right is in addition to the registration rights under Sections 6.2 and Section 6.3(a) hereof), exercisable by written notice to the Company, to one Demand Registration. A Demand Registration shall not be counted as a Demand Registration hereunder until such Demand Registration has been declared effective by the Commission and maintained continuously effective for a period of at least nine months or such shorter period when all Registrable Securities included therein have been sold in accordance with such Demand Registration. The Holder(s) will pay all costs, fees and expenses in connection with any registration statement filed pursuant to Section this 6.3(b).

(c) The Company covenants and agrees to give written notice by registered or certified mail of any registration request under this Section 6.3 by the Majority of Holders to all other registered Holders of any of the Registrable Securities within 10 days from the date of the receipt of any such registration request.

(d) Any written request by the Holders made pursuant to this Section 6.3 shall:

(i) specify the number of Registrable Securities which the Holders intend to offer and sell and the minimum price at which the Holders intend to offer and sell such securities;

(ii) state the intention of the Holders to offer such securities for sale;

(iii) describe the intended method of distribution of such securities; and

(iv) contain an undertaking on the part of the Holders to provide all such information and materials concerning the Holders and take all such action as may be reasonably required to permit the Company to comply with all applicable requirements of the Commission and to obtain acceleration of the effective date of the registration statement.

6.4 Covenants of the Company with Respect to Registration. In connection with the filing of any Registration Document by the Company, the Company covenants and agrees as follows:

(a) The Company shall use its best efforts to file a registration statement within 45 days of receipt of any Demand Registration pursuant to Section 6.3, and shall use its best efforts to have any such registration statement declared effective at the earliest practicable time. The Company will promptly notify each Holder of such Registrable Securities and confirm such advice in writing, (i) when such registration statement becomes effective, (ii) when any post-effective amendment to such registration statement becomes effective and (iii) of any request by the Commission for any amendment or supplement to such registration statement or any prospectus relating thereto or for additional information.

(b) The Company shall furnish to each Holder of such Registrable Securities such number of copies of such registration statement and of each such amendment and supplement thereto (in each case including each preliminary prospectus and summary prospectus) in conformity with the requirements of the Act, and such other documents as the Holders may reasonably request in order to facilitate the disposition of the Registrable Securities by such Holders.

(c) If the Company shall fail to comply with the provisions of Section 6.3(a), the Company shall, in addition to any other equitable or other relief available to the Holder(s), be liable for any or all special and consequential damages sustained by the Holder(s) requesting registration of their Registrable Securities.

(d) The Company shall prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be reasonably necessary to keep such registration statement effective for at least 12 months (or such longer period as permitted by the Act), and to comply with the provisions of the Act with respect to the disposition of all securities covered by such registration statement during such period in accordance with the intended methods of disposition by the Holder or Holders of Registrable Securities set forth in such registration statement. If at any time the Commission should institute or threaten to institute any proceedings for the purpose of issuing a stop order suspending the effectiveness of any such registration statement, the Company will promptly notify each Holder of Registrable Securities and will use all reasonable efforts to prevent the issuance of any such stop order or to obtain the withdrawal thereof as soon as possible. The Company will use its good faith reasonable efforts and take all reasonably necessary action which may be required in qualifying or registering the Registrable Securities included in a registration statement for offering and sale under the securities or blue sky laws of such states as reasonably are required by the Holder(s), provided that the Company shall not be obligated to execute or file any general consent to service of process or to qualify as a foreign corporation to do business under the laws of any such jurisdiction. The Company shall use its good faith reasonable efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other governmental agencies or authorities of the United States or any State thereof as may be reasonably necessary to enable the Holder(s) thereof to consummate the disposition of such Registrable Securities.

(e) The Company shall indemnify the Holder(s) of the Registrable Securities to be sold pursuant to any registration statement and each person, if any, who controls such Holders within the meaning of Section 15 of the Act or Section 20(a) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Act, the Exchange Act or otherwise, arising from such registration statement but only to the same extent and with the same effect as the provisions pursuant to which the Company has agreed to indemnify the Underwriter as contained in the Underwriting Agreement.

(f) If requested by the Company prior to the filing of any registration statement covering the Registrable Securities, each of the Holder(s) of the Registrable Securities to be sold pursuant to a registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, its officers and directors and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, against all loss, claim, damage or expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which they may become subject under the Act, the Exchange Act or otherwise, arising from written information furnished by such Holder, or their successors or assigns, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the Company, except that the maximum amount which may be recovered from each Holder pursuant to this paragraph or otherwise shall be limited to the amount of net proceeds received by the Holder from the sale of the Registrable Securities.

(g) Nothing contained in this Agreement shall be construed as requiring the Holder(s) to exercise their Warrants prior to the filing of any registration statement or the effectiveness thereof.

(h) The Company shall not permit the inclusion of any securities other than the Registrable Securities to be included in any registration statement filed pursuant to Section 6.3 hereof without the prior written consent of the Majority of Holders which consent will not be unreasonably withheld or delayed.

(i) The Company shall furnish to each Holder participating in an offering and to the managing underwriter, if any, a signed counterpart, addressed to such Holder or underwriter, of (i) an opinion of counsel to the Company, dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, an opinion dated the date of the closing under the underwriting agreement), and (ii) a “Cold Comfort” letter dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, a letter dated the date of the closing under the underwriting agreement) signed by the independent public accountants who have issued a report on the Company’s financial statements included in such registration statement, in each case covering substantially the same matters with respect to such registration statement (and the prospectus included therein) and, in the case of such accountants’ letter, with respect to events subsequent to the date of such financial statements, as are customarily covered in opinions of

issuer's counsel and in accountants' letters delivered to underwriters in underwritten public offerings of securities.

(j) The Company shall deliver promptly to each Holder participating in an offering and to the managing underwriter, if any, copies of all correspondence between the Commission and the Company, its counsel or auditors and all non-privileged memoranda relating to discussions with the Commission or its staff with respect to the registration statement and permit each Holder and underwriter to do such investigation, upon reasonable advance notice, with respect to information contained in or omitted from the registration statement as it deems reasonably necessary to comply with applicable securities laws or rules of the FINRA. Such investigation shall include access to books, records and properties and opportunities to discuss the business of the Company with its officers and independent auditors, all to such reasonable extent and at such reasonable times and as often as any such Holder shall reasonably request.

(k) With respect to a registration statement filed pursuant to Section 6.3, the Company, if requested, shall enter into an underwriting agreement with the managing underwriter, reasonably satisfactory to the Company, selected for such underwriting by a Majority of Holders requested to be included in such underwriting. Such agreement shall be satisfactory in form and substance to the Company, each Holder and such managing underwriter, and shall contain such representations, warranties and covenants by the Company and such other terms as are customarily contained in agreements of that type used by the managing underwriter. The Holders, if required by the underwriter to be parties to any underwriting agreement relating to an underwritten sale of their Registrable Securities, may, at their option, require that any or all the representations, warranties and covenants of the Company to or for the benefit of such underwriters shall also be made to and for the benefit of such Holders. Such Holders shall not be required to make any representations or warranties to or agreements with the Company or the underwriters except as they may relate to such Holders and their intended methods of distribution.

(l) Notwithstanding the provisions of Section 6.2 or Section 6.3 of this Agreement, the Company shall not be required to effect or cause the registration of Registrable Securities pursuant to Section 6.2 or Section 6.3 hereof if, within 30 days after its receipt of a request to register such Registrable Securities (i) counsel for the Company delivers an opinion to the Holders and to the Company's transfer agent requesting registration of such Registrable Securities, in form and substance satisfactory to counsel to such Holder(s), to the effect that the entire number of Registrable Securities proposed to be sold by such Holder(s) may otherwise be sold, in the manner proposed by such Holder(s), without registration under the Securities Act, or (ii) the Commission shall have issued a no-action position, in form and substance satisfactory to counsel for the Holder(s) requesting registration of such Registrable Securities, to the effect that the entire number of Registrable Securities proposed to be sold by such Holder(s) may be sold by it, in the manner proposed by such Holder(s), without registration under the Securities Act; provided, however, if the Company's transfer agent does not permit the sale of the Registrable Securities upon request or for any other reason such sale is delayed, the Company shall thereafter immediately notify such Holders that it will register the Registrable Securities for sale under the Act and cause such Registrable Securities to be so registered.

(m) After completion of the Public Offering, the Company shall not, directly or indirectly, enter into any merger, business combination or consolidation in which (i) the Company shall not be the surviving corporation and (ii) the shareholders of the Company are to receive, in whole or in part, capital stock or other securities of the surviving corporation, unless the surviving corporation shall, prior to such merger, business combination or consolidation, agree in writing to assume the obligations of the Company under this Agreement, and for that purpose references hereunder to “Registrable Securities” shall be deemed to include the securities which the Holders would be entitled to receive in exchange for Registrable Securities under any such merger, business combination or consolidation, provided that to the extent such securities to be received are convertible into shares of Common Stock of the issuer thereof, then any such shares of Common Stock as are issued or issuable upon conversion of said convertible securities shall also be included within the definition of “Registrable Securities.”

7. Adjustments to Exercise Price and Number of Securities.

7.1 Adjustment for Dividends, Subdivisions, Combinations or Reclassifications.

(a) In case the Company shall (i) pay a dividend or make a distribution in shares of its capital stock (whether shares of Common Stock or of capital stock of any other class), (ii) subdivide its outstanding shares of Common Stock into a greater number of shares, (iii) combine its outstanding shares of Common Stock into a smaller number of shares, or (iv) issue by reclassification of its shares of Common Stock any shares of capital stock of the Company; then, and in each such case, the per Share Exercise Price and the number of Shares in effect immediately prior to such action shall be adjusted so that the Holder of this Warrant thereafter upon the exercise hereof shall be entitled to receive the number and kind of shares of the Company which such Holder would have owned immediately following such action had this Warrant been exercised immediately prior thereto. An adjustment made pursuant to this Section 7.1 shall become effective immediately after the record date in the case of a dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification. If, as a result of an adjustment made pursuant to this section, the Holder of this Warrant shall become entitled to receive shares of two or more classes of capital stock of the Company, the Board of Directors of the Company (whose determination shall be conclusive) shall determine the allocation of the adjusted Exercise Price between or among shares of such class of capital stock.

(b) Immediately upon any adjustment of the Exercise Price pursuant to this section, the Company shall send written notice thereof to the Holder of Warrant Certificates (by first class mail, postage prepaid), which notice shall state the Exercise Price resulting from such adjustment, and any increase or decrease in the number of Shares to be acquired upon exercise of the Warrants, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

7.2 Adjustment for Reorganization, Merger or Consolidation. In case of any reorganization of the Company or consolidation of the Company with, or merger of the Company with, or merger of the Company into, another corporation (other than a consolidation or merger which does not result in any reclassification or change of the outstanding Common Stock), the corporation formed by such consolidation or merger shall execute and deliver to the

Holder a supplemental Warrant Agreement providing that the Holder of each Warrant then outstanding or to be outstanding shall have the right thereafter (until the expiration of such Warrant) to receive, upon exercise of such warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or merger, by a holder of the number of shares of Common Stock of the Company for which such warrant might have been exercised immediately prior to such reorganization, consolidation, merger, conveyance, sale or transfer. Such supplemental Warrant Agreement shall provide for adjustments which shall be identical to the adjustments provided in this Section 7 and such registration rights and other rights as provided in this Agreement. The Company shall not effect any such consolidation, merger, or similar transaction as contemplated by this paragraph, unless prior to or simultaneously with the consummation thereof, the successor corporation (if other than the Company) resulting from such consolidation or merger or the corporation purchasing, receiving, or leasing such assets or other appropriate corporation or entity shall assume, by written instrument executed and delivered to the Holders, the obligation to deliver to the Holders, such shares of stock, securities, or assets as, in accordance with the foregoing provisions, such holders may be entitled to purchase, and to perform the other obligations of the Company under this Agreement. The above provision of this Section 7.2 shall similarly apply to successive consolidations or successively whenever any event listed above shall occur.

7.3 Dividends and Other Distributions. In the event that the Company shall at any time prior to the exercise of all of the Warrants distribute to its shareholders any assets, property, rights, evidences of indebtedness, securities (other than a distribution made as a cash dividend payable out of earnings or out of any earned surplus legally available for dividends under the laws of the jurisdictions of incorporation of the Company), whether issued by the Company or by another, the Holders of the unexercised Warrants shall thereafter be entitled, in addition to the shares of Common Stock or other securities and property receivable upon the exercise thereof, to receive, upon the exercise of such Warrants, the same property, assets, rights, evidences of indebtedness, securities or any other thing of value that they would have been entitled to receive at the time of such distribution as if the Warrants had been exercised immediately prior to such distribution. At the time of any such distribution, the Company shall make appropriate reserves to ensure the timely performance of the provisions of this subsection or an adjustment to the Exercise Price, which shall be effective as of the day following the record date for such distribution.

7.4 Adjustment in Number of Securities. Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 7, the number of securities issuable upon the exercise of each Warrant shall be adjusted to the nearest full amount by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of securities issuable upon exercise of the Warrants immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

7.5 No Adjustment of Exercise Price in Certain Cases. No adjustment of the Exercise Price shall be made if the amount of said adjustment shall be less than \$.01 per Share; provided, however, that in such case any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment so carried forward, shall amount to at least \$.01 per Share.

7.6 Accountant's Certificate of Adjustment. In each case of an adjustment or readjustment of the Exercise Price or the number of any securities issuable upon exercise of the Warrants, the Company, at its expense, shall cause independent certified public accountants of recognized standing selected by the Company (who may be the independent certified public accountants then auditing the books of the Company) to compute such adjustment or readjustment in accordance herewith and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to any Holder of the Warrants at the Holders' address as shown on the Company's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based including, but not limited to, a statement of (i) the Exercise Price at the time in effect, and (ii) the number of additional or fewer securities and the type and amount, if any, of other property which at the time would be receivable upon exercise of the Warrants.

8. Exchange and Replacement of Warrant Certificates.

(a) Each Warrant Certificate is exchangeable without expense, upon the surrender thereof by the registered Holder at the principal executive office of the Company, for a new Warrant Certificate of like tenor and date representing in the aggregate the right to purchase the same number of securities in such denominations as shall be designated by the Holder thereof at the time of such surrender.

(b) Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of any Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of the Warrants, if mutilated, the Company will make and deliver a new Warrant Certificate of like tenor, in lieu thereof.

9. Elimination of Fractional Interest. The Company shall not be required to issue certificates representing fractions of shares of Common Stock upon the exercise of the Warrants, nor shall it be required to issue script or pay cash in lieu of fractional interests, it being the intent of the parties that all fractional interests may be eliminated, at the Company's option, by rounding any fraction up to the nearest whole number of shares of Common Stock or other securities, properties or rights, or in lieu thereof paying cash equal to such fractional interest multiplied by the Market Value of a share of Common Stock.

10. Reservation, Validity and Listing. The Company covenants and agrees that during the exercise period, the Company shall at all times reserve and keep available out of its authorized shares of Common Stock, solely for the purpose of issuance upon the exercise of the Warrants, such number of shares of Common Stock or other securities, properties or rights as shall be issuable upon the exercise under this Warrant Certificate. The Company covenants and agrees that, upon exercise of the Warrants, and payment of the Exercise Price therefor, all shares of Common Stock and other securities issuable upon such exercise shall be duly authorized, validly issued, fully paid, non-assessable and not subject to the preemptive rights of any shareholder. As long as the Warrants shall be outstanding, the Company shall use its best efforts to cause all shares of Common Stock issuable upon the exercise of the Warrants to be listed and quoted

(subject to official notice of issuance) on all securities exchanges and systems on which the Common Stock are then listed and/or quoted, including Nasdaq and the American Stock Exchange.

11. Notices to Warrant Holders. Nothing contained in this Agreement shall be construed as conferring upon the Holders of the Warrants the right to vote or to consent or to receive notice as a shareholder in respect of any meetings of shareholders for the election of directors or any other matter, or as having any rights whatsoever as a shareholder of the Company. If, however, at any time prior to the expiration of the Warrants and their exercise, any of the following events shall occur:

(a) the Company shall take a record of the holders of its shares of Common Stock for the purpose of entitling them to receive a dividend or distribution payable otherwise than in cash, or a cash dividend or distribution payable otherwise than out of current or retained earnings, as indicated by the accounting treatment of such dividend or distribution on the books of the Company; or

(b) the Company shall offer to all the holders of its Common Stock any additional shares of capital stock of the Company or securities convertible into or exchangeable for shares of capital stock of the Company, or any option, right or warrant to subscribe therefor; or

(c) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or merger) or a sale of all or substantially all of its property, assets and business as an entirety shall be proposed;

then, in any one or more of said events, the Company shall give written notice of such event at least 15 days prior to the date fixed as a record date of the date of closing the transfer books for the determination of the shareholders entitled to such dividend, distribution, convertible or exchangeable securities or subscription rights, or entitled to vote on such proposed dissolution, liquidation, winding up or sale. Such notices shall specify such record date or the date of closing the transfer books, as the case may be.

12. Notices. All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been duly given when sent by (i) facsimile; or (ii) delivered personally or by overnight courier or mailed by registered or certified mail, return receipt requested:

(a) If to the registered Holder of any of the Registrable Securities, to the address of such Holder as shown on the books of the Company.

With a copy to:

Christopher C. Paci, Esq.
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, NY 10020
Fax: (212) 884-8470

(b) If to the Company, to the address set forth below or to such other address as the Company may designate by notice to the Holders.

Kendall Larsen
Chief Executive Officer
VirnetX Holding Corporation
5615 Scotts Valley Drive, Suite 110
Scotts Valley, CA 95066
Fax: (831) 438-3078

With a copy to:

Lowell D. Ness, Esq.
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025
Fax: (650) 614-7401

13. Entire Agreement; Modification. This Agreement (and the Underwriting Agreement to the extent applicable) contains the entire understanding between the parties hereto with respect to the subject matter hereof, and the terms and provisions of this Agreement may not be modified, waived or amended except in a writing executed by the Company and a Majority of Holders. Notice of any modification, waiver or amendment shall be promptly provided to any Holder not consenting to such modification, waiver or amendment.

14. Successors. All the covenants and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Holders and their respective successors and assigns hereunder.

15. Termination. This Agreement shall terminate at the earlier of (i) the public sale of all of the Registrable Securities, or (ii) at the close of business on January __, 2014. Notwithstanding the foregoing, the indemnification provisions of Section 6 shall survive such termination.

16. Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without regard to the conflicts of laws principles thereof. The parties hereto hereby irrevocably agree that any suit or proceeding arising directly and/or indirectly pursuant to or under this Agreement, shall be brought solely in a federal or state court located in the City, County and State of New York. By its execution hereof, the parties hereby covenant and irrevocably submit to the in personam jurisdiction of the federal and state courts located in the City, County and State of New York and agree that any process in any such action may be served upon any of them personally, or by certified mail or registered mail upon them or their agent, return receipt requested, with the same full force and effect as if personally served upon them in New York City. The parties hereto waive any claim that any such jurisdiction is not a convenient forum for any such suit or proceeding and any defense or lack of in personam jurisdiction with respect thereto. In the event of any such action or proceeding, the party prevailing therein shall be entitled to payment from

the other party hereto of its reasonable counsel fees and disbursements in an amount judicially determined.

17. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement.

18. Captions. The caption headings of the sections of this Agreement are for convenience of reference only and are not intended, nor should they be construed as, a part of this Agreement and shall be given no substantive effect.

19. Benefits of This Agreement. Nothing in this Agreement shall be construed to give to any person or corporation other than the Company and the Underwriter and any other registered Holder(s) of the Warrant Certificates or Registrable Securities any legal or equitable right, remedy or claim under this Agreement; and this Agreement shall be for the sole and exclusive benefit of the Company and the Underwriters and any other Holder(s) of the Warrant Certificates or Registrable Securities.

20. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

[Remainder of This Page Intentionally Left Blank; Signature Page to Follow]

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be duly executed, as of the day and year first above written.

VIRNETX HOLDING CORPORATION

By: _____
Kendall Larsen
Chief Executive Officer

GILFORD SECURITIES INCORPORATED

By: _____
Robert A. Maley
President

Exhibit A

VIRNETX HOLDING CORPORATION

WARRANT CERTIFICATE

THE WARRANTS REPRESENTED BY THIS CERTIFICATE AND THE OTHER SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (i) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, (ii) TO THE EXTENT APPLICABLE, RULE 144 UNDER SUCH ACT (OR ANY SIMILAR RULE UNDER SUCH ACT RELATING TO THE DISPOSITION OF SECURITIES), OR (iii) AN OPINION OF COUNSEL, IF SUCH OPINION SHALL BE REASONABLY SATISFACTORY TO COUNSEL FOR THE ISSUER, THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.

THE TRANSFER OR EXCHANGE OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE IS RESTRICTED IN ACCORDANCE WITH THE WARRANT AGREEMENT REFERRED TO HEREIN.

EXERCISABLE ON OR BEFORE

5:30 P.M. EASTERN TIME ON JANUARY __, 2014

NO. W-_____ Warrants

This Warrant Certificate ("Warrant Certificate") certifies that Gilford Securities Incorporated, or its assigns, is the registered holder ("Holder") of Warrants (as defined in the Underwriter's Warrant Agreement between the Company and Holder dated as of January __, 2009 (the "Warrant Agreement")) of VirnetX Holding Corporation (the "Company"). Each Warrant permits Holder to purchase, at any time from January __, 2009 ("Purchase Date") until 5:30 p.m. Eastern Time on January __, 2014 (the "Expiration Time"), one share of the Company's Common Stock (the "Shares") at the initial exercise price, subject to adjustment in certain events, of \$__ per share (120% of the public offering price) (the "Exercise Price").

No Warrant may be exercised after the Expiration Time, at which time all Warrants evidenced hereby, unless exercised prior thereto, shall thereafter be void.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants issued pursuant to the Warrant Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Warrant Agreement.

The Warrant Agreement provides that upon the occurrence of certain events, the Exercise Price and the type or number of the Company's securities issuable thereupon may be adjusted.

Upon the exercise of less than all of the Warrants evidenced by this Certificate, the Company shall forthwith issue to Holder a new Warrant Certificate representing such number of unexercised Warrants.

The Company may deem and treat Holder as the absolute owner of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone)

for the purpose of any exercise hereof, and of any distribution to Holder, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

[Remainder of This Page Intentionally Left Blank; Signature Page to Follow]

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Warrant Certificate to be duly executed.

Dated as of January ___, 2009

VIRNETX HOLDING CORPORATION

By: _____
Kendall Larsen
Chief Executive Officer

CORPORATE STOCK TRANSFER, INC., as Warrant Agent

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF SUBSCRIPTION (CASH EXERCISE)

(To be signed only upon exercise of Warrant)

TO: Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209

The undersigned holder of Warrant Certificate number _____ (the "Warrant Certificate"), representing _____ Warrants (as defined in the Warrant Certificate) of VirnetX Holding Corporation (the "Company"), which Warrant Certificate is being delivered herewith, hereby irrevocably elects to purchase _____ Shares (as defined in the Warrant Certificate), and herewith makes payment of \$_____ therefore, all in accordance with the Warrant Certificate and the Warrant Agreement referred to in the Warrant Certificate. Certificates for the Shares shall be issued in the name of _____ and delivered to the following address:

By: _____
Name: _____
Social Security Number or Tax Identification Number: _____
Date: _____

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Address

Social Security Number or
Tax Identification Number

EXHIBIT B

FORM OF SUBSCRIPTION (CASHLESS EXERCISE)

TO: Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive
Suite 430
Denver, Colorado 80209

The undersigned holder of Warrant Certificate number _____ (the "Warrant Certificate"), representing _____ Warrants (as defined in the Warrant Certificate) of VirnetX Holding Corporation (the "Company"), which Warrant Certificate is being delivered herewith, hereby irrevocably elects to purchase (on a cashless exercise basis in accordance with the formula set forth in Section 3.1(b) of the Warrant Agreement referred to in the Warrant Certificate (the "Warrant Agreement")) _____ Shares (as defined in the Warrant Certificate), all in accordance with the Warrant Certificate and the Warrant Agreement. Certificates for the Shares shall be issued in the name of _____ and delivered to the following address:

By: _____
Name: _____
Social Security Number or Tax Identification Number: _____
Date: _____

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Address

Social Security Number or
Tax Identification Number

FORM OF ASSIGNMENT

(To be exercised by the registered holder if such Holder desires to transfer the Warrant Certificate)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers
unto:

Print Name of Transferee

Address

City State Zip Code

this Warrant Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer the within Warrant Certificate on the books of the within-named Company, with full power of substitution.

Dated: _____

Signature:

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant Certificate)

Social Security Number or Other Identifying Number of Assignee

Consent of Independent Registered Public Accounting Firm

We hereby consent to the use in this Registration Statement on Form S-1 of our report dated March 31, 2008 relating to the financial statements of VirnetX Holding Corporation as of December 31, 2007 and for the year then ended and for the cumulative period from August 2, 2005 (date of inception) to December 31, 2007 which appear in such Registration Statement. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ Farber Hass Hurley LLP
Farber Hass Hurley LLP
Granada Hills, CA
January 16, 2009

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the use in this Amendment No. 7 to the Registration Statement on Form S-1 of our report dated April 30, 2007, except for the effects of the 1-for-3 reverse stock split discussed in Note 1 of the financial statements as to which the date is March 31, 2008, relating to the financial statements of VirnetX, Inc. as of December 31, 2005 and 2006 and for the period from August 2, 2005 (date of inception) to December 31, 2005 and the year ended December 31, 2006, which appears in such Registration Statement. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ Burr, Pilger & Mayer LLP

Palo Alto, California

January 16, 2009



ORRICK

ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 MARSH ROAD
MENLO PARK, CA 94025
tel 650-614-7400
fax 650-614-7401
WWW.ORRICK.COM

January 16, 2009

Lowell D. Ness
(650) 614-7455
lness@orrick.com

Barbara C. Jacobs
Assistant Director
Securities and Exchange Commission (Mail Stop 4561)
100 F Street, N.E.
Washington, D.C. 20549

**Re: VirnetX Holding Corporation (the “Company”)
Amendment No. 6 to Registration Statement on Form S-1 (the
“Registration Statement”)
Filed January 2, 2009
File No. 333-153645**

Dear Ms. Jacobs,

Please find, as set forth below, the Company’s responses to the comment letter of the staff of the Securities and Exchange Commission (the “Staff”) dated January 13, 2009 (the “Staff Letter”). For the Staff’s convenience, the Staff’s comments from the Staff Letter are set forth in italics before each response.

General

1. In light of the changes in the underwriting agreement in this offering, please be sure that we receive a copy of the letter, or a call, from FINRA, stating that FINRA has finished its review and has no additional concerns with respect to the proposed underwriting agreements.

The Company notes the Staff’s comments and will provide the FINRA letter upon receipt, and will request that FINRA contact the Staff directly when it has finished its review and has no additional concerns with respect to the proposed underwriting agreements.

Management’s Discussion and Analysis of Financial Condition and Results of Operations

Liquidity and Capital Resources, page 29

2. We note that the company now expects that the net proceeds from this offering, in combination with the available cash on hand, will only be sufficient to fund operations for the next five months and that the company is counting on generating revenue from collaborative agreements with corporate partners to have sufficient capital to fund

operations for a full 12 months. Please disclose the status of any collaborative agreements with corporate partners. Please also disclose how you anticipate funding your operations for the next 12 months if you are not able to generate your forecasted revenue from such collaborative agreements. In addition, please revise your disclosure in the summary, risk factors and use of proceeds sections of the prospectus to indicate that the full proceeds of this offering may be used to fund your operations and that such proceeds, in addition to cash on hand, may only be sufficient to fund your operations for the next five months.

The Company notes the Staff's comments and respectfully submits that the Company is in development stage and, although it has aggressively pursued collaborative agreements with corporate partners, the Company has not entered into any collaborative agreement with corporate partners to date. Accordingly, the Company has decided to limit its discussion in this section of the prospectus to the discussion of the Company's cash position assuming only receipt of the net proceeds of the offering.

The Company notes the Staff's questions regarding how the Company anticipates funding its operations if it is not able to generate sufficient revenue and the Company respectfully submits that it has previously disclosed that if the Company is unable to generate sufficient capital or sufficient revenue from its commercialization efforts, the Company may be required to cease operations or to reduce the cash used in its business, including the termination of its commercialization efforts, the sale of its patent portfolio or other assets, the abandonment of its litigation with Microsoft or others and the reduction in overall operating activities.

The Company notes the Staff's suggestions regarding the revised disclosure in the summary, risk factors and use of proceeds sections of the prospectus and has accordingly revised such sections to indicate that the full proceeds of this offering may be used to fund the Company's operations and that such proceeds, in addition to the cash on hand, may only be sufficient to fund its operations for the next five months.

Compensation Discussion and Analysis

Named Executive Officers' Compensation

Base Salary, page 48

3. We note that both of your named executive officers received significant increases in their base salaries for fiscal year 2008. Please discuss the factors the compensation committee considered in determining the increases in your officers' base salaries.

January 16, 2009
VirnetX Holding Corporation
Page 3

The Company notes the Staff's comments and respectfully submits that, as was disclosed by Form 8-K filed with the Securities and Exchange Commission on January 7, 2008, the Company's compensation committee made a determination to increase Mr. Larsen's base salary for the fiscal year 2008 at a meeting held on December 31, 2007. At that time, the compensation committee performed the Company's benchmarking analysis and, in acknowledgment of Mr. Larsen's services during the merger and in recognition of his increased responsibilities in the management of a fully-operating public company following the merger, the compensation committee decided to increase Mr. Larsen's base salary accordingly. The Company has updated the disclosure in Amendment No. 7 to the Company's Registration Statement on Form S-1 in accordance with the Staff's comments to reflect these factors considered by the committee in determining the executive compensation of Mr. Larsen.

Mr. Sliney became the Company's Chief Financial Officer in October 2007 and the summary compensation table for the fiscal year 2007 reflects approximately three (3) months of his service in that position at an annual base salary of \$175,000. In June 2008, increases in support staff at the Company, including the hiring of a corporate controller, enabled Mr. Sliney to reduce his workload and his annual base salary was accordingly reduced to \$43,752. The disclosure in Amendment No. 7 has been revised to reflect this additional information.

Please let us know if you have any questions

Very truly yours,

/s/ Lowell D. Ness

Lowell D. Ness
Orrick, Herrington & Sutcliffe LLP

cc: Kendall Larsen (VirnetX Holding Corporation)

/Enclosures/