

AVATAR HOLDINGS INC

Form 424B2

September 22, 2009

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The information contained in this prospectus supplement is not complete and may be changed. This prospectus supplement and the accompanying prospectus are not an offer to sell these securities and are not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

**Filed Pursuant to Rule 424(B)(2)
Registration No. 333-161498**

Subject to Completion, dated September 22, 2009

PROSPECTUS SUPPLEMENT
(To Prospectus dated August 28, 2009)

1,612,903 Shares

AVATAR HOLDINGS INC.

Common Stock

This is an offering of 1,612,903 shares of the common stock of Avatar Holdings Inc.

Our common stock trades on The Nasdaq Stock Market under the symbol AVTR. The last reported trading price of our common stock on September 21, 2009 was \$18.60.

You should carefully read this prospectus supplement and the accompanying prospectus, together with the documents we incorporate by reference, before you invest in our common stock.

Investing in our common stock involves risks. See Risk Factors beginning on page S-4 of this prospectus supplement and page 2 of the accompanying prospectus.

	Per Share	Total
Price to the public	\$	\$
Underwriting discounts and commissions	\$	\$
Proceeds to Avatar (before expenses)	\$	\$

We have granted Barclays Capital the option to purchase up to _____ additional shares of common stock on the same terms and conditions set forth above if Barclays Capital sells more than _____ shares of common stock in this offering.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus supplement is truthful or complete. Any representation to the contrary is a criminal offense.

Barclays Capital expects to deliver the shares on or about _____, 2009.

Barclays Capital

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ABOUT THIS PROSPECTUS SUPPLEMENT

This prospectus supplement is accompanied by a prospectus dated August 28, 2009. The accompanying prospectus is part of a registration statement on Form S-3 (Reg. No. 333-161498) that we filed with the Securities and Exchange Commission (the Commission) using a shelf registration process. Under this shelf registration process, we may, from time to time, offer and/or sell the securities referenced in the registration statement in one or more offerings. Each time our securities are offered, we provide a prospectus supplement and attach it to the accompanying prospectus. This prospectus supplement contains more specific information about the offering. This prospectus supplement may also add, update or change information contained in the accompanying prospectus. Any statement that we make in the accompanying prospectus is modified or superseded by any inconsistent statement made by us in this prospectus supplement. You should read both this prospectus supplement and the accompanying prospectus together with the additional information described under the heading Incorporation of Certain Documents by Reference.

You should rely only on the information contained in this prospectus supplement, the accompanying prospectus and those documents incorporated by reference herein or therein. We have not authorized anyone to provide you with information different from that contained in this prospectus supplement or the accompanying prospectus or incorporated by reference herein or therein. This prospectus supplement may only be used where it is legal to sell these securities. This prospectus supplement is not an offer to sell, or a solicitation of an offer to buy, in any state where the offer or sale is prohibited. The information in this prospectus supplement, the accompanying prospectus or any document incorporated herein or therein by reference is accurate as of the date contained on the cover of such documents. Neither the delivery of this prospectus supplement or the accompanying prospectus, nor any sale made under this prospectus supplement or the accompanying prospectus will, under any circumstances, imply that the information in this prospectus supplement or the accompanying prospectus is correct as of any date after the date of this prospectus supplement or the accompanying prospectus.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The Commission allows us to incorporate by reference into this prospectus supplement the information we have filed with the Commission. This means that we can disclose important information by referring you to those documents. All documents that we subsequently file with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, prior to the termination of this offering, will be deemed to be incorporated by reference into this prospectus supplement and to be a part hereof from the date of filing of such documents. We are not, however, incorporating by reference any documents or portions thereof, whether specifically listed below or filed in the future, that are not deemed filed with the Commission, including information furnished pursuant to Item 2.02 or 7.01 of Form 8-K. Any statement contained in a document incorporated or deemed to be incorporated by reference in this prospectus supplement shall be deemed to be modified or superseded for purposes of this prospectus supplement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus supplement.

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We incorporate by reference the following documents that we have filed with the Commission, and any filings that we will make with the Commission in the future, under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, until this offering is terminated:

Annual Report on Form 10-K for the fiscal year ended December 31, 2008;

Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2009;

Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2009;

Definitive Proxy Statement on Schedule 14A dated April 28, 2009, relating to our annual meeting of stockholders held on May 28, 2009;

Current Report on Form 8-K filed January 6, 2009.

Current Report on Form 8-K filed February 13, 2009;

Current Report on Form 8-K filed April 16, 2009;

Current Report on Form 8-K filed May 26, 2009;

Current Report on Form 8-K filed August 19, 2009;

Current Report on Form 8-K/A filed August 20, 2009; and

Description of Avatar's Common Stock on Form 8-A filed October 15, 1980.

Copies of any documents incorporated by reference in this prospectus supplement are available free of charge by writing Avatar Holdings Inc., 201 Alhambra Circle, Coral Gables, Florida 33134, Attention Corporate Secretary, or by telephoning us at (305) 442-7000.

WHERE YOU CAN FIND MORE INFORMATION

The documents incorporated by reference into this prospectus supplement are available from us upon request. We will provide a copy of any and all of the information that is incorporated by reference in this prospectus supplement, without charge, upon written or oral request. If you would like to obtain this information from us, please direct your request, either in writing or by telephone, to:

Avatar Holdings Inc.
201 Alhambra Circle
Coral Gables, Florida 33134
(305) 442-7000
Attn: Corporate Secretary

Any statement made in this prospectus supplement or in documents incorporated by reference into this prospectus supplement, concerning the contents of any contract, agreement or other document is only a summary of the actual document. You may obtain a copy of any document summarized in this prospectus supplement or in documents incorporated by reference into this prospectus supplement, at no cost by writing to or telephoning us at the address and telephone number given above. Each statement regarding a contract, agreement or other document is qualified in its

entirety by reference to the actual document.

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We file reports, proxy statements and other information with the Commission. Copies of our reports, proxy statements and other information may be inspected and copied at the Commission's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Copies of these materials can also be obtained by mail at prescribed rates from the Public Reference Room of the Commission, 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the Commission at 1-800-SEC-0330. The Commission maintains an internet site that contains reports, proxy and information statements and other information regarding us and other issuers that file electronically with the Commission. The address of the Commission internet site is www.sec.gov. This information is also available on our website at www.avatarholdings.com. Information contained on these websites is not incorporated by reference into and does not constitute a part of this prospectus supplement.

Reports, proxy statements and other information regarding us may also be inspected at:

The National Association of Securities Dealers
1735 K Street, N.W.
Washington, D.C. 20006

We filed a registration statement on Form S-3 (Reg. No. 333-161498) under the Securities Act of 1933, as amended, with the Commission with respect to the securities to be sold hereunder. The accompanying prospectus has been filed as part of that registration statement. The registration statement is available for inspection and copying as set forth above.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus supplement, the accompanying prospectus and the documents incorporated by reference into these documents contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. We use words such as anticipates, believes, plans, expects, future, intends, will, foresee and similar expressions to identify these forward-looking statements. In addition, from time to time we or our representatives have made or may make forward-looking statements orally or in writing. Furthermore, such forward-looking statements may be included in various filings that we make with the Commission, or press releases or oral statements made by or with the approval of one of our authorized executive officers. These forward-looking statements are subject to certain known and unknown risks and uncertainties, as well as assumptions that could cause actual results to differ materially from those reflected in these forward-looking statements.

Factors that might cause actual results to differ include, but are not limited to, the continuing decline in value and the instability of certain financial markets; disruption of the credit markets and reduced availability and more stringent financing requirements for commercial and residential mortgages of all types; the number of investor and speculator resale homes for sale and homes in foreclosure in our communities and in the geographic areas in which we develop and sell homes; the increasing level of unemployment; the decline in net worth and/or of income of potential buyers; the decline in consumer confidence; the failure to successfully implement our business strategy; shifts in demographic trends affecting demand for active adult and primary housing; the level of immigration and migration into the areas in which we conduct real estate activities; our access to financing; geopolitical risks; construction defect and home warranty claims; changes in, or the failure or inability to comply with, government regulations; and other factors more fully described under the caption Risk Factors in this prospectus supplement and the accompanying prospectus and the documents incorporated by reference herein or therein. Readers are cautioned not to place undue reliance on any

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forward-looking statements contained herein or therein, which reflect management's opinions only as of the date thereof.

Except as required by law, we undertake no obligation to revise or publicly release the results of any revision to any forward-looking statements. You are advised, however, to consult any additional disclosures we make in our reports to the Commission on Forms 10-K, 10-Q and 8-K. All subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements contained in this prospectus supplement.

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PROSPECTUS SUMMARY

This summary description of us and our business highlights selected information about us contained elsewhere in this prospectus supplement or the accompanying prospectus or the documents incorporated by reference herein or therein. This summary may not contain all of the information about us that you should consider before buying securities in this offering. You should carefully read this entire prospectus supplement and the accompanying prospectus, including each of the documents incorporated herein and therein by reference, before making an investment decision. As used herein, we, us and our refer to Avatar Holdings Inc. and its subsidiaries.

Our Company

We are engaged in the business of real estate operations in Florida and Arizona. Our residential community development activities have been adversely affected in both markets, bringing development in our active adult and primary residential communities to approaching a stand still. We also engage in other real estate activities, such as the operation of amenities, the sale for third-party development of commercial and industrial land and the operation of a title insurance agency, which activities have also been adversely affected by the current economic downturn.

Our primary business strategy continues to be the development of lifestyle communities, including active adult and primary residential communities, as well as the development and construction of housing on scattered lots. However, due to the significant deterioration in the economy and the residential real estate business, we have increased our focus on maintaining the integrity of our balance sheet through preservation of capital, sustaining liquidity and reduction of overhead. Our development activities have been and will continue to be minimal as we work through the negative impacts on the homebuilding industry. While we have curtailed our homebuilding operations, our business is still capital intensive and requires or may require expenditures for land and infrastructure development, housing construction, funding of operating deficits or providing working capital, as well as potential new acquisition and development opportunities.

It is our intention to continue to monetize our inventory of unsold homes and many of our model homes in anticipation of introducing new homes across many of our product lines. We expect that many of these new products will consist of smaller and less amenitized houses to enable us to sell homes at lower price points when the market recovers. In the areas in which our developments are located, we believe that for the foreseeable future there may be significant demand for smaller and less amenitized homes than in prior years.

We continue to defer the introduction of new housing products or recommencing development activities in our existing communities until such times as we believe that our markets would enable us to construct and sell new houses at an acceptable profit.

We continue to focus on acquiring real estate or real estate related assets as the fallout from the deleveraging of the economy continues to adversely affect real estate values. We have evaluated a substantial number of residential real estate properties in Florida, Arizona and California which we believe could represent opportunities to acquire real estate, or debt secured by real estate, at a substantial discount to its intrinsic value. To date we have seen few properties that we believe would present such desirable investment or development/redevelopment opportunities at the pricing offered. However, we believe we are approaching a window in which these opportunities will become available. We have an experienced residential real estate development group which is able to expeditiously underwrite portfolios of residential real estate ranging from large undeveloped/unentitled parcels of land to finished lots, and acquire these properties or the debt secured by these properties from

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financial institutions or others. We believe our cash position and our ability to plan, permit, develop and sell land, as well as to design, permit and build out highly amenitized residential communities enables us to have a competitive advantage in buying such properties over financial buyers and developers not having extensive experience in Florida or Arizona. However, we compete for opportunities to acquire real estate or real estate related assets and there can be no assurance that we will identify and be able to acquire appropriate assets or that any such assets we were to acquire would result in a desirable return on our investment.

Our Corporate Information

We are incorporated under the laws of the State of Delaware. Our executive headquarters are located at 201 Alhambra Circle, Coral Gables, Florida 33134. Our telephone number is (305) 442-7000. Our website is www.avatarholdings.com. Information contained in our website is not incorporated by reference into and does not constitute part of this prospectus supplement or the accompanying prospectus.

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THE OFFERING

Common stock being offered by us in this offering	1,612,903 shares of common stock, par value \$1.00 per share.
Common stock to be outstanding after this offering⁽¹⁾	10,449,965 shares of common stock, par value \$1.00 per share.
Use of proceeds	We expect to use the net proceeds from the sale of common stock for general corporate purposes, including, without limitation, potential new acquisitions of real estate and real estate-related assets. See Use of Proceeds.
Nasdaq Stock Market symbol	AVTR
Risk factors	Investing in our common stock involves a high degree of risk and the purchasers of our common stock may lose their entire investment. See Risk Factors and the other information included and incorporated by reference in this prospectus supplement and the accompanying prospectus for a discussion of risk factors you should carefully consider before deciding to invest in our securities.
Option to purchase additional shares of common stock	We have granted Barclays Capital an option to purchase up to 241,935 additional shares of our common stock from us within 30 days after the date of this prospectus supplement. See Underwriting.

- ⁽¹⁾ The number of shares of our common stock to be outstanding after this offering is based on 8,837,062 shares of our common stock outstanding as of September 21, 2009. This number does not include 170,997 shares of our common stock issuable pursuant to options, restricted stock units and stock units as of September 21, 2009. Unless we specifically state otherwise, information in this prospectus supplement regarding the number of shares of our common stock outstanding after this offering also assumes that (a) none of the circumstances necessary for the conversion of our outstanding 4.50% Convertible Senior Notes due 2024 have occurred and (b) Barclays Capital does not exercise its option to purchase up to 241,935 additional shares of our common stock within 30 days after the date of this prospectus supplement.

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RISK FACTORS

Investment in our securities involves a high degree of risk. You should carefully consider the specific risks described below, in the accompanying prospectus and under the caption "Risk Factors" in any of our filings with the Commission pursuant to Sections 13(a), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, which are incorporated herein and therein by reference, before making an investment decision. Each of the risks described could materially adversely affect our business, financial condition, results of operations and prospects, and could result in a complete loss of your investment. For more information, see "Where You Can Find More Information" and "Incorporation of Certain Documents By Reference."

Risks Relating to Our Common Stock and this Offering

The price of our common stock may fluctuate and you could lose all or a significant part of your investment.

Volatility in the market price of our common stock may prevent you from being able to sell your shares at or above the price you paid for your shares. The market price of our common stock may also be influenced by many factors, some of which are beyond our control, including:

- announcements by us or our competitors of significant contracts, acquisitions, strategic partnerships, joint ventures or capital commitments;
- variations in quarterly operating results;
- general economic conditions;
- war, terrorist acts and epidemic disease;
- future sales of our common stock or securities linked to our common stock;
- investor perceptions of us and the home building industry; and
- the failure of securities analysts to cover our common stock, or to the extent covered, changes in financial estimates by analysts or a downgrade of our stock or sector by analysts.

In addition, the stock market in general has experienced extreme price and volume fluctuations that may be unrelated or disproportionate to the operating performance of companies like us. These broad market and industry factors may materially reduce the market price of our common stock, regardless of our operating performance.

Future sales of common stock by our existing stockholders may cause our stock price to fall.

The market price of our common stock could decline as a result of sales by our existing and future stockholders, including the holders of our 4.50% Convertible Senior Notes due 2024 (our 4.50% Notes), or the perception that these sales could occur. These sales might also make it more difficult for us to sell equity securities at a time and price that we deem appropriate.

Our share price could decline if a large number of shares of our common stock or equity-related securities become eligible for future sale.

Sales of a substantial number of shares of our common stock or other equity-related securities, as well as issuances of shares of common stock upon conversion of our 4.50% Notes, could depress the market price of our common stock and impair our ability to raise capital through the sale of additional equity securities. Any such future sales or issuances could dilute the ownership interests of stockholders, and we cannot predict the effect that future sales or issuances of our common stock or other equity-related securities would have on the market price of our common stock nor can we predict our future needs to fund our operations or balance sheet with future equity issuances.

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Because we have broad discretion in how we use the proceeds from this offering, we may use the proceeds in ways in which you disagree.

We intend to use the net proceeds for general corporate purposes, including, without limitation, potential new acquisitions of real estate and real estate-related assets. See Use of Proceeds. We have not allocated specific amounts of the net proceeds from this offering for any specific purpose. Accordingly, our management will have significant flexibility in applying the net proceeds of this offering. You will be relying on the judgment of our management with regard to the use of these net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately.

It is possible that the net proceeds will be invested in a way that does not yield a favorable, or any, return for our company. The failure of our management to use such funds effectively could have a material adverse effect on our business, financial condition, operating results and cash flow.

We have never paid dividends on our common stock, and we do not anticipate paying any cash dividends in the foreseeable future.

We have never paid cash dividends on our common stock to date, and we intend to retain our future earnings, if any, to fund the development and growth of our business. In addition, the terms of existing or any future debt may preclude us from paying these dividends. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

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Assuming a public offering price of \$18.60 (the last sale price of our common stock on The Nasdaq Stock Market on September 21, 2009), we estimate the net proceeds we will receive from this offering will be approximately \$28.0 million (\$32.3 million in the event the underwriter exercises its option to purchase additional shares of common stock in full), after deducting the underwriter's fee and estimated offering expenditures. We expect to use the net proceeds for general corporate purposes, including, without limitation, potential new acquisitions of real estate and real estate-related assets. As of the date of this prospectus supplement, we are involved in active negotiations regarding new acquisitions.

CAPITALIZATION

The following table sets forth our capitalization as of June 30, 2009 (1) on an actual basis and (2) as adjusted to reflect net proceeds from the sale by us of 1,612,903 shares of common stock in this offering, at an assumed sale price of \$18.60 per share (the closing price of our common stock on The Nasdaq Stock Market on September 21, 2009), after deducting the underwriter's fees and our estimated offering expenditures. You should read this table in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K and our audited financial statements and related notes for the year ended December 31, 2008 included therein (in each case, as updated by our Current Report on Form 8-K filed August 19, 2009), and in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations in our Quarterly Report on Form 10-Q for the quarter ended June 30, 2009, including the unaudited financial statements and related notes for the quarter ended June 30, 2009 included therein.

	June 30, 2009	
	Historical (unaudited)	As Adjusted
	(In thousands, except par value and share information)	
Cash and cash equivalents	\$ 182,299	\$ 210,299
Notes, mortgage notes and other debt:		
Unsecured revolving credit facility	55,903	55,903
4.50% Convertible Notes(1)	62,293	62,293
Real estate, other	111	111
Total Debt	\$ 118,307	\$ 118,307
Stockholders' Equity Common Stock, par value \$1 per share		
Authorized: 50,000,000 shares Issued: 11,495,523 shares at June 30, 2009; 13,108,426 shares assuming offering of 1,612,903 shares(2)	11,496	13,108
Additional paid-in capital	245,158	271,546
Retained earnings	233,540	233,540
	490,194	518,194

Treasury stock: at cost, 2,658,461 shares	(78,937)	(78,937)
Total Stockholders Equity	411,257	439,257
Total Capitalization	\$ 529,564	\$ 557,564

- (1) In accordance with the adoption of FASB Staff Position (FSP) 14-1, Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (Including Partial Cash Settlement) we were required to separately account for the liability (debt) and equity (conversion option) components. As of June 30, 2009, the principal amount outstanding is \$64,804.
- (2) Excludes (i) 110,000 shares of common stock issuable under outstanding stock options at June 30, 2009 (ii) 50,030 shares issuable under restricted stock unit awards and (iii) 9,337 stock units, which were outstanding at June 30, 2009. An additional 477,527 shares of common stock are reserved for issuance under our equity compensation plans as of June 30, 2009.

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UNDERWRITING

Under the terms of an underwriting agreement, which we will file as an exhibit to a Current Report on Form 8-K and incorporate by reference in this prospectus supplement and the accompanying prospectus, we have agreed to sell the underwriter, Barclays Capital Inc., and the underwriter has agreed to purchase from us, all of the shares of common stock being offered, if any are purchased, other than those covered by the underwriter's option, as described below.

The underwriting agreement provides that the underwriter's obligation to purchase shares of common stock depends on the satisfaction of the conditions contained in the underwriting agreement, including:

- the representations and warranties made by us to the underwriter are true;
- there is no material change in our business or in the financial markets; and
- we deliver customary closing documents to the underwriter.

Commissions and Expenses

The following table summarizes the underwriting discounts and commissions we will pay to the underwriter. These amounts are shown assuming both no exercise and full exercise of the underwriter's option to purchase additional shares. The underwriting fee is the difference between the initial price to the public and the amount the underwriter pays to us for the shares.

	No Exercise	Full Exercise
Per share	\$	\$
Total	\$	\$

The underwriter has advised us that it proposes to offer the shares of common stock directly to the public at the public offering price on the cover of this prospectus supplement and to selected dealers at such offering price less a selling concession not in excess of \$ per share. After the offering, the underwriter may change the offering price and other selling terms. Sales of shares made outside of the United States may be made by affiliates of the underwriter.

The expenses of the offering that are payable by us are estimated to be \$800,000 (excluding underwriting discounts and commissions).

Option to Purchase Additional Shares

We have granted the underwriter an option exercisable for 30 days after the date of this prospectus supplement, to purchase from us, from time to time, in whole or in part, up to an aggregate of 241,935 shares at the public offering price less underwriting discounts and commissions. This option may be exercised if the underwriter sells more than 1,612,903 shares in connection with this offering.

Lock-Up Agreements

We, all of our directors and executive officers and certain of our significant stockholders have agreed that, subject to certain exceptions, without the prior written consent of Barclays Capital Inc., we and they will not, directly or

indirectly, (1) offer for sale, sell, pledge or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any shares of common stock (including, without limitation, shares of common stock that may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Commission and shares of common stock that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for common stock, (2) enter into any swap or other derivatives transaction that transfers

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to another, in whole or in part, any of the economic benefits or risks of ownership of shares of common stock, (3) make any demand for or exercise any right or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any shares of common stock or securities convertible into or exercisable or exchangeable for common stock or any of our other securities or, (4) publicly disclose the intention to do any of the foregoing, for a period commencing on the date hereof and ending on the 90th day after the date of the prospectus supplement.

The 90-day restricted period described in the preceding paragraph will be extended if:

during the last 17 days of the 90-day restricted period, we issue an earnings release or material news or a material event relating to us occurs; or

prior to the expiration of the 90-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 90-day period;

in which case the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or occurrence of material event, unless such extension is waived in writing by Barclays Capital Inc.

Barclays Capital Inc., in its sole discretion, may release the common stock and other securities subject to the lock-up agreements described above in whole or in part at any time with or without notice. When determining whether or not to release the common stock and other securities from lock-up agreements, Barclays Capital Inc. will consider, among other factors, the holder's reasons for requesting the release, the number of shares of common stock or other securities for which the release is being requested and market conditions at the time.

Indemnification

We and certain of our subsidiaries have agreed to indemnify the underwriter against certain liabilities, including liabilities under the Securities Act, and to contribute to payments that the underwriter may be required to make for these liabilities.

Stabilization, Short Positions and Penalty Bids

The underwriter may engage in stabilizing transactions, short sales and purchases to cover positions created by short sales, for the purpose of pegging, fixing or maintaining the price of the common stock, in accordance with Regulation M under the Securities Exchange Act of 1934:

Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.

A short position involves a sale by the underwriter of shares in excess of the number of shares the underwriter is obligated to purchase in the offering. This short position may be either a covered short position or a naked short