

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 1996

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15  
(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number: 0-20853

ANSYS, Inc.

(exact name of registrant as specified in its chapter)

DELAWARE  
(State or other jurisdiction of  
incorporation or organization)

04-3219960  
(IRS Employer  
Identification No.)

201 Johnson Road, Houston, PA  
(Address of principal executive offices)

15342-1300  
(Zip Code)

412-746-3304

(Registrant's telephone number, including area code)

Indicate by a check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes      No      X  
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The number of shares of the Registrant's Common Stock, par value \$.01 per share, outstanding as of August 9, 1996 was 16,150,410 shares.

ANSYS, INC. AND SUBSIDIARIES

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## PART I FINANCIAL INFORMATION

## Item 1. Financial Statements:

ANSYS, INC. AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS  
(in thousands, except share information)

	June 30, 1996	December 31, 1995
ASSETS	----- (unaudited)	-----
Current assets:		
Cash and cash equivalents	\$ 8,661	\$ 8,091
Accounts receivable, less allowance for doubtful accounts of \$725 in 1996 and \$700 in 1995:		
Software licenses	8,077	7,666
Maintenance and service	2,503	-
Refundable and prepaid income taxes	823	1,497
Other current assets	407	439
Deferred income taxes	336	356
	-----	-----
Total current assets	20,807	18,049
Property and equipment, net	3,149	3,163
Capitalized software costs, net of accumulated amortization of \$11,744 in 1996 and \$9,179 in 1995	3,746	6,207
Goodwill, net of accumulated amortization of \$11,207 in 1996 and \$8,762 in 1995	3,464	5,909
Other intangibles	1,948	2,807
Deferred income taxes	8,226	6,786
	-----	-----
Total assets	\$41,340	\$ 42,921
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	\$ 80	\$ 639
Accrued bonuses	1,113	1,952
Accrued pension and profit sharing	700	387
Other accrued expenses and liabilities	3,359	1,753
Accrued interest payable on subordinated debt	-	1,155
Customer prepayments	1,090	972
Deferred revenue	4,319	2,995
Current portion of long-term debt	-	5,000
	-----	-----
Total current liabilities	10,661	14,853
Long-term debt, less current portion including amounts due to related parties of \$17,204 in 1995	-	33,204
	-----	-----
Total liabilities	10,661	48,057
Redeemable preferred stock, \$.01 par value, 800 shares authorized; 412 shares issued and outstanding at liquidation value, including accrued dividends of \$772 in 1995		
Stockholders' equity (deficit):	-	4,893
Common stock, \$.01 par value; 50,000,000 shares authorized; 16,216,110 shares issued and outstanding in 1996; 10,626,000 shares issued and outstanding in 1995	162	106
Class A common stock, \$.01 par value; nonvoting, 2,000,000 shares authorized; 993,750 shares issued in 1995	-	10
Additional paid-in capital	35,793	1,352
Adjustment for predecessor basis	-	(7,010)

Less treasury stock, at cost:		
62,870 shares held in 1996 and		
54,850 shares held in 1995	(11)	(10)
Retained earnings (deficit)	(4,962)	(4,142)
Notes receivable from stockholders	(303)	(335)
	-----	-----
Total stockholders' equity		
(deficit)	30,679	(10,029)
	-----	-----
Total liabilities, preferred stock		
and common stockholders' equity		
(deficit)	\$41,340	\$ 42,921
	=====	=====

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

ANSYS, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF INCOME  
(in thousands, except share and per share date)  
(unaudited)

	Three months ended		Six months ended	
	June 30, 1996	June 30, 1995	June 30, 1996	June 30, 1995
Revenue:				
Software licenses	\$ 8,837	\$ 7,883	\$ 17,222	\$ 14,987
Maintenance and service	2,503	1,455	4,851	2,577
Total revenue	11,340	9,338	22,073	17,564
Cost of sales:				
Software licenses	816	1,015	1,482	1,971
Maintenance and service	724	334	1,253	607
Total cost of sales	1,540	1,349	2,735	2,578
Gross profit	9,800	7,989	19,338	14,986
Operating expenses:				
Selling and marketing	2,279	1,713	4,447	3,362
Research and development	2,349	2,045	4,679	4,064
Amortization	2,714	2,660	5,433	5,320
General and administrative	1,806	1,502	3,656	2,995
Total operating expenses	9,148	7,920	18,215	15,741
Operating income (loss)	652	69	1,123	(755)
Interest expenses	(781)	(1,021)	(1,670)	(2,016)
Other income	64	46	155	85
Loss before income tax benefit and extraordinary item	(65)	(906)	(392)	(2,686)
Income tax benefit	24	302	150	897
Net loss before extraordinary item	(41)	(604)	(242)	(1,789)
Extraordinary item, net	(343)	—	(343)	—
Net loss	\$ (384)	\$ (604)	\$ (585)	\$ (1,789)
Net loss applicable to common stock:				
Net loss	\$ (384)	\$ (604)	\$ (585)	\$ (1,789)
Redeemable preferred stock dividends	(135)	(119)	(236)	(221)
	\$ (519)	\$ (723)	\$ (821)	\$ (2,010)
Net loss per common share:				
Net loss before extraordinary item	\$ (0.01)	\$ (0.06)	\$ (0.04)	\$ (0.16)
Extraordinary Item	\$ (0.03)	\$ —	\$ (0.02)	\$ —
Net loss	\$ (0.04)	\$ (0.06)	\$ (0.06)	\$ (0.16)
Shares used in computing per common share amounts	13,714,000	12,274,000	13,086,000	12,277,000

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

ANSYS, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(in thousands)  
(unaudited)

	Six months ended	
	June 30, 1996	June 30, 1995
	-----	-----
Cash flows from operating activities:		
Net loss	\$ (585)	\$(1,789)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	5,916	5,612
Extraordinary item	553	-
Deferred income tax benefit	(1,420)	(1,248)
Provision for bad debts	25	(8)
Change in operating assets and liabilities, net of effects of acquisition:		
Accounts receivable	(2,939)	(54)
Refundable and prepaid income taxes	674	257
Other current assets	32	(308)
Accounts payable, accrued expenses and liabilities and customer prepayments	(516)	684
Deferred revenue	1,324	1,078
	-----	-----
Net cash provided by operating activities	3,064	4,224
	-----	-----
Cash flows from investing activities:		
Capital expenditures	(585)	(747)
Capitalization of internally developed software costs	(105)	-
Payments for software products acquired	-	(175)
Notes receivable from stockholders	32	-
	-----	-----
Net cash used in investing activities	(658)	(922)
	-----	-----
Cash flows from financing activities:		
Payments on long-term debt	(21,000)	(2,000)
Proceeds from issuance of restricted stock	326	-
Proceeds from exercise of stock options	106	-
Repayment of subordinated notes	(17,204)	-
Redemption of preferred stock and accumulated dividends	(5,128)	-
Purchase of treasury stock	(1)	(3)
Proceeds from initial public offering, net of issuance costs of \$1,250	41,065	-
	-----	-----
Net cash used in financing activities	(1,836)	(2,003)
	-----	-----
Net increase in cash and cash equivalents	570	1,299
Cash and cash equivalents, beginning of period	8,091	4,300
	-----	-----
Cash and cash equivalents, end of period	8,661	5,599
	=====	=====
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest	2,848	1,221

Income taxes	750	500
Supplemental non cash investing and financing activities:		
Deferred interest notes issued for interest in arrears on subordinated notes	-	508

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



ANSYS, INC. AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1996  
(UNAUDITED)

1. BASIS OF PRESENTATION

The accompanying unaudited consolidated financial statements included herein have been prepared by ANSYS, Inc. (the "Company") in accordance with generally accepted accounting principles for interim financial information for commercial and industrial companies and the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. The financial statements as of and for the three months ended June 30, 1996 should be read in conjunction with the Company's Consolidated financial statements (and notes thereto) included in the Company's Form S-1 dated June 20, 1996 which includes the year ended December 31, 1995. Accordingly, the accompanying statements do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments considered necessary for a fair presentation of the financial statements have been included, and all adjustments are of a normal and recurring nature. Operating results for the three months and six months ended June 30, 1996 are not necessarily indicative of the results that may be expected for the year ending December 31, 1996.

2. INITIAL PUBLIC OFFERING

Effective June 20, 1996, the Company completed its initial public offering of 3,500,000 shares of Common Stock at \$13.00 per share. The net proceeds (after deducting underwriting discounts and commissions and offering expenses) totaled \$41.1 million and were used as follows: i) the repayment of approximately \$18.5 million of senior secured indebtedness (the "1994 Loan"), including accrued and unpaid interest; ii) the repayment of \$17.5 million of 10% Subordinated Notes (the "Subordinated Notes"); and iii) the redemption of \$5.1 million of Redeemable Preferred Stock, including accumulated dividends.

3. EXTRAORDINARY ITEM

The Company incurred an extraordinary item for the three months ended June 30, 1996 of \$343,000, net of income tax benefit. In connection with the acquisition of its business in 1994 (the "1994 Acquisition"), the Company capitalized \$925,000 of debt issuance costs and \$179,000 associated with an interest rate cap agreement, the unamortized portion of which totaled \$552,866 at June 20, 1996. As a result of the early repayment of the 1994 Loan with a portion of the net proceeds from its initial public offering in June 1996, the Company has written-off the unamortized balance as an extraordinary non-cash charge in the second quarter of 1996.

Coopers & Lybrand L.L.P.

a professional services firm

REVIEW REPORT OF INDEPENDENT ACCOUNTANTS  
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To the Shareholders and Board of Directors  
ANSYS, Inc. and Subsidiaries

We have reviewed the unaudited consolidated balance sheet of ANSYS, Inc. and subsidiaries as of June 30, 1996, the unaudited statements of consolidated income for the six-month periods ended June 30, 1996 and 1995, and consolidated cash flows for the six-month periods ended June 30, 1996 and 1995, which are included in ANSYS's Form 10-Q for the period ended June 30, 1996. These financial statements are the responsibility of ANSYS's management.

We conducted our review in accordance with standards established by the American Institute of Certified Public Accountants. A review of interim financial information consists principally of applying analytical procedures to financial data and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the consolidated financial statements referred to above for them to be in conformity with generally accepted accounting principles.

We have previously audited, in accordance with generally accepted auditing standards, the consolidated balance sheet of ANSYS, Inc. and subsidiaries as of December 31, 1995, and the related statements of consolidated income, stockholders' equity (deficit) and cash flows for the year then ended (not presented herein). In our report dated April 19, 1996, we expressed an unqualified opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying condensed consolidated balance sheet as of December 31, 1995, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ Coopers & Lybrand L.L.P.

Pittsburgh, Pennsylvania  
July 18, 1996

Item 2.

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

ANSYS, Inc. (the "Company") is a leading international supplier of analysis and engineering software for optimizing the design of new products. The Company is committed to providing the most open and flexible analysis solutions to suit customer requirements for engineering software in today's competitive marketplace. In addition, the Company partners with leading design software suppliers to develop state-of-the-art CAD integrated products. A global network of ANSYS Support Distributors provides sales, support and training for customers. The following discussion should be read in conjunction with the attached unaudited consolidated financial statements and notes thereto for the periods ended June 30, 1996 and June 30, 1995 and with the Company's audited financial statements and notes thereto for the fiscal year ended December 31, 1995.

Results of Operations

Three Months Ended June 30, 1996 Compared to Three Months Ended June 30, 1995

Revenue. The Company's revenue increased 21.4% for the 1996 quarter to \$11.3 million from \$9.3 million for the 1995 quarter. This increase was attributable principally to increased international and domestic sales of paid-up licenses and increased maintenance and services revenue, both of which resulted primarily from the Company's increased marketing emphasis, market acceptance of new product releases and broader customer usage of maintenance and support services in response to accelerated frequency of product releases and the Company's increased emphasis on marketing its maintenance services.

Software licenses revenue increased 12.1% for the 1996 quarter to \$8.8 million from \$7.9 million for the 1995 quarter, resulting from increased sales of paid-up licenses in international and domestic markets. Revenue from sales of paid-up licenses increased 33.2% for the 1996 quarter to \$4.4 million from \$3.3 million for the 1995 quarter. The Company also experienced a 3.1% decrease in lease license revenue to \$4.4 million for the 1996 quarter from \$4.6 million for the 1995 quarter. Maintenance and service revenue increased 72.0% for the 1996 quarter to \$2.5 million from \$1.5 million for the 1995 quarter, as a result of a substantial increase in the sale of paid-up licenses, broader customer usage of maintenance and support services and reduction in the warranty period.

Of the Company's total revenue for the 1996 quarter, approximately 57.5% and 42.5% were attributable to international and domestic sales, as compared to 55.7% and 44.3% for the 1995 quarter.

Cost of Sales and Gross Profit. The Company's total cost of sales increased 14.2 % to \$1.5 million, or 13.6% of total revenue, for the 1996 quarter from \$1.3 million, or 14.5% of total revenue, for the 1995 quarter. The Company's cost of sales for software license revenue decreased 19.6% for the 1996 quarter to \$816,000, or 9.2% of software license revenue, from \$1,015,000, or 12.9% of software license revenue, for the 1995 quarter. The decrease was due primarily to a reduction of expenses through lower headcount and cost controls and implementation of a more efficient multi-platform development environment for the Company's product releases and was partially offset by increased royalty fees. The Company's cost of sales for maintenance and service revenue was \$724,000 and \$334,000, or 28.9% and 22.9% of maintenance and service revenue, for the 1996 and 1995 quarters, respectively, reflecting the substantial increase in maintenance and service revenue in the 1996 quarter.

As a result of the foregoing, the Company's gross profit increased 22.7% to \$9.8 million for the 1996 quarter from \$8.0 million for the 1995 quarter.

**Selling and Marketing.** Selling and marketing expenses increased 33.0% for the 1996 quarter to \$2.3 million, or 20.1% of total revenue, from \$1.7 million, or 18.3% of total revenue, for the 1995 quarter. This growth was attributable principally to increased personnel costs, including costs associated with increased headcount and compensation expenses related to building a sales and marketing organization, as well as increased commissions associated with increased revenue.

**Research and Development.** Research and development expenses increased 14.9% for the 1996 quarter to \$2.3 million, or 20.7% of total revenue, from \$2.0 million, or 21.9% of total revenue, for the 1995 quarter. This increase resulted primarily from employment of additional staff and independent contractors to develop and enhance the Company's products, including a dedicated team working on the development of the Company's DesignSpace product, costs associated with quality assurance, and equipment costs to implement an enhanced multi-platform development environment.

**Amortization.** Amortization expense was \$2.7 million in the second quarter in both 1996 and 1995. This amortization expense resulted from the 1994 Acquisition and relates primarily to intangible assets, including goodwill, which are being amortized from the date of the 1994 Acquisition, March 14, 1994. The unamortized portion of the goodwill and capitalized software acquired in connection with the 1994 Acquisition will be fully amortized in the first quarter of 1997.

**General and Administrative.** General and administrative expenses increased 20.3% to \$1.8 million, or 15.9% of total revenue, for the 1996 quarter from \$1.5 million, or 16.1% of total revenue, for the 1995 quarter. The Company has maintained a relatively stable headcount while adding administrative support services, such as computerized order fulfillment and corporate-wide information technology systems, to support its future operations. Additionally, accounting and legal expenses have increased due to the support of the Company's increased level of operations.

**Interest.** Interest expense decreased 23.5% for the 1996 quarter to \$781,000 from \$1,021,000 for the 1995 quarter. This decrease was attributable to a reduction in the outstanding principal of the 1994 Loan, as well as a reduction in the effective interest rate from period to period. Interest expense will decrease substantially commencing in the third quarter of 1996 due to the early repayment of the 1994 Loan and the Subordinated Notes with the net proceeds from the initial public offering in June 1996.

**Income Tax Benefit.** The Company accounts for income taxes in accordance with Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes." The Company's effective rate of taxation was 37.2% for the 1996 quarter, as compared to 33.3% for the 1995 quarter. These percentages are less than the federal and state combined statutory rate of approximately 39.0% due primarily to the utilization of research and experimentation credits.

**Net Loss.** The Company's net loss before extraordinary item decreased in the second quarter of 1996 to \$41,000 from a net loss of \$604,000 in the 1995 quarter. The net loss including the extraordinary item in the second quarter of 1996 was \$384,000.

#### Six Months Ended June 30, 1996 Compared to Six Months Ended June 30, 1995

**Revenue.** The Company's revenue increased 25.7% for the 1996 six months to \$22.1 million from \$17.6 million for the 1995 six months. This increase was attributable principally to increased international and domestic sales of paid-up licenses and increased maintenance and services revenue, both of which resulted primarily from the Company's increased marketing emphasis, market acceptance of new product releases and broader customer usage of maintenance and support services in response to accelerated frequency of product releases and the Company's increased emphasis on marketing its maintenance services.

Software license revenue increased 14.9% for the 1996 six months to \$17.2 million from \$15.0 million for the 1995 six months, resulting principally from increased sales of paid-up licenses in international and

domestic markets. Revenue from sales of paid-up licenses increased 31.3% for the 1996 six months to \$8.0 million from \$6.1 million for the 1995 six months. The Company also experienced a 3.7% increase in lease license revenue to \$9.2 million for the 1996 six months from \$8.9 million for the 1995 six months. Maintenance and service revenue increased 88.3% for the 1996 six months to \$4.9 million from \$2.6 million for the 1995 six months, as a result of a substantial increase in the sale of paid-up licenses, broader customer usage of maintenance and support services and reduction in the warranty period.

Of the Company's total revenue for the 1996 six months, approximately 53.7% and 46.3% respectively, were attributable to international and domestic sales, as compared to 55.0% and 45.0% respectively, for the 1995 six months.

Cost of Sales and Gross Profit. The Company's total cost of sales increased 6.1% to \$2.7 million, or 12.4% of total revenue, for the 1996 six months from \$2.6 million, or 14.7% of total revenue, for the 1995 six months. The Company's cost of sales for software license revenue decreased 24.8% for the 1996 six months to \$1.5 million, or 8.6% of software license revenue, from \$2.0 million, or 13.1% of software license revenue, for the 1995 six months. The decrease was due primarily to a reduction of expenses through lower headcount and cost controls and implementation of a more efficient multi-platform development environment for the Company's product releases and was partially offset by increased royalty fees. The Company's cost of sales for maintenance and service revenue was \$1,253,000 and \$607,000, or 25.8% and 23.5% of maintenance and service revenue, for the 1996 and 1995 six months, respectively, reflecting the substantial increase in maintenance and service revenue in the 1996 six months.

As a result of the foregoing, the Company's gross profit increased 29.0% to \$19.3 million for the 1996 six months from \$15.0 million for the 1995 six months.

Selling and Marketing. Selling and marketing expenses increased 32.3% for the 1996 six months to \$4.4 million, or 20.1% of total revenue, from \$3.4 million, or 19.1% of total revenue, for the 1995 six months. The increase in selling and marketing expenses resulted primarily from increased personnel costs, including costs associated with increased headcount and compensation expenses related to the establishment of a sales force to support the Company's distribution network, as well as increased commissions associated with increased revenue.

Research and Development. Research and development expenses increased 15.1% for the 1996 six months to \$4.7 million, or 21.2% of total revenue, from \$4.1 million, or 23.1% of total revenue, for the 1995 six months. This increase resulted primarily from employment of additional staff and independent contractors to develop and enhance the Company's products, including a dedicated team working on the development of the Company's DesignSpace product, costs associated with quality assurance and equipment costs to implement an enhanced multi-platform development environment.

Amortization. Amortization expense was \$5.4 million for the 1996 six months and \$5.3 million for the 1995 six months. This amortization expense resulted from the 1994 Acquisition and relates primarily to intangible assets, including goodwill, which are being amortized from the date of the 1994 Acquisition, March 14, 1994. The unamortized portion of the goodwill and capitalized software acquired in connection with the 1994 Acquisition will be fully amortized in the first quarter of 1997.

General and Administrative. General and administrative expenses increased 22.1% for the 1996 six months to \$3.7 million, or 16.6% of total revenue, from \$3.0 million, or 17.1% of total revenue, for the 1995 six months. The Company has maintained a relatively stable headcount while adding administrative support services, such as a computerized order fulfillment and corporate-wide information technology systems, to support its future operations. Additionally, accounting and legal expenses have increased due to the support of the Company's increased level of operations.

Interest. Interest expense decreased 17.2% for the 1996 six months to \$1.7 million from \$2.0 million for the 1995 six months. This decrease was attributable to a reduction in the outstanding principal of the 1994 Loan, as well as a reduction in the effective interest rate from period to period. Interest expense will decrease substantially commencing in the third quarter of 1996 due to the early repayment of the 1994 Loan and the Subordinated Notes with the net proceeds from the initial public offering in June 1996.

Income Tax Benefit. The Company accounts for income taxes in accordance with Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes." The Company's effective rate of taxation was 38.3% for the 1996 six months, as compared to 33.4% for the 1995 six months. These percentages are less than the federal and state combined statutory rate of approximately 39.0% due primarily to the utilization of research and experimentation credits.

Net Loss. The Company's net loss before extraordinary item decreased in the six months of 1996 to \$242,000 from a net loss of \$1,789,000 in the 1995 six months. The net loss including the extraordinary item in the 1996 six months was \$585,000.

#### Liquidity and Capital Resources

As of June 30, 1996, the Company had cash and cash equivalents of \$8.7 million and working capital of \$10.1 million, as compared to cash and cash equivalents of \$8.1 million and working capital of \$3.2 million at December 31, 1995. The improvement in the working capital position was due primarily to the net proceeds of \$41.1 million received from the Company's initial public offering on June 25, 1996. The proceeds from the offering were used to repay the 1994 Loan and the Subordinated Notes, including accrued and unpaid interest, and retire all of the Company's outstanding Redeemable Preferred Stock, including accumulated dividends. Previously, the Company also had available to it a \$1.0 million revolving line of credit with a commercial bank under a credit facilities agreement. During the second quarter of 1996, the Company elected to terminate the line of credit.

The Company's operating activities provided cash of \$3.1 million for the six months ended June 30, 1996 and \$4.2 million for the six months ended June 30, 1995. The Company's cash flow from operations decreased for the six months ended June 30, 1996 as compared to the six months ended June 30, 1995. This was a result of increased working capital requirements, primarily relating to an increase in accounts receivable, resulting from the substantial increase in maintenance and service revenue.

Cash used in investing activities was \$658,000 for the six months ended June 30, 1996 and \$922,000 for the six months ended June 30, 1995. The Company's use of cash in these periods was substantially related to capital expenditures and internally developed software costs. The Company expects to spend approximately \$2.5 million for capital equipment in 1996 principally for the acquisition of computer hardware, software and equipment.

Financing activities used net cash of \$1.8 million for the six months ended June 30, 1996 and \$2.0 million for the six months ended June 30, 1995. Cash provided from financing activities for the six months ended June 30, 1996 was due primarily to the net proceeds of \$41.1 million received from the Company's initial public offering on June 25, 1996 (see Note 2). Cash used for financing activities for the six months ended June 30, 1996 was the result of the repayment of the 1994 Loan and Subordinated Notes, payment of related unpaid interest and the redemption of the Preferred Stock and accumulated dividends. Cash used for the six months ended June 30, 1995 was the result of principal repayments made on the 1994 loan.

## New Accounting Pronouncements

In March 1995, the Financial Accounting Standards Board (the "FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 121, "Accounting for the Impairment of Long-Lived Assets and Long-Lived Assets to be Disposed Of." The new standard was implemented in the first quarter of 1996 and did not have a material effect on the consolidated financial statements.

## Statement Regarding Forward Looking Disclosures

### RIDER 9-1

This Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Company's actual results could differ materially from those set forth in the forward-looking statements. Certain factors that might cause such a difference include possible delays in developing, completing or shipping new or enhanced products, as well as other risks and uncertainties that are detailed from time to time in reports filed by ANSYS, Inc. with the Securities and Exchange Commission, including ANSYS, Inc.'s registration statement on Form S-1 and related prospectus dated June 20, 1996, and the "Risk Factors" described therein, and in the statement of "Certain Factors Affecting Future Results" included herein as Exhibit 99.

PART II OTHER INFORMATION

Item 1. Legal Proceedings

Not Applicable.

Item 2. Changes in Securities

On June 25, 1996, the Company's non-voting Class A Common Stock was converted into voting Common Stock in accordance with its terms in conjunction with the closing of the Company's initial public offering. See Item 4(c) below.

Item 3. Defaults upon Secured Securities

Not Applicable.

Item 4. Submission of Matters to Vote of Security-Holders

- (a) The stockholders of the Company acted by written consent (the "Consent") in lieu of Annual Meeting of Stockholders dated April 27, 1996.
- (b) As described in paragraph (c) below, the Registrant's Board of Directors as previously reported to the Commission was re-elected in its entirety pursuant to the above-referenced consent.
- (c) The Consent was executed by the holders of all of the 1,172,186 shares of Common Stock then outstanding and, as to item 2 below only as required by Delaware law, the holders of 64,450 of the 110,746 shares of Class A Common Stock then outstanding (with no votes in opposition, withheld or abstaining or broker non-votes) and the holders of all of the 412 shares of 10% Cumulative Redeemable Preferred Stock then outstanding. The matters acted upon by the stockholders pursuant to the Consent are as follows:

1. Election of Directors

The stockholders approved the election of Peter J. Smith, John A. Swanson, Gary B. Eichhorn, Roger J. Heinen, Jr., Roger B. Kafker, Jacqueline C. Morby and John F. Smith as Directors and also approved the classification of the Board from and after the completion of the Company's initial public offering for the terms indicated below as follows:

Class I - Term Expires at Annual Meeting of Stockholders held in 1997:

Peter J. Smith  
Dr. John A. Swanson

Class II - Term Expires at Annual Meeting of Stockholders held in 1998:

Roger J. Heinen, Jr.  
Roger B. Kafker  
Jacqueline C. Morby

Class III - Term Expires at Annual Meeting of Stockholders held in 1999:

Gary B. Eichhorn  
John T. Smith



Each Director received the same number of votes.

2. Adoption of and Approval of Amended and Restated Certificate of Incorporation.

The stockholders of the Company acted to amend and restate the Company's Certificate of Incorporation (the "Certificate") effective upon completion of the Company's initial public offering, to: (i) provide for the classification of the Board of Directors; (ii) increase the number of shares of common stock authorized to 50,000,000 and authorize 2,000,000 shares of undesignated preferred stock; (iii) prohibit action by stockholders by written consent; (iv) provide that amendments to the Certificate relating to the establishment of the Board of Directors and amendments to the Certificate shall require 80% of the total votes eligible to be cast; and (v) certain other amendments related to the foregoing.

The stockholders of the Company voted to authorize the filing with the Secretary of the State of Delaware of (i) certificates retiring and eliminating (A) all authorized shares of the Company's 10% Cumulative Redeemable Preferred Stock upon redemption thereof and (B) all authorized shares of the Company's Class A Common Stock upon conversion thereof to shares of Common Stock upon the closing of the Company's initial public offering and (ii) a Restated Certificate of Incorporation reflecting such retirement.

3. The stockholders voted to approve the Company's 1996 Stock Plan and its 1996 Employee Stock Purchase Plan.

(d) Not Applicable.

Item 5. Other information

Not Applicable.

Item 6. Exhibits and Reports Filed on Form 8-K

(a) Exhibits.

- 3.1 Restated Certificate of Incorporation
- 10.1 1996 Stock Option and Grant Plan, as amended
- 10.2 1996 Employee Stock Purchase Plan, as amended
- 27.1 Financial Data Schedules
- 99 Certain Factors Regarding Future Results

(b) Reports on Form 8-K.

Not Applicable.

SIGNATURES

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

ANSYS, Inc.

Date: August 13, 1996

By: /s/ Peter J. Smith

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Peter J. Smith  
Chairman, President and Chief Executive Officer

Date: August 13, 1996

By: /s/ John M. Sherbin II

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John M. Sherbin II  
Vice President, Finance and Administration,  
Secretary, Treasurer and Chief Financial Officer

Item 6.

EXHIBIT INDEX

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Exhibit No.

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3.1	Restated Certificate of Incorporation
10.1	1996 Stock Option and Grant Plan, as amended
10.2	1996 Employee Stock Purchase Plan, as amended
27.1	Financial Data Schedules
99	Certain Factors Regarding Future Results

RESTATED

CERTIFICATE OF INCORPORATION

OF

ANSYS, INC.

ANSYS, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is ANSYS, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was January 12, 1994. The name under which the Corporation filed its original Certificate of Incorporation was SAS Holdings, Inc.

2. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Third Amended and Restated Certificate of Incorporation of the Corporation filed with the Secretary of State of the State of Delaware on June 20, 1996 (the "Third Amended and Restated Certificate of Incorporation"), there is no discrepancy between the provisions of this Restated Certificate of Incorporation and the provisions of the Third Amended and Restated Certificate of Incorporation, and was duly adopted by the Board of Directors in accordance with the provisions of Section 245 of the General Corporation Law of the State of Delaware (the "DGCL").

3. The text of the Third Amended and Restated Certificate of Incorporation is hereby restated in its entirety to provide as herein set forth in full.

ARTICLE I

NAME

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The name of the Corporation is ANSYS, Inc.

ARTICLE II

REGISTERED OFFICE

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The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

PURPOSES

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The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV

CAPITAL STOCK

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Section 1. Number of Shares.

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The total number of shares of capital stock which the Corporation shall have the authority to issue is Fifty-Two Million (52,000,000) shares, of which (i) Two Million (2,000,000) shares shall be Undesignated Preferred Stock, par value \$.01 per share (the "Preferred Stock"), and (ii) Fifty Million (50,000,000) shares shall be Common Stock, par value \$.01 per share (the "Common Stock"). As set forth in this Article IV, the Board of Directors or any authorized committee thereof is authorized from time to time to establish and designate one or more series of Preferred Stock, to fix and determine the variations in the relative rights and preferences as between the different series of Preferred Stock in the manner hereinafter set forth in this Article IV, and to fix or alter the number of shares comprising any such series and the designation thereof to the extent permitted by law.

The number of authorized shares of the class of Preferred Stock may be increased or decreased (but not below the number of shares outstanding) by the affirmative vote of the holders of a majority of the Common Stock, without a vote of the holders of the Preferred Stock, pursuant to the resolution or resolutions establishing the class of Preferred Stock or this Restated Certificate of Incorporation, as it may be amended from time to time.

Section 2. General.

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The designations, powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below in, Sections 3 and 4 of this Article IV.

Section 3. Common Stock.

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Subject to all of the rights, powers and preferences of the Preferred Stock, and except as provided by law or in this Article IV (or in any certificate of designation of any series of Preferred Stock) or by the Board of Directors or any authorized committee thereof pursuant to this Article IV:

(a) the holders of the Common Stock shall have the exclusive right to vote for the election of Directors and on all other matters requiring stockholder action, each share being entitled to one vote;

(b) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends, but only when and as declared by the Board of Directors or any authorized committee thereof; and

(c) upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation shall be distributed pro rata to the holders of the Common Stock in accordance with their respective rights and interests.

Section 4. Preferred Stock.

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Subject to any limitations prescribed by law, the Board of Directors or any authorized committee thereof is expressly authorized to provide for the issuance of the shares of Preferred Stock in one or more series of such stock, and by filing a certificate pursuant to applicable law of the State of Delaware, to establish or change from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof. Any action by the Board of Directors or any authorized committee thereof under this Section 4 shall require the affirmative vote of a majority of the Directors then in office or a majority of the members of such committee. The Board of Directors or any authorized committee thereof shall have the right to determine or fix one or more of the following with respect to each series of Preferred Stock to the extent permitted by law:

(a) The distinctive serial designation and the number of shares constituting such series;

(b) The dividend rates or the amount of dividends to be paid on the shares of such series, whether dividends shall be cumulative and, if so, from which date or dates, the payment date or dates for dividends, and the participating and other rights, if any, with respect to dividends;

(c) The voting powers, full or limited, if any, of the shares of such series;

(d) Whether the shares of such series shall be redeemable and, if so, the price or prices at which, and the terms and conditions on which, such shares may be redeemed;

(e) The amount or amounts payable upon the shares of such series and any preferences applicable thereto in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(f) Whether the shares of such series shall be entitled to the benefit of a sinking or retirement fund to be applied to the purchase or redemption of such shares, and if so entitled, the amount of such fund and the manner of its application, including the price or prices at which such shares may be redeemed or purchased through the application of such fund;

(g) Whether the shares of such series shall be convertible into, or exchangeable for, shares of any other class or classes or of any other series of the same or any other class or classes of stock of the Corporation and, if so convertible or exchangeable, the conversion price or prices, or the rate or rates of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made, and any other terms and conditions of such conversion or exchange;

(h) The price or other consideration for which the shares of such series shall be issued;

(i) Whether the shares of such series which are redeemed or converted shall have the status of authorized but unissued shares of Preferred Stock (or series thereof) and whether such shares may be reissued as shares of the same or any other class or series of stock; and

(j) Such other powers, preferences, rights, qualifications, limitations and restrictions thereof as the Board of Directors or any authorized committee thereof may deem advisable.

ARTICLE V

STOCKHOLDER ACTION  
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Any action required or permitted to be taken by the stockholders of the Corporation at any annual or special meeting of stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders and may not be taken or effected by a written consent of stockholders in lieu thereof.

ARTICLE VI

DIRECTORS  
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Section 1. General.  
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The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors except as otherwise provided herein or required by law.

Section 2. Election of Directors.  
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Election of Directors need not be by written ballot unless the By-laws of the Corporation shall so provide.

Section 3. Terms of Directors.  
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The number of Directors of the Corporation shall be fixed by resolution duly adopted from time to time by the Board of Directors. The Directors, other than those who may be elected by the holders of any series of Preferred Stock of the Corporation, shall be classified, with respect to the term for which they severally hold office, into three classes, as nearly equal in number as possible. The initial Class I Directors of the Corporation shall be Peter J. Smith and Dr. John A. Swanson; the initial Class II Directors of the Corporation shall be Roger J. Heinen, Jr., Roger B. Kafker and Jacqueline C. Morby; and the initial Class III Directors of the Corporation shall be Gary B. Eichhorn and John F. Smith. The initial Class I Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 1997, the initial Class II Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 1998, and the initial Class III Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 1999. At each annual meeting of stockholders, the successor or successors of the class of Directors whose term expires at that meeting shall be elected by a plurality of the votes cast at such meeting and shall hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election. The Directors



elected to each class shall hold office until their successors are duly elected and qualified or until their earlier resignation or removal.

Notwithstanding the foregoing, whenever, pursuant to the provisions of Article IV of this Restated Certificate of Incorporation, the holders of any one or more series of Preferred Stock shall have the right, voting separately as a series or together with holders of other such series, to elect Directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Restated Certificate of Incorporation and any certificate of designations applicable thereto, and such Directors so elected shall not be divided into classes pursuant to this Section 3.

During any period when the holders of any series of Preferred Stock have the right to elect additional Directors as provided for or fixed pursuant to the provisions of Article IV hereof, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of Directors of the Corporation shall automatically be increased by such specified number of Directors, and the holders of such Preferred Stock shall be entitled to elect the additional Directors so provided for or fixed pursuant to said provisions, and (ii) each such additional Director shall serve until such Director's successor shall have been duly elected and qualified, or until such Director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to such Director's earlier death, disqualification, resignation or removal. Except as otherwise provided by the Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional Directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional Directors, shall forthwith terminate and the total and authorized number of Directors of the Corporation shall be reduced accordingly.

Section 4. Vacancies.

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Subject to the rights, if any, of the holders of any series of Preferred Stock to elect Directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a Director, shall be filled solely by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum of the Board of Directors. Any Director appointed in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of Directors in which the new directorship was created or the vacancy occurred and until such Director's successor shall have been duly elected and qualified or until his or her earlier resignation or removal. Subject to the rights, if any, of the holders of any series of Preferred Stock to elect Directors, when the number of Directors is increased or decreased, the Board of Directors shall determine the class or classes to which the increased or decreased number of

Directors shall be apportioned; provided, however, that no decrease in the number of Directors shall shorten the term of any incumbent Director. In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until the vacancy is filled.

Section 5. Removal.

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Subject to the rights, if any, of any series of Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (i) only with cause and (ii) only by the affirmative vote of at least two-thirds of the total votes which would be eligible to be cast by stockholders in the election of such Director. At least 30 days prior to any meeting of stockholders at which it is proposed that any Director be removed from office, written notice of such proposed removal shall be sent to the Director whose removal will be considered at the meeting. For purposes of this Restated Certificate of Incorporation, "cause," with respect to the removal of any Director shall mean only (i) conviction of a felony, (ii) declaration of unsound mind by order of court, (iii) gross dereliction of duty, (iv) commission of any action involving moral turpitude, or (v) commission of an action which constitutes intentional misconduct or a knowing violation of law if such action in either event results both in an improper substantial personal benefit and a material injury to the Corporation.

ARTICLE VII

LIMITATION OF LIABILITY

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A Director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL or (iv) for any transaction from which the Director derived an improper personal benefit. If the DGCL is amended after the effective date of this Restated Certificate of Incorporation to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII by either of (i) the stockholders of the Corporation or (ii) an amendment to the DGCL, shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person serving as a Director at the time of such repeal or modification.

ARTICLE VIII

AMENDMENT OF BY-LAWS

Section 1. Amendment by Directors

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Except as otherwise provided by law, the By-laws of the Corporation may be amended or repealed by the Board of Directors.

Section 2. Amendment by Stockholders

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The By-laws of the Corporation may be amended or repealed at any annual meeting of stockholders, or special meeting of stockholders called for such purpose, by the affirmative vote of at least two-thirds of the total votes eligible to be cast on such amendment or repeal by holders of voting stock, voting together as a single class; provided, however, that if the Board of Directors recommends that stockholders approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of a majority of the total votes eligible to be cast on such amendment or repeal by holders of voting stock, voting together as a single class.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

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The Corporation reserves the right to amend or repeal this Restated Certificate of Incorporation in the manner now or hereafter prescribed by statute and this Restated Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation. No amendment or repeal of this Restated Certificate of Incorporation shall be made unless the same is first approved by the Board of Directors pursuant to a resolution adopted by the Board of Directors in accordance with Section 242 of the DGCL, and, except as otherwise provided by law, thereafter approved by the stockholders. Whenever any vote of the holders of voting stock is required, and in addition to any other vote of holders of voting stock that is required by this Restated Certificate of Incorporation or by law, the affirmative vote of a majority of the total votes eligible to be cast by holders of voting stock with respect to such amendment or repeal, voting together as a single class, at a duly constituted meeting of stockholders called expressly for such purpose shall be required to amend or repeal any provisions of this Restated Certificate of Incorporation; provided, however, that the affirmative vote of not less than 80% of the total votes eligible to be cast by holders of voting stock, voting together as a single class, shall be required to amend or repeal any of the provisions of Article VI or Article IX of this Restated Certificate of Incorporation .

I, Peter J. Smith, President of the Corporation, for the purpose of restating the Corporation's Third Amended and Restated Certificate of Incorporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that this is my act and deed on behalf of the Corporation this 10th day of July, 1996.

/s/ Peter J. Smith

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Peter J. Smith, President

## ANSYS, INC.

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## 1996 STOCK OPTION AND GRANT PLAN

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## SECTION 1. GENERAL PURPOSE OF THE PLAN; DEFINITIONS

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The name of the plan is the ANSYS, Inc. 1996 Stock Option and Grant Plan (the "Plan"). The purpose of the Plan is to encourage and enable the officers, employees, directors, consultants and key persons of ANSYS, Inc. (the "Company") and its Subsidiaries upon whose judgment, initiative and efforts the Company largely depends for the successful conduct of its business to acquire a proprietary interest in the Company. It is anticipated that providing such persons with a direct stake in the Company's welfare will assure a closer identification of their interests with those of the Company, thereby stimulating their efforts on the Company's behalf and strengthening their desire to remain with the Company.

The following terms shall be defined as set forth below:

"Act" means the Securities Exchange Act of 1934, as amended.

"Award" or "Awards," except where referring to a particular category of grant under the Plan, shall include Incentive Stock Options, Non-Qualified Stock Options, Restricted Stock Awards, Unrestricted Stock Awards, Performance Share Awards and Dividend Equivalent Rights.

"Board" means the Board of Directors of the Company.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor Code, and related rules, regulations and interpretations.

"Committee" means the Committee of the Board referred to in Section 2.

"Disinterested Person" means an Independent Director who qualifies as such under Rule 16b-3(c)(2)(i) promulgated under the Act, or any successor definition under said Rule. If Rule 16b-3(c)(2)(i) is amended and such definition no longer exists, the requirement set forth in Section 2(a) hereof that each member of the Committee be a Disinterested Person shall cease to apply.

"Dividend Equivalent Right" means Awards granted pursuant to Section 9.

"Effective Date" means the date on which the Plan is approved by stockholders as set forth in Section 15.

"Fair Market Value" of the Stock on any given date means (i) if the Stock is admitted to quotation on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"), the Fair Market Value on any given date shall not be less than the average of the highest bid and lowest asked prices

of the Stock reported for such date or, if no bid and asked prices were reported for such date, for the last day preceding such date for which such prices were reported, or (ii) if the Stock is admitted to trading on a national securities exchange or the NASDAQ National Market System, then clause (i) shall not apply and the Fair Market Value on any date shall not be less than the closing price reported for the Stock on such exchange or system for such date or, if no sales were reported for such date, for the last date preceding such date for which a sale was reported, and (iii) notwithstanding the foregoing, the Fair Market Value of the Stock on the effective date of the Initial Public Offering shall be the offering price to the public of the Stock on such date.

"Incentive Stock Option" means any Stock Option designated and qualified as an "incentive stock option" as defined in Section 422 of the Code.

"Independent Director" means a member of the Board who is neither an employee or officer of the Company or any Subsidiary, nor a representative of the major investor of the Company prior to the Company's Initial Public Offering.

"Initial Public Offering" means the first underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Stock to the public.

"Non-Qualified Stock Option" means any Stock Option that is not an Incentive Stock Option.

"Option" or "Stock Option" means any option to purchase shares of Stock granted pursuant to Section 5.

"Performance Share Award" means any Award granted pursuant to Section 8.

"Restricted Stock Award" means any Award granted pursuant to Section 6.

"Stock" means the Common Stock, par value \$.01 per share, of the Company, subject to adjustments pursuant to Section 3.

"Subsidiary" means any corporation or other entity (other than the Company) in any unbroken chain of corporations or other entities, beginning with the Company, if each of the corporations or entities (other than the last corporation or entity in the unbroken chain) owns stock or other interests possessing 50% or more of the economic interest or the total combined voting power of all classes of stock or other interests in one of the other corporations or entities in the chain.

"Unrestricted Stock Award" means any Award granted pursuant to Section 7.

SECTION 2. ADMINISTRATION OF PLAN; COMMITTEE AUTHORITY TO SELECT PARTICIPANTS  
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AND DETERMINE AWARDS  
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(a) Committee. The Plan shall be administered by the Option and  
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Compensation Committee of the Board, or any other committee of not less than two non-employee Directors performing similar functions as appointed by the Board from time to time.

On and after the date the Company becomes subject to the Act, each member of the Committee shall be a Disinterested Person. On and after the date the Plan becomes subject to Section 162(m) of the Code, each member of the Committee shall be an "Outside Director" within the meaning of Section 162(m) of the Code and the regulations promulgated thereunder. On and after August 15, 1996, the Plan may be administered by either the Board or a committee of "Non-Employee Directors" within the meaning of Rule 16b-3(a)(3), and all references to the "Committee" (other than the last sentence of Section 4) shall also be deemed to refer to the Board.

(b) Powers of Committee. The Committee shall have the power and

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authority to grant Awards consistent with the terms of the Plan, including the power and authority:

(i) to select the officers, employees, consultants and key persons of the Company and its Subsidiaries to whom Awards may from time to time be granted;

(ii) to determine the time or times of grant, and the extent, if any, of Incentive Stock Options, Non-Qualified Stock Options, Restricted Stock Awards, Unrestricted Stock Awards, Performance Share Awards and Dividend Equivalent Rights, or any combination of the foregoing, granted to any one or more participants;

(iii) to determine the number of shares of Stock to be covered by any Award;

(iv) to determine and modify from time to time the terms and conditions, including restrictions, not inconsistent with the terms of the Plan, of any Award, which terms and conditions may differ among individual Awards and participants, and to approve the form of written instruments evidencing the Awards;

(v) to accelerate at any time the exercisability or vesting of all or any portion of any Award and/or to include provisions in Awards providing for such acceleration;

(vi) to impose any limitations on Awards granted under the Plan, including limitations on transfers, repurchase provisions and the like;

(vii) subject to the provisions of Section 5(a)(iii), to extend at any time the period in which Stock Options may be exercised;

(viii) to determine at any time whether, to what extent, and under what circumstances Stock and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the participant and whether and to what extent the Company shall pay or credit amounts constituting interest (at rates determined by the Committee) or dividends or deemed dividends on such deferrals; and

(ix) at any time to adopt, alter and repeal such rules, guidelines and practices for administration of the Plan and for its own acts and proceedings as it shall deem advisable; to interpret the terms and provisions of the Plan and any Award (including related written instruments); to make all determinations it deems advisable for the administration of the Plan; to decide all disputes arising in connection with the Plan; and to otherwise supervise the administration of the Plan.

All decisions and interpretations of the Committee shall be binding on all persons, including the Company and Plan participants.

(c) Delegation of Authority to Grant Awards. The Committee, in its

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discretion, may delegate to the Chief Executive Officer of the Company all or part of the Committee's authority and duties with respect to Awards, including the granting thereof, to individuals who are not subject to the reporting and other provisions of Section 16 of the Act or "covered employees" within the meaning of Section 162(m) of the Code. The Committee may revoke or amend the terms of a delegation at any time but such action shall not invalidate any prior actions of the Committee's delegate or delegates that were consistent with the terms of the Plan.

SECTION 3. STOCK ISSUABLE UNDER THE PLAN; MERGERS; SUBSTITUTION

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(a) Stock Issuable. The maximum number of shares of Stock reserved

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and available for issuance under the Plan shall be 2,250,000 shares of Stock. No more than 300,000 shares of Stock may be issued to Independent Directors pursuant to Section 5(c) of the Plan. For purposes of the foregoing limitations, the shares of Stock underlying any Awards which are forfeited, canceled, reacquired by the Company, satisfied without the issuance of Stock or otherwise terminated (other than by exercise) shall be added back to the shares of Stock available for issuance under the Plan. Subject to such overall limitation, shares of Stock may be issued up to such maximum number pursuant to any type or types of Award; provided, however, that on and after the date the Plan is subject to Section 162(m) of the Code, Stock Options with respect to no more than 300,000 shares of Stock may be granted to any one individual participant during any one calendar year period. The shares available for issuance under the Plan may be authorized but unissued shares of Stock or shares of Stock reacquired by the Company.

(b) Recapitalizations. If, through or as a result of any merger,

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consolidation, sale of all or substantially all of the assets of the Company, reorganization, recapitalization, reclassification, stock dividend, stock split, reverse stock split or other similar transaction, the outstanding shares of Stock are increased or decreased or are exchanged for a different number or kind of shares or other securities of the Company, or additional shares or new or different shares or other securities of the Company or other non-cash assets are distributed with respect to such shares of Stock or other securities, the Committee shall make an appropriate or proportionate adjustment in (i) the maximum number of shares reserved for issuance under the Plan or for the Independent Directors pursuant to Section 5(c) of the Plan, (ii) the number of Stock Options that can be granted to any one individual participant, (iii) the number and kind of shares or other securities subject to any then outstanding Awards under the Plan, and (iv) the price for each share subject to any then outstanding Stock Options under the Plan, without changing the aggregate exercise price (i.e., the exercise price multiplied by the number of shares) as to which such Stock Options remain exercisable. The adjustment by the Committee shall be final, binding and conclusive. No fractional shares of Stock shall be issued under the Plan resulting from any such adjustment, but the Committee in its discretion may make a cash payment in lieu of fractional shares.

(c) Mergers and Other Transactions. In the case of (i) the

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dissolution or liquidation of the Company, (ii) a merger, reorganization or consolidation in which the Company is acquired by another person or entity (other than a holding company formed by the Company), (iii) the sale of all or substantially all of the assets of the Company to an unrelated person or entity, or (iv) the sale of all of the Stock of the Company to an unrelated person or entity (in each case, a "Transaction"), the outstanding Options held by Independent Directors shall become fully vested. Upon the effectiveness of the Transaction, the Plan and all Awards granted hereunder shall terminate, unless



provision is made in connection with the Transaction for the assumption of Awards heretofore granted, or the substitution of such Awards of new Awards of the successor entity or parent thereof, with appropriate adjustment as to the number and kind of shares and, if appropriate, the per share exercise prices, as provided in Section 3(b) above. In the event of such termination, each optionee shall be permitted to exercise for a period of at least 15 days prior to the date of such termination (1) all options held by such optionee which are then exercisable, and (2) such number of additional options held by such optionee, to the extent such options are not then exercisable, as may be specified in the relevant option agreement, if any. During this 15-day period, Independent Directors may exercise unvested Options that will become fully vested upon the effectiveness of the Transaction, subject to the consummation of the Transaction.

(d) Substitute Awards. The Committee may grant Awards under the Plan

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in substitution for stock and stock based awards held by employees of another corporation who become employees of the Company or a Subsidiary as the result of a merger or consolidation of the employing corporation with the Company or a Subsidiary or the acquisition by the Company or a Subsidiary of property or stock of the employing corporation. The Committee may direct that the substitute awards be granted on such terms and conditions as the Committee considers appropriate in the circumstances.

#### SECTION 4. ELIGIBILITY

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Participants in the Plan will be such officers and other employees, consultants and key persons of the Company and its Subsidiaries who are responsible for or contribute to the management, growth or profitability of the Company and its Subsidiaries as are selected from time to time by the Committee, in its sole discretion. In addition, Independent Directors are eligible to receive Options pursuant to the provisions of Section 5(c) of the Plan. Independent Directors who are not serving on the Committee are eligible to receive Options pursuant to the provisions of Sections 5(a), (b) and (c) of the Plan.

#### SECTION 5. STOCK OPTIONS

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Any Stock Option granted under the Plan shall be pursuant to a stock option agreement which shall be in such form as the Committee may from time to time approve. Option agreements need not be identical.

Stock Options granted under the Plan may be either Incentive Stock Options or Non-Qualified Stock Options. Incentive Stock Options may be granted only to employees of the Company or any Subsidiary that is a "subsidiary corporation" within the meaning of Section 424(f) of the Code. Non-Qualified Stock Options may be granted to officers, employees, Independent Directors, advisors, consultants and key persons of the Company and its Subsidiaries. To the extent that any Option does not qualify as an Incentive Stock Option, it shall be deemed a Non-Qualified Stock Option.

No Incentive Stock Option shall be granted under the Plan after April 18, 2006.

(a) Terms of Stock Options. Stock Options granted under the Plan  
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shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Committee shall deem desirable:

(i) Exercise Price. The exercise price per share for the  
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Stock covered by a Stock Option shall be determined by the Committee at the time of grant but shall not be less than 100% of the Fair Market Value on the date of grant in the case of Incentive Stock Options. If an employee owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation and an Incentive Stock Option is granted to such employee, the option price of such Incentive Stock Option shall be not less than 110% of the Fair Market Value on the grant date.

(ii) Grant of Discount Options in Lieu of Cash Compensation.  
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Upon the request of an eligible participant (other than an Independent Director) and with the consent of the Committee, such participant may elect each calendar year to receive a Non-Qualified Stock Option in lieu of any cash bonus or other compensation to which he may become entitled during the following calendar year, but only if such participant makes an irrevocable election to waive receipt of all or a portion of such cash compensation. Such election shall be made on or before the date set by the Committee which date shall be no later than 15 days (or such shorter period permitted by the Committee) preceding January 1 of the calendar year for which the cash compensation would otherwise be paid. A Non-Qualified Stock Option shall be granted to each participant who made such an irrevocable election on the date the waived cash compensation would otherwise be paid. The exercise price per share shall be determined by the Committee. The number of shares of Stock subject to the Stock Option shall be determined by dividing the amount of the waived cash compensation by the difference between the Fair Market Value of the Stock on the date the Stock Option is granted and the exercise price per share of the Stock Option. The Stock Option shall be granted for a whole number of shares so determined; the value of any fractional share shall be paid in cash.

(iii) Option Term. The term of each Stock Option shall be  
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fixed by the Committee, but no Incentive Stock Option shall be exercisable more than ten years after the date the option is granted. If an employee owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation and an Incentive Stock Option is granted to such employee, the term of such option shall be no more than five years from the date of grant.

(iv) Exercisability; Rights of a Stockholder. Stock Options  
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shall become vested and exercisable at such time or times, whether or not in installments, as shall be determined by the Committee at or after the grant date; provided, however, that Stock Options granted in lieu of cash compensation shall be exercisable in full as of the grant date. The Committee may at any time accelerate the exercisability of all or any portion of any Stock Option. An optionee shall have the rights of a stockholder only as to shares acquired upon the exercise of a Stock Option and not as to unexercised Stock Options.

(v) Method of Exercise. Stock Options may be exercised in  
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whole or in part, by giving written notice of exercise to the Company, specifying the number of shares to be purchased. Payment of the purchase price may be made by one or more of the following methods; provided, however, that the methods set forth in subsections (B) and (C) below shall become available only after the closing of the Initial Public Offering:

(A) In cash, by certified or bank check or other instrument acceptable to the Committee;

(B) In the form of shares of Stock that are not then subject to restrictions under any Company plan and that have been held by the optionee free of such restrictions for at least six months, if permitted by the Committee in its discretion. Such surrendered shares shall be valued at Fair Market Value on the exercise date; or

(C) By the optionee delivering to the Company a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company cash or a check payable and acceptable to the Company to pay the purchase price; provided that in the event the optionee chooses to pay the purchase price as so provided, the optionee and the broker shall comply with such procedures and enter into such agreements of indemnity and other agreements as the Committee shall prescribe as a condition of such payment procedure.

Payment instruments will be received subject to collection. The delivery of certificates representing the shares of Stock to be purchased pursuant to the exercise of a Stock Option will be contingent upon receipt from the optionee (or a purchaser acting in his stead in accordance with the provisions of the Stock Option) by the Company of the full purchase price for such shares and the fulfillment of any other requirements contained in the Stock Option or applicable provisions of laws.

(vi) Termination. Unless otherwise provided in the option  
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agreement or determined by the Committee, upon the optionee's termination of employment (or other business relationship) with the Company and its Subsidiaries, the optionee's rights in his Stock Options shall automatically terminate.

(vii) Annual Limit on Incentive Stock Options. To the  
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extent required for "incentive stock option" treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the shares of Stock with respect to which Incentive Stock Options granted under this Plan and any other plan of the Company or its

parent and subsidiary corporations become exercisable for the first time by an optionee during any calendar year shall not exceed \$100,000. To the extent that any Stock Option exceeds this limit, it shall constitute a Non-Qualified Stock Option.

(b) Reload Options. At the discretion of the Committee, Options

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granted under Section 5(a) may include a "reload" feature pursuant to which an optionee exercising an option by the delivery of a number of shares of Stock in accordance with Section 5(a)(v)(B) hereof would automatically be granted an additional Option (with an exercise price equal to the Fair Market Value of the Stock on the date the additional Option is granted and with the same expiration date as the original Option being exercised, and with such other terms as the Committee may provide) to purchase that number of shares of Stock equal to the number delivered to exercise the original Option.

(c) Stock Options Granted to Independent Directors.

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(i) Automatic Grant of Options.

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(A) Each Independent Director who is first elected or appointed to serve as a director commencing after the effective date of the Initial Public Offering shall be granted, on the fifth business day after his initial term of office commences, a Non-Qualified Stock Option to acquire that number of shares of Stock determined by dividing \$200,000 by the Option Exercise Price.

(B) Each Independent Director who is serving as director of the Company on the fifth business day after each annual meeting of stockholders, beginning with the 1997 annual meeting, shall automatically be granted on such day a Non-Qualified Stock Option to acquire that number of shares of Stock determined by dividing \$75,000 by the Option Exercise Price.

(ii) Option Terms.

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(A) The Option Exercise Price per share for the Stock covered by a Stock Option granted under this Section 5(c) shall be equal to the lesser of (1) the Fair Market Value of the Stock on the date of grant or (2) the average of the Fair Market Value of the Stock for a period of ten consecutive trading days prior to the date of grant.

(B) Each Stock Option granted under this Section 5(c) shall be exercisable in annual installments over four years. No such Option shall be exercisable after the tenth anniversary of the date it was granted.

(C) If an optionee ceases to be a director for any reason, each Stock Option granted to such optionee under this Section 5(c) shall terminate immediately with respect to all shares of Stock for which it is not then exercisable. With respect to the remaining shares, such Option shall terminate 60 days after the date the optionee ceases to be a director or at the expiration of the stated term of the Option, if earlier; provided, however, that (1) if the optionee dies while a

director, such Option may be exercised for such remaining shares by the personal representative or legatee of the optionee for a period of one year from the date of death or until the expiration of the stated term of the Option, if earlier; or (2) if the optionee ceases to be a director by reason of disability, such Option may be exercised for such remaining shares by the director for six months after the date the optionee ceases to be a director or until the expiration of the stated term of the Option, if earlier.

(D) A Stock Option granted under this Section 5(c) may be exercised only by written notice to the Company specifying the number of shares to be purchased. Payment of the full purchase price of the shares to be purchased may be made by one or more of the methods specified in Section 5(a)(v). An optionee shall have the rights of a stockholder only as to shares acquired upon the exercise of an Option and not as to unexercised Options.

(iii) Limited to Independent Directors. The provisions of

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this Section 5(c) shall apply only to Stock Options granted or to be granted to Independent Directors, and shall not be deemed to modify, limit or otherwise apply to any other provision of this Plan or to any Option issued under this Plan to a participant who is not an Independent Director. To the extent that they are inconsistent with any other provisions of the Plan, the provisions of this Section 5(c) shall govern the rights and obligations of the Company and Independent Directors respecting Options granted or to be granted to Independent Directors.

(d) Non-transferability of Options. No Stock Option shall be

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transferable by the optionee otherwise than by will or by the laws of descent and distribution and all Stock Options shall be exercisable, during the optionee's lifetime, only by the optionee. Notwithstanding the foregoing, the Committee may provide in an option agreement that the optionee may transfer, without consideration for the transfer, his Non-Qualified Stock Options to members of his immediate family, to trusts for the benefit of such family members and to partnerships in which such family members are the only partners.

## SECTION 6. RESTRICTED STOCK AWARDS

(a) Nature of Restricted Stock Awards. The Committee may grant

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Restricted Stock Awards to any officer, employee, consultant or key person of the Company and its Subsidiaries. A Restricted Stock Award is an Award entitling the recipient to acquire, at par value or such other purchase price determined by the Committee, shares of Stock subject to such restrictions and conditions as the Committee may determine at the time of grant ("Restricted Stock"). Conditions may be based on continuing employment (or other business relationship) and/or achievement of pre-established performance goals and objectives.

(b) Rights as a Stockholder. Upon execution of a written instrument

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setting forth the Restricted Stock Award and paying any applicable purchase price, a participant shall have the rights of a stockholder with respect to the voting of the Restricted Stock, subject to such conditions

contained in the written instrument evidencing the Restricted Stock Award. Unless the Committee shall otherwise determine, certificates evidencing the Restricted Stock shall remain in the possession of the Company until such Restricted Stock is vested as provided in Section 6(e) below.

(c) Restrictions. Restricted Stock may not be sold, assigned,

transferred, pledged or otherwise encumbered or disposed of except as specifically provided herein or in the written instrument evidencing the Restricted Stock Award. If a participant's employment (or other business relationship) with the Company and its Subsidiaries terminates for any reason, the Company or its assigns shall have the right or shall agree, as may be specified in the relevant restricted stock agreement, to repurchase Restricted Stock with respect to which conditions have not lapsed at their purchase price from the participant or the participant's legal representative.

(d) Vesting of Restricted Stock. The Committee at the time of grant

shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which Restricted Stock shall become vested, subject to such further rights of the Company or its assigns as may be specified in the instrument evidencing the Restricted Stock Award.

(e) Waiver, Deferral and Reinvestment of Dividends. The written

instrument evidencing the Restricted Stock Award may require or permit the immediate payment, waiver, deferral or investment of dividends paid on the Restricted Stock.

#### SECTION 7. UNRESTRICTED STOCK AWARDS

(a) Grant or Sale of Unrestricted Stock. The Committee may, in its

sole discretion, grant (or sell at a purchase price determined by the Committee) an Unrestricted Stock Award to any officer, employee, consultant or key person of the Company or its Subsidiaries, pursuant to which such individual may receive shares of Stock free of any vesting restrictions ("Unrestricted Stock") under the Plan. Unrestricted Stock Awards may be granted or sold as described in the preceding sentence in respect of past services or other valid consideration, or in lieu of any cash compensation due to such individual.

#### SECTION 8. PERFORMANCE SHARE AWARDS

(a) Nature of Performance Share Awards. A Performance Share Award is

an Award entitling the recipient to acquire shares of Stock upon the attainment of specified performance goals. The Committee may make Performance Share Awards independent of or in connection with the granting of any other Award under the Plan. Performance Share Awards may be granted under the Plan to any officer, employee, consultant or key person of the Company or its Subsidiaries, including those who qualify for awards under other performance plans of the Company. The Committee in its sole discretion shall determine whether and to whom Performance Share Awards shall be made, the performance goals applicable under each such Award, the periods during which performance is to be measured, and all other limitations and conditions applicable to the awarded Performance Shares; provided, however, that the Committee may rely on the performance goals and other standards applicable to other performance unit plans of the Company in setting the standards for Performance Share Awards under the Plan.

(b) Restrictions on Transfer. Performance Share Awards and all rights

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with respect to such Awards may not be sold, assigned, transferred, pledged or otherwise encumbered.

(c) Rights as a Shareholder. A participant receiving a Performance

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Share Award shall have the rights of a shareholder only as to shares actually received by the participant under the Plan and not with respect to shares subject to the Award but not actually received by the participant. A participant shall be entitled to receive a stock certificate evidencing the acquisition of shares of Stock under a Performance Share Award only upon satisfaction of all conditions specified in the written instrument evidencing the Performance Share Award (or in a performance plan adopted by the Committee).

(d) Termination. Except as may otherwise be provided by the Committee

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at any time, a participant's rights in all Performance Share Awards shall automatically terminate upon the participant's termination of employment (or business relationship) with the Company and its Subsidiaries for any reason.

(e) Acceleration, Waiver, Etc. At any time prior to the participant's

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termination of employment (or other business relationship) by the Company and its Subsidiaries, the Committee may in its sole discretion accelerate, waive or, subject to Section 12, amend any or all of the goals, restrictions or conditions imposed under any Performance Share Award.

#### SECTION 9. DIVIDEND EQUIVALENT RIGHTS

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(a) Dividend Equivalent Rights. A Dividend Equivalent Right is an

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Award entitling the recipient to receive credits based on cash dividends that would be paid on the shares of Stock specified in the Dividend Equivalent Right (or other award to which it relates) if such shares were held by the recipient. A Dividend Equivalent Right may be granted hereunder to any officer, employee, consultant or key person, as a component of another Award or as a freestanding award. The terms and conditions of Dividend Equivalent Rights shall be specified in the grant. Dividend equivalents credited to the holder of a Dividend Equivalent Right may be paid currently or may be deemed to be reinvested in additional shares of Stock, which may thereafter accrue additional equivalents. Any such reinvestment shall be at Fair Market Value on the date of reinvestment or such other price as may then apply under a dividend reinvestment plan sponsored by the Company, if any. Dividend Equivalent Rights may be settled in cash or shares of Stock or a combination thereof, in a single installment or installments. A Dividend Equivalent Right granted as a component of another Award may provide that such Dividend Equivalent Right shall be settled upon exercise, settlement, or payment of, or lapse of restrictions on, such other award, and that such Dividend Equivalent Right shall expire or be forfeited or annulled under the same conditions as such other award. A Dividend Equivalent Right granted as a component of another Award may also contain terms and conditions different from such other award.

(b) Interest Equivalents. Any Award under this Plan that is settled

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in whole or in part in cash on a deferred basis may provide in the grant for interest equivalents to be credited with respect to such cash payment. Interest equivalents may be compounded and shall be paid upon such terms and conditions as may be specified by the grant.

SECTION 10. TAX WITHHOLDING

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Each participant shall, no later than the date as of which the value of an Award or of any Stock or other amounts received thereunder first becomes includable in the gross income of the participant for Federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Committee regarding payment of, any federal, state, or local taxes of any kind required by law to be withheld with respect to such income. The Company and its Subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the participant.

SECTION 11. TRANSFER, LEAVE OF ABSENCE, ETC.

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For purposes of the Plan, the following events shall not be deemed a termination of employment:

(a) a transfer to the employment of the Company from a Subsidiary or from the Company to a Subsidiary, or from one Subsidiary to another; or

(b) an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the employee's right to re-employment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Committee otherwise so provides in writing.

SECTION 12. AMENDMENTS AND TERMINATION

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The Board may, at any time, amend or discontinue the Plan and the Committee may, at any time, amend or cancel any outstanding Award (or provide substitute Awards at the same or reduced exercise or purchase price or with no exercise or purchase price in a manner not inconsistent with the terms of the Plan), but such price, if any, must satisfy the requirements which would apply to the substitute or amended Award if it were then initially granted under this Plan) for the purpose of satisfying changes in law or for any other lawful purpose, but no such action shall adversely affect rights under any outstanding Award without the holder's consent. If and to the extent determined by the Committee to be required by the Act to ensure that Awards granted under the Plan are exempt under Rule 16b-3 promulgated under the Act, or that Incentive Stock Options granted under the Plan are qualified under Section 422 of the Code, Plan amendments shall be subject to approval by the Company stockholders who are eligible to vote at a meeting of stockholders.

SECTION 13. STATUS OF PLAN

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With respect to the portion of any Award which has not been exercised and any payments in cash, Stock or other consideration not received by a participant, a participant shall have no rights greater than those of a general creditor of the Company unless the Committee shall otherwise expressly determine in connection with any Award or Awards. In its sole discretion, the Committee may authorize the creation of trusts or other arrangements to meet the Company's obligations to deliver Stock or make payments with respect to Awards hereunder, provided that the existence of such trusts or other arrangements is consistent with the foregoing sentence.



SECTION 14. GENERAL PROVISIONS

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(a) No Distribution; Compliance with Legal Requirements. The

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Committee may require each person acquiring Stock pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the shares without a view to distribution thereof.

No shares of Stock shall be issued pursuant to an Award until all applicable securities law and other legal and stock exchange or similar requirements have been satisfied. The Committee may require the placing of such stop-orders and restrictive legends on certificates for Stock and Awards as it deems appropriate.

(b) Other Compensation Arrangements; No Employment Rights. Nothing

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contained in this Plan shall prevent the Board from adopting other or additional compensation arrangements, including trusts, and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of this Plan and the grant of Awards do not confer upon any employee any right to continued employment with the Company or any Subsidiary.

SECTION 15. EFFECTIVE DATE OF PLAN

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This Plan shall become effective upon approval by the holders of a majority of the shares of Stock of the Company present or represented and entitled to vote at a meeting of stockholders. Subject to such approval by the stockholders and to the requirement that no Stock may be issued hereunder prior to such approval, Stock Options and other Awards may be granted hereunder on and after adoption of this Plan by the Board.

SECTION 16. GOVERNING LAW

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This Plan shall be governed by Delaware law except to the extent such law is preempted by federal law.

Adopted and Effective: April 19, 1996

## ANSYS, INC.

## EMPLOYEE STOCK PURCHASE PLAN

The purpose of the ANSYS, Inc. Employee Stock Purchase Plan ("the Plan") is to provide eligible employees of ANSYS, Inc. (the "Company") and its subsidiaries with opportunities to purchase shares of the Company's common stock, par value \$.01 per share (the "Common Stock"). Two hundred ten thousand (210,000) shares of Common Stock in the aggregate have been approved and reserved for this purpose. The Plan is intended to constitute an "employee stock purchase plan" within the meaning of Section 423(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be interpreted in accordance with that intent.

1. Administration. The Plan will be administered by the  
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Company's Board of Directors (the "Board") or by a committee appointed by the Board for such purpose (the "Committee"). The Board or the Committee has authority to make rules and regulations for the administration of the Plan, and its interpretations and decisions with regard thereto shall be final and conclusive. No member of the Board or the Committee shall be liable for any action or determination with respect to the Plan or any option granted hereunder.

2. Offerings. The Company will make one or more offerings to  
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eligible employees to purchase the Common Stock under the Plan ("Offerings"). The initial Offering will begin on August 1, 1996 and will end on January 31, 1997. Thereafter, an Offering will begin on the first business day occurring on or after each February 1 and August 1 and will end on the last business day occurring on or before the following July 31 and January 31, respectively. The Committee may, in its discretion, choose an Offering period of six months or less for each of the Offerings and choose a different Offering period for each Offering.

3. Eligibility. All employees of the Company (including  
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employees who are also directors of the Company) and all employees of each Designated Subsidiary (as defined in Section 11) are eligible to participate in any one or more of the Offerings under the Plan, provided that as of the first day of the applicable Offering (the "Offering Date") they are customarily employed by the Company or a Designated Subsidiary for more than twenty (20) hours a week.

4. Participation. An employee eligible on any Offering Date  
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may participate in such Offering by submitting an enrollment form to his or her appropriate payroll location at least fifteen (15) business days before the Offering Date (or by such other deadline as shall be established for the Offering). The form will (a) state a whole percentage to be deducted from such employee's Compensation (as defined in Section 11) per pay period, (b) authorize the purchase of Common Stock for such employee in each Offering in accordance with the terms of the Plan and (c) specify the exact name or names in which shares of Common Stock purchased for such employee are to be issued pursuant to Section 10. An employee who does not enroll in accordance with these procedures will be deemed to have waived the right to participate. Unless an employee files a new enrollment form or withdraws from the Plan, such employee's deductions and purchases will continue at the same percentage of Compensation for future Offerings, provided such employee remains eligible. Notwithstanding the foregoing, participation in the Plan will neither be permitted nor be denied contrary to the requirements of the Code.

5. Employee Contributions. Each eligible employee may  
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authorize payroll deductions at a minimum of one percent (1%) up to a maximum of ten percent (10%) of his or her Compensation for each pay period. The Company will maintain book accounts showing the amount of payroll deductions made by each participating employee for each Offering. No interest will accrue or be paid on payroll deductions.

6. Deduction Changes. An employee may not increase his or her  
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payroll deduction during any Offering, but may decrease his or her payroll deduction for the remainder of the Offering. An employee may also terminate his or her payroll deduction for the remainder of the Offering, either with or without withdrawing from the Offering under Section 7. To reduce or terminate his or her payroll deduction (without withdrawing from the Offering), an employee must submit a new enrollment form at least fifteen (15) business days (or such shorter period as shall be established) before the payroll date on which the change becomes effective. Subject to the requirements of Sections 4 and 5, an employee may either increase or decrease his or her payroll deduction with respect to the next Offering by filing a new enrollment form at least fifteen (15) business days before the next Offering Date (or by such other deadline as shall be established for the Offering).

7. Withdrawal. An employee may withdraw from participation in  
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the Plan by delivering a written notice of withdrawal to his or her appropriate payroll location. The employee's withdrawal will be effective as of the next business day. Following an employee's withdrawal, the Company will promptly refund such employee's entire account balance under the Plan (after payment for any Common Stock purchased before the effective date of withdrawal). Partial withdrawals are not permitted. The employee may not begin participation again during the remainder of the Offering, but may enroll in a subsequent Offering in accordance with Section 4.

8. Grant of Options. On each Offering Date, the Company will  
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grant to each eligible employee who is then a participant in the Plan an option ("Option") to purchase on the last day of such Offering (the "Exercise Date"), at the Option Price hereinafter provided for, a maximum of nine hundred sixty (960) shares of Common Stock reserved for the purposes of the Plan, or such other maximum number of shares as shall have been established by the Board or the Committee in

advance of the offering. The purchase for each share purchased under such Option (the "Option Price") will be 85% of the Fair Market Value of the Common Stock on the Offering Date or the Exercise Date, whichever is less.

Notwithstanding the foregoing, no employee may be granted an option hereunder if such employee, immediately after the option was granted, would be treated as owning stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any Parent or Subsidiary (as defined in Section 11). For purposes of the preceding sentence, the attribution rules of Section 424(d) of the Code shall apply in determining the stock ownership of an employee, and all stock which the employee has a contractual right to purchase shall be treated as stock owned by the employee. In addition, no employee may be granted an Option which permits his or her rights to purchase stock under the Plan, and any other employee stock purchase plan of the Company and its Parents and Subsidiaries, to accrue at a rate which exceeds \$25,000 of the fair market value of such stock (determined on the option grant date or dates) for each calendar year in which the Option is outstanding at any time. The purpose of the limitation in the preceding sentence is to comply with Section 423(b)(8) of the Code.

9. Exercise of Option and Purchase of Shares. Each employee  
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who continues to be a participant in the Plan on the Exercise Date shall be deemed to have exercised his or her Option on such date and shall acquire from the Company such number of whole shares of Common Stock reserved for the purpose of the Plan as his or her accumulated payroll deductions on such date will purchase at the Option Price, subject to any other limitations contained in the Plan. Any amount remaining in an employee's account at the end of an Offering solely by reason of the inability to purchase a fractional share will be carried forward to the next Offering; any other balance remaining in an employee's account at the end of an Offering will be refunded to the employee promptly.

10. Issuance of Certificates. Certificates representing shares  
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of Common Stock purchased under the Plan may be issued only in the name of the employee, in the name of the employee and another person of legal age as joint tenants with rights of survivorship, or in the name of a broker authorized by the employee to be his or her nominee for such purpose.

11. Definitions.  
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The term "Compensation" means the amount of total cash compensation, prior to salary reduction pursuant to either Section 125 or 401(k) of the Code, including base pay, overtime, commissions and bonuses, but excluding allowances and reimbursements for expenses such as relocation allowances or travel expenses, income or gains on the exercise of Company stock options, and similar items.

The term "Designated Subsidiary" means any present or future Subsidiary (as defined below) that has been designated by the Board or the Committee to participate in the Plan. The Board or the Committee may so designate any Subsidiary, or revoke any such designation, at any time and from time to time, either before or after the Plan is approved by the stockholders.

The term "Fair Market Value of the Common Stock" means (i) if the Common Stock is admitted to trading on a national securities exchange or the National Association of Securities Dealers National Market System, the closing price reported for the Common Stock on such exchange or system for such date or, if no sales were reported for such date, for the last date preceding such date for which a sale was reported, or (ii) if clause (i) does not apply but the Common Stock is admitted to quotation on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"), the average of the highest bid and lowest asked prices of the Common Stock reported on NASDAQ for such date or, if no bid and asked prices were reported for such date, for the last day preceding such date for which such prices were reported.

The term "Parent" means a "parent corporation" with respect to the Company, as defined in Section 424(e) of the Code.

The term "Subsidiary" means a "subsidiary corporation" with respect to the Company, as defined in Section 424(f) of the Code.

12. Rights on Termination of Employment. If a participating  
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employee's employment terminates for any reason before the Exercise Date for any Offering, no payroll deduction will be taken from any pay due and owing to such employee and the balance in such employee's account will be paid to such employee or, in the case of death, to such employee's designated beneficiary as if such employee had withdrawn from the Plan under Section 7. An employee will be deemed to have terminated employment, for this purpose, if the corporation that employs such employee, having been a Designated Subsidiary, ceases to be a Subsidiary, or if such employee is transferred to any corporation other than the Company or a Designated Subsidiary.

13. Special Rules. Notwithstanding anything herein to the  
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contrary, the Board or the Committee may adopt special rules applicable to the employees of a particular Designated Subsidiary, whenever the Board or the Committee determines that such rules are necessary or appropriate for the implementation of the Plan in a jurisdiction where such Designated Subsidiary has employees; provided that such rules are consistent with the requirements of Section 423(b) of the Code. Such special rules may include (by way of example, but not by way of limitation) the establishment of a method for employees of a given Designated Subsidiary to fund the purchase of shares other than by payroll deduction, if the payroll deduction method is prohibited by local law or is otherwise impracticable. Any special rules established pursuant to this Section 13 shall, to the extent possible, result in the employees subject to such rules having substantially the same rights as other participants in the Plan.

14.           Optionees Not Stockholders.  Neither the granting of an  
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Option to an employee nor the deductions from his or her pay shall constitute such employee a holder of the shares of Common Stock covered by an Option under the Plan until such shares have been purchased by and issued to such employee.

15.           Rights Not Transferable.  Rights under the Plan are not  
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transferable by a participating employee other than by will or the laws of descent and distribution, and are exercisable during the employee's lifetime only by the employee.

16.           Application of Funds.  All funds received or held by the  
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Company under the Plan may be combined with other corporate funds and may be used for any corporate purpose.

17.           Adjustment in Case of Changes Affecting Common Stock.  In  
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the event of a subdivision of outstanding shares of Common Stock, or the payment of a dividend in Common Stock, the number of shares approved for the Plan, and the share limitation set forth in Section 8, shall be increased proportionately, and such other adjustment shall be made as may be deemed equitable by the Board or the Committee.  In the event of any other change affecting the Common Stock, such adjustment shall be made as may be deemed equitable by the Board or the Committee to give proper effect to such event.

18.           Amendment of the Plan.  The Board or the Committee may at  
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any time, and from time to time, amend the Plan in any respect, except that without the approval, within twelve (12) months of such Board or Committee action, by the holders of a majority of the shares of stock of the Company present or represented and entitled to vote at a meeting of stockholders, no amendment shall be made increasing the number of shares approved for the Plan or making any other change that would require stockholder approval in order for the Plan, as amended, to qualify as an "employee stock purchase plan" under Section 423(b) of the Code.



19.           Insufficient Shares. If the total number of shares of  
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Common Stock that would otherwise be purchased on any Exercise Date plus the number of shares purchased under previous Offerings under the Plan exceeds the maximum number of shares issuable under the Plan, the shares then available shall be apportioned among participants in proportion to the amount of payroll deductions accumulated on behalf of each participant that would otherwise be used to purchase Common Stock on such Exercise Date.

20.           Termination of the Plan. The Plan may be terminated at any  
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time by the Board or the Committee. Upon termination of the Plan, all amounts in the accounts of participating employees shall be promptly refunded.

21.           Governmental Regulations. The Company's obligation to sell  
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and deliver Common Stock under the Plan is subject to obtaining all governmental approvals required in connection with the authorization, issuance, or sale of such stock.

The Plan shall be governed by Delaware law except to the extent that such law is preempted by federal law.

22.           Issuance of Shares. Shares may be issued upon exercise of  
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an Option from authorized but unissued Common Stock, from shares held in the treasury of the Company, or from any other proper source.

23.           Tax Withholding. Participation in the Plan is subject to  
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any required tax withholding on income of the participant in connection with the Plan. Each employee agrees, by entering the Plan, that the Company and its Subsidiaries shall have the right to deduct any such taxes from any payment of any kind otherwise due to the employee, including shares issuable under the Plan.

24. Notification Upon Sale of Shares. Each employee agrees, by  
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entering the Plan, to give the Company prompt notice of any disposition of shares purchased under the Plan where such disposition occurs within two years after the date of grant of the Option pursuant to which such shares were purchased.

25. Effective Date and Approval of Shareholders. The Plan  
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shall take effect on the first day of the Company's initial public offering, subject to approval by the holders of a majority of the shares of stock of the Company present or represented and entitled to vote at a meeting of stockholders, which approval must occur within twelve (12) months of the adoption of the Plan by the Board.



6-MOS

DEC-31-1996	
JAN-01-1996	
JUN-30-1996	8,661
	0
	10,580
	725
	108
20,807	
	3,149
	0
41,340	
10,661	
	0
0	
	0
	162
	30,679
41,340	
	17,222
22,073	
	1,482
	2,735
18,215	
	0
1,670	
	(392)
	(150)
(242)	
	0
	(343)
	0
	(585)
	(.06)
	(.06)

Information provided by the Company or its spokespersons from time to time may contain forward-looking statements concerning projected financial performance, market and industry segment growth, product development and commercialization or other aspects of future operations. Such statements will be based on the assumptions and expectations of the Company's management at the time such statements are made. The Company cautions investors that its performance (and, therefore, any forward-looking statement) is subject to risks and uncertainties. Various important factors, including, but not limited to the following, may cause the Company's future results to differ materially from those projected in any forward-looking statement.

**Potential Fluctuations in Operating Results.** The Company may experience significant fluctuations in future quarterly operating results. Fluctuations may be caused by many factors, including the timing of new product releases or product enhancements by the Company or its competitors; the size and timing of individual orders; software errors or other product quality problems; competition and pricing; customer order deferrals in anticipation of new products or product enhancements; reduction in demand for the Company's products; changes in operating expenses; mix of software license and maintenance and service revenue; personnel changes; and general economic conditions. A substantial portion of the Company's operating expenses is related to personnel, facilities and marketing programs. The level of personnel and personnel expenses cannot be adjusted quickly and is based, in significant part, on the Company's expectation for future revenues. The Company does not typically experience significant order backlog. Further, the Company has often recognized a substantial portion of its revenue in the last month of a quarter, with this revenue frequently concentrated in the last weeks or days of a quarter. As a result, product revenues in any quarter are substantially dependent on orders booked and shipped in the latter part of that quarter, and revenues for any future quarter are not predictable with any significant degree of accuracy.

**Stock Market Volatility.** Market prices for securities of software companies have generally been volatile. In particular, the market price of the Company's common stock has been and may continue to be subject to significant fluctuations as a result of factors affecting the computer industry or the securities markets in general.

In addition, a large percentage of the Company's common stock is held by institutional investors. Consequently, actions with respect to the Company's common stock by certain of these institutional investors could have a significant impact on the market price for the stock.

**Rapidly Changing Technology; New Products; Risk of Product Defects.** The markets for the Company's products are generally characterized by rapidly changing technology and frequent new product introductions that can render existing products obsolete or unmarketable. A major factor in the Company's future success will be its ability to anticipate technological changes and to develop and introduce in a timely manner enhancements to its existing products and new products to meet those changes. If the Company is unable to introduce new products and respond to industry changes on a timely basis, its business, financial condition and results of operations could be materially adversely affected. The introduction and marketing of new or enhanced products require the Company to manage the transition from existing products in order to minimize disruption in customer purchasing patterns. There can be no assurance

that the Company will be successful in developing and marketing, on a timely basis, new products or product enhancements, that its new products will adequately address the changing needs of the marketplace, or that it will successfully manage the transition from existing products. Software products as complex as those offered by the Company may contain undetected errors or failures when first introduced or as new versions are released, and the likelihood of errors is increased as a result of the Company's commitment to accelerating the frequency of its product releases. There can be no assurance that errors will not be found in new or enhanced products after commencement of commercial shipments. Any of these problems may result in the loss of or delay in market acceptance, diversion of development resources, damage to the Company's reputation, or increased service or warranty costs, any of which could have a materially adverse effect upon the Company's business, financial condition and results of operations.

**Dependence on Distributors.** The Company distributes its products principally through its global network of 35 independent, regional ANSYS Support Distributors ("ASDs"). The ASDs sell ANSYS products and other noncompeting products to new and existing customers, expand installations within their existing customer base, offer consulting services and provide the first line of ANSYS technical support. The ASDs have more immediate contact with most customers who use ANSYS software than does the Company. Consequently, the Company is highly dependent on the efforts of the ASDs. Difficulties in ongoing relationships with ASDs, such as delays in collecting accounts receivable, ASDs' failure to meet performance criteria or to promote the Company's products as aggressively as the Company expects, and differences in the handling of customer relationships, could adversely affect the Company's performance. Additionally, the loss of any major ASD for any reason, including an ASD's decision to sell competing products rather than ANSYS products, could have a materially adverse effect on the Company. Moreover, the Company's future success will depend substantially on the ability and willingness of its ASDs to continue to dedicate the resources necessary to promote the Company's products and to support a larger installed base of the Company's products. If the ASDs are unable or unwilling to do so, the Company may be unable to sustain revenue growth.

**Competition.** The CAD, CAE and computer-aided manufacturing ("CAM") market is intensely competitive. In the traditional CAE market, the Company's primary competitors include MacNeal-Schwendler Corporation, Hibbitt, Karlsson and Sorenson, Inc. and MARC Analysis Research Corporation. The Company also faces competition from smaller vendors of specialized analysis applications in fields such as computational fluid dynamics. In addition, certain integrated CAD suppliers such as Parametric Technology Corporation and Structural Dynamics Research Corporation provide varying levels of design analysis and optimization and verification capabilities as part of their product offerings.

The entrance of new competitors would be likely to intensify competition in all or a portion of the overall CAD, CAE and CAM market. Some of the Company's current and possible future competitors have greater financial, technical, marketing and other resources than the Company, and some have well established relationships with current and potential customers of the Company. It is also possible that alliances among competitors may emerge and rapidly acquire significant market share or that competition will increase as a result of software industry consolidation. Increased competition may result in price reductions, reduced profitability and loss of market share, any of which would materially adversely affect the Company's business, financial condition and results of operations.

Dependence on Senior Management and Key Technical Personnel. The Company is highly dependent upon the ability and experience of its senior executives, Peter J. Smith and Dr. John A. Swanson, and its key technical and other management employees. Although the Company has entered into employment agreements with Mr. Smith and Dr. Swanson, the loss of either of these senior executives or a number of the Company's other key employees could adversely affect the Company's ability to conduct its operations.

Risks Associated with International Activities. A significant and growing portion of the Company's business comes from outside the United States. Risks inherent in the Company's international business activities include imposition of government controls, export license requirements, restrictions on the export of critical technology, political and economic instability, trade restrictions, changes in tariffs and taxes, difficulties in staffing and managing international operations, longer accounts receivable payment cycles, and the burdens of complying with a wide variety of foreign laws and regulations. Effective copyright and trade secret protection may not be available in every foreign country in which the Company sells its products. The Company's business, financial condition and results of operations could be materially adversely affected by any of these risks.

Dependence on Proprietary Technology. The Company's success is highly dependent upon its proprietary technology. The Company does not have patents on any of its technology and relies on contracts and the laws of copyright and trade secrets to protect its technology. Although the Company maintains a trade secrets program, enters into confidentiality agreements with its employees and distributors and limits access to and distribution of its software, documentation and other proprietary information, there can be no assurance that the steps taken by the Company to protect its proprietary technology will be adequate to prevent misappropriation of its technology by third parties, or that third parties will not be able to develop similar technology independently. Although the Company is not aware that any of its technology infringes upon the rights of third parties, there can be no assurance that other parties will not assert technology infringement claims against the Company, or that, if asserted, such claims will not prevail.

Increased Reliance on Perpetual Licenses. The Company has historically maintained stable recurring revenue from the sale of time-based licenses for its software products. Recently, the Company has experienced an increase in customer preference for perpetual licenses that involve payment of a single up-front fee and that are more typical in the computer software industry. Although lease license revenue currently represents a majority of the Company's software license fee revenue, to the extent that perpetual license revenue increases as a percent of total software license fee revenue, the Company's revenue in any period will increasingly depend on sales completed during that period.