LARGE FILING SEPARATOR SHEET

CASE NUMBER: 06-1363-GA-AGG

FILE DATE: November 20, 2014

SECTION: 2 of 5

NUMBER OF PAGES: 200

DESCRIPTION OF DOCUMENT:
Renewal Application

remained strong at $2.3 million compared to $1.6 million in 2012. This increase was offset by the $1.6 million improvement in working capital. Cash used in investing and financing activities for the year ended December 31, 2013 was approximately $4.7 million primarily due to the payments of $2.7 million of contingent consideration, $1.5 million of principal payments of seller notes, and $0.5 million of net principal payments on bank debt. Cash used in investing activities for the year ended December 31, 2012 was approximately $7.7 million primarily due to the purchase of NEP for $7.9 million. Cash provided by financing activities in 2012 was $5.4 million due to the $10.5 million we borrowed to purchase NEP. This increase in financing was offset by cash outflows to fund contingent consideration payments of $2.3 million and seller notes of $3.0 million during 2012.

EBITDA, representing net income or loss before interest, income taxes, depreciation and amortization for the year ended December 31, 2013 was $2.3 million as compared to $1.6 million for the same period in the prior year. Please refer to the section below discussing non-GAAP financial measures for a reconciliation of non-GAAP measures to the most directly comparable measure calculated and presented in accordance with accounting principles generally accepted in the United States of America ("GAAP").

Comparison of December 31, 2012 to December 31, 2011

	December 31,		Increase (Decrease)	
	2012	2011		
Cash and cash equivalents	$ 3,307,822	$ 1,837,801	$ 1,470,021	80%
Trade accounts receivable, net	7,242,603	3,603,634	3,638,969	101
Days sales outstanding	65	61	4	7
Working capital (deficit)	(2,464,718)	(3,996,690)	(1,531,972)	(38)
Stockholders' equity	26,710,127	20,619,101	6,091,026	30

Cash and cash equivalents increased 80% primarily due to $1.6 million generated in EBITDA during the year ended December 31, 2012, advance payments of $4.4 million and the receipt of $0.8 million in cash from the sale of our Retroficiency investment. These increases were partially offset by payment against notes payable of $3.0 million related to the NES acquisition and a 101% increase in trade accounts receivable. Borrowings from term loans were primarily used to pay for acquisitions and settle contingent consideration payments. *Trade accounts receivable increased 101% primarily due to the 91% increase in revenue as compared to the fourth quarter of* 2011. Days sales outstanding (representing accounts receivable outstanding at December 31, 2012 divided by the average sales per day during the current quarter, as adjusted) increased 7% due to the timing of in-period revenue recognized within the fourth quarter of 2012 as compared to the fourth quarter of 2011. Revenue from bidders representing 10% or more of our revenue decreased to 20% from two bidders during the year ended December 31, 2012, from 24% from the same two bidders during the same period in 2011.

The working capital deficit at December 31, 2012 (consisting of current assets less current liabilities) improved $1.5 million from December 31, 2011 primarily due to the 2012 reversal of our tax valuation allowance reserve and the increase in cash and accounts receivable. These increases were offset by an increase in accrued contingent consideration related to the NEP acquisition and an increase in deferred revenue and customer advances. Stockholders' equity increased 30% during the year ended December 31, 2012 due to net income, stock-based compensation and proceeds from the exercise of stock options.

Cash provided by operating activities for the year ended December 31, 2012 and 2011 was approximately $3.8 million and $3.6 million, respectively. The 2012 increase was primarily due to advance payments from mid-market transactions, partially offset by the $2.7 million increase in accounts receivable. Cash used in investing activities for the year ended December 31, 2012 was approximately $7.7 million primarily due to the purchase of NEP for $7.9 million. Cash provided by financing activities was $5.4 million due to the $10.5 million we borrowed to purchase NEP. This increase in financing was offset by cash outflows to fund earn-out payments of $2.3 million and seller notes of $3.0 million during 2012. Cash used in investing and financing activities for the year ended December 31, 2011 was approximately $5.4 million primarily due to cash used for acquisitions, which was partially offset by net proceeds received from the sale of common stock.

EBITDA, representing net income or loss before interest, income taxes, depreciation and amortization for the year ended December 31, 2012 was $1.6 million as compared to $1.7 million for the same period in the prior year. We have generated EBITDA for eight of ten quarters for a cumulative total of $4.5 million, including $1.6 million over the last 12 months. Please refer to the section below discussing non-GAAP financial measures for a reconciliation of non-GAAP measures to the most directly comparable measure calculated and presented in accordance with GAAP.

Contractual Obligations and Other Commercial Commitments

The table below summarizes our gross contractual obligations and other commercial commitments as of December 31, 2013. As of December 31, 2013, we did not have any significant purchase obligations other than our operating leases.

Contractual Obligations	2014	2015-2016	2017 - 2018	2019 and thereafter	Total
Principal balance of long-term debt and notes payable	$ 978,000	$ 2,582,000	$ 5,190,000	$ 1,750,000	$ 10,500,000
Operating and capital leases	675,000	1,310,000	1,002,000	1,326,000	4,313,000
Fair value of accrued contingent consideration	1,000,000	—	—	—	1,000,000
Total contractual obligations	$ 2,653,000	$ 3,892,000	$ 6,192,000	$ 3,076,000	$ 15,813,000

Use of Non-GAAP Financial Measures

In this Annual Report on Form 10-K, we provide certain "non-GAAP financial measures". A non-GAAP financial measure refers to a numerical financial measure that excludes (or includes) amounts that are included in (or excluded from) the most directly comparable financial measure calculated and presented in accordance with GAAP in our accompanying consolidated financial statements. In this Annual Report on Form 10-K, we provide EBITDA and adjusted EBITDA as additional information relating to our operating results. These non-GAAP measures exclude expenses related to share-based compensation, depreciation related to our fixed assets, amortization expense related to acquisition-related assets and other assets, interest expense on bank borrowings, notes payable to sellers and contingent consideration, interest income on invested funds and notes receivable, and income taxes. Management uses these non-GAAP measures for internal reporting and bank reporting purposes. We have provided these non-GAAP financial measures in addition to GAAP financial results because we believe that these non-GAAP financial measures provide useful information to certain investors and financial analysts in assessing our operating performance due to the following factors:

- We believe that the presentation of a non-GAAP measure that adjusts for the impact of share-based compensation expenses, depreciation of fixed assets, amortization expense related to acquisition-related assets and other assets, interest expense on bank borrowings, seller notes and contingent consideration, interest income on invested funds and notes receivable, and income taxes, provides investors and financial analysts with a consistent basis for comparison across accounting periods and, therefore, is useful to investors and financial analysts in helping them to better understand our operating results and underlying operational trends;
- Although share-based compensation is an important aspect of the compensation of our employees and executives, share-based compensation expense is generally fixed at the time of grant, then amortized over a period of several years after the grant of the share-based instrument, and generally cannot be changed or influenced by management after the grant;
- We do not acquire intangible assets on a predictable cycle. Our intangible assets relate solely to business acquisitions. Amortization costs are fixed at the time of an acquisition, are then amortized over a period of several years after the acquisition and generally cannot be changed or influenced by management after the acquisition;
- We do not regularly incur capitalized software and website costs. Our capitalized software costs relate primarily to the build-out of our exchanges. Amortization costs are fixed at the time the costs are incurred and are then amortized over a period of several years and generally cannot be changed or influenced by management after the initial costs are incurred;
- We do not regularly invest in fixed assets. Our fixed assets relate primarily to computer and office equipment and furniture and fixtures. Depreciation costs are fixed at the time of purchase and are then depreciated over several years and generally cannot be changed or influenced by management after the purchase;
- We do not regularly enter into bank debt, seller notes and/or pay interest on contingent consideration. Our seller notes and contingent consideration relate to acquisition activities. Interest expense is fixed at the time of purchase and recorded over the life of the lease and generally cannot be changed or influenced by management after the purchase;
- We do not regularly earn interest on our cash accounts and notes receivable. Our cash is invested in U.S. Treasury funds and has not yielded material returns to date and these returns generally cannot be changed or influenced by management; and
- We do not regularly pay federal or state income taxes due to our net operating loss carryforwards. Our income tax expense reflects the release of our deferred tax assets to apply to projected annualized taxable income, and an anticipated alternative minimum tax liability based on statutory rates that generally cannot be changed or influenced by management.

Pursuant to the requirements of the SEC, we have provided below a reconciliation of the non-GAAP financial measures used to the most directly comparable financial measures prepared in accordance with GAAP. These non-GAAP financial measures are not prepared in accordance with GAAP. These measures may differ from the GAAP information, even where similarly titled used by other companies, and therefore should not be used to compare our performance to that of other companies. The presentation of this additional information is not meant to be considered in isolation or as a substitute for net loss prepared in accordance with GAAP.

	For the Years Ended December 31,		
	2013	2012	2011
GAAP net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Add: Interest expense, net	1,081,754	547,075	1,526
Add: Income taxes (benefit)	(623,074)	(7,479,136)	138,224
Add: Amortization of intangibles	3,899,033	3,022,097	1,347,135
Add: Amortization of other assets	36,030	42,289	126,953
Add: Depreciation	221,674	217,235	146,946
Non-GAAP EBITDA	$ 2,295,995	$ 1,640,252	$ 1,714,307
Add: Stock-based compensation	599,554	465,835	609,820
Non-GAAP adjusted EBITDA	$ 2,895,549	$ 2,106,087	$ 2,324,127

Critical Accounting Policies

The preparation of financial statements in conformity with GAAP 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 revenue and expenses during the reporting period. Accordingly, actual results could differ from these estimates.

The most judgmental estimates affecting our consolidated financial statements are those relating to revenue recognition and the estimate of actual energy delivered from the bidder to the lister of such energy; stock-based compensation; the valuation of intangible assets and goodwill; the valuation of contingent consideration; impairment of long-lived assets; and estimates of future taxable income as it relates to the realization of our net deferred tax assets. We regularly evaluate our estimates and assumptions based upon historical experience and various other factors that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. To the extent actual results differ from those estimates; future results of operations may be affected. We believe the following critical accounting policies affect our more significant judgments and estimates used in the preparation of our accompanying consolidated financial statements. Refer to Note 2 of our consolidated financial statements filed herewith for a description of our accounting policies.

Revenue Recognition

Retail Electricity Transactions

We earn a monthly commission on energy sales contracted through our online auction platform from each bidder or energy supplier based on the energy usage transacted between the bidder and lister or energy consumer. Our commissions are not based on the retail price for electricity; rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by our contractual commission rate. Revenue from commissions is recognized as earned on a monthly basis over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the related receivable is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated.

We record brokerage commissions based on actual usage data obtained from the energy supplier for that accounting period, or to the extent actual usage data is not available, based on the estimated amount of electricity and gas delivered to the energy consumers for that accounting period. We develop our estimates on a quarterly basis based on the following criteria:

- Payments received prior to the issuance of the consolidated financial statements;
- Usage updates from energy suppliers;
- Usage data from utilities;
- Comparable historical usage data; and
- Historical variances to previous estimates.

To the extent usage data cannot be obtained, we estimate revenue as follows:

- Historical usage data obtained from the energy consumer in conjunction with the execution of the auction;
- Geographic/utility usage patterns based on actual data received;
- Analysis of prior year usage patterns; and

- Specific review of individual energy supplier/location accounts.

In addition, we analyze this estimated data based on overall industry trends including prevailing weather and usage data. Once the actual data is received, we adjust the estimated accounts receivable and revenue to the actual total amount in the period during which the payment is received. Based on management's current capacity to obtain actual energy usage, we currently estimate four to six weeks of revenue at the end of its accounting period. Differences between estimated and actual revenue have been within management's expectations and have not been material to date.

We do not invoice our electricity energy suppliers for monthly commissions earned and, therefore, we report a substantial portion of our receivables as "unbilled." Unbilled accounts receivable represents management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates and is made up of two components. The first component represents energy usage for which we have received actual data from the supplier and/or the utility, but for which payment has not been received at the balance sheet date. The majority of our contractual relationships with energy suppliers require them to supply actual usage data to us on a monthly basis and remit payment to us based on that usage. The second component represents energy usage for which we have not received actual data, but for which we have estimated usage. Commissions paid in advance by certain bidders are recorded as deferred revenue and amortized to commission revenue on a monthly basis on the energy exchanged that month.

Retail Natural Gas Transactions

There are two primary fee components to our retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of our natural gas transactions, we bill the supplier upon the conclusion of the transaction based on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by our energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of our retail natural gas transactions are accounted for in accordance with this policy, a significant percentage is accounted for as the natural gas is consumed by the energy consumer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

We earn a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by our contractual commission rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. We generally recognize revenue on these transactions when we have received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to us, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent we do not receive verification of actual energy usage or we cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier. In October 2012, we acquired NEP. NEP recognizes revenue monthly as energy flows from the energy supplier to the end user. We can reliably estimate actual energy usage based on historical usage data compiled by NEP.

Demand Response Transactions

Demand response transaction fees are recognized when we have received confirmation from the DRP that the energy consumer has performed under the applicable RTO or ISO program requirements. The energy consumer is either called to perform during an actual curtailment event or is required to demonstrate its ability to perform in a test event during the performance period. For the PJM, the performance period is June through September in a calendar year. Test results are submitted to the PJM by the DRPs and we receive confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay us ratably on a quarterly basis throughout the demand response fiscal (June to May) year. As a result, a portion of the revenue we recognize is reflected as unbilled accounts receivable.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where our customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister. While substantially all wholesale transactions are accounted for in this fashion, a small percentage of our wholesale revenue is accounted for as electricity or gas is delivered, similar to the retail electricity transaction methodology described above.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regulated allowance programs like RGGI, fees are paid by the lister and are recognized quarterly as revenue as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidder pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Channel Partner Commissions

We pay commissions to our channel partners at contractual rates based on monthly energy transactions between energy suppliers and energy consumers. The commission is accrued monthly and charged to sales and marketing expense as revenue is recognized. We pay commissions to our salespeople at contractual commission rates based upon cash collections from our customers.

Revenue Estimation

Our estimates in relation to revenue recognition affect revenue and sales and marketing expense as reflected on our statements of operations, and trade accounts receivable and accrued commission accounts as reflected on our accompanying consolidated balance sheets. For any quarterly reporting period, we may not have actual usage data for certain energy suppliers and will need to estimate revenue. We initially record revenue based on the energy consumers' historical usage profile. At the end of each reporting period, we adjust this historical profile to reflect actual usage for the period and estimate usage where actual usage is not available. For the year ended December 31, 2013, we estimated usage for approximately 9% of our revenue resulting in a negative 0.3%, or approximately $105,000, adjustment to decrease revenue. This decrease in revenue resulted in an approximate $16,000 decrease in sales and marketing expense related to third party commission expense associated with those revenues. Corresponding adjustments were made to trade accounts receivable and accrued commissions, respectively. A 1% difference between this estimate and actual usage would have an approximate $32,000 effect on our revenue for the year ended December 31, 2013.

Energy Efficiency Services

Our Energy efficiency services segment is primarily project driven where we identify efficiency measures that energy consumers can implement to reduce their energy usage. We present retrofit opportunities to customers, get approval from them to proceed and submit the proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, we install the equipment, typically new heating, ventilation or air conditioning equipment, or replace lighting fixtures to more efficient models. We recognize revenue for Energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), we utilize the completed-contract method. We also assess multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

Allowance for Doubtful Accounts

We provide for an allowance for doubtful accounts on a specifically identified basis, as well as through historical experience applied to an aging of accounts, if necessary. Trade accounts receivable are written off when deemed uncollectible. To date write-offs have not been material.

Intangible Assets

We use assumptions in establishing the initial carrying value, fair value and estimated lives of its intangible assets. The criteria used for these assumptions include management's estimate of the asset's continuing ability to generate positive income from operations and positive cash flow in future periods compared to the carrying value of the asset, as well as the strategic significance of any identifiable intangible asset in our business objectives. If assets are considered impaired, the impairment recognized is the amount by which the carrying value of the assets exceeds the fair value of the assets. Useful lives and related amortization expense are based on an estimate of the period that the assets will generate revenues or otherwise be used by us. Factors that would influence the likelihood of a material change in our reported results include significant changes in the asset's ability to generate positive cash flow, a significant decline in the economic and competitive environment on which the asset depends and significant changes in the our strategic business objectives.

Intangible assets consist of customer relationships and contracts, purchased technology and other intangibles, and are stated at cost less accumulated amortization. Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which range from one to ten years.

Impairment of Long-Lived and Intangible Assets

In accordance with ASC 350, we periodically reviews long-lived assets and intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable or that the useful lives of those assets are no longer appropriate. Recoverability of these assets is determined by comparing the forecasted undiscounted net cash flows of the operation to which the assets relate to the carrying amount. No impairment of our long-lived assets was recorded as no change in circumstances indicated that the carrying value of the assets was not recoverable during the years ended December 31, 2013 and 2012.

Goodwill & Indefinite-Lived Assets

We use assumptions in establishing the initial carrying value and fair value of our goodwill and indefinite-lived intangibles. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets of acquired businesses. Indefinite-lived intangibles are intangible assets whose useful lives are indefinite in that their lives extend beyond the foreseeable horizon – that is there is no foreseeable limit on the period of time over which it is expected to contribute to the cash flows of the reporting entity. We account for these items in accordance with the Accounting Standards Codification ("ASC") 350, "*Intangibles – Goodwill and Other*" ("ASC 350"), under which goodwill and intangible assets having indefinite lives are not amortized but instead are assigned to reporting units and tested for impairment annually or more frequently if changes in circumstances or the occurrence of events indicate possible impairment.

We perform our annual impairment test at the end of the fourth fiscal quarter of each year, or earlier, if indicators of potential impairment exist. This impairment test is performed for each of our segments – Energy procurement and Energy efficiency services – which have been determined to be our reporting units. The impairment test for goodwill and indefinite-lived intangibles is a three-step process. Step 0 gives entities the option of first performing a qualitative assessment to test for impairment on a reporting-unit-by-reporting-unit basis. If after performing the qualitative assessment, an entity concludes that it is more-likely-than-not ("MLTN", typically quantified as a likelihood of more than 50%) that the fair value of a reporting unit is less than its carrying amount, then the entity would perform a two-step impairment test. However, if, after applying the qualitative assessment, the entity concludes that it is not MLTN that the fair value is less than the carrying amount, the two step impairment test is not required. Step one consists of a comparison of the fair value of a reporting unit with its carrying amount, including the goodwill allocated to each reporting unit. If the carrying amount is in excess of the fair value, step two requires the excess of the carrying amount of the reporting unit's goodwill over the implied fair value of the reporting unit's goodwill to be recorded as an impairment loss. To determine the fair value of each of the reporting units as a whole, we use a discounted cash flow analysis, which requires significant assumptions and estimates about the future operations of each reporting unit. Significant judgments inherent in this analysis include the determination of appropriate discount rates, the amount and timing of expected future cash flows and growth rates. The cash flows employed in the discounted cash flow analyses are based on financial forecasts developed by management. The discount rate assumptions are based on an assessment of our risk adjusted discount rate, applicable for each reporting unit. In assessing the reasonableness of the determined fair values of the reporting units, we evaluate our results against our current market capitalization.

As of December 31, 2013 and 2012, we performed a step one analysis on both the energy procurement and energy efficiency services reporting units and determined that their indicated fair values substantially exceeded their carrying values. We relied on a weighted average cost of capital of 15.75% and 16.15% for each reporting unit as of December 31, 2013 and 2012, respectively, which takes into consideration certain specific small company premiums. We utilized a long-term growth rate of approximately 8% and 3% for the energy procurement and 15% and 20% efficiency services reporting units as of December 31, 2013 and 2012, respectively, and assumed a combined tax rate of 40% for both units and in both years.

As of December 31, 2013, we performed a step one analysis on our indefinite-life intangibles related to our Energy efficiency services segment customer relationships. Indefinite-life was assigned to our prime contractor relationships with the customer base in the Norwich Public ("Norwich") and United Illuminated ("UI") utility regions ("Prime") and our relationships with the customer base within the Connecticut, Light and Power, UI and Norwich regions as a subcontractor ("Subcontractor") at the NES acquisition date. The fair value of both the Prime and Subcontractor relationships exceeded their carrying values. We relied on a weighted average cost of capital of 16.6% for the Prime relationship and 15.7% for the subcontractor relationship as of December 31, 2013, which takes into consideration certain specific small company premiums. We utilized a long-term growth rate of approximately 10% for both the Prime and Subcontractor relationships and assumed a combined tax rate of 40% for both. As of December 31, 2012, we performed a qualitative assessment of its indefinite-lived intangibles related to its Energy efficiency services segment customer relationships and determined that it was not likely that the fair value of a reporting unit was less than its carrying value.

Deferred Revenue and Customer Advances

Deferred revenue and customer advances arise when energy suppliers pay us a commission prior to us meeting all the requirements necessary to recognize revenue.

Warranty

Our Energy efficiency services segment provides our customers a one year warranty for all parts and labor in its installation workmanship. We have determined primarily from historical information and management's judgment, that warranty costs are immaterial and no estimate for warranty cost is required at the time revenue is recognized. Should actual warranties differ from our estimates, an estimated warranty liability would be required.

Income Taxes

In accordance with ASC 740, *Income Taxes* ("ASC 740"), deferred tax assets and liabilities are determined at the end of each period based on the future tax consequences that can be attributed to net operating loss carryforwards, as well as differences between the financial statement carrying amounts of the existing assets and liabilities and their respective tax basis. Deferred income tax expense or credits are based on changes in the asset or liability from period to period. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The realization of deferred tax assets is dependent upon the generation of future taxable income. In assessing the requirement of a valuation allowance, we consider past performance, expected future taxable income, and qualitative factors which we consider to be appropriate in estimating future taxable income. Our forecast of expected future taxable income is for future periods that can be reasonably estimated. Results that differ materially from current expectations may cause us to change its judgment on future taxable income and the necessity of a tax valuation allowance.

We have reviewed the tax positions taken, or to be taken, in its tax returns for all tax years currently open to examination by the taxing authority in accordance with ASC 740's recognition and measurement standards. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in our consolidated financial statements. We account for interest and penalties related to uncertain tax positions as part of its provision for income taxes.

Stock-based Compensation

We recognize the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. Stock-based awards to employees consisted of grants of stock options for the years ended December 31, 2013, 2012 and 2011 and grants of restricted stock for the years ended December 31, 2013 and 2012, respectively. The restrictions on the restricted stock lapse over the vesting period. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees.

We account for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. There were no equity instruments granted to non-employees for the year ended December 31, 2013. For the years ended December 31, 2012 and 2011 stock-based awards to non-employees consisted of grants of stock warrants. The vesting period of stock warrants granted ranged from one to seven years.

Fair Value Measurements

We follow ASC 820, "*Fair Value Measurements and Disclosures*" ("ASC 820"), for fair value measurements. ASC 820 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The standard provides a consistent definition of fair value, which focuses on an exit price, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The standard also prioritizes, within the measurement of fair value, the use of market-based information over entity specific information and establishes a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

The hierarchy established under ASC 820 gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

> Level 1 — Pricing inputs are quoted prices available in active markets for identical investments as of the reporting date. As required by ASC 820-10, we do not adjust the quoted price for these investments, even in situations where we hold a large position and a sale could reasonably impact the quoted price.
>
> Level 2 — Pricing inputs are quoted prices for similar investments, or inputs that are observable, either directly or indirectly, for substantially the full term through corroboration with observable market data. Level 2 includes investments valued at quoted prices adjusted for legal or contractual restrictions specific to these investments.

Level 3 — Pricing inputs are unobservable for the investment, that is, inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability. Level 3 includes investments that are supported by little or no market activity.

Recent Accounting Pronouncements

In July 2013, Accounting Standards Update ("ASU") 2013-11, "*Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists*" was issued, which defines the presentation requirements of an unrecognized tax benefit, or a portion of an unrecognized tax benefit, in the financial statements. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2013. Early adoption is permitted and retrospective application is permitted but not required. We do not expect the application of this ASU to have an impact on its consolidated financial statements.

Seasonality

Our revenue is subject to seasonality and fluctuations during the year primarily as a result of weather conditions and its impact on the demand for energy. The majority of our revenue is generated from the commissions we receive under any given energy contract, which is tied to the energy consumer's consumption of energy. Therefore, revenue from natural gas consumption tends to be strongest during the winter months due to the increase in heating usage, and revenue from electricity consumption tends to be strongest during the summer months due to the increase in air conditioning usage. Our revenue is also subject to fluctuations within any given season, depending on the severity of weather conditions — during a particularly cold winter or an unseasonably warm summer, energy consumption will rise. In addition, transaction revenue in the natural gas and wholesale markets for which we invoice upon completion of the respective transaction tends to be higher in the first and fourth quarters when utilities and natural gas customers make their annual natural gas buys.

Cyclicality

We believe that our business will continue to be cyclical in nature and is tied, in part, to market energy prices which impact transaction volume. When energy prices increase in competitive markets above the price levels of the regulated utilities, energy consumers are less likely to lock-in to higher fixed price contracts in the competitive markets and so they are less likely to use our auction platform. Conversely, when energy prices decrease in competitive markets below the price levels of the regulated utilities, energy consumers are more likely to lock-in to lower fixed price contracts in the competitive markets and they are more likely to use our auction platform. Although our short term revenue is impacted by usage trends, these cyclical effects will also have longer term implications on our business because we derive future revenue from current auctions. Our Energy Efficiency Services segment tends to experience higher revenue in the third and fourth quarters as utilities approve funding for projects to be completed by the end of their calendar year.

Off-Balance Sheet Transactions

We currently have no off-balance sheet arrangements that have or are reasonably likely to have a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Not Applicable.

Item 8. Financial Statements and Supplementary Data

The consolidated financial statements listed in Item 15(a) are incorporated herein by reference and are filed as a part of this report and follow the signature page to this Annual Report on Form 10-K on page 43.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company carried out an evaluation under the supervision and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the Company's disclosure controls and procedures. In designing and evaluating the Company's disclosure controls and procedures, the Company and its management recognize that there are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their desired control objectives. Additionally, in evaluating and implementing possible controls and procedures, the Company's management was required to apply its reasonable judgment.

Based upon this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2013.

Internal Control Over Financial Reporting

a) Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company, as such term is defined in Rule 13a-15(f) under the Exchange Act. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2013. In making this assessment, the Company's management used the criteria set forth by the COSO in the Internal Control-Integrated Framework.

Based on this assessment, our management concluded that, as of December 31, 2013, our internal control over financial reporting is effective based on those criteria.

Remediation Steps Taken to Address Prior Material Weakness

In March 2013, our management concluded that, as of December 31, 2012, our internal control over financial reporting was not effective based on the COSO criteria and that we had a material weakness. In making this assessment, the Company's management used the criteria set forth by the COSO in Internal Control-Integrated Framework in 1992. A "material weakness" is defined as a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

The following is a description of the material weakness in our internal control over financial reporting: In connection with the preparation of our annual report on Form 10-K for the year ended December 31, 2012, we identified a material weakness in the design and operating effectiveness of our internal control over financial reporting related to the recording of revenue recognition for certain commission payments related to our mid-market product line. Specifically, we did not select and apply the appropriate accounting policies for GSE, which we acquired on October 31, 2011. Consequently, effective controls did not exist to ensure that revenue from this product line was appropriately and accurately recorded.

As soon as we learned of the material weakness, we began taking steps intended to remediate this material weakness and to improve our control processes and procedures with respect to revenue recognition in general as part of our efforts to become compliant with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002. These activities included:

- implementing a revised accounting policy for our mid-market product-line;
- establishing new policies, procedures and controls to ensure the new policy is administered correctly;
- evaluating the proper organizational structure, including hiring a sufficient complement of personnel with the requisite knowledge and expertise of revenue recognition accounting standards under U.S. GAAP; and
- to the extent necessary, hiring consultants with accounting expertise with specific expertise with revenue recognition.

In particular, our remediation steps were designed to ensure that the recording of revenue recognition for certain commission payments is appropriate. Management believes that the remediation steps implemented during 2013 successfully remediated the specific issues identified as a material weakness in 2012. Specifically, we revised our revenue recognition policy for our mid-market product line, established new policies, procedures and controls to ensure the new policy was administered correctly, and have hired additional personnel and reassigned existing personnel to ensure that the issues identified in the previous year were remediated. We concluded that it was not necessary to hire consultants based on the successful execution of the other aforementioned remediation steps.

b) Attestation Report of the Independent Registered Public Accounting Firm

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm, pursuant to rules of the Securities and Exchange Commission that permit us to provide only management's report in this annual report.

c) Changes in Internal Control Over Financial Reporting

There was no change in the Company's internal control over financial reporting, other than those described above, that occurred during the three months ended December 31, 2013 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Item 9B. Other Information

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required to be disclosed by this item 10 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days of the close of its fiscal year.

We have adopted a code of business conduct and ethics applicable to all of our directors, officers and employees, including our Chief Executive Officer and our Chief Financial Officer. The code of business conduct and ethics is available on the corporate governance section of "Investor Relations" on our website www.worldenergy.com.

Any waiver of the code of business conduct and ethics for directors or executive officers, or any amendment to the code that applies to directors or executive officers, may only be made by the board of directors. We intend to satisfy the disclosure requirement under Item 5.05(c) of Form 8-K regarding an amendment to, or waiver from, a provision of this code of ethics by posting such information on our website, at the address and location specified above. To date, no such waivers have been requested or granted.

Item 11. Executive Compensation

The information required to be disclosed by this item 11 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required to be disclosed by this item 12 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required to be disclosed by this item 13 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 14. Principal Accountant Fees and Services

The information required to be disclosed by this item 14 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a)(1) Financial Statements

For a list of the financial information included herein, see "Index to Consolidated Financial Statements" on page 44 of this Annual Report on Form 10-K.

(a)(2) Financial Statements Schedules

All schedules are omitted because they are not applicable or the required information is included in the accompanying consolidated financial statements or notes thereto.

(a)(3) Exhibits

The list of exhibits filed as a part of this Annual Report on Form 10-K is set forth on the Exhibit Index immediately preceding the exhibits hereto and is incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WORLD ENERGY SOLUTIONS, INC.

By: /s/ Philip Adams — March 31, 2014
Philip Adams
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Philip Adams Philip Adams	Chief Executive Officer and Director	March 31, 2014
/s/ James Parslow James Parslow	Chief Financial Officer	March 31, 2014
/s/ Edward Libbey Edward Libbey	Chairman of the Board and Director	March 31, 2014
/s/ Peter Londa Peter Londa	Director	March 31, 2014
/s/ Ralph Sheridan Ralph Sheridan	Director	March 31, 2014
/s/ Sean Sweeney Sean Sweeney	Director	March 31, 2014
/s/ John Wellard John Wellard	Director	March 31, 2014
/s/ Thad Wolfe Thad Wolfe	Director	March 31, 2014

WORLD ENERGY SOLUTIONS, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders
World Energy Solutions, Inc.
Worcester, Massachusetts

We have audited the accompanying consolidated balance sheets of World Energy Solutions, Inc. (the "Company") as of December 31, 2013 and 2012 and the related consolidated statements of operations, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2013. 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 audits.

We conducted our audits in accordance with the 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 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 also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, 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 consolidated financial statements referred to above present fairly, in all material respects, the financial position of World Energy Solutions, Inc. as of December 31, 2013 and 2012 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2013, in conformity with accounting principles generally accepted in the United States of America.

/s/ Marcum LLP

Marcum LLP
Boston, Massachusetts
March 31, 2014

WORLD ENERGY SOLUTIONS, INC.

Consolidated Balance Sheets

	December 31, 2013	December 31, 2012
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,725,136	$ 3,307,822
Trade accounts receivable, net	7,738,141	7,242,603
Inventory	415,770	154,626
Current portion of deferred tax asset	901,350	1,632,280
Prepaid expenses and other current assets	477,406	361,813
Total current assets	11,257,803	12,699,144
Property and equipment, net	573,778	639,839
Intangible assets, net	15,193,965	19,092,998
Goodwill	16,167,834	16,167,834
Deferred tax asset, net of current portion	7,198,984	5,844,980
Other assets, net	687,098	685,867
Total assets	$ 51,079,462	$ 55,130,662
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,697,798	$ 1,044,459
Accrued commissions	1,567,839	1,052,802
Accrued compensation	2,119,784	2,494,404
Accrued contingent consideration	1,000,000	3,792,505
Accrued expenses and other current liabilities	1,242,274	1,390,188
Deferred revenue and customer advances	3,546,380	1,929,377
Current portion of related party subordinated notes payable	500,000	1,500,000
Current portion of long-term debt, net of unamortized debt discount of $0 at December 31, 2013 and $39,873 at December 31, 2012	477,712	1,960,127
Total current liabilities	12,151,787	15,163,862
Long-term debt, net of current portion, net of unamortized debt discount of $0 at December 31, 2013 and $89,714 at December 31, 2012	5,522,288	4,410,286
Subordinated note payable	4,000,000	4,000,000
Deferred revenue and customer advances, net of current portion	3,910,035	3,379,635
Accrued contingent consideration, net of current portion	-	966,752
Related party subordinated notes payable, net of current portion	-	500,000
Other liabilities	14,768	-
Total liabilities	25,598,878	28,420,535
Commitments and contingencies (Note 14)		
Stockholders' equity:		
Preferred stock, $0.0001 par value; 5,000,000 shares authorized, no shares issued or outstanding	-	-
Common stock, $0.0001 par value; 30,000,000 shares authorized; 12,178,366 shares issued and 12,120,338 shares outstanding at December 31, 2013, and 11,998,313 shares issued and 11,949,376 shares outstanding at December 31, 2012	1,212	1,195
Additional paid-in capital	44,894,961	43,770,108
Accumulated deficit	(19,156,245)	(16,836,823)
Treasury stock, at cost; 58,028 shares at December 31, 2013 and 48,937 shares at December 31, 2012	(259,344)	(224,353)
Total stockholders' equity	25,480,584	26,710,127
Total liabilities and stockholders' equity	$ 51,079,462	$ 55,130,662

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Operations

	Years Ended December 31,		
	2013	2012	2011
Revenue:			
Brokerage commissions, transaction fees and efficiency projects	$ 33,927,370	$ 30,824,446	$ 19,525,121
Management fees	749,745	954,391	999,446
Total revenue	34,677,115	31,778,837	20,524,567
Cost of revenue	9,316,591	10,069,357	4,009,995
Gross profit	25,360,524	21,709,480	16,514,572
Operating expenses:			
Sales and marketing	19,427,779	15,482,723	10,631,035
General and administrative	7,814,933	7,927,889	5,790,264
Total operating expenses	27,242,712	23,410,612	16,421,299
Operating (loss) income	(1,882,188)	(1,701,132)	93,273
Other (expense) income:			
Other income	21,446	59,763	-
Interest income	6,358	-	51,245
Interest expense	(1,088,112)	(547,075)	(52,771)
Other expense, net	(1,060,308)	(487,312)	(1,526)
(Loss) income before income taxes	(2,942,496)	(2,188,444)	91,747
Income tax benefit (expense)	623,074	7,479,136	(138,224)
Net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Net (loss) income per common share — basic and diluted	$ (0.19)	$ 0.44	$ -
Weighted average shares outstanding — basic	11,998,019	11,901,172	10,521,910
Weighted average shares outstanding — diluted	11,998,019	11,958,689	10,521,910

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Changes in Stockholders' Equity
Years Ended December 31, 2013, 2012, and 2011

	Common Stock		Treasury Stock		Additional		Total
	Number of Shares	$0.0001 Par Value	Number of Shares	Stated at Cost	Paid-in Capital	Accumulated Deficit	Stockholders' Equity
Balance, January 1, 2011	9,155,281	$ 916	45,025	$ (209,940)	$33,502,074	$ (22,081,038)	$ 11,212,012
Stock-based compensation	-	-	-	-	609,820	-	609,820
Issuance of common stock in connection with restricted stock grants less common stock withheld	17,596	1	3,269	(11,663)	(1)	-	(11,663)
Issuance of common stock in connection with private placement, net	1,520,001	152	-	-	5,303,827	-	5,303,979
Issuance of common stock in connection with acquisitions, net	1,083,209	108	-	-	3,462,014	-	3,462,122
Exercise of stock options	76,938	8	-	-	89,300	-	89,308
Net loss	-	-	-	-	-	(46,477)	(46,477)
Balance, December 31, 2011	11,853,025	1,185	48,294	(221,603)	42,967,034	(22,127,515)	20,619,101
Stock-based compensation	-	-	-	-	465,835	-	465,835
Fair value of warrants issued	-	-	-	-	139,555	-	139,555
Issuance of common stock in connection with restricted stock grants less common stock withheld	11,688	1	643	(2,750)	(1)	-	(2,750)
Exercise of stock options	69,813	7	-	-	197,687	-	197,694
Exercise of stock warrants	14,850	2	-	-	(2)	-	-
Net income	-	-	-	-	-	5,290,692	5,290,692
Balance, December 31, 2012	11,949,376	1,195	48,937	(224,353)	43,770,108	(16,836,823)	26,710,127
Stock-based compensation	-	-	-	-	599,554	-	599,554
Issuance of common stock in connection with restricted stock grants less common stock withheld	32,510	3	9,091	(34,991)	(2)	-	(34,990)
Issuance of common stock in connection with contingent consideration paid in acquisition	76,577	8	-	-	325,442	-	325,450
Exercise of stock options	61,875	6	-	-	199,859	-	199,865
Net loss	-	-	-	-	-	(2,319,422)	(2,319,422)
Balance, December 31, 2013	12,120,338	$ 1,212	58,028	$ (259,344)	$44,894,961	$ (19,156,245)	$ 25,480,584

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Cash Flows

	Years Ended December 31,		
	2013	2012	2011
Cash flows from operating activities:			
Net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	*4,156,737*	*3,281,621*	*1,621,034*
Deferred income taxes	(623,074)	(7,564,993)	87,733
Stock-based compensation	599,554	465,835	609,820
Loss on disposal of property and equipment	11,177		
Gain on sale of investment	-	(53,106)	-
Non-cash interest expense on warrants related to debt discount	129,587	9,968	-
Interest on accrued contingent consideration	33,206	100,275	-
Interest on note receivable			(53,526)
Changes in operating assets and liabilities, net of the effects of acquisitions:			
Trade accounts receivable, net	(495,538)	(2,685,195)	(66,698)
Inventory	(261,144)	133,548	(286,299)
Prepaid expenses and other assets	(115,593)	(588,166)	(154,479)
Accounts payable	653,339	223,370	557,343
Accrued commissions	515,037	71,197	118,427
Accrued compensation	(374,620)	54,719	139,235
Accrued contingent consideration	(781,465)	(50,000)	54,169
Accrued expenses and other current liabilities	(139,405)	707,126	377,629
Deferred revenue and customer advances	2,147,403	4,389,657	689,816
Net cash provided by operating activities	3,135,779	3,786,548	3,647,727
Cash flows from investing activities:			
(Increase) decrease in other assets	(37,261)	-	(43,613)
Cash paid for acquisitions		(8,110,959)	(10,404,382)
Proceeds from (cash payment for) sale of investment	-	770,042	(216,666)
Purchases of property and equipment, net of disposals	(145,374)	(403,906)	(17,540)
Net cash used in investing activities	(182,635)	(7,744,823)	(10,682,201)
Cash flows from financing activities:			
Proceeds from exercise of stock options	199,865	197,694	89,308
Proceeds from the sale of common stock, net			5,303,979
Purchase of treasury stock	(34,990)	(2,750)	(11,663)
Proceeds from issuance of long-term debt	6,000,000	10,500,000	-
Principal payments on long term debt	(6,500,000)	-	-
Principal payments on notes payable	(1,500,000)	(3,000,000)	(53,709)
Payments of contingent consideration	(2,685,548)	(2,250,000)	-
Principal payments on capital lease obligations	(15,157)	(16,648)	(14,928)
Net cash (used in) provided by financing activities	(4,535,830)	5,428,296	5,312,987
Net (decrease) increase in cash and cash equivalents	(1,582,686)	1,470,021	(1,721,487)
Cash and cash equivalents, beginning of year	3,307,822	1,837,801	3,559,288
Cash and cash equivalents, end of year	$ 1,725,136	$ 3,307,822	$ 1,837,801

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

WORLD ENERGY SOLUTIONS, INC.

Notes to Consolidated Financial Statements

NOTE 1 — COMPANY OVERVIEW

World Energy Solutions, Inc. ("World Energy" or the "Company") offers a range of energy management solutions to commercial and industrial businesses, institutions, utilities, and governments to reduce their overall energy costs. The Company comes to market with a holistic approach to energy management helping customers a) contract for a competitive price for energy, b) engage in energy efficiency projects to minimize quantity used and c) pursue available rebate and incentive programs. The Company made its mark on the industry with an innovative approach to procurement via its online auction platforms, the World Energy Exchange®. With recent investments and acquisitions, World Energy is building out its energy efficiency practice engaging new customers while also pursuing more cross-selling opportunities for its procurement services.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

The Company's accompanying consolidated financial statements include its wholly-owned subsidiary World Energy Securities Corp. All intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management 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 revenue and expenses during the reporting period. Accordingly, actual results could differ from these estimates.

The Company's most judgmental estimates affecting its accompanying consolidated financial statements are those relating to revenue recognition and the estimate of actual energy delivered from the bidder to the lister of such energy; stock-based compensation; the valuation of intangible assets and goodwill; the valuation of contingent consideration; impairment of long-lived assets; warranty liability; and estimates of future taxable income as it relates to the realization of the Company's net deferred tax assets. The Company regularly evaluates its estimates and assumptions based upon historical experience and various other factors that the Company believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. To the extent actual results differ from those estimates; future results of operations may be affected.

Revenue Recognition

<u>Retail Electricity Transactions</u>

The Company earns a monthly commission on energy sales contracted through its online auction platform from each bidder or energy supplier based on the energy usage transacted between the bidder and lister or energy consumer. The Company's commissions are not based on the retail price for electricity; rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by the Company's contractual commission rate. The contractual commission rate is negotiated with the energy consumer on a procurement-by-procurement basis based on energy consumer specific circumstances, including the size of auction, the effort required to organize and run the respective auction and competitive factors, among others. Revenue from commissions is recognized as earned on a monthly basis over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the related receivable is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated.

The Company records brokerage commissions based on actual usage data obtained from the energy supplier for that accounting period, or to the extent actual usage data is not available, based on the estimated amount of electricity and gas delivered to the energy consumers for that accounting period. The Company develops its estimates on a quarterly basis based on the following criteria:

Payments received prior to the issuance of the consolidated financial statements;

Usage updates from energy suppliers;

Usage data from utilities;

Comparable historical usage data; and

Historical variances to previous estimates.

To the extent usage data cannot be obtained, the Company estimates revenue as follows:

Historical usage data obtained from the energy consumer in conjunction with the execution of the auction;

Geographic/utility usage patterns based on actual data received;

Analysis of prior year usage patterns; and

Specific review of individual energy supplier/location accounts.

In addition, the Company analyzes this estimated data based on overall industry trends including prevailing weather and usage data. Once the actual data is received, the Company adjusts the estimated accounts receivable and revenue to the actual total amount in the period during which the payment is received. Based on management's current capacity to obtain actual energy usage, the Company currently estimates four to six weeks of revenue at the end of its accounting period. Differences between estimated and actual revenue have been within management's expectations and have not been material to date.

The Company does not invoice its electricity energy suppliers for monthly commissions earned and, therefore, it classifies a substantial portion of its receivables as "unbilled." Unbilled accounts receivable represents management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates and is made up of two components. The first component represents energy usage for which the Company has received actual data from the supplier and/or the utility but for which payment has not been received at the balance sheet date. The majority of the Company's contractual relationships with energy suppliers require them to supply actual usage data to the Company on a monthly basis and remit payment to the Company based on that usage. The second component represents energy usage for which the Company has not received actual data, but for which it has estimated usage. Commissions paid in advance by certain energy suppliers are recorded as deferred revenue and amortized to commission revenue on a monthly basis on the energy exchanged that month.

Retail Natural Gas Transactions

There are two primary fee components to the Company's retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of the Company's natural gas transactions, the supplier is billed upon the conclusion of the transaction based on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by the Company's energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of the Company's retail natural gas transactions are accounted for in accordance with this policy, a significant percentage are accounted for as the natural gas is consumed by the customer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

The Company earns a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by the Company's contractual commission rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. The Company generally recognizes revenue on these transactions when it has received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to the Company, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent the Company does not receive verification of actual energy usage or it cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier. To the extent that the Company does not receive actual usage data from the energy supplier, it will recognize revenue at the end of the contract flow date. In October 2012, the Company acquired Northeast Energy Partners, LP ("NEP"). NEP recognizes revenue monthly as energy flows from the energy supplier to the end user. The Company can reliably estimate actual energy usage based on historical usage data compiled by NEP.

Demand Response Transactions

Demand response transaction fees are recognized when the Company receives confirmation from the demand response provider ("DRP") that the energy consumer has performed under the applicable Regional Transmission Organization ("RTO") or Independent Service Operator ("ISO") program requirements. The energy consumer is either called to perform during an actual curtailment event or is required to demonstrate its ability to perform in a test event during the performance period. For PJM Interconnection ("PJM"), an RTO that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia, the performance period is June through September in a calendar year. Test results are submitted to PJM by the DRPs and the Company receives confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay the Company ratably on a quarterly basis throughout the demand response fiscal (June to May) year. As a result, a portion of the revenue the Company recognizes is reflected as unbilled accounts receivable.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where the Company's customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister. While substantially all wholesale transactions are accounted for in this fashion, a small percentage of the Company's wholesale revenue is accounted for as electricity or gas is delivered, similar to the retail electricity transaction methodology described above.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regulated allowance programs like the Regional Greenhouse Gas Initiative ("RGGI"), fees are paid by the lister and are recognized as revenue quarterly as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidder pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Channel Partner Commissions

The Company pays commissions to its channel partners at contractual rates based on monthly energy transactions between energy suppliers and energy consumers. The commission is accrued monthly and charged to sales and marketing expense as revenue is recognized. The Company pays commissions to its salespeople at contractual commission rates based upon cash collections from its customers.

Revenue Estimation

The Company's estimates in relation to revenue recognition affect revenue and sales and marketing expense as reflected on its consolidated statements of operations, and trade accounts receivable and accrued commission accounts as reflected on its consolidated balance sheets. For any quarterly reporting period, the Company may not have actual usage data for certain energy suppliers and will need to estimate revenue. Revenue is initially recorded based on the energy consumers' historical usage profile. At the end of each reporting period, the Company adjusts this historical profile to reflect actual usage for the period and estimate usage where actual usage is not available. For the year ended December 31, 2013, the Company estimated usage for approximately 9% of its revenue resulting in a negative 0.3%, or approximately $105,000, adjustment to decrease revenue. This decrease in revenue resulted in an approximate $16,000 decrease in sales and marketing expense related to third party commission expense associated with those revenues. Corresponding adjustments were made to trade accounts receivable and accrued commissions, respectively. A 1% difference between this estimate and actual usage would have an approximate $32,000 effect on the Company's revenue for the year ended December 31, 2013.

Energy Efficiency Services

The Company's Energy efficiency services segment is primarily project driven where the Company identifies efficiency measures that energy consumers can implement to reduce their energy usage. The Company presents retrofit opportunities to customers, get approval from them to proceed and submit the proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, the Company installs the equipment, typically new heating, ventilation or air conditioning equipment, or replace lighting fixtures to more efficient models. The Company recognizes revenues for energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), the Company utilizes the completed-contract method. The Company also assesses multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

Cash and Cash Equivalents

The Company considers all highly liquid debt instruments purchased with an original maturity of 90 days or less to be cash equivalents.

Concentration of Credit Risk and Off-Balance Sheet Risk

Financial instruments that potentially expose the Company to concentrations of credit risk consist principally of cash and trade accounts receivable. The Company has no material off-balance sheet risk such as foreign exchange contracts, option contracts, or other foreign hedging arrangements. The Company places its cash with primarily two institutions, which management believes are of high credit quality. As of December 31, 2013, all of the Company's cash is held in interest bearing accounts.

The Company provides credit in the form of invoiced and unbilled accounts receivable to customers in the normal course of business. Collateral is not required for trade accounts receivable, but ongoing credit evaluations of customers are performed. While the majority of the Company's revenue is generated from retail energy transactions where the winning bidder pays a commission to the Company, commission payments for certain auctions can be paid by the lister, customer or a combination of both. Management provides for an allowance for doubtful accounts on a specifically identified basis, as well as through historical experience applied to an aging of accounts, if necessary. Trade accounts receivable are written off when deemed uncollectible. To date write-offs have not been material.

The following represents revenue and trade accounts receivable from bidders exceeding 10% of the total in each category:

	Revenue for the year ended December 31,			Trade accounts receivable as of December 31,	
Bidder	**2013**	**2012**	**2011**	**2013**	**2012**
A	8%	9%	11%	10%	7%
B	12%	11%	13%	12%	11%
C	8%	7%	6%	10%	6%

In addition to its direct relationship with bidders, the Company also has direct contractual relationships with listers for the online procurement of certain of their energy, demand response or environmental needs. These listers are primarily large businesses and government organizations and do not have a direct creditor relationship with the Company. For the years ended December 31, 2013 and 2012, no energy consumer represented more than 10% individually of the Company's aggregate revenue.

Inventory

Inventory is maintained in the Company's Energy efficiency services segment and consists of prepaid expendables and project materials. Prepaid expendables represents consumable components that are used in project installations and are stated at the lower of cost or market, with cost being determined on a first-in, first-out (FIFO) basis. Historical inventory usage and current trends are considered in estimating both excess and obsolete inventory. To date, there have been no material write-downs of inventory and therefore no allowance for excess or obsolete inventory was recorded at December 31, 2013 and 2012. Project materials represent direct costs incurred on projects-in-process as of each reporting period.

Inventory consists of the following:

	December 31,	
	2013	**2012**
Prepaid expendables	$ 55,563	$ 32,419
Project materials	360,207	122,207
Total inventory	$ 415,770	$ 154,626

Property and Equipment

Property and equipment is stated at cost. Depreciation is provided on a straight-line basis over the estimated useful lives of the related assets or the life of the related lease, whichever is shorter, which range from 3 to 10 years.

Investment / Convertible Note Receivable

In 2010, the Company made a strategic investment in the form of a two-year $650,000 convertible note with Retroficiency, Inc. ("Retroficiency"). The convertible note accrued interest at 9% per annum with principal and interest due at the end of the term on July 22, 2012. It included optional and automatic conversion rights to convert into Retroficiency shares at $0.54 per share and was subject to adjustment in certain circumstances. During the fourth quarter of 2011, Retroficiency executed a qualified financing in the form of Series A Preferred Stock at a price in excess of the Company's conversion price and all principal and interest amounts outstanding under the convertible note receivable at the time of the financing were converted into Series A Preferred Stock. In March 2012, the Company sold its investment in Retroficiency at a premium to its carrying value. As a result, a gain of approximately $53,000 was recorded as other income in the accompanying consolidated statements of operations for the year ended December 31, 2012.

Other Assets

Certain acquired software and significant enhancements to the Company's software are capitalized in accordance with Accounting Standards Codification ("ASC") 350-40, "*Internal-Use Software*" ("ASC 350-40"). Internally developed software costs capitalized in 2013 amounted to $58,500. No internally developed software costs were capitalized in 2012 or 2011. The Company amortized internally developed and purchased software over the estimated useful life of the software (generally three years). During 2013, 2012 and 2011, approximately $2,000, $18,000 and $113,000 were amortized to cost of revenues, respectively. Accumulated amortization was approximately $1,223,000 and $1,221,000 at December 31, 2013 and 2012, respectively. Pre- and post- software implementation and configuration costs have historically been immaterial and charged to cost of revenue as incurred. In addition, $400,000 of certain long term prepaid partner payments are included in other assets at December 31, 2013, and $500,000 was included in the balance at December 31, 2012.

Intangible Assets

The Company uses assumptions in establishing the initial carrying value, fair value and estimated lives of its intangible assets. The criteria used for these assumptions include management's estimate of the asset's continuing ability to generate positive income from operations and positive cash flow in future periods compared to the carrying value of the asset, as well as the strategic significance of any identifiable intangible asset in the Company's business objectives. If assets are considered impaired, the impairment recognized is the amount by which the carrying value of the assets exceeds the fair value of the assets. Useful lives and related amortization expense are based on an estimate of the period that the assets will generate revenues or otherwise be used by the Company. Factors that would influence the likelihood of a material change in the Company's reported results include significant changes in the asset's ability to generate positive cash flow, a significant decline in the economic and competitive environment on which the asset depends and significant changes in the Company's strategic business objectives.

Intangible assets consist of customer relationships and contracts, purchased technology and other intangibles, and are stated at cost less accumulated amortization. Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which range from one to ten years.

Impairment of Long-Lived and Intangible Assets

In accordance with ASC 350, *"Intangibles – Goodwill and Other"* ("ASC 350"), the Company periodically reviews long-lived assets and intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable or that the useful lives of those assets are no longer appropriate. Recoverability of these assets is determined by comparing the forecasted undiscounted net cash flows of the operation to which the assets relate to the carrying amount. No impairment of the Company's long-lived assets was recorded as no change in circumstances indicated that the carrying value of the assets was not recoverable during the years ended December 31, 2013 and 2012.

Goodwill & Indefinite-Lived Intangible Assets

The Company uses assumptions in establishing the initial carrying value and fair value of its goodwill and indefinite-lived intangibles. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets of acquired businesses. Indefinite-lived intangibles are intangible assets whose useful lives are indefinite in that their lives extend beyond the foreseeable horizon – that is there is no foreseeable limit on the period of time over which it is expected to contribute to the cash flows of the reporting entity. The Company accounts for these items in accordance with ASC 350, under which goodwill and intangible assets having indefinite lives are not amortized but instead are assigned to reporting units and tested for impairment annually or more frequently if changes in circumstances or the occurrence of events indicate possible impairment.

The Company performs its annual impairment test at the end of the fourth fiscal quarter of each year, or earlier, if indicators of potential impairment exist. This impairment test is performed for each of its segments – Energy procurement and Energy efficiency services – which have been determined to be the Company's reporting units. The impairment test for goodwill and indefinite-lived intangibles is a three-step process. Step 0 gives entities the option of first performing a qualitative assessment to test for impairment on a reporting-unit-by-reporting-unit basis. If after performing the qualitative assessment, an entity concludes that it is more-likely-than-not ("MLTN", typically quantified as a likelihood of more than 50%) that the fair value of a reporting unit is less than its carrying amount, then the entity would perform a two-step impairment test. However, if, after applying the qualitative assessment, the entity concludes that it is not MLTN that the fair value is less than the carrying amount, the two step impairment test is not required. Step one consists of a comparison of the fair value of a reporting unit with its carrying amount, including the goodwill allocated to each reporting unit. If the carrying amount is in excess of the fair value, step two requires the excess of the carrying amount of the reporting unit's goodwill over the implied fair value of the reporting unit's goodwill to be recorded as an impairment loss. To determine the fair value of each of the reporting units as a whole, the Company uses a discounted cash flow analysis, which requires significant assumptions and estimates about the future operations of each reporting unit. Significant judgments inherent in this analysis include the determination of appropriate discount rates, the amount and timing of expected future cash flows and growth rates. The cash flows employed in the discounted cash flow analyses are based on financial forecasts developed by management. The discount rate assumptions are based on an assessment of the Company's risk adjusted discount rate, applicable for each reporting unit. In assessing the reasonableness of the determined fair values of the reporting units, the Company evaluates its results against its current market capitalization.

As of December 31, 2013 and 2012, the Company performed a step one analysis on both the energy procurement and energy efficiency services reporting units and determined that their indicated fair values substantially exceeded their carrying values. The Company relied on a weighted average cost of capital of 15.75% and 16.15% for each reporting unit as of December 31, 2013 and 2012, respectively, which takes into consideration certain specific small company premiums. The Company utilized a long-term growth rate of approximately 8% and 3% for the energy procurement and 15% and 20% efficiency services reporting units as of December 31, 2013 and 2012, respectively, and assumed a combined tax rate of 40% for both units and in both years.

As of December 31, 2013, the Company performed a step one analysis on the Company's indefinite-life intangibles related to its Energy efficiency services segment customer relationships. Indefinite-life was assigned to the Company's prime contractor relationships with the customer base in the Norwich Public ("Norwich") and United Illuminated ("UI") utility regions ("Prime") and the Company's relationships with the customer base within the Connecticut, Light and Power, UI and Norwich regions as a subcontractor ("Subcontractor") at the NES acquisition date. The fair value of both the Prime and Subcontractor relationships exceeded their carrying values. The Company relied on a weighted average cost of capital of 16.6% for the Prime relationship and 15.7% for the subcontractor relationship as of December 31, 2013, which takes into consideration certain specific small company premiums. The Company utilized a long-term growth rate of approximately 10% for both the Prime and Subcontractor relationships and assumed a combined tax rate of 40% for both. As of December 31, 2012, the Company performed a qualitative assessment of its indefinite-lived intangibles related to its Energy efficiency services segment customer relationships and determined that it was not likely that the fair value of a reporting unit was less than its carrying value.

Deferred Revenue and Customer Advances

Deferred revenue and customer advances arise when energy suppliers pay the Company a commission prior to the Company meeting all the requirements necessary to recognize revenue. Deferred revenue and customer advances expected to be recognized as revenue by year are approximately as follows:

		Amount
2014	$	3,546,000
2015		2,235,000
2016		1,143,000
2017		310,000
2018 and thereafter		222,000
Total deferred revenue and customer advances	$	7,456,000

The following table provides a rollforward of deferred revenue and customer advances:

		Amount
Balance at January 1, 2013	$	5,309,000
Cash received		4,362,000
Revenue recognized		(2,215,000)
Balance at December 31, 2013	$	7,456,000

Warranty

The Company's Energy efficiency services segment provides its customers a one year warranty for all parts and labor in its installation workmanship. The Company has determined primarily from historical information and management's judgment, that warranty costs are immaterial and no estimate for warranty cost is required at the time revenue is recognized. Should actual warranties differ from the Company's estimates, an estimated warranty liability would be required.

Income Taxes

In accordance with ASC 740, *"Income Taxes"* ("ASC 740"), deferred tax assets and liabilities are determined at the end of each period based on the future tax consequences that can be attributed to net operating loss carryforwards, as well as differences between the financial statement carrying amounts of the existing assets and liabilities and their respective tax basis. Deferred income tax expense or credits are based on changes in the asset or liability from period to period. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The realization of deferred tax assets is dependent upon the generation of future taxable income. In assessing the requirement of a valuation allowance, the Company considers past performance, expected future taxable income, and qualitative factors which the Company considers to be appropriate in estimating future taxable income. The Company's forecast of expected future taxable income is for future periods that can be reasonably estimated. Results that differ materially from current expectations may cause the Company to change its judgment on future taxable income and the necessity of a tax valuation allowance.

The Company has reviewed the tax positions taken, or to be taken, in its tax returns for all tax years currently open to examination by the taxing authority in accordance with ASC 740's recognition and measurement standards. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in the Company's consolidated financial statements. The Company accounts for interest and penalties related to uncertain tax positions as part of its provision for income taxes.

Stock-based Compensation

The Company recognizes the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. Stock-based awards to employees consisted of grants of stock options for the years ended December 31, 2013, 2012 and 2011 and grants of restricted stock for the years ended December 31, 2013 and 2012, respectively. The restrictions on the restricted stock lapse over the vesting period. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees.

The Company accounts for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. There were *no equity instruments granted to non-employees for the year ended December 31, 2013. For the years ended December 31, 2012 and* 2011 stock-based awards to non-employees consisted of grants of stock warrants. The vesting period of stock warrants granted ranged from one to seven years.

Leases

Rent under non-cancelable operating leases that include scheduled rent increases are accounted for on a straight-line basis over the lease term. Allowances and other lease incentives provided by the lessor are amortized on a straight-line basis as a reduction of rent expense. The difference between straight-line expense and rent paid is recorded as a deferred rent liability in the consolidated balance sheet.

Advertising Expense

Advertising expense primarily includes promotional expenditures and is expensed as incurred. Advertising expenses incurred were approximately $229,000, $205,000 and $144,000 for the years ended December 31, 2013, 2012 and 2011, respectively.

Comprehensive Income (Loss)

ASC 220, *"Comprehensive Income"* ("ASC 220"), establishes standards for reporting and displaying comprehensive (loss) income and its components in financial statements. Comprehensive (loss) income is defined as the change in stockholders' equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The comprehensive (loss) income for all periods presented consisted only of the reported net (loss) income.

Fair Value of Financial Instruments

The Company's financial instruments include cash and cash equivalents, accounts receivable, accounts payable, accrued expenses (including contingent consideration) and debt. The carrying amounts for these financial instruments reported in the consolidated balance sheets approximate their fair values.

Fair Value Measurements

The Company follows ASC 820, "*Fair Value Measurements and Disclosures*" ("ASC 820"), for fair value measurements. ASC 820 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The standard provides a consistent definition of fair value, which focuses on an exit price, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The standard also prioritizes, within the measurement of fair value, the use of market-based information over entity specific information and establishes a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

The hierarchy established under ASC 820 gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

> Level 1 — Pricing inputs are quoted prices available in active markets for identical investments as of the reporting date. As required by ASC 820-10, the Company does not adjust the quoted price for these investments, even in situations where the Company holds a large position and a sale could reasonably impact the quoted price.
>
> Level 2 — Pricing inputs are quoted prices for similar investments, or inputs that are observable, either directly or indirectly, for substantially the full term through corroboration with observable market data. Level 2 includes investments valued at quoted prices adjusted for legal or contractual restrictions specific to these investments.
>
> Level 3 — Pricing inputs are unobservable for the investment, that is, inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability. Level 3 includes investments that are supported by little or no market activity.

Segment Reporting

ASC 280, *"Segment Reporting"* ("ASC 280"), establishes standards for reporting information about operating segments in financial statements. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is the president and chief executive officer. The Company's chief operating decision maker reviews the results of operations based on two industry segments: Energy procurement and Energy efficiency services.

Recent Accounting Pronouncements

In July 2013, Accounting Standards Update ("ASU") 2013-11, *"Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists"* ("ASU 2013-11"), was issued which defines the presentation requirements of an unrecognized tax benefit, or a portion of an unrecognized tax benefit, in the financial statements. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2013. Early adoption is permitted and retrospective application is permitted but not required. The Company does not expect the application of this ASU to have an impact on its consolidated financial statements.

NOTE 3 — ACQUISITIONS

The Company accounts for acquisitions using the purchase method in accordance with ASC 805, "*Business Combinations.*" The results of operations of acquisitions have been included in the accompanying consolidated financial statements as of the dates of the acquisition. There were no acquisitions in 2013. Total cash paid for acquisitions was $8.1 million and $10.4 million in 2012 and 2011, respectively. The Company recognized $0.2 million and $0.7 million of total acquisition costs in 2012 and 2011, respectively, that were included in general and administrative expense in the accompanying consolidated statements of operations.

NEP

On October 3, 2012, the Company acquired substantially all of the assets and certain obligations of Northeast Energy Partners, LLC ("NEP") pursuant to an Asset Purchase Agreement (the "Asset Purchase Agreement") between the Company, NEP, and its members. NEP is a Connecticut based energy management and procurement company.

The acquisition-date fair value of the consideration transferred totaled approximately $12.1 million, which consisted of the following:

		Purchase Price
Cash	$	7,910,959
Notes payable to seller		2,000,000
Contingent consideration		2,219,000
Total consideration	$	12,129,959

The Company funded the initial $7.9 million cash portion of the purchase price through the issuance of long-term debt. See Note 15 "Credit Arrangements" for details of long-term debt.

The fair value of the Notes payable to seller was recorded at the face amount of the Notes entered into at the date of acquisition due to their short-term maturity and market rate of interest. The Notes payable to seller bears interest at 4%. On October 1, 2013, the Company paid the first installment of $1,500,000 against the Notes payable to seller. As of December 31, 2013, $500,000 was outstanding under the Notes payable to seller, which is due on April 1, 2014.

As part of the total consideration, NEP could have earned up to $3.2 million in contingent consideration if certain performance criteria were met for the twelve months ending September 30, 2013. This potential contingent consideration consisted of $2.5 million in cash and 153,153 shares of common stock. As of December 31, 2012, the Company valued this contingent payment at $2.2 million, which was recorded within current liabilities as accrued contingent consideration in the consolidated balance sheet. In measuring the fair value of the contingent consideration, the Company assigned probabilities to the performance criteria, based among other things on the nature of the performance criteria and the Company's due diligence performed at the time of the acquisition. On December 31, 2013 the Company paid $1.3 million in cash and issued 76,577 shares of common stock valued at $0.3 million which represented the final contingent consideration payment related to the acquisition. As a result, the Company recognized a $0.6 million reduction in general and administrative expense for the year ended December 31, 2013, eliminating the accrued contingent consideration related to this acquisition.

The following table summarizes the allocations of purchase price, which was finalized at December 31, 2012:

		Allocations
Unbilled accounts receivable	$	837,693
Fixed assets		26,765
Current liabilities		(415,078)
Intangible assets		7,820,000
Goodwill		3,860,579
Net assets acquired	$	12,129,959

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the comparative business valuation method and relief from royalty method. The goodwill recognized is attributable primarily to future revenue generation resulting from expected synergies, expanded product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years.

The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

		Fair Value	Weighted Average Lives
Customer contracts	$	2,500,000	4 years
Non-compete agreements		900,000	5 years
Customer relationships		4,000,000	10 years
Trade names		420,000	4 years
Total intangible assets	$	7,820,000	

GSE

On October 31, 2011, the Company acquired substantially all of the assets and certain obligations of GSE Consulting, L.P. ("GSE") for a maximum purchase price of $13.1 million. GSE is a Texas based energy management and procurement company. The purchase price was $8.6 million, consisting of $3.9 million in cash, $1.5 million in cash to pay off GSE debt, and 1.0 million shares of the Company's Common Stock valued at $3.2 million. In addition, GSE could earn up to $4.5 million of contingent consideration in cash based on the achievement of certain annualized new booking and renewal rate targets to be measured over a two-year period through October 2013.

The acquisition-date fair value of the consideration transferred totaled $12.9 million, which consisted of the following:

		Purchase Price
Cash	$	5,400,251
Common stock (1,000,000 shares)		3,210,000
Contingent consideration		4,328,000
Total consideration	$	12,938,251

The fair value of the 1,000,000 common shares issued was determined based on the closing market price of the Company's common shares on the acquisition date.

The fair value of the contingent consideration was based on the weighted probability of achievement of certain performance milestones. In measuring the fair value of the contingent consideration, the Company assigned probabilities to the performance criteria, based among other things on the nature of the performance criteria and the Company's due diligence performed at the time of the acquisition. The contingent consideration was tied to the achievement of certain performance criteria for the 3-month period ended December 31, 2011 ("2011 GSE contingent consideration"), the twelve month period ended October 31, 2012 ("2012 GSE contingent consideration") and the twelve month period ended October 31, 2013 ("2013 GSE contingent consideration"). The contingent consideration earns interest at 4% per annum, which is payable at each respective due date.

In January 2012, the Company paid $2.0 million to GSE representing full attainment of the 2011 GSE contingent consideration. In January 2013, the Company paid an additional $1.3 million to GSE representing its attainment of the annualized new booking target for the 2012 GSE contingent consideration. The renewal rate target for the 2012 GSE contingent consideration in the amount of $0.3 million was not attained but has been disputed by GSE. Based on management's estimates, the annualized new bookings target for the 2013 GSE contingent consideration was attained representing $0.8 million of the $1.0 million total potential contingent consideration payment for that period. The renewal rate target for the 2013 GSE contingent consideration representing a potential $0.3 million of the total payment was not attained but has been disputed by GSE. The Company's estimates are currently being reviewed by GSE. In addition, the agreement provided for a working capital adjustment tied to the collection of backlog during the 15-month period from November 1, 2011 through January 31, 2013, as defined in the purchase agreement. Based on management's estimate of the working capital adjustment, no payment has been made to GSE related to the 2013 GSE contingent consideration. GSE has disputed this calculation and the companies are currently in negotiations to determine a mutually acceptable settlement on all disputed items. As a result, the Company has estimated a $1.0 million accrual related to the 2012 and 2013 GSE contingent consideration which is included within current liabilities in the Company's consolidated balance sheets as of December 31, 2013.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

		Allocations
Current assets	$	8,698
Fixed assets		100,088
Other assets		15,030
Capital leases		(27,858)
Intangible assets		7,080,000
Goodwill		5,762,293
Net assets acquired	$	12,938,251

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the comparative business valuation method and the relief from royalty method. The goodwill recognized is attributable primarily to future revenue generation resulting from expected synergies, expanded product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.4 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

	Fair Value	Weighted Average Lives
Non-compete agreements	$ 1,280,000	5 years
Customer relationships	$ 3,480,000	10 years
Customer contracts	1,650,000	3 years
Trade names	670,000	4 years
Total intangible assets	$ 7,080,000	

NES

On October 13, 2011, the Company acquired substantially all of the assets and certain obligations of Northeast Energy Solutions, LLC ("NES") for a maximum purchase price of $4.8 million. NES, located in Cromwell, Connecticut, focuses on turn-key electrical and mechanical energy efficiency measures serving commercial, industrial and institutional customers.

The acquisition-date fair value of the consideration transferred totaled $4.6 million, which consisted of the following:

	Purchase Price
Cash	$ 1,004,131
Common stock (83,209 shares)	252,122
Notes payable to seller	3,000,000
Contingent consideration	357,813
Total consideration	$ 4,614,066

The fair value of the 83,209 common shares issued was determined based on the closing market price of the Company's common shares on the acquisition date.

The fair value of the Notes payable to seller was recorded at the face amount of the notes entered into at the date of acquisition due to their short-term maturity and market rate of interest. During 2012 the Company paid $3,000,000 in Notes payable to seller, including interest paid on each tranche at the respective due dates, and no amounts remained outstanding under these notes as of December 31, 2013 and December 31, 2012.

In January 2012 the Company paid $250,000 in NES contingent consideration. In March 2013, the Company paid $125,000 related to the NES contingent consideration representing the final payment related to the acquisition. There were no amounts outstanding as of December 31, 2013.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

	Allocations
Current assets	$ 1,875
Fixed assets	168,530
Capital leases	(53,709)
Intangible assets	2,962,500
Goodwill	1,534,870
Net assets acquired	$ 4,614,066

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the income approach and the cost replacement approach. The goodwill recognized is attributable primarily due to future revenue generation resulting from expanded product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.1 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

	Fair Value	Weighted Average Lives
Customer relationships	$ 991,600	9 years
Customer relationships - indefinite life	1,736,000	N/A
Non-compete agreements	234,900	5 years
Total intangible assets	$ 2,962,500	

Co-eXprise

On September 13, 2011, the Company acquired certain contracts and assumed certain liabilities of the Co-eXprise, Inc.'s (now called Directworks Inc. ("Directworks")) energy procurement business for $4.0 million in cash. Directworks, located in Wexford Pennsylvania, provides cloud-based software solutions purpose-built for manufacturers to improve supplier collaboration, total cost visibility, and the efficiency of sourcing and supplier management activities.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

	Allocations
Unbilled accounts receivable	$ 412,609
Current liabilities	(4,000)
Intangible assets	1,760,000
Goodwill	1,831,391
Net assets acquired	$ 4,000,000

The fair value of accounts receivable acquired on September 13, 2011 was approximately $413,000. The gross contractual amount of these accounts receivable was approximately $460,000, of which $47,000 was not expected to be collected. Actual collections exceeded the fair value of the unbilled accounts receivable at acquisition by $85,000, which has been recorded as a reduction in general and administrative expense for the year ended December 31, 2012.

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the income approach and cost approach. The goodwill recognized is attributable primarily to expected synergies of Co-eXprise and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.2 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

	Fair Value	Weighted Average Lives
Non-compete agreements	$ 170,000	5 years
Customer relationships	580,000	7 years
Customer contracts	1,010,000	2.5 years
Total intangible assets	$ 1,760,000	

Other Acquisitions

In December 2012 the Company acquired two additional businesses, primarily to expand its customer base in the procurement and efficiency markets. The total consideration of these acquisitions was $0.2 million. In allocating the total purchase consideration for these allocations based on estimated fair values, the Company recorded approximately $0.1 million of identifiable intangible assets which consisted of customer relationships with a weighted average life of one year.

The NES acquisition operating results have been included within the Company's Energy efficiency services segment since the date of acquisition. The Co-eXprise contracts and GSE and NEP operations were integrated into the Company's Energy procurement segment from the respective dates of acquisition and, therefore, discrete operating results are not maintained or reviewed by the Company's chief operating decision maker for those operations. The following unaudited pro forma information assumes that the acquisition of NEP had been completed as of the beginning of 2012:

	Years Ended December 31,	
	2012	2011
	(Unaudited)	(Unaudited)
Revenues	$ 35,783,527	$ 37,838,477
Net income	4,791,197	1,764,866
Net income per share:		
Net income per share – basic	$ 0.40	$ 0.15
Net income per share – diluted	$ 0.40	$ 0.15
Weighted average shares outstanding – basic	11,901,172	11,416,998
Weighted average shares outstanding – diluted	11,958,689	11,478,718

The pro forma financial information is not necessarily indicative of the results to be expected in the future as a result of the acquisitions of NEP, as the acquisition did not necessarily reflect the purchase of stand-alone or complete operations, and included several non-recurring revenue events.

NOTE 4 — GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill by business segment are as follows:

	Energy Procurement	Energy Efficiency Services	Total
Balance at January 1, 2012	$ 10,772,385	$ 1,534,870	$ 12,307,255
Goodwill acquired	3,860,579	-	3,860,579
Balance at December 31, 2012	14,632,964	1,534,870	16,167,834
Goodwill acquired	-	-	-
Balance at December 31, 2013	$ 14,632,964	$ 1,534,870	$ 16,167,834

Acquisition related intangible assets with finite lives related to the Company's Energy procurement segment are summarized as follows at December 31, 2013:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer contracts	1 - 4 years	$ 5,276,000	$ 3,017,000	$ 2,259,000
Customer relationships	7 - 10 years	12,800,000	4,568,000	8,232,000
Non-compete agreements	5 years	2,350,000	858,000	1,492,000
Trade names	4 years	1,090,000	494,000	596,000
Total		$ 21,516,000	$ 8,937,000	$ 12,579,000

Acquisition related intangible assets with finite lives related to the Company's Energy efficiency segment are summarized as follows at December 31, 2013:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer relationships	9 years	$ 992,000	$ 244,000	$ 748,000
Non-compete agreements	5 years	235,000	104,000	131,000
Total		$ 1,227,000	$ 348,000	$ 879,000

Acquisition related intangible assets with finite lives related to the Company's Energy procurement segment are summarized as follows at December 31, 2012:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer contracts	1 - 4 years	$ 5,276,000	$ 1,322,000	$ 3,954,000
Customer relationships	7 - 10 years	12,800,000	3,264,000	9,536,000
Non-compete agreements	5 years	2,350,000	388,000	1,962,000
Trade names	4 years	1,090,000	221,000	869,000
Total		$ 21,516,000	$ 5,195,000	$ 16,321,000

Acquisition related intangible assets with finite lives related to the Company's Energy efficiency segment are summarized as follows at December 31, 2012:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer relationships	9 years	$ 992,000	$ 134,000	$ 858,000
Non-compete agreements	5 years	235,000	57,000	178,000
Total		$ 1,227,000	$ 191,000	$ 1,036,000

As of December 31, 2013 and 2012, accompanying consolidated balance sheets also included acquisition related intangible assets with indefinite lives in the amount of $1,736,000 pertaining to customer relationships in its Energy efficiency segment, not reflected in the above tables.

Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which range from one to ten years. Amortization expense was approximately $3,899,000, $3,022,000 and $1,347,000 for the years ended December 31, 2013, 2012 and 2011, respectively. In addition, approximately $2.4 million of fully amortized intangible assets related to the Company's Energy procurement segment were removed from the 2012 presentation. The approximate future amortization expense of intangible assets is as follows:

2014	$ 3,369,000
2015	2,801,000
2016	2,416,000
2017	1,273,000
2018 and thereafter	3,599,000
	$ 13,458,000

NOTE 5 — TRADE ACCOUNTS RECEIVABLE, NET

The Company does not invoice bidders for the commissions earned on retail electricity, certain natural gas and demand response transactions and, therefore, reports a significant portion of its receivables as "unbilled." Unbilled accounts receivable represent management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates.

The Company generally invoices bidders for commissions earned on wholesale and a substantial portion of retail natural gas transactions as well as energy efficiency customers, which are reflected as billed accounts receivable. For natural gas and wholesale transactions, the total commission earned on these transactions is recognized upon completion of the procurement event and are generally due within 30 days of invoice date. For efficiency projects, revenue is recognized and invoiced upon project installation and acceptance, as required, and are generally due within 30 days of invoice date. In addition, the Company invoices the bidder, lister or combination of both for certain auctions performed for environmental commodity product transactions. These transactions are earned and invoiced either upon lister acceptance of the auction results or, in some cases, upon delivery of the credits or cash settlement of the transaction. For the years ended December 31, 2013 and 2012, the Company provided $150,000 and $103,857 as an allowance for doubtful accounts, respectively. To date, write-offs have not been material. Trade accounts receivable, net consists of the following:

	December 31, 2013	December 31, 2012
Unbilled accounts receivable	$ 6,070,227	$ 5,343,559
Billed accounts receivable	1,993,093	2,074,223
	8,063,320	7,417,782
Allowance for doubtful accounts	(325,179)	(175,179)
Trade accounts receivable, net	$ 7,738,141	$ 7,242,603

NOTE 6 — PROPERTY AND EQUIPMENT, NET

Property and equipment, net consists of the following:

	December 31,	
	2013	2012
Leasehold improvements	$ 126,740	$ 110,206
Equipment	874,613	774,199
Motor vehicles	95,534	121,616
Furniture and fixtures	681,945	630,057
	1,778,832	1,636,078
Less accumulated depreciation	(1,205,054)	(996,239)
Property and equipment, net	$ 573,778	$ 639,839

Depreciation expense for the years ended December 31, 2013, 2012 and 2011 was approximately $222,000, $217,000 and $147,000, respectively.

NOTE 7 — COMMON AND PREFERRED STOCK

Preferred Stock

The Company's Amended and Restated Certificate of Incorporation, as amended, authorizes 5,000,000 shares of $0.0001 par value undesignated preferred stock for issuance by the Company's board of directors. No preferred shares have been issued as of December 31, 2013 and 2012.

Common Stock

On October 31, 2011, the Company issued 1.0 million shares of common stock of the Company (equal to approximately $3.2 million) pursuant to an Asset Purchase Agreement between the Company, GSE, Glenwood Energy Partners, Ltd. and Gulf States Energy, Inc.

On October 13, 2011, the Company issued 83,209 shares of common stock of the Company (equal to approximately $0.3 million) to the Members of NES pursuant to an Asset Purchase Agreement between the Company, NES and the Members of NES.

In April 2010, the Company filed an S-3 registration statement with the Securities and Exchange Commission, or SEC, using a "shelf" registration, or continuous offering, process. Under this shelf registration process, the Company may, from time to time, issue and sell any combination of preferred stock, common stock or warrants, either separately or in units, in one or more offerings with a maximum aggregate offering price of $20,000,000, including the U.S. dollar equivalent if the public offering of any such securities is denominated in one or more foreign currencies, foreign currency units or composite currencies. On April 11, 2011, the Company issued approximately 1.5 million shares of common stock utilizing this shelf registration to several accredited institutional investors at $3.60 per share yielding proceeds of approximately $5.3 million, net of $0.2 million of expenses.

Treasury Stock

In connection with the vesting of restricted stock granted to employees the Company withheld shares with value equivalent to employees' minimum statutory obligation for the applicable income and other employment taxes, and remitted the cash to the appropriate taxing authorities. The total shares withheld of 9,091 and 643 for the years ended December 31, 2013 and 2012, respectively, were based on the value of the restricted stock on their vesting date as determined by the Company's closing stock price. Total payment for employees' tax obligations was approximately $35,000 and $3,000 for the years ended December 31, 2013 and 2012, respectively. These net-share settlements had the effect of share repurchases by the Company as they reduced the number of shares that would have otherwise been issued as a result of the vesting and did not represent an expense to the Company.

Common Stock Warrants

On October 3, 2012, the Company issued warrants to Silicon Valley Bank ("SVB") for the purchase of 45,045 shares of the Company's common stock at a per share price of $4.44 in connection with a Fourth Loan Modification Agreement (the "Fourth Modification Agreement") with SVB. The warrants have a seven year life.

The following table summarizes the Company's warrant activity:

	Shares	Weighted Average Exercise Price
Warrants outstanding, January 1, 2011	64,500	$ 3.03
Granted	300,000	$ 3.00
Exercised	-	$ -
Canceled/expired	-	$ -
Warrants outstanding, December 31, 2011	364,500	$ 3.00
Granted	45,045	$ 4.44
Exercised	(60,000)	$ 3.01
Canceled/expired	(300,000)	$ 3.00
Warrants outstanding, December 31, 2012	49,545	$ 4.33
Granted	-	$ -
Exercised	-	$ -
Canceled/expired	-	$ -
Warrants outstanding, December 31, 2013	49,545	$ 4.33

The weighted average remaining contractual life of warrants outstanding is 5.35 years as of December 31, 2013.

NOTE 8 — EMPLOYEE BENEFIT PLANS

Stock Options

The Company has one stock incentive plan: the 2006 Stock Incentive Plan, or the 2006 Plan. The Company formerly had an additional 2003 Stock Incentive Plan, or the 2003 Plan, which is no longer active at December 31, 2013. At the Company's Annual Meeting on May 17, 2012, an amendment to the 2006 Plan was approved to increase the number of shares of common stock covered by the 2006 Plan by 800,000 shares from 873,816 to 1,673,816. As of December 31, 2013, 1,282,437 shares of common stock were reserved under the 2006 Plan representing 745,917 outstanding stock options, 202,000 shares of restricted stock outstanding and 334,520 shares available for grant.

A summary of stock option activity under both plans for the years ended December 31, 2013, 2012 and 2011 are as follows:

	Shares	Weighted Average Exercise Price
Outstanding at January 1, 2011	704,906	$ 3.96
Granted	135,000	$ 3.15
Canceled	(55,687)	$ 3.41
Exercised	(76,938)	$ 1.16
Outstanding at December 31, 2011	707,281	$ 4.15
Granted	221,600	$ 4.03
Canceled	(58,324)	$ 5.06
Exercised	(69,813)	$ 2.83
Outstanding at December 31, 2012	800,744	$ 4.17
Granted	150,850	$ 3.64
Canceled	(143,802)	$ 6.48
Exercised	(61,875)	$ 3.23
Outstanding at December 31, 2013	745,917	$ 3.69

A summary of common stock options outstanding and common stock options exercisable as of December 31, 2013 is as follows:

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Options	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value	Number of Shares Exercisable	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value
$2.00 - $3.11	175,992	3.64 Years	$ 272,525	135,070	3.48 Years	$ 218,135
$3.12 - $3.30	201,025	3.35 Years	217,769	170,838	3.07 Years	184,572
$3.31 - $3.81	234,300	6.10 Years	145,437	45,200	5.71 Years	19,905
$3.82 - $13.40	134,600	4.71 Years	11,137	47,646	2.14 Years	833
	745,917	4.53 Years	$ 646,868	398,754	3.40 Years	$ 423,445

The aggregate intrinsic value of options exercised during the year ended December 31, 2013 was approximately $50,000. At December 31, 2013, the weighted average exercise price of common stock options outstanding and exercisable was $3.69 and $3.72, respectively.

Restricted Stock

A summary of restricted stock activity for the years ended December 31, 2013, 2012 and 2011 are as follows:

	Shares	Weighted Average Grant Price
Outstanding at January 1, 2011	13,828	$ 10.10
Granted	11,143	$ 3.14
Canceled	(2,250)	$ 10.76
Vested	(20,865)	$ 6.56
Outstanding at December 31, 2011	1,856	$ 7.28
Granted	130,498	$ 3.39
Canceled	-	$ -
Vested	(12,331)	$ 4.55
Outstanding at December 31, 2012	120,023	$ 3.33
Granted	123,578	$ 3.80
Canceled	-	$ -
Vested	(41,601)	$ 3.56
Outstanding at December 31, 2013	202,000	$ 3.57

401(k) Plan

The Company's 401(k) savings plan covers the majority of the Company's eligible employees. Employees of the Company may participate in the 401(k) Plan after reaching the age of 21. The Company may make discretionary matching contributions as determined from time to time. Employee contributions vest immediately, while Company matching contributions begin to vest after one year of service and continue to vest at 20% per year over the next five years. To date, the Company has not made any discretionary contributions to the 401(k) Plan.

NOTE 9 — EARNINGS (LOSS) PER SHARE

As of December 31, 2013, 2012 and 2011, the Company only had one issued and outstanding class of stock – common stock. As a result, the basic earnings or loss per share for the years ended December 31, 2013, 2012 and 2011 is computed by dividing net (loss) income by the weighted average number of common shares outstanding for the period.

The following table provides a reconciliation of the denominators of the Company's reported basic and diluted earnings per share computation for the years ended December 31, 2013, 2012 and 2011, respectively:

	Years Ended December 31,		
	2013	2012	2011
Weighted number of common shares - basic	11,998,019	11,901,172	10,521,910
Common stock options	-	21,348	-
Common stock warrants	-	22,653	-
Unvested restricted stock	-	13,516	-
Total common stock equivalents	11,998,019	11,958,689	10,521,910

The computed loss per share does not assume conversion, exercise, or contingent exercise of securities that would have an anti-dilutive effect on loss per share. As the Company was in a net loss position for the years ended December 31, 2013 and 2011, all common stock equivalents in those years were anti-dilutive.

For the year ended December 31, 2013, 745,917, 49,545 and 202,000 shares issuable relative to common stock options, common stock warrants and restricted stock, respectively, were excluded from net loss per share since the inclusion of such shares would be anti-dilutive. For the year ended December 31, 2012, 713,301 and 45,045 shares issuable relative to common stock options and common stock warrants, respectively, were excluded from net loss per share since the inclusion of such shares would be anti-dilutive. For the year ended December 31, 2011, 707,281, 364,500 and 1,856 shares issuable relative to common stock options, common stock warrants and restricted stock, respectively, were excluded from net loss per share since the inclusion of such shares would be anti-dilutive. The Company did not declare or pay any dividends in 2013, 2012 and 2011.

NOTE 10 — STOCK-BASED COMPENSATION

For the year ended December 31, 2013, share based awards consisted of grants of stock options and restricted stock, for the year ended December 31, 2012, share based awards consisted of grants of stock options, restricted stock and stock warrants and for the year ended December 31, 2011 share based awards consisted of grants of stock options and stock warrants. The Company recognizes the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees. The restrictions on the restricted stock lapse over the vesting period, which is typically four years. The per-share weighted-average fair value of stock options granted during the years ended December 31, 2013, 2012 and 2011 was \$2.37, \$2.80 and \$2.20, respectively, on the date of grant, using the Black-Scholes option-pricing model with the following weighted-average assumptions:

Year Ended December 31,	Expected Dividend Yield	Risk-Free Interest Rate	Expected Life	Expected Volatility
2013	0%	1.21%	4.75 years	84%
2012	0%	0.71%	4.75 years	94%
2011	0%	0.89%	4.75 years	99%

The per-share weighted-average fair value of stock warrants granted during the years ended December 31, 2012 and 2011 was \$3.10 and \$0.72, respectively, on the date of grant, using the Black-Scholes option-pricing model with the following weighted-average assumptions:

Year Ended December 31,	Expected Dividend Yield	Risk-Free Interest Rate	Expected Life	Expected Volatility
2012	0%	0.61%	7.00 years	94%
2011	0%	0.12%	0.63 years	60%

The Company elected to use the Black-Scholes option pricing model to determine the weighted average fair value of options and warrants granted. The Company determined the volatility for stock options based on the reported closing prices of the Company's stock. The expected life of stock options has been determined utilizing the "simplified" method as prescribed by the SEC's Staff Accounting Bulletin No. 107, *"Stock-based Payment"*. The expected life of stock warrants is based on the contract term of the warrants. The risk-free interest rate is based on a treasury instrument whose term is consistent with the expected life of the stock options and stock warrants. The Company has not paid and does not anticipate paying cash dividends on its common stock; therefore, the expected dividend yield is assumed to be zero. In addition, ASC 718, *"Compensation – Stock Compensation"* ("ASC 718"), requires companies to utilize an estimated forfeiture rate when calculating the expense for the period. As a result, the Company applied estimated forfeiture rates to unvested stock-based compensation of 10% for stock options and restricted stock for the years ended December 31, 2013, 2012 and 2011, respectively, in determining the expense recorded in the accompanying consolidated statements of operations. The Company did not apply an estimated forfeiture rate to unvested stock-based compensation for stock warrants for the years ended December 31, 2013, 2012 and 2011, in determining the expense recorded in the accompanying consolidated statements of operations.

The approximate total stock-based compensation expense for the periods presented is included in the following expense categories:

	Years Ended December 31,		
	2013	2012	2011
Cost of revenue	$ 89,000	$ 79,000	$ 69,000
Sales and marketing	249,000	207,000	356,000
General and administrative	262,000	180,000	185,000
Total stock-based compensation	$ 600,000	$ 466,000	$ 610,000

As of December 31, 2013, there was approximately $1,380,000 of unrecognized compensation expense related to stock-based awards, including approximately $810,000 related to non-vested stock option awards that is expected to be recognized over a weighted-average period of 2.42 years and approximately $570,000 related to non-vested restricted stock awards that is expected to be recognized over a weighted average period of 2.58 years. See Note 8 to the accompanying consolidated financial statements for a summary of activity under the Company's stock-based employee compensation plans for the years ended December 31, 2013, 2012 and 2011.

The Company accounts for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. During 2012, the Company issued warrants to SVB for the purchase of 45,045 shares of the Company's common stock in conjunction with a Fourth Loan Modification Agreement (the "Fourth Modification Agreement"). As a result of the warrants issued to SVB, the Company recognized a debt discount of approximately $140,000, of which approximately $130,000 was unamortized and recorded against long term debt on the Company's December 31, 2012 consolidated balance sheet, and approximately $10,000 was recorded as interest expense in the consolidated statement of operations for the year ended December 31, 2012. As a result of the extinguishment of the SVB loan during 2013, the Company expensed the remaining unamortized debt discount to interest expense in the amount of approximately $130,000 (See Note 15). During 2011, stock warrants were granted for 300,000 shares of common stock to consultants in consideration for services performed, for which the Company recognized a charge of approximately $19,000 and $197,000 to sales and marketing expense in the consolidated statement of operations for the years ended December 31, 2012 and 2011, respectively. During 2010, stock warrants were granted for 64,500 shares of common stock to consultants in consideration for services performed, for which the Company recognized a charge of approximately $4,000 to general and administrative expense in the consolidated statement of operations for the year ended December 31, 2011.

NOTE 11 — RELATED PARTIES

In 2012, the Company entered into an agreement to lease a facility in Enfield CT, used to support its operations related to its acquisition of NEP. The facility is owned by a real estate holding company owned equally by the former owners of NEP. The managing member of the holding company is an employee of the Company. Rent paid by the Company to this real estate holding company amounted to approximately $120,000 and $29,000 in 2013 and 2012, respectively.

Pursuant to the Company's 2012 acquisition of assets and certain liabilities of NEP, the Company issued Notes payable to seller and contingent consideration as part of the purchase price. Subsequent to the acquisition, one of the owners of NEP became an employee of the Company, while retaining an indirect interest in purchase consideration due to NEP. The first installment of Notes payable to NEP in the amount of $1,500,000 was paid in October 2013, with the remaining amount of $500,000 due in April 2014 and reflected in the Company's December 31, 2013 consolidated balance sheet as a current liability. Additionally, approximately $66,000 and $20,000 of interest expense related to the notes payable was reflected in the Company's consolidated statements of operations for the years ended December 31, 2013 and 2012, respectively. Contingent consideration, valued at approximately $1,575,000 and consisting of a cash payment of $1,250,000 and an issuance of 76,577 shares of the Company's common stock related to this acquisition, was paid in December 2013. There were no further payments due related to contingent consideration for the NEP acquisition.

Pursuant to the Company's 2011 acquisition of assets and certain liabilities of NES, the Company issued notes payable to the sellers and contingent consideration as part of the purchase price. Subsequent to the acquisition the three Members of NES became employees of the Company, while retaining an interest in purchase consideration due NES. Accrued contingent consideration of $120,312 related to the NES acquisition was reflected as a liability in the Company's December 31, 2012 consolidated balance sheet. Additionally, approximately $113,000 and $32,000 of interest expense related to the notes was reflected in the Company's accompanying consolidated statements of operations for the year ended December 31, 2012 and 2011, respectively. The Company's obligations related to the notes and contingent consideration for the NES acquisition had been completed as of December 31, 2013.

NOTE 12 — INCOME TAXES

Provisions for the Company's income taxes for the three years ended December 31 were as follows:

	2013	2012	2011
Current:			
Federal	$ -	$ 62,393	$ 35,868
State	-	23,464	14,623
	-	85,857	50,491
Deferred:			
Federal	(960,674)	(6,569,461)	73,937
State	337,600	(995,532)	13,796
	(623,074)	(7,564,993)	87,733
	$ (623,074)	$ (7,479,136)	$ 138,224

The components of the Company's net deferred tax asset are as follows:

	December 31,	
	2013	2012
Depreciation and amortization	$ 2,210,308	$ 1,417,642
Goodwill and indefinite lived intangible assets	(830,251)	(422,892)
Acquisition costs	302,538	303,605
Accruals and reserves	1,692,143	1,882,888
Alternative minimum tax credits	106,910	106,910
Other tax credits	-	(87,733)
Net operating loss carryforwards	4,618,686	4,276,840
	8,100,334	7,477,260
Valuation allowance		
Deferred tax asset	$ 8,100,334	$ 7,477,260

In the Company's December 31, 2013 consolidated balance sheet, approximately $0.9 million of the Company's deferred tax asset was included with current assets and approximately $7.2 million of the Company's deferred tax asset was included with non-current assets.

Pursuant to ASC 740, management has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets, which are comprised principally of net operating loss carryforwards and other temporary differences. During the years ended December 31, 2013 and 2012, management concluded that it was more likely than not that the Company will recognize all of its deferred tax assets. During 2012, the Company released its valuation allowance which resulted in the recognition of a cumulative tax benefit of approximately $7.5 million. The Company continually evaluates additional facts representing both positive and negative evidence in the determination of the realizability of the deferred tax assets, including scheduling of deferred tax liabilities and projected taxable income. The underlying assumptions used in forecasting future taxable income requires significant judgment and take into account all available evidence, including past operating results and recent performance. The positive evidence considered was the most recent three years of cumulative taxable income, projected future taxable income, the length of carryforward periods of net operating losses and tax credits and current operating results. In addition, the Company has utilized $5.7 million of federal net operating loss carryforwards over the last four years. The primary negative evidence considered was the Company's previous history of cumulative pre-tax losses, its limited experience in the Energy efficiency business and its current year pre-tax loss. Management has considered the weight of all available evidence in determining whether a valuation allowance was required and concluded the weight of the positive evidence was greater than the negative evidence making it more likely than not that the Company will recognize its deferred tax assets.

A reconciliation of the Company's federal statutory tax rate to its effective rate is as follows:

	Years Ended December 31,		
	2013	2012	2011
Income tax at federal statutory rate	(34.0%)	(34.0%)	34.0%
Increase (decrease) in tax resulting from:			
State taxes, net of federal benefit	(4.0)	(4.0)	4.0
Stock-based compensation	5.3	6.2	151.5
Tax impact of indefinite lived intangible assets not amortized for book purposes	0.0	0.0	95.6
Expiration of net operating loss carryforwards	12.4	0.0	0.0
Utilization of valuation allowance	0.0	28.5	0.0
Change in valuation allowance	0.0	(345.7)	(260.1)
Alternative minimum tax requirement	0.0	3.9	55.0
Other permanent items	(0.9)	3.3	70.7
	(21.2%)	(341.8%)	150.7%

As of December 31, 2013, the Company has federal net operating loss carryforwards of approximately $13.4 million which begin to expire in 2027, and state net operating loss carryforwards of approximately $1.8 million, which begin to expire in 2014. During 2013, approximately $0.4 million of state net operating loss carryforwards expired.

The Company files income tax returns in the U.S. federal jurisdiction and in various states. The Company has reviewed the tax positions taken, or to be taken, in its tax returns for all tax years currently open to examination by the taxing authorities. With few exceptions, the Company is no longer subject to U.S. federal, state and local income tax examination by tax authorities for years before 2010. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in the consolidated financial statements.

Under the provisions of the Internal Revenue Code, certain substantial changes in the Company's ownership may have limited or may limit in the future the amount of net operating loss carryforwards which could be utilized annually to offset future taxable income and income tax liabilities. The amount of any annual limitation is determined based upon the Company's value prior to an ownership change. The Company performed an internal analysis with the guidance of its third party tax adviser and determined that ownership changes that have occurred primarily in connection with stock offerings or in connection with acquisitions when the Company issued stock to the sellers have not limited the Company's ability to fully utilize its net operating loss carryforwards.

NOTE 13 — FAIR VALUE MEASUREMENT AND FAIR VALUE OF FINANCIAL INSTRUMENTS

Assets and liabilities of the Company measured at fair values on a recurring basis as of December 31, 2013 and 2012 are summarized as follows:

	December 31, 2013	Level 1	Level 2	Level 3
Liabilities				
Contingent consideration	$ 1,000,000	$ -	$ -	$ 1,000,000
Total Liabilities	$ 1,000,000	$ -	$ -	$ 1,000,000

	December 31, 2012	Level 1	Level 2	Level 3
Liabilities				
Contingent consideration	$ 4,759,257	$ -	$ -	$ 4,759,257
Debt discount	(129,587)	-	(129,587)	-
Total Liabilities	$ 4,629,670	$ -	$ (129,587)	$ 4,759,257

The Company determines the fair value of acquisition-related contingent consideration based on assessment of the probability that the Company would be required to make such future payment. Management assigns probabilities to each level of attainment and weights those probabilities to determine the amount to accrue at each reporting period. As the contingent consideration was based on financial or operational performance, management monitors performance against target and estimates future performance based on current forecasts. At December 31, 2013, all performance periods had concluded and calculations were based on actual performance. The final payment related to the NEP contingent consideration was made on December 31, 2013. Total adjustments made were to decrease fair value by $0.7 million. At December 31, 2013, the remaining contingent consideration balance represents management's estimate of the amount that is expected to be paid to GSE in settlement of all contingent consideration amounts outstanding. The net result was a $0.1 million reduction in accrued contingent consideration. Changes to the fair value of contingent consideration are recorded in general and administrative expense. The following table provides a rollforward of the fair value, as determined by level 3 inputs, of the contingent consideration.

	Years Ended December 31,	
	2013	2012
Beginning balance	$ 4,759,257	$ 4,739,982
Additions	-	2,219,000
Payments	(3,010,998)	(2,250,000)
Change in fair value included in earnings	(788,259)	(50,000)
Accrued interest	40,000	100,275
Ending balance	$ 1,000,000	$ 4,759,257

The year-end carrying amounts and fair values of the Company's debt obligations are as follows:

	2013		2012	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Long-term debt, net of debt discount	$ 6,000,000	$ 6,000,000	$ 6,370,413	$ 6,370,413
Debt discount	-	-	129,587	129,587
Subordinated notes payable	4,000,000	4,000,000	4,000,000	4,000,000
Related party subordinated notes payable	500,000	500,000	2,000,000	2,000,000
Total debt obligations	$ 10,500,000	$ 10,500,000	$ 12,500,000	$ 12,500,000

The carrying amount for fixed rate long-term debt and variable rate long-term debt approximate fair value because the underlying instruments are primarily at current market rates available to the Company for similar borrowings. The interest rate on the Commerce Bank and Trust Company ("Commerce") debt is tied to the prime rate and will fluctuate with changes in that rate. Related party notes payable are classified as short-term on the Company's accompanying consolidated balance sheets.

NOTE 14 — COMMITMENTS AND CONTINGENCIES

Leases

On June 25, 2012, the Company relocated its corporate headquarters to 100 Front Street, Worcester, MA. In connection with this move, the Company entered into a ten-year lease for 12,000 square feet of office space at a rate comparable to rates paid under its former corporate office lease. The average annual rental commitment under this lease is approximately $320,000.

The Company maintains operating leases for office space in nine locations in the U.S., paid in installments due the beginning of each month and that expire through May 2022. Future aggregate minimum payments under office space operating leases as of December 31, 2013 were as follows:

	Amount
2014	$ 670,028
2015	664,540
2016	634,160
2017	605,514
2018 and thereafter	1,715,592
Total future minimum lease payments	$ 4,289,834

The accompanying consolidated statements of operations for the years ended December 31, 2013, 2012, and 2011 includes approximately $896,000, $742,000 and $443,000 of office rent expense, respectively. Rent expense associated with office leases is recognized on a straight-line basis, inclusive of scheduled rent increases and allowances, over the term of the lease agreements which resulted in a deferred rent liability of $217,000 and $150,000 as of December 31, 2013 and 2012, respectively. In addition, the Company maintained leases for office equipment for which approximately $16,000 was charged to the accompanying consolidated statement of operations for the year ended December 31, 2013, and approximately $32,000 of future minimum lease payments will be incurred through 2018.

Future aggregate minimum payments under this operating lease are as follows:

		Amount
2014	$	120,150
2015		120,150
2016		120,150
2017		90,113
Total future minimum lease payments	$	450,563

Litigation

Three former employees/consultants of GSE Consulting, LP ("GSE") have filed three separate complaints in Texas County Court alleging, among other things, claims related to breach of contract, quantum meruit, promissory estoppel, and tortious interference. Each plaintiff claims that GSE and/or the Company failed to pay commissions due for services that they provided prior to the date of the Company's purchase of certain GSE assets, based on their respective employment or independent contractor agreements with GSE. Each plaintiff has also asserted claims for recovery of their attorneys' fees. The Company denies the allegations and has filed counterclaims for damages, asserting claims for conversion, unjust enrichment, misappropriation of confidential information, and violation of the Texas Theft Liability Act against each of the plaintiffs. The Company has also filed a counterclaim against one of the plaintiffs for her breach of a non-competition and non-solicitation agreement, based on her working for a competitor of the Company's during her 1-year restrictive period and her improper solicitation of former GSE customers on behalf of the competitor. The Company also filed cross claims against GSE for indemnification under the Asset Purchase Agreement in each of the three cases. In two of these cases, the Plaintiffs have asserted claims against GSE affiliates and their individual principals. The GSE affiliates and principals have also asserted cross claims against the Company seeking indemnification under the Asset Purchase Agreement. In December 2013, GSE amended its cross claims in one of the matters to include claims asserting breaches of the earnout provisions in the Asset Purchase Agreement. Also, in December 2013, the Company entered into mediation discussions with one of the plaintiffs. As a result, the Company agreed to pay the plaintiff a settlement that is subject to a confidentiality clause. The settlement amount was not material to the Company's consolidated operating results or financial position and was accrued as of December 31, 2013. In return, the plaintiff agreed to drop all claims against the Company including all claims related to commissions due for past service. The settlement agreement was signed and filed with the court in January 2014. The Court assigned a trial date of May 5, 2014 for the cross claims remaining in the matter. Discovery has concluded in the remaining two matters and the court has assigned a trial date of September 29, 2014 for one of the cases. The remaining case is awaiting assignment of a trial date. The Company is awaiting a decision on its motion for summary judgment seeking dismissal of all claims against one of the two remaining plaintiffs, and is in the process of filing a motion for summary judgment against the other plaintiff.

The Company has estimated the potential commissions allegedly due to the two remaining plaintiffs to be approximately $0.3 million. The Company has not recorded any accrual for contingent liabilities associated with the legal proceedings described above based on its belief that any potential loss, while reasonably possible, is not probable. The Company intends to defend these actions vigorously and is currently unable to estimate a range of payments, if any, it may be required to pay, with respect to these claims. Further, the Company believes that the resolution of these matters will not result in a material effect to its consolidated financial statements. However, due to uncertainties that accompany litigation of this nature, there could be no assurance that the Company will be successful, and the resolution of the lawsuits could have a material effect on its accompanying consolidated financial statements.

From time to time, the Company may be subject to legal proceedings and claims arising from the conduct of its business operations, including litigation related to employment matters. While it is impossible to ascertain the ultimate legal and financial liability with respect to contingent liabilities, including lawsuits, management believe that the aggregate amount of such liabilities, if any, will not have a material adverse effect on the consolidated financial position and/or results of operations. It is possible, however, that future financial position or results of operations for any particular period could be materially affected by changes in the Company's assumptions or strategies related to those contingencies or changes out of its control.

NOTE 15 — CREDIT ARRANGEMENTS

Credit Facility

On December 30, 2013, the Company entered into a Loan and Security Agreement (the "Agreement") with Commerce that replaced the Company's former $9.0 million credit facility with SVB. Under the Agreement, Commerce has committed to a three year revolving credit facility of up to $2.5 million (the "Revolver") and a 60-month term loan of $6.0 million (the "Term Loan"). The former SVB credit facility was a $9.0 million credit facility consisting of a $6.5 million term note and a $2.5 million line-of-credit. The Company utilized the proceeds from the Term Loan to retire the former SVB facility in the amount of $4.5 million, including interest and fees, with the remainder to be utilized for working capital purposes. The SVB facility was paid off in full as of December 31, 2013. As a result of the extinguishment of the SVB credit facility, the Company recorded a loss on extinguishment in the amount of $128,000 primarily related to the unamortized debt discount that is included as part of interest expense in the accompanying consolidated statement of operations for the year end December 31, 2013.

The Revolver bears interest at the Prime Rate plus 1.75% (totaling 5% at December 30, 2013), and is adjusted every six months for any change in the Prime Rate. In addition to changes in the Prime Rate, the rate can be reduced by up to .50% based on certain EBITDA achievement levels. Under the Revolver, the Company may borrow, repay and re-borrow an amount not to exceed the lesser of $2,500,000 or the total of 80% of eligible billed and unbilled accounts receivable (less the aggregate outstanding on any letters of credit). There were no borrowings under the Revolver as of and for the year ended December 31, 2013. The Term Loan bears interest for the first 6 months at the Prime Rate plus 2.75% (totaling 6% at December 31, 2013), and is adjusted every six months for any change in the Prime Rate. In addition to changes in the Prime Rate, the rate can be reduced by up to .50% based on certain EBITDA achievement levels. The Term Loan may be prepaid without penalty at any time. The Term Loan is interest only for six months followed by 54 principal and interest payments commencing on July 30, 2014 with a balloon payment for any remaining principal balance at maturity.

The Commerce credit facility is secured by a first priority perfected security interest in substantially all of the Company's assets and all of the assets of World Energy Securities Corp. The current indebtedness to Massachusetts Capital Resource Company ("MCRC") is subordinated to the Commerce credit facility. The Loan and Security Agreement contains certain affirmative and negative covenants including a minimum Debt Service Coverage Ratio and financial reporting requirements.

In conjunction with its former SVB credit facility, the Company issued warrants to SVB to purchase 45,045 shares of the Company's common stock with an expiration date of October 2, 2019. The Company accounted for the issuance of warrants in accordance with the guidance prescribed in the ASC Topic 470-20, "*Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants*" ("ASC 470-20"). In accordance with ASC 470-20, the value of the stock purchase warrants was considered an Original Issue Discount ("OID") which was required to be amortized over the life of the note as interest expense with a corresponding credit to long-term debt. The unamortized debt discount at December 31, 2012 was approximately $130,000. The debt discount was fully amortized at December 31, 2013 in conjunction with the Company's retirement of the SVB credit facility and included as part of interest expense in the accompanying consolidated statement of operations for the year ended December 31, 2013. The amortization and write-down of unamortized debt discount of approximately $130,000 was included as part of interest expense for the year ended December 31, 2013. For the year ended December 31, 2012, the amortization of debt discount was approximately $10,000, and was included as part of interest expense.

Subordinated Note

On October 3, 2012, the Company entered into a Note Purchase Agreement with MCRC, in which the Company entered into an 8-year, $4 million Subordinated Note due 2020 with MCRC (the "MCRC Note"). The MCRC Note bears interest at 10.5% and is interest only for the first four years followed by 48 equal principal payments commencing October 31, 2016. The Company must pay a premium of 3% if it prepays the MCRC Note before October 1, 2014 and a 1% premium if it prepays the MCRC Note before October 1, 2015. The MCRC Note is subordinated to the Company's credit facility with Commerce Bank and contains a consolidated net earnings available for interest charges to interest charges covenant, as adjusted, of not less than one-to-one that the Company was not in compliance with as of December 31, 2013. Subsequent to December 31, 2013, MCRC waived the non-compliance with this covenant and entered into a new Minimum Fixed Charge Ratio covenant commencing in the first quarter of 2014. As a result, the MCRC Note has been classified as long-term as of December 31, 2013.

Aggregate gross principal maturities of debt by year are as follows:

		Total
2014	$	978,000
2015		1,131,000
2016		1,451,000
2017		2,277,000
2018 and thereafter		4,663,000
Total	$	10,500,000

NOTE 16 — SEGMENT REPORTING

The Company operates the business based on two industry segments: Energy procurement and Energy efficiency services. The Company delivers its Energy procurement services to four markets: retail energy, wholesale energy, demand response and environmental commodity. The Energy procurement process is substantially the same regardless of the market being serviced and is supported by the same operations personnel utilizing the same basic technology and back office support. There is no discrete financial information for these product lines nor are there segment managers who have operating responsibility for each product line. Energy efficiency services focus on turn-key electrical, mechanical and lighting energy efficiency measures servicing commercial, industrial and institutional customers.

Segment operating income represents income from operations including stock-based compensation, amortization of intangible assets and depreciation. The following tables present certain continuing operating division information in accordance with the provisions of ASC 280, *"Segment Reporting"*.

	Years Ended December 31,		
	2013	**2012**	**2011**
Consolidated revenue from external customers:			
Energy procurement	28,892,275	24,476,054	20,473,417
Energy efficiency services	5,784,840	7,302,783	51,150
Consolidated total revenue	$ 34,677,115	$ 31,778,837	$ 20,524,567
Consolidated (loss) income before income taxes:			
Energy procurement	(2,246,678)	(2,251,951)	442,851
Energy efficiency services	(695,818)	63,507	(351,104)
Consolidated (loss) income before income taxes	$ (2,942,496)	$ (2,188,444)	$ 91,747

	December 31,	
	2013	**2012**
Consolidated total assets:		
Energy procurement	44,898,931	48,839,503
Energy efficiency services	6,180,531	6,291,159
Consolidated total assets	$ 51,079,462	$ 55,130,662

	Years Ended December 31,		
	2013	**2012**	**2011**
Energy Procurement:			
Amortization	$ 3,777,905	$ 2,897,126	$ 1,450,394
Depreciation	$ 196,571	$ 208,846	$ 144,987
Interest expense, net	$ 1,081,754	$ 434,467	$ (24,446)
Energy Efficiency Services:			
Amortization	$ 157,158	$ 167,260	$ 23,694
Depreciation	$ 25,103	$ 8,389	$ 1,959
Interest expense, net	$ —	$ 112,608	$ 25,972

NOTE 17 — SUPPLEMENTAL CASH FLOW INFORMATION

Following is supplemental cash flow information for the years presented:

	Years Ended December 31,		
	2013	2012	2011
Supplemental Disclosure of Cash Flow Information:			
Net cash paid for interest	$ (1,042,667)	$ (541,395)	$ (34,931)
Net cash paid for income taxes	$ (131,287)	$ (131,337)	$ (20,148)
Non-cash activities:			
Fair value of common stock issued in acquisitions	$ -	$ -	$ 3,462,122
Equipment acquired under capital leases	$ 21,416	$ -	$ -
Related party subordinated notes payable issued in acquisitions	$ -	$ 2,000,000	$ 3,000,000
Fair value of common stock issued as contingent consideration related to acquisitions	$ 325,450	$ 2,219,000	$ 4,685,813
Fair value of warrants issued	$ -	$ 139,555	$ -
Notes payable assumed in acquisitions	$ -	$ -	$ 53,709
Conversion of note receivable into equity investment	$ -	$ -	$ 716,936

NOTE 18 — SUBSEQUENT EVENT

As of December 31, 2013, the Company was not in compliance with the consolidated net earnings available for interest charges to interest charges covenant, as adjusted, of the MCRC Note. Subsequent to December 31, 2013, MCRC waived the non-compliance with this covenant as of December 31, 2013 and entered into a new Minimum Fixed Charge Ratio covenant commencing in the first quarter of 2014.

EXHIBIT INDEX

Exhibit	Description
2.1	Asset Purchase Agreement by and among World Energy Solutions, Inc., EnergyGateway, LLC and the Members of EnergyGateway, LLC dated May 23, 2007 (incorporated by reference to Exhibit 99.1 to our report on Form 8-K filed May 24, 2007).
3.1	Form of Amended and Restated Certificate of Incorporation of World Energy (incorporated by reference to Exhibit 3.4 to our Registration Statement of Form S-1 (File No. 333-136528)).
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation of World Energy Solutions, Inc. (incorporated by reference to Exhibit 3.1 to our report on Form 8-K filed March 30, 2009).
3.3	Form of Amended and Restated By-laws of World Energy (incorporated by reference to Exhibit 3.5 to our Registration Statement of Form S-1(File No. 333-136528)).
3.4	Certificate of Amendment to Amended and Restated Certificate of Incorporation of World Energy (incorporated by reference to Exhibit 3.1 to our report on Form 8-K filed May 24, 2010).
4.1	Specimen Certificate evidencing shares of common stock (incorporated by reference to Exhibit 4.1 to our Registration Statement of Form S-1 (File No. 333-136528)).
4.2	Promissory Note dated October 3, 2012 by the Company for the benefit of Northeast Energy Partners, LLC (incorporated by reference to Exhibit 4.1 to our report on Form 8-K filed October 4, 2012).
10.1+	2003 Stock Incentive Plan (incorporated by reference to Exhibit 10.1 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.2+	2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.2 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.3	Note Purchase Agreement dated October 3, 2012, between the Company and Massachusetts Capital Resource Company (incorporated by reference to Exhibit 10.2 to our report on Form 8-K filed October 4, 2012).
10.4	Subordinated Note Due 2020 by the Company for the benefit of Massachusetts Capital Resource Company (incorporated by reference to Exhibit 4.3 to our report on Form 8-K filed October 4, 2012).
10.5	Subordinated Note due 2013, dated November 7, 2005 (incorporated by reference to Exhibit 10.4 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.6	Voting Common Stock Purchase Warrant, dated November 7, 2005 (incorporated by reference to Exhibit 10.5 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.7	Form of Common Stock Purchase Warrants (incorporated by reference to Exhibit 10.6 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.8	Escrow Agreement (incorporated by reference to Exhibit 10.12 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.9+	Offer letter agreement, dated October 1, 2003, between World Energy and Philip V. Adams (incorporated by reference to Exhibit 10.13 to our Registration Statement of Form S-1(File No. 333-136528)).
10.10+	Offer letter agreement, dated April 5, 2006, between World Energy and James Parslow (incorporated by reference to Exhibit 10.14 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.11	Loan and Security Agreement by and between World Energy Solutions, Inc. and Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed January 6, 2014).
10.12	$2,500,000 Revolving Credit Note for the benefit of Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.2 to our report on Form 8-K filed January 6, 2014).
10.13	$6,000,000 Term Note for the benefit of Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.3 to our report on Form 8-K filed January 6, 2014).
10.14	Subordination Agreement between Commerce Bank and Trust Company and Massachusetts Capital Resource Company dated December 30, 2013 (incorporated by reference to Exhibit 10.4 to our report on Form 8-K filed January 6, 2014).

Exhibit	Description
10.15	Warrant to Purchase Stock dated October 3, 2012 between the Company and Silicon Valley Bank (incorporated by reference to Exhibit 4.2 to our report on Form 8-K filed October 4, 2012).
10.16	Form of Securities Purchase Agreement executed with respect to $1.4 million in common stock purchases made by certain investors (incorporated by reference to Exhibit 10.21 to our report on Form 10-K filed on March 4, 2010).
10.17	Contract Purchase Agreement dated September 13, 2011 by and between the Company and Co-eXprise, Inc. (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed September 14, 2011).
10.18	Asset Purchase Agreement dated October 13, 2011 by and between the Company, Northeast Energy Solutions, LLC, Robert Boissonneault, Michael Santangelo, and Richard Galipeau (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed October 17, 2011).
10.19	Amendment No. 1 to Asset Purchase Agreement and Promissory Note, effective October 20, 2011, by and between the Company and Northeast Energy Solutions, LLC (incorporated by reference to Exhibit 10.1 to our report on Form 10-Q filed November 3, 2011).
10.20	Asset Purchase Agreement dated October 31, 2011 by and among the Company, GSE Consulting, LP, Glenwood Energy Partners, Ltd. and Gulf States Energy, Inc. (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed November 1, 2011).
10.21	Asset Purchase Agreement dated October 3, 2012 by and among the Company, Northeast Energy Partners, LLC and John Hardy, Thomas Lockwood and Lora Monroe (incorporated by reference to Exhibit 121 to our report on Form 8-K filed October 4, 2012).
10.22	Severance Agreement and Release dated June 6, 2012 between the Company and Richard Domaleski (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed June 12, 2012).
10.23+	Executive Employment Agreement dated February 7, 2013 between the Company and Philip V. Adams (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed February 13, 2013).
10.24+	Settlement and Standstill Agreement by and among World Energy Solutions, Inc., and Ardsley Advisory Partners and certain of its affiliates, dated March 11, 2014 (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed March 13, 2014).
10.25*	Waiver and Amendment, dated March 27, 2014, to Note Purchase Agreement dated October 3, 2012 between World Energy Solutions, Inc. and Massachusetts Capital Resource Company.
21.1*	List of Subsidiaries.
23.1*	Consent of Marcum, LLP, Independent Registered Public Accounting Firm.
31.1*	Certification of the Chief Executive Officer pursuant to Rule 15d-14(a) under the Securities Exchange Act.
31.2*	Certification of the Chief Financial Officer pursuant to Rule 15d-14(a) under the Securities Exchange Act.
32.1*	Certification of the Chief Executive Officer pursuant to Rule 15d-14(b) under the Securities Exchange Act.
32.2*	Certification of the Chief Financial Officer pursuant to Rule 15d-14(b) under the Securities Exchange Act.
101	The following materials from World Energy Solutions, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2013, formatted in Extensible Business Reporting Language: (i) the consolidated balance sheets; (ii) the consolidated statements of operations; (iii) the consolidated statements of changes in stockholders' equity; (iv) the consolidated statements of cash flows; and (v) notes to consolidated financial statements.

* Filed herewith

\+ Indicates a management contract or any compensatory plan, contract or arrangement

Corporate Information

Board of Directors

Edward Libbey, *Chairman*
Philip Adams, *Director*
Peter Londa, *Director*
Ralph Sheridan, *Director*
Sean Sweeney, *Director*
John Wellard, *Director*
Thad Wolfe, *Director*

Executive Management

Philip Adams, *Chief Executive Officer and President*
Martha Danly, *Chief Operating Officer*
James Parslow, *Chief Financial Officer, Treasurer and Secretary*

Stock Exchange Listing

The Company's common shares are listed on the NASDAQ stock exchange under the symbol "XWES"

Transfer Agent

Shareholder correspondence should be mailed to:

Computershare Trust Company, Inc.
P.O. BOX 30170
College Station, TX 77842-3170

Overnight correspondence should be sent to:

Computershare Trust Company, Inc.
211 Quality Circle, Suite 210
College Station, TX 77845

Investor Relations

An electronic copy of the 2013 Annual Report and 2014 Annual Meeting Proxy Statement is available online in the Investors section of the Company's website: **www.worldenergy.com**
Printed copies of investor packages, quarterly earnings reports,
10-Q's and recent news releases are also available by writing:

World Energy Solutions, Inc.
Investor Relations
100 Front Street, 20th Floor
Worcester, MA 01608

Legal Counsel

Mirick, O'Connell, DeMallie & Lougee, LLP
Worcester, MA

Independent Registered Public Accounting Firm

Marcum LLP
Boston, MA

Annual Meeting

June 23, 2014, 10:00 a.m.

The Beechwood Hotel
363 Plantation Street
Worcester, MA 01605

World Energy Solutions, Inc.
Corporate Headquarters

100 Front Street, 20th Floor
Worcester, Massachusetts 01608
Telephone: (508) 459-8100
Fax: (508) 459-8101
Email: info@worldenergy.com

ir@worldenergy.com
www.worldenergy.com

WorldEnergy

Exhibit C-2 "SEC Filings"

Please see the enclosed 10-K and 8-K filings.

WORLD ENERGY SOLUTIONS, INC.

FORM 10-K
(Annual Report)

Filed 03/31/14 for the Period Ending 12/31/13

Address	100 FRONT STREET WORCESTER, MA 01608
Telephone	508-459-8100
CIK	0001371781
Symbol	XWES
SIC Code	7389 - Business Services, Not Elsewhere Classified
Industry	Investment Services
Sector	Financial
Fiscal Year	12/31

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

FORM 10-K

☒ Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the fiscal year ended December 31, 2013 or

☐ Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the transition period from ________ to ________

Commission file number: 001-34289

World Energy Solutions, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**04-3474959**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

100 Front Street
Worcester, Massachusetts 01608
(Address of principal executive offices)

(508) 459-8100
(Registrant's telephone number, including area code)

Securities registered under Section 12(b) of the Act:	Name of each exchange on which registered:
Common Stock, $0.0001 par value	NASDAQ Capital Market

Securities registered under Section 12(g) of the Act:
None

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

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

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

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

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

Indicate by checkmark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See 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 ☒

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

The aggregate market value of the common stock held by non-affiliates of the registrant based on the last sale price of such stock as reported by the NASDAQ Capital Market on June 28, 2013 (the last business day of the Registrant's most recently completed second fiscal quarter) was $39,670,805.

As of March 24, 2014, the registrant had 12,372,938 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Items 10 (as to directors and Section 16(a) Beneficial Ownership Reporting Compliance), 11, 12, 13 and 14 of Part III will incorporate by reference information from the registrant's proxy statement to be filed with the Securities and Exchange Commission in connection with the solicitation of proxies for the registrant's 201 4 Annual Meeting of Stockholders.

World Energy Solutions, Inc.
Form 10-K
For the Year Ended December 31, 2013

Table of Contents

PART I

PART II

PART III

PART IV

FORWARD-LOOKING STATEMENTS

This Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, which statements involve risks and uncertainties. These statements relate to our future plans, objectives, expectations and intentions. These statements may be identified by the use of words such as "may", "could", "would", "should", "will", "expects", "anticipates", "intends", "plans", "believes", "estimates" and similar expressions. We have based these forward-looking statements on our current expectations and projections about future events, including without limitation, our expectations of backlog and energy prices. Although we believe that the expectations underlying any of our forward-looking statements are reasonable, these expectations may prove to be incorrect and all of these statements are subject to risks and uncertainties. Should one or more of these risks and uncertainties materialize, or should underlying assumptions, projections or expectations prove incorrect, actual results, performance or financial condition may vary materially and adversely from those anticipated, estimated or expected. Our actual results and timing of certain events could differ materially from those discussed in these statements. Factors that could contribute to these differences include but are not limited to, those discussed under "Risk Factors", "Management's Discussion and Analysis of Financial Condition and Results of Operations", and elsewhere in this Report. The cautionary statements made in this Report should be read as being applicable to all forward-looking statements wherever they appear in this Report. The forward-looking statements made in this Report are made as at the date hereof. We undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events, other than as required by securities laws.

PART I

Item 1. Business

Overview

World Energy Solutions, Inc. ("World Energy" or the "Company") offers a range of energy management solutions to commercial and industrial businesses, institutions, utilities, and governments to reduce their overall energy costs. The Company comes to market with a holistic approach to energy management helping customers a) contract for a competitive price for energy, b) engage in energy efficiency projec ts to minimize quantity used and c) pursue available rebate and incentive programs. The Company made its mark on the industry with an innovative approach to procurement via its online auction platform, the World Energy Exchange ®. With recent investments and acquisitions, World Energy is building out its energy efficiency practice by engaging new customers while also pursuing more cross-selling opportunities for its procurement services.

World Energy provides energy management services utilizing state-of-the-art technology and the experience of a seasoned team to bring lower energy costs to its customers. The Company uses a simple equation

$$E = P \cdot Q - i$$

to help customers understand the holistic nature of the energy management problem. Total energy cost (E) is a function of Energy Price (P) times the Quantity of Energy Consumed (Q), minus any rebates or incentives (i) the customer can earn. This approach not only makes energy management more approachable for customers, simplifying what has become an increasingly dynamic and complex problem, it also highlights the inter-related nature of the energy management challenge. The Company asserts that point solution vendors may optimize one of the three elements, but it takes looking at the problem holistically to unlock the most savings.

In April 2010, we filed an S-3 registration statement with the Securities and Exchange Commission, or SEC, using a "shelf" registration, or continuous offering, process. Under this shelf registration process, we may, from time to time, issue and sell any combination of preferred stock, common stock or warrants, either separately or in units, in one or more offerings with a maximum aggregate offering price of $20 million, including the U.S. dollar equivalent if the public offering of any such securities is denominated in one or more foreign currencies, foreign currency units or composite currencies. In April 2011 we issued 1.5 million shares of common stock utilizing this shelf registration to several accredited institutional investors at $3.60 per share, yielding net proceeds of approximately $5.3 million.

The net proceeds raised to date were applied in the third and fourth quarters of 2011 to make three acquisitions. We purchased a book of energy contracts from Co-eXprise, Inc. ("Co-eXprise"), expanding our customer base in the auction market, particularly in the government space. We acquired the assets and certain liabilities of Northeast Energy Solutions, LLC ("NES"), a small efficiency shop based in Connecticut. Finally we acquired the assets and certain liabilities of GSE Consulting, LP ("GSE"), a mid-market broker principally serving the Texas market. These acquisitions strengthen our leadership position in energy auctions, supplement our expansion efforts into the efficiency space, and provide us with a strong base in the growing small- and medium-sized customer marketplaces of the energy brokerage industry. In the fourth quarter of 2012, we purchased the assets of Northeast Energy Partners, LLC ("NEP"), a mid-market broker in Connecticut with over 2,000 customers. These customers, situated primarily in Connecticut and Massachusetts, are an ideal target for our energy efficiency services.

The Retail Energy Industry

Retail Electricity Deregulation

The electricity industry in the United States is governed by both federal and state laws and regulations, with the federal government having jurisdiction over the sale and transmission of electricity at the wholesale level in interstate commerce, and the states having jurisdiction over the sale and distribution of electricity at the retail level.

The federal government regulates the electricity wholesale and transmission business through the Federal Energy Regulatory Commission, or FERC, which draws its jurisdiction from the *Federal Power Act* , and from other legislation such as the *Public Utility Regulatory Policies Act of 1978* , the *Energy Policy Act of 1992* , and the *Energy Policy Act of 2005* , or EPA 2005. FERC has comprehensive and plenary jurisdiction over the rates and terms for sales of power at wholesale, and over the organization, governance and financing of the companies engaged in such sales. States regulate the sale of electricity at the retail level within their respective jurisdictions, in accordance with individual state laws which can vary widely in material respects. Restructuring of the retail electricity industry in the U.S. began in the mid-1990s, when certain state legislatures restructured their electricity markets to create competitive markets that enable energy consumers to purchase electricity from competitive energy suppliers.

Prior to the restructuring of the retail electricity industry, the electricity market structure in the U.S. consisted of vertically integrated utilities which had a near monopoly over the generation, transmission and distribution of electricity to retail energy consumers. In states that have embraced electricity restructuring, the generation component (i.e., the source of the electricity) has become more competitive while the energy delivery functions of transmission and distribution remain as monopoly services provided by the incumbent local utility and subject to comprehensive rate regulation. In other words, in these states, certain retail energy consumers (specifically, those served by investor-owned utilities and not by municipal power companies or rural power cooperatives) can choose their electricity supplier but must still rely upon their local utility to deliver that electricity to their home or place of business.

The structure and, ultimately, the success level of industry restructuring has been determined on a state by state basis. There have been three general models for electricity industry restructuring: (i) delayed competition, (ii) phased-in competition, and (iii) full competition. The delayed competition model consists of the state passing legislation authorizing competitive retail electricity markets (i.e., customer choi ce of electric energy supplier); however, no action is taken by the state regulatory authority charged with utility industry oversight within such state to change the incumbent utility rates for electric energy to encourage competition. The phased-in competition model consists of the state passing legislation authorizing competitive retail electricity markets together with a gradual change of the incumbent utility's retail electric rates to encourage the competitive supply of electricity over time. The full competition model consists of the state passing legislation authorizing competitive retail electricity markets together with an immediate change to the incumbent local utilities' retail electric rates that results in the whole commercial, industrial and government, or CIG, electricity market in such state being competitive immediately.

Energy consumers who choose to switch electricity suppliers can either do it themselves by contacting competitive energy suppliers directly, or indirectly, by engaging aggregators, brokers or consultants, collectively referred to as ABCs, to assist them with their electricity procurement.

Energy Suppliers: These entities take title to power and resell it directly to energy consumers. These are typically well-funded entities, which s ervice both energy consumers directly and also work with ABCs, to contract with energy consumers. Presently, we estimate there are over 500 competitive suppliers, several of which operate on a national level and are registered in nearly all of the 16 states and the District of Columbia that permit CIG energy consumers to choose their electricity supplier and have deregulated pricing to create competitive markets. Of the 16 deregulated states, 14 have fully viable competitive markets.

Aggregators, Brokers and Consultants: ABCs facilitate transactions by having competitive energy suppliers compete against each other in an effort to get their energy customers the lowest price. This group generally uses manual request for proposal, or RFP, processes that are labor intensive, relying on phone, fax and email solicitations. We believe that the online RFP process is superior to the traditional paper-based RFP process as it involves a larger number of energy suppliers, can accommodate a larger number of bids within a shorter time span, and allows for a larger amount of contract variations including various year terms, territories and energy usage patterns.

Online Brokers: Online brokers are a subset of the ABCs. These entities use online platforms to run electronic R FP processes in an effort to secure the lowest prices for their energy customers by having competitors bid against one another. We believe that we are among the pioneering companies brokering electricity online and we are not aware of any competitor that has brokered more electricity online than we have.

Retail Natural Gas

The natural gas industry in the U.S. is governed by both federal and state laws and regulations, with the federal government having jurisdiction over the transmission of natural gas in interstate commerce, and the states having jurisdiction over the sale and distribution at the retail level.

The federal government regulates the natural gas transmission business through FERC which draws its jurisdiction from the *Natural Gas Act* , and from other legislation such as the EPA 2005. FERC has comprehensive and plenary jurisdiction over the rates and terms for transmission of gas in interstate commerce, and over the organization, governance and financing of the companies engaged in such transmission. States regulate the distribution and sale of gas at the retail level within their respective jurisdictions, in accordance with individual state laws which can vary widely in material respects.

The natural gas market in the U.S. is deregulated in most states and offers retail energy consumers access to their choice of natural gas commodity supplier.

Following a period of heavy regulation, the gas industry was deregulated in three phases as a result of legislation enacted in 1978 followed by multiple orders of FERC. The expected result of this deregulation was to stimulate competition in the natural gas industry down the pipeline to the distribution level.

At the retail level, reforms and restructuring have taken place on a state by state basis, with varying nuances to the restructuring in different states. For example, certain state commissions have allowed local distribution companies to offer unbundled transportation service to large customers; to provide flexible pricing in competitive markets; and to engage in other competitive activities.

Today, we estimate that utilities in over 40 states permit retail natural gas consumers to choose their natural gas commodity suppliers. In most instances, the local distribution utility still delivers the commodity to the consumers' premises, even if a different supplier is selected to provide the commodity. The level of competitive choice available to retail CIG ener gy consumers has increased, with a wide range of products and a significant number of suppliers participating in both retail and wholesale transactions.

Demand Response

The electric power industry in North America faces enormous challenges to keep pace with the expected increase in demand for electricity and to manage the increased amount of intermittent renewable energy resources that are expected to be connected to the power grid in the future. Because electricity cannot be economically stored using com mercially available technology today, it must be generated, delivered and consumed at the moment that it is needed by end-use customers. Maintaining a reliable electric power grid therefore requires real-time balancing between supply and demand. Power generation, transmission and distribution facilities are built to capacity levels that can service the maximum amount of anticipated demand plus a reserve margin intended to serve as a buffer to protect the system in critical periods of peak demand or unexpected events such as failure of a power plant or major transmission line. However, under-investment in generation, transmission and distribution infrastructure in recent years in key regions, coupled with a dramatic growth in electricity consumption over that same time period, has led to an increased frequency of voltage reductions—commonly known as brownouts—and blackouts, and periodically prevents the transport of power to constrained areas during periods of peak demand, which can affect reliability and cause significant economic impacts.

As the electric power industry confronts these challenges, demand response, or DR, has emerged as an important solution to help address the imbalance in electric supply and demand. For example, the EPA 2005 declared it the official policy of the U.S. to encourage demand response and the adoption of devices that enable it. In addition, the *Energy Independence and Security Act of 2007* ordered the FERC to conduct a nationwide assessment of demand response potential and create a national action plan to promote demand response at the federal level and support individual states in their own demand response initiatives.

Our customers in the DR market are energy consumers that agree to curtail their electricity consumption when requested by Regional Transmission Organizations, or RTOs, or Independent System Operators, or ISOs, during times of peak demand. We bring together these energy consumers with Demand Response Providers, or DRPs, to auction off the energy consumers capacity. DR Ps compete against each other in a forward auction, bidding up the percentage of the DR revenue that the energy consumer will receive from a specific DR program.

Energy Efficiency

There is an increasing emphasis on energy efficiency as an important aspect of national energy policy, smart grid solutions and facility management best practices. For example, the White House estimates that commercial buildings consumed roughly 20 percent of all energy in the U.S. in 2010. Additionally Navigant Research, a lead ing industry analyst firm, has estimated that if all commercial buildings underwent efficiency retrofits (noting that 80% of all commercial buildings are more than 10 years old), the payout would be on the order of $41.1 billion each year.

Large drivers of the overall efficiency market include the national Better Buildings initiative, which aims for 20% efficiency gains in commercial buildings by 2020 through cost-effective upgrades, and New York City's Greener, Greater Buildings Plan aimed at reducing ene rgy consumption by existing buildings, which account for 70-80% of the city's total greenhouse gas emissions.

Fifty states have pro-growth energy efficiency policies. As of July 2013, twenty-five states have fully funded policies in place that establish specific energy savings targets that utilities or non-utility program administrators must meet through customer efficiency programs. In a 2012 report, New England ISO projected it would spend $5.7 billion on energy efficiency programs in the region from 201 5-2021, up from $1.2 billion in 2008-2011.

With our recent investments, extensive base of federal and state government clients, growing footprint in the commercial property space, and large channel partner network that includes leading energy service companies, we expanded our presence in the energy efficiency market with our acquisition of NES in October 2011. NES focuses on turn-key electrical and mechanical energy efficiency measures serving commercial, industrial and institutional customers.

Wholesale Energy

The wholesale electricity market is the competitive market that connects generators (sellers) with utilities, electricity retailers and intermediaries (buyers) who purchase electricity to re-sell on the retail market. We estimate that total wholesale purchases of electric power in 2012 were over 5.7 billion MWh. Natural gas is an important input fuel for generators, and U.S. consumption of natural gas in 201 3 exceeded 26 trillion cubic feet.

The U.S. wholesale electricity market emerged in the late 1970s when independent power producers, or IPPs, and other non-utilities entered the electricity generation market, although the market was restricted until the early 1990s when competitive constraints were removed. These new generation entities began to compete directly with traditional utilities and offered customers more than one choice to obtain electricity. Today, participants in the wholesale market include IPPs, traditional utilities, and intermediary power marketers. In addition, banks, traders, and brokers participate in the wholesale market.

IPPs and traditional utilities comprise the generation portion of the wholesale market. Many employ internal sales forces to assist in the sale and distribution of their power, enabling them to participate as both buyers and sellers within the wholesale market. However, a growing number of IPPs and utilities have found it easier and more cost effective to sell their generation through power marketing services, which has contributed to the power marketers' inc reased role within the market. Power marketers utilize several different platforms to purchase power from generators for distribution, which include paper RFPs, phone brokerage, electronic exchanges and auctions.

Our customers in the wholesale market can be either buyers or sellers and can include utilities and municipal utilities that buy power or natural gas to fill in gaps in their portfolios or to consume in their generation facilities, and retail marketers who buy natural gas and power to resell to re tail customers. If the customer is a buyer, we will run a reverse (descending price) auction to secure a lower price. If the customer is a seller, we will run a forward (ascending price) auction to secure a higher price.

Environmental Commodities

Concerns about global warming have spawned a number of initiatives to reduce greenhouse gas emissions. The most widely adopted of these initiatives is the Kyoto Protocol pursuant to which many countries in Europe, Asia and elsewhere have created carbon cap and tr ade systems. In carbon cap and trade programs, carbon dioxide emission caps are established and producers of these emissions can buy or sell credits in order to meet their required allocations. While the U.S. did not ratify the Kyoto Protocol, there are a number of initiatives in the U.S. at the regional, state and local levels aimed at limiting greenhouse gas emissions, the most robust of which is the Regional Greenhouse Gas Initiative, Inc., or RGGI.

In August 2008, we were awarded a two-year contract with RGGI, which is the first mandatory, market based effort in the U.S. to reduce greenhouse gas emissions. RGGI selected us to sell allowances for the emitting of carbon dioxide emissions from the power sector. This contract was subsequently extended for an additional two-year period, and also for the first year of two, one-year options. We have successfully completed twenty-two quarterly auctions for RGGI through December 31, 2013, raising more than $1.5 billion in proceeds for RGGI states to re-invest in energy efficiency and other consumer-benefitting measures.

Company Strategy and Operations

Overview

World Energy offers a range of energy management solutions to commercial and industrial businesses, institutions, utilities, and governments to reduce their overall energy costs. The Company comes to market with a holistic approach to energy management helping customers a) contract for the lowest price for energy, b) engage in energy efficiency projects to minimize quantity used and c) maximize available rebate and incentive programs. The Company made its mark on the industry with an innovative approach to procurement via its state-of-the-art online auction platform, the World Energy Exchange ®. With recent investments and acquisitions, World Energy is building out its energy efficiency practice — engaging new customers while also pursuing more cross-selling opportunities for its procurement services. The Company is also taking its suite of solutions to the rapidly growing small- and medium-sized customer markets.

World Energy provides energy management services utilizing state-of-the-art technology and the experience of a seasoned team to bring lower energy costs to its customers. The Company uses a simple equation

$$\mathbf{E = P \cdot Q - i}$$

to help customers understand the holistic nature of the energy management problem. Total energy cost (E) is a function of Energy Price (P) times the Quantity of Energy Consumed (Q), minus any rebates or incentives (i) the customer can earn. This approach not only makes energy management more approachable for customers, simplifying what has become an increasingly dynamic and complex problem, it also highlights the inter-related nature of the energy management challenge. The Company asserts that point solution vendors may optimize one of the three elements, but it takes looking at the problem holistically to unlock the most savings.

We help customers optimize this equation by applying the Seven Levers of Energy Management™ — Planning, Sourcing, Risk Management, Efficiency, Sustainability, Incentives and Monitoring.

These Seven Levers of Energy Management™ are supported by state of the art technology developed or licensed by our Company. Our flagship platform is the World Energy Exchange ®. On the World Energy Exchange ® energy consumers in North America are able to negotiate for the purchase or sale of electricity, natural gas and other energy resources from competing energy suppliers which have agreed to participate on our auction platform in a given event. Buyers and sellers can also negotiate for the purchase or sale of environmental commodities such as Renewal Energy Certificates, or RECs, Verified Emissions Reductions, or VERs, and Certified Emissions Reductions, or CERs. In addition, the World Energy Exchange ® enables DRPs and energy consumers to come together in highly-structured auction events designed to yield price transparency, heighten competition, and maximize the energy consumers' share of demand response revenues.

We bring bidders and listers together in our online marketplace, often with the assistance of our channel partners, who identify and work with customers to consummate transactions. Our exchange is comprised of a series of software modules that automate our comprehensive procurement process includin g:

- energy and environmental commodities sourcing management — a database of suppliers and contacts;
- lead management — a module to track prospective customers through the sales process;
- deal and task management — a module to list, assign and track steps to complete a procurement successfully;
- market intelligence — databases of information related to market rules and pricing trends for markets;
- RFP development — a module to create RFPs with a variety of terms and parameters;
- conducting auctions — underlying software to manage the bidding and timing of an auction and display the results;
- portfolio management — a database of contracts, sites, accounts and historical usage;
- risk management – monitoring, triggering and messaging tools;
- commission reporting — a system to display forecasted and actual commissions due to channel partners; and
- receivables management — a system to upload data received from suppliers and track payment receipt.

Our technology-based solution is attractive to channel partners as it provides them with a business automation platform to enhance their growth, profitability and customer satisfaction. Channel partners are important to our business because these entities offer our auction platform to enhance their serv ice offerings to their customers. By accessing our market intelligence and automated auction platform, channel partners significantly contribute to our transaction volume, and in return, we pay them a fixed percentage of the revenue we receive from winning bidders (i.e., energy suppliers and other buyers). This third party commission structure is negotiated in advance and included in the channel partner agreement based on a number of factors, including expected volume, effort required in the auction process and competitive factors.

As a requirement to bid in an auction (which is described in greater detail below), bidders must enter into an agreement to pay our fee if they execute a contract as a result of the auction. Following an auction event, our employees continue to work with the energy consumer and other listers or collectively, the customer, and bidder through the contract negotiation process and, accordingly, we are aware of whether a contract between the customer and bidder is consummated. If a con tract is entered into between a customer and bidder using our auction platform, we are compensated based upon a fixed fee, or commission rate, that is built into the price of the commodity. This approach is attractive to both the customer and bidder as there is no fee charged to either party if the brokering process does not result in a contract. Our fees are based on the total volume of the commodity transacted between the customer and bidder multiplied by our contractual commission rate. We have master agreements with our bidders, whereby bidders are allowed to bid on customer requirements in exchange for agreeing to pay the fee that we have negotiated with the customer. In order to participate in any specific auction, bidders are required to acknowledge and agree to our fee on our online platform prior to participating in that auction.

Retail Electricity Transactions

For retail electricity transactions, monthly revenue is based on actual usage data obtained from the energy supplier for a given month or, to the extent actual usage data is not available, based on the estimated amount of electricity delivered to the energy consumer for that month. While the number of contracts closed in any given period can fluctuate widely due to a number of factors, this r evenue recognition method provides for a relatively predictable revenue stream, as revenue is typically based on energy consumers' historical energy usage profile. However, monthly revenue can still vary from our expectations because usage is affected by a number of variables such as the weather and the general business conditions affecting our energy consumers.

Contracts between energy consumers and energy suppliers are signed for a variety of term lengths, with a one to two-year contract term being typical for commercial and industrial energy consumers, and government contracts typically having two to three year, and occasionally five-year terms. Backlog relates to contracts in force on a given date representing transactions between bidders and listers on our platform related to commodity brokerage assuming listers consume energy at their historical levels or deliver credits at expected levels. Total backlog represents the commission that we would derive over the remaining life of those contracts. Annualized backlog represents the commission that we would derive from those contracts within the twelve months following the date on which the backlog is calculated. For any particular contract, annualized backlog is calculated by multiplying the energy consumer's historical usage by our fixed contractual commission rate. This metric is not intended as an estimate of overall future revenues, since it does not purport to include revenues that may be earned during the relevant backlog period from new contracts or renewals of contracts that expire during such period. In addition, annualized backlog does not represent guaranteed future revenues, and to the extent actual usage under a particular contract varies from historical usage, our revenues under such contract will differ from the amount included in backlog.

In addition to retail electricity contracts, we have ongoing contractual arrangements with retail natural gas customers under which we deliver certain energy management and auction administration services for which we receive a monthly fee. Total and annualized backlog is \$47.5 million and \$24.9 million, respectively, at December 31, 2013, which includes monthly management fees related to natural gas contracts of \$0.7 million that have expected revenue associated with them from January 1, 2014 through December 31, 2014. These contracts can be terminated upon 30 days notice per the terms of the contracts and, therefore, backlog does not include any revenue from expected contract renewals from the management fees beyond December 31, 2014.

Because the calculation of backlog is a calculation of a contracted commission rate multiplied by a historical energy usage figure and our management contracts are cancelable by our natural gas customers, our backlog may not necessarily be indicative of future results. Annualized backlog should not be viewed in isolation or as a substitute for our historical revenues presented in the financial statements included in this Form 10-K. Events that may cause future revenues from contra cts in force to differ materially from our annualized backlog include the events that may affect energy usage, such as overall business activity levels, changes in energy consumers' businesses, weather patterns and other factors described under "Risk Factors".

Retail Natural Gas Transactions

There are two primary fee components to our retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier that was awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of our natural gas transactions, we bill the supplier upon the conclusion of the transaction based on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by our energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of our retail natural gas transactions are accounted for in accordance with this policy, a certain percentage is accounted for as the natural gas is consumed by the energy consumer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

We earn a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by our contractual commission rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. We generally recognize revenue on these transactions when we have received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to us, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent we do not receive verification of actual energy usage or we cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier.

Demand Response Transactions

Demand response transaction fees are recognized when we have received confirmation from the DRP that the energy consumer has performed under the applicable RTO or ISO program requirements. The energy consumer is either called to perform during an actual curtailment event or is required to demonstrate its ability to perform in a test event during the performance period. For the PJM Interconnection ("PJM"), an RTO that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia, the performance period is June through September in a calendar year. Test results are submitted to the PJM by the DRPs and we receive confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay us ratably on a quarterly basis throughout the demand response fiscal (June to May) year.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where our customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regulated allowance programs like the RGGI, fees are paid by the lister and are recognized quarterly as revenue as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidder pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Energy Efficiency Services

Our Energy efficiency services segment is primarily project driven where we identify efficiency measures that energy consumers can implement to reduce their energy usage. We present retrofit opportunities to customers, get approval from them to proceed and submit the proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, we install the equipment, typically new heating, ventilation or air conditioning ("HVAC") equipment, or replace lighting fixtures to more efficient models. We recognize revenue for Energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), we utilize the completed-contract method. We also assess multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

The Brokerage Process

Our brokerage process is supported by a variety of modules designed with the goal to find the best possible price while providing step-by-step process management and detailed documentation prior to, during and following the auction. Our process includes data collection and analysis, establishing the benchmark price, conducting multiple auct ion events to enable testing of various term and price combinations and assisting in contract completion. We create an audit trail of all the steps taken in a given transaction. Specific web pages track all information provided to energy suppliers including energy supplier calls, supplier invitations, usage profiles and desired contract parameters.

At the commencement of the process, non-government energy consumers will enter into a procurement services agreement with us pursuant to which we are appointed as the brokerage service provider to solicit and obtain bids for the supply of energy or environmental commodities and to assist in the procurement of these commodities. Government energy consumers will send out a solicitation at the commencement of the br okerage process which sets out the contract terms. Only bidders that are qualified under the solicitation may participate in the auction. Bidders who wish to bid on the provision of energy or environmental commodities to such customers must participate in our brokerage process and cannot contract with customers outside of our brokerage process.

For retail energy, the procurement services agreement authorizes us to retrieve the energy consumer's energy usage history from the utility serving its accounts. We utilize the usage history to identify and analyze the energy consumer's energy needs and to run a rate and tariff model which calculates the utility rate for that energy consumer's facilities. This price is used as a benchmark price to beat for the auctio n event. For other customers or commodities, the benchmark price may be negotiated or calculated in another manner.

Prior to conducting the auction, the auction parameters, including target price, supplier preferences, contract terms, payment terms and product mix, as applicable, are discussed with the customer and agreed upon. Approximately two to five days prior to the auction, we will post RFPs with these auction parameters on our World Energy Exchange ® and alert the potential bidders. Additionally, bidders are provided with information about the customer, historical energy usage information relating to the energy consumer's facilities (if retail customers), and the desired contract parameters, several days in advance of the auction as part of the RFP. This advance notice gives the bidders the opportunity to analyze the value of a potential deal and the creditworthiness of the customer. We believe that, using this information along with the auction parameters described in the RFP, the bidders develop a bidding strategy for the auction.

The auction creates a competitive bidding environment that is designed to cause bidders to deliver better prices in response to other competitive bids. Specifically, bidders enter an auction by submitting an opening bid at or better than the suggested opening bid posted on the RFP. After they enter the auction and assess the bidding activity, bidders may begin testing the competition by submitting a bid better than the then-leading bid. They do this presumably to test their pricing and to gauge the relative level of competition for the deal. There is typically a modest level of bidding and counter-bidding activity among bidders until the final 30 seconds of the auction when bidding activity tends to increase. In the final seconds, all bidders see the then-leading bid and must make a judgment as to how aggressively to submit their last bid in order to win the deal. At this point in the auction, bidders make their final bid without knowledge of what any other bidders are bidding. We call this a final "blind" bid.

Typically, a number of auctions tailored to the customer's specific needs will be held. Our exchanges provide rapid results and can accommodate a multitude of permutations for offers, including various year terms, quantities, load factors and green power requirements. For commercial and industrial customers or project owners, we typically run two to six auction events per procurement and for large government aggregations that generally are more complex, we typically run 20 to 40 auction events. Each auction event usually lasts 15 minutes or less. Included as part of any auction transaction are date and time stamping of bids, comparison of each bid with benchmark prices, as well as automated stop times, which ensure the integrity of auction events. The exchanges are also periodically synchronized to the atomic clock which is intended to ensure that auction start and stop times are precise.

Following an auction, the auction results are analyzed and if the auction has been successful, we assist the customer with the contracting process with the winning bidder which is typically finalized within several hours of the closing of the last auction event. In the case of a commercial energy consumer, we facilitate any remaining disc ussion between the leading energy supplier and the energy consumer relating to the energy supplier's contract terms that were not addressed in establishing the auction parameters. In the case of government energy consumers, the energy suppliers have seen and, in general, have agreed to the form of supply contract being required by the government energy consumer. Accordingly, the time period between the end of the auction and the execution of a contract is usually shorter than in the case of non-government energy consumers. Not all auctions result in awarded contracts.

For retail energy transactions, the incumbent local utility serving a given location is typically obligated to deliver the commodity to the customer's premises from the location where the supplier delivers electricity energy into that local utility's delivery system. However, the energy supplier is responsible for enrolling the energy consumer's account with the applicable local utility and the energy supplier remains liable for any costs resul ting from the physical loss of energy during transmission and delivery to the customer's premises. We never buy, sell or take title to the energy products or environmental commodities on our auction platforms.

We typically interface directly with the customer throughout the brokerage process. However, if a channel partner is involved, the channel partner will often perform one or more of the following functions: working with a customer to sign a procurement services agreement, interacting with the customer relating to World Energy analyses, supporting the decision-making, and interfacing with the customer during the contracting process. However, even if a channel partner is involved, we are still primarily responsible for tasks such as interacting with utilities to obtain an energy consumer's usage history, performing analyses, creating RFPs, interfacing with bidders, and scheduling, conducting and monitoring auctions and collecting the commission earned from the bidder.

As we build out our procurement capabilities within the retail energy marketplace, we have begun to offer our procurement services to smaller commercial and industrial customers. We refer to these customers as the mid-market. While we still assist end users in procuring their energy needs, w e do not utilize our online solution to consummate these transactions. Rather, we gather price quotes directly from competing energy supplier for these customers. We call these types of transactions direct sourcing. While we will still have firm agreements with each respective energy supplier and still get paid by the winning energy supplier based on the amount of energy consumed by the end user, we may or may not have a definitive agreement with the energy user.

Growth Strategy

Our overall objective is to leverage our preeminent position as the exchange of choice for executing transactions in energy and environmental commodities to be a leader in the energy management space.

We seek to achieve our objective by expanding our community of channel partners, customers and bidders on our exchange, strengthening and expanding long-term relationships with government agencies, broadening our product offerings, making strategic acquisitions, and growing our sales force. Key elements of our strategy are as follows:

Continuing to Develop Channel Partner Relationships. A significant amount of the customers using our auction platforms have been introduced to us through our channel partners. Our plan is to focus on developing and increasing our number of channel partne r relationships in an effort to expand the base of customers using our auction platforms. We have consistently increased the number of channel partners since 2007 from 42 to 320 at December 31, 2013.

Leveraging New Products such as Demand Response, Risk Management, Bill Management and Efficiency. We continue to expand our offerings either organically, through partnerships or via acquisition (risk management via Energy Gateway, LLC ("Energy Gateway") and efficiency via NES), and sell them to new prospects or existing customers via our sales force and channel network.

Push into the Mid-Market. We see the mid-market as being a viable growth opportunity, and with our acquisition of GSE and NEP we added a base of expertise that can enable us to take their Texa s and Connecticut footprints and expand them nationally.

Making Strategic Acquisitions. From time to time, we also pursue strategic acquisitions to help us expand geographically, add expertise and product depth, provide accretive revenue and profit stream s or a combination of two or more of the above. We believe with our public currency and automated systems that we are a logical entity to roll up the industry.

Strengthening and Expanding Long-term Relationships with Government Agencies. We intend to cont inue to build on the relationships we have established with federal, state and local government agencies. We expect that our expertise in brokering cost-saving energy contracts for government agencies will continue to be in demand as contract terms expire and governments look to contract for low energy prices in a competitive market.

Bidders, Listers and Channel Partners

Bidders. Our success is heavily dependent on our bidder relationships, the credibility of our bidders and the integrity of the auction p rocess. Bidders include over 280 competitive electricity and natural gas suppliers and over 200 wholesale electricity suppliers registered on the World Energy Exchange ®, representing a majority of all suppliers in the deregulated electricity and natural gas markets. There are also over 150 users registered to transact for environmental commodities. Of the registered energy suppliers, more than 180 had active contracts with energy consumers that were brokered through our World Energy Exchange ® as of December 31, 2013. Two of these bidders accounted for 20% in the aggregate of our revenue for the years ended December 31, 2013 and 2012, respectively. In order to participate in an auction event, bidders must register with us by either entering into a standard-form agreement pursuant to which the bidder is granted a license to access our auction platform and bid at auction events or by qualifying to participate in an auction pursuant to a government solicitation. Our national standard form agreement is typically for an indefinite term, may be terminated by either party upon 30 days prior written notice, is non-exclusive, non-transferable and cannot be sublicensed. Under our standard-form agreement or the government solicitation, the bidder agrees to pay us a commission, which varies from contract to contract and is based on a set rate per energy unit consumed by the lister.

Listers. Listers using our auction platform to procure energy, demand response and environmental commodities include government agencies, comm ercial and industrial energy consumers, utilities, municipal utilities, environmental commodity project owners, financial institutions and brokers. Government energy consumers have complex energy needs in terms of both scope and scale, which we believe can best be met with a technology-based solution such as our exchanges. Additionally, the automated nature of our exchanges is designed to support protest free auctions. We have brokered energy for the General Services Administration ("GSA") and over 25 federal agencies, and numerous county and state governments including the nine Northeast and Mid-Atlantic states participating in RGGI.

Our contracts for the online energy procurements with these governmental entities are typically for multiple years ranging from two to five years. *During this contractual period, the governmental entity may run various auctions for different locations or agencies that fall under* their purview. As a result, revenue from these customers could extend beyond the actual contractual term. As additional states open their electricity markets to competition and suppliers enter those markets creating a competitive la ndscape, we plan to actively market our services to them. These contracts do not require that the government energy consumer use our services and, as is typical in government procurements, contain termination for convenience and fiscal funding clauses. If a contract was terminated for convenience, it would typically not have any bearing on energy delivered through the termination date. None of the energy consumers using our auction platform accounted for 10% or more of our aggregate revenue for the years ended December 31, 2013 and 2012, respectively.

Direct Sales. Retail targets of direct sales efforts are typically large companies with facilities in many geographic locations including hotel chains, property management firms, big box retailers, supermarket s, department stores, drug stores, convenience stores, restaurant chains, financial services firms and manufacturers across various industries. We also are pursuing utilities, municipal utilities, and retail energy providers in the wholesale market, and project owners, customers seeking to meet compliance obligations, and brokers in the environmental commodities markets.

Channel Partners. We also target customers through our channel partner model. These are firms with existing client relationships with cer tain customers that would benefit from the addition of an online procurement solution. Channel partners consist of a diverse array of companies including energy service companies, demand side consultants and manufacturers, ABCs and strategic sourcing companies, but in the most general terms they are resellers or distributors. As of December 31, 2013, we had entered into agreements with 320 channel partners that are currently engaged in efforts to source potential transactions to our exchanges, although not all have sourced a transaction for which an auction has been completed. Upon identifying opportunities with new channel partners, we enter into a channel partner agreement that grants the channel partner a non-exclusive right to sell our procurement process typically for a term of one year, which renews automatically unless terminated upon 30 days written notice. The channel partner receives a commission based generally on the amount of involvement of the channel partner in the procurement process.

Competition

Customers have a broad array of options when purchasing energy or environmental commodities. Retail energy consumers can either purchase energy directly from the utility at the utility's rate or purchase energy in the deregulated market through one of the following types of entities: competitive energy suppliers, ABCs and online brokers. We compete with competitive energy suppliers, ABCs and other online brokers for energy consumers that are seeking an alternative to purchasing directly from the utili ty. Demand response customers typically negotiate demand response services directly with DRPs. Wholesale customers typically buy from generators, traders, traditional brokers who use phone-based methods, or bid-ask exchanges. Environmental commodity customers typically buy or sell directly through bilateral transactions, brokers, traders or bid-ask exchanges. Energy Efficiency Services customers typically use small to medium size lighting companies for their lighting efficiency measure. These lighting companies outsource any mechanical efficiency measures to small HVAC contractors.

Technology

The auction platform that powers our exchange is comprised of a scalable transaction processing architecture and web-based user interface. The auction platform is primarily based on internally developed proprietary software, but also includes third party components for user interface elements and reporting. The auction platform supports the selling and buying processes including bid placements, bidder registration and management, channel partner management, deal process management, contract management, site management, collection and commission management, and reporting. The auction platform maintains current and historical data online for all of these components.

Our technology systems are monitored and upgraded as necessary to accommodate increasing levels of traffic and transaction volume on the website. However, future upgrades or additional technology licensing may be required to ensure optimal performance of our a uction platform services. See "Risk Factors" at Item 1A. To provide maximum uptime and system availability, our auction platform is hosted in a multi-tiered, secure, and reliable fault tolerant environment which includes backup power supply to computer equipment, climate control, as well as physical security to the building and data center. In the event of a major system component failure, such as a system motherboard, spare servers are available.

We strive to offer a high level of data security in order to build the confidence in our services among customers and to protect the participants' private information. Our security infrastructure has been designed to protect data from unauthorized access, both physically and over the Internet. The most sensitive d ata and hardware of the exchanges reside at the data centers.

Seasonality

Our revenue is subject to seasonality and fluctuations during the year primarily as a result of weather conditions and its impact on the demand for energy. The majority of our revenue is generated from the commissions we receive under any given energy contract, which is tied to the energy consumer's consumption of energy. Therefore, revenue from natural gas consumption tends to be strongest during the winter months due to the increase in heating usage, and revenue from electricity consumption tends to be st rongest during the summer months due to the increase in air conditioning usage. Our revenue is also subject to fluctuations within any given season, depending on the severity of weather conditions — during a particularly cold winter or an unseasonably warm summer, energy consumption will rise. In addition, transaction revenue in the natural gas and wholesale markets for which we invoice upon completion of the respective transaction tends to be higher in the first and fourth quarters when utilities and natural gas customers make their annual natural gas buys. Energy efficiency services revenue tends to be lowest in the first half of the year and increases in the second half of the year as utilities make a push to spend funds set aside for efficiency projects by the end of the calendar year.

Intellectual Property

We enter into confidentiality and non-disclosure agreements with third parties with whom we conduct business in order to limit access to and disclosure of our proprietary information.

We operate our platform under the trade name "World Energy Exchange ®". We own the following registered trademarks in the U.S.: World Energy Solutions ®, World Green Exchange ®, World DR Exchange ® and World Energy Exchange ®. We also own the following domain names: worldenergy.com, wesplatform.com, wexch.com, worldenergyexchange.com, worldenergysolutions.com, worldefficiencyexchange.com, worldgreenexchange.com, worlddrexchange.com, worldpowerexchange.com and worldenergysolutionsinc.com. To protect our intellectual property, we rely on a combination of copyright and trade secret laws and the domain name dispute resolution system.

Our corporate name and certain of our trade names may not be eligible for protection if, for example, they are generic or in use by another party. We may be unable to prevent competitors from using trade names or corporate names that are confusingly similar or identical to ours.

We have one patent titled "Method for Receiving Bids on Energy-Savings and Energy Supply Portfolio", which relates to a computer-implemented method for determining an optimal award schedule for satisfaction of energy efficiency and energy supply requirements for a portfolio of one or more buildings.

If we are unable to protect our copyrights, trade secrets or domain names, our business could be adversely affected. Others may claim in the future that we have infringed their intellectual property rights.

Personnel

As of December 31, 2013, we had one hundred twenty-six employees consisting of three members of senior management, fifty-nine sales and marketing employees, seven information technology employees, forty-three supply desk employees and fourteen administrative employees. The extent and timing of any increase in staffing will depend on the availability of qualified personnel and other developments in our business. None of the employees are represented by a labor union, and we believe that we have good relationships with our employees.

Company Information

We commenced operations through an entity named Oceanside Energy, Inc., or Oceanside, which was incorporated under the laws of the State of Delaware on September 3, 1996. We incorporated World Energy Solutions, Inc. under the laws of the State of Delaware under the name "World Energy Exchange, Inc." on June 22, 1999, and on October 31, 1999, Oceanside became a wholly-owned subsidiary of World Energy Solutions, Inc. and was subsequently dissolved. On December 21, 2006, we incorporated a 100% owned subsidiary, World Energy Securities Corp., under the laws of the Commonwealth of Massachusetts.

Our registered and principal office is located at 100 Front Street, Worcester, Massachusetts, 01608, United States of America, and our telephone number is (508) 459-8100. Our website is located at www.worldenergy.com.

Item 1A. Risk Factors

You should carefully consider the risks and uncertainties described below before deciding to invest in shares of our common stock. If any of the following risks or uncertainties actually occurs, our business, prospects, financial condition and operating results would likely suffer, possibly materially. In that event, the market price of our common stock could decline and you could lose all or part of your investment.

Risks Related to Our Business

We had previously restated our prior consolidated financial statements, which may lead to additional risks and uncertainties.

We had restated our previously issued audited consolidated financial statements for the year ended December 31, 2011, and the unaudited financial statements for the quarterly periods ended March 31, 2012, June 30, 2012, and September 30, 2012 included in our Quarterly Reports on Forms 10-Q and the unaudited pro forma disclosures included in our Current Report on Form 8-K/A filed on December 17, 2012 (the "Relevant Periods"). The determination to restate these consolidated financial statements was made by our Board of Directors, based upon the recommendations of the Audit Committee and in consultation with management, following the identification of errors related to the timing of revenue recognition for certain commission payments during the Relevant Periods.

As a result of these events, we have become subject to a number of additional risks and uncertainties, including unanticipated costs for legal fees in connection with or related to the restatements of the Relevant Periods. We may also be subject to litigation and/or regulatory proceedings in connection with or related to the restatements of the Relevant Periods, and such event or events may have a n adverse effect on our business, financial condition, operating results and/or our stock price.

If we are unable to implement and maintain effective internal control over financial reporting in the future, the accuracy and timeliness of our financial reporting may be adversely affected.

As disclosed in Item 9A of this report, we had previously identified a material weakness in our internal control over financial reporting as of December 31, 2012 that resulted in restatements of our previously issued audited consolidated financial statements for the year ended December 31, 2011. During 2013, we undertook specific steps to remediate the material weakness which resulted in our assessing our internal control over financial reporting as effective as of December 31, 2013.

We continue to expand our business through the acquisition of other businesses and technologies which will present special risks.

We continue to expand our business in certain areas through the acquisition of businesses, technologies, products and services from other businesses. Acquisitions involve a number of special problems, including:

- the need to incur additional indebtedness, issue stock or use cash in order to complete the acquisition;
- difficulty integrating acquired technologies, operations and personnel with the existing business;
- diversion of management attention in connection with both negotiating the acquisitions and integrating the assets;
- strain on managerial and operational resources as management tries to oversee larger operations;

- the funding requirements for acquired companies may be significant;
- exposure to unforeseen liabilities of acquired companies;
- disputes related to earn-outs or other contractual matters post acquisition;
- increased risk of costly and time-consuming litigation, including stockholder lawsuits; and
- potential issuance of securities in connection with an acquisition with rights that are superior to the rights of our common stockholders, or which may have a dilutive effect on our common stockholders.

We may not be able to successfully address these problems. Our future operating results will depend to a significant degree on our ability to successfully integrate acquisitions and manage operations while also controlling expenses and cash burn.

We may change policies and business practices following acquisitions which may have negative impact on the acquired business and our ability to retain key employees of the acquired entity.

As we continue to acquire businesses we may implement changes around how those acquisitions had traditionally conducted their business in order to drive standardization and efficiencies in the combined entity. Such changes may entail:

- changing payment terms with energy suppliers;
- conforming employee commission plans to match our existing plans; and
- implementing our standard procurement process and procedures and documentation requirements.

These changes may have a negative impact on the continuing business and our ability to retain key personnel of the acquired entity.

A prolonged recession, instability in the financial markets, and insufficient financial sector liquidity, could negatively impact our business.

The consequences of a prolonged recession could include a lower level of economic activity and uncertainty regarding energy prices and the capital and commodity markets. A lower level of economic activity could result in a decline in energy consumption and further weakened commodity markets, which could adversely affect our revenues and future growth. Economic downturns or periods of high energy supply costs typically lead to reductions in energy consumption and increased conservation measures. Instability in the financial markets as a result of a recession or otherwise, as well as insufficient financial sector liquidity, also could affect the cost of capital and our ability to raise capital.

If we are unable to rapidly implement some or all of our major strategic initiatives, our ability to improve our competitive position may be negatively impacted.

Our strategy is to improve our competitive position by implementing certain key strategic initiatives in advance of competitors, including the following:

- leveraging new products such as demand response, risk management, bill management and efficiency;
- continuing to develop channel partner relationships;
- strengthening and expanding long-term relationships with government agencies;
- push into the mid-market; and
- making strategic acquisitions.

While we have made significant progress in pursuing these initiatives, we cannot assure you that we will be successful in executing against any of these key strategic initiatives, or that our time to market will be sooner than that of competitors. Some of these initiatives relate to new services or products for which there are no established markets, or in which we lack experience and expertise. If we are unable to continue to implement some or all of our key strategic in itiatives in an effective and timely manner, our ability to improve our competitive position may be negatively impacted, which would have a material adverse effect on our business and prospects.

We currently derive a substantial amount of our revenue from the brokerage of electricity, and as a result our business is highly susceptible to factors affecting the electricity market over which we have no control.

We derived approximately 63 % of our revenue during 2013 from the brokerage of electricity. Although our reliance on the brokerage of electricity has diminished as we implemented our strategy to expand into other markets, we believe that our revenue will continue to be highly dependent on the level of activity in the electricity market for the near future. Transaction volume in the electricity market is subject to a number of variables, such as consumption levels, pricing trends, availability of supply and other variables. We have no control over these variables, which are affected by geopolitical events such as war, threat of war, terrorism, civil unrest, political instability, environmental or climatic factors and general economic conditions. We are particularly vulnerable during periods when energy consumers perceive that electricity prices are at elevated levels since transaction volume is typically lower when prices are high relative to regulated utility prices. Accordingly, if electricity transaction volume declines sharply, our results will suffer.

Our business is heavily influenced by how much regulated utility prices for energy are above or below competitive market prices for energy and, accordingly, any changes in regulated prices or cyclicality or volatility in competitive market prices heavily impacts our business.

When energy prices increase in competitive markets above the price levels of the regulated utilities, energy consumers are less likely to lock-in to higher fixed price contracts in the competitive markets and so they are less likely to use our auction platform. Accordingly, reduction s in regulated energy prices can negatively impact our business. Any such reductions in regulated energy prices over a large geographic area or over a long period of time would have a material adverse effect on our business, prospects, financial condition and results of operations. Similarly, cyclicality or volatility in competitive market prices that have the effect of driving those prices above the regulated utility prices will make our auction platform less useful to energy consumers and will negatively impact our business.

Our costs will continue to increase as we expand our business and our revenue may not increase proportionately, resulting in operating losses in the future.

We have significantly increased our operating expenses as we expanded our brokerage capabilities to offer additional energy-related products, increased our sales and marketing efforts, developed our administrative organization and made acquisitions. For the year ended December 31, 2013 we had a pre-tax net loss of approximately $ 2.9 million. As we continue to invest in our business, we may incur operating losses. In addition, our budgeted expense levels are based, in significant part, on our expectations as to future revenue and are largely fixed in the short term. As a result, we may be unable to adjust spending in a timely manner to compensate for any unexpected shortfall in revenue which could compound those losses in any given fiscal period.

We have a history of operating losses, which may make it difficult for you to evaluate our business and prospects.

We have a history of operating losses and, at December 31, 2013, we had an accumulated deficit of approximately $19.2 million. You must consider our business, financial history and prospects in light of the risks and difficulties we face as an early stage company with a limited operating history.

Our success depends on the widespread adoption of purchasing electricity from competitive sources.

Our success depends, in large part, on the willingness of CIG energy consumers to embrace competitive sources of supply, and on the ability of our energy suppliers to consistently source electricity at competitive rates. In most regions of North America, energy consumers have either no , or relatively little, experience purchasing electricity in a competitive environment. Although electricity consumers in deregulated regions have been switching from incumbent utilities to competitive sources, there can be no assurance that the trend will continue. In a majority of states and municipalities, including some areas which are technically "deregulated", electricity is still provided by the incumbent local utility at subsidized rates or at rates that are too low to stimulate meaningful competition by other providers. In addition, extreme price volatility could delay or impede the widespread adoption of competitive markets. To the extent that competitive markets do not continue to develop rapidly our prospects for growth will be constrained. Also, there can be no assurance that trends in government deregulation of energy will continue or will not be reversed. Increased regulation of energy would significantly damage our business.

The online brokerage of energy and environmental commodities is a relatively new and emerging market and it is uncertain whether our auction model will gain widespread acceptance.

The emergence of competition in the energy and environmental commodities markets is a relatively recent development, and industry participants have not yet achieved consensus on how to most efficiently take advantage of the competitive environment. We believe that as the online energy brokerage industry matures, it is likely to become dominated by a relatively small number of competitors that can offer access to the largest number of competitive sup pliers and consumers. Brokerage exchanges with the highest levels of transaction volume will likely be able to offer bidders lower transaction costs and offer listers better prices, which we believe will increasingly create competitive barriers for smaller online brokerage exchanges. For us to capitalize on our position as an early entrant into this line of business, we will need to generate widespread support for our auction platform and continue to rapidly expand the scale of our operations. Other online auction or non-auction strategies may prove to be more attractive to the industry than our auction model. If an alternative brokerage exchange model becomes widely accepted in the electricity industry and/or the environmental commodities brokerage industry we participate in, our business will be adversely affected.

Even if our auction brokerage model achieves widespread acceptance as the preferred means to transact energy and environmental products, we may be unsuccessful in competing against current and future competitors.

We expect that competition for online brokerage of energy and environmental products will intensify in the near future in response to expanding restructured energy markets that permit consumer choice of energy sources and as technological advances create incentives to develop more efficient and less costly energy procurement in regional and global markets. The barriers to entry into the online brokerage marketplace are relatively low, and we expect to face increased competition from trad itional off-line energy brokers, other established participants in the energy industry, online services companies that can launch online auction services that are similar to ours and demand response and energy management service providers.

Many of our competitors and potential competitors have longer operating histories, better brand recognition and significantly greater financial resources than we do. The management of some of these competitors may have more experience in implementing their business plan and strategy and they may have pre-existing commercial or other relationships with large listers and/or bidders which would give them a competitive advantage. We expect that as competition in the online marketplace increases, brokerage commissions for the energy and environmental commodities industries will decline, which could have a negative impact on the level of brokerage fees we can charge per transaction and may reduce the relative attractiveness of our exchange services. We expect that our costs relating to marketing and human resources may increase as our competitors undertake marketing campaigns to enhance their brand names and to increase the volume of business conducted through their exchanges. We also expect many of our competitors to expend financial and other resources to improve their network and system infrastructure to compete more aggressively. Our inability to adequately address these and other competitive pressures would have a material adverse effect on our business, prospects, financial condition and results of operations.

We depend on the services of our senior executives and other key personnel, the loss of whom could negatively affect our business.

Our future performance will depend substantially on the continued services of our senior management and other key personnel, includin g our chief information officer and our market directors. If any one or more of these persons leave their positions and we are unable to find suitable replacement personnel in a timely and cost efficient manner, our business may be disrupted and we may not be able to achieve our business objectives, including our ability to manage our growth and successfully implement our strategic initiatives. While we have employment agreements with certain of our senior management and key personnel, such agreements permit our employees to terminate their employment at any time and for any reason and to provide only a notice to us prior to their departure.

We must also continue to seek ways to retain and motivate all of our employees through various means, including through enhanced compensation packages. In addition, we will need to hire more employees as we continue to implement our key strategy of building on our market position and expanding our business. Competition for q ualified personnel in the areas in which we compete remains strong and the pool of qualified candidates is limited. Our failure to attract, hire and retain qualified staff on a cost efficient basis would have a material adverse effect on our business, prospects, financial condition, results of operations and ability to successfully implement our growth strategies.

We do not have contracts for fixed volumes with the bidders who use our auction platform and we depend on a small number of key bidders, and the partial or complete loss of one or more of these bidders as a participant on our auction platform could undermine our ability to execute effective auctions.

We do not have contracts for fixed volumes with any of the bidders who use our auction platform. Two of these bidders accounted for 20% in the aggregate of our revenue for the years ended December 31, 2013 and 2012, respectively. The loss of these or other significant bidders will negatively impact our operations, particularly in the absence of our ability to locate additional national bidders. We do not have agreements with any of these bidders preventing them from directly competing with us or utilizing competing services.

We depend on a small number of key listers for a significant portion of our revenue, many of which are government entities that have no obligation to use our auction platform or continue their relationship with us, and the partial or complete loss of business of one or more of these consumers could negatively affect our business.

Our listers are comprised primarily of large businesses and government organizations. None of these listers individually represented more than 10% of our revenue for the years ended December 31, 2013 and 2012, respectively. Our government contracts are typically for multiple years but are subject to government funding contingencies and cancellation for convenience clauses. Although our non-government contracts create a short-term exclusive relationship with the lister, typically this exclusivity relates only to the specific auction event and expires during the term of the energy contract. Accordingly, we do not have ongoing commitments from these listers to purchase any of their incremental energy or environmental commodity requirements utilizing our auction platform, and they are not prohibited from using competing brokerage services. The loss of any of these key listers will negatively impact our revenue, particularly in the absence of our ability to attract additional listers to use our service.

We depend on our channel partners to establish and develop certain of our relationships with listers and the loss of certain channel partners could result in the loss of certain key listers.

We rely on our channel partners to establish certain of our relationships with listers. Our ability to maintain our relationships with our channel partners will impact our operations and revenue. We depend on the financial viability of our channel partners and their success in procuring listers on our behalf. One of our channel partners was involved with identifying and qualifying listers which entered into contracts that accounted f or 9% and 12% of our revenue for the years ended December 31, 2013 and 2012, respectively. Channel partners may be involved in various aspects of a deal including but not limited to lead identification, the selling process, project management, data gathering, contract negotiation, deal closing and post-auction account management. To the extent that a channel partner ceases to do business with us, or goes bankrupt, dissolves, or otherwise ceases to carry on business, we may lose access to that channel partner's existing client base, in which case the volume of energy traded through the World Energy Exchange ® will be adversely affected and our revenue will decline.

Our business depends heavily on information technology systems the interruption or unavailability of which could materially damage our operations.

The satisfactory performance, reliability and availability of our exchange, processing systems and network infrastructure are critical to our reputation and our ability to attract and retain listers and bidders to our exchanges. Our efforts to mitigate systems risks may not be adequate and the risk of a system failure or interruption cannot be eliminated. Although we have never experienced a material unscheduled interruption of service, any such interrupt ion in our services may result in an immediate, and possibly substantial, loss of revenue and damage to our reputation.

Our business also depends upon the use of the Internet as a transactions medium. Therefore, we must remain current with Internet use and technology developments. Our current technological architecture may not effectively or efficiently support our changing business requirements.

Any substantial increase in service activities or transaction volume on our exchanges may require us to expand and upgrade our technology, transaction processing systems and network infrastructure. Although we continually monitor infrastructure performance and plan for scalability, there can be no assurance that we will be able to successfully do so, and any failu re could have a material adverse effect on our business, results of operations and financial condition.

Breaches of online security could damage or disrupt our reputation and our ability to do business.

To succeed, online communications must provide a secure transmission of confidential information over public networks. Security measures that are implemented may not always prevent security breaches that could harm our business. Although to our knowledge we have never experienced a breach of online securit y, compromise of our security could harm our reputation, cause users to lose confidence in our security systems and to not source their energy and environmental commodities using our auction platform and also subject us to lawsuits, sanctions, fines and other penalties. In addition, a party who is able to circumvent our security measures could misappropriate proprietary information, cause interruptions in our operations, damage our computers or those of our users, or otherwise damage our reputation and business. Our insurance policies may not be adequate to reimburse us for losses caused by security breaches.

We may need to expend significant resources to protect against security breaches or to address problems caused by breaches. These issues are likely to become more difficult and costly as our business expands.

We depend on third-party service and technology providers and any loss or break-down in those relationships could damage our operations significantly if we are unable to find alternative providers.

We depend on third-party providers for web hosting of our online auction system, data management and other systems, as well as communications and networking equipment, computer hardware and software and related support and maintenance. There can be no assurance that any of these providers will be able to continue to provide these services without interruption and in an efficient, cost-effective manner or that they will be able to adequately meet our needs as our transaction volume increases. An interrupt ion in or the cessation of such third-party services and our inability to make alternative arrangements in a timely manner, or at all, could have a material adverse effect on our business, financial condition and operating results. There is also no assurance that any agreements that we have in place with such third-party providers will be renewed, or if renewed, renewed on favorable terms.

To the extent that we expand our operations into foreign markets, additional costs and risks associated with doing business internationally will apply.

It is possible that we will have international operations in the future. These operations may include the brokering of green credits in countries signatory to international treatises and the brokering of energy in other geographic markets where we believe the demand for our services may be strong. To the extent we enter geographic markets outside of the U.S. our international operations will be subject to a number of risks and potential costs, including:

- different regulatory requirements governing the energy marketplace;
- difficulty in establishing, staffing and managing international operations;
- regulatory regimes governing the Internet and auctioneering that may limit or prevent our operations in some jurisdictions;
- different and more stringent data privacy laws;
- differing intellectual property laws;
- differing contract laws that prevent the enforceability of agreements between energy suppliers and energy consumers;
- the imposition of special taxes, including local taxation of our fees or of transactions through our exchange;
- strong local competitors;
- currency fluctuations; and
- political and economic instability.

Our failure to manage the risks associated with international operations could limit the future growth of our business and adversely affect our operating results. We may be required to make a substantial financial investment and expend significant management efforts in connection with any international expansion.

The application of taxes including sales taxes and other taxes could negatively affect our business.

The application of indirect taxes (such as sales and use tax, value added tax, goods and services tax, business tax, and gross receipt tax) to e-commerce businesses and our users is a complex and evolving issue. Many of the fundamental statutes and regulations that impose these taxes were established before the growth of the Internet and e-commerce. In many cases, it is not clear how existing statutes apply to the Internet or e-comme rce. In addition, some jurisdictions have implemented or may implement laws specifically addressing the Internet or some aspect of e-commerce. The application of existing or future laws could have adverse effects on our business.

Several proposals have been made at the state and local level that would impose additional taxes on the sale of goods and services through the Internet. These proposals, if adopted, could substantially impair the growth of e-commerce, and could diminish our opportunity to derive f inancial benefit from our activities. The U.S. federal government's moratorium on states and other local authorities imposing access or discriminatory taxes on the Internet is effective through November 1, 2014. This moratorium, however, does not prohibit federal, state, or local authorities from collecting taxes on our income or generally from collecting taxes that are due under existing tax rules.

In conjunction with the Streamlined Sales Tax Project — an ongoing, multi-year effort by certain state and local governments to require collection and remittance of distant sales tax by out-of-state sellers — bills have been introduced in the U.S. Congress to overturn the Supreme Court's *Quill* decision, which limits the ability of state governments to require sellers outside of their own state to collect and remit sales taxes on goods purchased by in-state residents. An overturning of the *Quill* decision would harm our users and our business.

The passage of new legislation and the imposition of additional tax requirements could increase the costs to bidders and listers using our auction platform and, accordingly, could harm our business. There have been, and will continue to be, ongoing costs associated with complying with the various indirect tax requirements in the numerous states, localities or countries in which we currently conduct or will conduct business.

U.S. federal or state legislative or regulatory reform of the current systems governing commodities or energy may affect our ability to conduct our business profitably.

We are currently not regulated as an energy provider or commodities dealer. Changes to the laws or regulations governing activities related to commodities trading or energy procurement, supply, distribution or sale, or transacting in energy-related products or securities could adversely affect the profitability of our brokerage operations or even our ability to conduct auctions. Changes to the current regulatory framework could result in additional costs and expenses or prohibit certain of our current business activities or future business plans. We cannot predict the form any such legislation or rule making may take, the probability of passage, and the ultimate effect on us.

Risks Relating to Our Energy Efficiency Business

Our business depends in part on support from gas and electric utilities for energy efficiency, and a decline in such support could harm our business.

Our energy efficiency services business depends in large part on government legislation and policies that support energy efficiency projects and that enhance the economic feasibility of our energy efficiency services for customers. Several of the states in which we operate support our customers' investments in energy efficiency through legislation and regulat ions that provide financial incentives for customers to procure our energy efficiency services.

Our customers frequently depend on these programs to help justify the costs associated with, and to finance energy efficiency projects. If any of these incentives are adversely amended, eliminated or not extended beyond their current expiration dates, or if funding for these incentives is reduced, it could adversely affect our ability to complete projects for our existing customers and obtain project commitments from new customers.

Failure of our subcontractors to properly perform their services in a timely manner could cause delays in the delivery of our energy efficiency projects which could damage our reputation, have a negative impact on our relationships with our customers and adversely affect our growth.

Our success depends on our ability to provide quality, reliable energy efficiency services in a timely manner, which in part requires the proper removal and installation of lighting, mechanical and electrical systems by our subcontractors upon which we depend. Substantially all of our energy efficiency solutions are installed by subcontractors. Any delays, malfunctions, inefficiencies or interruptions in our energy efficiency services caused by improper ins tallation by our subcontractors could cause us to have difficulty retaining current customers and attracting new customers. Such delays could also result in additional costs that could affect the profit margin of our projects. In addition, our brand, reputation and growth could be negatively impacted.

Our energy efficiency activities and operations are subject to numerous health and safety laws and regulations, and if we violate such regulations, we could face penalties and fines.

We are subject to numerous health and safety laws and regulations in each of the jurisdictions in which we operate. These laws and regulations require us to obtain and maintain permits and approvals and implement health and safety programs and procedures to control risks associat ed with our energy efficiency projects. If our compliance programs are not successful, we could be subject to penalties or to revocation of our permits, which may require us to curtail or cease operations of the affected projects. Violations of laws, regulations and permit requirements may also result in criminal sanctions or injunctions.

Our costs of complying with current and future health and safety laws, regulations and permit requirements, and any liabilities, fines or other sanctions resulting from violations of them, could adversely affect our business, financial condition and operating results.

Our retrofitting process often involves responsibility for the removal and disposal of components containing hazardous materials and at times requires that our subcontractors work in hazardous conditions, either of which could give rise to a claim against us.

When we retrofit a customer's facility, we typically assume responsibility for removing and disposing of its existing lighting fixtures. Certain components of these fixtures contain trace amounts of mercury and other hazardous materials. Older components may also contain trace amounts of polychlorinated biphenyls, or PCBs. We utilize licensed and insured hazardous wastes disposal companies to remove and/ or dispose of such components. Failure to properly handle, remove or dispose of the components containing these hazardous materials in a safe, effective and lawful manner could give rise to liability for us, or could expose our workers or other persons to these hazardous materials, which could result in claims against us. A successful personal injury claim against us that is not covered by insurance or is in excess of our available insurance limits could require us to make significant payments of damages and could materially adversely affect our results of operations and financial condition.

Risks Relating to Intellectual Property

We may be unable to adequately protect our intellectual property, which could harm us and affect our ability to compete effectively.

We have developed proprietary software, logos, brands, service names and web sites, including our proprietary auction platform. We have taken certain limited steps to protect our proprietary intellectual property (including consulting with outside patent and trademark counsel regarding protection of our intellectual property and implementing a program to protect our trade secrets). While we have been issued a patent, the patent relates to a computer implemented method for determining an optimal award schedule for satisfaction of energy efficiency and energy supply requirements for a portfolio of one or more buildings. We have not applied for any patents for our auction platform. We have registered the following trademarks in the U.S. and certain other countries: World Energy Solutions ®, World Green Exchange ®, World DR Exchange ® and World Energy Exchange ® and filed applications for these trademarks in additional countries. The steps we have taken to protect our intellectual property may be inadequate to deter misappropriation of our proprietary information or deter independent development of similar technologies by others. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or trade secrets by consultants, vendors, former employees and current employees, despite the existence of confidentiality agreements and other contractual restrictions. If our intellectual property rights are not adequately protected, we may not be able to continue to commercialize our services. We may be unable to detect the unauthorized use of, or take adequate steps to enforce, our intellectual property rights. In addition, certain of our trade names may not be eligible for protection if, for example, they are generic or in use by another party. Accordingly, we may be unable to prevent competitors from using trade names that are confusingly similar or identical to ours.

Our auction platform, services, technologies or usage of trade names could infringe the intellectual property rights of others, which may lead to litigation that could itself be costly, could result in the payment of substantial damages or royalties, and/or prevent us from using technology that is essential to our business.

Although no third party has threatened or alleged that our auction platform, services, technologies or usage of trade names infringe their patents or other intellectual property rights, we cannot assure you that we do not infringe the patents or other intellectual property rights of third parties.

Infringement and other intellectual property claims and proceedings brought against us, whether successful or not, could result in substantial costs and harm to our reputation. Defending our intellectual property rights could result in the expenditure of significant financial and managerial resources, which could adversely affect our business, financial condition, and operating results. If our business is successful, the possibility may increase that others will assert infringement claims against us.

We use intellectual property licensed from third parties in our operations. There is a risk that such licenses may be terminated, which could significantly disrupt our business. In such an event, we may be required to spend significant time and money to develop a non-inf ringing system or process or license intellectual property that does not infringe upon the rights of that other party or to obtain a license for the intellectual property from the owner. We may not be successful in that development or any such license may not be available on commercially acceptable terms, if at all. In addition, any litigation could be lengthy and costly and could adversely affect us even if we are successful in such litigation.

Our corporate name and certain of our trade names may not be eligible for protection if, for example, they are generic or in use by another party. We may be unable to prevent competitors from using trade names or corporate names that are confusingly similar or identical to ours.

Risks Relating to Ownership of Our Common Stock

Our corporate documents and Delaware law make a takeover of our Company more difficult, we have a classified board of directors and certain provisions of our certificate of incorporation and by-laws require a super-majority vote to amend, all of which may prevent certain changes in control and limit the market price of our common stock.

Our charter and by-laws contain provisions that might enable our management to resist a takeover of our Company. Our certificate of incorporation and by-laws establish a classified board of directors such that our directors serve staggered three-year terms and do not all stand for re-election every year. In addition, any action required or permitted to be taken by our stockholders at an annual meeting or special meeting of stockholders may only be taken if it is properly brought before the meeting and may n ot be taken by written action in lieu of a meeting, and special meetings of the stockholders may only be called by the chairman of the Board, the Chief Executive Officer or our Board. Further, our certificate of incorporation provides that directors may be removed only for cause by the affirmative vote of the holders of 75% of our shares of capital stock entitled to vote, and any vacancy on our Board, including a vacancy resulting from an enlargement of our Board, may only be filled by vote of a majority of our directors then in office. In addition, our by-laws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of stockholders, including proposed nominations of persons for election to the Board. These provisions of our certificate of incorporation and by-laws, including those setting forth the classified board, require a super-majority vote of stockholders to amend. These provisions might discourage, delay or prevent a change in the control of our company or a change in our management. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors and take other corporate actions. The existence of these provisions could limit the price that investors might be willing to pay in the future for shares of our common stock.

Because our stock trading volume is low historically, you may not be able to resell your shares at or above your purchase price.

We cannot predict the extent to which investors' interests will provide an active trading market for our common stock or whether the market price of our common stock will be volatile. The following factors, many of which are outside of our control, could cause the market price of our common stock to d ecrease significantly from recent prices:

- loss of any of the major listers or bidders using our auction platform;
- departure of key personnel;
- variations in our quarterly operating results;
- announcements by our competitors of significant contracts, new transaction capabilities, enhancements, lower fees, acquisitions, distribution partnerships, joint ventures or capital commitments;
- changes in governmental regulations and standards affecting the energy industry and our products, including implementation of additional regulations relating to consumer data privacy;
- decreases in financial estimates by equity research analysts;
- sales of common stock or other securities by us in the future; and
- fluctuations in stock market prices and volumes.

In the past, securities class action litigation often has been initiated against a company following a period of volatility in the market price of the Company's securities. If class action litigation is initiated against us, we will incur substantial costs and our mana gement's attention will be diverted from our operations. All of these factors could cause the market price of our stock to decline, and you may lose some or all of your investment. Also due to the size of the market capitalization of our shares, the market for our common stock may be volatile and may not afford a high level of liquidity.

Our directors, executive officers and affiliates have substantial control over us and could limit your ability to influence the outcome of key transactions, including changes of control.

As of December 31, 2013 our executive officers and directors, affiliates and entities affiliated with them, beneficially own, in the aggregate, approximately 17 % of our outstanding common stock. Our executive officers, directors, affiliates and affiliated entities, if acting together, would be able to control or influence significantly all matters requiring approval by our stockholders, including the election of directors and the approval of mergers or other significant corporate transactions. These stockholders may have interests that differ from yours, and they may vote in a way with which you disagree and that may be adverse to your interests. The concentration of ownership of our common stock may have the effect of delaying, preventing or deterring a change of control of our company, could deprive our stockholders of an opportunity to receive a premium for their common stock as part of a sale of our company, and may affect the market price of our common stock.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

We do not own any real property. We lease the business premises in the following locations for the stated principal uses:

Location	Floor Space (Sq. Ft.)	Principal Use
100 Front Street, Worcester, MA (1)	12,400	Executive office and general administration
1215 19 th Street NW, Washington, DC (2)	200	Branch office
200 Barr Harbor Drive, West Conshohocken, PA (3)	350	Branch office
6500 Emerald Parkway, Dublin, OH (4)	3,571	Branch office
2 Alcap Ridge, Cromwell, CT (5)	4,120	Branch office
174 South Road, Enfield, CT (6)	13,350	Branch office
550 Bailey Avenue, Fort Worth, TX (7)	2,989	Branch office
2626 Cole Avenue, Dallas, TX (8)	4,199	Branch office
1225 North Loop West, Houston, TX (9)	3,090	Branch office
2000 Town Center, Suite 1900, Southfield, MI (10)	198	Branch office

Note:

(1) Pursuant to a 123-month lease agreement with Berkley Investments, Inc., expiring October 31, 2022, at a monthly rate of $20,408 escalating to $30,254 at an increased floor space of 14,971 square feet, including a base charge for operating expenses and taxes.

(2) Pursuant to an at will lease agreement with Roosevelt Land, LP, at a monthly rate of $2,800 including a base charge for operating expenses and taxes.

(3) Pursuant to a six-month lease agreement with Regus Management Group, LLC, expiring March 31, 2014 at a monthly rate escalating to $3,283 plus certain operating expenses.

(4) Pursuant to a 62-month lease agreement with BRE/COH OH, LLC, expiring March 31, 2018, at a monthly rate escalating to $3,869, plus certain operating expenses and taxes.

(5) Pursuant to a five-year lease agreement with Alcap Associates, expiring November 30, 2015, at a monthly rate escalating to $1,782, plus certain operating expenses and taxes.

(6) Pursuant to a five-year lease agreement with 174 South Management, LLC, expiring September 30, 2017, at a monthly rate of $10,013, plus certain operating expenses and taxes.

(7) Pursuant to a five-year lease agreement with GC Museum Partners, LP, terminated January 31, 2014 at a monthly rate escalating to $6,558, plus certain operating expenses and taxes. A five-year lease commenced February 1, 2014 for floor space of 1,489 square feet, with monthly rent escalating to $3,615.

(8) Pursuant to a 66-month lease agreement with VRS/TA – Cole / Woodview, LP, expiring November 30, 2017 at a monthly rate escalating to $9,098, including a base charge for operating expenses and taxes.

(9) Pursuant to a 64-month lease agreement with 1225 North Loop Investments, Inc., expiring April 30, 2014, at a monthly rate of $4,506 including a base charge for operating expenses and taxes.

(10) Pursuant to a 24-month lease agreement with Regus Management Group, LLC, expiring February 28, 2015, at a monthly rate escalating to $1,699, plus certain operating expenses and taxes.

Item 3. Legal Proceedings

Three former employees/consultants of GSE Consulting, LP ("GSE") have filed three separate complaints in Texas County Court alleging, among other things, claims related to breach of contract, quantum meruit, promissory estoppel, and tortious interference. Each plaintiff claims that GSE and/or we failed to pay commissions due for services that they provided prior to the date of the Company's purchase of certain GSE assets, based on their respective employment or independent contractor agreements with GSE. Each plaintiff has also asserted claims for recovery of their attorneys' fees. We deny the allegations and have filed counterclaims for damages, asserting claims for conversion, unjust enrichment, misappropriation of confidential information, and violation of the Texas Theft Liability Act against each of the plaintiffs. We have also filed a counterclaim against one of the plaintiffs for her breach of a non-competition and non-solicitation agreement, based on her working for a competitor of ours during her one-year restrictive period and her improper solicitation of former GSE customers on behalf of the competitor. We also filed cross claims against GSE for indemnification under the Asset Purchase Agreement in each of the three cases. In two of these cases, the Plaintiffs have asserted claims against GSE affiliates and their individual principals. The GSE affiliates and principals have also asserted cross claims against us seeking indemnification under the Asset Purchase Agreement. In December 2013, GSE amended its cross claims in one of the matters to include claims asserting breaches of the earnout provisions in the Asset Purchase Agreement. Also, in December 2013, we entered into mediation discussions with one of the plaintiffs. As a result, we agreed to pay the plaintiff a certain settlement that is subject to a confidentiality clause. Such amount was not material to our consolidated operating results or financial position. In return, the plaintiff agreed to drop all claims against us including all claims related to commissions due for past service. The settlement agreement was signed and filed with the court in January 2014. The Court assigned a trial date of May 5, 2014 for the cross claims remaining in the matter. Discovery has concluded in the remaining two matters and the court has assigned a trial date of September 29, 2014 for one of the cases. The remaining case is awaiting assignment of a trial date. We are awaiting a decision on its motion for summary judgment seeking dismissal of all claims against one of the two remaining plaintiffs, and are in the process of filing a motion for summary judgment against the other plaintiff.

We have estimated the potential commissions allegedly due to the two remaining plaintiffs to be approximately $0.3 million. We have not recorded any accrual for contingent liabilities associated with the legal proceedings described above based on our belief that any potential loss, while reasonably possible, is not probable. We intend to defend these actions vigorously and are currently unable to estimate a range of payments, if any, we may be required to pay, with respect to these claims. Further, we believe that the resolution of these matters will not result in a material effect to our consolidated financial statements. However, due to uncertainties that accompany litigation of this nature, there could be no assurance that we will be successful, and the resolution of the lawsuits could have a material effect on our consolidated financial statements.

From time to time, we may be subject to legal proceedings and claims arising from the conduct of our business operations, including litigation related to employment matters. While it is impossible to ascertain the ultimate legal and financial liability with respect to contingent liabilities, including lawsuits, we believe that the aggregate amount of such liabilities, if any, will not have a ma terial adverse effect on our consolidated financial position and/or results of operations. It is possible, however, that future financial position or results of operations for any particular period could be materially affected by changes in our assumptions or strategies related to those contingencies or changes out of our control.

Item 4. Mine Safety Disclosures

None.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

We trade on the NASDAQ Capital Market under the symbol XWES. Our common stock began trading on the TSX on November 16, 2006, and on the NASDAQ on April 6, 2009. Prior to trading on the TSX, there was no established public trading market for our common stock. Effective at the close of trading on December 31, 2010, we voluntarily delisted from the TSX.

The following table sets forth the high and low closing prices per share reported on the NASDAQ for the years 201 3 and 2012 (in U.S. $'s):

	High		Low	
2013:				
First quarter	$	5.30	$	3.68
Second quarter	$	4.17	$	3.56
Third quarter	$	3.95	$	3.20
Fourth quarter	$	4.25	$	3.20
2012:				
First quarter	$	5.04	$	3.04
Second quarter	$	4.78	$	2.85
Third quarter	$	4.42	$	2.83
Fourth quarter	$	5.39	$	4.10

On March 21 , 2014, the last reported sale price of our common stock on the NASDAQ was $4.75 per share and there were 85 holders of record of our common stock.

We have never declared or paid any cash dividends on our common stock. We currently intend to retain our future earnings, if any, to finance the expansion of our business and do not expect to pay any dividends in the foreseeable future.

Information regarding our equity compensation plans required by this item is incorporated by reference to the information appearing under the caption "Equity Compensation Plan Information" in our definitive Proxy Statement for the 201 4 Annual Meeting of Stockholders.

On January 9, 2014, we received a letter as part of a 13D filing from Ardsley Partners and its affiliates ("Ardsley"), a 7.5% owner of our shares, regarding the strategic direction and Board composition of the Company. In particular, Ardsley believes that we should regain focus on the Energy Procurement business, cease all investments into the Energy efficiency services segment and explore a sale of those assets. On March 11, 2014 we entered into a Settlement and Standstill Agreement with Ardsley to increase the size of our Board from five to seven and appoint two new directors to the Board immediately. In addition, we agreed to form a Strategic Alternatives Committee to work with management and professional advisors to identify and review financial and strategic alternatives to enhance our revenue and value. We note that no decision had been made to pursue any transaction and that there can be no assurance that the strategic review process will result in the completion of any particular course of action or transaction.

Repurchase of Equity Securities

In connection with the vesting of restricted stock granted to employees, we withheld shares with value equivalent to employees' minimum statutory obligations for the applicable income and other employment taxes. A summary of the shares withheld to satisfy employee tax withholding obligations for the three months ended December 31, 2013 is as follows:

Period	Total Number of Shares Purchased	Average Price Paid Per Share		Total Number of Shares Purchased As Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under The Plan
10/01/13 – 10/31/13	-	$	-	-	-
11/01/13 – 11/30/13	39	$	3.93	-	-
12/01/13 – 12/31/13	-	$	-	-	-
Total	39	$	3.93	-	-

Item 6. Selected Consolidated Financial Data

Not applicable.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and related notes appearing elsewhere in this Annual Report on Form 10-K. Some of the information contained in this discussion and analysis includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this Annual Report for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

World Energy offers a range of energy management solutions to commercial and industrial businesses, institutions, utilities, and governments to reduce their overall energy costs. We come to market with a holistic approach to energy management helping customers a) contract for a competitive price for energy, b) engage in energy efficiency projects to min imize quantity used and c) pursue available rebate and incentive programs. We made our mark on the industry with an innovative approach to procurement via our online auction platform, the World Energy Exchange ®. With recent investments and acquisitions, we are building out our energy efficiency practice by engaging new customers while also pursuing more cross-selling opportunities for our procurement services.

We provide energy management services utilizing state-of-the-art technology and the experience of a seasoned management team to bring lower energy costs to its customers. We use a simple equation

$$E = P \cdot Q - i$$

to help customers to understand the holistic nature of the energy management problem. Total energy cost (E) is a function of Energy Price (P) times the Quantity of Energy Consumed (Q), minus any rebates or incentives (i) the customer can earn. This approach not only makes energy management more approachable for customers, simplifying what has become an increasingly dynamic and complex problem, it also highlights the inter-related nature of the energy management challenge. We assert that point solution vendors may optimize one of the three elements, but we believe it takes looking at the problem holistically to unlock the most savings.

Acquisitions

Acquisitions are an important component of our business strategy. Our focus is on both our core procurement business as well as new product lines within the energy management services industry such as energy efficiency services.

On October 3, 2012, we acquired substantially all of the assets and assumed certain obligations of Northeast Energy Partners, LLC ("NEP") pursuant to an Asset Purchase Agreement (the "Asset Purchase Agreement") between us, NEP, and its members. NEP was a Connecticut based ener gy management and procurement company. The purchase price was approximately $7.9 million in cash and a $2.0 million Promissory Note with NEP (the "NEP Note"). The NEP Note bears interest at an annual rate of 4% with $1.5 million of principal plus interest due on October 1, 2013 and the remaining $500,000 of principal plus interest due April 1, 2014. NEP could have earned up to an additional $2.5 million in cash and 153,153 in shares based on achieving certain revenue and earnings before interest, taxes, depreciation and amortization ("EBITDA") targets for the 12-month period ending September 30, 2013, as defined. On October 1, 2013, we made the $1.5 million principal and interest payment against the NEP Note. In addition, on December 31, 2013, we paid NEP $1.25 million and issued 76,577 shares of common stock representing the final contingent consideration payment for this acquisition. As a result, we decreased the accrued contingent consideration related to NEP by $0.6 million to $0 at December 31, 2013.

During the third and fourth quarters of 2011 we acquired the energy procurement business of Co-eXprise, Inc. ("Co-eXprise"), Northeast Energy Solutions, LLC ("NES") and GSE Consulting, LP ("GSE"). These acquisitions expanded our capabilities in the Energy efficiency services segment, enabled us to enter the growing small- and medium-sized customer Energy procurement marketplaces, and consolidate the large commercial, industrial and government auction space. With the acquisition of NES, we are managing the business as two business segments: Energy procurement and Energy efficiency services.

Our business model is heavily dependent on our people. We have significantly grown our employee base from 20 at the time of our initial public offering in November 2006 to 12 6 at December 31, 2013. This planned investment in staffing has been, and will continue to be, a key component of our strategic initiatives and revenue growth. These infrastructure investments will result in increased operating costs in the short-term, but in the long-term we expect them to generate cash flow and profitability as we build the incremental revenue. To date we have funded our acquisitions and strategic investments primarily with cash on-hand, notes payable, cash from operations and, most recently, long-term notes payable. We have also deferred portions of the purchase prices through the use of earn-outs that are tied to the ongoing performance of the acquired entity. Through the utilization of seller notes and earn-outs, we have been able to finance a portion of the cost of the acquisitions over time with the targets' ongoing cash flow. These acquisition activities will increase our operating costs both in the short and long-term and may require us to borrow against our current credit facility and/or raise funds through additional capital raises.

Operations

Revenue

Retail Electricity Transactions

We earn a monthly commission on energy sales contracted through our online auction platform from each bidder or energy supplier based on the energy usage transacted between the bidder and lister or energy consumer. Our commissions are not based on the retail price for electricity; rather on the amount of energy consumed. Commissions are calculated based on the volume of energy usage transacted be tween the energy supplier and energy consumer multiplied by our contractual commission rate. Our contractual commission rate is negotiated with the energy consumer on a procurement-by-procurement basis based on energy consumer specific circumstances, including the size of auction, the effort required to organize and run the respective auction and competitive factors, among others. Once the contractual commission is agreed to with the energy consumer, all energy suppliers participating in the auction agree to that rate. That commission rate remains fixed for the duration of the contractual term regardless of energy usage. Energy consumers provide us with a letter of authorization to request their usage history from the local utility. We then use this data to compile a usage profile for that energy consumer that will become the basis for the auction. This data may also be used to estimate revenue on a going forward basis, as noted below.

Historically, our revenue and operating results have varied from quarter-to-quarter and are expected to continue to fluctuate in the future. These fluctuations are primarily due to the buying patterns of our wholesale and natural gas customers, which tend to have large, seasonal purchases during the fourth and first quarters an d electricity usage having higher demand in our second and third quarters. In addition, the activity levels on the World Energy Exchange ® can fluctuate due to a number of factors, including market prices, weather conditions, energy consumers' credit ratings, the ability of suppliers to obtain financing in credit markets, and economic and geopolitical events. To the extent these factors affect the purchasing decisions of energy consumers our future results of operations may be affected. Contracts between energy suppliers and energy consumers are signed for a variety of term lengths, with a one to two year contract term being typical for commercial and industrial energy consumers, and government contracts typically having two to three year terms.

We do not invoice our electricity energy suppliers for monthly commissions earned and, therefore, we report a substantial portion of our receivables as "unbilled." Unbilled accounts receivable represents management's best estimate of energy provided by the energy supp liers to the energy consumers for a specific completed time period at contracted commission rates and is made up of two components. The first component represents energy usage for which we have received actual data from the supplier and/or the utility, but for which payment has not been received at the balance sheet date. The majority of our contractual relationships with energy suppliers require them to supply actual usage data to us on a monthly basis and remit payment to us based on that usage. The second component represents energy usage for which we have not received actual data, but for which we have estimated usage. Commissions paid in advance by certain bidders are recorded as deferred revenue and amortized to commission revenue on a monthly basis on the energy exchanged that month.

Retail Natural Gas Transactions

There are two primary fee components to our retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of our natural gas transactions, we bill the supplier upon the conclusion of the transaction based on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by our energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of our retail natural gas transactions are accounted for in accordance with this policy, a significant percentage is accounted for as the natural gas is consumed by the energy consumer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

We earn a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by our contractual commis sion rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. We generally recognize revenue on these transactions when we have received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to us, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent we do not receive verification of actual energy usage or we cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier. To the extent that we do not receive actual usage data from the energy supplier, we will recognize revenue at the end of the contract flow date.

Demand Response Transactions

Demand response transaction fees are recognized when we have received confirmation from the DRP that the energy consumer has performed under the applicable RTO or ISO program requirements. The energy consumer is either called to perform during an actual curtailment event or is required to demonstrate its ability to perform in a test event during the performance period. For the PJM, the performance period is June through September in a calendar year. Test results are submitted to the PJM by the DRPs and we receive confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay us ratably on a quarterly basis throughout the demand response fiscal (June to May) year. As a result, a portion of the revenue we recognize is reflected as unbilled accounts receivable.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where our customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister. While substantially all wholesale transactions are accounted for in this fashion, a small percentage of our wholesale revenue is accounted for as electricity or gas is delivered, similar to the retail electricity transaction methodology described above.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regula ted allowance programs like RGGI, fees are paid by the lister and are recognized quarterly as revenue as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidder pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Energy Efficiency Services

Our Energy efficiency services segment is primarily project driven where we identify efficiency measures that energy consumers can implement to reduce their energy usage. We present retrofit opportunities to customers, get approval from them to proceed and submit the proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, we install the equipment, typically new heating, ventilation or air conditioning equipment, or replace lighting fixtures to more efficient models. We recognize revenue for Energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), we utilize the completed-contract method. We also assess multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

Cost of revenue

Cost of revenue consists primarily of:

- salaries, bonus and commissions, employee benefits and share-based compensation associated with our auction management and efficiency services, which are directly related to the development and production of the online auction and maintenance of market-related data on our auction platform and monthly management fees (our supply desk function);
- project costs including direct labor equipment and materials directly associated with efficiency projects; and
- rent, depreciation and other related overhead and facility-related costs.

Sales and marketing

Sales and marketing expenses consist primarily of:

- salaries, bonus and commissions, employee benefits and share-based compensation related to sales and marketing personnel;
- third party commission expenses to our channel partners;
- travel and related expenses;
- amortization related to customer relationships and contracts;
- rent, depreciation and other related overhead and facility-related costs; and
- general marketing costs such as trade shows, marketing materials and outsourced services.

General and administrative

General and administrative expenses consist primarily of:

- salaries, bonus and commissions, employee benefits and share-based compensation related to general and administrative personnel;
- accounting, legal, investor relations, information technology, insurance and other professional fees; and
- rent, depreciation and other related overhead and facility-related costs.

Interest expense, net

Interest expense, net consists primarily of:

- interest income earned on cash held in the bank; and
- interest expense related to bank term loans, notes payable and contingent consideration.

Income tax expense

In 2013 we incurred a taxable loss that resulted in a $0.6 million income tax benefit for the year. At December 31, 2013, our accompanying consolidated financial statements reflected deferred tax assets of $8.1 million that included our taxable loss for the year, net of the expiration of certain state loss carryforwards. During 2012, management considered the weight of all available evidence, both positive and negative, and determined that it was more likely than not that we would be able to benefit our deferred tax assets at December 31, 2012 and, as a result, we reversed our valuation allowance in the fourth quarter of 2012. The income tax expense recorded in 2012 reflects an alternative minimum tax ("AMT") liability and certain state and local tax liabilities incurred in those years. As of December 31, 2013, we had cumulative taxable income for the past three years and have applied our NOL's against this taxable income up to certain limitations.

Results of Operations

The following table sets forth certain items as a percent of revenue for the periods presented:

Comparison of the Years Ended December 31, 2013 and 2012

	For the Years Ended December 31,		
	2013	2012	2011
Revenue	100%	100%	100%
Cost of revenue	27	32	20
Gross profit	73	68	80
Operating expenses:			
Sales and marketing	56	48	52
General and administrative	22	25	28
Operating income (loss)	(5)	(5)	0
Other income (expense), net	(3)	(2)	0
Income tax (expense) benefit	1	24	0
Net income (loss)	(7%)	17%	0%

Revenue

	For the Years Ended December 31,			
	2013	2012	Increase (Decrease)	
Energy procurement	$ 28,892,275	$ 24,476,054	$ 4,416,221	18%
Energy efficiency services	5,784,840	7,302,783	(1,517,943)	(21)
Total revenue	$ 34,677,115	$ 31,778,837	$ 2,898,278	9%

Revenue increased 9 % for the year ended December 31, 2013 as compared to the same period in 2012 due to an 18% increase in our Energy procurement segment, partially offset by a 21% decrease in revenue from our Energy efficiency services segment. Our Energy procurement segment revenue increased due to the acquisition of NEP, increased revenue from our mid-market product line and increased transaction activity from large, commercial and industrial customers in our retail product line. The Energy efficiency services segment decline reflects the turnover in the Massachusetts sales team in the early part of 2013.

Cost of revenue

	For the Years Ended December 31,					
	2013		2012			
	$	% of Revenue	$	% of Revenue	Decrease	
Energy procurement	$ 4,650,669	16%	$ 4,739,344	19%	$ (88,675)	(2%)
Energy efficiency services	4,665,922	81	5,330,013	73	(664,091)	(12)
Total cost of revenue	$ 9,316,591	27%	$10,069,357	32%	$ (752,766)	(7%)

Cost of revenue decreased 7 % for the year ended December 31, 2013 as compared to the same period in 2012 primarily due to decreases in equipment, material and labor costs associated with projects completed by our Energy efficiency services segment. Cost of revenue for our Energy procurement segment decreased 2% due to decreases in amortization expense and employee bonus and commission costs, both offset by increased costs associated with our acquisition of NEP. Cost of revenue associated with our Energy procurement segment as a percent of revenue decreased by 3% primarily due to the 18% increase in revenue. Cost of revenue associated with our Energy efficiency services segment decreased 12% primarily due to a decrease in project costs associated with the 21% decrease in revenue. This decrease was partially offset by increased payroll costs due to our continued investment in our project management team in 2013. Cost of revenue associated with our Energy efficiency services segment as a percent of revenue increased by 8% primarily due to the increased payroll costs coupled with the decline in revenue.

Operating expenses

	For the Years Ended December 31,					
	2013		2012			
	$	% of Revenue	$	% of Revenue	Increase (Decrease)	
Sales and marketing	$19,427,779	56%	$15,482,723	48%	$ 3,945,056	25%
General and administrative	7,814,933	22	7,927,889	25	(112,956)	(1)
Total operating expenses	$27,242,712	78%	$23,410,612	73%	$ 3,832,100	16%

Sales and marketing expenses increased 25% for the year ended December 31, 2013 as compared to the same period in 2012 primarily due to increases in payroll, internal and third party commissions and amortization of intangible assets. Payroll and internal commissions increased due to the inclusion of a full year of operations of NEP. In addition, mid-market commissions increased due to a change in the commission policy for our mid-market group implemented in the second quarter of 2013. Under the revised policy, we continue to pay commissions based on cash received from mid-market transactions that are deferred for revenue purposes and provide for certain bookings and quota bonuses to offset the impact of the change in our policy. Third-party commissions increased 28% due to increased sales activity being driven by our channel partners. Amortization expense related to intangible assets increased in 2013 due to our 2012 acquisition of NEP. Sales and marketing expense as a percentage of revenue increased by 8% as the increase in costs and the change in our mid-market commission plan were only partially offset by the 9% increase in revenue.

The 1 % decrease in general and administrative expenses for the year ended December 31, 2013 as compared to the same period in 2012 was primarily due to decreases to contingent consideration and consulting fees. These decreases were substantially offset by increases in legal, occupancy and amortization expense associated with the GSE litigation and the inclusion of a full year of operations from our 2012 acquisition of NEP. General and administrative expenses as a percent of revenue decreased 3% primarily due to the 9% increase in revenue and costs remaining relatively flat.

Other income (expense), net

Net interest expense was approximately $1.1 million for the year ended December 31, 2013 compared to net interest expense of approximately $0.5 million for the year ended December 31, 2012. The increase in net interest expense in 2013 was primarily due to the addition of $8.0 million in long-term debt on October 3, 2012 to fund the NEP acquisition. Other income in the first quarter of 2012 primarily consisted of $53,000 that was recognized from the sale of our investment in Retroficiency.

Income tax expense (benefit)

We recorded income tax benefit of approximately $0.6 million for the year ended December 31, 2013, reflecting an increase in deferred taxes as the result of our taxable loss during the year, net of the expiration of certain state net operating loss carryforwards. In 2012 we recorded an income tax benefit of approximately $7.6 million from the release of a valuation allowance as we determined it was more likely than not we would be able to recognize our deferred tax assets in the near term. While we have approximately $13.4 million of federal net operating loss carryforwards to offset taxable income, we expect to generate future taxable income which is subject to federal AMT and state income taxes.

Net income (loss)

Net loss increased approximately $7.6 million for the year ended December 31, 2013 compared to the same period in 2012, primarily due to the $6.9 million decrease in income tax benefit and a $0.5 million increase in interest expense. The $3.7 million increase in gross profit was substantially offset by the increase in operating expenses.

Comparison of the Years Ended December 31, 2012 and 2011

Revenue

	For the Years Ended December 31,			
	2012	2011	Increase	
Energy procurement	$ 24,476,054	$ 20,473,417	$ 4,002,637	20%
Energy efficiency services	7,302,783	51,150	7,251,633	nm
Total revenue	$ 31,778,837	$ 20,524,567	$ 11,254,270	55%

Revenue increased 55% for the year ended December 31, 2012 as compared to the same period in 2011 due to a full year of revenue from our recent acquisitions and increased auction activity in our retail product line. Our Energy procurement segment increased 20% due to the additions of the energy procurement contracts of Co-eXprise and GSE in September and October 2011, respectively, our October 3, 2012 acquisition of NEP, and, to a lesser extent, increased transacti on activity due to new customers. These increases were offset by slight decreases in wholesale and natural gas transaction activity in 2012 compared to 2011. In addition, 2011 revenue included $0.7 million from a one-time, upfront payment from one of our energy suppliers related to expected future energy usage. Our Energy efficiency services segment generated approximately $7.3 million in revenue for the year 2012 compared to approximately $50,000 in 2011 due to our October 2011 acquisition of NES and projects completed by our internal energy efficiency services group.

Cost of revenue

	For the Years Ended December 31,					
	2012		2011			
	$	% of Revenue	$	% of Revenue	Increase	
Energy procurement	$ 4,739,344	19%	$ 3,922,904	19%	$ 816,440	21%
Energy efficiency services	5,330,013	73	87,091	170	5,242,922	nm
Total cost of revenue	$10,069,357	32%	$4,009,995	20%	$ 6,059,362	151%

Cost of revenue increased 151% for the year ended December 31, 2012 as compared to the year ended December 31, 2011 primarily due to increases in equipment, material and labor costs associated with projects completed by our Energy efficiency services segment. Cost of revenue for our Energy procurement segment increased 21% due to increases in payroll r esulting primarily from our recent acquisitions. Cost of revenue associated with our Energy procurement segment as a percent of revenue remained the same as the 20% increase in revenue offset the increase in costs. The costs of revenue associated with our Energy efficiency services segment was primarily associated with equipment, material and labor costs associated with completed projects during the quarter. Cost of revenue as a percent of our Energy efficiency services revenue was 73% as we continued to build our project management team during the year.

Operating expenses

	For the Years Ended December 31,					
	2012		2011			
	$	% of Revenue	$	% of Revenue	Increase	
Sales and marketing	$15,482,723	48%	$10,631,035	52%	$ 4,851,688	46%
General and administrative	7,927,889	25	5,790,264	28	2,137,625	37
Total operating expenses	$23,410,612	73%	$16,421,299	80%	$ 6,989,313	43%

Sales and marketing expenses increased 46% for the year ended December 31, 2012 as compared to the same period in 2011 primarily due to increases in payroll, internal commissions and amortization of intangible assets. Payroll and internal commissions increased due to an increase of twenty sales and marketing employees versus the same pe riod last year primarily due to our acquisitions and hires in our Energy efficiency services segment and mid-market group. Amortization expense related to intangible assets increased due to our 2012 and 2011 acquisitions. Sales and marketing expense as a percentage of revenue decreased 4% due to the 55% increase in revenue, which was partially offset by the increase in costs described above.

The 37% increase in general and administrative expenses for the year ended December 31, 2012 as compared to the same period in 2011 was primarily due to increases in payroll and amortization expense. The increase in amortization expense was due to the increase in intangible assets associated with our recent acquisitions. Payroll increased primarily due to additions in o ur back office operations to support our growth. In addition, we incurred $0.5 million of non-recurring charges in 2012 related to our corporate and Ohio office moves, and a channel partner advance. General and administrative expenses as a percent of revenue decreased 3% as the 55% increase in revenue was partially offset by the increase in costs described above.

Other income (expense), net

Interest expense, net was approximately $547,000 for the year ended December 31, 2012 compared to interest expense, net of approximately $2,000 for the year ended December 31, 2011. The increase in interest expense, net in 2012 was primarily due to interest charged on our notes payable, contingent consideration and the term loan with SVB. Interest income was earned on a convertible note receivable with Retroficiency in 2011. Other income in 2012 primarily consisted of $53,000 that was recognized from the sa le of our investment in Retroficiency in the first quarter of 2012. There was no other income in 2011.

Income tax expense (benefit)

We recorded income tax expense of approximately $0.1 million for the years ended December 31, 2012 and 2011, respectively, reflecting an AMT and state and local income tax liability for both years. In 2012 we recorded an income tax benefit of approximately $7.6 million from the release of a valuation allowance as we determined it was more likely than not we would be able to r ecognize our deferred tax assets in the near term. While we have approximately $12.0 million of federal net operating loss carryforwards to offset taxable income, we continue to generate taxable income which is subject to federal AMT and state income taxes.

Net income (loss)

We reported net income for the year ended December 31, 2012 of approximately $5.3 million and a net loss for the year ended December 31, 2011 of approximately $46,000. We recorded net income in 2012 due to the $7.6 million income tax benefit. We generated a loss before income taxes of $2.2 million in 2012 as the cost increases described above were only partially offset by the 55% increase in revenue in 2012. In addition, net loss for the year ended December 31, 2011 reflected a $0.5 mi llion increase representing a one-time, upfront payment from one of our suppliers related to future energy usage, net of internal and third party commission expense.

Liquidity and Capital Resources

At December 31, 2013, we had no commitments for material capital expenditures. We have identified and executed against a number of strategic initiatives that we believe are key components of our future growth, including: making strategic acquisitions; entering into other energy-related markets including energy efficiency; expanding our community of listers, bidders and channel partners on our exchanges; strengthening and extending our long-term relationships with government agencies; and growing our direct and inside sales force. As of December 31, 2013 our workforce numbered 126, the same number that we employed at December 31, 2012. At December 31, 2013, we had 59 professionals in our sales and marketing and account management groups, 43 in our supply desk group and 24 in our general and administrative group.

We paid $10.4 million to acquire three businesses in 2011 through the use of cash on hand, cash flow from ongoing operations as well cash flow generated by the acquisitions. In addition, we have paid $ 6.7 million in seller notes and contingent consideration bringing the total cash paid for the 2011 acquisitions to $17.1 million. In early 2012 we expanded our credit facility with SVB to include a 4-year, $2.5 million term loan. We borrowed an additional $10.5 million primarily to acquire NEP in October 2012 which included: increasing our term loan with SVB by $4.0 million to $6.5 million, borrowing $4.0 million in subordinated long-term debt from MCRC, and entering into a $2.0 million seller note with NEP. On December 30, 2013 we replaced our $6.5 million SVB term loan with a new $6.0 million term loan with Commerce Bank and Trust Company ("Commerce"). As of December 31, 2013, we had $0.5 million of the Commerce term loan classified as short-term and $5.5 million classified as long-term. While the expansion/addition of these debt instruments significantly increased our commitments, we believe we have the resources to meet both our short- and long-term obligations under these arrangements based on cash on-hand, operating cash flows from our base business and cash expected to be generated from all of our acquired businesses. During 2013, we paid an additional $1.3 million in cash related to NEP contingent consideration and $1.5 million against the NEP seller note. As of December 31, 2013 we have substantially retired all of the obligations related to these acquisitions. We have $1.0 million of accrued contingent consideration recorded within current liabilities related to the GSE acquisition and $0.5 million remaining on the NEP Seller note that is due April 1, 2014. During 2013 we generated cash flow from operations of $3.1 million and ended the year with $1.7 million in cash and cash equivalents.

Comparison of December 31, 2013 to December 31, 2012

	December 31,		Increase (Decrease)	
	2013	2012		
Cash and cash equivalents	$ 1,725,136	$ 3,307,822	$ (1,582,686)	(48%)
Trade accounts receivable, net	7,738,141	7,242,603	495,538	7
Days sales outstanding	76	65	11	17
Working capital (deficit)	(893,984)	(2,464,718)	(1,570,734)	(64)
Stockholders' equity	25,480,584	26,710,127	(1,229,543)	(5)

Cash and cash equivalents decreased 48% primarily due to approximately $2.7 million of contingent consideration payments, $1.5 million in principal payments of seller notes and $6.5 million of principal payments on the SVB term note. These decreases were partially offset by cash flows from operations of approximately $3.1 million and proceeds from the Commerce term loan of $6.0 million. Trade accounts receivable increased 7% as compared to the fourth quarter of 2012 due to an 11% increase in unbilled accounts receivable resulting from the increase in energy procurement revenue in the fourth quarter of 2013 compared to the same quarter in 2012 and the increase in days sales outstanding. Days sales outstanding (representing accounts receivable outstanding at December 31, 2013 divided by the average sales per day during the current quarter, as adjusted) increased 17% due to a 34% decrease in Energy efficiency services revenue in the fourth quarter of 2013 compared to the same period in 2012 with only a 10% decrease in Energy efficiency services receivables. Revenue from bidders representing 10% or more of our revenue increased to 12% from one bidder during the year ended December 31, 2013, from 11% from the same bidder and period in 2012.

The working capital deficit at December 31, 2013 (consisting of current assets less current liabilities) improved $1.6 million from December 31, 2012 primarily due to decreases in accrued contingent consideration and the current portion of related party and long-term debt. The improvements to working capital were substantially offset by decreases in cash and cash equivalents and an increase in deferred revenue and customer advances. Stockholders' equity decreased 5% during the year ended December 31, 2013 due to our net loss for the year, partially offset by stock-based compensation, contingent consideration paid in stock and proceeds from the exercise of stock options.

Cash provided by operating activities for the year ended December 31, 2013 was approximately $3.1 million compared to cash provided by operating activities for the year ended December 31, 2012 of approximately $3.8 million. Cash flows from EBITDA remained strong at $2.3 million compared to $1.6 million in 2012. This increase was offset by the $1.6 million improvement in working capital. Cash used in investing and financing activities for the year ended December 31, 2013 was approximately $4.7 million primarily due to the payments of $2.7 million of contingent consideration, $1.5 million of principal payments of seller notes, and $0.5 million of net principal payments on bank debt. Cash used in investing activities for the year ended December 31, 2012 was approximately $7.7 million primarily due to the purchase of NEP for $7.9 million. Cash provided by financing activities in 2012 was $5.4 million due to the $10.5 million we borrowed to purchase NEP. This increase in financing was offset by cash outflows to fund contingent consideration payments of $2.3 million and seller notes of $3.0 million during 2012.

EBITDA, representing net income or loss before interest, income taxes, depreciation and amortization for the year ended December 31, 2013 was $2.3 million as compared to $1.6 million for the same period in the prior year. Please refer to the section below discussing non-GAAP financial measures for a reconciliation of non-GAAP measures to the most directly comparable measure calculated and presented in accordance with accounting principles generally accepted in the United States of America ("GAAP").

Comparison of December 31, 2012 to December 31, 2011

	December 31,			
	2012	2011	Increase (Decrease)	
Cash and cash equivalents	$ 3,307,822	$ 1,837,801	$ 1,470,021	80%
Trade accounts receivable, net	7,242,603	3,603,634	3,638,969	101
Days sales outstanding	65	61	4	7
Working capital (deficit)	(2,464,718)	(3,996,690)	(1,531,972)	(38)
Stockholders' equity	26,710,127	20,619,101	6,091,026	30

Cash and cash equivalents increased 80% primarily due to $1.6 million generated in EBITDA during the year ended December 31, 2012, advance payments of $4.4 million and the receipt of $0.8 million in cash from the sale of our Retroficiency investment. These increases were partially offset by payment against notes payable of $3.0 million related to the NES acquisition and a 101% increase in trade accounts receivable. Borrowings from term loans were primarily used to pay for ac quisitions and settle contingent consideration payments. Trade accounts receivable increased 101% primarily due to the 91% increase in revenue as compared to the fourth quarter of 2011. Days sales outstanding (representing accounts receivable outstanding at December 31, 2012 divided by the average sales per day during the current quarter, as adjusted) increased 7% due to the timing of in-period revenue recognized within the fourth quarter of 2012 as compared to the fourth quarter of 2011. Revenue from bidders representing 10% or more of our revenue decreased to 20% from two bidders during the year ended December 31, 2012, from 24% from the same two bidders during the same period in 2011.

The working capital deficit at December 31, 2012 (consisting of current assets less current liabilities) improved $1.5 million from December 31, 2011 primarily due to the 2012 reversal of our tax valuation allowance reserve and the increase in cash and accounts receivable. These increases were offset by an increase in accrue d contingent consideration related to the NEP acquisition and an increase in deferred revenue and customer advances. Stockholders' equity increased 30% during the year ended December 31, 2012 due to net income, stock-based compensation and proceeds from the exercise of stock options.

Cash provided by operating activities for the year ended December 31, 2012 and 2011 was approximately $3.8 million and $3.6 million, respectively. The 2012 increase was primarily due to advance payments from mid-market transactions, partially offset by the $2.7 million increase in accounts receivable. Cash used in investing activities for the year ended December 31, 2012 was approximately $7.7 million primarily due to the purchase of NEP for $7.9 million. Cash provided by finan cing activities was $5.4 million due to the $10.5 million we borrowed to purchase NEP. This increase in financing was offset by cash outflows to fund earn-out payments of $2.3 million and seller notes of $3.0 million during 2012. Cash used in investing and financing activities for the year ended December 31, 2011 was approximately $5.4 million primarily due to cash used for acquisitions, which was partially offset by net proceeds received from the sale of common stock.

EBITDA, representing net income or loss before interest, income taxes, depreciation and amortization for the year ended December 31, 2012 was $1.6 million as compared to $1.7 million for the same period in the prior year. We have generated EBITDA for eight of ten quarters for a cumulative tot al of $4.5 million, including $1.6 million over the last 12 months. Please refer to the section below discussing non-GAAP financial measures for a reconciliation of non-GAAP measures to the most directly comparable measure calculated and presented in accordance with GAAP.

Contractual Obligations and Other Commercial Commitments

The table below summarizes our gross contractual obligations and other commercial commitments as of December 31, 2013. As of December 31, 2013, we did not have any significant purchase obligations other than our operating leases.

Contractual Obligations	2014	2015-2016	2017 - 2018	2019 and thereafter	Total
Principal balance of long-term debt and notes payable	$ 978,000	$ 2,582,000	$ 5,190,000	$ 1,750,000	$ 10,500,000
Operating and capital leases	675,000	1,310,000	1,002,000	1,326,000	4,313,000
Fair value of accrued contingent consideration	1,000,000				1,000,000
Total contractual obligations	$ 2,653,000	$ 3,892,000	$ 6,192,000	$ 3,076,000	$ 15,813,000

Use of Non-GAAP Financial Measures

In this Annual Report on Form 10-K, we provide certain "non-GAAP financial measures". A non-GAAP financial measure refers to a numerical financial measure that excludes (or includes) amounts that are included in (or excluded from) the most directly comparable financial measure calculated and presented in accordance with GAAP in our accompanying consolidated financial statements. In this Annual Report on Form 10-K, we provide EBITDA and adjusted EBITDA as additional information relating to our operating results. These non-GAAP measures exclude expenses related to share-based compensation, depreciation related to our fixed assets, amortization expense related to acquisition-related assets and other assets, interest expense on bank borrowings, notes payable to sellers and contingent consideration, interest income on invested funds and notes receivable, and income taxes. Management uses these non-GAAP measures for internal reporting and bank reporting purposes. We have provided these non-GAAP financial measures in addition to GAAP financial results because we believe that these non-GAAP financial measures provide useful information to certain investors and financial analysts in assessing our operating performance due to the following factors:

- We believe that the presentation of a non-GAAP measure that adjusts for the impact of share-based compensation expenses, depreciation of fixed assets, amortization expense related to acquisition-related assets and other assets, interest expense on bank borrowings, seller notes and contingent consideration, interest income on invested funds and notes receivable, and income taxes, provides investors and financial analysts with a consistent basis for comparison across accounting periods and, therefore, is useful to investors and financial analysts in helping them to better understand our operating results and underlying operational trends;
- Although share-based compensation is an important aspect of the compensation of our employees and executives, share-based compensation expense is generally fixed at the time of grant, then amortized over a period of several years after the grant of the share-based instrument, and generally cannot be changed or influenced by management after the grant;
- We do not acquire intangible assets on a predictable cycle. Our intangible assets relate solely to business acquisitions. Amortization costs are fixed at the time of an acquisition, are then amortized over a period of several years after the acquisition and generally cannot be changed or influenced by management after the acquisition;
- We do not regularly incur capitalized software and website costs. Our capitalized software costs relate primarily to the build-out of our exchanges. Amortization costs are fixed at the time the costs are incurred and are then amortized over a period of several years and generally cannot be changed or influenced by management after the initial costs are incurred;
- We do not regularly invest in fixed assets. Our fixed assets relate primarily to computer and office equipment and furniture and fixtures. Depreciation costs are fixed at the time of purchase and are then depreciated over several years and generally cannot be changed or influenced by management after the purchase;
- We do not regularly enter into bank debt, seller notes and/or pay interest on contingent consideration. Our seller notes and contingent consideration relate to acquisition activities. Interest expense is fixed at the time of purchase and recorded over the life of the lease and generally cannot be changed or influenced by management after the purchase;
- We do not regularly earn interest on our cash accounts and notes receivable. Our cash is invested in U.S. Treasury funds and has not yielded material returns to date and these returns generally cannot be changed or influenced by management; and
- We do not regularly pay federal or state income taxes due to our net operating loss carryforwards. Our income tax expense reflects the release of our deferred tax assets to apply to projected annualized taxable income, and an anticipated alternative minimum tax liability based on statutory rates that generally cannot be changed or influenced by management.

Pursuant to the requirements of the SEC, we have provided below a reconciliation of the non-GAAP financial measures used to the most directly comparable financial measures prepared in accordance with GAAP. These non-GAAP financial measures are not prepared in accordance with GAAP. These measures may differ from the GAAP information, even where similarly titled used by other companies, and therefore should not be used to compare our performance to that of other companies. The presentation of this additional information is not meant to be considered in isolation or as a substitute for net loss prepared in accordance with GAAP.

	For the Years Ended December 31,		
	2013	2012	2011
GAAP net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Add: Interest expense, net	1,081,754	547,075	1,526
Add: Income taxes (benefit)	(623,074)	(7,479,136)	138,224
Add: Amortization of intangibles	3,899,033	3,022,097	1,347,135
Add: Amortization of other assets	36,030	42,289	126,953
Add: Depreciation	221,674	217,235	146,946
Non-GAAP EBITDA	$ 2,295,995	$ 1,640,252	$ 1,714,307
Add: Stock-based compensation	599,554	465,835	609,820
Non-GAAP adjusted EBITDA	$ 2,895,549	$ 2,106,087	$ 2,324,127

Critical Accounting Policies

The preparation of financial statements in conformity with GAAP 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 revenue and expenses during the reporting period. Accordingly, actual results could differ from these estimates.

The most judgmental estimates affecting our consolidated financial statements are those relating to revenue recognition and the estimate of actual energy delivered from the bidder to the lister of such energy; stock-based compensation; the valuation of intangible assets and goodwill; the valuation of co ntingent consideration; impairment of long-lived assets; and estimates of future taxable income as it relates to the realization of our net deferred tax assets. We regularly evaluate our estimates and assumptions based upon historical experience and various other factors that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. To the extent actual results differ from those estimates; future results of operations may be affected. We believe the following critical accounting policies affect our more significant judgments and estimates used in the preparation of our accompanying consolidated financial statements. Refer to Note 2 of our consolidated financial statements filed herewith for a description of our accounting policies.

Revenue Recognition

Retail Electricity Transactions

We earn a monthly commission on energy sales contracted through our online auction platform from each bidder or energy supplier based on the energy usage transacted between the bidder and lister or energy consumer. Our commissions are not based on the retail price for electricity; rather on the amount of energy consumed. Commis sions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by our contractual commission rate. Revenue from commissions is recognized as earned on a monthly basis over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the related receivable is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated.

We record brokerage commissions based on actual usage data obtained from the energy supplier for that accounting period, or to the extent actual usage data is not available, based on the estimated amount of electricity and gas delivered to the energy consumers for that accounting period. We develop our estimates on a quarterly basis based on the following criteria:

- Payments received prior to the issuance of the consolidated financial statements;
- Usage updates from energy suppliers;
- Usage data from utilities;
- Comparable historical usage data; and
- Historical variances to previous estimates.

To the extent usage data cannot be obtained, we estimate revenue as follows:

- Historical usage data obtained from the energy consumer in conjunction with the execution of the auction;
- Geographic/utility usage patterns based on actual data received;

- Analysis of prior year usage patterns; and
- Specific review of individual energy supplier/location accounts.

In addition, we analyze this estimated data based on overall industry trends including prevailing weather and usage data. Once the actual data is received, we adjust the estimated accounts receivable and revenue to the actual total amount in the period during which the payment is received. Base d on management's current capacity to obtain actual energy usage, we currently estimate four to six weeks of revenue at the end of its accounting period. Differences between estimated and actual revenue have been within management's expectations and have not been material to date.

We do not invoice our electricity energy suppliers for monthly commissions earned and, therefore, we report a substantial portion of our receivables as "unbilled." Unbilled accounts receivable represents management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates and is made up of two components. The first component represents energy usage for which we have received actual data fr om the supplier and/or the utility, but for which payment has not been received at the balance sheet date. The majority of our contractual relationships with energy suppliers require them to supply actual usage data to us on a monthly basis and remit payment to us based on that usage. The second component represents energy usage for which we have not received actual data, but for which we have estimated usage. Commissions paid in advance by certain bidders are recorded as deferred revenue and amortized to commission revenue on a monthly basis on the energy exchanged that month.

Retail Natural Gas Transactions

There are two primary fee components to our retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of our natural gas transactions, we bill the supplier upon the conclusion of the transaction based on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by our energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of our retail natural gas transactions are accounted for in accordance with this policy, a significant percentage is accounted for as the natural gas is consumed by the energy consumer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

We earn a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consum er multiplied by our contractual commission rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. We generally recognize revenue on these transactions when we have received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to us, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent we do not receive verification of actual energy usage or we cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier. In October 2012, we acquired NEP. NEP recognizes revenue monthly as energy flows from the energy supplier to the end user. We can reliably estimate actual energy usage based on historical usage data compiled by NEP.

Demand Response Transactions

Demand response transaction fees are recognized when we have received confirmation from the DRP that the energy consumer has performed under the applicable RTO or ISO program requirements. The energy consumer is either called to perform during an actual curtailment event or is required to demonstrate its ability to perform in a test event during the performance period. For the PJM, the performance period is June through September in a calendar year. Test results are submitted to the PJM by the DRPs and we receive confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay us ratably on a quarterly basis throughout the demand response fiscal (June to May) year. As a result, a portion of the revenue we recognize is reflected as unbilled accounts receivable.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where our customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister. While substantially all wholesale transactions are accounted for in this fashion, a small percentage of our wholesale revenue is accounted for as electricity or gas is delivered, similar to the retail electricity transaction methodology described above.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regulated allowance programs like RGGI , fees are paid by the lister and are recognized quarterly as revenue as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidder pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Channel Partner Commissions

We pay commissions to our channel partners at contractual rates based on monthly energy transactions between energy suppliers and energy consumers. The commission is accrued monthly and charged to sales and marketing expense as revenue is recognized. We pay commissions to our salespeople at contractual commission rates based upon cash collections from our customers.

Revenue Estimation

Our estimates in relation to revenue recognition affect revenue and sales and marketing expense as reflected on our statements of operations, and trade accounts receivable and accrued commission accounts as reflected on our accompanying consolidated balance sheets. For any quarterly reporting period, we may not have actual usage data for certain energy suppliers and will need to estimate revenue. We initially record revenue based on the energy consumers' historical usage profile. At the end of each reporting period, we adjust this historical profile to reflect actual usage for the period and estimate usage where actual usage is not available. For the year ended December 31, 2013, we estimated usage for approximately 9% of our revenue resulting in a negative 0.3%, or approximately $105,000, adjustment to decrease revenue. This decrease in revenue resulted in an approximate $16,000 decrease in sales and marketing expense related to third party commission expense associated with those revenues. Corresponding adjustments were made to trade accounts receivable and accrued commissions, respectively. A 1% difference between this estimate and actual usage would have an approximate $32,000 effect on our revenue for the year ended December 31, 2013.

Energy Efficiency Services

Our Energy efficiency services segment is primarily project driven where we identify efficiency measures that energy consumers can implement to reduce their energy usage. We present retrofit opportunities to customers, get approval from them to proceed and submit t he proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, we install the equipment, typically new heating, ventilation or air conditioning equipment, or replace lighting fixtures to more efficient models. We recognize revenue for Energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), we utilize the completed-contract method. We also assess multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

Allowance for Doubtful Accounts

We provide for an allowance for doubtful accounts on a specifically identified basis, as well as through historical experience applied to an aging of accounts, if necessary. Trade accounts receivable are written off when deemed uncollectible. To date write-offs have not been material.

Intangible Assets

We use assumptions in establishing the initial carrying value, fair value and estimated lives of its intangible assets. The criteria used for these assumptions include management's estimate of the asset's c ontinuing ability to generate positive income from operations and positive cash flow in future periods compared to the carrying value of the asset, as well as the strategic significance of any identifiable intangible asset in our business objectives. If assets are considered impaired, the impairment recognized is the amount by which the carrying value of the assets exceeds the fair value of the assets. Useful lives and related amortization expense are based on an estimate of the period that the assets will generate revenues or otherwise be used by us. Factors that would influence the likelihood of a material change in our reported results include significant changes in the asset's ability to generate positive cash flow, a significant decline in the economic and competitive environment on which the asset depends and significant changes in the our strategic business objectives.

Intangible assets consist of customer relationships and contracts, purchased technology and other intangibles, and are stated at cost less accumulated amortization. Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which range from one to ten years.

Impairment of Long-Lived and Intangible Assets

In accordance with ASC 3 50, we periodically reviews long-lived assets and intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable or that the useful lives of those assets are no longer appropriate. Recoverability of these assets is determined by comparing the forecasted undiscounted net cash flows of the operation to which the assets relate to the carrying amount. No impairment of our long-lived assets was recorded as no change in circumstances indicated that the carrying value of the assets was not recoverable during the years ended December 31, 2013 and 2012.

Goodwill & Indefinite-Lived Assets

We use assumptions in establishing the initial carrying value and fair value of our goodwill and indefinite-lived intangibles. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets of acquired businesses. Indefinite-lived intangibles are intangible assets whose useful lives are indefinite in that their lives extend beyond the foreseeable horizon – that is there is no foreseeable limit on the period of time over which it is expected to contribute to the cash flows of the reporting entity. We account for these items in accordance with the Accounting Standards Codification ("ASC") 350, " *Intangibles – Goodwill and Other*" ("ASC 350"), under which goodwill and intangible assets having indefinite lives are not amortized but instead are assigned to reporting units and tested for impairment annually or more frequently if changes in circumstances or the occurrence of events indicate possible impairment.

We perform our annual impairment test at the end of the fourth fiscal quarter of each year, or earlier, if indicators of potential impairment exist. This impairment test is performed for each of our segments – Energy procurement and Energy efficiency services – which have been determined to be our reporting units. The impairment test for goodwill and indefinite-lived intangibles is a three-step process. Step 0 gives entities the option of first performing a qualitative assessment to test for impairment on a reporting-unit-by-reporting-unit basis. If after performing the qualitative assessment, an entity concludes that it is more-likely-than-not ("MLTN", typically quantified as a likelihood of more than 50%) that the fair value of a reporting unit is less than its carrying amount, then the entity would perform a two-step impairment test. However, if, after applying the qualitative assessment, the entity concludes that it is not MLTN that the fair value is less than the carrying amount, the two step impairment test is not required. Step one consists of a comparison of the fair value of a reporting unit with its carrying amount, including the goodwill allocated to each reporting unit. If the carrying amount is in excess of the fair value, step two requires the excess of the carrying amount of the reporting unit's goodwill over the implied fair value of the reporting unit's goodwill to be recorded as an impairment loss. To determine the fair value of each of the reporting units as a whole, we use a discounted cash flow analysis, which requires *significant assumptions and estimates about the future operations of each reporting unit. Significant judgments inherent in this analysis include* the determination of appropriate discount rates, the amount and timing of expected future cash flows and growth rates. The cash flows employed in the discounted cash flow analyses are based on financial forecasts developed by management. The discount rate assumptions are based on an assessment of our risk adjusted discount rate, applicable for each reporting unit. In assessing the reasonableness of the determined fair values of the reporting units, we evaluate our results against our current market capitalization.

As of December 31, 2013 and 2012, we performed a step one analysis on both the energy procurement and energy efficiency services reporting units and determined that their indicated fair values substantially exceeded their carrying values. We relied on a weighted average cost of capital of 15.75% and 16.15% for each reporting unit as of December 31, 2013 and 2012, respectively, which takes into consideration certain specific small company premiums. We utilized a long-term growth rate of approximately 8% and 3% for the energy procurement and 15% and 20% efficiency services reporting units as of December 31, 2013 and 2012, respectively, and assumed a combined tax rate of 40% for both units and in both years.

As of December 31, 2013, we performed a step one analysis on our indefinite-life intangibles related to our Energy efficiency services segment customer relationships. Indefinite-life was assigned to our prime contractor relationships with the customer base in the Norwich Public ("Norwich") and United Illuminated ("UI") utility regions ("Prime") and our relationships with the customer base within the Connecticut, Light and Power, UI and Norwich regions as a subcontractor ("Subcontractor") at the NES acquisition date. The fair value of both the Prime and Subcontractor relationships exceeded their carrying values. We relied on a weighted average cost of capital of 16.6% for the Prime relationship and 15.7% for the subcontractor relationship as of December 31, 2013, which takes into consideration certain specific small company premiums. We utilized a long-term growth rate of approximately 10% for both the Prime and Subcontractor relationships and assumed a combined tax rate of 40% for both. As of December 31, 2012, we performed a qualitative assessment of its indefinite-lived intangibles related to its Energy efficiency services segment customer relationships and determined that it was not likely that the fair value of a reporting unit was less than its carrying value.

Deferred Revenue and Customer Advances

Deferred revenue and customer advances arise when energy suppliers pay us a commission prior to us meeting all the requirements necessary to recognize revenue.

Warranty

Our Energy efficiency services segment provides our customers a one year warranty for all parts and labor in its installation workmanship. We have determined primarily from historical information and management's judgment, that warranty costs are immaterial and no estimate for warranty cost is required at the time revenue is recognized. Should actual warranties differ from our estimates, an estimated warranty liability would be required.

Income Taxes

In accordance with ASC 740, *Income Taxes* ("ASC 740"), deferred tax assets and liabilities are determined at the end of each period based on the future tax consequences that can be attributed to net operating loss carryforwards, as well as differences between the financial statement carrying amounts of the existing assets and liabilities and their respective tax basis. Deferred income tax expense or credits are based on changes in the asset or liability from period to period. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The realization of deferred tax assets is dependent upon the generation of future taxable income. In assessing the requirement of a valuation allowance, we consider past performance, expected future taxable income, and qualitative factors which we consider to be appropriate in estimating future taxable income. Our forecast of expected future taxable income is for future periods that can be reasonably estimated. Results that differ materially from current expectations may cause us to change its judgment on future taxable income and the necessity of a tax valuation allowance.

We have reviewed the tax positions taken, or to be taken, in its tax returns for all tax years c urrently open to examination by the taxing authority in accordance with ASC 740's recognition and measurement standards. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in our consolidated financial statements. We account for interest and penalties related to uncertain tax positions as part of its provision for income taxes.

Stock-based Compensation

We recognize the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. Stock-based awards to employees consisted of grants of stock options for the years ended December 31, 2013, 2012 and 2011 and grants of restricted stock for the years ended December 31, 2013 and 2012, respectively. The restrictions on the restricted stock lapse over the vesting period. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees.

We account for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. There were no equity instruments granted to non-employees for the year ended December 31, 2013. For the years ended December 31, 2012 and 2011 stock-based awards to non-employees consisted of grants of stock warrants. The vesting period of stock warrants granted ranged from one to seven years.

Fair Value Measurements

We follow ASC 820, " *Fair Value Measurements and Disclosures* " ("ASC 820"), for fair value measurements. ASC 820 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The standard provides a consistent definition of fair value, which focuses on an exit price, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The standard also prioritizes, within the measurement of fair value, the use of market-based information over entity specific information and establishes a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

The hierarchy established under ASC 820 gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

> Level 1 — Pricing inputs are quoted prices available in active markets for identical investments as of the reporting date. As required by ASC 820-10, we do not adjust the quoted price for these investments, even in situations where we hold a large position and a sale could reasonably impact the quoted price.
>
> Level 2 — Pricing inputs are quoted prices for similar investments, or inputs that are observable, either directly or indirectly, for substantially the full term through corroboration with observable market data. Level 2 includes investments valued at quoted prices adjusted for legal or contractual restrictions specific to these investments.

Level 3 — Pricing inputs are unobservable for the investment, that is, inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability. Level 3 includes investments that are supported by little or no market activity.

Recent Accounting Pronouncements

In July 2013, Accounting Standards Update ("ASU") 2013-11, " *Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists* " was issued, which defines the presentation requirements of an unrecognized tax benefit, or a portion of an unrecognized tax benefit, in the financial statements. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2013. Early adoption is permitted and retrospective application is permitted but not required. We do not expect the application of this ASU to have an impact on its consolidated financial statements.

Seasonality

Our revenue is subject to seasonality and fluctuations during the year primarily as a result of weather conditions and its impact on the demand for energy. The majority of our revenue is generated from the commissions we receive under any given energy contract, which is tied to the energy consumer's consumption of energy. Therefore, revenue from natural gas consumption tends to be strongest during the winter months due to the increase in heating usage, and revenue from electricity consumption tends to be st rongest during the summer months due to the increase in air conditioning usage. Our revenue is also subject to fluctuations within any given season, depending on the severity of weather conditions — during a particularly cold winter or an unseasonably warm summer, energy consumption will rise. In addition, transaction revenue in the natural gas and wholesale markets for which we invoice upon completion of the respective transaction tends to be higher in the first and fourth quarters when utilities and natural gas customers make their annual natural gas buys.

Cyclicality

We believe that our business will continue to be cyclical in nature and is tied, in part, to market energy prices which impact transaction volume. When energy prices increase in competitive markets above the price levels of the regulated utilities, energy consumers are less likely to lock-in to higher fixed price contracts in the competitive markets and so they are less likely to use our auction platform. Conversely, when energy prices decre ase in competitive markets below the price levels of the regulated utilities, energy consumers are more likely to lock-in to lower fixed price contracts in the competitive markets and they are more likely to use our auction platform. Although our short term revenue is impacted by usage trends, these cyclical effects will also have longer term implications on our business because we derive future revenue from current auctions. Our Energy Efficiency Services segment tends to experience higher revenue in the third and fourth quarters as utilities approve funding for projects to be completed by the end of their calendar year.

Off-Balance Sheet Transactions

We currently have no off-balance sheet arrangements that have or are reasonably likely to have a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Not Applicable.

Item 8. Financial Statements and Supplementary Data

The consolidated financial statements listed in Item 15(a) are incorporated herein by reference and are filed as a part of this report and follow the signature page to this Annual Report on Form 10-K on page 4 3.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company carried out an evaluation under the supervision and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the Company's disclosure controls and procedures. In designing and evaluating the Company's disclosure controls and procedures, the Company and its management recognize that there are inherent limitatio ns to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their desired control objectives. Additionally, in evaluating and implementing possible controls and procedures, the Company's management was required to apply its reasonable judgment.

Based upon this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2013.

Internal Control Over Financial Reporting

a) Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company, as such term is defined in Rule 13a-15(f) under the Exchange Act. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compl iance with the policies or procedures may deteriorate. Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2013. In making this assessment, the Company's management used the criteria set forth by th e COSO in the Internal Control-Integrated Framework.

Based on this assessment, our management concluded that, as of December 31, 2013, our internal control over financial reporting is effective based on those criteria.

Remediation Steps Taken to Address Prior Material Weakness

In March 2013, our management concluded that, as of December 31, 2012, our internal control over financial reporting was not effective based on the COSO criteria and that we had a material weakness. In making this assessment, the Company's management used the criteria set forth by the COSO in Internal Control-Integrated Framework in 1992. A "material weakness" is defined as a significant deficiency, or a combination of significant deficiencies, that results in more than a remote lik elihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

The following is a description of the material weakness in our internal control over financial reporting: In connection with the preparation of our annual report on Form 10-K for the year ended December 31, 2012, we identified a material weakness in the design and operating effectiveness of our internal control over financial reporting related to the recording of revenue recognition for cer tain commission payments related to our mid-market product line. Specifically, we did not select and apply the appropriate accounting policies for GSE, which we acquired on October 31, 2011. Consequently, effective controls did not exist to ensure that revenue from this product line was appropriately and accurately recorded.

As soon as we learned of the material weakness, we began taking steps intended to remediate this material weakness and to improve our control processes and procedures with respect to revenue recognition in general as part of our efforts to become compliant with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002. These activities included:

- implementing a revised accounting policy for our mid-market product-line;
- establishing new policies, procedures and controls to ensure the new policy is administered correctly;
- evaluating the proper organizational structure, including hiring a sufficient complement of personnel with the requisite knowledge and expertise of revenue recognition accounting standards under U.S. GAAP; and
- to the extent necessary, hiring consultants with accounting expertise with specific expertise with revenue recognition.

In particular, our remediation steps were designed to ensure that the recording of revenue recognition for certain commission payments is appropriate. Management believes that the remediation steps implemented during 2013 successfully remediated the specific issues identified as a material weakness in 2012. Specifically, we revi sed our revenue recognition policy for our mid-market product line, established new policies, procedures and controls to ensure the new policy was administered correctly, and have hired additional personnel and reassigned existing personnel to ensure that the issues identified in the previous year were remediated. We concluded that it was not necessary to hire consultants based on the successful execution of the other aforementioned remediation steps.

b) Attestation Report of the Independent Registered Public Accounting Firm

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm, pursuant to rules of the Securities and Exchange Commission that permit us to provide only management's report in this annual report.

c) Changes in Internal Control Over Financial Reporting

There was no change in the Company's internal control over financial reporting, other than those described above, that occurred during the three months ended December 31, 2013 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over fin ancial reporting.

Item 9B. Other Information

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required to be disclosed by this item 10 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days of the close of its fiscal year.

We have adopted a code of business conduct and ethics applicable to all of our directors, officers and employees, including our Chief Executive Officer and our Chief Financial Officer. The code of business conduct and ethics is available on the corporate governance section of "Investor Relations" on our website www.worldenergy.com .

Any waiver of the code of business conduct and ethics for directors or executive officers, or any amendment to the code that applies to directors or executive officers, may only be made by the board of directors. We intend to satisfy the disclosure requirement under Item 5.05(c) of *Form 8-K regarding an amendment to, or waiver from, a provision of this code of ethics by posting such information on our website*, at the address and location specified above. To date, no such waivers have been requested or granted.

Item 11. Executive Compensation

The information required to be disclosed by this item 11 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required to be disclosed by this item 12 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required to be disclosed by this item 13 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

Item 14. Principal Accountant Fees and Services

The information required to be disclosed by this item 14 is hereby incorporated by reference to the Company's definitive proxy statement to be filed by the Company within 120 days after the close of its fiscal year.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a)(1) Financial Statements

For a list of the financial information included herein, see "Index to Consolidated Financial Statements" on page 44 of this Annual Report on Form 10-K.

(a)(2) Financial Statements Schedules

All schedules are omitted because they are not applicable or the required information is included in the accompanying consolidated financial statements or notes thereto.

(a)(3) Exhibits

The list of exhibits filed as a part of this Annual Report on Form 10-K is set forth on the Exhibit Index immediately preceding the exhibits hereto and is incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WORLD ENERGY SOLUTIONS, INC.

By: /s/ Philip Adams March 31, 2014
Philip Adams
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Philip Adams Philip Adams	Chief Executive Officer and Director	March 31, 2014
/s/ James Parslow James Parslow	Chief Financial Officer	March 31, 2014
/s/ Edward Libbey Edward Libbey	Chairman of the Board and Director	March 31, 2014
/s/ Peter Londa Peter Londa	Director	March 31, 2014
/s/ Ralph Sheridan Ralph Sheridan	Director	March 31, 2014
/s/ Sean Sweeney Sean Sweeney	Director	March 31, 2014
/s/ John Wellard John Wellard	Director	March 31, 2014
/s/ Thad Wolfe Thad Wolfe	Director	March 31, 2014

WORLD ENERGY SOLUTIONS, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders
World Energy Solutions, Inc.
Worcester, Massachusetts

We have audited the accompanying consolidated balance sheets of World Energy Solutions, Inc. (the "Company") as of December 31, 2013 and 2012 and the related consolidated statements of operations, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2013. 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 audits.

We conducted our audits in accordance with the 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 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 also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, 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 consolidated financial statements referred to above present fairly, in all material respects, the financial position of World Energy Solutions, Inc. as of December 31, 2013 and 2012 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2013, in conformity with accounting principles generally accepted in the United States of America.

/s/ Marcum LLP

Marcum LLP
Boston, Massachusetts
March 31, 2014

WORLD ENERGY SOLUTIONS, INC.

Consolidated Balance Sheets

	December 31, 2013	December 31, 2012
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,725,136	$ 3,307,822
Trade accounts receivable, net	7,738,141	7,242,603
Inventory	415,770	154,626
Current portion of deferred tax asset	901,350	1,632,280
Prepaid expenses and other current assets	477,406	361,813
Total current assets	11,257,803	12,699,144
Property and equipment, net	573,778	639,839
Intangible assets, net	15,193,965	19,092,998
Goodwill	16,167,834	16,167,834
Deferred tax asset, net of current portion	7,198,984	5,844,980
Other assets, net	687,098	685,867
Total assets	$ 51,079,462	$ 55,130,662
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,697,798	$ 1,044,459
Accrued commissions	1,567,839	1,052,802
Accrued compensation	2,119,784	2,494,404
Accrued contingent consideration	1,000,000	3,792,505
Accrued expenses and other current liabilities	1,242,274	1,390,188
Deferred revenue and customer advances	3,546,380	1,929,377
Current portion of related party subordinated notes payable	500,000	1,500,000
Current portion of long-term debt, net of unamortized debt discount of $0 at December 31, 2013 and $39,873 at December 31, 2012	477,712	1,960,127
Total current liabilities	12,151,787	15,163,862
Long-term debt, net of current portion, net of unamortized debt discount of $0 at December 31, 2013 and $89,714 at December 31, 2012	5,522,288	4,410,286
Subordinated note payable	4,000,000	4,000,000
Deferred revenue and customer advances, net of current portion	3,910,035	3,379,635
Accrued contingent consideration, net of current portion	-	966,752
Related party subordinated notes payable, net of current portion	-	500,000
Other liabilities	14,768	-
Total liabilities	25,598,878	28,420,535
Commitments and contingencies (Note 14)		
Stockholders' equity:		
Preferred stock, $0.0001 par value; 5,000,000 shares authorized; no shares issued or outstanding		
Common stock, $0.0001 par value; 30,000,000 shares authorized; 12,178,366 shares issued and 12,120,338 shares outstanding at December 31, 2013, and 11,998,313 shares issued and 11,949,376 shares outstanding at December 31, 2012	1,212	1,195
Additional paid-in capital	44,894,961	43,770,108
Accumulated deficit	(19,156,245)	(16,836,823)
Treasury stock, at cost; 58,028 shares at December 31, 2013 and 48,937 shares at December 31, 2012	(259,344)	(224,353)
Total stockholders' equity	25,480,584	26,710,127
Total liabilities and stockholders' equity	$ 51,079,462	$ 55,130,662

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Operations

	Years Ended December 31,		
	2013	2012	2011
Revenue:			
Brokerage commissions, transaction fees and efficiency projects	$ 33,927,370	$ 30,824,446	$ 19,525,121
Management fees	749,745	954,391	999,446
Total revenue	34,677,115	31,778,837	20,524,567
Cost of revenue	9,316,591	10,069,357	4,009,995
Gross profit	25,360,524	21,709,480	16,514,572
Operating expenses:			
Sales and marketing	19,427,779	15,482,723	10,631,035
General and administrative	7,814,933	7,927,889	5,790,264
Total operating expenses	27,242,712	23,410,612	16,421,299
Operating (loss) income	(1,882,188)	(1,701,132)	93,273
Other (expense) income:			
Other income	21,446	59,763	-
Interest income	6,358	-	51,245
Interest expense	(1,088,112)	(547,075)	(52,771)
Other expense, net	(1,060,308)	(487,312)	(1,526)
(Loss) income before income taxes	(2,942,496)	(2,188,444)	91,747
Income tax benefit (expense)	623,074	7,479,136	(138,224)
Net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Net (loss) income per common share — basic and diluted	$ (0.19)	$ 0.44	$ -
Weighted average shares outstanding — basic	11,998,019	11,901,172	10,521,910
Weighted average shares outstanding — diluted	11,998,019	11,958,689	10,521,910

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Changes in Stockholders' Equity
Years Ended December 31, 2013, 2012, and 2011

	Common Stock		Treasury Stock		Additional		Total
	Number of Shares	0.0001 $ Par Value	Number of Shares	Stated at Cost	Paid-in Capital	Accumulated Deficit	Stockholders' Equity
Balance, January 1, 2011	9,155,281	$ 916	45,025	$ (209,940)	$ 33,502,074	$ (22,081,038)	$ 11,212,012
Stock-based compensation	-	-	-	-	609,820	-	609,820
Issuance of common stock in connection with restricted stock grants less common stock withheld	17,596	1	3,269	(11,663)	(1)	-	(11,663)
Issuance of common stock in connection with private placement, net	1,520,001	152	-	-	5,303,827	-	5,303,979
Issuance of common stock in connection with acquisitions, net	1,083,209	108	-	-	3,462,014	-	3,462,122
Exercise of stock options	76,938	8	-	-	89,300	-	89,308
Net loss	-	-	-	-	-	(46,477)	(46,477)
Balance, December 31, 2011	11,853,025	1,185	48,294	(221,603)	42,967,034	(22,127,515)	20,619,101
Stock-based compensation	-	-	-	-	465,835	-	465,835
Fair value of warrants issued	-	-	-	-	139,555	-	139,555
Issuance of common stock in connection with restricted stock grants less common stock withheld	11,688	1	643	(2,750)	(1)	-	(2,750)
Exercise of stock options	69,813	7	-	-	197,687	-	197,694
Exercise of stock warrants	14,850	2	-	-	(2)	-	-
Net income	-	-	-	-	-	5,290,692	5,290,692
Balance, December 31, 2012	11,949,376	1,195	48,937	(224,353)	43,770,108	(16,836,823)	26,710,127
Stock-based compensation	-	-	-	-	599,554	-	599,554
Issuance of common stock in connection with restricted stock grants less common stock withheld	32,510	3	9,091	(34,991)	(2)	-	(34,990)
Issuance of common stock in connection with contingent consideration paid in acquisition	76,577	8	-	-	325,442	-	325,450
Exercise of stock options	61,875	6	-	-	199,859	-	199,865
Net loss	-	-	-	-	-	(2,319,422)	(2,319,422)
Balance, December 31, 2013	12,120,338	$ 1,212	58,028	$ (259,344)	$ 44,894,961	$ (19,156,245)	$ 25,480,584

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

WORLD ENERGY SOLUTIONS, INC.

Consolidated Statements of Cash Flows

	Years Ended December 31,		
	2013	2012	2011
Cash flows from operating activities:			
Net (loss) income	$ (2,319,422)	$ 5,290,692	$ (46,477)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	4,156,737	3,281,621	1,621,034
Deferred income taxes	(623,074)	(7,564,993)	87,733
Stock-based compensation	599,554	465,835	609,820
Loss on disposal of property and equipment	11,177	-	-
Gain on sale of investment	-	(53,106)	-
Non-cash interest expense on warrants related to debt discount	129,587	9,968	-
Interest on accrued contingent consideration	33,206	100,275	-
Interest on note receivable	-	-	(53,526)
Changes in operating assets and liabilities, net of the effects of acquisitions:			
Trade accounts receivable, net	(495,538)	(2,685,195)	(66,698)
Inventory	(261,144)	133,548	(286,299)
Prepaid expenses and other assets	(115,593)	(588,166)	(154,479)
Accounts payable	653,339	223,370	557,343
Accrued commissions	515,037	71,197	118,427
Accrued compensation	(374,620)	54,719	139,235
Accrued contingent consideration	(781,465)	(50,000)	54,169
Accrued expenses and other current liabilities	(139,405)	707,126	377,629
Deferred revenue and customer advances	2,147,403	4,389,657	689,816
Net cash provided by operating activities	3,135,779	3,786,548	3,647,727
Cash flows from investing activities:			
(Increase) decrease in other assets	(37,261)	-	(43,613)
Cash paid for acquisitions	-	(8,110,959)	(10,404,382)
Proceeds from (cash payment for) sale of investment	-	770,042	(216,666)
Purchases of property and equipment, net of disposals	(145,374)	(403,906)	(17,540)
Net cash used in investing activities	(182,635)	(7,744,823)	(10,682,201)
Cash flows from financing activities:			
Proceeds from exercise of stock options	199,865	197,694	89,308
Proceeds from the sale of common stock, net	-	-	5,303,979
Purchase of treasury stock	(34,990)	(2,750)	(11,663)
Proceeds from issuance of long-term debt	6,000,000	10,500,000	-
Principal payments on long term debt	(6,500,000)	-	-
Principal payments on notes payable	(1,500,000)	(3,000,000)	(53,709)
Payments of contingent consideration	(2,685,548)	(2,250,000)	-
Principal payments on capital lease obligations	(15,157)	(16,648)	(14,928)
Net cash (used in) provided by financing activities	(4,535,830)	5,428,296	5,312,987
Net (decrease) increase in cash and cash equivalents	(1,582,686)	1,470,021	(1,721,487)
Cash and cash equivalents, beginning of year	3,307,822	1,837,801	3,559,288
Cash and cash equivalents, end of year	$ 1,725,136	$ 3,307,822	$ 1,837,801

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

NOTE 1 — COMPANY OVERVIEW

World Energy Solutions, Inc. ("World Energy" or the "Company") offers a range of energy management solutions to commercial and industrial businesses, institutions, utilities, and governments to reduce their overall energy costs. The Company comes to market with a holistic approach to energy management helping customers a) contract for a competitive price for energy, b) engage in energy efficiency projects to minimize quantity used and c) pursue available rebate and incentive programs. The Company made its mark on the industry with an innovative approach to procurement via its online auction platforms, the World Energy Exchange ®. With recent investments and acquisitions, World Energy is building out its energy efficiency practice engaging new customers while also pursuing more cross-selling opportunities for its procurement services.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

The Company's accompanying consolidated financial statements include its wholly-owned subsidiary World Energy Securities Corp. All intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at th e date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Accordingly, actual results could differ from these estimates.

The Company's most judgmental estimates affecting its accompanying consolidated financial statements are those relating to revenue recognition and the estimate of actual energy delivered from the bidder to the lister of such energy; stock-based compensation; the valuation of intangible assets and goodwill; the valuation of contingent consideration; impairment of long-lived assets; warranty liability; and estimates of future taxable income as it relates to the realization of the Company's net deferred tax assets. The Company regularly evaluates its estimates and assumptions based upon historical experience and various other factors that the Company believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. To the extent actual results differ from those estimates; future results of operations may be affected.

Revenue Recognition

Retail Electricity Transactions

The Company earns a monthly commission on energy sales contracted through its online auction platform from each bidder or energy supplier based on the energy usage transacted between the bidder and lister or energy consumer. The Company's commissions are not based on the retail price for electricity; rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by the Company's contractual commission rate. The contractual commission rate is negotiated with the energy consumer on a procurement-by-procurement basis based on energy consumer specific circumstances, including the size of auction, the effort required to organize and run the respective auction and competitive factors, among others. Revenue from commissions is recognized as earned on a monthly basis over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the related receivable is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated.

The Company records brokerage commissions based on actual usage data obtained from the energy supplier for that accounting period, or to the extent actual usage data is not available, based on the estimated amount of electricity and gas delivered to the energy consumers for that accounting period. The Company develops its estimates on a quarterly basis based on the follo wing criteria:

Payments received prior to the issuance of the consolidated financial statements;

Usage updates from energy suppliers;

Usage data from utilities;

Comparable historical usage data; and

Historical variances to previous estimates.

To the extent usage data cannot be obtained, the Company estimates revenue as follows:

Historical usage data obtained from the energy consumer in conjunction with the execution of the auction;

Geographic/utility usage patterns based on actual data received;

Analysis of prior year usage patterns; and

Specific review of individual energy supplier/location accounts.

In addition, the Company analyzes this estimated data based on overall industry trends including prevailing weather and usage data. Once the actual data is received, the Company adjusts the estimated accounts receivable and revenue to the actual total amount in the period during which the payment is received. Based on management's current capacity to obtain actual energy usage, the Company currently es timates four to six weeks of revenue at the end of its accounting period. Differences between estimated and actual revenue have been within management's expectations and have not been material to date.

The Company does not invoice its electricity energy suppliers for monthly commissions earned and, therefore, it classifies a substantial portion of its receivables as "unbilled." Unbilled accounts receivable represents management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates and is made up of two components. The first component represents energy usage for which the Company has received actual data from the supplier and/or the utility but for which payment has not been received at the balance sheet date. The majority of the Company's contractual relationships with energy suppliers require them to supply actual usage data to the Company on a monthly basis and remit payment to the Company based on that usage. The second component represents energy usage for which the Company has not received actual data, but for which it has estimated usage. Commissions paid in advance by certain energy suppliers are recorded as deferred revenue and amortized to commission revenue on a monthly basis on the energy exchanged that month.

Retail Natural Gas Transactions

There are two primary fee components to the Company's retail natural gas services: transaction fees and management fees. Transaction fees are billed to and paid by the energy supplier awarded business on the platform. These fees are established prior to award and are the same for each supplier. For the majority of the Company's natural gas transactions, the supplier is billed upon the conclusion of the transaction b ased on the estimated energy volume transacted for the entire award term multiplied by the transaction fee. Management fees are paid by the Company's energy consumers and are generally billed on a monthly basis for services rendered based on terms and conditions included in contractual arrangements. While substantially all of the Company's retail natural gas transactions are accounted for in accordance with this policy, a significant percentage are accounted for as the natural gas is consumed by the customer and recognized as revenue in accordance with the retail electricity transaction revenue recognition methodology described above.

Mid-Market Transactions

The Company earns a monthly commission on energy sales from each energy supplier based on the energy usage transacted between the energy supplier and energy consumer. The commissions are not based on the retail price for electricity but rather on the amount of energy consumed. Commissions are calculated based on the energy usage transacted between the energy supplier and energy consumer multiplied by the Company's contractual commission rate. Revenue from commissions is recognized as earned over the life of each contract as energy is consumed, provided there is persuasive evidence of an arrangement, the sales price is fixed or determinable, collection of the fee is reasonably assured, and customer acceptance criteria, if any, has been successfully demonstrated. The Company generally recognizes revenue on these transactions when it has received verification from the electricity supplier of the end-users power usage and electricity supplier's subsequent collection of the fees billed to the end user. The verification is generally accompanied with payment of the agreed upon fee to the Company, at which time the revenue is recognized. Commissions paid in advance are recorded as customer advances and are recognized monthly as commission revenue based on the energy exchanged that month. To the extent the Company does not receive verification of actual energy usage or it cannot reliably estimate what actual energy usage was for a given period, revenue is deferred until usage and collection data is received from the energy supplier. To the extent that the Company does not receive actual usage data from the energy supplier, it will recognize revenue at the end of the contract flow date. In October 2012, the Company acquired Northeast Energy Partners, LP ("NEP"). NEP recognizes revenue monthly as energy flows from the energy supplier to the end user. The Company can reliably estimate actual energy usage based on historical usage data compiled by NEP.

Demand Response Transactions

Demand response transaction fees are recognized when the Company receives confirmation from the demand response provider ("DRP") that the energy consumer has performed under the applicable Regional Transmission Organization ("RTO") or Independent Service Operator ("ISO") program requirements. The energy consumer is either called to perform during an actual curtailment event or is required t o demonstrate its ability to perform in a test event during the performance period. For PJM Interconnection ("PJM"), an RTO that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia, the performance period is June through September in a calendar year. Test results are submitted to PJM by the DRPs and the Company receives confirmation of the energy consumer's performance in the fourth quarter. DRPs typically pay the Company ratably on a quarterly basis throughout the demand response fiscal (June to May) year. As a result, a portion of the revenue the Company recognizes is reflected as unbilled accounts receivable.

Wholesale and Environmental Commodity Transactions

Wholesale transaction fees are invoiced upon the conclusion of the auction based on a fixed fee. These revenues are not tied to future energy usage and are recognized upon the completion of the online auction. For reverse auctions where the Company's customers bid for a consumer's business, the fees are paid by the bidder. For forward auctions where a lister is selling energy products, the fees are typically paid by the lister. While substantially all wholesale transactions are accounted for in this fashion, a small percentage of the Company's wholesale revenue is accounted for as electricity or gas is delivered, similar to the retail electricity transaction methodology described above.

Environmental commodity transaction fees are accounted for utilizing two primary methods. For regulated allowance programs like the Regional Greenhouse Gas Initiative ("RGGI"), fees are paid by the lister and are recognized as revenue quarterly as auctions are completed and approved. For most other environmental commodity transactions both the lister and the bidde r pay the transaction fee and revenue is recognized upon the consummation of the underlying transaction as credits are delivered by the lister and payment is made by the bidder.

Channel Partner Commissions

The Company pays commissions to its channel partners at contractual rates based on monthly energy transactions between energy suppliers and energy consumers. The commission is accrued monthly and charged to sales and marketing expense as revenue is recognized. The Company pays commissions to its salespe ople at contractual commission rates based upon cash collections from its customers.

Revenue Estimation

The Company's estimates in relation to revenue recognition affect revenue and sales and marketing expense as reflected on its consolidated statements of operations, and trade accounts receivable and accrued commission accounts as reflected on its consolidated balance sheets. For any quarterly reporting period, the Company may not have actual usage data for certain energy suppliers and will need to estimate revenue. Revenue is initially recorded based on the energy consumers' historical usage profile. At the end of each reporting period, the Company adjusts this historical profile to reflect actual usage for the period and estimate usage where actual usage is not available. For the year ended December 31, 2013, the Company estimated usage for approximately 9% of its revenue resulting in a negative 0.3%, or approximately $105,000, adjustment to decrease revenue. This decrease in revenue resulted in an approximate $16,000 decrease in sales and marketing expense related to third party commission expense associated with those revenues. Corresponding adjustments were made to trade accounts receivable and accrued commissions, respectively. A 1% difference between this estimate and actual usage would have an approximate $32,000 effect on the Company's revenue for the year ended December 31, 2013.

Energy Efficiency Services

The Company's Energy efficiency services segment is primarily project driven where the Company identifies efficiency measures that energy consumers can implement to reduce their energy usage. The Company presents retrofit opportunities to customers, get approval from them to proceed and submit the proposal to the local utility for pre-approval and determination of available incentives. Once the utility approves funding for the project, the Company installs the equipment, typically new heating, ventilation or air conditioning equipment, or replace lighting fixtures to more efficient models. The Company recognizes revenues for energy efficiency services when persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Due to the short-term nature of projects (typically two to three weeks), the Company utilizes the completed-contract method. The Company also assesses multiple contracts entered into by the same customer in close proximity to determine if the contracts should be combined for revenue recognition purposes. Revenues are recognized based upon factors such as passage of title, installation, payments and customer acceptance.

Cash and Cash Equivalents

The Company considers all highly liquid debt instruments purchased with an original maturity of 90 days or less to be cash equivalents.

Concentration of Credit Risk and Off-Balance Sheet Risk

Financial instruments that potentially expose the Company to concentrations of credit risk consist principally of cash and trade accounts receivable. The Company has no material off-balance sheet risk such as foreign exchange contracts, option contracts, or other foreign hedging arrangements. The Company places its cash with primarily two institutions, which management believes are of high credit quality. As of December 31, 2013, all of the Company's cash is held in interest bearing accounts.

The Company provides credit in the form of invoiced and unbilled accounts receivable to customers in the normal course of business. Collateral is not required for trade accounts receivable, but ongoing credit evaluations of customers are performed. While the majority of the Company's revenue is generated from retail energy transactions where the winning bidder pays a commission to the Company, commission payments for certain auctions ca n be paid by the lister, customer or a combination of both. Management provides for an allowance for doubtful accounts on a specifically identified basis, as well as through historical experience applied to an aging of accounts, if necessary. Trade accounts receivable are written off when deemed uncollectible. To date write-offs have not been material.

The following represents revenue and trade accounts receivable from bidders exceeding 10% of the total in each category:

	Revenue for the year ended December 31,			Trade accounts receivable as of December 31,	
Bidder	**2013**	**2012**	**2011**	**2013**	**2012**
A	8%	9%	11%	10%	7%
B	12%	11%	13%	12%	11%
C	8%	7%	6%	10%	6%

In addition to its direct relationship with bidders, the Company also has direct contractual relationships with listers for the online procurement of certain of their energy, demand response or environmental needs. These listers are primarily large businesses and government organizations and do not have a direct creditor relationship with the Company. For the years ended December 31, 2013 and 2012, no energy consumer represented more than 10% individually of the Company's aggregate revenue.

Inventory

Inventory is maintained in the Company's Energy efficiency services segment and consists of prepaid expendables and project materials. Prepaid expendables represents consumable components that are used in project installations and are stated at the lower of cost or market, with cost being determined on a first-in, first-out (FIFO) basis. Historical inventory usage and current trends are considered in estimating both excess and obsolete inventory. To date, there have been no material wr ite-downs of inventory and therefore no allowance for excess or obsolete inventory was recorded at December 31, 2013 and 2012. Project materials represent direct costs incurred on projects-in-process as of each reporting period.

Inventory consists of the following:

	December 31,	
	2013	**2012**
Prepaid expendables	$ 55,563	$ 32,419
Project materials	360,207	122,207
Total inventory	$ 415,770	$ 154,626

Property and Equipment

Property and equipment is stated at cost. Depreciation is provided on a straight-line basis over the estimated useful lives of the related assets or the life of the related lease, whichever is shorter, which range from 3 to 10 years.

Investment / Convertible Note Receivable

In 2010, the Company made a strategic investment in the form of a two-year $650,000 convertible note with Retroficiency, Inc. ("Retroficiency"). The convertible note accrued interest at 9% per annum with principal and interest due at the end of the term on July 22, 2012. It included optional and automatic conversion rights to convert into Retroficiency shares at $0.54 per share and was subject to adjustment in certain circumstances. During the fourth quarter of 2011, Retroficiency execu ted a qualified financing in the form of Series A Preferred Stock at a price in excess of the Company's conversion price and all principal and interest amounts outstanding under the convertible note receivable at the time of the financing were converted into Series A Preferred Stock. In March 2012, the Company sold its investment in Retroficiency at a premium to its carrying value. As a result, a gain of approximately $53,000 was recorded as other income in the accompanying consolidated statements of operations for the year ended December 31, 2012.

Other Assets

Certain acquired software and significant enhancements to the Company's software are capitalized in accordance with Accounting Standards Codification ("ASC") 350-40, " *Internal-Use Software* " ("ASC 350-40") . Internally developed software costs capitalized in 2013 amounted to $58,500. No internally developed software costs were capitalized in 2012 or 2011. The Company amortized internally developed and purchased software over the estimated useful life of the software (generally three years). During 2013, 2012 and 2011, approximately $2,000, $18,000 and $113,000 were amortized to cost of revenues, respectively. Accumulated amortization was approximately $1,223,000 and $1,221,000 at December 31, 2013 and 2012, respectively. Pre- and post- software implementation and configuration costs have historically been immaterial and charged to cost of revenue as incurred. In addition, $400,000 of certain long term prepaid partner payments are included in other assets at December 31, 2013, and $500,000 was included in the balance at December 31, 2012.

Intangible Assets

The Company uses assumptions in establishing the initial carrying value, fair value and estimated lives of its intangible assets. The criteria used for these assumptions include management's estimate of the asset's continuing ability to generate positive income from operations and positive cash flow in future periods compared to the carrying value of the asset, as well as the strategic significance of a ny identifiable intangible asset in the Company's business objectives. If assets are considered impaired, the impairment recognized is the amount by which the carrying value of the assets exceeds the fair value of the assets. Useful lives and related amortization expense are based on an estimate of the period that the assets will generate revenues or otherwise be used by the Company. Factors that would influence the likelihood of a material change in the Company's reported results include significant changes in the asset's ability to generate positive cash flow, a significant decline in the economic and competitive environment on which the asset depends and significant changes in the Company's strategic business objectives.

Intangible assets consist of customer relationships and contracts, purchased technology and other intangibles, and are stated at cost less accumulated amortization. Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which r ange from one to ten years.

Impairment of Long-Lived and Intangible Assets

In accordance with ASC 350, *"Intangibles – Goodwill and Other"* ("ASC 350"), the Company periodically reviews long-lived assets and intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable or that the useful lives of those assets are no longer appropriate. Recoverability of these assets is determined by comparing the forecasted undiscounted net cash flows of the operation to which the assets relate to the carrying amount. No impairment of the Company's long-lived assets was recorded as no change in circumstances indicated that the carrying value of the assets was not recoverable during the years ended December 31, 2013 and 2012.

Goodwill & Indefinite-Lived Intangible Assets

The Company uses assumptions in establishing the initial carrying value and fair value of its goodwill and indefinite-lived intangibles. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets of acquired businesses. Indefinite-lived intangibles are intangible assets whose useful lives are indefinite in that their lives extend beyond the foreseeable horizon – that is there is no foreseeable limit on the period of time over which it is expected to contribute to the cash flows of the reporting entity. The Company accounts for these items in accordance with ASC 350, under which goodwill and intangible assets having indefinite lives are not amortized but instead are assigned to reporting units and tested for impairment annually or more frequently if changes in circumstances or the occurrence of events indicate possible impairment.

The Company performs its annual impairment test at the end of the fourth fiscal quarter of each year, or earlier, if indicators of potential impairment exist. This impairment test is performed for each of its segments – Energy procurement and Energy efficiency services – which have been determined to be the Company's reporting units. The impairment test for goodwill and indefinite-lived intang ibles is a three-step process. Step 0 gives entities the option of first performing a qualitative assessment to test for impairment on a reporting-unit-by-reporting-unit basis. If after performing the qualitative assessment, an entity concludes that it is more-likely-than-not ("MLTN", typically quantified as a likelihood of more than 50%) that the fair value of a reporting unit is less than its carrying amount, then the entity would perform a two-step impairment test. However, if, after applying the qualitative assessment, the entity concludes that it is not MLTN that the fair value is less than the carrying amount, the two step impairment test is not required. Step one consists of a comparison of the fair value of a reporting unit with its carrying amount, including the goodwill allocated to each reporting unit. If the carrying amount is in excess of the fair value, step two requires the excess of the carrying amount of the reporting unit's goodwill over the implied fair value of the reporting unit's goodwill to be recorded as an impairment loss. To determine the fair value of each of the reporting units as a whole, the Company uses a discounted cash flow analysis, which requires significant assumptions and estimates about the future operations of each reporting unit. Significant judgments inherent in this analysis include the determination of appropriate discount rates, the amount and timing of expected future cash flows and growth rates. The cash flows employed in the discounted cash flow analyses are based on financial forecasts developed by management. The discount rate assumptions are based on an assessment of the Company's risk adjusted discount rate, applicable for each reporting unit. In assessing the reasonableness of the determined fair values of the reporting units, the Company evaluates its results against its current market capitalization.

As of December 31, 2013 and 2012, the Company performed a step one analysis on both the energy procurement and energy efficiency services reporting units and det ermined that their indicated fair values substantially exceeded their carrying values. The Company relied on a weighted average cost of capital of 15.75% and 16.15% for each reporting unit as of December 31, 2013 and 2012, respectively, which takes into consideration certain specific small company premiums. The Company utilized a long-term growth rate of approximately 8% and 3% for the energy procurement and 15% and 20% efficiency services reporting units as of December 31, 2013 and 2012, respectively, and assumed a combined tax rate of 40% for both units and in both years.

As of December 31, 2013, the Company performed a step one analysis on the Company's indefinite-life intangibles related to its Energy efficiency services segment customer relationships. Indefinite-life was assigned to the Company's prime contractor relationships with the customer base in the Norwich Public ("Norwich") and United Illuminated ("UI") utility regions ("Prime") and the Company's relationships with the customer base within the Connecticut, Light and Power, UI and Norwich regions as a subcontractor ("Subcontractor") at the NES acquisition date. The fair value of both the Prime and Subcontractor relationships exceeded their carrying values. The Company relied on a weighted average cost of capital of 16.6% for the Prime relationship and 15.7% for the subcontractor relationship as of December 31, 2013, which takes into consideration certain specific small company premiums. The Company utilized a long-term growth rate of approximately 10% for both the Prime and Subcontractor relationships and assumed a combined tax rate of 40% for both. As of December 31, 2012, the Company performed a qualitative assessment of its indefinite-lived intangibles related to its Energy efficiency services segment customer relationships and determined that it was not likely that the fair value of a reporting unit was less than its carrying value.

Deferred Revenue and Customer Advances

Deferred revenue and customer advances arise when energy suppliers pay the Company a commission prior to the Company meeting all the requirements necessary to recognize revenue. Deferred revenue and customer advances expected to be recognized as revenue by year are approximately as follows:

	Amount
2014	$ 3,546,000
2015	2,235,000
2016	1,143,000
2017	310,000
2018 and thereafter	222,000
Total deferred revenue and customer advances	$ 7,456,000

The following table provides a rollforward of deferred revenue and customer advances:

	Amount
Balance at January 1, 2013	$ 5,309,000
Cash received	4,362,000
Revenue recognized	(2,215,000)
Balance at December 31, 2013	$ 7,456,000

Warranty

The Company's Energy efficiency services segment provides its customers a one year warranty for all parts and labor in its installation workmanship. The Company has determined primarily from historical information and management's judgment, that warranty costs are immaterial and no estimate for warranty cost is required at the time revenue is recognized. Should actual warranties differ from the Company's estimates, an estimated warranty liability would be required.

Income Taxes

In accordance with ASC 740, *"Income Taxes"* ("ASC 740"), deferred tax assets and liabilities are determined at the end of each period based on the future tax consequences that can be attributed to net operating loss carryforwards, as well as differences between the financial statement carrying amounts of the existing assets and liabilities and their respective tax basis. Deferred income tax expense or credits are based on changes in the asset or liability from period to period. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The realization of deferred tax assets is dependent upon the generation of future taxable income. In assessing the requirement of a valuation allowance, the Company considers past performance, expected future taxable income, and qualitative factors which the Company considers to be appropriate in estimating future taxable income. The Company's forecast of expected future taxable income is for future periods that can be reasonably estimated. Results that differ materially from current expectations may cause the Company to change its judgment on future taxable income and the necessity of a tax valuation allowance.

The Company has reviewed the tax positions taken, or to be taken, in its tax returns for all tax years currently open to examination by the taxing authority in accordance with ASC 740's recognition and measurement standards. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in the Company's consolidated financial statements. The Company accounts for interest and penalties related to uncertain tax positions as part of its provision for income taxes.

Stock-based Compensation

The Company recognizes the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. S tock-based awards to employees consisted of grants of stock options for the years ended December 31, 2013, 2012 and 2011 and grants of restricted stock for the years ended December 31, 2013 and 2012, respectively. The restrictions on the restricted stock lapse over the vesting period. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees.

The Company accounts for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. There were no equity instruments granted to non-employees for the year ended December 31, 2013. For the years ended December 31, 2012 and 2011 stock-based awards to non-employe es consisted of grants of stock warrants. The vesting period of stock warrants granted ranged from one to seven years.

Leases

Rent under non-cancelable operating leases that include scheduled rent increases are accounted for on a straight-line basis over the lease term. Allowances and other lease incentives provided by the lessor are amortized on a straight-line basis as a reduction of rent expense. The difference between straight-line expense and rent paid is recorded as a deferred rent liability in t he consolidated balance sheet.

Advertising Expense

Advertising expense primarily includes promotional expenditures and is expensed as incurred. Advertising expenses incurred were approximately $229,000 , $205,000 and $144,000 for the years ended December 31, 2013, 2012 and 2011, respectively.

Comprehensive Income (Loss)

ASC 220, *"Comprehensive Income"* ("ASC 220"), establishes standards for reporting and displaying comprehensive (loss) income and its components in financial statements. Comprehensive (loss) income is defined as the change in stockholders' equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The comprehensive (loss) income for all periods presented consisted only of the reported net (loss) income.

Fair Value of Financial Instruments

The Company's financial instruments include cash and cash equivalents, accounts receivable, accounts payable, accrued expenses (including contingent consideration) and debt. The carrying amounts for these financial instruments reported in the consolidated balance sheets approximate their fair values.

Fair Value Measurements

The Company follows ASC 820, " *Fair Value Measurements and Disclosures* " ("ASC 820"), for fair value measurements. ASC 820 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The standard provides a consistent definition of fair value, which focuses on an exit price, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The standard also prioritizes, within the measurement of fair value, the use of market-based information over entity specific information and establishes a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

The hierarchy established under ASC 820 gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

> Level 1 — Pricing inputs are quoted prices available in active markets for identical investments as of the reporting date. As required by ASC 820-10, the Company does not adjust the quoted price for these investments, even in situations where the Company holds a large position and a sale could reasonably impact the quoted price.
>
> Level 2 — Pricing inputs are quoted prices for similar investments, or inputs that are observable, either directly or indirectly, for substantially the full term through corroboration with observable market data. Level 2 includes investments valued at quoted prices adjusted for legal or contractual restrictions specific to these investments.
>
> Level 3 — Pricing inputs are unobservable for the investment, that is, inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability. Level 3 includes investments that are supported by little or no market activity.

Segment Reporting

ASC 280, *"Segment Reporting"* ("ASC 280"), establishes standards for reporting information about operating segments in financial statements. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is the president and chief executive officer. The Company's chief operating decision maker reviews the results of operations based on two industry segments: Energy procurement and Energy efficiency services.

Recent Accounting Pronouncements

In July 2013, Accounting Standards Update (" ASU") 2013-11, *"Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists"* ("ASU 2013-11"), was issued which defines the presentation requirements of an unrecognized tax benefit, or a portion of an unrecognized tax benefit, in the financial statements. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2013. Early adoption is permitted and retrospective application is permitted but not required. The Company does not expect the application of this ASU to have an impact on its consolidated financial statements.

NOTE 3 — ACQUISITIONS

The Company accounts for acquisitions using the purchase method in accordance with ASC 805, " *Business Combinations* ." The results of operations of acquisitions have been included in the accompanying consolidated financial statements as of the dates of the acquisition. There were no acquisitions in 2013. Total cash paid for acquisitions was $8.1 million and $10.4 million in 2012 and 2011, respectively. The Company recognized $0.2 million and $0.7 million of total acquisition costs in 2012 and 2011, respectively, that were included in general and administrative expense in the accompanying consolidated statements of operations.

NEP

On October 3, 2012, the Company acquired substantially all of the assets and certain obligations of Northeast Energy Partners, LLC ("NEP") pursuant to an Asset Purchase Agreement (the "Asset Purchase Agreement") between the Company, NEP, and its members. NEP is a Connecticut based energy management and procurement company.

The acquisition-date fair value of the consideration transferred totaled approximately $12.1 million, which consisted of the following:

	Purchase Price
Cash	$ 7,910,959
Notes payable to seller	2,000,000
Contingent consideration	2,219,000
Total consideration	$ 12,129,959

The Company funded the initial $7.9 million cash portion of the purchase price through the issuance of long-term debt. See Note 15 "Credit Arrangements" for details of long-term debt.

The fair value of the Notes payable to seller was recorded at the face amount of the N otes entered into at the date of acquisition due to their short-term maturity and market rate of interest. The Notes payable to seller bears interest at 4%. On October 1, 2013, the Company paid the first installment of $1,500,000 against the Notes payable to seller. As of December 31, 2013, $500,000 was outstanding under the Notes payable to seller, which is due on April 1, 2014.

As part of the total consideration, NEP could have earned up to $3.2 million in contingent consideration if certain performance criteria were met for the twelve months ending September 30, 2013. This potential contingent consideration consisted of $2.5 million in cash and 153,153 shares of common stock. As of December 31, 2012, the Company valued this contingent payment at $2.2 mi llion, which was recorded within current liabilities as accrued contingent consideration in the consolidated balance sheet. In measuring the fair value of the contingent consideration, the Company assigned probabilities to the performance criteria, based among other things on the nature of the performance criteria and the Company's due diligence performed at the time of the acquisition. On December 31, 2013 the Company paid $1.3 million in cash and issued 76,577 shares of common stock valued at $0.3 million which represented the final contingent consideration payment related to the acquisition. As a result, the Company recognized a $0.6 million reduction in general and administrative expense for the year ended December 31, 2013, eliminating the accrued contingent consideration related to this acquisition.

The following table summarizes the allocations of purchase price, which was finalized at December 31, 2012:

	Allocations
Unbilled accounts receivable	$ 837,693
Fixed assets	26,765
Current liabilities	(415,078)
Intangible assets	7,820,000
Goodwill	3,860,579
Net assets acquired	$ 12,129,959

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the comparative business valuation method and relief from royalty method. The goodwill recognized is attributable primarily to future revenue generation resulti ng from expected synergies, expanded product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years.

The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

	Fair Value	Weighted Average Lives
Customer contracts	$ 2,500,000	4 years
Non-compete agreements	900,000	5 years
Customer relationships	4,000,000	10 years
Trade names	420,000	4 years
Total intangible assets	$ 7,820,000	

GSE

On October 31, 2011, the Company acquired substantially all of the assets and certain obligations of GSE Consulting, L.P. ("GSE") for a maximum purchase price of $13.1 million. GSE is a Texas based energy management and procurement company. The purchase price was $8.6 million, consisting of $3.9 million in cash, $1.5 million in cash to pay off GSE debt, and 1.0 million shares of the Company's Common Stock valued at $3.2 million. In addition, GSE could earn up to $4.5 million of contingent consideration in cash based on the achievement of certain annualized new booking and renewal rate targets to be measured over a two-year period through October 2013.

The acquisition-date fair value of the consideration transferred totaled $12.9 million, which consisted of the following:

	Purchase Price
Cash	$ 5,400,251
Common stock (1,000,000 shares)	3,210,000
Contingent consideration	4,328,000
Total consideration	$ 12,938,251

The fair value of the 1,000,000 common shares issued was determined based on the closing market price of the Company's common shares on the acquisition date.

The fair value of the contingent consideration was based on the weighted probability of achievement of certain performance milestones. In measuring the fair value of the contingent consideration, the Company assigned probabilities to the performance criteria, based among other things on the nature of the performance criteria and the Company's due diligence performed at the time of the acquisition. The contingent consideration was tied to the achievement of certain performance criteria for the 3-month period ended December 31, 2011 ("2011 GSE contingent consideration"), the twelve month period ended October 31, 2012 ("2012 GSE contingent consideration") and the twelve month period ended October 31, 2013 ("2013 GSE contingent consideration"). The contingent consideration earns interest at 4% per annum, which is payable at each respective due date.

In January 2012, the Company paid $2.0 million to GSE representing full attainment of the 2011 GSE contingent consideration. In January 2013, the Company paid an additional $1.3 million to GSE representing its attainment of the annualized new booking target for the 2012 GSE contingent consideration. The renewal rate target for the 2012 GSE contingent consideration in the amount of $0.3 million was not attained but has been disputed by GSE. Based on management's estimates, the annualized new bookings target for the 2013 GSE contingent consideration was attained representing $0.8 million of the $1.0 million total potential contingent consideration payment for that period. The renewal rate target for the 2013 GSE contingent consideration representing a potential $0.3 million of the total payment was not attained but has been disputed by GSE. The Company's estimates are currently being reviewed by GSE. In addition, the agreement provided for a working capital adjustment tied to the collection of backlog during the 15-month period from November 1, 2011 through January 31, 2013, as defined in the purchase agreement. Based on management's estimate of the working capital adjustment, no payment has been made to GSE related to the 2013 GSE contingent consideration. GSE has disputed this calculation and the companies are currently in negotiations to determine a mutually acceptable settlement on all disputed items. As a result, the Company has estimated a $1.0 million accrual related to the 2012 and 2013 GSE contingent consideration which is included within current liabilities in the Company's consolidated balance sheets as of December 31, 2013.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

	Allocations
Current assets	$ 8,698
Fixed assets	100,088
Other assets	15,030
Capital leases	(27,858)
Intangible assets	7,080,000
Goodwill	5,762,293
Net assets acquired	$ 12,938,251

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the comparative business valuation method and the relief from royalty method. The goodwill recognized is attributable primarily to future revenue generation res ulting from expected synergies, expanded product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.4 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

	Fair Value	Weighted Average Lives
Non-compete agreements	$ 1,280,000	5 years
Customer relationships	$ 3,480,000	10 years
Customer contracts	1,650,000	3 years
Trade names	670,000	4 years
Total intangible assets	$ 7,080,000	

NES

On October 13, 2011, the Company acquired substantially all of the assets and certain obligations of Northeast Energy Solutions, LLC ("NES") for a maximum purchase price of $4.8 million. NES, located in Cromwell, Connecticut, focuses on turn-key electrical and mechanical energy efficiency measures serving commercial, industrial and institutional customers.

The acquisition-date fair value of the consideration transferred totaled $4.6 million, which consisted of the following:

	Purchase Price
Cash	$ 1,004,131
Common stock (83,209 shares)	252,122
Notes payable to seller	3,000,000
Contingent consideration	357,813
Total consideration	$ 4,614,066

The fair value of the 83,209 common shares issued was determined based on the closing market price of the Company's common shares on the acquisition date.

The fair value of the Notes payable to seller was recorded at the face amount of the notes entered into at the date of acquisition due to their short-term maturity and market rate of interest. During 2012 the Company paid $3,000,000 in Notes payable to seller, including interest paid on each tranche at the respective due dates, and no amounts remained outstanding under the se notes as of December 31, 2013 and December 31, 2012.

In January 2012 the Company paid $250,000 in NES contingent consideration. In March 2013, the Company paid $125,000 related to the NES contingent consideration representing the final payment related to the acquisition. There were no amounts outstanding as of December 31, 2013.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

	Allocations
Current assets	$ 1,875
Fixed assets	168,530
Capital leases	(53,709)
Intangible assets	2,962,500
Goodwill	1,534,870
Net assets acquired	$ 4,614,066

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the multi-period excess earnings method, the income approach and the cost replacement approach. The goodwill recognized is attributable primarily due to future revenue generation resulting from expande d product lines and new markets and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.1 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

		Fair Value	Weighted Average Lives
Customer relationships	$	991,600	9 years
Customer relationships - indefinite life		1,736,000	N/A
Non-compete agreements		234,900	5 years
Total intangible assets	$	2,962,500	

Co-eXprise

On September 13, 2011, the Company acquired certain contracts and assumed certain liabilities of the Co-eXprise, Inc.'s (now called Directworks Inc. ("Directworks")) energy procurement business for $4.0 million in cash. Directworks, located in Wexford Pennsylvania, provides cloud-based software solutions purpose-built for manufacturers to i mprove supplier collaboration, total cost visibility, and the efficiency of sourcing and supplier management activities.

The following table summarizes the estimated fair values of the assets and liabilities assumed at the acquisition date:

		Allocations
Unbilled accounts receivable	$	412,609
Current liabilities		(4,000)
Intangible assets		1,760,000
Goodwill		1,831,391
Net assets acquired	$	4,000,000

The fair value of accounts receivable acquired on September 13, 2011 was approximately $413,000. The gross contractual amount of these accounts receivable was approximately $460,000, of which $47,000 was not expected to be collected. Actual collections exceeded the fair value of the unbilled accounts receivable at acquisition by $85,000, which has been recorded as a reduction in general and administrative expense for the year ended December 31, 2012.

The purchase price was allocated to the tangible and intangible assets and liabilities assumed based on estimates of their respective fair values at the date of acquisition with the remaining unallocated purchase price recorded as goodwill. Fair value of intangible assets was determined using a combination of the income approach and cost approach. The go odwill recognized is attributable primarily to expected synergies of Co-eXprise and is expected to be deductible for tax purposes over a period of 15 years. Acquisition costs of approximately $0.2 million were recorded in general and administrative expense in 2011.

Management is responsible for the valuation of net assets acquired and considered a number of factors, including valuations and appraisals, when estimating the fair values and estimated useful lives of acquired assets and liabilities. At December 31, 2011 the allocation of purchase price had been finalized. The intangible assets, excluding goodwill, are being amortized on a straight-line basis over their weighted average lives as follows:

		Fair Value	Weighted Average Lives
Non-compete agreements	$	170,000	5 years
Customer relationships		580,000	7 years
Customer contracts		1,010,000	2.5 years
Total intangible assets	$	1,760,000	

Other Acquisitions

In December 2012 the Company acquired two additional businesses, primarily to expand its customer base in the procurement and efficiency markets. The total consideration of these acquisitions was $0.2 million. In allocating the total purchase consideration for these allocations based on estimated fair values, the Company recorded approximately $0.1 million of identifiable intangible assets which consisted of customer relationships with a weighted average life of one year.

The NES acquisition operating results have been included within the Company's Energy efficiency services segment since the date of acquisition. The Co-eX prise contracts and GSE and NEP operations were integrated into the Company's Energy procurement segment from the respective dates of acquisition and, therefore, discrete operating results are not maintained or reviewed by the Company's chief operating decision maker for those operations. The following unaudited pro forma information assumes that the acquisition of NEP had been completed as of the beginning of 2012:

		Years Ended December 31,	
		2012	2011
		(Unaudited)	(Unaudited)
Revenues		$ 35,783,527	$ 37,838,477
Net income		4,791,197	1,764,866
Net income per share:			
Net income per share – basic		$ 0.40	$ 0.15
Net income per share – diluted		$ 0.40	$ 0.15
Weighted average shares outstanding – basic		11,901,172	11,416,998
Weighted average shares outstanding – diluted		11,958,689	11,478,718

The pro forma financial information is not necessarily indicative of the results to be expected in the future as a result of the acquisitions of NEP, as the acquisition did not necessarily reflect the purchase of stand-alone or complete operations, and included several non-recurring revenue eve nts.

NOTE 4 — GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill by business segment are as follows:

	Energy Procurement	Energy Efficiency Services	Total
Balance at January 1, 2012	$ 10,772,385	$ 1,534,870	$ 12,307,255
Goodwill acquired	3,860,579	-	3,860,579
Balance at December 31, 2012	14,632,964	1,534,870	16,167,834
Goodwill acquired	-	-	-
Balance at December 31, 2013	$ 14,632,964	$ 1,534,870	$ 16,167,834

Acquisition related intangible assets with finite lives related to the Company's Energy procurement segment are summarized as follows at December 31, 2013:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer contracts	1 - 4 years	$ 5,276,000	$ 3,017,000	$ 2,259,000
Customer relationships	7 - 10 years	12,800,000	4,568,000	8,232,000
Non-compete agreements	5 years	2,350,000	858,000	1,492,000
Trade names	4 years	1,090,000	494,000	596,000
Total		$ 21,516,000	$ 8,937,000	$ 12,579,000

Acquisition related intangible assets with finite lives related to the Company's Energy efficiency segment are summarized as follows at December 31, 2013:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer relationships	9 years	$ 992,000	$ 244,000	$ 748,000
Non-compete agreements	5 years	235,000	104,000	131,000
Total		$ 1,227,000	$ 348,000	$ 879,000

Acquisition related intangible assets with finite lives related to the Company's Energy procurement segment are summarized as follows at December 31, 2012:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer contracts	1 - 4 years	$ 5,276,000	$ 1,322,000	$ 3,954,000
Customer relationships	7 - 10 years	12,800,000	3,264,000	9,536,000
Non-compete agreements	5 years	2,350,000	388,000	1,962,000
Trade names	4 years	1,090,000	221,000	869,000
Total		$ 21,516,000	$ 5,195,000	$ 16,321,000

Acquisition related intangible assets with finite lives related to the Company's Energy efficiency segment are summarized as follows at December 31, 2012:

	Estimated Useful Life	Carrying Amount	Accumulated Amortization	Net
Customer relationships	9 years	$ 992,000	$ 134,000	$ 858,000
Non-compete agreements	5 years	235,000	57,000	178,000
Total		$ 1,227,000	$ 191,000	$ 1,036,000

As of December 31, 2013 and 2012, accompanying consolidated balance sheets also included acquisition related intangible assets with indefinite lives in the amount of $1,736,000 pertaining to customer relationships in its Energy effi ciency segment, not reflected in the above tables.

Intangible assets with a finite life are amortized using the straight-line method over their estimated useful lives, which range from one to ten years. Amortization expense was approximately $3,899 ,000, $3,022,000 and $1,347,000 for the years ended December 31, 2013, 2012 and 2011, respectively. In addition, approximately $2.4 million of fully amortized intangible assets related to the Company's Energy procurement segment were removed from the 2012 presentation. The approximate future amortization expense of intangible assets is as follows:

2014	$ 3,369,000
2015	2,801,000
2016	2,416,000
2017	1,273,000
2018 and thereafter	3,599,000
	$ 13,458,000

NOTE 5 — TRADE ACCOUNTS RECEIVABLE, NET

The Company does not invoice bidders for the commissions earned on retail electricity, certain natural gas and demand response transactions and, therefore, reports a significant portion of its receivables as "unbilled." Unbilled accounts receivable represent management's best estimate of energy provided by the energy suppliers to the energy consumers for a specific completed time period at contracted commission rates.

The Company generally invoices bidders for commissions earned on wholesale and a substant ial portion of retail natural gas transactions as well as energy efficiency customers, which are reflected as billed accounts receivable. For natural gas and wholesale transactions, the total commission earned on these transactions is recognized upon completion of the procurement event and are generally due within 30 days of invoice date. For efficiency projects, revenue is recognized and invoiced upon project installation and acceptance, as required, and are generally due within 30 days of invoice date. In addition, the Company invoices the bidder, lister or combination of both for certain auctions performed for environmental commodity product transactions. These transactions are earned and invoiced either upon lister acceptance of the auction results or, in some cases, upon delivery of the credits or cash settlement of the transaction. For the years ended December 31, 2013 and 2012, the Company provided $150,000 and $103,857 as an allowance for doubtful accounts, respectively. To date, write-offs have not been material. Trade accounts receivable, net consists of the following:

	December 31,	
	2013	2012
Unbilled accounts receivable	$ 6,070,227	$ 5,343,559
Billed accounts receivable	1,993,093	2,074,223
	8,063,320	7,417,782
Allowance for doubtful accounts	(325,179)	(175,179)
Trade accounts receivable, net	$ 7,738,141	$ 7,242,603

NOTE 6 — PROPERTY AND EQUIPMENT, NET

Property and equipment, net consists of the following:

	December 31,	
	2013	2012
Leasehold improvements	$ 126,740	$ 110,206
Equipment	874,613	774,199
Motor vehicles	95,534	121,616
Furniture and fixtures	681,945	630,057
	1,778,832	1,636,078
Less accumulated depreciation	(1,205,054)	(996,239)
Property and equipment, net	$ 573,778	$ 639,839

Depreciation expense for the years ended December 31, 2013, 2012 and 2011 was approximately $2 22,000, $217,000 and $147,000, respectively.

NOTE 7 — COMMON AND PREFERRED STOCK

Preferred Stock

The Company's Amended and Restated Certificate of Incorporation, as amended, authorizes 5,000,000 shares of $0.0001 par value undesignated preferred stock for issuance by the Company's board of directors. No preferred shares have been issued as of December 31, 2013 and 2012.

Common Stock

On October 31, 2011, the Company issued 1.0 million shares of common stock of the Company (equal to approximately $3.2 million) pursuant to an Asset Purchase Agreement between the Company, GSE, Glenwood Energy Partners, Ltd. and Gulf States Energy, Inc.

On October 13, 2011, the Company issued 83,209 shares of common stock of the Company (equal to approximately $ 0.3 million) to the Members of NES pursuant to an Asset Purchase Agreement between the Company, NES and the Members of NES.

In April 2010, the Company filed an S-3 registration statement with the Securities and Exchange Commission, or SEC, using a "shelf" registration, or continuous offering, process. Under this shelf registration process, the Company may, from time to time, issue and sell any combination of preferred stock, common stock or warrants, either separately or in units, in one or more offerings with a maximum aggregate offering price of $20,000,000, including the U.S. dollar equivalent if the public offering of any such securities is denominated in one or more foreign currencies, foreign currency units or composite currencies. On April 11, 2011, the Company issued approximately 1.5 million shares of common stock utilizing this shelf registration to several accredited institutional investors at $3.60 per share yielding proceeds of approximately $5.3 million, net of $0.2 million of expenses.

Treasury Stock

In connection with the vesting of restricted stock granted to employees the Company withheld shares with value equivalent to employees' minimum statutory obligation for the applicable income and other employment taxes, and remitted the cash to the appropriate taxing authorities. The total shares withheld of 9,091 and 643 for the years ended December 31, 2013 and 2012, respectively, were based on the value of the restricted stock on their vesting date as determined by the Company's closing stock price. Total payment for employees' tax obligations was approximately $35,000 and $3,000 for the years ended December 31, 2013 and 2012, respectively. These net-share settlements had the effect of share repurchases by the Company as they reduced the number of shares that would have otherwise been issued as a result of the vesting and did not represent an expense to the Company.

Common Stock Warrants

On October 3, 2012, the Company issued warrants to Silicon Valley Bank (" SVB") for the purchase of 45,045 shares of the Company's common stock at a per share price of $4.44 in connection with a Fourth Loan Modification Agreement (the "Fourth Modification Agreement") with SVB. The warrants have a seven year life.

The following table summarizes the Company's warrant activity:

	Shares	Weighted Average Exercise Price
Warrants outstanding, January 1, 2011	64,500	$ 3.03
Granted	300,000	$ 3.00
Exercised	-	$ -
Canceled/expired	-	$ -
Warrants outstanding, December 31, 2011	364,500	$ 3.00
Granted	45,045	$ 4.44
Exercised	(60,000)	$ 3.01
Canceled/expired	(300,000)	$ 3.00
Warrants outstanding, December 31, 2012	49,545	$ 4.33
Granted	-	$ -
Exercised	-	$ -
Canceled/expired	-	$ -
Warrants outstanding, December 31, 2013	49,545	$ 4.33

The weighted average remaining contractual life of warrants outstanding is 5 .35 years as of December 31, 2013.

NOTE 8 — EMPLOYEE BENEFIT PLANS

Stock Options

The Company has one stock incentive plan: the 2006 Stock Incentive Plan, or the 2006 Plan. The Company formerly had an additional 2003 Stock Incentive Plan, or the 2003 Plan, which is no longer active at December 31, 2013. At the Company's Annual Meeting on May 17, 2012, an amendment to the 2006 Plan was approved to increase the number of shares of common stock covered by the 2006 Plan by 800,000 shares from 873,816 to 1,673,816. As of December 31, 2013, 1,282,437 shares of common stock were reserved under the 2006 Plan representing 745,917 outstanding stock options, 202,000 shares of restricted stock outstanding and 334,520 shares available for grant.

A summary of stock option activity under both plans for the years ended December 31, 2013, 2012 and 2011 are as follows:

	Shares	Weighted Average Exercise Price
Outstanding at January 1, 2011	704,906	$ 3.96
Granted	135,000	$ 3.15
Canceled	(55,687)	$ 3.41
Exercised	(76,938)	$ 1.16
Outstanding at December 31, 2011	707,281	$ 4.15
Granted	221,600	$ 4.03
Canceled	(58,324)	$ 5.06
Exercised	(69,813)	$ 2.83
Outstanding at December 31, 2012	800,744	$ 4.17
Granted	150,850	$ 3.64
Canceled	(143,802)	$ 6.48
Exercised	(61,875)	$ 3.23
Outstanding at December 31, 2013	745,917	$ 3.69

A summary of common stock options outstanding and common stock options exercisable as of December 31, 2013 is as follows:

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	**Options**	**Weighted Average Remaining Contractual Life**	**Aggregate Intrinsic Value**	**Number of Shares Exercisable**	**Weighted Average Remaining Contractual Life**	**Aggregate Intrinsic Value**
$2.00 - $3.11	175,992	3.64 Years	$ 272,525	135,070	3.48 Years	$ 218,135
$3.12 - $3.30	201,025	3.35 Years	217,769	170,838	3.07 Years	184,572
$3.31 - $3.81	234,300	6.10 Years	145,437	45,200	5.71 Years	19,905
$3.82 - $13.40	134,600	4.71 Years	11,137	47,646	2.14 Years	833
	745,917	4.53 Years	$ 646,868	398,754	3.40 Years	$ 423,445

The aggregate intrinsic value of options exercised during the year ended December 31, 2013 was approximately $50 ,000. At December 31, 2013, the weighted average exercise price of common stock options outstanding and exercisable was $3.69 and $3.72, respectively.

Restricted Stock

A summary of restricted stock activity for the years ended December 31, 2013, 2012 and 2011 are as follows:

	Shares	**Weighted Average Grant Price**
Outstanding at January 1, 2011	13,828	$ 10.10
Granted	11,143	$ 3.14
Canceled	(2,250)	$ 10.76
Vested	(20,865)	$ 6.56
Outstanding at December 31, 2011	1,856	$ 7.28
Granted	130,498	$ 3.39
Canceled	-	$ -
Vested	(12,331)	$ 4.55
Outstanding at December 31, 2012	120,023	$ 3.33
Granted	123,578	$ 3.80
Canceled	-	$ -
Vested	(41,601)	$ 3.56
Outstanding at December 31, 2013	202,000	$ 3.57

401(k) Plan

The Company's 401(k) savings plan covers the majority of the Company's eligible employees. Employees of the Company may participate in the 401(k) Plan after reaching the age of 21. The Company may make discretionary matching contributions as determined from time to time. Employee contributions vest immediately, while Company matching contributions begin to vest after one year of service and continue to vest at 20% per year over the next five years. To date, the Company has not made any discretionary contributions to the 401(k) Plan.

NOTE 9 — EARNINGS (LOSS) PER SHARE

As of December 31, 2013, 2012 and 2011, the Company only had one issued and outstanding class of stock – common stock. As a result, the basic earnings or loss per share for t he years ended December 31, 2013, 2012 and 2011 is computed by dividing net (loss) income by the weighted average number of common shares outstanding for the period.

The following table provides a reconciliation of the denominators of the Company's reported basic and diluted earnings per share computation for the y ears ended December 31, 2013, 2012 and 2011, respectively:

	Years Ended December 31,		
	2013	2012	2011
Weighted number of common shares - basic	11,998,019	11,901,172	10,521,910
Common stock options	-	21,348	-
Common stock warrants	-	22,653	-
Unvested restricted stock	-	13,516	-
Total common stock equivalents	11,998,019	11,958,689	10,521,910

The computed loss per share does not assume conversion, exercise, or contingent exercise of securities that would have an anti-dilutive effect on loss per share. As the Company was in a net loss position for the years ended December 31, 2013 and 2011, all common stock equivalents in those years were anti-dilutive.

For the year ended December 31, 2013, 745,917, 49,545 and 202,000 shares issuable relative to common stock options, common stock warrants and restricted stock, respectively, were excluded from net loss per share since the inclusion of such shares would be anti-dilutive. For the year ended December 31, 2012, 713,301 and 45,045 shares issuable relative to common stock options and common stock warrants, respectively, w ere excluded from net loss per share since the inclusion of such shares would be anti-dilutive. For the year ended December 31, 2011, 707,281, 364,500 and 1,856 shares issuable relative to common stock options, common stock warrants and restricted stock, respectively, were excluded from net loss per share since the inclusion of such shares would be anti-dilutive. The Company did not declare or pay any dividends in 2013, 2012 and 2011.

NOTE 10 — STOCK-BASED COMPENSATION

For the year ended December 31, 2013, share based awards consisted of grants of stock options and restricted stock, for the year ended December 31, 2012, share based awards consisted of grants of stock options, restricted stock and stock warrants and for the year ended December 31, 2011 sha re based awards consisted of grants of stock options and stock warrants. The Company recognizes the compensation from stock-based awards on a straight-line basis over the requisite service period of the award. The vesting period of stock-based awards is determined by the board of directors, and is generally four years for employees. The restrictions on the restricted stock lapse over the vesting period, which is typically four years. The per-share weighted-average fair value of stock options granted during the years ended December 31, 2013, 2012 and 2011 was $2.37, $2.80 and $2.20, respectively, on the date of grant, using the Black-Scholes option-pricing model with the following weighted-average assumptions:

Year Ended December 31,	Expected Dividend Yield	Risk-Free Interest Rate	Expected Life	Expected Volatility
2013	0%	1.21%	4.75 years	84%
2012	0%	0.71%	4.75 years	94%
2011	0%	0.89%	4.75 years	99%

The per-share weighted-average fair value of stock warrants granted during the years ended December 31, 2012 and 2011 was $3.10 and $0.72, respectively, on the date of grant, using the Black-Scholes option-pricing model with the following weighted-average assumptions:

Year Ended December 31,	Expected Dividend Yield	Risk-Free Interest Rate	Expected Life	Expected Volatility
2012	0%	0.61%	7.00 years	94%
2011	0%	0.12%	0.63 years	60%

The Company elected to use the Black-Scholes option pricing model to determine the weighted average fair value of options and warrants granted. The Company determined the volatility for stock options based on the reported closing prices of the Company's stock. The expected life of stock options has been determined utilizing the "simplified" method as prescribed by the SEC's Staff Accounting Bulletin No. 107, " *Stock-based Payment"*. The expected life of stock warrants is based on the contract term of the warrants. The risk-free interest rate is based on a treasury instrument whose term is consistent with the expected life of the stock options and stock warrants. The Company has not paid and does not anticipate paying cash dividends on its common stock; therefore, the expected dividend yield is assumed to be zero. In addition, ASC 718, *"Compensation – Stock Compensation* " ("ASC 718"), requires companies to utilize an estimated forfeiture rate when calculating the expense for the period. As a result, the Company applied estimated forfeiture rates to unvested stock-based compensation of 10% for stock options and restricted stock for the years ended December 31, 2013, 2012 and 2011, respectively, in determining the expense recorded in the accompanying consolidated statements of operations. The Company did not apply an estimated forfeiture rate to unvested stock-based compensation for stock warrants for the years ended December 31, 2013, 2012 and 2011, in determining the expense recorded in the accompanying consolidated statements of operations.

The approximate total stock-based compensation expense for the periods presented is included in the following expense categories:

	Years Ended December 31,		
	2013	2012	2011
Cost of revenue	$ 89,000	$ 79,000	$ 69,000
Sales and marketing	249,000	207,000	356,000
General and administrative	262,000	180,000	185,000
Total stock-based compensation	$ 600,000	$ 466,000	$ 610,000

As of December 31, 2013, there was approximately $1,380 ,000 of unrecognized compensation expense related to stock-based awards, including approximately $810,000 related to non-vested stock option awards that is expected to be recognized over a weighted-average period of 2.42 years and approximately $570,000 related to non-vested restricted stock awards that is expected to be recognized over a weighted average period of 2.58 years. See Note 8 to the accompanying consolidated financial statements for a summary of activity under the Company's stock-based employee compensation plans for the years ended December 31, 2013, 2012 and 2011.

The Company accounts for transactions in which services are received from non-employees in exchange for equity instruments based on the fair value of such services received or of the equity instruments issued, whichever is more reliably measured. During 2012, the Company issued warrants to SVB for the purchase of 45,045 shares of the Company's common stock in conjunction with a Fourth Loan Modification Agreement (the "Fourth Modification Agreement"). As a result of the warrants issued to SVB, the Company recognized a debt discount of approximately $140,000, of which approximately $130,000 was unamortized and recorded against long term debt on the Company's December 31, 2012 consolidated balance sheet, and approximately $10,000 was recorded as interest expense in the consolidated statement of operations for the year ended December 31, 2012. As a result of the extinguishment of the SVB loan during 2013, the Company expensed the remaining unamortized debt discount to interest expense in the amount of approximately $130,000 (See Note 15). During 2011, stock warrants were granted for 300,000 shares of common stock to consultants in consideration for services performed, for which the Company recognized a charge of approximately $19,000 and $197,000 to sales and marketing expense in the consolidated statement of operations for the years ended December 31, 2012 and 2011, respectively. During 2010, stock warrants were granted for 64,500 shares of common stock to consultants in consideration for services performed, for which the Company recognized a charge of approximately $4,000 to general and administrative expense in the consolidated statement of operations for the year ended December 31, 2011.

NOTE 11 — RELATED PARTIES

In 2012, the Company entered into an agreement to lease a facility in Enfield CT, used to support its operations related to its acquisition of NEP. The facility is owned by a real estate holding company owned equally by the former owners of NEP. The managing member of the holding company is an employee of the Company. Rent paid by the Company to this real estate holding company amounted to approximately $120,000 and $29,000 in 2013 and 2012, respectively.

Pursuant to the Company's 2012 acquisition of assets and certain liabilities of NEP, the Company issued Notes payable to seller and contingent consideration as part of the purchase price. Subsequent to the acquisition, one of the owners of NEP became an employee of the Company, while retaining an indirect interest in purchase consideration due to NEP. The first installment of Notes payable to NEP in the amount of $1,500,000 was paid in October 2013, with the remaining amount of $500,000 due in April 2014 and reflected in the Company's December 31, 2013 consolidated balance sheet as a current liability. Additionally, approximately $66,000 and $20,000 of interest expense related to the notes payable was reflected in the Company's consolidated statements of operations for the years ended December 31, 2013 and 2012, respectively. Contingent consideration, valued at approximately $1,575,000 and consisting of a cash payment of $1,250,000 and an issuance of 76,577 shares of the Company's common stock related to this acquisition, was paid in December 2013. There were no further payments due related to contingent consideration for the NEP acquisition.

Pursuant to the Company's 2011 acquisition of assets and certain liabilities of NES, the Company issued n otes payable to the sellers and contingent consideration as part of the purchase price. Subsequent to the acquisition the three Members of NES became employees of the Company, while retaining an interest in purchase consideration due NES. Accrued contingent consideration of $120,312 related to the NES acquisition was reflected as a liability in the Company's December 31, 2012 consolidated balance sheet. Additionally, approximately $113,000 and $32,000 of interest expense related to the notes was reflected in the Company's accompanying consolidated statements of operations for the year ended December 31, 2012 and 2011, respectively. The Company's obligations related to the notes and contingent consideration for the NES acquisition had been completed as of December 31, 2013.

NOTE 12 — INCOME TAXES

Provisions for the Company's income taxes for the three years ended December 31 were as follows:

	2013	2012	2011
Current:			
Federal	$ -	$ 62,393	$ 35,868
State	-	23,464	14,623
	-	85,857	50,491
Deferred:			
Federal	(960,674)	(6,569,461)	73,937
State	337,600	(995,532)	13,796
	(623,074)	(7,564,993)	87,733
[illegible]	$ (623,074)	$ (7,479,136)	$ 138,224

The components of the Company's net deferred tax asset are as follows:

	December 31,	
	2013	2012
Depreciation and amortization	$ 2,210,308	$ 1,417,642
Goodwill and indefinite lived intangible assets	(830,251)	(422,892)
Acquisition costs	302,538	303,605
Accruals and reserves	1,692,143	1,882,888
Alternative minimum tax credits	106,910	106,910
Other tax credits	-	(87,733)
Net operating loss carryforwards	4,618,686	4,276,840
	8,100,334	7,477,260
Valuation allowance		
Deferred tax asset	$ 8,100,334	$ 7,477,260

In the Company's December 31, 2013 consolidated balance sheet, approximately $0.9 million of the Company's deferred tax asset was included with current assets and approximately $7.2 million of the Company's deferred tax asset was included with non-current assets.

Pursuant to ASC 740, management has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets, which are comprised principally of net operating loss carryforwards and other temporary differences. During the years ended December 31, 2013 and 2012, management concluded that it was more likely than not that the Company will recognize all of its deferred tax assets. During 2012, the Company released its valuation allowance which resulted in the recognition of a cumulative tax benefit of approximately $7.5 million. The Company continually evaluates additional facts representing both positive and negative evidence in the determination of the realizability of the deferred tax assets, including scheduling of deferred tax liabilities and projected taxable income. The underlying assumptions used in forecasting future taxable income requires significant judgment and take into account all available evidence, including past operating results and recent performance. The positive evidence considered was the most recent three years of cumulative taxable income, projected future taxable income, the length of carryforward periods of net operating losses and tax credits and current operating results. In addition, the Company has utilized $5.7 million of federal net operating loss carryforwards over the last four years. The primary negative evidence considered was the Company's previous history of cumulative pre-tax losses, its limited experience in the Energy efficiency business and its current year pre-tax loss. Management has considered the weight of all available evidence in determining whether a valuation allowance was required and concluded the weight of the positive evidence was greater than the negative evidence making it more likely than not that the Company will recognize its deferred tax assets.

A reconciliation of the Company's federal statutory tax rate to its effective rate is as follows:

	Years Ended December 31,		
	2013	2012	2011
Income tax at federal statutory rate	(34.0%)	(34.0%)	34.0%
Increase (decrease) in tax resulting from:			
State taxes, net of federal benefit	(4.0)	(4.0)	4.0
Stock-based compensation	5.3	6.2	151.5
Tax impact of indefinite lived intangible assets not amortized for book purposes	0.0	0.0	95.6
Expiration of net operating loss carryforwards	12.4	0.0	0.0
Utilization of valuation allowance	0.0	28.5	0.0
Change in valuation allowance	0.0	(345.7)	(260.1)
Alternative minimum tax requirement	0.0	3.9	55.0
Other permanent items	(0.9)	3.3	70.7
	(21.2%)	(341.8%)	150.7%

As of December 31, 2013, the Company has federal net operating loss carryforwards of approximately $13.4 million which begin to expire in 2027, and state net operating loss carryforwards of approximately $1.8 million, which begin to expire in 2014. During 2013, approximately $0.4 million of state net operating loss carryforwards expired.

The Company files income tax returns in the U.S. federal jurisdiction and in various states. The Company has reviewed the tax positions taken, or to be taken, in its tax returns for all tax years currently open to examination by the taxing authorities. With few exceptions, the Company is no longer subject to U.S. federal, state and local income tax examination by tax authorities for years before 2010. At December 31, 2013, there are no expected material, aggregate tax effects of differences between tax return positions and the benefits recognized in the consolidated financial statements.

Under the provisions of the Internal Revenue Code, certain substantial changes in the Company's ownership may have limited or may limit in the future the amount of net operating loss carryforwards which could be utilized annually to offset future taxable income and income tax liabilities. The amount of any annual limitation is determined based upon the Company's value prior to an ownership change. The Company performed an internal analysis with the guidance of its third p arty tax adviser and determined that ownership changes that have occurred primarily in connection with stock offerings or in connection with acquisitions when the Company issued stock to the sellers have not limited the Company's ability to fully utilize its net operating loss carryforwards.

NOTE 13 — FAIR VALUE MEASUREMENT AND FAIR VALUE OF FINANCIAL INSTRUMENTS

Assets and liabilities of the Company measured at fair values on a recurring basis as of December 31, 2013 and 2012 are summarized as follows:

	December 31, 2013	Level 1	Level 2	Level 3
Liabilities				
Contingent consideration	$ 1,000,000	$ -	$ -	$ 1,000,000
Total Liabilities	$ 1,000,000	$ -	$ -	$ 1,000,000

	December 31, 2012	Level 1	Level 2	Level 3
Liabilities				
Contingent consideration	$ 4,759,257	$ -	$ -	$ 4,759,257
Debt discount	(129,587)	-	(129,587)	-
Total Liabilities	$ 4,629,670	$ -	$ (129,587)	$ 4,759,257

The Company determines the fair value of acquisition-related contingent consideration based on assessment of the probability that the Company would be required to make such future payment. Management assigns pro babilities to each level of attainment and weights those probabilities to determine the amount to accrue at each reporting period. As the contingent consideration was based on financial or operational performance, management monitors performance against target and estimates future performance based on current forecasts. At December 31, 2013, all performance periods had concluded and calculations were based on actual performance. The final payment related to the NEP contingent consideration was made on December 31, 2013. Total adjustments made were to decrease fair value by $0.7 million. At December 31, 2013, the remaining contingent consideration balance represents management's estimate of the amount that is expected to be paid to GSE in settlement of all contingent consideration amounts outstanding. The net result was a $0.1 million reduction in accrued contingent consideration. Changes to the fair value of contingent consideration are recorded in general and administrative expense. The following table provides a rollforward of the fair value, as determined by level 3 inputs, of the contingent consideration.

	Years Ended December 31,	
	2013	2012
Beginning balance	$ 4,759,257	$ 4,739,982
Additions	-	2,219,000
Payments	(3,010,998)	(2,250,000)
Change in fair value included in earnings	(788,259)	(50,000)
Accrued interest	40,000	100,275
Ending balance	$ 1,000,000	$ 4,759,257

The year-end carrying amounts and fair values of the Company's debt obligations are as follows:

	2013		2012	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Long-term debt, net of debt discount	$ 6,000,000	$ 6,000,000	$ 6,370,413	$ 6,370,413
Debt discount	-	-	129,587	129,587
Subordinated notes payable	4,000,000	4,000,000	4,000,000	4,000,000
Related party subordinated notes payable	500,000	500,000	2,000,000	2,000,000
Total debt obligations	$ 10,500,000	$ 10,500,000	$ 12,500,000	$ 12,500,000

The carrying amount for fixed rate long-term debt and variable rate long-term debt approximate fair value because the underlying instruments are primarily at current market rates available to the Company for similar borrowings. The interest rate on the Commerce Bank and Trust Company ("Commerce") debt is tied to the prime rate and will fluctuate with changes in that rate. Related party notes payable are classified as short-term on the Company's accompanying consolidated balance sheets.

NOTE 14 — COMMITMENTS AND CONTINGENCIES

Leases

On June 25, 2012, the Company relocated its corporate headquarters to 100 Front Street, Worcester, MA. In connection with this move, the Company entered into a ten-year lease for 12,000 square feet of office space at a rate comparable to rates paid under its former corporate office lease. The average annual rental commitment under this lease is approximately $320,000.

The Company maintains operating leases for office space in nine locations in the U.S. , paid in installments due the beginning of each month and that expire through May 2022. Future aggregate minimum payments under office space operating leases as of December 31, 2013 were as follows:

	Amount
2014	$ 670,028
2015	664,540
2016	634,160
2017	605,514
2018 and thereafter	1,715,592
Total future minimum lease payments	$ 4,289,834

The accompanying consolidated statements of operations for the years ended December 31, 2013, 2012, and 2011 includes approximately $ 896,000, $742,000 and $443,000 of office rent expense, respectively. Rent expense associated with office leases is recognized on a straight-line basis, inclusive of scheduled rent increases and allowances, over the term of the lease agreements which resulted in a deferred rent liability of $217,000 and $150,000 as of December 31, 2013 and 2012, respectively. In addition, the Company maintained leases for office equipment for which approximately $16,000 was charged to the accompanying consolidated statement of operations for the year ended December 31, 2013, and approximately $32,000 of future minimum lease payments will be incurred through 2018.

Future aggregate minimum payments under this operating lease are as follows:

	Amount
2014	$ 120,150
2015	120,150
2016	120,150
2017	90,113
Total future minimum lease payments	$ 450,563

Litigation

Three former employees/consultants of GSE Consulting, LP ("GSE") have filed three separate complaints in Texas County Court alleging, among other things, claims related to breach of contract, quantum meruit, promissory estoppel, and tortious interference. Each plaintiff claims that GSE and/or the Company failed to pay commissions due f or services that they provided prior to the date of the Company's purchase of certain GSE assets, based on their respective employment or independent contractor agreements with GSE. Each plaintiff has also asserted claims for recovery of their attorneys' fees. The Company denies the allegations and has filed counterclaims for damages, asserting claims for conversion, unjust enrichment, misappropriation of confidential information, and violation of the Texas Theft Liability Act against each of the plaintiffs. The Company has also filed a counterclaim against one of the plaintiffs for her breach of a non-competition and non-solicitation agreement, based on her working for a competitor of the Company's during her 1-year restrictive period and her improper solicitation of former GSE customers on behalf of the competitor. The Company also filed cross claims against GSE for indemnification under the Asset Purchase Agreement in each of the three cases. In two of these cases, the Plaintiffs have asserted claims against GSE affiliates and their individual principals. The GSE affiliates and principals have also asserted cross claims against the Company seeking indemnification under the Asset Purchase Agreement. In December 2013, GSE amended its cross claims in one of the matters to include claims asserting breaches of the earnout provisions in the Asset Purchase Agreement. Also, in December 2013, the Company entered into mediation discussions with one of the plaintiffs. As a result, the Company agreed to pay the plaintiff a settlement that is subject to a confidentiality clause. The settlement amount was not material to the Company's consolidated operating results or financial position and was accrued as of December 31, 2013. In return, the plaintiff agreed to drop all claims against the Company including all claims related to commissions due for past service. The settlement agreement was signed and filed with the court in January 2014. The Court assigned a trial date of May 5, 2014 for the cross claims remaining in the matter. Discovery has concluded in the remaining two matters and the court has assigned a trial date of September 29, 2014 for one of the cases. The remaining case is awaiting assignment of a trial date. The Company is awaiting a decision on its motion for summary judgment seeking dismissal of all claims against one of the two remaining plaintiffs, and is in the process of filing a motion for summary judgment against the other plaintiff.

The Company has estimated the potential commissions allegedly due to the two remaining plaintiffs to be approximately $0.3 million. The Company has not recorded any accrual for contingent liabilities associated with the legal proceedings described above based on its belief that any potential loss, while reasonably possibl e, is not probable. The Company intends to defend these actions vigorously and is currently unable to estimate a range of payments, if any, it may be required to pay, with respect to these claims. Further, the Company believes that the resolution of these matters will not result in a material effect to its consolidated financial statements. However, due to uncertainties that accompany litigation of this nature, there could be no assurance that the Company will be successful, and the resolution of the lawsuits could have a material effect on its accompanying consolidated financial statements.

From time to time, the Company may be subject to legal proceedings and claims arising from the conduct of its business operations, including litigation related to employment matters. While it is impossible to ascertain the ultimate legal and financial liability with respect to contingent liabilities, including lawsuits, management believe that the aggregate amount of such liabilities, if any, will not have a material adve rse effect on the consolidated financial position and/or results of operations. It is possible, however, that future financial position or results of operations for any particular period could be materially affected by changes in the Company's assumptions or strategies related to those contingencies or changes out of its control.

NOTE 15 — CREDIT ARRANGEMENTS

Credit Facility

On December 30, 2013, the Company entered into a Loan and Security Agreement (the "Agreement") with Commerce that replaced the Company's former $9.0 million credit facility with SVB. Under the Agreement, Commerce has committed to a three year revolving credit facility of up to $2.5 million (the "Revolver") and a 60-month term loan of $6.0 million (the "Term Loan"). The former SVB cr edit facility was a $9.0 million credit facility consisting of a $6.5 million term note and a $2.5 million line-of-credit. The Company utilized the proceeds from the Term Loan to retire the former SVB facility in the amount of $4.5 million, including interest and fees, with the remainder to be utilized for working capital purposes. The SVB facility was paid off in full as of December 31, 2013. As a result of the extinguishment of the SVB credit facility, the Company recorded a loss on extinguishment in the amount of $128,000 primarily related to the unamortized debt discount that is included as part of interest expense in the accompanying consolidated statement of operations for the year end December 31, 2013.

The Revolver bears interest at the Prime Rate plus 1.75% (totaling 5% at December 30, 2013), and is adjusted every six months for any change in the Prime Rate. In addition to changes in the Prime Rate, the rate can be reduced by up to .50% based on certain EBITDA achievement levels. Under the Revolver, the Company may borrow, repay and re-borrow an amount not to exceed the lesser of $2,500,000 or the total of 80% of eligible billed and unbilled accounts receivable (less the aggregate outstanding on any letters of credit). There were no borrowings under the Revolver as of and for the year ended December 31, 2013. The Term Loan bears interest for the first 6 months at the Prime Rate plus 2.75% (totaling 6% at December 31, 2013), and is adjusted every six months for any change in the Prime Rate. In addition to changes in the Prime Rate, the rate can be reduced by up to .50% based on certain EBITDA achievement levels. The Term Loan may be prepaid without penalty at any time. The Term Loan is interest only for six months followed by 54 principal and interest payments commencing on July 30, 2014 with a balloon payment for any remaining principal balance at maturity.

The Commerce credit facility is secured by a first priority perfected security interest in substantially all of the Company's assets and all of the assets of World Energy Securities Corp. The current indebtedness to Massachusetts Capital Resource Company ("MCRC") is subordinated to the Commerce credit facility. The Loan and Security Agreement contains certain affirmative and negative covenants including a minimum Debt Service Coverage Ratio and financial reporting requirements.

In conjunction with its former SVB credit facility , the Company issued warrants to SVB to purchase 45,045 shares of the Company's common stock with an expiration date of October 2, 2019. The Company accounted for the issuance of warrants in accordance with the guidance prescribed in the ASC Topic 470-20, "*Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants*" ("ASC 470-20"). In accordance with ASC 470-20, the value of the stock purchase warrants was considered an Original Issue Discount ("OID") which was required to be amortized over the life of the note as interest expense with a corresponding credit to long-term debt. The unamortized debt discount at December 31, 2012 was approximately $130,000. The debt discount was fully amortized at December 31, 2013 in conjunction with the Company's retirement of the SVB credit facility and included as part of interest expense in the accompanying consolidated statement of operations for the year ended December 31, 2013. The amortization and write-down of unamortized debt discount of approximately $130,000 was included as part of interest expense for the year ended December 31, 2013. For the year ended December 31, 2012, the amortization of debt discount was approximately $10,000, and was included as part of interest expense.

Subordinated Note

On October 3, 2012, the Company entered into a Note Purchase Agreement with MCRC , in which the Company entered into an 8-year, $4 million Subordinated Note due 2020 with MCRC (the "MCRC Note"). The MCRC Note bears interest at 10.5% and is interest only for the first four years followed by 48 equal principal payments commencing October 31, 2016. The Company must pay a premium of 3% if it prepays the MCRC Note before October 1, 2014 and a 1% premium if it prepays the MCRC Note before October 1, 2015. The MCRC Note is subordinated to the Company's credit facility with Commerce Bank and contains a consolidated net earnings available for interest charges to interest charges covenant, as adjusted, of not less than one-to-one that the Company was not in compliance with as of December 31, 2013. Subsequent to December 31, 2013, MCRC waived the non-compliance with this covenant and entered into a new Minimum Fixed Charge Ratio covenant commencing in the first quarter of 2014. As a result, the MCRC Note has been classified as long-term as of December 31, 2013.

Aggregate gross principal maturities of debt by year are as follows:

	Total
2014	$ 978,000
2015	1,131,000
2016	1,451,000
2017	2,277,000
2018 and thereafter	4,663,000
Total	$ 10,500,000

NOTE 16 — SEGMENT REPORTING

The Company operates the business based on two industry segments: Energy procurement and Energy efficiency services. The Company delivers its Energy procurement services to four markets: retail energy, wholesale energy, demand response and environmental commodity. The Energy procurement process is substantially the same regardless of the market being serviced and is supported by the same operations personnel utilizing the same basic technology and back office support. There is no discrete financial informat ion for these product lines nor are there segment managers who have operating responsibility for each product line. Energy efficiency services focus on turn-key electrical, mechanical and lighting energy efficiency measures servicing commercial, industrial and institutional customers.

Segment operating income represents income from operations including stock-based compensation, amortization of intangible assets and depreciation. The following tables present certain continuing operating division information in accordance with the provisions of ASC 280, " *Segment Reporting* ".

	Years Ended December 31,		
	2013	2012	2011
Consolidated revenue from external customers:			
Energy procurement	28,892,275	24,476,054	20,473,417
Energy efficiency services	5,784,840	7,302,783	51,150
Consolidated total revenue	$ 34,677,115	$ 31,778,837	$ 20,524,567
Consolidated (loss) income before income taxes:			
Energy procurement	(2,246,678)	(2,251,951)	442,851
Energy efficiency services	(695,818)	63,507	(351,104)
Consolidated (loss) income before income taxes	$ (2,942,496)	$ (2,188,444)	$ 91,747

	December 31,	
	2013	2012
Consolidated total assets:		
Energy procurement	44,898,931	48,839,503
Energy efficiency services	6,180,531	6,291,159
Consolidated total assets	$ 51,079,462	$ 55,130,662

	Years Ended December 31,		
	2013	2012	2011
Energy Procurement:			
Amortization	$ 3,777,905	$ 2,897,126	$ 1,450,394
Depreciation	$ 196,571	$ 208,846	$ 144,987
Interest expense, net	$ 1,081,754	$ 434,467	$ (24,446)
Energy Efficiency Services:			
Amortization	$ 157,158	$ 167,260	$ 23,694
Depreciation	$ 25,103	$ 8,389	$ 1,959
Interest expense, net	$ —	$ 112,608	$ 25,972

NOTE 17 — SUPPLEMENTAL CASH FLOW INFORMATION

Following is supplemental cash flow information for the years presented:

	Years Ended December 31,		
	2013	2012	2011
Supplemental Disclosure of Cash Flow Information:			
Net cash paid for interest	$ (1,042,667)	$ (541,395)	$ (34,931)
Net cash paid for income taxes	$ (131,287)	$ (131,337)	$ (20,148)
Non-cash activities:			
Fair value of common stock issued in acquisitions	$ -	$ -	$ 3,462,122
Equipment acquired under capital leases	$ 21,416	$ -	$ -
Related party subordinated notes payable issued in acquisitions	$ -	$ 2,000,000	$ 3,000,000
Fair value of common stock issued as contingent consideration related to acquisitions	$ 325,450	$ 2,219,000	$ 4,685,813
Fair value of warrants issued	$ -	$ 139,555	$ -
Notes payable assumed in acquisitions	$ -	$ -	$ 53,709
Conversion of note receivable into equity investment	$ -	$ -	$ 716,936

NOTE 18 — SUBSEQUENT EVENT

As of December 31, 2013, the Company was not in compliance with the consolidated net earnings available for interest charges to interest charges covenant, as adjusted, of the MCRC Note . Subsequent to December 31, 2013, MCRC waived the non-compliance with this covenant as of December 31, 2013 and entered into a new Minimum Fixed Charge Ratio covenant commencing in the first quarter of 2014.

EXHIBIT INDEX

Exhibit	Description
2.1	Asset Purchase Agreement by and among World Energy Solutions, Inc., EnergyGateway, LLC and the Members of EnergyGateway, LLC dated May 23, 2007 (incorporated by reference to Exhibit 99.1 to our report on Form 8-K filed May 24, 2007).
3.1	Form of Amended and Restated Certificate of Incorporation of World Energy (incorporated by reference to Exhibit 3.4 to our Registration Statement of Form S-1 (File No. 333-136528)).
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation of World Energy Solutions, Inc. (incorporated by reference to Exhibit 3.1 to our report on Form 8-K filed March 30, 2009).
3.3	Form of Amended and Restated By-laws of World Energy (incorporated by reference to Exhibit 3.5 to our Registration Statement of Form S-1(File No. 333-136528)).
3.4	Certificate of Amendment to Amended and Restated Certificate of Incorporation of World Energy (incorporated by reference to Exhibit 3.1 to our report on Form 8-K filed May 24, 2010).
4.1	Specimen Certificate evidencing shares of common stock (incorporated by reference to Exhibit 4.1 to our Registration Statement of Form S-1 (File No. 333-136528)).
4.2	Promissory Note dated October 3, 2012 by the Company for the benefit of Northeast Energy Partners, LLC (incorporated by reference to Exhibit 4.1 to our report on Form 8-K filed October 4, 2012).
10.1 +	2003 Stock Incentive Plan (incorporated by reference to Exhibit 10.1 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.2 +	2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.2 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.3	Note Purchase Agreement dated October 3, 2012, between the Company and Massachusetts Capital Resource Company (incorporated by reference to Exhibit 10.2 to our report on Form 8-K filed October 4, 2012).
10.4	Subordinated Note Due 2020 by the Company for the benefit of Massachusetts Capital Resource Company (incorporated by reference to Exhibit 4.3 to our report on Form 8-K filed October 4, 2012).
10.5	Subordinated Note due 2013, dated November 7, 2005 (incorporated by reference to Exhibit 10.4 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.6	Voting Common Stock Purchase Warrant, dated November 7, 2005 (incorporated by reference to Exhibit 10.5 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.7	Form of Common Stock Purchase Warrants (incorporated by reference to Exhibit 10.6 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.8	Escrow Agreement (incorporated by reference to Exhibit 10.12 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.9 +	Offer letter agreement, dated October 1, 2003, between World Energy and Philip V. Adams (incorporated by reference to Exhibit 10.13 to our Registration Statement of Form S-1(File No. 333-136528)).
10.10 +	Offer letter agreement, dated April 5, 2006, between World Energy and James Parslow (incorporated by reference to Exhibit 10.14 to our Registration Statement of Form S-1 (File No. 333-136528)).
10.11	Loan and Security Agreement by and between World Energy Solutions, Inc. and Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed January 6, 2014).
10.12	$2,500,000 Revolving Credit Note for the benefit of Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.2 to our report on Form 8-K filed January 6, 2014).
10.13	$6,000,000 Term Note for the benefit of Commerce Bank & Trust Company dated December 30, 2013 (incorporated by reference to Exhibit 10.3 to our report on Form 8-K filed January 6, 2014).
10.14	Subordination Agreement between Commerce Bank and Trust Company and Massachusetts Capital Resource Company dated December 30, 2013 (incorporated by reference to Exhibit 10.4 to our report on Form 8-K filed January 6, 2014).

Exhibit	Description
10.15	Warrant to Purchase Stock dated October 3, 2012 between the Company and Silicon Valley Bank (incorporated by reference to Exhibit 4.2 to our report on Form 8-K filed October 4, 2012).
10.16	Form of Securities Purchase Agreement executed with respect to $1.4 million in common stock purchases made by certain investors (incorporated by reference to Exhibit 10.21 to our report on Form 10-K filed on March 4, 2010).
10.17	Contract Purchase Agreement dated September 13, 2011 by and between the Company and Co-eXprise, Inc. (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed September 14, 2011).
10.18	Asset Purchase Agreement dated October 13, 2011 by and between the Company, Northeast Energy Solutions, LLC, Robert Boissonneault, Michael Santangelo, and Richard Galipeau (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed October 17, 2011).
10.19	Amendment No. 1 to Asset Purchase Agreement and Promissory Note, effective October 20, 2011, by and between the Company and Northeast Energy Solutions, LLC (incorporated by reference to Exhibit 10.1 to our report on Form 10-Q filed November 3, 2011).
10.20	Asset Purchase Agreement dated October 31, 2011 by and among the Company, GSE Consulting, LP, Glenwood Energy Partners, Ltd. and Gulf States Energy, Inc. (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed November 1, 2011).
10.21	Asset Purchase Agreement dated October 3, 2012 by and among the Company, Northeast Energy Partners, LLC and John Hardy, Thomas Lockwood and Lora Monroe (incorporated by reference to Exhibit 121 to our report on Form 8-K filed October 4, 2012).
10.22	Severance Agreement and Release dated June 6, 2012 between the Company and Richard Domaleski (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed June 12, 2012).
10.23 +	Executive Employment Agreement dated February 7, 2013 between the Company and Philip V. Adams (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed February 13, 2013).
10.24 +	Settlement and Standstill Agreement by and among World Energy Solutions, Inc., and Ardsley Advisory Partners and certain of its affiliates, dated March 11, 2014 (incorporated by reference to Exhibit 10.1 to our report on Form 8-K filed March 13, 2014).
10.25 *	Waiver and Amendment, dated March 27, 2014, to Note Purchase Agreement dated October 3, 2012 between World Energy Solutions, Inc. and Massachusetts Capital Resource Company.
21.1 *	List of Subsidiaries.
23.1 *	Consent of Marcum, LLP, Independent Registered Public Accounting Firm.
31.1 *	Certification of the Chief Executive Officer pursuant to Rule 15d-14(a) under the Securities Exchange Act.
31.2 *	Certification of the Chief Financial Officer pursuant to Rule 15d-14(a) under the Securities Exchange Act.
32.1 *	Certification of the Chief Executive Officer pursuant to Rule 15d-14(b) under the Securities Exchange Act.
32.2 *	Certification of the Chief Financial Officer pursuant to Rule 15d-14(b) under the Securities Exchange Act.
101	The following materials from World Energy Solutions, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2013, formatted in Extensible Business Reporting Language: (i) the consolidated balance sheets; (ii) the consolidated statements of operations; (iii) the consolidated statements of changes in stockholders' equity; (iv) the consolidated statements of cash flows; and (v) notes to consolidated financial statements.

* Filed herewith

\+ Indicates a management contract or any compensatory plan, contract or arrangement

EXHIBIT 10.25

WAIVER AND AMENDMENT

This WAIVER AND AMENDMENT (this " Amendment "), is entered into as of March 27, 2014 (subject to the satisfaction of the conditions set forth in Section 4 below, the " Effective Date "), by and between World Energy Solutions, Inc., a Delaware corporation (the " Company "), and Massachusetts Capital Resource Company (the " Purchaser ").

W I T N E S S E T H:

WHEREAS , the Company and the Purchaser are parties to that certain Note Purchase Agreement dated as of October 3, 2012 (as amended hereby and as may be further amended, restated, supplemented or otherwise modified from time to time, the " Purchase Agreement ");

WHEREAS , the Company is in default of a certain provision of the Purchase Agreement and has requested the Lender to waive such default and to amend a certain provision of the Purchase Agreement; and

WHEREAS , the Purchaser is willing to agree to grant such waiver and make such amendment, all on the terms and subject to the conditions set forth herein;

NOW, THEREFORE , in consideration of the foregoing and for other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Defined Terms . Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Purchase Agreement.

2. Waiver . The following Events of Default exist under the Purchase Agreement (the " Existing Default "): the Company's breach for its fiscal quarter ended December 31, 2013 of its Interest Coverage Ratio covenant under Section 4.01(j) of the Purchase Agreement.

The Company has requested that the Purchaser waive the Existing Default. Upon satisfaction of the conditions to effectiveness set forth in Section 4 below the Purchaser hereby waives the Existing Default. The waiver contained in this Section 2 is specific in intent and valid only for the specific purpose for which it is given. Nothing contained herein obligates the Purchaser to agree to any additional waivers of any provisions of the Purchase Agreement. The waiver contained in this Section 2 is a waiver of only the Existing Default, and shall not operate as a waiver of the Purchaser's right to exercise remedies resulting from (i) any other existing and/or continuing Event of Default, or (ii) any future Event of Default, whether or not of a similar nature and whether or not known to the Purchaser.

3. Amendment to Purchase Agreement . Upon satisfaction of the conditions to effectiveness set forth in Section 4 below:

(a) As of and from the Effective Date of this Amendment, Section 4.01(j) of the Purchase Agreement is amended in its entirety as follows:

(j) Maintenance of Minimum Fixed Charge Coverage Ratio . The Company shall not permit its Fixed Charge Coverage Ratio to be less than the ratio set forth below, such Fixed Charge Coverage Ratio being measured quarterly, as of the final day of each fiscal quarter of the Company, commencing on and with the fiscal quarter ending March 31, 2014.

Ratio not less than:	For the Fiscal Quarter Ending
.5 to 1.0	March 31, 2014, calculated for the fiscal quarter then ended.
.75 to 1.0	June 30, 2014, calculated for the two fiscal quarters ended March 31, 2014 and June 30, 2014.
1.0 to 1	September 30, 2014, calculated for the three fiscal quarters ended March 31, 2014, June 30, 2014 and September 30, 2014.
1.0 to 1.0	Each fiscal quarter thereafter, calculated for the four fiscal quarters then ended.

(b) As of and from the Effective Date of this Amendment, Section 6.01 of the Purchase Agreement is amended by adding thereto the following definitions:

"Capital Expenditures" means, for any period, the sum for the Company of the aggregate amount of expenditures made or liabilities incurred during such period (including the aggregate amount of Capital Lease Obligations incurred during such period) to acquire or construct fixed assets, plant and equipment (including renewals, improvements and replacements, but excluding repairs) computed in accordance with GAAP; provided that such term shall not include any expenditures in connection with any replacement or repair of property affected by a casualty event.

"Capital Lease Obligations" of any person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"EBITDA" means the total of (i) Consolidated Net Income of the Company plus (ii) all amounts deducted in computing such Consolidated Net Income in respect of (u) interest expense on Indebtedness, (v) taxes based upon or measured by income, (w) depreciation and amortization, each to the extent accrued or paid (without double counting) in the applicable period and actually deducted in determining Consolidated Net Income, (x) up to $500,000 for one-time, non-recurring expenses relating to legal and financial costs actually incurred by the Company in connection with a certain proxy dispute, (y) net changes in deferred revenue and (z) non-cash charges for stock based compensation, minus extraordinary and non-operating income, as each such item is determined in accordance with GAAP.

"Fixed Charge Coverage Ratio" means, as of any date of measurement thereof, the ratio of (a) (i) EBITDA of the Company for the period of the number of consecutive fiscal quarters set forth in Section 4.01(j) ending on or most recently ended prior to such date minus (ii) the aggregate amount of all Non-Financed Capital Expenditures of the Company during such period minus (iii) the aggregate amount paid, or required to be paid by the Company (without duplication), in cash in respect of the current portion of all income taxes for such period to (b) the sum of (i) the aggregate amount of Interest Expense for such period, (ii) the aggregate amount of regularly scheduled payments of principal in respect of Indebtedness for borrowed money (including the principal component of any payments in respect of Capital Lease Obligations but, for avoidance of doubt, excluding any prepayment of any principal amount) paid or required to be paid during such period, and (iii) the aggregate amount of contingent or earn-out cash payments made during such period.

"Interest Expense" means, for any period, the sum, without duplication, for the Company, of all interest in respect of Indebtedness accrued or paid during such period (whether or not actually paid during such period), but excluding capital debt acquisition costs.

"Non-Financed Capital Expenditures" means Capital Expenditures paid in cash and not financed with Indebtedness for money borrowed.

4. Conditions. The effectiveness of this Amendment is subject to the following conditions:

(a) the execution and delivery of this Amendment by the Company and the Purchaser;

(b) all other documents and legal matters in connection with the transactions between the Company and the Purchaser contemplated by this Agreement shall have been delivered, executed, or recorded and shall be in form and substance satisfactory to the Purchaser; and

(c) the Company shall have paid the Purchaser all fees, costs and expenses of the Purchaser in connection with this Amendment, including, without limitation, reasonable fees, costs and expenses of counsel.

5. Representations and Warranties. The Company hereby represents and warrants, to the Purchaser as follows:

(a) the Company is a corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) the Company has the power and authority to execute, deliver and perform its obligations under this Amendment and the Purchase Agreement;

(c) the execution, delivery and performance by the Company of this Amendment and the Purchase Agreement have been duly authorized by all necessary corporate action and does not and will not require any registration with, consent or approval of, notice to or action by, any Person (including any governmental agency);

(d) this Amendment, the Purchase Agreement and any other loan documents executed in connection herewith and therewith (the "Loan Documents") to which the Company or any of its Subsidiaries is a party, as each Loan Document is amended by this Amendment, constitute the legal, valid and binding obligation of the Company and such Subsidiaries, enforceable against such Person in accordance with its terms;

(e) after giving effect to the waiver by the Purchaser in Section 2 above, no Event of Default exists or shall exist immediately following the consummation of the transactions contemplated hereby;

(f) after giving effect to this Amendment, all representations and warranties by the Company contained in the Purchase Agreement are true and correct in all material respects as of the date hereof, except to the extent made as of a specific date, in which case each such representation and warranty shall be true and correct as of such date; and

(g) by its signature below, the Company agrees that it shall constitute an Event of Default if any representation or warranty made herein is untrue or incorrect in any material respect as of the date when made or deemed made.

6. Agreement in Full Force and Effect as Amended. Except as specifically amended, consented and/or waived hereby, the Purchase Agreement and other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed as so amended. Except as expressly set forth herein, this Amendment shall not be deemed to be a waiver, amendment or modification of any provisions of the Purchase Agreement or any other Loan Document or any right, power or remedy of the Purchaser, nor constitute a waiver of any provision of the Purchase Agreement or any other Loan Document, or any other document, instrument and/or agreement executed or delivered in connection therewith or of any Event of Default under any of the foregoing, in each case, whether arising before or after the date hereof or as a result of performance hereunder or thereunder. Except as to the specific waivers provided herein, this Amendment also shall not preclude the future exercise of any right, remedy, power, or privilege available to the Purchaser whether under the Purchase Agreement, the other Loan Documents, at law or otherwise and nothing contained herein shall constitute a course of conduct or dealing among the parties hereto. All references to the Purchase Agreement shall be deemed to mean the Purchase Agreement as amended hereby. This Amendment shall not constitute a novation or satisfaction and accord of the Purchase Agreement and/or other Loan Documents, but shall constitute an amendment thereof. The parties hereto agree to be bound by the terms and conditions of the Purchase Agreement and Loan Documents as amended by this Amendment, as though such terms and conditions were set forth herein. Each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as amended by this Amendment, and each reference herein or in any other Loan Document to the "Purchase Agreement" shall mean and be a reference to the Purchase Agreement as amended and modified by this Amendment.

7. Counterparts. This Amendment may be executed by one or more of the parties to this Amendment and any number of separate counterparts, each of which when so executed, shall be deemed an original and all said counterparts when taken together shall be deemed to constitute but one and the same instrument.

8. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the Company and its successors and assigns and the Purchaser and its successors and assigns.

9. Further Assurance. The Company hereby agrees from time to time, as and when requested by the Purchaser, to execute and deliver or cause to be executed and delivered, all such documents, instruments and agreements and to take or cause to be taken such further or other action as the Purchaser may reasonably deem necessary or desirable in order to carry out the intent and purposes of this Amendment, the Purchase Agreement and the Loan Documents.

10. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES.

11. Severability. Wherever possible, each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Amendment.

12. Reaffirmation. The Company as debtor, grantor, pledgor, guarantor, assignor, or in other any other similar capacity in which the Company grants liens or security interests in its property or otherwise acts as accommodation party or guarantor, as the case may be, hereby (i) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each of the Loan Documents to which it is a party (after giving effect hereto) and (ii) to the extent the Company granted liens on or security interests in any of its property pursuant to any such Loan Document as security for or otherwise guaranteed the Obligations under or with respect to the Loan Documents, ratifies and reaffirms such guarantee and grant of security interests and liens and confirms and agrees that such security interests and liens hereafter secure all of the Obligations as amended hereby. The Company hereby consents to this Amendment and acknowledges that each of the Loan Documents remains in full force and effect and is hereby ratified and reaffirmed. Except as expressly set forth herein, the execution of this Amendment shall not operate as a waiver of any right, power or remedy of the Purchaser, constitute a waiver of any provision of any of the Loan Documents or serve to effect a novation of the Obligations.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, each of the undersigned has executed this Amendment as of the date set forth above.

WORLD ENERGY SOLUTIONS, INC.

By: /s/ James Parslow
Name: James Parslow
Title: CFO

MASSACHUSETTS CAPITAL RESOURCE COMPANY

By: /s/ Daniel P. Corcoran, Jr.
Name: Daniel P. Corcoran, Jr.
Title: Vice President

EXHIBIT 21.1

SUBSIDIARIES OF REGISTRANT

Subsidiary	State of Incorporation
World Energy Securities Corp.	Massachusetts

EXHIBIT 23.1

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statements of World Energy Solutions, Inc. on Form S-8 (File Nos. 333-151641 and 333-140014) and Form S-3 (File Nos. 333-165822, 333-164473, and 333-147301) of our report dated March 31, 2014, with respect to our audits of the consolidated financial statements of World Energy Solutions, Inc. as of December 31, 2013 and December 31, 2012, and for the each of the years in the three-year period ended December 31, 2013, which report is included in this Annual Report on Form 10-K of World Energy Solutions, Inc. for the year ended December 31, 2013.

/s/ Marcum LLP

Marcum LLP
Boston, Massachusetts
March 31, 2014

EXHIBIT 31.1

CERTIFICATION PURSUANT TO
§302 OF THE SARBANES-OXLEY ACT OF 2002

I, Philip Adams, certify that:

1. I have reviewed this annual report on Form 10-K of World Energy Solutions, Inc. (the "Registrant");

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

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

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

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

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

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

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

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

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

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

Dated: March 31, 2014

By: /s/ Philip Adams
Philip Adams
Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION PURSUANT TO
§302 OF THE SARBANES-OXLEY ACT OF 2002

I, James Parslow, certify that:

1. I have reviewed this annual report on Form 10-K of World Energy Solutions, Inc. (the "Registrant");

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

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

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

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

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

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

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

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

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

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

Dated: March 31, 2014

By: /s/ James Parslow
James Parslow
Chief Financial Officer

EXHIBIT 32.1

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

In connection with the annual report of World Energy Solutions, Inc. (the "Company") on Form 10-K (the "Report") for the year ended December 31, 2013 as filed with the Securities and Exchange Commission on the date hereof, I, Philip Adams, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

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

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

Dated: March 31, 2014

By: /s/ Philip Adams
Philip Adams
Chief Executive Officer

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

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

In connection with the quarterly report of World Energy Solutions, Inc. (the "Company") on Form 10-K (the "Report") for the year ended December 31, 2013 as filed with the Securities and Exchange Commission on the date hereof, I, James Parslow, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

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

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

Dated: March 31, 2014

By: /s/ James Parslow
James Parslow
Chief Financial Officer

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

WORLD ENERGY SOLUTIONS, INC.

FORM 8-K
(Current report filing)

Filed 11/05/14 for the Period Ending 11/03/14

Address	100 FRONT STREET WORCESTER, MA 01608
Telephone	508-459-8100
CIK	0001371781
Symbol	XWES
SIC Code	7389 - Business Services, Not Elsewhere Classified
Industry	Investment Services
Sector	Financial
Fiscal Year	12/31

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 3, 2014

World Energy Solutions, Inc.
(Exact Name of Registrant as Specified in Charter)

Delaware	**001-34289**	**04-3474959**
(State or Other Jurisdiction of Incorporation	(Commission File Number)	(IRS Employer Identification No.)

100 Front Street **Worcester, Massachusetts**	**01608**
(Address of Principal Executive Offices)	(Zip Code)

Registrant's telephone number, including area code: (508) 459-8100

n/a
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Merger Agreement and the Tender Offer

On November 4, 2014, World Energy Solutions, Inc. (the "Company") entered into an Agreement and Plan of Merger (the "Merger Agreement") with EnerNOC, Inc. ("Parent") and Wolf Merger Sub Corporation, a wholly owned subsidiary of Parent ("Merger Sub"), pursuant to which Parent and Merger Sub will commence an offer (the "Offer") to acquire all of the outstanding shares of the Company's common stock (the "Shares"), at a price of $5.50 per share in cash (the "Offer Price"). The Merger Sub is required to commence the Offer no later than 10 business days after the date of the Merger Agreement. If the Offer is consummated, Shares not tendered will be acquired by Merger Sub in a second step merger (the "Merger") for the Offer Price.

Completion of the Offer is subject to a number of conditions, including (i) that a majority of the Shares outstanding be validly tendered and not validly withdrawn prior to the expiration of the Offer; (ii) completion of a 55-day "go-shop" period during which time the Company will solicit alternative proposals to the Offer and Merger and (iii) certain other customary conditions which are included as Annex I to the Merger Agreement and will be described in detail in the Merger Sub's tender offer materials that will be filed with the U.S. Securities and Exchange Commission (the "SEC"). The Offer and the Merger are not subject to any financing conditions.

Concurrently with the execution of the Merger Agreement, Parent and Merger Sub entered into Tender and Support Agreements with each of the members of the Company's board of directors (the "Board") and certain other officers of the Company owning Shares pursuant to which such individuals agreed to tender their Shares in the Offer. These agreements will automatically terminate if the Merger Agreement is terminated. The Company is not a party to the tender and support agreements.

The Board has approved the Merger Agreement and unanimously recommends that stockholders of the Company tender their Shares in the Offer. The Company will file a Schedule 14D-9 with the SEC containing the recommendation of the Board on the same day that the Offer is commenced.

Following the completion of the Offer and, subject to the satisfaction or waiver of certain customary conditions set forth in the Merger Agreement, Merger Sub will merge with and into the Company pursuant to the procedure provided for under Section 251(h) of the Delaware General Corporation Law (the "DGCL") that does not require any additional stockholder approvals. Pursuant to the Merger, any remaining Shares of the Company not validly tendered pursuant to the Offer (other than any (i) Shares owned by Parent, Merger Sub or any other affiliate of Parent that is directly or indirectly wholly owned by the ultimate parent of Parent, (ii) Shares owned by the Company or any direct or indirect wholly-owned subsidiary of the Company and (iii) Shares held by the Company's stockholders who properly demand and perfect dissenters' rights in accordance with Section 262 of the DGCL and who, as of the effective time of the Merger, have not effectively withdrawn or lost such dissenters' rights) will be cancelled and converted automatically into the right to receive cash in an amount equal to the Offer Price. In addition, holders of vested stock options shall receive per share the Offer Price less the per share exercise price for the shares underlying such options, and holders of unvested stock options shall receive an option to purchase Parent shares of common stock based on an equity award exchange ratio set forth in the Merger Agreement.

Concurrently with the closing of the Merger, the Company and Parent will cause a certificate of merger (the "Certificate of Merger") to be filed with the Secretary of State of the State of Delaware under the DGCL. The Merger will be effective at the time of such filing or such later time as specified in the Certificate of Merger and agreed to by the Company and Parent in writing (the "Effective Time"). As the surviving corporation (the "Surviving Corporation"), the Company will continue to exist following the Merger as a wholly-owned subsidiary of Parent.

Parent and the Company have made customary representations, warranties and covenants in the Merger Agreement, including covenants (i) to promptly make all filings required by the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and other applicable laws with respect to the Offer and the Merger; and (ii) to use their commercially reasonable efforts to take all appropriate action to consummate and effectuate the Offer, the Merger and the other transactions contemplated by the Merger Agreement. Additionally, prior to consummation of the Merger, the Company has agreed to conduct its business in all material respects in the ordinary and usual course and to comply with certain other operating covenants through the consummation of the Merger.

During the period beginning on the date of the Merger Agreement and continuing until 11:59 p.m., New York City time, on December 29, 2014 (the "Go-Shop Period"), the Company has the right to directly or indirectly initiate, solicit or encourage any Takeover Proposals (as defined in the Merger Agreement) and waive standstill provisions to enable Takeover Proposals to acquire the Company to be submitted to the Company. At the end of the Go-Shop Period, the Company must cease any existing solicitation, encouragement, discussion or negotiation with any third parties but may continue to receive proposals and engage in discussions and activities with third parties that the Board believes in good faith is, or could reasonably be expected to result in, a Superior Proposal (as defined in the Merger Agreement).

Prior to the closing of the Offer, the Board may, subject to compliance with certain obligations described below, (i) terminate the Merger Agreement to enter into a definitive agreement with respect to a Superior Proposal, if the Board receives a Takeover Proposal that it determines in good faith constitutes a Superior Proposal and the Board determines in good faith, after consultation with its legal advisors, that failure to take such action would be inconsistent with the directors' fiduciary duties under applicable law; or (ii) change its recommendation to the Company's stockholders regarding tendering into the Offer and approving the Merger and related transactions and the Board determines in good faith, after consultation with its legal advisors, that failure to take such action would be inconsistent with the directors' fiduciary duties under applicable law. The Company may not change its recommendation to the Company's stockholders or terminate the Merger Agreement under the above "fiduciary out" unless (i) the Company gives Parent four (4) full business days' (shortened to three (3) full business days in response to subsequent material amendments to any Takeover Proposal) notice that the Company intends to take such action and provides relevant information and materials; (ii) the Company provides Parent with at least four (4) full business days (or three (3) full business days as provided above) to make a revised proposal, during which the Company must negotiate in good faith; and (iii) after such period, the Board determines in good faith, after consultation with its legal and financial advisors, and taking into account any changes to the transaction documents, that the Takeover Proposal continues to constitute a Superior Proposal.

Upon termination of the Merger Agreement under specified circumstances, the Company will be required to pay Parent a termination fee of $1,028,066 if the Merger Agreement is terminated in connection with a Superior Proposal or $2,398,821 in the case of termination upon a breach by the Company or for any other reason of termination as permitted by the Merger Agreement. The Merger Agreement also provides that Parent will be required to pay the Company a reverse termination fee of $3,598,232 under certain circumstances specified in the Merger Agreement. The termination fee is the sole and exclusive remedy except in limited circumstances in the event of fraud or willful breach or in the event of a breach of "Go Shop" provisions.

The foregoing description of the Offer, the Merger and the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the Merger Agreement, which is attached hereto as Exhibit 2.1 and incorporated herein by reference. The Merger Agreement is not intended to modify or supplement any factual disclosures about the Company in its public reports filed with the SEC and it is not intended to be, and should not be relied upon as, disclosures regarding any facts and circumstances relating to the Company. In particular, the representations, warranties and covenants set forth in the Merger Agreement (a) were made solely for purposes of the Merger Agreement and the transactions contemplated therein and solely for the benefit of the contracting parties (except with respect to the rights of specific third parties enumerated in the Merger Agreement), (b) may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made to Parent and Merger Sub in connection with the Merger Agreement, (c) will not survive consummation of the Merger (except for the covenants that apply or are to be performed after the effective time of the Merger), (d) are qualified in certain circumstances by a materiality standard which may differ from what may be viewed as material by investors, (e) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement, and (f) may have been included in the Merger Agreement for the purpose of allocating risk between the parties rather than establishing matters as facts. Investors are not third-party beneficiaries under the Merger Agreement, and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or conditions of the parties. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in subsequent public disclosure.

On November 4, 2014, the Company issued a press release to announce the Offer, the Merger and the other transactions contemplated by the Merger Agreement. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Changes in Fiscal Year

On November 3, 2014, the Board agreed to amend and restate the By-Laws of the Company (the "Amended and Restated By-Laws"), effective immediately, to provide that unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Company, (2) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, or other employee of the Company to the Company or the Company's shareholders, (3) any action asserting a claim arising pursuant to any provision of the General Corporation Law of the State of Delaware, and (4) any action asserting a claim by the internal affairs doctrine, in each case subject to the Court of Chancery of the State of Delaware having personal jurisdiction over the indispensable parties named as defendants therein.

The foregoing description is qualified in its entirety by the Amended and Restated By-Laws attached hereto at Exhibit 3.1 .

Item 8.01. Other Events

On November 3, 2014, the Company agreed to enter into an Indemnification Agreement with each member of the Board, the form of which is attached hereto as Exhibit 10.1.

Item 9.01. Financial Statements and Exhibits.

(d) EXHIBITS.

2.1 Agreement and Plan of Merger by and among World Energy Solutions, Inc., EnerNOC, Inc., and Wolf Merger Sub Corporation, dated November 4, 2014.

3.1 Amended and Restated By-Laws effective November 3, 2014.

10.1 Form of Director Indemnification Agreement.

99.1 Press Release dated November 4, 2014.

Important Additional Information

The tender offer described in this document has not yet commenced. This announcement is neither an offer to purchase nor a solicitation of an offer to sell shares of the Company. At the time the offer is commenced, EnerNOC, Inc. and its wholly owned Subsidiary will file a Tender Offer Statement on Schedule TO with the Securities and Exchange Commission (the "SEC"), and the Company will file a Solicitation/Recommendation Statement on Schedule 14D-9 with respect to the offer. The Company's stockholders and other investors are urged to read the tender offer materials (including an Offer to Purchase, a related Letter of Transmittal and certain other offer documents) and the Solicitation/ Recommendation Statement because they will contain important information which should be read carefully before any decision is made with respect to the tender offer.

The Offer to Purchase, the related Letter of Transmittal and certain other offer documents, as well as the Solicitation/Recommendation Statement, will be made available to all stockholders of the Company at no expense to them. The Tender Offer Statement and the Solicitation/Recommendation Statement will be made available for free at the SEC's web site at www.sec.gov. Free copies of these materials and certain other offering documents will be made available by the information agent for the offer.

In addition to the Solicitation/Recommendation Statement, the Company files annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any reports, statements or other information filed by the Company at the SEC public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. The Company's filings with the SEC are also available to the public from commercial document-retrieval services and at the website maintained by the SEC at www.sec.gov.

Forward-Looking Statements

This Form 8-K contains forward-looking statements that are not historical facts and are subject to risks and uncertainties that could cause actual results to differ materially from those described. All statements other than statements of historical fact are statements that could be deemed forward-looking statements. Forward-looking statements often use words such as "anticipate," "target," "assume," "expect," "estimate," "intend," "plan," "goal," "believe," "hope," "aim," "continue," "will," "may," "would," "could," "likely," or "should" or other words of similar meaning or the negative thereof. Forward-looking statements in this Form 8-K (including its exhibits) include statements regarding the Offer and the Merger, statements regarding the anticipated benefits of the transaction; statements regarding the anticipated timing of filings and approvals relating to the transaction; statements regarding the expected timing of the completion of the transaction; and any statements of assumptions underlying any of the foregoing. All forward-looking statements are based largely on current expectations and beliefs concerning future events, approvals and transactions that are subject to substantial risks and uncertainties. Factors that may cause or contribute to the actual results or outcomes being different from those contemplated by forward-looking statements include: risks and uncertainties associated with the tender offer, including uncertainties as to the timing of the tender offer and merger, uncertainties as to how many of the Company's stockholders will tender *their shares in the offer, the risk that competing offers will be made, and the possibility that various closing conditions for the transaction* may not be satisfied or waived. Other factors that may cause the Company's actual results to differ materially from those expressed or implied in the forward-looking statements are discussed in the Company's filings with the SEC, including in its periodic reports filed on Form 10-K and Form 10-Q with the SEC. Copies of the Company's filings with the SEC may be obtained at the "Investors –In The News" section of the Company's website at www.worldenergy.com. The forward-looking statements made in this communication are made only as of the date of this Form 8-K, and the Company undertakes no obligation to update them to reflect subsequent events or circumstances.

SIGNATURE

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

WORLD ENERGY SOLUTIONS, INC.

Date: November 5, 2014

By: /s/ Philip V. Adams
Philip V. Adams
President and Chief Executive Officer

EXHIBIT LIST

2.1	Agreement and Plan of Merger by and among World Energy Solutions, Inc., EnerNOC, Inc., and Wolf Merger Sub Corporation, dated November 4, 2014.
3.1	Amended and Restated By-Laws effective November 3, 2014.
10.1	Form of Director Indemnification Agreement.
99.1	Press Release dated November 4, 2014.

Exhibit 2.1

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

among

WORLD ENERGY SOLUTIONS, INC.

WOLF MERGER SUB CORPORATION

and

ENERNOC, INC.

dated as of

November 4, 2014

TABLE OF CONTENTS

TABLE OF CONTENTS CONTINUED

TABLE OF CONTENTS CONTINUED

TABLE OF CONTENTS CONTINUED

TABLE OF CONTENTS CONTINUED

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger, is entered into as of November 4, 2014, by and among World Energy Solutions, Inc., a Delaware corporation (the " **Target** "), EnerNOC, Inc., a Delaware corporation (" **Parent** "), and Wolf Merger Sub Corporation, a Delaware corporation and a wholly-owned Subsidiary of Parent (" **Merger Sub** ").

Recitals

WHEREAS, Parent desires to acquire the Target on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, in furtherance thereof and pursuant to this Agreement, Merger Sub has agreed to commence a tender offer (as it may be amended from time to time as permitted under this Agreement, the " **Offer** ") to purchase any and all of the outstanding shares of the common stock, par value $0.0001 per share, of the Target (the " **Target Common Stock** ") (other than the Cancelled Shares), at a price per share of Target Common Stock of $5.50 (the " **Offer Price** ") net to the Selling Stockholder in cash, without interest, on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, as soon as practicable following the Consummation of the Offer, Merger Sub will be merged with and into the Target (the " **Merger** ") with the Target surviving the Merger as a wholly owned Subsidiary of Parent, in accordance with the General Corporation Law of the State of Delaware (the " **DGCL** ") (with the Merger being governed by Section 251(h) of the DGCL), pursuant to which each issued and outstanding share of Target Common Stock (other than the Cancelled Shares, the Accepted Shares, and the Dissenting Shares) will be converted into the right to receive an amount equal to the Merger Consideration;

WHEREAS, the board of directors of the Target (the " **Target Board** "), acting upon the recommendation of a special committee of independent directors previously appointed by the Target Board (the " **Special Committee** ") and in reliance on the Fairness Opinion, has, on the terms and subject to the conditions set forth herein, (a) determined that the Offer, the Merger, and the other transactions contemplated hereby are fair to and in the best interests of the Target and its stockholders, (b) approved and declared advisable this Agreement, the Offer, the Merger and the other transactions contemplated hereby, and (c) resolved to recommend that the stockholders of the Target accept the Offer and tender their shares of Target Common Stock pursuant to the Offer;

WHEREAS, the respective boards of directors of Parent and Merger Sub have, on the terms and subject to the conditions set forth herein, unanimously approved and declared advisable this Agreement and the transactions contemplated hereby, including the Offer and the Merger; and

WHEREAS, as a condition and inducement to the willingness of Parent and Merger Sub to enter into this Agreement, concurrently with the execution and delivery of this Agreement, certain of the Target's officers and directors are entering into a tender and support agreement with Parent and Merger Sub substantially in the form attached hereto as **Exhibit D** (each, a " **Support Agreement** ") pursuant to which, among other things, each such officer or director has agreed to tender shares of Target Common Stock to Merger Sub in the Offer.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements contained in this Agreement, the parties, intending to be legally bound, agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions . For purposes of this Agreement, the following terms will have the following meanings when used herein with initial capital letters:

" **Acceptable Confidentiality Agreement** " means a confidentiality and standstill agreement that contains confidentiality and standstill provisions that are no less favorable to the Target than those contained in the Confidentiality Agreement; *provided* that such confidentiality and standstill agreement shall expressly not prohibit, or adversely affect the rights of the Target thereunder upon, compliance by the Target with any provision of this Agreement.

" **Accepted Shares** " has the meaning set forth in **Section 2.01(b)** .

" **Affiliate** " means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with, such first Person at any time during the period for which the determination of affiliation is being made. For the purposes of this definition, "control" (including the terms "controlling," "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities, by Contract or otherwise.

" **Agreement** " means this Agreement and Plan of Merger, as it may be amended or supplemented from time to time in accordance with the terms hereof.

" **Assumed Target Stock Option** " has the meaning set forth in **Section 4.07(a).**

" **Bonus Payment Date** " has the meaning set forth in the definition of Eligible Target Employee.

" **Book-Entry Shares** " has the meaning set forth in **Section 4.02(a)** .

" **Business Day** " means any day, other than Saturday, Sunday or any day on which banking institutions located in Boston, Massachusetts are authorized or required by Law or other governmental action to close.

" **Cancelled Shares** " has the meaning set forth in **Section 4.01(a)** .

" **Cashed Out Target Stock Option** " has the meaning set forth in **Section 4.07(a)** .

" **Certificate** " has the meaning set forth in **Section 4.01(b)** .

“ **Certificate of Merger** ” has the meaning set forth in **Section 3.03** .

“ **Channel Partner** ” means any Person with whom the Target or any of its Subsidiaries has entered into a binding Contract through which such Person has been given the right to sell Target’s online and offline procurement services for energy and energy-related commodities such as electricity, natural gas, demand response services, renewable energy certificates, emissions credits and associated energy management services.

“ **Charter Documents** ” has the meaning set forth in **Section 5.01(b).**

“ **Closing** ” has the meaning set forth in **Section 3.02** .

“ **Closing Date** ” has the meaning set forth in **Section 3.02** .

“ **COBRA** ” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Section 4980B of the Code and Section 601 et. seq. of ERISA, and any similar state group health plan continuation law.

“ **Code** ” has the meaning set forth in **Section 4.05** .

“ **Commerce Bank** ” has the meaning set forth in the definition of Commerce Bank Loan.

“ **Commerce Bank Loan** ” shall mean (i) the Loan and Security Agreement, dated as of December 30, 2013, among the Target and Commerce Bank & Trust (“ **Commerce Bank** ”), (ii) the Subordination Agreement, dated December 30, 2013, among the Target, Commerce Bank and MCR.

“ **Conduct of Business End Date** ” has the meaning set forth in **Section 7.01** .

“ **Confidentiality Agreement** ” has the meaning set forth in **Section 7.03(b)** .

“ **Consent** ” has the meaning set forth in **Section 5.03(c)** .

“ **Consummated** ” (and with its correlative meanings “Consummation,” “Consummates” and “Consummating”) has the meaning ascribed to it in Section 251(h) of the DGCL.

“ **Contract** ” means any agreement, contract (written or oral), subcontract, lease or sublease of personal or real property, purchase order, arrangement, commitment, license or sublicense (but excluding any Target Employee Plans).

“ **Covered Securityholder** ” has the meaning set forth in **Section 5.19** .

“ **Damages** ” means the amount of all losses, liabilities, damages (including punitive, special, exemplary or similar damages), costs and expenses, including reasonable attorneys’ fees and reasonable expenses relating thereto, incurred by Parent, Merger Sub or Target. For the avoidance of doubt, with respect to any Party, Damages will be reduced, without duplication, by any applicable Termination Fee or Reverse Termination Fee paid by such Party pursuant to the terms of this Agreement.

" **DGCL** " has the meaning set forth in the **Recitals** .

" **Disclosure Schedules** " has the meaning set forth in the introductory language in **Article V** .

" **Dissenting Shares** " has the meaning set forth in **Section 4.03** .

" **DOL** " shall mean the United States Department of Labor.

" **Effective Time** " has the meaning set forth in **Section 3.03** .

" **Eligible Target Employee** " means a Target Employee who remains employed by the Target on December 31, 2014 and, on the applicable date when such payments shall be payable pursuant to the Target Bonus Plan and Target Commission Plan (the " **Bonus Payment Date** "), either (i) is employed in good standing or (ii) has, prior to the Bonus Payment Date, been terminated by the Company or Surviving Corporation, as applicable, without cause. For the avoidance of doubt, any Target Employee that is terminated with cause or voluntarily resigns prior to the Bonus Payment Date shall cease to be an Eligible Target Employee.

" **Employment Compensation Arrangement** " has the meaning set forth in **Section 5.19** .

" **Encumbrance** " means, with respect to any property or asset, all pledges, liens, mortgages, charges, encumbrances, hypothecations, options, rights of first refusal, rights of first offer and security interests of any kind or nature whatsoever.

" **Environmental Law** " means any Law relating to either (a) the protection of human health or the environment (including air, water vapor, surface water, groundwater, drinking water supply, surface or subsurface land or natural resources), or (b) the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, threatened release, control or cleanup of, any Hazardous Substances.

" **Equity Award Certificate** " has the meaning set forth in **Section 4.07(e)** .

" **Equity Award Exchange Ratio** " means the quotient obtained by dividing (i) the Merger Consideration, by (ii) the volume weighted average trading price of one share of Parent Common Stock, as reported by The NASDAQ Stock Market, LLC during the 20-day period ending on the second to last NASDAQ trading date immediately prior to the Effective Time.

" **ERISA** " means the Employee Retirement Income Security Act of 1974, as amended, and applicable regulations issued pursuant thereto.

" **Exchange Act** " means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

" **Exchange Agent** " has the meaning set forth in **Section 4.02(a)** .

" **Excluded Party** " has the meaning set forth in **Section 7.04(k)** .

" **Expenses** " means, with respect to any Person, all out-of-pocket fees and expenses (including all fees and expenses of counsel, accountants, financial advisors and investment bankers of such Person and its Affiliates), incurred by such Person or on its behalf in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement and any transactions related thereto, any litigation with respect thereto, regulatory filings and approvals, and all other matters related to the Merger or other transactions contemplated hereby.

" **Expiration Time** " has the meaning set forth in **Section 2.01(e)** .

" **Fairness Opinion** " has the meaning set forth in **Section 5.18** .

" **FCPA** " has the meaning set forth in **Section 5.08(b)** .

" **FOCI** " has the meaning set forth in **Section 5.16(l)** .

" **GAAP** " means United States generally accepted accounting principles.

" **Go-Shop End Date** " has the meaning set forth in **Section 7.04(a)** .

" **Go-Shop Period** " has the meaning set forth in **Section 7.04(a)** .

" **Government Contract** " means any Contract entered into between the Target and an agency of the United States or an agency of any of its respective States, or any municipality or local government agency, or an agency of a foreign sovereign or agency of a provincial, regional or metropolitan government thereof. The term "Government Contract" also includes any subcontract of the Target with another entity under the Target's prime contract with a governmental agency or under such other entity's prime contract with a governmental agency.

" **Government Contract Bid** " means any bid, offer, proposal, written response to a request for a proposal, and/or quote for goods or services to be delivered (at least in part) by the Target that, if awarded, would lead to a Government Contract.

" **Governmental Entity** " means any government, governmental agency, court or regulatory or administrative body.

" **Hazardous Substance** " means any hazardous, toxic, chemical or dangerous substance, pollutant, contaminant, waste or material, that is regulated by any Governmental Entity, including the following: (a) any material, substance or waste that is defined as "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "contaminant," "toxic waste," "regulated waste" or "toxic substance" under any Environmental Law, (b) petroleum, petroleum products, waste oil, and their constituents and fractions, (c) asbestos and asbestos-containing materials and (d) radon and radioactive materials.

" **Indemnified Party** " has the meaning set forth in **Section 7.07(a)** .

" **Initial Expiration Time** " has the meaning set forth in **Section 2.01(e)** .

" **Intellectual Property** " shall mean and include all algorithms, application programming interfaces, apparatus, assay components, biological materials, cell lines, clinical data, chemical compositions or structures, circuit designs and assemblies, databases and data collections, diagrams, formulae, gate arrays, IP cores, inventions (whether or not patentable), know-how, logos, marks (including brand names, product names, logos, and slogans), methods, network configurations and architectures, net lists, photomasks, processes, proprietary information, protocols, schematics, specifications, software, software code (in any form including source code and executable or object code), subroutines, test results, test vectors, user interfaces, techniques, URLs, web sites, works of authorship, and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing such as instruction manuals, laboratory notebooks, prototypes, samples, studies, and summaries).

" **Intellectual Property Rights** " shall mean and include all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark, trade dress, trade name rights and similar rights; (c) trade secret rights; (d) Patents and industrial property rights; (e) other proprietary rights in Intellectual Property of every kind and nature; and (f) all registrations, renewals, extensions, continuations, divisions, or reissues of, and applications for, any of the rights referred to in clauses (a) through (e) above.

" **Intervening Event** " has the meaning in **Section 7.04(g)** .

" **IRS** " shall mean the Internal Revenue Service.

" **Key Employees** " has the meaning set forth in **Section 5.13(c)** .

" **Knowledge** " means, (i) when used with respect to the Target, (A) the actual knowledge of Phil Adams, James Parslow, Martha Danly, Kristen McIsaac, Tony Barnhart and John Harvey or (B) such knowledge as any of the individuals identified in subclause (i)(A) would have had if they had conducted reasonable inquiry, including inquiry of such individual's direct reports where such direct report(s) would reasonably be expected to have knowledge about the matter, or (ii) when used with respect to Parent, (A) the actual knowledge of Tim Healy, David Brewster, Neil Moses, Gregg Dixon and Matthew Cushing or (B) such knowledge as any of the individuals identified in subclause (ii)(A) would have had if they had conducted reasonable inquiry, including inquiry of such individual's direct reports where such direct report(s) would reasonably be expected to have knowledge about the matter.

" **Law** " means any applicable law (including common law), ordinance, rule, regulation, code, Order, injunction, judgment or decree or judicial or administrative doctrine promulgated or issued by any Governmental Entity.

" **Lease** " means all leases, subleases and other Contracts under which the Target or any of its Subsidiaries leases, uses or occupies, or has the right to use or occupy, any real property.

" **Leased Real Estate** " means all real property that the Target or any of its Subsidiaries leases, subleases or otherwise uses or occupies, or has the right to use or occupy, pursuant to a Lease.

" **Legal Action** " means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation involving any Governmental Entity or any arbitrator or arbitration panel.

" **Liability** " means any liability, indebtedness or obligation of any kind (whether accrued, absolute, contingent, matured, unmatured or otherwise, and whether or not required to be recorded or reflected on a balance sheet under GAAP).

" **Maximum Premium** " has the meaning set forth in **Section 7.07(c)** .

" **Merger** " has the meaning set forth in the **Recitals** .

" **Merger Consideration** " has the meaning set forth in **Section 4.01(b)** .

" **Merger Sub** " has the meaning set forth in the **Preamble** .

" **Minimum Condition** " has the meaning set forth in **Annex I** .

" **MCR** " has the meaning set forth in MCR Loan.

" **MCR Loan** " means the Note Purchase Agreement, dated October 3, 2012 and amended on March 27, 2014, between the Target and Massachusetts Capital Resource Co. (" **MCR** ") and the subordinated note issued pursuant thereto.

" **NISPOM** " has the meaning set forth in **Section 5.16(l)** .

" **Non-Tendered Target Restricted Stock Award** " has the meaning set forth in **Section 4.07(c)** .

" **Notice of Superior Proposal** " has the meaning set forth in **Section 7.04(h)** .

" **Notice Period** " has the meaning set forth in **Section 7.04(h)** .

" **Offer** " has the meaning set forth in the **Recitals** .

" **Offer Closing** " has the meaning set forth in **Section 2.01(b)** .

" **Offer Conditions** " has the meaning set forth in **Section 2.01(b)** .

" **Offer Documents** " has the meaning set forth in **Section 2.01(d)** .

" **Offer Price** " has the meaning set forth in the **Recitals** .

" **Open Source Code** " shall mean any software code that is distributed as "free software" or "open source software" or is otherwise distributed publicly in source code form under terms that permit modification and redistribution of such software. Open Source Code includes software code that is licensed under the GNU General Public License, GNU Lesser General Public License, Mozilla License, Common Public License, Apache License, BSD License, Artistic License, or Sun Community Source License.

" **Option Consideration** " has the meaning set forth in **Section 4.07(a)** .

" **Order** " means any writ, assessment, decision, injunction, decree, ruling or judgment of a Governmental Entity.

" **Outside Date** " has the meaning set forth in **Section 2.01(e)** .

" **Parent** " has the meaning set forth in the **Preamble** .

" **Parent Common Stock** " means the common stock, $0.001 par value per share, of Parent.

" **Parent Material Adverse Effect** " shall mean any change, event, effect, development, occurrence, state of facts or development that, individually or in the aggregate, prevents, materially delays or impairs, or would reasonably be expected to prevent or materially delay or impair, the ability of Parent to consummate the Offer, the Merger and the other transactions contemplated hereby on the terms set forth herein.

" **Patents** " means all patents, and applications therefor, for any and all jurisdictions in the world, including the United States, and including all reissues, divisions, renewals, revisions, revivals, reexaminations, extensions, provisional patents, continuations, continuing prosecution applications and continuations-in-part.

" **Payment Fund** " has the meaning set forth in **Section 4.02(a)** .

" **Permits** " means permits, licenses, clearances, authorizations and approvals from Governmental Entities.

" **Permitted Encumbrance** " means (a) any Encumbrance that arises out of Taxes not in default and payable without penalty or interest or the validity of which is being contested in good faith by appropriate proceedings, (b) any Encumbrance representing the rights of customers, suppliers and subcontractors in the ordinary course of business consistent with past practice under the terms of any Contracts to which the relevant Party is a party or under general principles of commercial or government contract law (including mechanics', materialmen's, carriers', workmen's, warehouseman's, repairmen's, landlords' and similar liens granted or which arise in the ordinary course of business consistent with past practice), (c) conditional sales or title retention agreements (if any) to which any of the capital assets comprising the assets of the Target are subject, (d) in the case of any Contract, Encumbrances that are restrictions against the transfer or assignment thereof that are included in the terms of such Contract, (e) in the case of real property, Encumbrances that are easements, rights-of-way, encroachments, restrictions, conditions and other similar Encumbrances incurred or suffered in the ordinary course of business consistent with past practice and which, individually or in the aggregate, do not and would not materially impair the use (or contemplated use), utility or value of the applicable real property or otherwise materially impair the present or contemplated business operations at such location, or zoning, entitlement, building and other land use regulations imposed by Governmental Entities having jurisdiction over such real property or that are otherwise set forth on a title report, (f)

Encumbrances arising under workers' compensation, unemployment insurance, social security, retirement and similar legislation, (g) any exceptions caused by Parent or any of its Subsidiaries, including Merger Sub, or their respective Representatives, and (h) any other Encumbrances that, in the aggregate, do not materially and adversely affect the value or the continued use of the assets or properties to which they relate.

" **Person** " means any individual, corporation, limited or general partnership, limited liability company, limited liability partnership, trust, association, joint venture, Governmental Entity and other entity and group (which term will include a "group" as such term is defined in Section 13(d)(3) of the Exchange Act).

" **Personal Data** " means a natural Person's name, street address, telephone number, e-mail address, photograph, social security number, driver's license number, passport number, or customer or account number, or any other piece of information that allows the identification of a natural Person, and all data associated with such information.

" **Prohibited Party Lists** " has the meaning set forth in **Section 5.09(e)** .

" **Public Official or Entity** " means (i) any director, officer, employee, agent, representative, department, agency, official, de facto official, corporate entity, instrumentality or subdivision of any government, military, or public international organization, including any state-owned or affiliated company or organization, or (ii) any candidate for political office, any political party or any official of a political party.

" **Registered IP** " shall mean all Intellectual Property Rights that are registered, filed, or issued under the authority of any Governmental Entity, including all Patents, registered copyrights, registered mask works, and registered Trademarks and all applications for any of the foregoing.

" **Representatives** " means the directors, officers, employees, agents (including financial and legal advisors) and other advisors and representatives of a Person.

" **Reverse Termination Fee** " means an amount equal to $3,598,232.

" **Sarbanes-Oxley Act** " has the meaning set forth in **Section 5.04(e)** .

" **Schedule 14D-9** " has the meaning set forth in **Section 2.02(a)** .

" **SEC** " has the meaning set forth in **Section 2.01(d)** .

" **Securities Act** " means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

" **Selling Stockholder** " means a Person that validly tenders Target Common Stock in connection with the Offer and does not validly withdraw such tender.

" **Sensitive Target Data** " has the meaning set forth in **Section 5.07(q).**

" **Special Committee** " has the meaning set forth in the **Recitals** .

" **Stockholder List Date** " has the meaning set forth in **Section 2.02(b)** .

" **Subsidiary** " means, when used with respect to any Person, any corporation or other organization, whether incorporated or unincorporated, (i) a majority of the outstanding voting securities or other comparable interests of which having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries or (ii) of which such Person or any Subsidiary of such Person is a general partner (excluding partnerships in which such Person or any Subsidiary of such Person does not have a majority of the voting interest).

" **Superior Proposal** " has the meaning set forth in **Section 7.04(k)** .

" **Supplier** " means a buyer or seller of energy, energy-related services and/or energy management services with whom the Target or any of its Subsidiaries has entered into a binding Contract through which such energy supplier may engage in auctions or off-line transactions to meet prospective customers' needs for natural gas, electricity and/or energy related services.

" **Support Agreement** " has the meaning set forth in the **Recitals** .

" **Surviving Corporation** " has the meaning set forth in **Section 3.01** .

" **Takeover Proposal** " has the meaning set forth in **Section 7.04(k)** .

" **Target** " has the meaning set forth in the **Preamble** .

" **Target 2006 Incentive Plan** " has the meaning set forth in **Section 5.02(b)(i)** .

" **Target Acquisition Agreement** " has the meaning set forth in **Section 7.04(e).**

" **Target Adverse Recommendation Change** " has the meaning set forth in **Section 7.04(g)** .

" **Target Balance Sheet** " has the meaning set forth in **Section 5.04(d)** .

" **Target Board** " has the meaning set forth in the **Recitals** .

" **Target Board Meeting** " has the meaning set forth in **Section 5.03(d)** .

" **Target Board Recommendation** " has the meaning set forth in **Section 5.03(d)** .

" **Target Bonus Plan** " has the meaning set forth in **Section 7.06(a)** .

" **Target Commission Plan** " has the meaning set forth in **Section 7.06(a)** .

" **Target Common Stock** " has the meaning set forth in the **Recitals** .

" **Target Consultant** " means a current consultant, independent contractor or advisor of the Target or a Subsidiary who is an individual, other than Channel Partners.

" **Target Employee** " means a current employee of the Target or any Subsidiary.

" **Target Employee Plans** " means the employee benefit and executive compensation plans, programs and policies (including "employee benefit plans" as defined in Section 3(3) of ERISA) maintained by the Target or any Target ERISA Affiliate.

" **Target Equity Award** " means a Target Stock Option or a Target Restricted Stock Award, as the case may be.

" **Target ERISA Affiliate** " means any Person that, together with the Target or any of its Subsidiaries or any of their respective Affiliates, would be treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code.

" **Target Financial Advisors** " has the meaning set forth in **Section 5.11** .

" **Target IP** " shall mean (a) all Intellectual Property Rights in or pertaining to the Target Products or methods or processes used to manufacture the Target Products, and (b) all other Intellectual Property Rights owned by, purported to be owned by or exclusively licensed to the Target or its Subsidiaries for use in or necessary for the conduct of the business of Target as currently conducted.

" **Target IP Contract** " shall mean any Contract (a) to which the Target or any of its Subsidiaries is a party; (b) by which the Target or any of its Subsidiaries or any of their assets is bound or under which the Target or any of its Subsidiaries has, or may become subject to, any obligation; and (c) under which the Target or any of its Subsidiaries has or may acquire any right or interest that, in each case, contains any assignment or license of, or covenant not to assert or enforce, any Intellectual Property Right or that otherwise relates to any Target IP or any Intellectual Property developed by, with, or for the Target or any of its Subsidiaries.

" **Target Material Adverse Effect** " means any fact, event, change or effect that (a) would reasonably be expected to materially impair the ability of the Target to perform its obligations under this Agreement or to consummate the transactions contemplated hereby or (b) has had or would reasonably be expected to have a material adverse effect on the Target's or its Subsidiaries, taken as a whole, businesses, results of operations, financial condition, or assets, except for and excluding (i) any fact, event, change or effect (A) relating to any national, international or any foreign or domestic regional economic, financial, social or political conditions (including changes therein) in general or (B) affecting the industry or industries in which Target or its Subsidiaries operates; (ii) any fact, event, change, proposed change or effect relating to conditions caused by acts of God (including any earthquakes, floods, hurricanes, tropical storms, fires or other natural disasters or any national, international or regional calamity), terrorism, national or international hostilities, sabotage, or war (whether or not declared); (iii) any fact, event, change, proposed change or effect that arises or relates to any change of Law or any change in GAAP; (iv) any fact, event, change or effect relating to any action taken, or not taken, at the written request of Parent or Merger Sub or failure to take any action, which the Target cannot take under this Agreement without Parent's consent and for which action Parent does not provide consent; (v) any failure by the Target to meet any internal or published projections, predictions, forecasts, estimates or projections (whether made by the Target or third parties) or analysts' expectations in respect of revenues, cash flow, cash position, earnings or other financial or operating metrics for any period; (vi) any fact, event, change or effect (including any loss of employees or any loss of, or any disruption in, supplier, customer, licensor, licensee, partner or similar relationships) attributable or relating to the announcement or pendency of the transactions contemplated by this Agreement; (vii) any changes in the market price or trading volume of Target Common Stock or in the Target's credit rating; (viii) changes in any financial, debt, credit, capital or banking markets or conditions (including any disruption thereof); (ix) changes in interest, currency or exchange rates or the price of any commodity, security or market index; and (x) any Legal Action arising from or relating to this Agreement or the transactions contemplated by this Agreement (except as it relates to any breach or violation of this Agreement by the Target); (xi) any fact, event, change or effect relating to or arising from acts or omissions by the Target and its Subsidiaries required by the terms of this Agreement; (xii) any fact, event, change or effect relating to or arising from any announcements made by Parent or its Affiliates after the date hereof with respect to future plans for the Target's business; and (xiii) any fact, event, change or effect relating to or arising from any actions taken by Parent or its Affiliates after the date hereof that have a direct adverse impact on the Target's customers; *provided* , however, that (A) the underlying cause(s) of such change or failure shall not be excluded in the case of clauses (v), (vi) and (vii) and (B) any changes, events, circumstances or developments referred to in clauses (i), (ii), (iii), (viii), and (ix) shall not be excluded to the extent the same disproportionately affect (individually or together with other changes, events, circumstances or developments) the Target and its Subsidiaries, taken as a whole, as compared to other similarly situated Persons operating in the same principal industries and geographic markets in which the Target and its Subsidiaries operate.

" **Target Material Contract** " has the meaning set forth in **Section 5.16(a)** .

" **Target Privacy Policy** " means each external or internal, past or present privacy policy of the Target or any of its Subsidiaries, including any policy relating to (i) the privacy of users of the Target Products or of any website, owned, controlled or licensed by of Target or its Subsidiaries, (ii) the collection, storage, disclosure, and transfer of any User Data or Personal Data, and (iii) any employee information.

" **Target Product** " means any product or service currently being designed, developed, manufactured, marketed, distributed, *provided* , licensed or sold by the Target or its Subsidiaries.

" **Target Restricted Stock Award** " has the meaning set forth in **Section 4.07(c).**

" **Target SEC Documents** " has the meaning set forth in **Section 5.04(a)** .

" **Target Securities** " has the meaning set forth in **Section 5.02(b)(ii)** .

" **Target Software** " has the meaning set forth in **Section 5.07(l)** .

" **Target Stock Option** " has the meaning set forth in **Section 4.07(a)** .

" **Target Stock Plans** " means those plans pursuant to which the Target has awarded or may award to Target Employees, consultants, contractors, advisors or other service providers of the Target or its Subsidiaries options, stock appreciation rights, stock or other rights to acquire shares of Target Common Stock, and which are listed in **Section 5.13(e)** of the Disclosure Schedules.

" **Target Subsidiary Securities** " has the meaning set forth in **Section 5.02(d)** .

" **Tax Returns** " means all reports, returns, declarations, statements, elections, claims for refund and other forms or documents required to be filed with respect to Taxes, including all attachments thereto and any amendments thereto.

" **Taxes** " means all taxes levied or imposed by any Governmental Entity, including income, gross receipts, windfall profits, value added, severance, production, sales, use, license, excise, franchise, employment, environmental, real property, personal property, transfer, ad valorem, payroll, social security, occupation, capital stock, profits, customs duties, escheat, stamp, unclaimed property, disability, registration, intangible, alternative minimum, estimated, withholding or other taxes of any nature whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, whether or not disputed or contested.

" **Tendered Target Restricted Stock Award** " has the meaning set forth in **Section 4.07(c).**

" **Termination Fee** " means an amount equal to $2,398,821, except that the "Termination Fee" shall mean an amount equal to $1,028,066 if this Agreement is terminated by Target pursuant to **Section 9.04(a)** either (i) during the Go-Shop Period or (ii) after the Go-Shop End Date in connection with a Superior Proposal from an Excluded Party.

" **Third Party** " shall mean any Person or group other than Parent, Merger Sub and their respective Affiliates.

" **Trademarks** " means trademarks, service marks, trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefor and all goodwill associated therewith.

" **Transaction Litigation** " has the meaning set forth in **Section 7.08(b)** .

" **Treasury Regulations** " means the Treasury regulations promulgated under the Code.

" **U.S. Export Control Laws** " means United States laws governing exports of controlled commodities, software or technology, embargoes, sanctions and boycotts, including the Arms Export Controls Act (22 U.S.C. Ch. 39), the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.), the Trading with the Enemy Act (50 U.S.C. app. §§ 1 et. seq.), the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401 et seq.), the International Boycott Provisions of Section 999 of the U.S. Internal Revenue Code of 1986, and all rules, regulations and executive orders relating to any of the foregoing, including but not limited to the International Traffic in Arms Regulations (22 C.F.R. §§ 120 et seq.), the Export Administration Regulations (15 C.F.R. §§ 730 et. seq.), and regulations administered by the Office of Foreign Assets Controls of the United States Department of the Treasury.

" **User Data** " means any Personal Data or other data or information collected by or on behalf of the Target or its Subsidiaries from users of the Target Products or of any website or mobile application owned, controlled or licensed by the Target or its Subsidiaries.

" **Voting Debt** " has the meaning set forth in **Section 5.02(c)** .

" **Warrants** " has the meaning set forth in **Section 4.08** .

" **Willful Breach** " has the meaning set forth in **Section 9.05** .

Section 1.02 Interpretation; Construction .

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and will not be deemed to limit or otherwise affect any of the provisions hereof. Where a reference in this Agreement is made to a Section, Exhibit or Schedule, such reference is to a Section of, Exhibit to or Schedule of this Agreement unless otherwise indicated. Whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation." A reference in this Agreement to $ or dollars is to U.S. dollars. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement. References to "this Agreement" includes the Disclosure Schedules, as it may be amended from time to time in accordance with the terms hereof.

(b) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

ARTICLE II
THE OFFER

Section 2.01 The Offer .

(a) Unless this Agreement shall have previously been terminated in accordance with **Article IX** , as promptly as practicable, but in any event within ten (10) Business Days after the date of the initial public announcement of this Agreement (but in no event earlier than five (5) Business Days after the date of the initial public announcement of this Agreement), Merger Sub will (and Parent will cause Merger Sub to) "commence" (within the meaning of Rule 14d-2 under the **Exchange Act**) the Offer.

(b) The obligations of Merger Sub to, and of Parent to cause Merger Sub to, accept for payment and pay for any shares of Target Common Stock validly tendered and not validly withdrawn pursuant to the Offer are subject to the terms and the satisfaction or waiver (to the extent permitted under this Agreement) of the conditions set forth in **Annex I** (as they may be amended from time to time in accordance with this Agreement, collectively, the " **Offer Conditions** ") (without limiting the right of Merger Sub to terminate, extend or modify the Offer in accordance with the terms of this Agreement). On the terms and subject to the conditions of the

Offer and this Agreement, Merger Sub shall, and Parent shall cause Merger Sub to, irrevocably accept and pay for all shares of Target Common Stock validly tendered and not validly withdrawn pursuant to the Offer as soon as practicable (the " **Accepted Shares** ") after the Expiration Time and in compliance with applicable Law. The Offer Price payable in respect of each Accepted Share pursuant to the immediately preceding sentence shall be paid net to the Selling Stockholder in cash, without interest and subject to any required withholding of Taxes, on the terms and subject to the conditions hereof. Pursuant to and in accordance with the Target 2006 Incentive Plan, the Offer Price to be paid with respect to Target Restricted Stock Awards (as defined below) will be paid to the holders of such Target Restricted Stock Awards in accordance with the procedures, and subject to the restrictions, set forth in **Section 4.07(c)** . The acceptance for payment of Accepted Shares pursuant to and subject to the conditions of the Offer is referred to in this Agreement as the " **Offer Closing** ."

(c) The Offer Conditions are for the sole benefit of Parent and Merger Sub, and Parent and Merger Sub may waive, in whole or in part, any Offer Condition at any time and from time to time, in their sole and absolute discretion, other than the Minimum Condition, which may be waived by Parent and Merger Sub only with the prior written consent of the Target. Parent and Merger Sub expressly reserve the right to increase the Offer Price or to make any other changes in the terms and conditions of the Offer; *provided* that, unless otherwise provided in this Agreement or previously approved by the Target in writing, Parent and Merger Sub shall not: (i) decrease the Offer Price or change the form of consideration payable in the Offer, (ii) decrease the number of shares of Target Common Stock sought to be purchased in the Offer, (iii) impose conditions on the Offer in addition to the Offer Conditions, (iv) amend any Offer Condition in a manner that is adverse in any material respect to the holders of shares of Target Common Stock, (v) waive or amend the Minimum Condition, (vi) extend the Expiration Time except as required or permitted by **Section 2.01(e)** or (vii) amend any other term of the Offer in a manner that is adverse in any material respect to the holders of shares of Target Common Stock.

(d) On the date the Offer is commenced, Merger Sub shall, and Parent shall cause Merger Sub to, file with the U.S. Securities and Exchange Commission (the " **SEC** ") a Tender Offer Statement on Schedule TO with respect to the Offer, which Tender Offer Statement shall include or incorporate by reference an offer to purchase, form of letter of transmittal, summary advertisement and other required ancillary offer documents (such Schedule TO and the documents included therein pursuant to which the Offer will be made, together with any supplements or amendments thereto, the " **Offer Documents** ") and cause the Offer Documents to be disseminated to the holders of shares of Target Common Stock as and to the extent required by applicable Law. The Target hereby consents to the inclusion of the Target Board Recommendation in the Offer Documents. Merger Sub shall, and Parent shall cause Merger Sub to, cause the Offer Documents to comply as to form in all material respects with the requirements of applicable Law. The Target shall promptly (but in no event more than two (2) Business Days) furnish to Parent and Merger Sub all information concerning the Target and the holders of shares of Target Common Stock that may be required by applicable Law to be set forth in the Offer Documents or reasonably requested in connection with any action contemplated by this **Section 2.01(d)** , including communication of the Offer to the record and beneficial holders of shares of Target Common Stock. Each of the parties agrees to promptly correct any information provided by it for use in the Offer Documents if and to the extent that it shall have become false or misleading in any material respect, and Parent and Merger Sub further agree to take all steps necessary to cause the Offer Documents as so corrected to be filed with the SEC and disseminated to the holders of shares of Target Common Stock, in each case as and to the extent required by applicable Law. Parent and Merger Sub shall provide the Target in writing with any written comments (and shall orally describe any oral comments) that Parent, Merger Sub or their counsel may receive from time to time from the SEC or its staff with respect to the Offer Documents promptly after receipt of such comments. Prior to the filing of the Offer Documents (including any amendment or supplement thereto) with the SEC or dissemination thereof to the holders of shares of Target Common Stock, or responding to any comments of the SEC with respect to the Offer Documents, Parent and Merger Sub shall provide the Target, in each instance, with a reasonable opportunity to review and comment on such Offer Documents or response, and Parent and Merger Sub shall give reasonable consideration to any comments provided by the Target. Parent and Merger Sub shall use commercially reasonable efforts to respond promptly to any such SEC comments.

(e) The Offer will initially expire at 11:59 p.m. (Boston, Massachusetts time) on January 2, 2015 (the " **Initial Expiration Time** ") or, in the event the Initial Expiration Time has been extended pursuant to this Agreement, the date and time to which the Offer has been so extended (the Initial Expiration Time, or such later date and time to which the Initial Expiration Time has been extended pursuant to this Agreement, is referred to as the " **Expiration Time** "). Notwithstanding the foregoing, (i) if, on the date of the then-effective Expiration Time, any of the Offer Conditions have not been satisfied or waived, Merger Sub shall, and Parent shall cause Merger Sub to, extend the Offer for successive periods of not more than ten (10) Business Days (the length of such period to be determined by Merger Sub), or for such longer period as the parties may agree, in order to permit the satisfaction of the Offer Conditions, except that if immediately prior to any scheduled Expiration Time, all Offer Conditions (except the Minimum Condition) have been satisfied or waived by the Parent or the Merger Sub, then the Parent's and the Merger Sub's obligations to extend the Expiration Time shall be limited to (A) an extension of the Expiration Time for one period of not more than ten (10) Business Days (the length of such period to be determined by Merger Sub), or for such longer period as the parties may agree, to permit the satisfaction of the Minimum Condition, and (B) if at the end of such period described in clause (A), the Minimum Condition continues to not be satisfied, an extension of the Expiration Time for up to two (2) additional periods of not more than ten (10) Business Days (the length of such period to be determined by Merger Sub), or for such longer periods as the parties may agree, after which, if the Minimum Condition remains unsatisfied, neither the Parent nor the Merger Sub shall be required to extend the Expiration Time (it being understood, for the avoidance of doubt, that (I) the Offer shall not be extended pursuant to this clause (i) if all Offer Conditions have been satisfied or waived and (II) without the prior written consent of the Target, the "extension periods" described in this **clause (i)** , collectively, may not be less than such number of Business Days that when added to the number of Business Days elapsed from the commencement of the Offer would total fifty (50) Business Days), and (ii) Merger Sub shall, and Parent shall cause Merger Sub to, extend the Offer for any period required by any rule, regulation, interpretation or position of the SEC, its staff, or any national securities exchange on which the Target's securities trade applicable to the Offer or necessary to resolve any comments of the SEC or its staff applicable to the Offer or the Offer Documents; *provided* that, in the case of **clauses (i)** and **(ii)** , Merger Sub shall not in any event be required to, and without the Target's prior written consent shall not, extend the Offer beyond the date that is fifty-two (52) Business Days following the commencement of the Offer in accordance with **Section 2.01(a)** above (the " **Outside Date** "). Nothing in this **Section 2.01(e)** shall be deemed to impair, limit or otherwise restrict in any manner the right of the Target, Parent or Merger Sub to terminate this Agreement pursuant to **Article IX** . In the event that this Agreement is terminated pursuant to the terms hereof, Merger Sub shall, and Parent shall cause Merger Sub to, promptly (and in any event within one (1) Business Day of such termination) terminate the Offer. If the Offer is terminated or withdrawn by Merger Sub, or this Agreement is terminated in accordance with **Article IX** , prior to the acceptance for payment of shares of Target Common Stock tendered in the Offer, Merger Sub shall, and Parent shall cause Merger Sub to, promptly return, and shall cause any depository acting on behalf of Merger Sub to return, all tendered shares of Target Common Stock to the registered holders thereof.

(f) Parent will provide or cause to be provided to Merger Sub, on a timely basis so as to satisfy Merger Sub's obligations under this Agreement and the Offer, the funds necessary to pay for any shares of Target Common Stock that Merger Sub becomes obligated to accept for payment, and pay for, pursuant to the Offer.

Section 2.02 Target Actions .

(a) On the date the Offer Documents are filed with the SEC, the Target will file with the SEC a Solicitation/Recommendation Statement on Schedule 14D-9 with respect to the Offer in accordance with the Exchange Act (together with all amendments, supplements and exhibits thereto, the " **Schedule 14D-9** ") that will, subject to the provisions of **Section 7.04** , contain the recommendation described in **Section 5.03(d)** , the Fairness Opinion of the Target's financial advisor referenced in **Section 5.18** , and the notice and other information required by Section 262(d)(2) of the DGCL. The Target will cause the Schedule 14D-9 to be disseminated to the Target's stockholders to the extent required by applicable Law, including by setting the Stockholder List Date as the record date for the purpose of receiving the notice required by Section 262(d)(2) of the DGCL. The Target shall cause the Schedule 14D-9 to comply as to form in all material respects with the requirements of applicable Law. Promptly, but in no event more than two (2) Business Days, after the date of this Agreement, Parent and Merger Sub will furnish to the Target all information concerning Parent and Merger Sub required by the Exchange Act to be set forth in the Schedule 14D-9. The Target, Parent and Merger Sub will promptly correct any information provided by it for use in the Schedule 14D-9 if and to the extent that such information becomes false or misleading in any material respect or as otherwise required by applicable Law. The Target will cause the Schedule 14D-9, as so corrected (if applicable), to be filed with the SEC and disseminated to the Target's stockholders, in each case as and to the extent required by the Exchange Act. The Target will promptly notify Parent and Merger Sub upon the receipt of any comments from the SEC, or any request from the SEC for amendments or supplements, to the Schedule 14D-9, and will promptly provide Parent and Merger Sub with copies of all correspondence between it and its Representatives and the SEC with respect to the Schedule 14D-9. Prior to the filing of the Schedule 14D-9 (including any amendments or supplements thereto) with the SEC or dissemination thereof to the Target's stockholders, or responding to any comments of the SEC with respect to the Schedule 14D-9, the Target will provide Parent, Merger Sub and their counsel a reasonable opportunity to review and comment on such Schedule 14D-9 or response, and the Target will give reasonable consideration to any such comments. The Target shall use commercially reasonable efforts to respond promptly to any such SEC comments.

(b) In connection with the Offer, promptly after the date of this Agreement but in no event more than eight (8) Business Days after the date of this Agreement the Target will furnish or cause to be furnished to Parent and Merger Sub security position listings and any other available listings or computer files containing the names and addresses of the record holders or known beneficial owners of the shares of Target Common Stock as of the most recent practicable date (but subject to the following sentence of this **Section 2.02(b)**), and will promptly furnish Parent and Merger Sub with such information and assistance (including lists of record holders or known beneficial owners of the shares of Target Common Stock, updated from time to time upon Parent's, Merger Sub's or either of their respective agents' request, and the addresses and lists of security positions of such record holders or known beneficial owners) as Parent, Merger Sub or their respective agents may reasonably request for the purpose of communicating the Offer to the record holders and beneficial owners of the shares of Target Common Stock (the date of the list used to determine the Persons to whom the Offer Documents and Schedule 14D-9 are first disseminated, the " **Stockholder List Date** "). The Target shall ensure that the Stockholder List Date is not more than ten (10) calendar days prior to the date that the Schedule 14D-9 is first disseminated. Subject to the requirements of applicable Law, and except for such steps as are necessary to disseminate the Offer Documents and any other documents necessary to consummate the Offer, the Merger and the other transactions contemplated hereby, Parent and Merger Sub will hold in confidence the information contained in any such labels, listing and files in accordance with the Confidentiality Agreement and will use such information only in connection with the Offer and the Merger and, if this Agreement is terminated, will promptly deliver (and will use their respective commercially reasonable efforts to cause their agents and Representatives to deliver) to the Target (or destroy) all copies and any extract or summaries of such information then in their possession or control.

ARTICLE III
THE MERGER

Section 3.01 The Merger . On the terms and subject to the conditions set forth in this Agreement, and in accordance with the DGCL, at the Effective Time Merger Sub will merge with and into the Target. As a result of the Merger, the separate corporate existence of Merger Sub will cease, and the Target will continue its corporate existence under the DGCL as the surviving corporation in the Merger (sometimes referred to herein as the " **Surviving Corporation** "). The Merger will be governed by Section 251(h) of the DGCL and shall be effected as soon as practicable following the Consummation of the Offer without the adoption of this Agreement by the stockholders of the Target, subject to the satisfaction or waiver of the conditions set forth in **Section 8.01** ; *provided* that if, notwithstanding such express election to cause the Merger to be governed by Section 251(h) of the DGCL, the Merger may not be effected pursuant to Section 251(h) of the DGCL for any reason, then the parties hereto shall take all actions necessary to cause the consummation of the Merger as promptly as practicable following the Consummation of the Offer in a manner that is not adverse to the stockholders of the Target.

Section 3.02 Closing . Unless this Agreement is earlier and validly terminated, upon the terms and subject to the conditions set forth herein, the closing of the Merger (the " **Closing** ") will take place at (i) 9:00 a.m., Boston, Massachusetts time, on the next Business Day following the date on which the Offer is Consummated; *provided* that all of the conditions set forth in **Section 8.01** have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permitted hereunder, waiver of all such conditions), or (ii) such other time or date as is agreed to in writing by the parties hereto. The Closing will be held at the offices of Cooley LLP, 500 Boylston Street, Boston MA 02116, unless another place is agreed to in writing by the parties hereto, or by electronic transmittal of documents, and the actual date of the Closing is hereinafter referred to as the " **Closing Date.** "

Section 3.03 Effective Time . Subject to the provisions of this Agreement, at the Closing, the Target, Parent and Merger Sub will cause a certificate of merger (the " **Certificate of Merger** ") to be executed, acknowledged and filed with the Secretary of State of the State of Delaware in accordance with the relevant provisions of the DGCL and will make all other filings or recordings required under the DGCL. The Merger will become effective at such time as the Certificate of Merger has been duly filed with the Secretary of State of the State of Delaware or at such later date or time as may be agreed by the Target and Parent in writing and specified in the Certificate of Merger in accordance with the DGCL (the effective time of the Merger being hereinafter referred to as the " **Effective Time** ").

Section 3.04 Effects of the Merger . The Merger will have the effects set forth herein and in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, from and after the Effective Time, all property, rights, privileges, immunities, powers, franchises, licenses and authority of the Target and Merger Sub will vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions and duties of each of the Target and Merger Sub will become the debts, liabilities, obligations, restrictions and duties of the Surviving Corporation.

Section 3.05 Certificate of Incorporation; By-laws . At the Effective Time, (a) the certificate of incorporation of the Target will be amended so as to read in its entirety as set forth on **Exhibit A** attached hereto, and, as so amended, will be the certificate of incorporation of the Surviving Corporation until thereafter amended in accordance with the terms thereof or as provided by applicable Law, and (b) the by-laws of Merger Sub as in effect immediately prior to the Effective Time will be the by-laws of the Surviving Corporation until thereafter amended in accordance with the terms thereof, the certificate of incorporation of the Surviving Corporation or as provided by applicable Law.

Section 3.06 Directors and Officers . Unless otherwise determined by Parent and the Target prior to the Effective Time, the parties hereto shall take all necessary action to:

(i) cause the members of the board of directors of Merger Sub immediately prior to the Effective Time to be, effective as of the Effective Time, appointed as the sole members of the board of directors of the Surviving Corporation until their respective successors are duly elected or appointed and qualified or their earlier death, resignation or removal in accordance with the certificate of incorporation and bylaws of the Surviving Corporation;

(ii) cause the officers of Merger Sub immediately prior to the Effective Time to be, effective as of the Effective Time, appointed as the sole officers of the Surviving Corporation until their respective successors are duly appointed and qualified or their earlier death, resignation or removal in accordance with the certificate of incorporation and bylaws of the Surviving Corporation; and

(iii) upon Parent's request, cause the Target to obtain a written letter of resignation from each of the directors and officers of the Target and from each of the directors and officers of each Subsidiary of the Target, which resignation shall be conditioned upon, and effective as of, the Effective Time; *provided* that such resignations of officers shall not serve as a resignation as an employee of the Surviving Corporation.

ARTICLE IV
EFFECT OF THE MERGER ON CAPITAL STOCK

Section 4.01 Effect of the Merger on Capital Stock . Upon the terms and subject to the conditions set forth herein, at the Effective Time, as a result of the Merger and without any action on the part of Parent, Merger Sub or the Target or the holder of any capital stock of Parent, Merger Sub or the Target, or any other Person:

(a) **Cancellation of Certain Target Common Stock.** Each share of Target Common Stock that is owned directly by Parent, Merger Sub, the Target (as treasury stock or otherwise), or any wholly-owned Subsidiary of the foregoing as of immediately prior to the commencement of the Offer (the " **Cancelled Shares** ") and the Accepted Shares will automatically be cancelled and will cease to exist, and no Merger Consideration will be delivered in exchange therefor.

(b) **Conversion of Target Common Stock.** Each share of Target Common Stock issued and outstanding immediately prior to the Effective Time (other than the Cancelled Shares, the Accepted Shares, and the Dissenting Shares) will be converted into the right to receive (subject to **Section 4.02** and, in the case of Non-Tendered Target Restricted Stock Awards, **Section 4.07(c))** , in cash and without interest, an amount equal to the Offer Price (the " **Merger Consideration** "). At the Effective Time, all shares of Target Common Stock that have been converted into the right to receive the Merger Consideration will cease to exist, and each holder of a certificate formerly representing any such shares (each, a " **Certificate** ") will cease to have any rights with respect thereto, except the right to receive the Merger Consideration in accordance with **Section 4.02** or, in the case of Non-Tendered Target Restricted Stock Awards, **Section 4.07(c)** .

(c) **Conversion of Merger Sub Capital Stock.** Each share of common stock, par value $0.001 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time will be converted into and become one newly issued, fully paid and non-assessable share of common stock of the Surviving Corporation (and the shares of the Surviving Corporation into which the shares of Merger Sub capital stock are so converted shall be the only shares of the Surviving Corporation's capital stock that are issued and outstanding immediately after the Effective Time).

Section 4.02 Surrender and Payment .

(a) Prior to the Effective Time, Parent will appoint an exchange agent reasonably acceptable to the Target (the " **Exchange Agent** ") to act as the agent for the purpose of exchanging for the Merger Consideration, to the extent entitled thereto: (i) the Certificates, or (ii) book-entry shares which immediately prior to the Effective Time represented the shares of Target Common Stock (the " **Book-Entry Shares** "). On and after the Effective Time, Parent will deposit, or cause the Surviving Corporation to deposit, (x) with the Exchange Agent, sufficient funds to pay the aggregate Merger Consideration that is payable in respect of all of the shares of Target Common Stock outstanding immediately prior to the Effective Time (other than the Cancelled Shares, the Accepted Shares and the Non-Tendered Target Restricted Stock Awards), and (y) with the Surviving Corporation, sufficient funds to pay the Option Consideration (less any Taxes required to be withheld in accordance with **Section 4.05**) (collectively, the " **Payment Fund** ") in amounts and at the times necessary for such payments, and (z) with the Exchange Agent, an amount sufficient to pay the fees and expenses of the Exchange Agent. If for any reason (including losses) the Payment Fund is inadequate to pay the amounts to which holders of shares of Target Common Stock (other than Non-Tendered Target Restricted Stock Awards) will be entitled under **Section 4.01(b)** , Parent will take all steps necessary to enable or cause the Surviving Corporation promptly to deposit in trust additional cash with the Exchange Agent sufficient to make all payments required under **Section 4.01(b)** , and Parent and the Surviving Corporation will in any event be liable for the payment thereof. The Payment Fund will not be used for any other purpose. The Surviving Corporation will pay all charges and expenses, including those of the Exchange Agent, in connection with the exchange of shares of Target Common Stock for the Merger Consideration. Promptly after the Effective Time, Parent will send, or will cause the Exchange Agent to send, to each record holder of shares of Target Common Stock (other than Non-Tendered Target Restricted Stock Awards) at the Effective Time, a letter of transmittal and instructions (which will specify that the delivery will be effected, and risk of loss and title will pass, only upon proper delivery of the Certificates or transfer of the Book-Entry Shares to the Exchange Agent) for use in such exchange.

(b) Subject to **Section 4.07(c)** , each holder of shares of Target Common Stock that have been converted into the right to receive the Merger Consideration will be entitled to receive the Merger Consideration in respect of the Target Common Stock represented by a Certificate or Book-Entry Share upon (i) surrender to the Exchange Agent of a Certificate, together with a duly completed and validly executed letter of transmittal and such other documents as may reasonably be requested by the Exchange Agent, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of Book-Entry Shares. Until so surrendered or transferred, as the case may be, and subject to the terms set forth in **Section 4.03** and **Section 4.07(c)** , each such Certificate or Book-Entry Share, as applicable, will represent after the Effective Time for all purposes only the right to receive the Merger Consideration payable in respect thereof. No interest will be paid or accrued on the cash payable upon the surrender or transfer of any Certificate or Book-Entry Share. Upon payment of the Merger Consideration pursuant to the provisions of this **Article IV** , each Certificate or Certificates so surrendered will immediately be cancelled.

(c) If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Book-Entry Share, as applicable, is registered, it will be a condition to such payment that (i) such Certificate will be properly endorsed or will otherwise be in proper form for transfer or such Book-Entry Share will be properly transferred, and (ii) the Person requesting such payment will pay to the Exchange Agent any transfer or other Tax required as a result of such payment to a Person other than the registered holder of such Certificate or Book-Entry Share, as applicable, or establish to the reasonable satisfaction of the Exchange Agent that such Tax has been paid or is not payable.

(d) All Merger Consideration paid upon the surrender of Certificates or transfer of Book-Entry Shares in accordance with the terms hereof will be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Target Common Stock formerly represented by such Certificate or Book-Entry Shares, and from and after the Effective Time, there will be no further registration of transfers of shares of Target Common Stock on the stock transfer books of the Surviving Corporation. If, after the Effective Time, Certificates or Book-Entry Shares are presented to the Surviving Corporation, they will be cancelled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this **Article IV** .

(e) Any portion of the Payment Fund that remains unclaimed by the holders of shares of Target Common Stock twelve (12) months after the Effective Time will be returned to Parent, upon demand, and any such holder who has not exchanged shares of Target Common Stock for the Merger Consideration in accordance with this **Section 4.02** prior to that time will thereafter look only to Parent for payment of the Merger Consideration. Notwithstanding the foregoing, Parent shall not be liable to any holder of shares of Target Common Stock for any amounts paid to a public official pursuant to applicable abandoned property, escheat or similar Laws. Any amounts remaining unclaimed by such holders at such time at which such amounts would otherwise escheat to or become property of any Governmental Entity shall become, to the extent permitted by applicable Law, the property of Parent or its designee, free and clear of all claims or interest of any Person previously entitled thereto.

(f) After the Effective Time, any portion of the Merger Consideration made available to the Exchange Agent in respect of any Dissenting Shares will be returned to Parent, upon demand.

(g) The Exchange Agent shall invest all cash included in the Payment Fund as reasonably directed by Parent; *provided* that any investment of such cash shall be limited to direct short-term obligations of, or short-term obligations fully guaranteed as to principal and interest by, the United States government. Any interest and other income resulting from such investments shall become a part of the Payment Fund, and any amounts in excess of the aggregate amount payable pursuant to **Section 4.01(b)** shall be paid to the Surviving Corporation.

Section 4.03 Dissenting Shares . Notwithstanding any provision of this Agreement to the contrary, including **Section 4.01** , shares of Target Common Stock issued and outstanding immediately prior to the Effective Time and in respect of which appraisal rights shall have been properly demanded (and not withdrawn or lost) in accordance with Section 262 of the DGCL (such shares of Target Common Stock being referred to collectively as the " **Dissenting Shares** ") will not be converted into a right to receive the Merger Consideration, but instead will be entitled to only such rights as are granted by Section 262 of the DGCL to a holder of Dissenting Shares; *provided, however,* that if such holder fails to perfect, effectively withdraws or loses such holder's right to seek appraisal rights pursuant to Section 262 of the DGCL with respect to any Dissenting Shares, such Dissenting Shares shall immediately be converted into the right to receive the Merger Consideration in accordance with this **Article IV** as if such shares of Target Common Stock never had been Dissenting Shares, without interest thereon, upon surrender of such Certificate formerly representing such share or transfer of such Book-Entry Share, as the case may be. The Target will provide Parent prompt written notice of any demands received by the Target for appraisal of shares of Target Common Stock (including any stockholder's notice of its intent to demand payment pursuant to the DGCL), any withdrawal of any such demand, and any other demand, notice or instrument delivered to the Target prior to the Effective Time pursuant to the DGCL that relates to such demand, and Parent will have the opportunity and right to direct all negotiations and proceedings with respect to such demands. Except with the prior written consent of Parent, the Target will not make any payment with respect to, or settle or offer to settle, any such demands or any claim in respect of Dissenting Shares.

Section 4.04 Adjustments . Without limiting the other provisions of this Agreement, if at any time during the period between the date of this Agreement and the Effective Time, any change in the outstanding shares of capital stock of the Target occurs (other than the issuance of additional shares of capital stock of the Target as permitted by this Agreement), including by reason of any reclassification, recapitalization, stock split (including reverse stock split) or combination, exchange or readjustment of shares, or any stock dividend or distribution paid in stock, the Offer Price and the Merger Consideration (as applicable) and any other amounts payable pursuant to this Agreement will be appropriately adjusted to reflect such change.

Section 4.05 Withholding Rights . Each of the Exchange Agent, Parent, Merger Sub and the Surviving Corporation will be entitled to deduct and withhold from the Offer Price, the Merger Consideration, and the Option Consideration, as the case may be, otherwise payable to any Person pursuant to this Agreement such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Internal Revenue Code of 1986, as amended (the " **Code** ") and applicable Treasury Regulations, or any provision of state, local or non-U.S. Tax Law. All amounts withheld will be remitted to the United States Treasury or the applicable state, local or non-U.S. taxing authority. To the extent that amounts are so deducted and withheld by the Exchange Agent, Parent, Merger Sub or the Surviving Corporation, as the case may be, such amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of which the Exchange Agent, Parent, Merger Sub or the Surviving Corporation, as the case may be, made such deduction and withholding.

Section 4.06 Lost Certificates . If any Certificate has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by Parent, the posting by such Person of a bond, in such reasonable amount as Parent may direct, as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue, in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration to be paid in respect of the shares of Target Common Stock formerly represented by such Certificate as contemplated under this Article IV.

Section 4.07 Treatment of Stock Options and Other Stock-Based Awards .

(a) The Target will take all requisite action so that, at the Effective Time, the portion of each option to acquire shares of Target Common Stock (each such option, a " **Target Stock Option** ") that is vested and outstanding immediately prior to the Effective Time and for which the per share exercise price of such Target Stock Option is equal to or less than the Merger Consideration (each such portion, a " **Cashed Out Target Stock Option** "), will be, by virtue of this Agreement and without any further action on the part of Parent, Merger Sub, the Target, the holder of such Cashed Out Target Stock Option or any other Person, cancelled and converted into the right to receive from Parent and the Surviving Corporation, as promptly as reasonably practicable after the Effective Time, an amount in cash, without interest, equal to the product of (i) the aggregate number of shares of Target Common Stock subject to such Cashed Out Target Stock Option (only to the extent vested as provided above), multiplied by (ii) the excess of the Merger Consideration over the per share exercise price under such Cashed Out Target Stock Option (the aggregate amount, the " **Option Consideration** "), less any Taxes required to be withheld in accordance with **Section 4.05** . Each Target Stock Option (or portion thereof) outstanding immediately prior to the Effective Time that is not a Cashed Out Target Stock Option shall be referred to herein as an " **Assumed Target Stock Option** ."

(b) Effective as of the Effective Time, Parent shall assume the Target Stock Plans and each Assumed Target Stock Option, which shall thereafter be vested for such number of shares of Parent Common Stock as equals the number of shares of Target Common Stock subject to such Assumed Target Stock Option multiplied by the Equity Award Exchange Ratio, rounded down to the nearest whole share. The exercise price of each such Assumed Target Stock Option shall be equal to the exercise price per share set forth in the option agreement for such Assumed Target Stock Option divided by the Equity Award Exchange Ratio, rounded up to the nearest whole cent. All rights with respect to Target Common Stock under Assumed Target Stock Options shall by virtue of the Merger and without any action on the part of Parent, Merger Sub, the Target, the holder of any Assumed Target Stock Option or any other Person, be converted into rights with respect to Parent Common Stock on the terms and conditions set forth in this **Section 4.07(b)** . Accordingly, from and after the Effective Time, (i) each Assumed Target Stock Option may be exercised solely for the number of shares of Parent Common Stock determined in accordance with this **Section 4.07(b)** with an exercise price determined in accordance with this **Section 4.07(b)** ; (ii) any restriction on the exercise of any Assumed Target Stock Option shall continue in full force and effect; and (iii) the term, vesting schedule and other provisions of such Assumed Target Stock Option shall otherwise remain unchanged; *provided, however* , that: (A) each Assumed Target Stock Option shall, in accordance with its terms, be subject to further adjustment as appropriate to reflect any stock split, division or subdivision of shares, stock dividend, reverse stock split, consolidation of shares, recapitalization or other similar transaction with respect to Parent Common Stock subsequent to the Effective Time; and (B) Parent's board of directors or a committee thereof shall succeed to the authority and responsibility of the Target Board or any committee thereof with respect to each Target Stock Plan and Assumed Target Stock Option. As soon as practicable after the Effective Time, Parent shall prepare and file with the SEC a Form S-8 (or file such other appropriate form) registering a number of shares of Parent Common Stock necessary to fulfill Parent's obligations under this **Section 4.07(b)** .

(c) Each share of Target Common Stock granted under the Target 2006 Incentive Plan that is unvested or is subject to a repurchase option, risk of forfeiture, vesting schedule or other condition under any applicable restricted stock purchase agreement or other Contract with Target or under which Target has any rights and either (i) is validly tendered and not validly withdrawn in the Offer as of the Expiration Time (each a " **Tendered Target Restricted Stock Award** ") or (ii) not validly tendered or validly tendered and subsequently validly withdrawn and is outstanding immediately prior to the Effective Time (each a " **Non-Tendered Target Restricted Stock Award** " and together with the Tendered Target Restricted Stock Awards, the " **Target Restricted Stock Awards** ") shall (a) in the case of the Tendered Target Restricted Stock Awards, as soon as practicable after the Expiration Time and in compliance with applicable Law, receive the Offer Price net to such holder of Tendered Target Restricted Stock Award in cash, without interest and subject to any required withholding of Taxes and (b) in the case of the Non-Tendered Target Restricted Stock Awards, be cancelled and converted into only the right to receive (without interest), automatically and without any required action on the part of the holder thereof, an amount in cash (less applicable Tax withholdings) equal to the Merger Consideration; *provided* that, pursuant to and in accordance with the Target 2006 Incentive Plan, the Offer Price or Merger Consideration, as applicable, payable with respect to any Target Restricted Stock Awards shall continue to be, as applicable, unvested and/or subject to the same repurchase option, risk of forfeiture, vesting schedule and other conditions as were set forth in the applicable restricted stock purchase agreement or other Contract with respect to such Target Restricted Stock Award and the holder of any such Target Restricted Stock Award must remain in service to Parent, the Target or any of their affiliates through the applicable vesting date or date when the applicable conditions shall terminate, to receive payment in respect thereof and such payment shall be made promptly following such applicable vesting date or date when the applicable conditions have terminated, as applicable. Parent's board of directors or a committee thereof shall succeed to the authority and responsibility of the Target Board or any committee thereof with respect to each Target Stock Plan and Target Restricted Stock Award.

(d) At or prior to the Effective Time, the Target, the Target Board and the compensation committee of such board, as applicable, will adopt any resolutions and take any actions (including obtaining any employee or stockholder consents) that may be necessary to effectuate the provisions of this **Section 4.07** , and causing the Target Stock Plans and all Assumed Target Stock Options to be exchanged and assumed by Parent on the terms and conditions set forth in this **Section 4.07** .

(e) **Section 4.07(e)** of the Disclosure Schedules (the " **Equity Award Certificate** ") sets forth (i) each Target Stock Option outstanding as of the close of business on November 3, 2014, identifying the number of shares of Target Common Stock subject to such Target Stock Option, the exercise price of such Target Stock Option, the date such Target Stock Option was granted, the date such Target Stock Option expires, the vesting schedule of such Target Stock Option and the portion thereof that is vested and outstanding as of the date hereof, and (ii) each Target Restricted Stock Award outstanding as of the date hereof, identifying the number of shares of Target Common Stock subject to such Target Restricted Stock Award, the date such Target Restricted Stock Award was granted, the date such Target Restricted Stock Award expires, the vesting schedule of such Target Restricted Stock Award and the portion thereof that is vested and outstanding as of the date hereof. Not later than 5:00 p.m. Boston time, on the second Business Day preceding the Effective Time, Target shall provide to Parent an updated Equity Award Certificate setting forth (i) each Target Stock Option outstanding as of the Effective Time, identifying the number of shares of Target Common Stock subject to such Target Stock Option, the exercise price of such Target Stock Option, the portion thereof that is a Cashed Out Target Stock Option, the portion thereof that is an Assumed Target Stock Option, the date such Target Stock Option was granted, the date such Target Stock Option expires and the vesting schedule of such Target Stock Option, in each case as of the Effective Time, and (ii) each Target Restricted Stock Award outstanding as of the Effective Time, identifying the number of shares of Target Common Stock subject to such Target Restricted Stock Award , the date such Target Restricted Stock Award was granted and the vesting schedule and other material terms of such Target Restricted Stock Award, in each case as of the Effective Time.

Section 4.08 Treatment of Warrants. At the Effective Time, and in accordance with the terms of each warrant to purchase shares of Target Common Stock that is listed on **Section 4.08** of the Disclosure Schedules (collectively, the " **Warrants** ") and that is issued and outstanding immediately prior to the Effective Time, Parent shall cause the Surviving Corporation to pay the holder of each Warrant, as promptly as reasonably practicable after the Effective Time, an amount in cash, without interest, equal to the product of (i) the aggregate number of shares of Target Common Stock subject to such Warrant, multiplied by (ii) the excess, if any, of the Merger Consideration over the per share exercise price under such Warrant. In the event that the per share exercise price under a Warrant is equal to or greater than the Merger Consideration, such Warrant shall be cancelled as of the Effective Time without payment therefor and shall have no further force or effect. At or prior to the Effective Time, the Target, the Target Board and the compensation committee of such board, as applicable, will adopt any resolutions and take any actions (including obtaining any employee consents) that may be necessary to effectuate the provisions of this **Section 4.08** .

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE TARGET

Except as set forth in (a) Target SEC Documents (but excluding any supplements or amendments thereto to the extent such supplement or amendment is not publicly filed prior to the date hereof) (other than **Section 5.02** and **Section 5.03(a)**), and only to the extent it is apparent from the disclosure that any item should otherwise be reflected in the Disclosure Schedules, or (b) subject to **Section 10.03** , the Disclosure Schedules attached to this Agreement (collectively, the " **Disclosure Schedules** "), the Target hereby represents and warrants to Parent and Merger Sub as follows:

Section 5.01 Organization; Standing and Power; Charter Documents; Subsidiaries .

(a) **Organization; Standing and Power.** The Target and each of its Subsidiaries is a corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, and has the requisite corporate power and authority to own, lease and operate its assets and to carry on its business as now conducted. The Target and its Subsidiaries are duly qualified or licensed to do business as a foreign corporation and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction where the character of the assets and properties owned, leased or operated by it or the nature of its business makes such qualification or license necessary, except where the failure to be so qualified or licensed or to be in good standing, would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect.

(b) **Charter Documents.** The Target has delivered or made available to Parent a true and correct copy of the certificate of incorporation (including any certificate of designations) and by-laws, each as amended to date (collectively, the " **Charter Documents** "), of the Target and each of its Subsidiaries. Neither the Target nor any of its Subsidiaries is in violation of any of the provisions of its Charter Documents.

(c) **Minutes.** Except as set forth on **Section 5.01(c)** of the Disclosure Schedules, the Target has delivered or made available to Parent true and correct copies of the minutes (or, in the case of minutes that have not yet been finalized, draft minutes of the meeting) of all meetings of stockholders, the Target Board and each committee of the Target Board since January 1, 2012, except for any minutes of the Special Committee and any minutes related to other bidders in connection with any potential sale of the Target or any of its material assets or otherwise related to deliberations by the Target Board or Special Committee with respect to the consideration of strategic alternatives, all of which may be redacted by the Target.

(d) **Subsidiaries. Section 5.01(d)** of the Disclosure Schedules lists each of the Subsidiaries of the Target as of the date hereof and its place of organization and, for each Subsidiary that is not, directly or indirectly, wholly-owned by the Target, (A) the number and type of any capital stock of, or other equity or voting interests in, such Subsidiary that is outstanding as of the date hereof and (B) the number and type of shares of capital stock of, or other equity or voting interests in, such Subsidiary that, as of the date hereof, are owned, directly or indirectly, by the Target. All of the outstanding shares of capital stock of, or other equity or voting interests in, each Subsidiary of the Target that is owned directly or indirectly by the Target have been validly issued, were issued free of pre-emptive rights and are fully paid and non-assessable, and are free and clear of all Encumbrances, including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other equity or voting interests, except for any Encumbrances (x) imposed by applicable securities Laws or (y) arising pursuant to the Charter Documents of any non-wholly-owned Subsidiary of the Target. Except for the capital stock of, or other equity or voting interests in, its Subsidiaries, the Target does not own, directly or indirectly, any capital stock of, or other equity or voting interests in, any Person.

Section 5.02 Capital Structure .

(a) **Capital Stock.** The authorized capital stock of the Target consists of 30,000,000 shares of Target Common Stock and 5,000,000 shares of preferred stock. As of the close of business on November 3, 2014, (i) 12,461,408 shares of Target Common Stock were issued and outstanding and (ii) 62,834 shares of Target Common Stock were issued and held by the Target in its treasury, and except as set forth on **Section 5.02(a)** of the Disclosure Schedules, since November 3, 2014 and through the date hereof, no additional shares of Target Common Stock have been issued other than the issuance of shares of Target Common Stock upon the exercise or settlement of Target Equity Awards. All of the outstanding shares of capital stock of the Target are, and all shares of capital stock of the Target which may be issued as contemplated or permitted by this Agreement will be, when issued, duly authorized and validly issued, fully paid and non-assessable and not subject to any pre-emptive rights. No Subsidiary of the Target owns any shares of Target Common Stock. As of the date hereof, holders of record of Target Common Stock whose last address as shown on the books of Target is in Canada hold less than ten percent (10%) of the outstanding Target Common Stock.

(b) **Stock Options and Stock Awards** .

(i) As of the close of business on November 3, 2014, 637,649 shares of Target Common Stock were subject to issuance pursuant to Target Stock Options and 251,750 shares of Target Common Stock were outstanding pursuant to Target Restricted Stock Awards, granted under the Target Stock Plans, and since November 3, 2014 and through the date hereof, no Target Equity Awards have been granted and no additional shares of Target Common Stock have become subject to issuance under the Target Stock Plans. **Section 5.02(b)(i)** of the Disclosure Schedules sets forth as of the close of business on November 3, 2014 a list of each outstanding Target Equity Award granted under the Target Stock Plans and (A) the name of the holder of such Target Equity Award, (B) the number of shares of Target Common Stock subject to such outstanding Target Equity Award, (C) the exercise price, purchase price or similar pricing of such Target Equity Award, (D) the date on which such Target Equity Award was granted or issued, (E) the applicable vesting schedule, the extent to which such Target Equity Award is vested and exercisable as of the date hereof, and (F) with respect to Target Stock Options, the date on which each such Target Stock Option expires. All shares of Target Common Stock subject to issuance under the Target Stock Plans, upon issuance in accordance with the terms and conditions specified in the instruments pursuant to which they are issuable, will be duly authorized, validly issued, fully paid and non-assessable. Except for Target Stock Options and Target Restricted Stock Awards, there are no stock awards and other rights, contingent or accrued, to acquire or receive shares of Target Common Stock or benefits measured by the value of such shares, or award of any kind consisting of shares of Target Common Stock that may be held, awarded, outstanding, payable or reserved for issuance under any Target Stock Plan or otherwise. No Target Stock Options have been granted except for those granted under a Target Stock Plan. No Target Restricted Stock Awards have been granted except for those granted under the Target's 2006 Stock Incentive Plan (the " **Target 2006 Incentive Plan** ").

(ii) Except for the Target Stock Plans and as set forth on **Section 5.02(b)(ii)** of the Disclosure Schedules, there are no agreements to which the Target is a party obligating the Target to accelerate the vesting of any Target Equity Award as a result of the transactions contemplated by this Agreement or the Support Agreement (whether alone or upon the occurrence of any additional or subsequent events). Other than the Target Equity Awards, as of the date hereof, there are no outstanding (A) securities of the Target or any of its Subsidiaries convertible into or exchangeable for Voting Debt or shares of capital stock of the Target, (B) options, warrants or other agreements or commitments to acquire from the Target or any of its Subsidiaries, or obligations of the Target or any of its Subsidiaries to issue, any Voting Debt or shares of capital stock of (or securities convertible into or exchangeable for shares of capital stock of) the Target or (C) restricted shares, stock appreciation rights, performance shares, profit participation rights, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any shares of capital stock of the Target, in each case that have been issued by the Target or its Subsidiaries (the items in clauses (A), (B) and (C), together with the capital stock of the Target, being referred to collectively as " **Target Securities** "). All outstanding shares of Target Common Stock, all Warrants, all outstanding Target Equity Awards and all outstanding shares of capital stock, voting securities or other ownership interests in any Subsidiary of the Target, have been issued or granted, as applicable, in compliance in all material respects with all applicable securities Laws.

(iii) There are no outstanding Contracts requiring the Target or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Target Securities or Target Subsidiary Securities. Neither the Target nor any of its Subsidiaries is a party to any voting agreement with respect to any Target Securities or Target Subsidiary Securities.

(c) **Voting Debt.** No bonds, debentures, notes or other indebtedness issued by the Target or any of its Subsidiaries (i) having the right to vote on any matters on which stockholders or equity holders of the Target or any of its Subsidiaries may vote (or which is convertible into, or exchangeable for, securities having such right), or (ii) the value of which is directly based upon or derived from the capital stock, voting securities or other ownership interests of the Target or any of its Subsidiaries, are issued or outstanding (collectively, " **Voting Debt** ").

(d) **Target Subsidiary Securities** . As of the date hereof, there are no outstanding (i) securities of the Target or any of its Subsidiaries convertible into or exchangeable for Voting Debt, capital stock, voting securities or other ownership interests in any Subsidiary of the Target, (ii) options, warrants or other agreements or commitments to acquire from the Target or any of its Subsidiaries, or obligations of the Target or any of its Subsidiaries to issue, any Voting Debt, capital stock, voting securities or other ownership interests in (or securities convertible into or exchangeable for capital stock, voting securities or other ownership interests in) any Subsidiary of the Target, or (iii) restricted shares, stock appreciation rights, performance shares, profit participation rights, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or voting securities of, or other ownership interests in, any Subsidiary of the Target, in each case that have been issued by a Subsidiary of the Target (the items in clauses (i), (ii) and (iii), together with the capital stock, voting securities or other ownership interests of such Subsidiaries, being referred to collectively as " **Target Subsidiary Securities** ").

Section 5.03 Authority; Non-Contravention; Governmental Consents .

(a) **Authority.** The Target has all requisite corporate power and authority to enter into and deliver this Agreement and, assuming the transactions contemplated by this Agreement are consummated in accordance with Section 251(h) of the DGCL, and assuming the accuracy of Parent's and Merger Sub's representation and warranty set forth in **Section 6.08** , to perform its obligations hereunder and consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Target and the consummation by the Target of the Offer, the Merger and the other transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Target and, assuming the transactions contemplated by this Agreement are consummated in accordance with Section 251(h) of the DGCL, and assuming the accuracy of Parent's and Merger Sub's representation and warranty set forth in **Section 6.08** , no other corporate proceedings on the part of the Target are necessary to authorize the execution and delivery of this Agreement or to consummate the Offer, the Merger and the other transactions contemplated hereby. This Agreement has been duly executed and delivered by the Target and, assuming due execution and delivery by Parent and Merger Sub, constitutes the valid and binding obligation of the Target, enforceable against the Target in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium and other similar Laws affecting creditors' rights generally and by general principles of equity.

(b) **Non-Contravention.** Except as set forth on **Section 5.03(b)** of the Disclosure Schedules, the execution, delivery and performance of this Agreement by the Target, and the consummation by the Target of the transactions contemplated hereby, including the Offer and the Merger, do not and will not: (i) contravene or conflict with, or result in any violation or breach of, the Charter Documents of the Target or any of its Subsidiaries, (ii) subject to compliance with the requirements set forth in **Section 5.03(c)(i)-(iv)** and, in the case of the consummation of the Merger, assuming the transactions contemplated by this Agreement are consummated in accordance with Section 251(h) of the DGCL, and assuming the accuracy of Parent's and Merger Sub's representation and warranty set forth in **Section 6.08** , conflict with or violate any Law applicable to the Target or any of its Subsidiaries or any of their respective properties or assets, (iii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation, or require any Consent under, any Contract to which the Target or any of its Subsidiaries is a party or otherwise bound as of the date hereof, or (iv) result in the creation of an Encumbrance (other than Permitted Encumbrances) on any of the properties or assets of the Target or any of its Subsidiaries, except, in the case of each of clauses (ii), (iii) and (iv) above, for any conflicts, violations, breaches, defaults, alterations, terminations, amendments, accelerations, cancellations or Encumbrances, or where the failure to obtain any Consents, in each case, would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect.

(c) **Governmental Consents.** No consent, approval, Order or authorization of, or registration, declaration or filing with, or notice to (any of the foregoing being a " **Consent** "), any Governmental Entity is required to be obtained or made by the Target in connection with the execution, delivery and performance by the Target of this Agreement or the consummation by the Target of the Offer, the Merger and other transactions contemplated hereby, except for: (i) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, (ii) the filing with the SEC in accordance with the Exchange Act of (A) the Schedule 14D-9 and (B) such filings under the Exchange Act as may be required in connection with this Agreement, the Support Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement, in any case that are applicable to the transactions contemplated by this Agreement, (iii) such Consents as may be required under applicable state securities or "blue sky" Laws and the securities Laws of any foreign country or the rules and regulations of any applicable United States securities exchange on which the Target Common Stock is traded, (iv) the other Consents of Governmental Entities listed on **Section 5.03(c)** of the Disclosure Schedules, and (v) such other Consents which if not obtained or made would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect.

(d) **Board Approval.** The Target Board, by resolutions duly adopted at a meeting of directors of the Target duly called and held (the " **Target Board Meeting** ") and, as of the date hereof, not subsequently rescinded or modified in any way, has, as of the date hereof (i) determined that this Agreement and the transactions contemplated hereby, including the Offer and the Merger, are fair to, and in the best interests of, the Target and the Target's stockholders, including in reliance on the Fairness Opinion, (ii) approved and declared advisable the "agreement of merger" (as such term is used in Section 251 of the DGCL) contained in this Agreement and the transactions contemplated by this Agreement, including the Offer and the Merger, in accordance with the DGCL, and (iii) resolved to recommend that Target stockholders accept the Offer and tender their shares of Target Common Stock pursuant to the Offer (collectively, the " **Target Board Recommendation** ").

(e) **Stockholder Approval** . Assuming the accuracy of Parent's and Merger Sub's representation and warranty set forth in **Section 6.08** , the majority vote of the holders of a majority of the outstanding shares of Target Common Stock, voting as a single class at a meeting of the stockholders of the Target called to consider the adoption of this Agreement, in favor of adopting this Agreement is the only vote of the holders of any class or series of the Target's capital stock that would be required to adopt this Agreement absent the availability of Section 251(h) of the DGCL.

(f) **Takeover Statutes.** No "fair price," "moratorium," "control share acquisition," "business combination" or other similar anti-takeover statute or regulation (including Section 203 of the DGCL) enacted under any federal, state, local or foreign laws applicable to the Target or any of its Subsidiaries is applicable to this Agreement, the Offer, the Merger or any of the other transactions contemplated hereby. The Target Board has taken all actions so that the restrictions contained in Section 203 of the DGCL applicable to a "business combination" (as defined in such Section 203) will not apply to the execution, delivery or performance of this Agreement and the consummation of the Offer, the Merger and the other transactions contemplated hereby (including the transactions contemplated by each of the Support Agreements).

Section 5.04 SEC Filings; Financial Statements; Undisclosed Liabilities .

(a) **SEC Filings.** The Target has timely filed with or furnished to, as applicable, the SEC all registration statements, prospectuses, reports, proxy statements, schedules, forms, statements and other documents (including exhibits and all other information incorporated by reference) required to be filed or furnished by it with the SEC since January 1, 2012 (the " **Target SEC Documents** "). The Target has made available to Parent all such Target SEC Documents that it has so filed or furnished prior to the date hereof. As of their respective filing dates (or, if amended or superseded by a subsequent filing, as of the date of the last such amendment or superseding filing prior to the date hereof), each of the Target SEC Documents complied as to form in all material respects with the applicable requirements of the Securities Act, and the Exchange Act, and the rules and regulations of the SEC thereunder applicable to such Target SEC Documents. None of the Target SEC Documents, including any financial statements, schedules or exhibits included or incorporated by reference therein at the time they were filed (or, if amended or superseded by a subsequent filing, as of the date of the last such amendment or superseding filing prior to the date hereof), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The documents filed by the Target with the securities commissions in Canada on SEDAR (i) did not at the time filed with the securities commissions or, as applicable, the time of becoming effective, contain any untrue statement of a material fact or omit any data or information required to be stated therein or necessary to make the statements therein, not misleading in light of the circumstances under which they were made, and (ii) include all documents required to be filed in accordance with applicable Canadian securities laws with the securities commissions and complied with applicable Canadian securities laws.

(b) **Financial Statements.** Each of the financial statements (including, in each case, any related notes thereto) contained in the Target SEC Documents: (i) complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto as of their respective dates, (ii) was prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto and, in the case of unaudited interim financial statements, as may be permitted by the SEC for Quarterly Reports on Form 10-Q), and (iii) fairly presented in all material respects the financial position of the Target at the respective dates thereof and the results of the Target's operations and cash flows for the periods indicated therein, subject, in the case of unaudited interim financial statements, to normal and year-end audit adjustments as permitted by GAAP and the applicable rules and regulations of the SEC.

(c) **Disclosure Controls and Procedures; Internal Controls.** The Target has established and maintains "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act), which disclosure controls and procedures are designed to ensure that all material information required to be disclosed by the Target in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Target's management as appropriate to allow timely decisions regarding required disclosure. The Target has established and maintained "internal controls over financial reporting" (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act), which internal controls over financial reporting provide reasonable assurance regarding the reliability of financial reporting, the prevention or early detection of the unauthorized acquisition, use or disposition of the Target's or its Subsidiaries assets that could have a material effect on the Target's financial statements, and the preparation of financial statements for external purposes in accordance with GAAP. Except as set forth on **Section 5.04(c)** of the Disclosure Schedules, since January 1, 2012, neither the Target's management, Audit Committee or its independent auditors have identified (i) any significant deficiencies or material weaknesses in the design or operation of internal controls over financial reporting that affected or are reasonably likely to adversely affect the Target's ability, in any material respect, to record, process, summarize and report financial information, or (ii) any fraud that involves management or other employees who have a role in the Target's internal controls over financial reporting. For purposes of this Agreement, the terms "significant deficiency" and "material weakness" shall have the meanings assigned to them in Public Company Accounting Oversight Board Auditing Standard 2, as in effect on the date of this Agreement.

(d) **Undisclosed Liabilities.** The consolidated audited balance sheet of the Target dated as of December 31, 2013 contained in the Target SEC Documents filed prior to the date hereof is hereinafter referred to as the " **Target Balance Sheet.** " Neither the Target nor any of its Subsidiaries has material Liabilities other than Liabilities that, and has not entered into any joint venture, off balance sheet partnership or similar contract other than those that, (i) are reflected or recorded on the Target Balance Sheet (including in the notes thereto), (ii) were discharged or paid in full prior to the date of this Agreement, (iii) were incurred since the date of the Target Balance Sheet in the ordinary course of business consistent with past practice, (iv) are incurred in connection with the transactions contemplated by this Agreement, (v) are performance or payment obligations that are unmatured, unliquidated or contingent pursuant to the contracts, commitments, instruments and other agreements and documents disclosed in the Disclosure Schedules or approved by Parent in writing after the date hereof (other than any obligations arising from a breach or failure to comply by the Target with any obligations contained therein at any time prior to the Effective Time), or (vi) would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. For the purposes of this **Section 5.04(d)** , "material Liabilities" shall be defined as Liabilities of the Target or any of its Subsidiaries (subject to the exceptions of the preceding sentence) which, individually or in the aggregate, are in excess of $100,000.

(e) **Sarbanes-Oxley Compliance.** Each of the principal executive officer and the principal financial officer of the Target (or each former principal executive officer and each former principal financial officer of the Target, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 (including the rules and regulations promulgated thereunder, the " **Sarbanes-Oxley Act** ") with respect to the Target SEC Documents, and the statements contained in such certifications were true and accurate in all material respects at the time made. For purposes of this Agreement, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act. The Target does not have outstanding (or has arranged or modified since the enactment of the Sarbanes-Oxley Act) any "extensions of credit" (within the meaning of Section 402 of the Sarbanes-Oxley Act) to directors or executive officers (as defined in Rule 3b-7 under the Exchange Act) of the Target.

Section 5.05 Absence of Certain Changes or Events . Since the date of the unaudited consolidated balance sheet of the Target filed with the Target's Form 10-Q for the quarter ended June 30, 2014, except (i) as set forth on **Section 5.05** of the Disclosure Schedules and (ii) in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, the business of the Target and its Subsidiaries has been conducted in the ordinary course of business and there has not been or occurred (a) any Target Material Adverse Effect or any event, condition, change or effect that would have, individually or in the aggregate, a Target Material Adverse Effect, or (b) any event, condition, action or effect that, if taken during the period from the date of this Agreement through the Effective Time, would constitute a breach of **Section 7.01** .

Section 5.06 Taxes .

(a) **Tax Returns and Payment of Taxes.** The Target and each of its Subsidiaries has duly and timely filed or caused to be timely filed (taking into account any extension of time in which to file) all material Tax Returns required to be filed by it. Such Tax Returns are true, complete and correct in all material respects. Neither the Target nor any of its Subsidiaries is currently the beneficiary of any extension of time within which to file any income or other material Tax Return other than extensions of time to file Tax Returns obtained in the ordinary course of business consistent with past practice. All material Taxes due and owing by the Target and its Subsidiaries (whether or not shown on any Tax Return) have been timely paid or, where payment is not yet due, the Target has made an adequate provision for such Taxes in the Target's financial statements (in accordance with GAAP). The Target's most recent financial statements reflect an adequate reserve (in accordance with GAAP) for all material Taxes payable by the Target and its Subsidiaries through the date of such financial statements. Neither the Target nor any of its Subsidiaries has incurred any Liability for material Taxes since the date of the Target's most recent financial statements outside the ordinary course of business or otherwise inconsistent with past practice.

(b) **Availability of Tax Returns.** The Target has made available to Parent complete and accurate copies of all federal, state, local and foreign income, franchise and other material Tax Returns filed by or on behalf of the Target and its Subsidiaries for any Tax period ending after December 31, 2009.

(c) **Withholding.** The Target and each of its Subsidiaries has withheld and paid to the applicable Governmental Entity each material Tax required to have been withheld and paid in connection with amounts paid or owing to any Target Employee, independent contractor, creditor, customer, stockholder or other party.

(d) **Encumbrances.** There are no Encumbrances for material Taxes upon the assets of the Target or any of its Subsidiaries other than for Permitted Encumbrances for which adequate reserves in accordance with GAAP have been made in the Target's financial statements.

(e) **Tax Deficiencies and Audits.** No deficiency for any material amount of Taxes which has been proposed, asserted or assessed, in writing, by any taxing authority against the Target or any of its Subsidiaries remains unpaid, except for deficiencies contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been made in the Target's financial statements. There are no waivers or extensions of any statute of limitations currently in effect with respect to Taxes of the Target or any of its Subsidiaries. Except as set forth on **Section 5.06(e)** of the Disclosure Schedules, there are no audits, suits, proceedings, investigations, claims, examinations or other administrative or judicial proceedings ongoing or pending with respect to any material Taxes of the Target or any of its Subsidiaries.

(f) **Tax Jurisdictions.** In the last four (4) years, no claim has been made in writing by any taxing authority in a jurisdiction where the Target or any of its Subsidiaries does not file Tax Returns that the Target or any of its Subsidiaries is or may be subject to Tax in that jurisdiction.

(g) **Tax Rulings.** Neither the Target nor any of its Subsidiaries has received any private letter ruling, technical advice memorandum or similar ruling or memorandum from any taxing authority with respect to any material Taxes.

(h) **Consolidated Groups, Transferee Liability and Tax Agreements.** Neither the Target nor any of its Subsidiaries, other than with respect to the group consisting solely of Target and one or more of its Subsidiaries, (i) has been a member of a group filing Tax Returns on a consolidated, combined, unitary or similar basis, (ii) has material Liability for Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any comparable provision of local, state or foreign Law), as a transferee or successor, by Contract, or otherwise, or (iii) is a party to, is bound by or has any material Liability under any Tax sharing, allocation or indemnification agreement or arrangement (other than customary Tax indemnifications contained in credit or other commercial agreements the primary purpose of which does not relate to Taxes).

(i) **Change in Accounting Method.** Neither the Target nor any of its Subsidiaries has agreed to make, nor is it required to make, any adjustment under Section 481(a) of the Code or any comparable provision of state, local or non-U.S. Tax Laws by reason of a change in accounting method or otherwise.

(j) **Post-Closing Tax Items.** Neither the Target nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax Law) executed on or prior to the Closing

Date, (ii) installment sale or open transaction disposition made on or prior to the Closing Date, (iii) prepaid amount received on or prior to the Closing Date, (iv) election under Section 108(i) of the Code (or any corresponding or similar provision state, local or non-U.S. Law), or (v) amount, as of the Closing Date, of deferred intercompany gain or of excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision state, local or non-U.S. Law).

(k) **U.S. Real Property Holding Corporation.** Neither the Target nor any of its Subsidiaries has been a United States real property holding corporation (as defined in Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(A) of the Code.

(l) **Section 355.** Neither the Target nor any of its Subsidiaries has been a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in connection with a distribution that was purported or intended to be governed in whole or in part by Section 355 of the Code (i) in the two years prior to the date of this Agreement or (ii) in a distribution which is part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) with the transactions contemplated by this Agreement.

(m) **Reportable Transactions.** Neither the Target nor any of its Subsidiaries has entered into any "listed transactions" (within the meaning of Treasury Regulations Section 1.6011-4(b)(2)).

(n) **Section 409A.** All "nonqualified deferred compensation plans" (as defined in Section 409A of the Code and the Treasury Regulations thereunder) of the Target and its Subsidiaries subject to Section 409A of the Code are currently and at all times have been in both documentary and operational compliance with Section 409A of the Code and all applicable guidance (including the Treasury Regulations) promulgated thereunder.

(o) **Section 280G.** Except as set forth on **Section 5.06(o)** of the Disclosure Schedules, neither the Target nor any of its Subsidiaries is a party to any agreement, contract, arrangement or plan that has resulted, or would result, separately or in the aggregate, in the payment of any "excess parachute payment" within the meaning of Section 280G of the Code (or any corresponding provision of state, local or foreign Tax Law).

(p) **Tax Reimbursements or Gross-Up Payments** . No Person is entitled to receive any additional payment (including any tax gross-up or other payment) from the Target or any of its Subsidiaries as a result of the imposition of excise Taxes required by Section 4999 of the Code or any Taxes required by Section 409A of the Code.

Section 5.07 Intellectual Property .

(a) **Products and Services. Section 5.07(a)** of the Disclosure Schedules accurately identifies and describes each Target Product.

(b) **Registered IP. Section 5.07(b)** of the Disclosure Schedules accurately identifies: (i) each item of Registered IP in which the Target or its Subsidiaries has or purports to have an ownership interest of any nature (whether exclusively, jointly with another Person, or otherwise); (ii) the jurisdiction in which such item of Registered IP has been registered or filed and the applicable registration or serial number; (iii) any other Person that has an ownership interest in such item of Registered IP and the nature of such ownership interest; and (iv) each Target Product identified in **Section 5.07(a)** of the Disclosure Schedules that embodies, utilizes or is based upon or derived from (or, with respect to Target Products currently under development, that is expected to embody, utilize or be based upon or derived from) such item of Registered IP. The Target has provided to Parent complete and accurate copies of all applications, correspondence with any Governmental Entity, and other material documents related to each such item of Registered IP.

(c) **Inbound Licenses. Section 5.07(c)** of the Disclosure Schedules accurately identifies each Contract pursuant to which any Intellectual Property Right or Intellectual Property (including hardware and software) is or has been licensed, sold, assigned or otherwise conveyed or provided to the Target or any of its Subsidiaries and that is material to its business (other than (i) licenses to generally available software code (other than development tools and development environments); (ii) data agreements under which the Target licenses market data; (iii) non-disclosure agreements entered into in the ordinary course of business and (iv) non-exclusive licenses to third-party software requiring annual payments in excess of $50,000).

(d) **Outbound Licenses.** Other than non-exclusive licenses to customers, Suppliers and Channel Partners (in each case pursuant to written agreements entered into in the ordinary course of business), **Section 5.07(d)** of the Disclosure Schedules accurately identifies each Contract pursuant to which any Person has been granted any license under, or otherwise has received or acquired any right (whether or not currently exercisable) or interest in, any Target IP. The Target is not bound by, and no Target IP is subject to, any Contract containing any covenant or other provision that in any way limits or restricts the ability of the Target to use, exploit, assert or enforce any Target IP anywhere in the world.

(e) **Royalty Obligations. Section 5.07(e)** of the Disclosure Schedules contains a complete and accurate list and description of all royalties, fees, commissions and other amounts payable by the Target or any of its Subsidiaries to any other Person (other than sales commissions paid to employees according to the Target's or its Subsidiaries standard commissions plans and commissions payable to Channel Partners in accordance with the terms of the applicable written Contract) upon or for the manufacture, sale or distribution of any Target Product or the use of any Target IP.

(f) **Standard Form IP Agreements.** The Target has provided to Parent a complete and accurate copy of each standard form of Target IP Contract used by the Target or any of its Subsidiaries, including each standard form of (i) employee agreement containing any assignment or license of Intellectual Property Rights; (ii) consulting or independent contractor agreement containing any intellectual property assignment or license of Intellectual Property Rights; and (iii) confidentiality or nondisclosure agreement. **Section 5.07(f)** of the Disclosure Schedules accurately identifies each Target IP Contract currently in effect that deviates materially from the corresponding standard form in which an employee, consultant or independent contractor expressly reserved or retained rights in any Intellectual Property or Intellectual Property Rights incorporated into or used in connection with any Target Product or otherwise related to the businesses of the Target or its Subsidiaries.

(g) **Ownership Free and Clear.** Except as set forth on **Section 5.07(g)** of the Disclosure Schedules, the Target or its Subsidiaries exclusively owns all right, title and interest to and in the Target IP (other than Intellectual Property Rights exclusively licensed to the Target or its Subsidiaries, as identified in **Section 5.07(c)** of the Disclosure Schedules) free and clear of any Encumbrances (other than licenses and rights granted pursuant to the Contracts identified in **Section 5.07(d)** of the Disclosure Schedules and any other Permitted Encumbrances). Without limiting the generality of the foregoing:

(i) **Perfection of Rights.** All documents and instruments necessary to establish, perfect and maintain the rights of the Target and its Subsidiaries in the Registered IP have been validly executed, delivered and filed in a timely manner with the appropriate Governmental Entity.

(ii) **Employees and Contractors.** Except as set forth on **Section 5.07(g)(ii)** of the Disclosure Schedules, each Person who is or was an employee or contractor of the Target or any of its Subsidiaries and who is or was involved in the creation or development of any Target Product or Target IP has signed a valid, enforceable agreement containing an assignment of Intellectual Property Rights pertaining to such Target Product or Target IP to the Target or its Subsidiaries, as applicable, and confidentiality provisions protecting the Target IP. No current or former stockholder, officer, director or employee of the Target or any of its Subsidiaries has any claim, right (whether or not currently exercisable) or interest to or in any Target IP. No Target Employee is (a) bound by or otherwise subject to any Contract restricting him or her from performing his or her duties for the Target or its Subsidiaries or (b) in breach of any Contract with any former employer or other Person concerning Intellectual Property Rights or confidentiality due to his or her activities as an employee of the Target or its Subsidiaries.

(iii) **Government Rights.** No funding, facilities or personnel of any Governmental Entity or any public or private university, college or other educational or research institution were used, directly or indirectly, to develop or create, in whole or in part, any Target IP.

(iv) **Protection of Proprietary Information.** The Target and its Subsidiaries have taken all reasonable steps to maintain the confidentiality of and otherwise protect and enforce their respective rights in all trade secrets (if any) and confidential information pertaining to the Target, its Subsidiaries or any Target Product. Without limiting the generality of the foregoing, no portion of any source code for any software currently owned by the Target or its Subsidiaries has been disclosed or licensed to any escrow agent or other Person.

(v) **Past IP Dispositions.** Neither the Target nor its Subsidiaries has assigned or otherwise transferred ownership of, or agreed to assign or otherwise transfer ownership of, any material Intellectual Property Right to any other Person.

(vi) **Standards Bodies.** Neither the Target nor any of its Subsidiaries is nor ever was a member or promoter of, or a contributor to, any industry standards body or similar organization that could require or obligate the Target or any of its Subsidiaries to grant or offer to any other Person any license or right to any material Target IP.

(h) **Valid and Enforceable.** All Target IP is valid, subsisting and enforceable. Without limiting the generality of the foregoing:

(i) **Misuse and Inequitable Conduct.** Neither the Target nor any of its Subsidiaries has engaged in patent or copyright misuse or any fraud or inequitable conduct in connection with any Target IP that is Registered IP.

(ii) **Trademarks.** Except as set forth on **Section 5.07(h)(ii)** of the Disclosure Schedules, no trademark or trade name owned, used, or applied for by the Target or any of its Subsidiaries conflicts or interferes with any trademark or trade name owned, used, or applied for by any other Person. No event or circumstance (including a failure to exercise adequate quality controls and an assignment in gross without the accompanying goodwill) has occurred or exists that has resulted in, or could reasonably be expected to result in, the abandonment of any trademark (whether registered or unregistered) owned, used or applied for by the Target or any of its Subsidiaries.

(iii) **Orders and Deadlines.** Each item of Target IP that is Registered IP is and at all times has been in compliance with all Orders and all filings, payments and other actions required to be made or taken to maintain such item of Target IP in full force and effect have been made by the applicable deadline. **Section 5.07(h)(iii)** of the Disclosure Schedules accurately identifies and describes each action, filing and payment that must be taken or made on or before the date that is one hundred twenty (120) days after the date of this Agreement in order to maintain such item of Target IP in full force and effect.

(iv) **Interference Proceedings and Similar Claims.** No interference, opposition, reissue, reexamination or other Legal Action is or has been pending or, to the Knowledge of Target, threatened, in which the scope, validity or enforceability of any Target IP is being, has been, or could reasonably be expected to be contested or challenged, except with respect to the Target's or its Subsidiaries' pending patent applications. To the Knowledge of Target, there is no basis for a claim that any Target IP is invalid or unenforceable.

(i) **Third-Party Infringement of Target IP.** To the Knowledge of Target, no Person has infringed, misappropriated or otherwise violated, and no Person is currently infringing, misappropriating or otherwise violating, any Target IP. **Section 5.07(i)** of the Disclosure Schedules accurately identifies (and the Target has provided to Parent a complete and accurate copy of) each letter or other written or electronic communication or correspondence that has been sent or otherwise delivered by or to the Target, any of its Subsidiaries or any Representative of the Target or its Subsidiaries regarding any actual, alleged or suspected infringement or misappropriation of any Target IP, and provides a brief description of the current status of the matter referred to in such letter, communication or correspondence.

(j) **Effects of This Transaction.** Except as set forth on **Section 5.07(j)** of the Disclosure Schedules, neither the execution, delivery, or performance of this Agreement (or any of the other agreements entered into pursuant to or in connection with this Agreement) nor the consummation of any of the transactions contemplated hereby, with or without notice or lapse of time, result in, or give any other Person the right or option to cause or declare, (i) a loss of, or Encumbrance on, any Target IP; (ii) a breach of or default under any Target IP Contracts; (iii) the release, disclosure, or delivery of any Target IP by or to any escrow agent or other Person; or (iv) the grant, assignment, or transfer to any other Person of any license or other right or interest under, to, or in any of the Target IP.

(k) **No Infringement of Third Party IP Rights.** Neither the Target nor any of its Subsidiaries has ever infringed (directly, contributorily, by inducement, or otherwise), misappropriated, or otherwise violated or made unlawful usage of any Intellectual Property Right of any other Person or engaged in unfair competition. No Target Product, and no method or process used in the manufacturing of any Target Product, infringes, violates or makes unlawful use of any Intellectual Property Right of, or contains any Intellectual Property misappropriated from, any other Person. There is no legitimate basis for a claim that the Target, any of its Subsidiaries or any Target Product has infringed or misappropriated any Intellectual Property Right of another Person or engaged in unfair competition or that any Target Product, or any method or process used in the manufacturing of any Target Product, infringes, violates, or makes unlawful use of any Intellectual Property Right of, or contains any Intellectual Property misappropriated from, any other Person. Without limiting the generality of the foregoing:

(i) **Infringement Claims.** No infringement, misappropriation or similar claim or Legal Action is pending or, to the Knowledge of Target, threatened against the Target or any of its Subsidiaries or against any other Person who is or may be entitled to be indemnified, defended, held harmless or reimbursed by the Target or any of its Subsidiaries with respect to such Legal Action. The Target has not received any written notice, or, to the Knowledge of Target any oral notice, relating to any actual, alleged or suspected infringement, misappropriation or violation by the Target, any of its employees or agents, or any Target Product of any Intellectual Property Rights of another Person, including any letter or other communication suggesting or offering that the Target obtain a license to any Intellectual Property Right of another Person.

(ii) **Other Infringement Liability.** Except as set forth on **Section 5.07(k)(ii)** of the Disclosure Schedules, neither the Target nor any of its Subsidiaries is bound by any Contract to indemnify, defend, hold harmless, or reimburse any other Person with respect to, and has not otherwise assumed or agreed to discharge or otherwise take responsibility for, any existing or potential intellectual property infringement, misappropriation, or similar claim (other than indemnification provisions in the Target's or its Subsidiaries' standard forms of Target IP Contracts or in Contracts with customers, Suppliers or Channel Partners entered into in the ordinary course of business).

(iii) **Infringement Claims Affecting In-Licensed IP.** To the Knowledge of Target, no claim or Legal Action involving any Intellectual Property or Intellectual Property Right licensed to the Target or any of its Subsidiaries is pending or has been threatened, except for any such claim or Legal Action that, if adversely determined, would not adversely affect (1) the use or exploitation of such Intellectual Property or Intellectual Property Right by the Target or its Subsidiaries, or (2) the design, development, manufacturing, marketing, distribution, provision, licensing or sale of any Target Product.

(l) **Bugs; Harmful Code.** None of the software (including firmware and other software embedded in hardware devices) owned, developed (or currently being developed), used, marketed, distributed, licensed or sold by the Target or any of its Subsidiaries (including any software that is part of, is distributed with, or is used in the design, development, manufacturing, production, distribution, testing, maintenance or support of any Target Product, but excluding any third-party software that is generally available on standard commercial terms and is licensed to the Target or any of its Subsidiaries solely for internal use on a non-exclusive basis) (collectively, " **Target Software** ") (i) contains any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or any other code designed or intended to have any of the following functions: (1) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; or (2) damaging or destroying any data or file without the user's consent; (ii) contains any bug, defect, or error that materially and adversely affects the use, functionality, or performance of such Target Software or any product or system containing or used in conjunction with such Target Software; or (iii) fails to materially comply with any applicable warranty or other contractual commitment relating to the use, functionality, or performance of such Target Software or any product or systems containing or used in conjunction with such Target Software. The Target has provided to Parent a complete and accurate list of all known bugs, defects and errors in the current version of the Target Software.

(m) **Source Code.** The source code for all Target Software contains annotations and programmer's comments, and otherwise has been documented in a professional manner that is both: (i) consistent with customary code annotation conventions and best practices in the software industry; and (ii) sufficient to independently enable a programmer of reasonable skill and competence to understand, analyze, and interpret program logic, correct errors and improve, enhance, modify and support the Target Software. No source code for any Target Software has been delivered, licensed or made available to any escrow agent or other Person who is not, as of the date of this Agreement, a Target Employee. Neither the Target nor any of its Subsidiaries has any duty or obligation (whether present, contingent, or otherwise) to deliver, license, or make available the source code for any Target Software to any escrow agent or other Person. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the delivery, license, or disclosure of the source code for any Target Software to any other Person.

(n) **List of Open Source. Section 5.07(n)** of the Disclosure Schedules accurately identifies and describes (i) each item of Open Source Code that is contained in, distributed with, or used in the development of the Target Products or from which any part of any Target Product is derived, (ii) the applicable license for each such item of Open Source Code, and (iii) the Target Product or Target Products to which each such item of Open Source Code relates.

(o) **No Open Source Contamination.** Except as set forth on **Section 5.07(o)** of the Disclosure Schedules, no Target Product contains, is derived from, is distributed with, or is being or was developed using Open Source Code that is licensed under any terms that (i) impose or could impose a requirement or condition that any Target Product or part thereof (1) be disclosed or distributed in source code form, (2) be licensed for the purpose of making modifications or derivative works, or (3) be redistributable at no charge, or (ii) otherwise impose or could impose any other material limitation, restriction, or condition on the right or ability of the Target or any of its Subsidiaries to use or distribute any Target Product.

(p) **Disclosure of Current Target Privacy Policies.** **Section 5.07(p)** of the Disclosure Schedules contains the most current Target Privacy Policy and each of its Subsidiaries, along with all prior versions of such Target Privacy Policies and the dates such prior versions were in effect.

(q) **No Security Breaches** . Target has not experienced within the past three years any material disruption to, or material interruption in, the conduct of its business attributable to a defect, error, or other failure or deficiency of any system of Target or its Subsidiaries, except for such material disruptions or material interruptions that would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. Target and its Subsidiaries have taken all commercially reasonable or contractually obligated measures to (i) secure the confidential and proprietary information of the Target and its Subsidiaries and each of their customers, channel partners, and other Persons in their possession or control (including, without limitation, any Personal Data) (collectively, " **Sensitive Target Data** ") and (ii) provide for the commercially reasonably or contractually obligated back-up and recovery of the data and information stored or processed using the systems of Target and its Subsidiaries without material disruption or interruption to the conduct of the business of the Target or its Subsidiaries.

(r) **Written Security Programs** . Each of Target and its Subsidiaries has established and is in material compliance with a written information security program that: (i) identifies internal and external risks to the security of the Sensitive Target Data, including any personally identifiable information; (ii) implements, monitors and improves adequate and effective administrative, technical and physical safeguards to control those risks and safeguard the security, confidentiality, integrity, and availability of Sensitive Target Data; (iii) protects against unauthorized access to systems of Target and its Subsidiaries and Sensitive Target Data (including on the systems of third parties with access to such systems of Target and its Subsidiaries or Sensitive Target Data) and (iv) maintains notification procedures in compliance with Laws in the case of any breach of security compromising data containing personally identifiable information. To the Knowledge of Target, (A) neither the Target nor its Subsidiaries have suffered or incurred a security breach or incident with respect to any system of the Target or its Subsidiaries or Sensitive Target Data and (B) there has been no unauthorized or illegal use of or access to any system of the Target or its Subsidiaries or Sensitive Target Data by any unauthorized third party. Neither Target nor its Subsidiaries have notified or been required to notify, any Person of any information security breach or incident involving Personal Data.

(s) **Compliance with Privacy Policies and Security Programs** . Except as set forth on **Section 5.07(s)** of the Disclosure Schedules, the Target and its Subsidiaries have complied at all times and in all material respects with all of the privacy policies and security programs of the Target and its Subsidiaries.

(t) **No Violation Resulting from Execution.** Neither the execution, delivery, or performance of this Agreement (or any of the ancillary agreements) nor the consummation of any of the transactions contemplated by this Agreement, nor possession or use of the User Data or any data or information in the Target databases or any transfers of such data or information to any third party, will result in any violation of any Target Privacy Policy or any Law pertaining to privacy, security, User Data, or Personal Data.

Section 5.08 Compliance; Anti-Corruption; Permits .

(a) **Compliance with Law.** Except as set forth on **Section 5.08(a)** of the Disclosure Schedules, the Target and each of its Subsidiaries is and, since January 1, 2012, has been in compliance with, all Laws or Orders applicable to the Target or any of its Subsidiaries, except for such non-compliance that would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. Since January 1, 2012, no Governmental Entity has issued any written notice stating that the Target or any of its Subsidiaries is not in compliance with any Law, except where such non-compliance would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. The foregoing representations and warranties contained in this **Section 5.08(a)** do not apply to matters relating specifically to SEC filings, financial statements, disclosure controls and procedures and internal controls, undisclosed liabilities and Sarbanes-Oxley compliance, as to which only **Section 5.04** applies, tax matters, as to which **Section 5.06** applies, employee matters, as to which only **Section 5.13** applies, or environmental matters, as to which only **Section 5.15** applies.

(b) **Foreign Corrupt Practices Act** . None of the Target, its Subsidiaries, or any of their respective owners, directors, officers, employees, distributors, resellers, consultants, agents or other third party acting on behalf of the Target or a Subsidiary, has promised, offered, provided, attempted to provide, or authorized the provision of anything of value (including but not limited to payments, meals, entertainment, travel expenses or accommodations, or gifts), directly or indirectly through third parties, to any Person, including a Public Official or Entity, for the purpose of (i) obtaining or retaining business; (ii) influencing any act or decision of a foreign government official in their official capacity; (iii) inducing a foreign government official to do or omit to do any act in violation of their lawful duties; (iv) directing business to another Person; or (v) securing any advantage in a manner that would be a violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the " **FCPA** ") or any applicable local, domestic or international anticorruption laws.

(c) **Off-The-Books Transactions.** None of the Target, its Subsidiaries, or any of their respective owners, directors, officers, employees, distributors, resellers, consultants, agents or other third party acting on behalf of the Target or a Subsidiary has used any Target funds to maintain any off-the-books funds or engage in any off-the-books transactions or falsified any Target documents.

(d) **Government Investigations.** The Target has not conducted any internal or government-initiated investigation, or made a voluntary or involuntary disclosure to any governmental body or similar agency with respect to any alleged act or omission arising under or relating to any noncompliance with any anticorruption Law, including the FCPA.

(e) **Anticorruption Violations.** There are no pending or, to the Knowledge of Target, threatened claims against the Target or any Subsidiaries with respect to violations of the FCPA or any applicable local, domestic, or international anticorruption laws.

(f) **Permits.** Except as set forth on **Section 5.08(f)** of the Disclosure Schedules, the Target and each of its Subsidiaries holds, to the extent legally required to operate its businesses as such businesses are being operated as of the date hereof, all Permits, except for any Permits the failure of which to obtain or hold would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. No suspension or cancellation of any Permits of the

Target or any of its Subsidiaries is pending or, to the Knowledge of Target, threatened, except for any such suspension or cancellation which would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect. The Target and each of its Subsidiaries is and, since January 1, 2012, has been in compliance with the terms of all of its Permits, except where the failure to be in such compliance would not reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect.

Section 5.09 Export Controls .

(a) **Export Control Laws.** The Target and its Subsidiaries are in compliance with U.S. Export Control Laws. The Target is not aware of any potential violations of U.S. Export Control Laws in connection with any past, current, or pending export transactions.

(b) **Products. Section 5.09(b)** of the Disclosure Schedules sets forth the true, complete, and accurate export control classifications for each of the Target's products, services, software and technologies.

(c) **Approvals.** The Target has obtained all material approvals or licenses necessary for exporting or providing its products in accordance with all applicable United States and non-U.S. export control laws. The Target has made available to Parent true and complete copies of all such approvals or licenses. All such export approvals or licenses in the United States and throughout the world are valid, current, outstanding and in full force and effect.

(d) **Boycotts.** The Target has not participated directly or indirectly in any boycotts or other similar practices in violation of, or triggering penalties under, the regulations of the United States Department of Commerce or Section 999 of the Internal Revenue Service Code.

(e) **Embargoes.** The Target has not provided, sold to, or otherwise transferred, without any required approval from the U.S. Government, products, software, technology, or services, directly or indirectly, to (i) Cuba, Iran, North Korea, Sudan, Syria, or any other country against which the United States maintains economic embargoes, (ii) any instrumentality, agent, entity, or individual that is acting on behalf of, or directly or indirectly owned or controlled by, any Governmental Entity of such countries, (iii) nationals of such countries, or (iv) any organization, entity, or individual appearing on a U.S. Government list of parties with whom companies are prohibited from transacting business including the Specially Designated Nationals & Blocked Persons List and Foreign Sanctions Evaders List, both maintained by the U.S. Treasury Department's Office of Foreign Assets Control and the Denied Persons List, Entity List, and Unverified List, which are maintained by the Bureau of Industry and Security of the U.S. Department of Commerce (the " **Prohibited Party Lists** ").

(f) **Prohibited Party Lists.** None of the Target, its Subsidiaries, or any of their respective officers, directors, employees, or agents appears on the Prohibited Party Lists.

(g) **Violations.** The Target has not received any written communication from any Governmental Entity that alleges that the Target or any agent, employee, officer, or director thereof has violated, is not in compliance with, or has any material Liability under, any U.S. Export Control Laws.