SUN MICROSYSTEMS, INC.
Form DEFM14A
June 08, 2009
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

Filed by the Registrant x Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement

¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

x Definitive Proxy Statement

¨ Definitive Additional Materials

¨ Soliciting Material Pursuant to §240.14a-12

SUN MICROSYSTEMS, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

¨ No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

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(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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Filing Party:

Date Filed:

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Sun Microsystems, Inc.

4150 Network Circle

Santa Clara, California 95054

June 8, 2009

Dear Stockholder,

You are cordially invited to attend a special meeting of Sun Microsystems, Inc. stockholders to be held on July 16, 2009, starting at 10 a.m. Pacific time at Sun s Auditorium located at the Santa Clara Campus, 4030 George Sellon Circle, Santa Clara, California 95054.

At the special meeting, you will be asked to consider and vote upon a proposal to adopt the merger agreement under which Sun would be acquired by Oracle Corporation. We entered into this merger agreement on April 19, 2009. If the merger is completed, you, as a holder of Sun common stock, will be entitled to receive $9.50 in cash, without interest and less any applicable withholding taxes, for each share of Sun common stock owned by you at the consummation of the merger, as more fully described in the enclosed proxy statement.

After careful consideration, our board of directors has unanimously determined that the merger and the other transactions contemplated by the merger agreement are fair to, advisable and in the best interests of Sun and our stockholders and unanimously recommends that you vote FOR the adoption of the merger agreement.

Your vote is very important, regardless of the number of shares of common stock you own. We cannot consummate the merger unless the merger agreement is approved by the affirmative vote of a majority of the outstanding shares of our common stock. **Therefore, the failure of any stockholder to vote will have the same effect as a vote by that stockholder against the adoption of the merger agreement.**

The attached proxy statement provides you with detailed information about the special meeting, the merger agreement and the merger. A copy of the merger agreement is attached as Annex A to this document. We encourage you to read this document and the merger agreement carefully and in their entirety. You may also obtain more information about Sun from documents we have filed with the Securities and Exchange Commission.

Thank you in advance for your continued support and your consideration of this matter.

Sincerely,

Michael A. Dillon

Executive Vice President, General Counsel and Secretary

Santa Clara, California

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

This proxy statement is dated June 8, 2009, and is first being mailed to stockholders on or about June 10, 2009.

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Sun Microsystems, Inc.

4150 Network Circle

Santa Clara, California 95054

To the Stockholders of Sun:

A special meeting of stockholders of Sun Microsystems, Inc., a Delaware corporation, or Sun, will be held on July 16, 2009, starting at 10 a.m. Pacific time at Sun s Auditorium located at the Santa Clara Campus, 4030 George Sellon Circle, Santa Clara, California 95054, for the following purposes:

1. To consider and vote on a proposal to adopt the Agreement and Plan of Merger, dated as of April 19, 2009, among Sun Microsystems, Inc., Oracle Corporation, a Delaware corporation, and Soda Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of Oracle Corporation, as it may be amended from time to time, pursuant to which Sun will be acquired by Oracle Corporation.

2. To consider and vote on a proposal to adjourn or postpone the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of such adjournment or postponement to adopt the merger agreement.

3. To consider and vote on such other business as may properly come before the special meeting or any adjournment or postponement of the special meeting.

Our board of directors has specified the close of business on June 5, 2009 as the record date for the purpose of determining the stockholders who are entitled to receive notice of, and to vote at, the special meeting. Only stockholders of record at the close of business on the record date are entitled to notice of and to vote at the special meeting and at any adjournment or postponement thereof. Each stockholder is entitled to one vote for each share of Sun common stock held on the record date.

Under Delaware law, Sun stockholders who do not vote in favor of the merger agreement and the merger will have the right to seek appraisal of the fair value of their shares as determined by the Delaware Court of Chancery if the merger is completed, but only if they submit a written demand for such an appraisal prior to the vote on the merger agreement and the merger and comply with the other Delaware law procedures explained in the accompanying proxy statement.

Regardless of whether you plan to attend the special meeting in person, we request that you complete, sign, date and return the enclosed proxy or submit your proxy by telephone or the Internet prior to the special meeting to ensure that your shares will be present in person or represented at the special meeting. If you have Internet access, we encourage you to record your vote via the Internet. Properly executed proxy cards with no instructions indicated on the proxy card will be voted **FOR** the adoption of the merger agreement and **FOR** the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies. If you attend the special meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. Your prompt attention is greatly appreciated.

THE SUN BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR THE ADOPTION OF THE MERGER AGREEMENT.

By Order of the Board of Directors,

Michael A. Dillon

Executive Vice President, General Counsel and Secretary

Santa Clara, California

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ADDITIONAL INFORMATION

This document incorporates important business and financial information about Sun from documents that are not included in or delivered with this document. See Where You Can Find More Information on page 71. You can obtain documents incorporated by reference in this document by requesting them in writing from Sun, Investor Relations, Mail Stop UMPK14-336, 4150 Network Circle, Santa Clara, California 95054 or by telephone at (800) 801-7869 (within the U.S.) or (408) 404-8427 (outside the U.S.). You will not be charged for any of these documents that you request. If you wish to request documents, you should do so by July 1, 2009 in order to receive them before the special meeting.

For additional questions about the merger, assistance in submitting proxies or voting shares of our common stock, or additional copies of the proxy statement or the enclosed proxy card, please contact our proxy solicitor:

Morrow & Co., LLC

470 West Avenue

Stamford, CT 06902

(800) 460-1014 (toll free)

(203) 658-9400 (collect)

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QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING

The following questions and answers address briefly some questions you may have regarding the proposed merger and the special meeting. These questions and answers may not address all questions that may be important to you as a holder of shares of Sun common stock. For important additional information, please refer to the more detailed discussion contained elsewhere in this proxy statement, the annexes to this proxy statement and the documents referred to in this proxy statement. We sometimes make reference to Sun Microsystems, Inc. and its subsidiaries in this proxy statement by using the terms Sun, the company, we, our or us.

Q: What is the transaction?

A: Sun and Oracle have entered into a definitive agreement pursuant to which, subject to the terms and conditions of the merger agreement, Oracle will acquire Sun through the merger of a wholly-owned subsidiary of Oracle with and into Sun. Sun will be the surviving corporation (which we refer to as the surviving corporation) in the merger and will continue as a wholly-owned subsidiary of Oracle.

Q: What will a Sun stockholder receive when the merger occurs?

A: For every share of Sun common stock held at the time of the merger, Sun stockholders will be entitled to receive $9.50 in cash, without interest, less any applicable withholding taxes. This does not apply to shares held by Sun stockholders, if any, who have perfected their appraisal rights under Delaware law.

Q: What will happen in the merger to Sun s stock options, restricted stock and restricted stock unit awards?

A: Upon the effective time of the merger, options to acquire Sun common stock and restricted stock unit awards denominated in shares of Sun common stock outstanding immediately prior to the effective time of the merger will be converted into options and restricted stock unit awards denominated in shares of Oracle common stock based on formulas contained in the merger agreement, except for options and restricted stock unit awards held by persons who are not employees of, or consultants to, Sun or any of its subsidiaries, which options and restricted stock unit awards will be converted into the right to receive cash based on formulas contained in the merger agreement. Upon the consummation of the merger, each restricted stock award denominated in shares of Sun common stock will automatically be cancelled and each share of Sun common stock subject thereto will be converted into the right to receive an amount of cash equal to $9.50 (without interest and less any applicable withholding taxes) per share of Sun common stock, which will be payable in accordance with the vesting schedule applicable to the restricted stock award as in effect immediately prior to the effective time of the merger.

Q: How does the merger consideration compare to the market price of Sun common stock?

A: The merger consideration of $9.50 per share of Sun common stock represents a (1) 91% premium over the closing price of Sun shares on the NASDAQ Global Select Market on March 17, 2009, the last trading day before rumors of a possible transaction to acquire Sun were publicly reported, and (2) 42% premium over the closing price of Sun shares on the NASDAQ Global Select Market on April 17, 2009, the last trading day before the date the proposed transaction with Oracle was publicly announced. The closing sale price of Sun s common stock on the NASDAQ Global Select Market on June 5, 2009 was $9.17. You are encouraged to obtain current market quotations for Sun common stock in connection with voting your shares.

Q: When do you expect the merger to be completed?

A: We expect the merger to be completed in the summer of 2009. However, the merger is subject to various closing conditions, including Sun stockholder and regulatory approvals, and it is possible that the failure to timely meet these closing conditions or other factors outside of our control could require us to complete the merger at a later time or not at all.

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Q: Why am I receiving this proxy statement?

A: You are receiving this proxy statement because you were a stockholder of Sun as of June 5, 2009, the record date for the special meeting. To complete the merger, Sun s stockholders must adopt the merger agreement. A copy of the merger agreement is attached to this proxy statement as Annex A. Sun will submit the merger agreement to its stockholders for adoption at the special meeting described in this proxy statement. You should read the section entitled The Special Meeting beginning on page 16.

Q: When and where will the special meeting of stockholders be held?

A: The special meeting of Sun stockholders (which we refer to as the special meeting) will be held on July 16, 2009, starting at 10 a.m. Pacific time at Sun s Auditorium located at the Santa Clara Campus, 4030 George Sellon Circle, Santa Clara, California 95054.

Q: What are the proposals that will be voted on at the special meeting?

A: You will be asked to consider and vote on (1) the adoption of the merger agreement, (2) the adjournment or postponement of the special meeting to a later date, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement and (3) such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

Q: Who is entitled to attend and vote at the special meeting?

A: The record date for the special meeting is June 5, 2009. If you own shares of Sun common stock as of the close of business on the record date, you are entitled to notice of, and to vote at, the special meeting or any adjournment or postponement of the special meeting. As of the record date, there were approximately 751,353,139 shares of Sun common stock issued and outstanding.

Q: How many votes are required to adopt the merger agreement?

A: The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the outstanding shares of Sun common stock entitled to vote at the special meeting in person or by proxy, in accordance with Delaware law. In connection with the transactions contemplated by the merger agreement, Jonathan I. Schwartz, our President and Chief Executive Officer and a member of our board of directors, and Scott G. McNealy, the Chairman of our board of directors, who beneficially owned, as of the record date, approximately 0.1% and 1.9%, respectively, of the total outstanding shares of Sun common stock have both entered into a voting agreement with Oracle to, among other things, vote their respective shares of Sun common stock in favor of the merger, unless the merger agreement has been terminated.

Q: How many votes are required to adopt the proposal to adjourn or postpone the special meeting to a later time, if necessary or appropriate, to solicit additional proxies?

A: The adoption of the proposal to adjourn or postpone the special meeting to a later time, if necessary or appropriate, to solicit additional proxies requires the affirmative vote of a majority of shares of Sun common stock present in person or represented by proxy at the special meeting and entitled to vote thereon.

Q. How does the Sun board of directors recommend that I vote on the proposals?

A: Sun s board of directors has determined that the merger and the other transactions contemplated by the merger agreement are fair to, advisable to and in the best interests of Sun s stockholders and unanimously recommends that you vote **FOR** the proposal to adopt the merger agreement. You should read the section entitled The Merger Reasons for the Merger; Recommendation of Sun s Board of Directors beginning on page 24.

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Q: How are votes counted? Why is my vote important?

A: Votes will be counted by the inspector of election appointed for the special meeting, who will separately count **FOR** and **AGAINST** votes and abstentions. The affirmative vote of a majority of the outstanding shares of Sun common stock is required under Delaware law to adopt the merger agreement. As a result, the failure to vote or the abstention from voting will have the same effect as a vote **AGAINST** the adoption of the merger agreement.

Because the affirmative vote of a majority of the shares of Sun common stock present in person or represented by proxy at the special meeting is required to adopt the proposal to adjourn or postpone the special meeting, if necessary or appropriate, to solicit additional proxies, abstentions will count as a vote **AGAINST** the proposal but the failure to vote your shares will have no effect on the outcome of the proposal.

Q: What if I fail to instruct my brokerage firm, bank, trust or other nominee how to vote?

A: Your brokerage firm, bank, trust or other nominee will not be able to vote your shares unless you have properly instructed your nominee on how to vote. The adoption of the merger agreement requires an affirmative vote of a majority of the outstanding shares of Sun common stock for approval. Because your brokerage firm, bank, trust or other nominee does not have discretionary authority to vote on the proposal, the failure to provide your nominee with voting instructions will have the same effect as a vote **AGAINST** the proposal to adopt the merger agreement.

The proposal to adjourn or postpone the special meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares of Sun common stock present in person or represented at the special meeting and entitled to vote thereon. Because your brokerage firm, bank, trust or other nominee does not have discretionary authority to vote on the proposal, the failure to instruct your broker or other nominee with voting instructions on how to vote your shares will have no effect on the approval of that proposal.

Q: What do I need to do now?

A: After carefully reading and considering the information contained in this proxy statement, including the annexes and the other documents referred to in this proxy statement, please vote your shares as described below. You have one vote for each share of Sun common stock you own as of the record date.

Q: How do I vote if I am a stockholder of record?

A: You may vote:

by completing, signing and dating each proxy card you receive and returning it in the enclosed prepaid envelope;

by using the telephone number printed on your proxy card;

by using the Internet voting instructions printed on your proxy card; or

in person by appearing at the special meeting.

If you are voting by telephone or via the Internet, your voting instructions must be received by 11:59 p.m. Eastern time on the date prior to the date of the special meeting.

Voting via the Internet, by telephone or by mailing in your proxy card will not prevent you from voting in person at the special meeting. You are encouraged to submit a proxy by mail, via the Internet or by telephone even if you plan to attend the special meeting in person to ensure that your shares of Sun common stock are present in person or represented at the special meeting.

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If you return your signed proxy card, but do not mark the box showing how you wish to vote, your shares will be voted **FOR** the proposal to adopt the merger agreement and **FOR** the adoption of the proposal to adjourn or postpone the special meeting, if necessary, to solicit additional proxies. With respect to any other matter that properly comes before the special meeting, shares present in person or represented by all proxies received by Sun will be voted with respect thereto in accordance with the judgment of the persons named as attorneys in the proxies.

Q: How do I vote if my shares are held by my brokerage firm, bank, trust or other nominee?

A: If your shares are held in a brokerage account or by another nominee, such as a bank or trust, then the brokerage firm, bank, trust or other nominee is considered to be the stockholder of record with respect to those shares. However, you still are considered to be the beneficial owner of those shares, with your shares being held in street name. Street name holders generally cannot vote their shares directly and must instead instruct the brokerage firm, bank, trust or other nominee how to vote their shares. Your brokerage firm, bank, trust or other nominee will only be permitted to vote your shares for you at the special meeting if you instruct it how to vote. Therefore, it is important that you promptly follow the directions provided by your brokerage firm, bank, trust or other nominee regarding how to instruct them to vote your shares. If you wish to vote in person at the special meeting, you must bring a proxy from your brokerage firm, bank, trust or other nominee authorizing you to vote at the special meeting.

In addition, because any shares you may hold in street name will be deemed to be held by a different stockholder than any shares you hold of record, shares held in street name will not be combined for voting purposes with shares you hold of record. To be sure your shares are voted, you should instruct your brokerage firm, bank, trust or other nominee to vote your shares. Shares held by a corporation or business entity must be voted by an authorized officer of the entity.

Q: What constitutes a quorum for the special meeting?

A: The presence, in person or by proxy, of stockholders representing a majority of the shares of Sun common stock entitled to vote at the special meeting will constitute a quorum for the special meeting. If you are a stockholder of record and you submit a properly executed proxy card, vote by telephone or via the Internet or vote in person at the special meeting, then your shares will be counted as part of the quorum. If you are a street name holder of shares and you provide your brokerage firm, bank, trust or other nominee with instructions as to how to vote your shares or obtain a legal proxy from such broker or nominee to vote your shares in person at the special meeting, then your shares will be counted as part of the quorum. All shares of Sun common stock held by stockholders that are present in person or represented by proxy and entitled to vote at the special meeting, regardless of how such shares are voted or whether such stockholders abstain from voting, will be counted in determining the presence of a quorum.

Q: What does it mean if I receive more than one proxy?

A: If you receive more than one proxy, it means that you hold shares that are registered in more than one account. For example, if you own your shares in various registered forms, such as jointly with your spouse, as trustee of a trust or as custodian for a minor, you will receive, and you will need to sign and return, a separate proxy card for those shares because they are held in a different form of record ownership. Therefore, to ensure that all of your shares are voted, you will need to sign and return each proxy card you receive or vote by telephone or via the Internet by using the different control number(s) on each proxy card.

Q: Should I send in my stock certificates now?

A: No. After the merger is completed, you will be sent a letter of transmittal with detailed written instructions for exchanging your shares of Sun common stock for the merger consideration. If your shares are held in

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street name by your brokerage firm, bank, trust or other nominee, you will receive instructions from your brokerage firm, bank, trust or other nominee as to how to effect the surrender of your street name shares in exchange for the merger consideration. **PLEASE DO NOT SEND IN YOUR CERTIFICATES NOW.**

Q: What happens if I sell my shares of Sun common stock before the special meeting?

A: The record date for stockholders entitled to vote at the special meeting is earlier than the date of the special meeting and the expected closing date of the merger. If you transfer your shares of Sun common stock after the record date but before the special meeting, you will, unless special arrangements are made, retain your right to vote at the special meeting but will transfer the right to receive the merger consideration to the person to whom you transfer your shares. In addition, if you sell your shares prior to the special meeting or prior to the effective time of the merger, you will not be eligible to exercise your appraisal rights in respect of the merger. For a more detailed discussion of your appraisal rights and the requirements for perfecting your appraisal rights, see Appraisal Rights on page 64 and Annex D.

Q: Am I entitled to appraisal rights in connection with the merger?

A: Stockholders are entitled to appraisal rights under Section 262 of the General Corporation Law of the State of Delaware, which we refer to as Delaware law, provided they satisfy the special criteria and conditions set forth in Section 262 of Delaware law. For more information regarding appraisal rights, see Appraisal Rights on page 64. In addition, a copy of Section 262 of Delaware law is attached as Annex D to this proxy statement.

Q: What are the material federal income tax consequences of the merger to me?

A: The receipt of cash for shares of Sun common stock pursuant to the merger will be a taxable transaction for U.S. federal income tax purposes. In general, for U.S. federal income tax purposes, a holder of Sun common stock will recognize gain or loss in an amount equal to the difference, if any, between (i) the amount of cash received in the merger and (ii) the holder s adjusted tax basis in the shares. Stockholders should consult their tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local or foreign income and other tax laws) of the merger.

Q: Who can answer further questions?

A: For additional questions about the merger, assistance in submitting proxies or voting shares of Sun common stock, or additional copies of the proxy statement or the enclosed proxy card, please contact us or our proxy solicitor at:

Sun Microsystems, Inc.,

Investor Relations, Mail Stop UMPK14-336

4150 Network Circle

Santa Clara, California 95054

Phone: (800) 801-7869 (within the U.S.)

Phone: (408) 404-8427 (outside the U.S.)

Morrow & Co., LLC

470 West Avenue

Stamford, CT 06902

(800) 460-1014 (toll free)

(203) 658-9400 (collect)

If your brokerage firm, bank, trust or other nominee holds your shares in street name, you should also call your brokerage firm, bank, trust or other nominee for additional information.

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SUMMARY

The following summary highlights information in this proxy statement and may not contain all the information that is important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to or incorporated by reference in this proxy statement. We sometimes make reference to Sun Microsystems, Inc. and its subsidiaries in this proxy statement by using the terms Sun, the Company, we, our or us. Each item in this summary includes a page reference directing you to a more complete description of the item in this proxy statement.

The Merger (Page 20)

The Agreement and Plan of Merger, dated as of April 19, 2009, which we refer to as the merger agreement, among Sun, Oracle Corporation, which we refer to as Oracle, and Soda Acquisition Corporation, provides that Soda Acquisition Corporation, a wholly-owned subsidiary of Oracle, will merge with and into Sun. As a result of the merger, Sun will become a wholly-owned subsidiary of Oracle. Upon completion of the proposed merger, shares of Sun s common stock will no longer be listed on any stock exchange or quotation system. At the completion of the merger, each outstanding share of Sun common stock will be converted into the right to receive $9.50 in cash, without interest and less applicable withholding taxes (other than shares of Sun common stock held by any holder who has properly exercised appraisal rights of such shares in accordance with Section 262 of Delaware law, as described in this proxy statement). We refer to this amount in this proxy statement as the merger consideration.

The Special Meeting (Page 16)

Date, Time and Place. The special meeting will be held on July 16, 2009, starting at 10 a.m. Pacific time at Sun s Auditorium located at the Santa Clara Campus, 4030 George Sellon Circle, Santa Clara, California 95054.

Purpose. You will be asked to consider and vote upon (1) the adoption of the merger agreement, (2) the adjournment or postponement of the special meeting to a later date, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement and (3) such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

Record Date and Quorum. You are entitled to vote at the special meeting if you owned shares of Sun common stock at the close of business on June 5, 2009, the record date for the special meeting. You will have one vote for each share of Sun common stock that you owned on the record date. As of June 5, 2009, there were 751,353,139 shares of Sun common stock issued and outstanding and entitled to vote. A majority of Sun common stock issued, outstanding and entitled to vote at the special meeting constitutes a quorum for the purpose of the special meeting. In the event that a quorum is not present at the special meeting, the meeting may be adjourned or postponed to solicit additional proxies.

Vote Required. The adoption of the merger agreement requires the affirmative vote of a majority of the outstanding shares of Sun common stock. Approval of any proposal to adjourn or postpone the special meeting, if necessary or appropriate, for the purpose of soliciting additional proxies requires the affirmative vote of the holders of a majority of the shares of Sun common stock present in person or represented by proxy at the special meeting and entitled to vote on the matter.

Voting and Proxies. Any stockholder of record entitled to vote at the special meeting may submit a proxy by telephone, via the Internet, by returning the enclosed proxy card by mail, or by voting in person at the special meeting. If you intend to submit your proxy by telephone or the Internet you must do so no later than 11:59 p.m. Eastern time on the date prior to the date of the special meeting. If you do not return your proxy card, submit your proxy by phone or the Internet or attend the special meeting, your shares of Sun common stock will not be

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voted, which will have the same effect as a vote **AGAINST** the adoption of the merger agreement. Even if you plan to attend the special meeting, if you hold your shares of common stock in your own name as the stockholder of record, please vote your shares by completing, signing, dating and returning the enclosed proxy card or by using the telephone number printed on your proxy card or by using the Internet voting instructions printed on your proxy card.

If you return your signed proxy card, but do not mark the boxes showing how you wish to vote, your shares will be voted **FOR** the proposal to adopt the merger agreement and **FOR** the proposal to adjourn or postpone the special meeting, if necessary or appropriate, to solicit additional proxies, if applicable.

If your shares of Sun common stock are held in street name, you should instruct your broker, bank, trust or other nominee on how to vote such shares of common stock using the instructions provided by your broker or nominee. If your shares of Sun common stock are held in street name, you must obtain a legal proxy from such nominee in order to vote in person at the special meeting. If you fail to provide your nominee with instructions on how to vote your shares of Sun common stock, your nominee will not be able to vote such shares at the special meeting. Because the adoption of the merger agreement requires an affirmative vote of a majority of the outstanding shares of Sun common stock for approval, the failure to provide your nominee with voting instructions will have the same effect as a vote **AGAINST** the proposal to adopt the merger agreement.

Because the proposal to adjourn or postpone the special meeting, if necessary or appropriate, to solicit additional proxies requires the affirmative vote of a majority of the shares of common stock present in person or represented at the special meeting and entitled to vote thereon, and because your brokerage firm, bank, trust or other nominee does not have discretionary authority to vote on the proposal, the failure to instruct your nominee with voting instructions on how to vote your shares will have no effect on the approval of that proposal.

Revocability of Proxy. Any stockholder of record of Sun common stock may revoke his or her proxy at any time, unless noted below, before it is voted at the special meeting by any of the following actions:

- delivering to Sun s Corporate Secretary a signed written notice of revocation bearing a date later than the date of the proxy, stating that the proxy is revoked;
- attending the special meeting and voting in person (your attendance at the meeting will not, by itself, revoke your proxy; you must vote in person at the meeting);
- signing and delivering a new proxy, relating to the same shares of Sun common stock and bearing a later date; or
- submitting another proxy by telephone or on the Internet before 11:59 p.m. Eastern time on the date prior to the date of the special meeting (the latest telephone or Internet voting instructions will be followed).

Written notices of revocation and other communications with respect to the revocation of any proxies should be addressed to:

Sun Microsystems, Inc.

4150 Network Circle

Santa Clara, California 95054

Attn: Corporate Secretary

If you are a street name holder of Sun common stock, you may change your vote by submitting new voting instructions to your brokerage firm, bank, trust or other nominee. You must contact your nominee to obtain instructions as to how to change or revoke your proxy.

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The Companies (Page 19)

Sun. Sun Microsystems, Inc., a Delaware corporation, provides network computing infrastructure solutions that drive global network participation through shared innovation, community development and open source leadership. Guided by a singular vision, The Network is the Computer , we provide a diversity of software, systems, storage, services and microelectronics that power everything from consumer electronics, to developer tools and the world s most powerful data centers. With core brands including the Java technology platform, the Solaris Operating System, the MySQL database management system, Sun StorageTek storage solutions and the UltraSPARC® processor, our network computing platforms are used by nearly every sector of society and industry, and provide the infrastructure behind some of the world s best known search, social networking, entertainment, financial services, manufacturing, healthcare, retail, news, energy and engineering companies. Sun s principal executive offices are located at 4150 Network Circle, Santa Clara, CA, 95054 and our telephone number is (650) 960-1300. See also Where You Can Find More Information. Sun s common stock is publicly traded on the NASDAQ Global Select Market under the symbol JAVA .

Oracle. Oracle, a Delaware corporation, is the world s largest enterprise software company. Oracle develops, manufactures, markets, distributes and services database and middleware software as well as applications software designed to help its customers manage and grow their business operations. Oracle s goal is to offer customers scalable, reliable, secure and integrated software solutions that improve transactional efficiencies, adapt to an organization s unique needs and allow better ways to access and manage information at a lower total cost of ownership. Oracle seeks to be an industry leader in each of the specific product categories in which it competes and to expand into new and emerging markets. Oracle s principal executive offices are located at 500 Oracle Parkway, Redwood Shores, California 94065, and its telephone number is (650) 506-7000.

Soda Acquisition Corporation. Soda Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of Oracle, was formed solely for the purpose of facilitating Oracle s acquisition of Sun. Soda Acquisition Corporation has not carried on any activities to date, except for activities incidental to its formation and activities undertaken in connection with the transactions contemplated by the merger agreement. Upon consummation of the proposed merger, Soda Acquisition Corporation will merge with and into Sun and will cease to exist. Soda Acquisition Corporation s principal executive offices are located at 500 Oracle Parkway, Redwood Shores, California 94065, and its telephone number is (650) 506-7000.

Reasons for the Merger (Page 24)

In reaching its decision to adopt and approve, and declare advisable, the merger agreement, the merger and the other transactions contemplated by the merger agreement, Sun s board of directors, which we refer to as the Sun board of directors, consulted with Sun s management, as well as its financial and legal advisors, and considered a number of factors that the board members believed supported their decision.

Recommendation of Sun Board of Directors (Page 24)

The Sun board of directors deemed that the merger and the other transactions contemplated by the merger agreement together represent a transaction that is fair to, advisable and in the best interests of Sun and its stockholders, and unanimously adopted and approved, and declared advisable, the merger agreement, the merger and the other transactions contemplated thereby. The Sun board of directors unanimously recommends that Sun stockholders vote **FOR** the adoption of the merger agreement and **FOR** the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies.

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Voting Agreements (Page 41)

In connection with the transactions contemplated by the merger agreement, Mr. Jonathan I. Schwartz, our President and Chief Executive Officer and a member of our board of directors, and Mr. Scott G. McNealy, the chairman of our board of directors, who beneficially owned, as of the record date, approximately 0.1% and 1.9%, respectively, of the total outstanding shares of Sun common stock, have each entered into a voting agreement with Oracle, to, among other things, vote their respective shares of Sun common stock in favor of the merger, unless the merger agreement has been terminated.

Opinion of Sun s Financial Advisor (Page 27)

On April 18, 2009, Credit Suisse Securities (USA) LLC (which we refer to as Credit Suisse) rendered its oral opinion to the Sun board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse s written opinion dated the same date) to the effect that, as of April 18, 2009, the $9.50 in cash per share of Sun common stock to be received by the holders of shares of Sun s common stock in the merger was fair, from a financial point of view, to such stockholders.

Pursuant to an engagement letter dated January 29, 2009, Sun retained Credit Suisse as its financial advisor in connection with, among other things, the proposed merger. Under the terms of the engagement letter, Credit Suisse will receive an aggregate fee currently estimated to be approximately $32.6 million, of which $3 million became payable upon delivery of its opinion and approximately $29.6 million is contingent upon the consummation of the merger. In addition, Sun has agreed to indemnify Credit Suisse and certain related parties for certain liabilities and other items arising out of or relating to its engagement and to reimburse Credit Suisse for its expenses arising out of or relating to the engagement.

Credit Suisse s opinion was directed to the Sun board of directors and only addressed the fairness from a financial point of view of the $9.50 in cash per share of Sun common stock to be received by the holders of Sun common stock in the merger, and did not address any other aspect or implication of the merger. The summary of Credit Suisse s opinion in this proxy statement is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Credit Suisse in preparing its opinion. However, neither Credit Suisse s written opinion nor the summary of its opinion and the related analyses set forth in this proxy statement are intended to be, and they do not constitute, advice or a recommendation to any holder of Sun common stock as to how such holder should vote or act with respect to any matter relating to the merger.

Treatment of Options and Other Awards (Page 44)

Stock Options. Except as described below, each option to purchase shares of Sun common stock that is outstanding immediately prior to the effective time of the merger will be automatically converted into an option to acquire, on substantially identical terms and conditions applicable to such Sun stock option immediately prior to the merger, a number of shares of Oracle common stock (rounded down to the nearest whole share) equal to the product of (x) the number of shares of Sun common stock subject to the option and (y) a fraction (which we refer to as the equity award exchange ratio), the numerator of which is $9.50 and the denominator of which is the average closing price of Oracle common stock over the five trading days immediately preceding (but not including) the effective time of the merger.

The exercise price for assumed options will equal the per share exercise price for the shares of Sun common stock divided by the equity award exchange ratio (rounded upwards to the nearest whole cent).

Unless Oracle determines otherwise, options held by persons who are not employees of, or consultants to, Sun, or one of its subsidiaries, immediately prior to the effective time of the merger will not be assumed. The

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options that are not assumed by Oracle, to the extent vested, will be automatically converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to the positive difference, if any, between $9.50 and the per share exercise price of the option.

Restricted Stock Units. Except as described below, restricted stock units denominated in shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be converted into the right to receive restricted stock units with respect to the number of shares of Oracle common stock calculated by multiplying the number of Sun restricted stock units by the equity award exchange ratio (rounded down to the nearest whole share). The Oracle restricted stock units will vest subject to and in accordance with the applicable vesting schedule for the Sun restricted stock units, with other terms and conditions substantially identical to the Sun restricted stock units.

Unless Oracle determines otherwise, restricted stock units held by persons who are not employees of, or consultants to, Sun, or one of its subsidiaries, immediately prior to the effective time of the merger will not be assumed. The restricted stock units that are not assumed by Oracle, to the extent vested, will be automatically converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to $9.50 per share of Sun common stock that was issuable upon settlement of such restricted stock unit award immediately prior to the effective time of the merger.

Restricted Stock. Restricted shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be cancelled and converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to $9.50 per restricted share of Sun common stock, which cash amount shall be payable subject to and in accordance with the vesting schedule applicable to the restricted shares of Sun common stock as in effect immediately prior to the effective time.

Employee Stock Purchase Plan. Sun will provide that the purchase price per share of Sun common stock purchased under its 1990 Employee Stock Purchase Plan (which we refer to as the ESPP) for all offering periods beginning after the execution of the merger agreement will be equal to 95% of the fair market value of a share of Sun common stock on the exercise date. Sun will also establish a new exercise date under the ESPP on the last day of the payroll period ending immediately prior to the effective time of the merger (but at least ten business days before the effective time) with respect to the offering period then in effect under the ESPP. Sun will terminate the ESPP effective on the date of such newly established exercise date. At the effective time of the merger, the newly purchased shares of Sun common stock will be converted into the right to receive $9.50 per share in cash, without interest and less any applicable withholding taxes.

Material U.S. Federal Income Tax Consequences of the Merger (Page 40)

The receipt of cash for shares of Sun common stock pursuant to the merger will be a taxable transaction for U.S. federal income tax purposes. In general, for U.S. federal income tax purposes, a holder of Sun common stock will recognize gain or loss in an amount equal to the difference, if any, between (1) the amount of cash received in the merger and (2) the holder s adjusted tax basis in the shares. Stockholders should consult their tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local or foreign income and other tax laws) of the merger.

Interests of Sun s Directors and Executive Officers in the Merger (Page 35)

Sun s directors and executive officers have economic interests in the merger that are different from, or in addition to, their interests as Sun stockholders. The Sun board of directors was aware of and considered these interests, among other matters, in reaching its decision to adopt and approve, and declare advisable, the merger agreement, the merger and the other transactions contemplated the merger agreement. Sun s executive officers are either parties to change of control agreements with Sun or eligible to participate in certain change of control severance plans adopted by Sun, each of which provide severance and other benefits in the case of qualifying

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separations from service in connection with a change of control of Sun, including consummation of the merger. Executive officers and directors of Sun have rights to indemnification and directors and officers liability insurance that will survive consummation of the merger.

Common Stock Ownership of Directors and Executive Officers (Page 69)

As of June 5, 2009, the record date for the special meeting, the directors and executive officers of Sun beneficially owned in the aggregate approximately 16,277,866 shares of Sun s outstanding common stock entitled to vote at the special meeting or approximately 2.2% of Sun s outstanding common stock as of the record date for the special meeting.

Appraisal Rights (Page 64)

Under Delaware law, Sun stockholders who do not vote in favor of the merger agreement and the merger will have the right to seek appraisal of the fair value of their shares as determined by the Delaware Court of Chancery if the merger is completed, but only if they submit a written demand for such an appraisal prior to the vote on the merger agreement and the merger and comply with the other Delaware law procedures explained in this proxy statement.

Conditions to the Merger (Page 58)

Conditions to Each Party s Obligations. Each party s obligation to consummate the merger is subject to the satisfaction or waiver of the following mutual conditions:

- approval and adoption of the merger agreement and the merger by an affirmative majority of the outstanding shares of Sun common stock;
- no governmental entity with jurisdiction over any party will have issued any binding order, injunction, decree, ruling or other action that is in effect (whether temporary, preliminary or permanent) restraining, enjoining or otherwise prohibiting the consummation of the merger;
- no law or regulation will have been adopted that makes the consummation of the merger illegal or otherwise prohibited;
- the waiting period applicable to the merger under the antitrust laws of the United States and Canada, European Union, China, Israel, Switzerland, Russia, Australia, Turkey, Korea, Japan, Mexico and South Africa (which we refer to as the required jurisdictions) will have expired or been terminated; and
- any affirmative approval of a governmental entity required under any applicable federal, state or local antitrust, competition, premerger notification or trade regulation laws in the United States or the required jurisdictions.

Conditions to Sun s Obligations. The obligation of Sun to consummate the merger is subject to the satisfaction or waiver of further conditions, including:

- the representations and warranties of Oracle and Soda Acquisition Corporation made in the merger agreement, will be true and correct in all material respects when made and as of immediately prior to the effective time of the merger (other than those representations and warranties that were made only as of a specified date, which need only be true and correct in all material respects as of such specified date);

Oracle and Soda Acquisition Corporation will have performed in all material respects their respective obligations on or before the date on which the transactions contemplated by the merger agreement are to be completed; and

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Sun will have received a certificate signed on Oracle s behalf by a senior executive officer of Oracle as to the satisfaction of the conditions described in the preceding two bullets.

Conditions to Oracle s and Soda Acquisition Corporation s Obligations. The obligation of Oracle and Soda Acquisition Corporation to consummate the merger is subject to the satisfaction or waiver of further conditions, including:

the representations and warranties of Sun relating to corporate existence, power, authority, certain capitalization matters and finders fees set forth in the merger agreement, to the extent not qualified by materiality or material adverse effect thresholds, will be true in all material respects, and to the extent so qualified, will be true in all respects, on the date made and as of the effective time of the merger (other than those representations and warranties that were made only as of a specified date, which need only be true and correct as of such specified date);

the other representations and warranties of Sun made in the merger agreement, disregarding materiality and material adverse effect thresholds, will be true when made and as of immediately prior to the effective time of the merger (other than those representations and warranties that were made only as of a specified date, which need only be true and correct as of such specified date), provided that such representations will be deemed to be true unless the individual or aggregate impact of the failure to be so true would have or would reasonably be expected to have a material adverse effect on Sun;

Oracle will have received a certificate signed on Sun s behalf by a senior executive officer of Sun as to the satisfaction of the conditions described in the preceding two bullets;

Sun will have performed, in all material respects, its obligations under the merger agreement on or prior to the consummation of the merger; and

there will not have been any fact, event, change, development or set of circumstances that has had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Sun.

Termination of the Merger Agreement (Page 59)

Sun and Oracle may terminate the merger agreement by mutual written consent at any time before the consummation of the merger. In addition, with certain exceptions, either Oracle or Sun may terminate the merger agreement at any time before the consummation of the merger if:

the merger is not consummated before April 19, 2010 (which we refer to as the end date); provided, that if all of the conditions to the consummation of the merger shall have been satisfied, other than the expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (which we refer to as the HSR Act) and the receipt of regulatory approvals under the applicable merger control laws of the required jurisdictions, the end date may be extended by a three month period by Oracle by written notice to Sun (the end date may be so extended not more than twice); provided, further, that a party whose willful or intentional breach of any provision of the merger agreement resulted in the failure of the merger to be consummated before the end date will not be entitled to exercise its right to terminate the merger agreement because of this reason;

any governmental entity of competent jurisdiction issues an order, decree, injunction or ruling or takes any other action permanently enjoining, restraining or otherwise prohibiting the consummation of the merger and such order, decree, ruling or other action becomes final and non-appealable;

any law or regulation is adopted that makes consummation of the merger illegal or otherwise prohibited; or

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the merger agreement has been submitted to Sun s stockholders for approval and adoption and the required vote has not been obtained by reason of the failure to obtain the required vote upon a final vote taken at the special meeting (or any adjournment or postponement thereof).

Sun may also terminate the merger agreement if:

prior to the receipt of approval of the adoption of the merger agreement by Sun s stockholders, the Sun board of directors authorizes Sun, in compliance with the other terms of the merger agreement, to enter into a binding definitive agreement in respect of a superior proposal if (1) Sun pays the termination fee described below at or prior to termination of the merger agreement and (2) Sun substantially concurrently enters into a binding definitive agreement with respect to such superior proposal; or

Oracle or Soda Acquisition Corporation materially breaches or fails to perform any of its representations, warranties or covenants contained in the merger agreement, or if any representation or warranty of Oracle or Soda Acquisition Corporation becomes inaccurate, in either case such that the conditions to the merger relating to the accuracy of Oracle s or Soda Acquisition Corporation s representations, warranties and covenants would not be satisfied as of the time of such breach or as of the time such representation and warranty became inaccurate and in either case such that breaches or inaccuracies are not curable by Oracle or Soda Acquisition Corporation within 30 days and prior to the end date or Oracle or Soda Acquisition Corporation ceases to exercise commercially reasonable efforts to cure such breach or inaccuracy.

Oracle may also terminate the merger agreement if:

an adverse recommendation change (as defined in the section entitled The Merger Agreement Sun Board Recommendation) has occurred;

Sun has entered into, or publicly announced its intention to enter into, a letter of intent, memorandum of understanding or other contract (other than an acceptable confidentiality agreement) relating to any acquisition proposal;

Sun or any of its representatives has willfully and materially breached any of its obligations under the non-solicitation provisions in the merger agreement; or

Sun materially breaches or fails to perform any of its representations, warranties or covenants contained in the merger agreement, or if any representation or warranty of Sun becomes inaccurate, in either case such that the conditions to the merger relating to the accuracy of Sun s representations, warranties and covenants would not be satisfied as of the time of such breach or as of the time such representation and warranty became inaccurate and in either case such that breaches or inaccuracies are not curable by Sun within 30 days and prior to the end date or Sun ceases to exercise commercially reasonable efforts to cure such breach or inaccuracy.

Termination Fees and Expenses (Page 60)

Sun has agreed to pay Oracle a termination fee of $260 million in the event that the merger agreement is terminated: (a) by Oracle pursuant to the provisions described in the first three bullet points in the third paragraph under Summary Termination of the Merger Agreement above, or (b) by Sun pursuant to the provisions described in the first bullet point in the second paragraph under Summary Termination of the Merger Agreement above or (c) by either party pursuant to the provisions described in the fourth bullet point described in the first paragraph under Summary Termination of the Merger Agreement above and (x) prior to the special meeting, an acquisition proposal has been publicly announced and not publicly withdrawn, and (y) within 12 months following the date of such termination Sun has entered into a definitive agreement with respect to, or completed, an acquisition proposal with any party. In addition, if the merger agreement is terminated by Oracle or Sun because the required approval of the stockholders of Sun has not been obtained by reason of the failure to

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obtain the required vote upon a final vote taken at the special meeting, Sun has agreed to reimburse Oracle for all its documented, reasonable out-of-pocket fees and expenses in an amount up to $45 million (any fee reimbursement amount paid by Sun will be credited against any obligation of Sun to pay Oracle a termination fee).

No Solicitations (Page 51)

Immediately upon signing of the merger agreement, Sun and its subsidiaries agreed to cease any discussions, negotiations or other activities with respect to any actual or potential competing acquisition proposal. In addition, under the merger agreement, Sun and its subsidiaries are not permitted to, among other things, (i) solicit, initiate, or knowingly take any action to facilitate or encourage the submission of any proposal or the making of any inquiries, offer or proposal that could reasonably be expected to lead to an acquisition proposal or (ii) conduct or engage in any discussions or negotiations with, disclose any non-public information relating to Sun or any of its subsidiaries to, afford access to the business, properties, assets, books or records of Sun or any of its subsidiaries to, or knowingly assist, participate in, facilitate or encourage any effort by, any third party that has expressed an intention to make, or has made, any acquisition proposal.

Notwithstanding these restrictions, prior to the adoption of the merger agreement by Sun s stockholders, the Sun board of directors directly or indirectly through any representative, may engage in discussions or negotiations with, or furnish or disclose non-public information to a person who has made (and not withdrawn) a bona fide unsolicited acquisition proposal in writing so long as (i) the Sun board of directors believes in good faith, after consultation with its outside legal counsel and financial advisor of nationally recognized reputation, that such acquisition proposal constitutes or would reasonably be expected to lead to a superior proposal, (ii) prior to taking such action, Sun enters into an acceptable confidentiality agreement with the third party or group who has made the acquisition proposal and (iii) the Sun board of directors determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties under applicable law.

Regulatory Approvals (Page 41)

Under the provisions of the HSR Act, the merger may not be completed until notification and report forms have been filed with the Antitrust Division of the United States Department of Justice (which we refer to as the Antitrust Division) and the Federal Trade Commission (which we refer to as the FTC) by Sun and Oracle and the applicable waiting period has expired or been terminated. In addition, the expiration or termination of the applicable waiting period in the required jurisdictions is a condition to each of Oracle and Sun s obligation to consummate the merger. Oracle and Sun filed their respective notifications and report forms with the Antitrust Division and the FTC under the HSR Act on May 5, 2009. Oracle re-filed its notification and report form with the Antitrust Division and the FTC on May 27, 2009. Oracle and Sun are preparing anti-trust and competition filings for foreign jurisdictions, including the European Union.

Consummation of the Merger

Sun currently anticipates that the merger will be completed during the summer of 2009. However, we cannot predict the exact timing of the consummation of the merger and whether the merger will be consummated. In order to consummate the merger, Sun s stockholders must adopt the merger agreement and the other closing conditions under the merger agreement, including receipt of certain regulatory approvals, must be satisfied or, to the extent legally permitted, waived.

Current Market Price of Common Stock (Page 68)

The closing sale price of Sun common stock on the NASDAQ Global Select Market on June 5, 2009 was $9.17. You are encouraged to obtain current market quotations for Sun common stock in connection with voting your shares.

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CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION

This proxy statement, and the documents to which we refer you in this proxy statement, include forward-looking statements based on estimates and assumptions. There are forward-looking statements throughout this proxy statement, including, without limitation, under the headings Summary, The Special Meeting, The Merger, Opinion of Sun s Financial Advisor, Financial Projections, Regulatory Approvals, and in statements containing words such as believes, estimates, anticipates, continues, predict, potential, contemplates, expects, may, should or would or other similar words or phrases. These statements are subject to risks, uncertainties, and other factors, including, among others:

- the effect of the announcement of the merger on Sun s business relationships, operating results and business generally;
- the retention of certain key employees at Sun;
- the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement;
- the adoption of the merger agreement by Sun s stockholders or other conditions to the completion of the transaction may not be satisfied, or the regulatory approvals required for the transaction may not be obtained on the terms expected or on the anticipated schedule;
- the amount of the costs, fees, expenses and charges related to the merger and the execution of certain financings that will be obtained to consummate the merger; and
- Sun s and Oracle s ability to meet expectations regarding the timing and completion of the merger.

In addition, we are subject to risks and uncertainties and other factors detailed in Sun s annual report on Form 10-K for the fiscal year ended June 30, 2008, filed with the Securities and Exchange Commission, which we refer to herein as the SEC, on August 29, 2008 and Sun s quarterly report on Form 10-Q for the fiscal quarter ended March 29, 2009, filed with the SEC on May 8, 2009, which should be read in conjunction with this proxy statement. See Where You Can Find More Information on page 71. Many of the factors that will determine Sun s future results are beyond Sun s ability to control or predict. In light of the significant uncertainties inherent in the forward-looking statements contained herein, readers should not place undue reliance on forward-looking statements, which reflect management s views only as of the date hereof. We cannot guarantee any future results, levels of activity, performance or achievements. The statements made in this proxy statement represent Sun s views as of the date of this proxy statement, and it should not be assumed that the statements made herein remain accurate as of any future date. Moreover, we assume no obligation to update forward-looking statements or update the reasons that actual results could differ materially from those anticipated in forward-looking statements, except as required by law.

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THE SPECIAL MEETING

Date, Time, Place and Purpose of the Special Meeting

This proxy statement is being furnished to Sun s stockholders as part of the solicitation of proxies by the Sun board of directors for use at the special meeting to be held on July 16, starting at 10 a.m. Pacific time, at Sun s Auditorium located at the Santa Clara Campus, 4030 George Sellon Circle, Santa Clara, California 95054, or at any postponement or adjournment thereof. The purpose of the special meeting is for Sun s stockholders to consider and vote on adoption of the merger agreement and to approve the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies. Sun s stockholders must adopt the merger agreement in order for the merger to occur. If Sun s stockholders fail to adopt the merger agreement, the merger will not occur. A copy of the merger agreement is attached to this proxy statement as Annex A. You are urged to read the merger agreement in its entirety.

Record Date and Quorum

We have fixed the close of business on June 5, 2009 as the record date for the special meeting, and only holders of record of Sun common stock on the record date are entitled to vote at the special meeting. As of June 5, 2009, there were 751,353,139 shares of Sun common stock outstanding and entitled to vote. Each share of Sun common stock entitles its holder to one vote on all matters properly coming before the special meeting.

A majority of the shares of Sun common stock issued, outstanding and entitled to vote at the special meeting constitutes a quorum for the purpose of considering the proposals. Shares of Sun common stock present in person or represented at the special meeting but not voted, including shares of Sun common stock for which proxies have been received but for which stockholders have abstained, will be treated as present at the special meeting for purposes of determining the presence or absence of a quorum for the transaction of all business. In the event that a quorum is not present at the special meeting, the special meeting may be adjourned or postponed to solicit additional proxies.

Vote Required for Approval

You may vote FOR or AGAINST, or you may ABSTAIN from voting on, the proposal to adopt the merger agreement. Consummation of the merger requires the adoption of the merger agreement by the affirmative vote of a majority of the outstanding shares of Sun common stock. **Therefore, if you abstain or fail to vote, it will have the same effect as a vote AGAINST the adoption of the merger agreement.**

The adoption of the proposal to adjourn or postpone the special meeting to a later time, if necessary or appropriate, to solicit additional proxies requires the affirmative vote of a majority of the shares of Sun common stock present in person or represented by proxy at the special meeting and entitled to vote thereon. **Therefore, if you abstain, it will have the same effect as a vote AGAINST the adoption of the proposal to adjourn or postpone the special meeting and if you fail to vote, it will have no effect on the outcome of the proposal.**

As of the record date, Sun s directors and executive officers held and are entitled to vote, in the aggregate, approximately 16,277,866 shares of Sun common stock, representing approximately 2.2% of Sun s outstanding common stock.

Proxies and Revocation

If you are a stockholder of record of your shares of Sun common stock and you submit a proxy by telephone or the Internet or by returning a signed and dated proxy card by mail that is received by Sun at any time prior to 11:59 p.m. Eastern time on the date prior to the date of the special meeting, your shares will be voted at the special meeting as you indicate. If you sign your proxy card without indicating your vote, your shares will be

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voted **FOR** the adoption of the merger agreement and **FOR** the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies, and in accordance with the recommendations of the Sun board of directors on any other matters properly brought before the special meeting, or at any adjournment or postponement thereof, for a vote.

If your shares of Sun common stock are held in street name, you will receive instructions from your broker, bank or other nominee that you must follow in order to have your shares voted. If you have not received such voting instructions or require further information regarding such voting instructions, contact your broker. Brokers who hold shares of Sun common stock in street name for a beneficial owner of those shares typically have the authority to vote in their discretion on routine proposals when they have not received instructions from beneficial owners. However, brokers are not allowed to exercise their voting discretion with respect to the approval of matters that are non-routine, such as adoption of the merger agreement, without specific instructions from the beneficial owner. Broker non-votes are shares held by a broker or other nominee that are present in person or represented at the meeting, but with respect to which the broker or other nominee is not instructed by the beneficial owner of such shares to vote on the particular proposal and the broker does not have discretionary voting power on such proposal. If your broker or other nominee holds your shares of Sun common stock in street name, your broker or other nominee will vote your shares only if you provide instructions on how to vote by filling out the voter instruction form sent to you by your broker with this proxy statement. Because it is expected that brokers and other nominees will not have discretionary authority to vote on either proposal, Sun anticipates that there will not be any broker non-votes in connection with either proposal.

Proxies received by Sun at any time before the vote being taken at the special meeting, which have not been revoked or superseded before being voted, will be voted at the special meeting. If you are a stockholder of record of shares of Sun common stock, you have the right to change or revoke your proxy at any time, unless noted below, before the vote is taken at the special meeting:

- by delivering to Sun s Corporate Secretary, a signed written notice of revocation bearing a date later than the date of the proxy, stating that the proxy is revoked;
- by attending the special meeting and voting in person (your attendance at the meeting will not, by itself, revoke your proxy; you must vote in person at the meeting);
- by signing and delivering a new proxy, relating to the same shares of Sun common stock and bearing a later date; or
- if you voted by telephone or the Internet, by voting again by telephone or the Internet prior to 11:59 p.m. Eastern time on the date prior to the date of the special meeting.

If you are a street name holder of Sun common stock, you may change your vote by submitting new voting instructions to your brokerage firm, bank, trust or other nominee. You must contact your nominee to obtain instructions as to how to change or revoke your proxy.

Written notices of revocation and other communications with respect to the revocation of any proxies should be addressed to:

Sun Microsystems, Inc.

4150 Network Circle

Santa Clara, California 95054

Attn: Corporate Secretary

Adjournments and Postponements

Although it is not currently expected, the special meeting may be adjourned or postponed for the purpose of soliciting additional proxies. Sun s amended and restated bylaws provide that any adjournment may be made without notice if announced at the meeting at which the adjournment is taken and if the adjournment is to a date

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that is not greater than 30 days after the original date fixed for the special meeting and no new record date is fixed for the adjourned meeting. Any signed proxies received by Sun prior to 10 a.m. Pacific time on the date of the special meeting in which no voting instructions are provided on such matter will be voted **FOR** an adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies. Whether or not a quorum exists, holders of a majority of Sun shares of common stock present in person or represented by proxy and entitled to vote at the special meeting may adjourn the special meeting. Because a majority of the votes present in person or represented at the meeting, whether or not a quorum exists, is required to approve the proposal to adjourn the meeting, abstentions will have the same effect on such proposal as a vote **AGAINST** the proposal. Any adjournment or postponement of the special meeting for the purpose of soliciting additional proxies will allow Sun s stockholders who have already sent in their proxies to revoke them at any time prior to their use at the special meeting as adjourned or postponed.

Solicitation of Proxies

We have retained Morrow & Co., LLC to assist in the solicitation of proxies for the special meeting for a fee of approximately $20,000, plus reimbursement of reasonable out-of-pocket expenses. Our directors, officers and employees may also solicit proxies by personal interview, mail, e-mail, telephone, facsimile or other means of communication. These persons will not be paid additional remuneration for their efforts. We will also request brokers and other fiduciaries to forward proxy solicitation material to the beneficial owners of shares of Sun common stock that the brokers and fiduciaries hold of record. Upon request, we will reimburse them for their reasonable out-of-pocket expenses.

Questions and Additional Information

If you have questions about the merger or how to submit your proxy, or if you need additional copies of this proxy statement or the enclosed proxy card or voting instructions, please call our proxy solicitor, Morrow & Co., LLC toll-free at (800) 460-1014 or collect at (203) 658-9400.

Availability of Documents

Documents incorporated by reference (excluding exhibits to those documents unless the exhibit is specifically incorporated by reference into those documents) will be provided by first class mail without charge to each person to whom this proxy statement is delivered upon written or oral request of such person. In addition, our list of stockholders entitled to vote at the special meeting will be available for inspection at our principal executive offices at least 10 days prior to the date of the special meeting and continuing through the special meeting for any purpose germane to the meeting; the list will also be available at the meeting for inspection by any stockholder present at the meeting. See Where You Can Find More Information for more information regarding where you request any of the documents incorporated by reference in this proxy statement or other information concerning Sun.

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THE COMPANIES

Sun

Sun Microsystems, Inc., a Delaware corporation, provides network computing infrastructure solutions that drive global network participation through shared innovation, community development and open source leadership. Guided by a singular vision, The Network is the Computer , we provide a diversity of software, systems, storage, services and microelectronics that power everything from consumer electronics, to developer tools and the world s most powerful data centers. With core brands including the Java technology platform, the Solaris Operating System, the MySQL database management system, Sun StorageTek storage solutions and the UltraSPARC® processor, our network computing platforms are used by nearly every sector of society and industry, and provide the infrastructure behind some of the world s best known search, social networking, entertainment, financial services, manufacturing, healthcare, retail, news, energy and engineering companies. Sun s principal executive offices are located at 4150 Network Circle, Santa Clara, CA, 95054 and its telephone number is (650) 960-1300. See also Where You Can Find More Information. Sun s common stock is publicly traded on the NASDAQ Global Select Market under the symbol JAVA .

Oracle

Oracle, a Delaware corporation, is the world s largest enterprise software company. Oracle develops, manufactures, markets, distributes and services database and middleware software as well as applications software designed to help its customers manage and grow their business operations.

Oracle s goal is to offer customers scalable, reliable, secure and integrated software solutions that improve transactional efficiencies, adapt to an organization s unique needs and allow better ways to access and manage information at a lower total cost of ownership. Oracle seeks to be an industry leader in each of the specific product categories in which it competes and to expand into new and emerging markets. Oracle s principal executive offices are located at 500 Oracle Parkway, Redwood Shores, California 94065, and its telephone number is (650) 506-7000. Additional information regarding Oracle is contained in Oracle s filings with the SEC.

Soda Acquisition Corporation

Soda Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of Oracle, was formed solely for the purpose of facilitating Oracle s acquisition of Sun. Soda Acquisition Corporation has not carried on any activities to date, except for activities incidental to its formation and activities undertaken in connection with the transactions contemplated by the merger agreement. Upon consummation of the proposed merger, Soda Acquisition Corporation will merge with and into Sun and will cease to exist, with Sun continuing as wholly-owned subsidiary of Oracle. Soda Acquisition Corporation s address is 500 Oracle Parkway, Redwood Shores, California 94065, and its telephone number is (650) 506-7000.

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THE MERGER

This discussion of the merger is qualified in its entirety by reference to the merger agreement, which is attached to this proxy statement as Annex A and which is incorporated by reference into this proxy statement. You should read the entire merger agreement carefully as it is the legal document that governs the merger.

Background of the Merger

We and Oracle sell complementary products and services and have collaborated on sales and otherwise worked together in many ways over the last twenty years.

On November 6, 2008, the Chief Executive Officer of Party A, a competitor of ours, approached Jonathan Schwartz, our President and Chief Executive Officer and a member of our board of directors, and suggested a possible business combination transaction.

During the period between November 6, 2008 and December 19, 2008, our management and our outside legal counsel, Wilson Sonsini Goodrich & Rosati (which we refer to as Wilson Sonsini), held a number of discussions with Party A and its legal counsel and discussed on several occasions with our board of directors and audit committee the possibility of a business combination transaction with Party A, our stand-alone alternatives as an independent company and the possibility of engaging with parties other than Party A concerning a possible business combination.

During this period, our management, at the direction of our board, approached the management of Party B and certain other parties, to explore their interest in a possible transaction with us. Party B indicated that it was interested in exploring a transaction, but that pursuing a transaction in the near term was not optimal for Party B at that time. Our management and advisors also approached or were approached by other parties during the first quarter of 2009, but except in the case of Party A, Party B and Oracle, no meaningful process for exploration of a possible transaction evolved from any of these discussions.

At Party A s request, our board determined to permit Party A to conduct due diligence prior to submitting a proposal for our board s consideration and, on December 19, 2008, we and Party A entered into a confidentiality agreement after which Party A commenced its due diligence investigation of the company.

On December 22, 2008, our audit committee met and discussed the scope of due diligence information to be shared with Party A and the retention of a financial advisor. In late December 2008, we selected Credit Suisse to act as Sun s financial advisor in connection with our evaluation of strategic alternatives, including a possible sale of the company or other strategic transactions. We subsequently entered into a letter agreement with Credit Suisse on January 29, 2009, pursuant to which Credit Suisse was formally engaged to act in such capacity.

On January 28, 2009, Party A delivered a preliminary proposal to us, proposing an acquisition of the company at a price of $8.40 to $8.70 per share in cash. On January 29, 2009, our board of directors held a regular meeting at which it reviewed and discussed Party A s proposal and potential responses with our legal and financial advisors. Representatives of Wilson Sonsini also discussed the board s fiduciary obligations. Following discussion and an executive session, our board delegated authority to our audit committee plus an additional independent board member, Stephen Bennett (we refer to this committee as the Committee), to evaluate and analyze the Party A proposal and to oversee and direct management and our financial and legal advisors with respect to evaluating, contacting and responding to third parties with respect to acquisition proposals or indications of interest concerning strategic transactions with us.

On February 3, 2009, the Committee met with management and our advisors to discuss the Party A proposal and strategies for exploring the possible interest of other parties who might engage in a strategic transaction with us. At the direction of and in consultation with the Committee, our management and advisors held further discussions with Party A and its advisors with regard to the Party A proposal.

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On February 12, 2009, Mr. Schwartz, at the direction of and in consultation with the Committee, spoke with the Chief Executive Officer of Party B about a possible strategic transaction. Following this conversation, we and our representatives held several discussions with Party B and on February 18, 2009, we entered into a confidentiality agreement with Party B, at which point Party B commenced its due diligence investigations of the company.

On February 20, 2009, Party A delivered a revised proposal to our board, proposing an acquisition of the company at a price per share of $10 in cash. This proposal was conditioned upon our agreeing to exclusive negotiations with Party A and was accompanied by a draft exclusivity agreement.

On or about February 23, 2009, Scott McNealy the Chairman of our board, in consultation with the Committee, spoke with Larry Ellison, Chief Executive Officer of Oracle, concerning a possible strategic transaction with us.

During the period from February 22 to February 26, 2009, our board held three special meetings and the Committee held one special meeting to discuss with management and our advisors the revised Party A proposal, the exclusivity terms being sought by Party A, the board s fiduciary obligations and the status of discussions with other possible parties, including Party B and Oracle. Prior to and during this time, our management and advisors urged Party B to make a proposal for a transaction, but Party B did not do so. In addition, during this time, Mr. McNealy (in consultation with the Committee) held further discussions with Mr. Ellison concerning a possible strategic transaction. On February 26, 2009, our board approved the exclusivity agreement with Party A, and we entered into the exclusivity agreement with Party A and terminated discussions with all other potential acquirors. At that time, we indicated to Party A that our willingness to engage in negotiations regarding the $10 per share proposal was predicated on the expectation that the parties would reach agreement on terms and conditions that would provide us with adequate certainty that a transaction, if agreed to, would be consummated.

From February 26, 2009 to April 4, 2009, we and our advisors held lengthy negotiations with Party A and its legal counsel, including negotiation of a draft definitive agreement for the transaction proposed by Party A. Our engagement with Party A focused on the need to address issues of transaction certainty. In particular, we focused on optimizing the likelihood that a transaction with Party A would receive approval from antitrust authorities, mitigating risks to our business if a transaction with Party A did not get antitrust approval and requiring Party A to close the transaction, if approved by antitrust authorities. During this time, our board met six times and the Committee met seven times to discuss with management and our advisors the status of negotiations with Party A, communications from Oracle, Party B and others seeking to discuss a potential transaction during this period and terminating the exclusivity arrangement with Party A, but the board and Committee determined to continue negotiations with Party A and not to terminate the exclusivity arrangement.

On March 12, 2009, Oracle sent a letter to our board proposing the acquisition by Oracle of certain of our software assets, a minority equity investment by Oracle in our common stock and entering into certain strategic relationships. On March 16, 2009, our board met with management and our advisors to discuss Oracle s proposal and the board s fiduciary obligations. At the conclusion of the meeting, our board determined to continue negotiations with Party A and not to terminate the exclusivity arrangement with Party A to respond to Oracle s proposal.

On March 18, 2009, the media began reports that we were in discussions concerning a sale of the company with a potential acquiror.

On March 29, 2009, Party A communicated that it was reducing the price it was offering for our common stock from $10.00 per share to $9.40 per share and proposed certain other terms and conditions under which it would be prepared to move forward with its proposed transaction. From March 30, 2009 to April 3, 2009, we and our advisors explained to Party A and its advisors in detail our concerns with Party A s proposal, including, in particular, with regard to transaction certainty and antitrust matters.

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On April 3, 2009, Party A indicated that it wished to bring the process to a close. On April 4, 2009, legal counsel for Party A delivered to us and our counsel two versions of a merger agreement, indicating that these agreements represented Party A s final offer to acquire us and that such offer would expire at 6 p.m. that day if one of the two agreements were not executed by us prior to that time. One of the draft agreements proposed a price per share for our common stock of $9.40 in cash and the other proposed a price of $9.10 per share in cash. Each of the agreements contained certain material terms related to transaction certainty to which we and our advisors had previously objected. The $9.40 agreement also required us to take certain actions as a condition to Party A s obligation to take certain steps to obtain antitrust clearance, which we had previously communicated to Party A that our management considered impossible for us to satisfy. The $9.10 agreement did not contain this condition.

On April 4, 2009, the Committee met to discuss the Party A offers. Later that day, our board also met to discuss the Party A offers. At each of these meetings, the Party A offers were discussed in detail, including the prices and the terms of the contracts proposed. Our board discussed the substantial uncertainty as to Party A s obligation to close its proposed transaction under the proposed agreements and the risk that we would likely be significantly harmed by entering into either of the agreements proposed by Party A if the transaction were not consummated. Our board concluded that the risks of a transaction with Party A on the terms then being proposed by Party A were not in the best interests of our stockholders relative to other alternatives available to us. Accordingly, our board rejected the Party A offers and terminated our exclusivity agreement with Party A.

On April 6, 2009, our board met to discuss certain inquiries we had received from Oracle and Party B and the impact on the company and our employees, customers and other business partners of the media reports suggesting that we were seeking a strategic transaction. Following this, our management and advisors recommenced discussions with Oracle and Party B with regard to a possible transaction. Party B recommenced its due diligence investigation of the company on April 9, 2009.

On April 8 and 9, 2009, our board met and discussed indications that Party A would be interested in meeting to discuss the parties respective positions and explore re-engagement. Our board discussed the concerns it had with Party A s offers of April 4, 2009, as well as the recent discussions with Party B and Oracle. Our board determined to contact Party A to explore the possibility of further negotiations.

On April 10, 2009, our representatives met in person with representatives of Party A and reviewed the parties respective positions.

On April 10, 2009, we and Oracle entered into a confidentiality agreement and Oracle commenced its detailed due diligence review of the company. On April 11, 2009, management of Oracle met with Mr. Schwartz and members of our senior management to discuss the company and a possible transaction.

On April 14, 2009, Wilson Sonsini and legal counsel for Party A discussed issues related to transaction certainty and antitrust matters. On April 16, 2009, we and Party A agreed to reengage in negotiations but Party A communicated that if Party A and we were not able to reach agreement and announce a transaction by the morning of April 20, 2009, that Party A would terminate discussions. Negotiations with Party A recommenced. Our negotiations focused on improving the contractual terms and conditions and the price proposed by Party A on April 4, 2009. With respect to price, Party A continued to indicate that it was prepared to pay $9.10 per share for certain agreement terms and conditions and was prepared to pay $9.40 per share for certain other agreement terms and conditions. We did not communicate agreement with either of these prices, but did continue to discuss, among other things, the additional contract terms Party A was seeking in its $9.40 proposal.

On April 16, 2009, our board met with our legal and financial advisors and discussed recent discussions with Party A, Party B and Oracle. Later that day, Credit Suisse advised Oracle and Party B, at our request, that if they were interested in acquiring the company, they should submit, no later than the end of the day on April 17, 2009, an offer in the form of a draft agreement that they were prepared to execute. Also on April 16, representatives of our management met with management of Party B to discuss a possible transaction with us.

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Also on April 16, 2009, we and Wilson Sonsini discussed with Oracle and Latham & Watkins, outside legal counsel for Oracle, terms and conditions of a proposed merger agreement.

On April 17, 2009, Party B informed us that it would not be submitting a proposal for a strategic transaction with us.

Also on April 17, 2009, Oracle indicated to us it would be making a proposal. That evening, Latham & Watkins delivered a draft merger agreement, including a proposed price per share of $9.50, and Oracle, we and our respective advisors commenced negotiations of the merger agreement. On April 18, 2009, Latham & Watkins delivered a revised draft agreement reflecting the negotiation of the parties. Oracle indicated that its proposal remained subject to final Oracle board approval and finalization of all documentation contemplated by the merger agreement.

On the afternoon of April 18, 2009, our board met and discussed the terms proposed by Oracle as well as the terms then being proposed by Party A and the status of negotiations with Party A and its counsel. At this time, Party A had not definitively confirmed the price it was currently proposing but it had not indicated any flexibility to negotiate above $9.40 per share since lowering its proposed price on March 29, 2009. Wilson Sonsini discussed the board s fiduciary obligations and presented a detailed comparison of the terms and conditions of the Oracle and Party A proposals, including with respect to each party s conditions and obligations regarding transaction certainty, and the timing, risks and expectations with respect to antitrust review of each of the proposed transactions. During this meeting, at the request of our board, Mr. Schwartz called Safra Catz, President of Oracle, and proposed a higher price per share, other than $9.50, which Ms. Catz stated would not be acceptable to Oracle. During the continuation of the meeting, at the request of our board, Credit Suisse reviewed its financial analyses with respect to the company and the proposed transaction with Oracle and rendered its oral opinion to our board (which opinion was subsequently confirmed in writing by delivery of Credit Suisse s written opinion dated the same date), to the effect that as of such date and based upon and subject to various assumptions, limitations and qualifications, the $9.50 in cash per share of Sun common stock to be received by the holders of Sun common stock in the Oracle merger was fair, from a financial point of view, to such stockholders. After deliberations and consideration, the members of our board present at the meeting unanimously determined that the Oracle merger agreement, the merger contemplated thereby and the other transactions contemplated by the merger agreement were advisable and in the best interest of our stockholders and approved the Oracle merger agreement, the merger contemplated thereby and the other transactions contemplated by the Oracle merger agreement, recommended that our stockholders adopt the merger agreement and instructed management and counsel to finalize all documentation related to the Oracle merger as promptly as practicable. Our board also instructed management and counsel to finalize price and contract negotiations with Party A, in case Oracle was not able or willing to execute a definitive merger agreement in accordance with the terms approved by our board.

Following the April 18 board meeting and until the execution of the Oracle merger agreement on the afternoon of April 19, 2009, we and our advisors continued discussions with Oracle and Latham & Watkins to finalize the documentation related to the merger.

On April 19, 2009, a member of our board requested that Party A confirm the price it would be willing to pay for our common stock. Party A replied that it was prepared to pay $9.10 per share and did not have any further flexibility on price. Later that day, counsel for Party A delivered to Wilson Sonsini a merger agreement proposing an acquisition of our common stock at a price of $9.10 per share. Subsequently, Party A indicated that all offers from Party A with regard to an acquisition of the company would be withdrawn at 5:00 p.m. if we did not execute a definitive agreement with Party A prior to that time.

On the afternoon of April 19, 2009, we and Oracle executed the Oracle merger agreement.

Following execution of the Oracle merger agreement, a member of our board informed a representative of Party A that we were terminating further discussions with Party A.

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Reasons for the Merger; Recommendation of Sun s Board of Directors

Our board has unanimously (i) determined that the merger agreement, the merger and the transactions contemplated by the merger agreement are advisable and in the best interest of Sun s stockholders, (ii) approved the merger agreement, the merger and the transactions contemplated by the merger agreement, and (iii) recommended that our stockholders vote in favor of adoption and approval of the merger agreement and approval of the merger.

In reaching its determination, our board consulted with our management, as well as its legal and financial advisors, and reviewed (i) historical information concerning Sun s business, financial performance and condition, operations, technology and competitive position; (ii) the financial condition, results of operations, businesses and strategic objectives of Sun; (iii) current financial market conditions and historical market prices, volatility and trading information with respect to Sun s common stock; (iv) the consideration to be received by Sun s stockholders in the merger; (v) the terms of the merger agreement, including the parties representations, warranties and covenants, and the conditions to their respective obligations; (vi) the terms of an alternative transaction proposed by Party A and the relative risks of consummation of the two proposals; (vii) possible alternative strategies as well as the prospects of Sun as an independent company and (viii) financial analysis reviewed with our board by Credit Suisse.

In addition, our board considered the following material factors:

Factors Relating to Challenges Sun Faces as an Independent Company:

Sun s revenues have deteriorated as a result of declines in IT spending during the current economic crisis. This industry-wide downturn has particularly impacted Sun because Sun derives a significant portion of its revenues from the financial sector, which has been especially impacted by the current economic environment.

Relative to some of its competitors, Sun s revenue base is concentrated among a smaller number of larger customers, whose diminished spending has not been adequately offset by acquisition of new customers or entry into adjacent markets.

Sun has experienced increased competition in its core systems businesses in recent years as a result of several factors including:

Sun s major competitors have increasingly used their size and services capabilities as leverage for competitive advantage in the market; and

Sun is less diversified than some of its peers and has a more narrow portfolio of businesses to help offset declines in a given industry or product segment.

Sun has made investments in new initiatives intended to lead to higher growth, such as Sun s open source software solutions and the convergence of servers, storage and networking enabled by Sun s Solaris operating system, but these investments have not generated revenues sufficient to meaningfully offset declines in legacy businesses declines which have accelerated during the current economic downturn.

Factors Relating to the Specific Terms of our Merger Agreement with Oracle:

The merger consideration of $9.50 per share to be received by our stockholders represents a substantial premium to the historic trading prices of Sun common stock. The merger consideration represents a 91% premium over the closing price of Sun common stock on March 17, 2009 (the trading day immediately preceding the day that rumors of a possible transaction to acquire Sun were publicly reported) and a 42% premium over the closing price of Sun common stock on April 17, 2009 (the

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trading day immediately preceding the execution of the merger agreement). The merger consideration of $9.50 per share to be received by our stockholders also implied an aggregate transaction value (the value of Sun s outstanding equity securities, (taking into account its outstanding options, warrants and other convertible securities) based on the per share merger consideration plus the value of its minority interests plus the amount of its net debt (the amount of its outstanding indebtedness, preferred stock and capital lease obligations less the amount of cash and cash equivalents on its balance sheet) that reflected a 137% premium to the adjusted fully diluted enterprise value (as defined on page 29) as of March 17, 2009.

The merger consideration consists solely of cash, which provides certainty of value to our stockholders.

Oracle has, and has represented in the merger agreement that it has, adequate capital resources to pay the merger consideration.

Sun performed a substantial investigation of the interest of other potential acquirors who might offer better terms than Oracle for an acquisition of Sun, including:

- Sun approached or was approached by other potential acquirors in addition to Oracle, two of whom engaged in substantial due diligence investigations concerning Sun;

- Sun engaged in extensive negotiation of price and terms of a possible acquisition of Sun with Party A, culminating in a draft agreement for the acquisition of Sun which offered a lower price and, in the view of our board, meaningfully less certainty of closing than the merger with Oracle; and

- Beginning more than 30 days prior to the signing the merger agreement, the media widely reported that Sun was in discussions concerning a sale of the company, giving any other potential acquirors significant time and incentive to approach Sun to propose a possible transaction.

The merger agreement, subject to the limitations and requirements contained in the agreement, allows our board to furnish information to and conduct negotiations with a third party in certain circumstances and, upon the payment to Oracle of a termination fee of $260 million, to terminate the merger agreement to accept a superior offer.

The merger agreement provides reasonable certainty of consummation, because it includes limited conditions to Oracle s obligation to complete the merger, including:

- Oracle is generally obligated to close the merger notwithstanding any breaches of Sun s representations and warranties, unless those breaches would have a material adverse effect on Sun; and

- Although Oracle has the right not to complete the merger if changes, among other things, occur that have a material adverse effect on Sun as a whole, the effects of the announcement and pendency of the merger and changes in general financial market and industry conditions to the extent such changes do not disproportionately affect Sun, are excluded in determining whether any material adverse effect has occurred.

The merger must be approved and the merger agreement must be adopted and approved by a vote of a majority of our outstanding shares of common stock.

Our board considered the financial analyses reviewed and discussed with our board by representatives of Credit Suisse on April 18, 2009, as well as the oral opinion of Credit Suisse rendered to our board on April 18, 2009 (which opinion was subsequently confirmed in writing by delivery of Credit Suisse s written opinion dated the same date) to the effect that as of such date and based upon and subject to various assumptions, limitations and qualifications, the $9.50 in cash per share of Sun common stock to be received by the holders of Sun common stock in the merger was fair, from a financial point of view to such stockholders. The summary of Credit Suisse s opinion in this Proxy Statement is qualified in its

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entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Credit Suisse in preparing its opinion.

Our board considered the general terms and conditions of the merger agreement, including the parties representations, warranties and covenants, the conditions to their respective obligations as well as the likelihood of the consummation of the merger, the proposed transaction structure, the termination provisions of the agreement and our board s evaluation of the likely time period necessary to close the transaction.

Potential Negative Factors Relating to the Transaction:

In the course of its deliberations, our board also considered a variety of risks and other potentially negative factors, including the following:

The merger will be subject to antitrust review in a number of jurisdictions which could delay or prevent the closing of the merger.

The merger agreement precludes us from actively soliciting alternative proposals.

We are obligated to pay to Oracle a termination fee of $260 million or reimbursement of Oracle s expenses if the merger agreement is terminated under certain circumstances. Although the board felt that these payment terms were reasonable when viewed in context with all other aspects of the merger agreement, it is possible that these provisions could discourage a competing proposal to acquire us or reduce the price in an alternative transaction.

The merger consideration consists solely of cash and will be taxable to our stockholders for U.S. federal income tax purposes. In addition, because our stockholders are receiving cash for their stock, they will not participate after the closing in any future growth or the benefits of synergies resulting from the merger.

Certain of our directors and officers may have conflicts of interest in connection with the merger, as they may receive certain benefits that are different from, and in addition to, those of our other stockholders. See The Merger Interests of Sun s Directors and Executive Officers in the Merger

We may incur significant risks and costs if the merger does not close, including the diversion of management and employee attention during the period after the signing of the merger agreement, potential employee attrition and the potential effect on our business and customer relations. In that regard, under the merger agreement, we must conduct our business in the ordinary course and we are subject to a variety of other restrictions on the conduct of our business prior to completion of the merger or termination of the merger agreement, which may delay or prevent us from undertaking business opportunities that may arise.

The above discussion is not intended to be exhaustive, but we believe it addresses the material information and factors considered by our board of directors in its consideration of the merger, including factors that support the merger as well as those that may weigh against it. In view of the number and variety of factors and the amount of information considered, our board of directors did not find it practicable to make specific assessments of, quantify or otherwise assign relative weights to the specific factors considered in reaching its determination. In addition, our board of directors did not undertake to make any specific determination as to whether any particular factor, or any aspect of any particular factor, was favorable or unfavorable to its ultimate determination, and individual members of our board of directors may have given different weights to different factors.

OUR BOARD OF DIRECTORS HAS UNANIMOUSLY APPROVED THE MERGER AGREEMENT AND UNANIMOUSLY RECOMMENDS THAT OUR STOCKHOLDERS VOTE IN FAVOR OF ADOPTION AND APPROVAL OF THE MERGER AGREEMENT AND APPROVAL OF THE MERGER.

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Opinion of Sun s Financial Advisor

On April 18, 2009, Credit Suisse rendered its oral opinion to the Sun board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse s written opinion dated the same date) to the effect that, as of April 18, 2009, the $9.50 in cash per share of Sun common stock to be received by the holders of shares of Sun s common stock in the merger was fair, from a financial point of view, to such stockholders.

Credit Suisse s opinion was directed to the Sun board of directors and only addressed the fairness from a financial point of view of the $9.50 in cash per share of Sun common stock to be received by the holders of Sun common stock in the merger, and did not address any other aspect or implication of the merger. The summary of Credit Suisse s opinion in this proxy statement is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Credit Suisse in preparing its opinion. However, neither Credit Suisse s written opinion nor the summary of its opinion and the related analyses set forth in this proxy statement are intended to be, and they do not constitute, advice or a recommendation to any holder of Sun common stock as to how such holder should vote or act with respect to any matter relating to the merger.

In arriving at its opinion, Credit Suisse:

- reviewed a draft, dated April 18, 2009, of the merger agreement, a draft, dated April 18, 2009, of the form of voting agreements to be entered into by and between certain stockholders of Sun and Oracle and certain publicly available business and financial information relating to Sun;
- reviewed certain other information relating to Sun, including financial forecasts, provided to or discussed with Credit Suisse by Sun;
- met with Sun s management to discuss the business and prospects of Sun;
- considered certain financial and stock market data of Sun, and compared that data with similar data for other publicly held companies in businesses Credit Suisse deemed similar to that of Sun; and
- considered such other information, financial studies, analyses and investigations and financial, economic and market criteria which Credit Suisse deemed relevant.

In connection with its review, Credit Suisse did not independently verify any of the foregoing information and assumed and relied on such information being complete and accurate in all material respects. With respect to the financial forecasts for Sun provided to or discussed with Credit Suisse by Sun, the management of Sun advised Credit Suisse, and Credit Suisse assumed, that such forecasts were reasonably prepared on bases reflecting the best currently available estimates and judgments of Sun s management as to the future financial performance of Sun. Credit Suisse also assumed, with Sun s consent, that, in the course of obtaining any regulatory or third party consents, approvals or agreements in connection with the merger, no delay, limitation, restriction or condition would be imposed that would have an adverse effect on Sun and that the merger would be consummated in accordance with the terms of the merger agreement without waiver, modification or amendment of any material term, condition or agreement thereof. In addition, Credit Suisse was not requested to make, and did not make, an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Sun, nor was Credit Suisse furnished with any such evaluations or appraisals. Credit Suisse also assumed that the final forms of the merger agreement and the voting agreements, when executed by the parties thereto, would conform to the drafts reviewed by Credit Suisse in all respects material to its analyses.

Credit Suisse s opinion addressed only the fairness, from a financial point of view, to the holders of Sun common stock of the merger consideration to be received by the holders of Sun common stock in the merger and did not address any other aspect or implication of the merger or any other agreement, arrangement or understanding entered into in connection with the merger or otherwise including, without limitation, the fairness

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of the amount or nature of, or any other aspect relating to, any compensation to any officers, directors or employees of any party to the merger, or class of such persons, relative to the merger consideration or otherwise. The issuance of Credit Suisse s opinion was approved by its authorized internal committee.

Credit Suisse s opinion was necessarily based upon information made available to it as of the date of its opinion and financial, economic, market and other conditions as they existed and could be evaluated on that date and upon certain assumptions regarding such financial, economic, market and other conditions, which were and are currently subject to unusual volatility and which, if different than assumed, would have a material impact on Credit Suisse s analyses and opinion. Credit Suisse s opinion did not address the merits of the merger as compared to alternative transactions or strategies that may be available to Sun, nor did it address Sun s underlying decision to proceed with the merger.

Credit Suisse s opinion was for the information of the Sun board of directors in connection with its consideration of the merger and does not constitute advice or a recommendation to any stockholder of Sun as to how such stockholder should vote or act on any matter relating to the proposed merger.

In preparing its opinion to the Sun board of directors, Credit Suisse performed a variety of analyses, including those described below. The summary of Credit Suisse s valuation analyses is not a complete description of the analyses underlying Credit Suisse s opinion. The preparation of a fairness opinion is a complex process involving various quantitative and qualitative judgments and determinations with respect to the financial, comparative and other analytic methods employed and the adaptation and application of those methods to the unique facts and circumstances presented. As a consequence, neither Credit Suisse s opinion nor the analyses underlying its opinion are readily susceptible to partial analysis or summary description. Credit Suisse arrived at its opinion based on the results of all analyses undertaken by it and assessed as a whole and did not draw, in isolation, conclusions from or with regard to any individual analysis, analytic method or factor. Accordingly, Credit Suisse believes that its analyses must be considered as a whole and that selecting portions of its analyses, analytic methods and factors, without considering all analyses and factors or the narrative description of the analyses, could create a misleading or incomplete view of the processes underlying its analyses and opinion.

In performing its analyses, Credit Suisse considered business, economic, industry and market conditions, financial and otherwise, and other matters as they existed on, and could be evaluated as of, the date of its opinion. No company or business used in Credit Suisse s analyses for comparative purposes is identical to Sun or the proposed merger. While the results of each analysis were taken into account in reaching its overall conclusion with respect to fairness, Credit Suisse did not make separate or quantifiable judgments regarding individual analyses. The implied reference range values indicated by Credit Suisse s analyses are illustrative and not necessarily indicative of actual values nor predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. In addition, any analyses relating to the value of assets, businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold, which may depend on a variety of factors, many of which are beyond Sun s control and the control of Credit Suisse. Much of the information used in, and accordingly the results of, Credit Suisse s analyses are inherently subject to substantial uncertainty.

Credit Suisse s opinion and analyses were provided to the Sun board of directors in connection with its consideration of the proposed merger and were among many factors considered by the Sun board of directors in evaluating the proposed merger. Neither Credit Suisse s opinion nor its analyses were determinative of the merger consideration or of the views of the Sun board of directors with respect to the proposed merger.

The following is a summary of the material valuation analyses performed in connection with the preparation of Credit Suisse s opinion rendered to the Sun board of directors on April 18, 2009. The analyses summarized below include information presented in tabular format. The tables alone do not constitute a complete description of the analyses. Considering the data in the tables below without considering the full narrative description of the analyses, as well as the methodologies underlying and the assumptions, qualifications and limitations affecting each analysis, could create a misleading or incomplete view of Credit Suisse s analyses.

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For purposes of its analyses, Credit Suisse reviewed a number of financial metrics including:

Fully Diluted Enterprise Value generally the value as of a specified date of the relevant company s outstanding equity securities (taking into account its outstanding options, warrants and other convertible securities) plus the value of its minority interests plus the amount of its net debt (the amount of its outstanding indebtedness, preferred stock and capital lease obligations less the amount of cash and cash equivalents on its balance sheet) as of a specified date.

Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA) generally the amount of the relevant company s operating profits, excluding stock based compensation and non-recurring charges, before interest, taxes, depreciation and amortization, for a specified time period.

Net Operating Profits After Taxes (NOPAT) generally the amount of the relevant company s operating profits, excluding stock based compensation and non-recurring charges, tax effected for a specified time period.

Unless the context indicates otherwise, stock prices for the selected companies used in the Selected Companies Analysis described below were as of April 17, 2009. Estimates of financial performance for Sun for the calendar year ending December 31, 2009 were based on the forecasts provided by management of Sun. Estimates of financial performance for the selected companies listed below for the calendar year ending 2009 were based on publicly available research analyst estimates for those companies.

Selected Companies Analysis

Credit Suisse calculated fully diluted enterprise value as a multiple of certain financial data for selected technology companies organized by principal technology sector.

The calculated multiples included:

Fully Diluted Enterprise Value as a multiple of CY 2009E Revenue;

Fully Diluted Enterprise Value as a multiple of CY 2009E EBITDA; and

Fully Diluted Enterprise Value as a multiple of CY 2009E NOPAT.

The selected companies were selected because they had publicly traded equity securities and were deemed to be similar to Sun in one or more respects including the nature of their business, size, diversification, financial performance and geographic concentration. No specific numeric or other similar criteria were used to select the selected companies and all criteria were evaluated in their entirety without application of definitive qualifications or limitations to individual criteria. As a result, a significantly larger or smaller company with substantially similar lines of businesses and business focus may have been included while a similarly sized company with less similar lines of business and greater diversification may have been excluded. Credit Suisse identified a sufficient number of companies for purposes of its analysis but may not have included all companies that might be deemed comparable to Sun. The selected technology companies, grouped by their principal technology sector, were:

Major System Vendors (Hardware)

International Business Machines Corporation

Hewlett-Packard Company

Dell Inc.

EMC Corporation (excluding its investment in VMWare, Inc.)

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The selected companies analysis indicated the following high, low, mean and median multiples for the selected major system vendor companies:

Multiple Description	High	Low	Mean	Median
Fully Diluted Enterprise Value as a multiple of:				
2009E Revenue	1.64x	0.27x	0.95x	0.95x
2009E EBITDA	7.0x	3.6x	5.4x	5.6x
2009E NOPAT	11.7x	5.8x	9.2x	9.6x

Storage Infrastructure Companies (Hardware)

EMC Corporation (excluding its investment in VMWare, Inc.)

NetApp, Inc.

The selected companies analysis indicated the following high, low and mean multiples for the selected storage infrastructure companies:

Multiple Description	High	Low	Mean	Median
Fully Diluted Enterprise Value as a multiple of:				
2009E Revenue	1.43x	1.00x	1.22x	1.22x
2009E EBITDA	9.0x	4.7x	6.8x	6.8x
2009E NOPAT	14.9x	8.6x	11.8x	11.8x

Major Software Vendors (Software)

Microsoft Corporation

Oracle Corporation

The selected companies analysis indicated the following high, low, mean and median multiples for the selected major software vendors:

Multiple Description	High	Low	Mean	Median
Fully Diluted Enterprise Value as a multiple of:				
2009E Revenue	4.36x	2.50x	3.43x	3.43x
2009E EBITDA	9.4x	6.0x	7.7x	7.7x
2009E NOPAT	13.4x	9.0x	11.2x	11.2x

Other Software Companies

Adobe Systems Incorporated

Red Hat, Inc.

Software AG

Novell, Inc.

TIBCO Software Inc.

Progress Software Corporation

The selected companies analysis indicated the following high, low, mean and median multiples for the selected other software companies:

Multiple Description	High	Low	Mean	Median
Fully Diluted Enterprise Value as a multiple of:				
2009E Revenue	3.93x	0.53x	2.27x	1.96x
2009E EBITDA	14.6x	2.9x	8.1x	7.4x
2009E NOPAT	23.7x	5.9x	13.3x	12.4x

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Credit Suisse applied multiple ranges based on the selected companies analysis to corresponding financial data for Sun both on a sum-of-the-parts-basis (focusing on Sun s hardware and software businesses as per discussions with and guidance from Sun s management) and on a consolidated basis based on Sun s management forecasts. The selected companies analyses indicated an implied reference range value per share of Sun s common stock of (i) $8.04 to $10.32 on a sum-of-the-parts basis (comprised of implied reference range values per share of Sun s common stock of $4.00 to $5.36 for Sun s software business and $2.37 to $3.29 for Sun s hardware business, plus $1.67 per share of Sun s common stock for Sun s net cash), and (ii) $3.07 to $6.45 on a consolidated basis, as compared to the merger consideration in the proposed merger of $9.50 per share of Sun s common stock.

Discounted Cash Flow Analysis

Credit Suisse also calculated the net present value of the Sun s free cash flows using Sun s management forecasts, as adjusted to include the projected impact of the expected Microsoft/Google Java contracts beginning in the 4th fiscal quarter of 2009. Credit Suisse performed the discounted cash flow analyses both on a sum-of-the-parts-basis (focusing on Sun s hardware and software businesses as per discussions with and guidance from Sun s management) and on a consolidated basis based on Sun s management. In performing this analysis, Credit Suisse applied discount rates ranging from 10.50% to 13.00% based on Sun s estimated weighted average cost of capital. Credit Suisse applied terminal value multiples of 2014E NOPAT ranging from 8.0x to 10.0x for Sun s hardware business, 11.0x to 15.0x for Sun s software business , and 10.0x to 12.0x for Sun on a consolidated basis. The discounted cash flow analyses indicated an implied reference range value per share of Sun s common stock of (i) $8.12 to $10.10 on a sum-of-the-parts basis (comprised of implied reference range values per share of Sun s common stock of $4.80 to $6.43 for Sun s software business and $1.64 to $2.00 for Sun s hardware business, plus $1.67 for Sun s net cash), and (ii) $8.06 to $9.41 on a consolidated basis, as compared to the merger consideration in the proposed merger of $9.50 per share of company common stock.

Other Considerations

Credit Suisse also calculated the premiums paid in selected technology transactions since January 1, 2007 and January 1, 2003 to the closing price of the target company s common stock four weeks and one day prior to the announcement of the technology transactions. The four week premiums had a mean and median of 34.7% and 32.5%, respectively, since 2007 and 35.4% and 28.3%, respectively, since 2003 while the one day premiums had a mean and median of 30.9% and 24.6%, respectively, since 2007 and 28.3% and 20.9%, respectively, since 2003. Credit Suisse noted that the merger consideration of $9.50 per share to be received by our stockholders in the proposed merger reflected a 42% premium to the closing price per share of Sun common stock on April 17, 2009; a 91% premium to the closing price per share of Sun common stock on March 17, 2009, the last trading day prior to the publication of rumors regarding a possible business combination involving Sun; and a 114%, 98% and 126% premium to the 10-day, 30-day and 90-day average closing price per share of Sun common stock preceding March 17, 2009, respectively. Credit Suisse also observed that the merger consideration of $9.50 per share to be received by our stockholders implied an aggregate transaction value that reflected a 137% premium to the adjusted fully diluted enterprise value of Sun as of March 17, 2009.

Other Matters

Pursuant to an engagement letter dated January 29, 2009, Sun retained Credit Suisse as its financial advisor in connection with, among other things, the proposed merger. Under the terms of the engagement letter, Credit Suisse will receive an aggregate fee currently estimated to be approximately $32.6 million, of which $3 million became payable upon delivery of its opinion and approximately $29.6 million is contingent upon the consummation of the merger. In addition, Sun has agreed to indemnify Credit Suisse and certain related parties for certain liabilities and other items arising out of or relating to its engagement and to reimburse Credit Suisse for its expenses arising out of or relating to the engagement.

Credit Suisse and its affiliates have in the past provided and are currently providing investment banking and other financial services to Sun and its affiliates, for which Credit Suisse and its affiliates have received, and

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would expect to receive, compensation, including having acted as financial advisor to Sun in connection with Sun s issuance of $350 million of convertible senior notes due in 2012 and $350 million of convertible senior notes due in 2014 (collectively, the Notes). With a portion of the proceeds received from the sale of the Notes, Sun purchased two convertible bond hedges from one of Credit Suisse s affiliates, one for each series of Notes, pursuant to which Credit Suisse s affiliate agreed to deliver to Sun any cash and/or stock Sun delivers upon conversion of the Notes in excess of the face amount of the Notes. In a separate transaction, Sun also issued to Credit Suisse s affiliate warrants (Warrants) to purchase shares of its Common Stock. Half of the Warrants have a strike price, as adjusted for Sun s four-for-one reverse stock split in November 2007, of $36.92 and mature over the twenty trading day period beginning May 1, 2012, and the other half of the Warrants have a strike price, as adjusted for the reverse stock split, of $40.40 and mature over the twenty trading day period beginning May 1, 2014. Sun received aggregate proceeds of $66.5 million from the sale of the Warrants with a maturity beginning May 1, 2012 and $79.0 million from the sale of the Warrants with a maturity beginning May 1, 2014. Pursuant to the terms of the merger agreement, Sun is obligated to use its best efforts to take all action necessary to terminate the Bond Hedge Transactions and Warrants Transactions (as those terms are defined in the merger agreement), subject to payment of the net cash amount (without interest and subject to any applicable withholding or other taxes). Credit Suisse and its affiliates have also provided investment banking and other financial services to Oracle and its affiliates, including, without limitation, having acted as financial advisor to Oracle in connection with its acquisition of Hyperion Solutions Corp. in April, 2007 and its acquisition of PeopleSoft, Inc. in January, 2005; having agreed to participate as a lender pursuant to Oracle s revolving credit facilities; and having acted as joint bookrunning manager in connection with Oracle s offering of $1,250,000,000 aggregate principal amount of 4.950% notes due 2013, $2,500,000,000 aggregate principal amount of 5.750% notes due 2018 and $1,250,000,000 aggregate principal amount of 6.500% notes due 2038 in April 2008. Credit Suisse is a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, Credit Suisse and its affiliates may acquire, hold or sell, for Credit Suisse s and its affiliates own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of Sun, Oracle and any other company that may be involved in the merger, as well as provide investment banking and other financial services to such companies.

Financial Projections

In connection with Credit Suisse s financial analyses and fairness opinion described in The Merger Opinion of Sun s Financial Advisor, Sun provided Credit Suisse with non-public financial projections for the fiscal years ending June 30, 2009 through 2014 (which we refer to as the Sun projections). The Sun projections do not give effect to the merger. Sun employed the following key assumptions in preparing the Sun projections:

Revenue from fiscal 2009 to fiscal 2014 was projected on an annual basis, implying compound annual growth rate of approximately 3.1%.

Non-GAAP gross margins as a percentage of revenue were assumed to decline in fiscal 2010 by approximately 3 percentage points due to pricing pressure and mix shifts, with non-GAAP gross margin assumed to improve beginning in fiscal year 2011 to approximately 42% to 43% of revenue.

Non-GAAP operating expenses were assumed to decline from approximately 39% of revenue in fiscal 2009 to approximately 38% of revenue in fiscal 2010 in connection with the assumed completion of Sun s restructuring plan announced in November 2008 and were further assumed to remain at approximately 38% of revenue in later years of the Sun projections. No additional restructuring actions were assumed.

For purposes of calculating projected diluted non-GAAP net income (loss) per share, Sun s diluted shares outstanding were assumed to generally remain constant in all years.

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	Consolidated (US$ in millions, except per share data) (unaudited) Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
Revenue	$ 12,202	$ 12,665	$ 13,047	$ 13,526	$ 13,885	$ 14,243
Non-GAAP Gross Margin	$ 5,149	$ 4,980	$ 5,464	$ 5,791	$ 5,996	$ 6,168
Non-GAAP Operating Expenses	$ 4,809	$ 4,839	$ 4,992	$ 5,121	$ 5,249	$ 5,372
Non-GAAP Operating Income (Loss)	$ 340	$ 141	$ 472	$ 670	$ 747	$ 796
Non-GAAP Net Income (Loss)	$ 150	$ (10)	$ 315	$ 507	$ 581	$ 623
Diluted Non-GAAP Net Income (Loss) Per Share	$ 0.20	$ (0.01)	$ 0.42	$ 0.68	$ 0.78	$ 0.85
Non-GAAP NOPAT	$ 255	$ 106	$ 354	$ 486	$ 523	$ 517

Reconciliation of GAAP to Non-GAAP Operating Measures

Projected Gross Margin, Operating Expenses, Operating Income (Loss), Net Income (Loss), Diluted Net Income (Loss) Per Share and Net Operating Profit After Tax

The following tables reconcile Sun s projected gross margin, operating expenses, operating income (loss), net income (loss) and diluted net income (loss) per share from generally accepted accounting principles, or GAAP, to non-GAAP measures. Sun s projected non-GAAP gross margin excludes stock based compensation. Sun s projected non-GAAP operating expenses and non-GAAP operating income (loss) excludes stock based compensation, restructuring and related impairment of long-lived assets, impairment of goodwill, and amortization of acquisition related intangibles. Sun s projected non-GAAP net income (loss) and diluted non-GAAP net income (loss) per share contain the same adjustments as non-GAAP operating income (loss) and also exclude settlement income and (gain) loss on equity investments, net. In addition, Sun s projected non-GAAP net income (loss) and diluted non-GAAP net income (loss) per share are adjusted for the tax effect related to those items that have been excluded from the projected non-GAAP results and other non-GAAP taxes. Sun s projected non-GAAP net operating profit after tax (referred to as NOPAT) excludes stock based compensation, restructuring and related impairment of long-lived assets, impairment of goodwill, amortization of acquisition related intangibles, and includes the effect of taxes applicable to operating income, net of the tax effect related to those items that have been excluded from the projected non-GAAP results.

These projections include non-GAAP gross margin, non-GAAP operating expenses, non-GAAP operating income (loss), non-GAAP net income (loss), diluted non-GAAP net income (loss) per share, and net operating profit after tax data. These non-GAAP measures are not in accordance with, or an alternative to, GAAP and may be different from non-GAAP measures used by other companies. In addition, these non-GAAP measures are not based on any comprehensive set of accounting rules or principles. Non-GAAP measures have limitations in that they do not reflect all of the items associated with Sun s results of operations as determined in accordance with GAAP, and these measures should only be used to evaluate Sun s projected results of operations in conjunction with the corresponding GAAP measures.

Sun s management believes that the non-GAAP financial measures in the Sun projections provide meaningful supplemental information regarding Sun s performance by excluding certain gains, losses and charges that may not be indicative of Sun s core business operating results. Sun s management believes that they benefit from referring to these non-GAAP financial measures in assessing Sun s performance. These non-GAAP financial measures also facilitate comparisons to Sun s historical performance and its competitors operating results. These non-GAAP financial measures are used by management in its financial and operational decision making. They have been provided to investors herein because Sun provided the Sun projections to Credit Suisse in connection with the preparation of its opinion.

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Consolidated
(US$ in millions)
(unaudited)

	Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
GAAP Gross Margin	**$ 5,102**	**$ 4,929**	**$ 5,413**	**$ 5,740**	**$ 5,945**	**$ 6,117**
Adjustments						
Stock based compensation	$ 47	$ 51	$ 51	$ 51	$ 51	$ 51
Non-GAAP Gross Margin	**$ 5,149**	**$ 4,980**	**$ 5,464**	**$ 5,791**	**$ 5,996**	**$ 6,168**

Consolidated
(US$ in millions)
(unaudited)

	Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
GAAP Operating Expenses	**$ 7,280**	**$ 5,118**	**$ 5,221**	**$ 5,345**	**$ 5,468**	**$ 5,591**
Adjustments						
Stock based compensation	$ (167)	$ (179)	$ (179)	$ (179)	$ (179)	$ (179)
Restructuring and related impairment of long lived assets	(562)					
Impairment of goodwill	(1,445)					
Amortization of acquisition related intangibles	(297)	(100)	(50)	(45)	(40)	(40)
Non-GAAP Operating Expenses	**$ 4,809**	**$ 4,839**	**$ 4,992**	**$ 5,121**	**$ 5,249**	**$ 5,372**

Consolidated
(US$ in millions)
(unaudited)

	Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
GAAP Operating Income (Loss)	**$ (2,178)**	**$ (189)**	**$ 192**	**$ 395**	**$ 477**	**$ 526**
Adjustments						
Stock based compensation	$ 214	$ 230	$ 230	$ 230	$ 230	$ 230
Restructuring and related impairment of long lived assets	562					
Impairment of goodwill	1,445					
Amortization of acquisition related intangibles	297	100	50	45	40	40
Non-GAAP Operating Income	**$ 340**	**$ 141**	**$ 472**	**$ 670**	**$ 747**	**$ 796**

Consolidated
(US$ in millions, except per share data)
(unaudited)

	Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
GAAP Net Income (Loss)[(1)]	**$ (2,207)**	**$ (213)**	**$ 150**	**$ 353**	**$ 428**	**$ 484**
Adjustments						
Stock based compensation	$ 214	$ 230	$ 230	$ 230	$ 230	$ 230
Restructuring and related impairment of long lived assets	562					
Impairment of goodwill	1,445					
Amortization of acquisition related intangibles	297	100	50	45	40	40
Tax effect of non-GAAP adjustments	(108)	(82)	(70)	(76)	(81)	(95)
Settlement income	(45)	(45)	(45)	(45)	(36)	(36)
(Gain) loss on equity investments, net	(8)					
Non-GAAP Net Income (Loss)	**$ 150**	**$ (10)**	**$ 315**	**$ 507**	**$ 581**	**$ 623**
Diluted Non-GAAP Net Income (Loss) Per Share	$ 0.20	$ (0.01)	$ 0.42	$ 0.68	$ 0.78	$ 0.85

(1) For purposes of its analyses, Credit Suisse adjusted GAAP net income to exclude expenses associated with restructuring and related impairments of long lived assets, impairment of goodwill, settlement income and any (gain) loss on equity investments, net, as well as the

associated tax expense.

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	Consolidated (US$ in millions) (unaudited) Fiscal Year Ending June 30,					
	2009E	2010E	2011E	2012E	2013E	2014E
GAAP Operating Income (Loss)	**$ (2,178)**	**$ (189)**	**$ 192**	**$ 395**	**$ 477**	**$ 526**
Adjustments						
Stock based compensation	$ 214	$ 230	$ 230	$ 230	$ 230	$ 230
Restructuring and related impairment of long lived assets	562					
Impairment of goodwill	1,445					
Amortization of acquisition related intangibles	297	100	50	45	40	40
Taxes on operating income (loss), net of tax effect of non-GAAP adjustments	(85)	(35)	(118)	(184)	(224)	(279)
Non-GAAP NOPAT	**$ 255**	**$ 106**	**$ 354**	**$ 486**	**$ 523**	**$ 517**

The Sun projections were not prepared with a view to public disclosure and are included in this proxy statement only because such projections were made available to Credit Suisse in connection with the preparation of the opinion of Credit Suisse described above. Credit Suisse did not independently verify the Sun projections. The Sun projections were not prepared with a view to compliance with the published guidelines of the SEC or the guidelines established by the American Institute of Certified Public Accountants regarding projections. Sun s independent accountants have not examined, compiled or performed any procedures with respect to the Sun projections and accordingly do not provide any form of assurance with respect to the Sun projections.

THE SUN PROJECTIONS ARE SUBJECTIVE IN MANY RESPECTS AND THUS SUSCEPTIBLE TO VARIOUS INTERPRETATIONS BASED ON ACTUAL EXPERIENCE AND BUSINESS DEVELOPMENTS. THE SUN PROJECTIONS WERE BASED ON A NUMBER OF ASSUMPTIONS THAT MAY NOT BE REALIZED AND ARE SUBJECT TO SIGNIFICANT UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE CONTROL OF SUN. SOME OF THESE FACTORS ARE CONSIDERED FORWARD-LOOKING STATEMENTS WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995 (SEE CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION ON PAGE 15 AND OTHER RISK FACTORS AS DISCLOSED IN SUN S FILINGS WITH THE SEC WHICH ARE INCORPORATED BY REFERENCE HEREIN). ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE ASSUMPTIONS MADE IN PREPARING THE SUN PROJECTIONS WILL PROVE ACCURATE, AND ACTUAL RESULTS MAY BE MATERIALLY DIFFERENT THAN THOSE CONTAINED IN THE SUN PROJECTIONS. SUN DOES NOT INTEND TO MAKE PUBLICLY AVAILABLE ANY UPDATE OR OTHER REVISIONS TO THE SUN PROJECTIONS TO REFLECT CIRCUMSTANCES EXISTING AFTER THE DATE OF THE SUN PROJECTIONS. READERS OF THIS PROXY STATEMENT ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON THESE INTERNAL FINANCIAL PROJECTIONS. NO ONE HAS MADE OR MAKES ANY REPRESENTATIONS TO ANY OF SUN S STOCKHOLDERS REGARDING THE INFORMATION INCLUDED IN THE SUN PROJECTIONS SET FORTH ABOVE.

Interests of Sun s Directors and Executive Officers in the Merger

In considering the recommendation of the Sun board of directors that you vote to adopt and approve the merger agreement, the merger and the other transactions contemplated by the merger agreement, you should be aware that Sun s executive officers and directors have economic interests in the merger that are different from, or in addition to, those of Sun s stockholders generally. The Sun board of directors was aware of and considered these interests, among other matters, in reaching its decisions to adopt and approve, and declare advisable, the merger agreement, the merger and the transactions contemplated by the merger agreement.

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Oracle board of directors. Prior to the execution of the merger agreement, Scott McNealy, Chairman of our board of directors, and Larry Ellison, Chief Executive Officer of Oracle and a member of the Oracle board of directors, spoke generally about a role for Mr. McNealy with the combined company in the event that Oracle acquired Sun. As of the date hereof, no agreements have been made between Mr. McNealy and Oracle regarding Mr. McNealy s role at Oracle, if any, after the consummation of the merger.

Employment arrangements with Oracle. Certain executive officers of Sun may enter into employment arrangements with Oracle following the closing of the merger on terms to be mutually agreed upon by Oracle and such executive officers.

Equity Compensation Awards. The merger agreement provides that, at the effective time, each Sun stock option held by employees or consultants of Sun will be converted into an Oracle stock option, each Sun restricted stock unit held by employees of Sun will be converted into an Oracle restricted stock unit, and each share of Sun restricted stock will be cancelled and converted into the right to receive an amount in cash equal to the merger

consideration of $9.50 per share of Sun common stock (which will be payable subject to and in accordance with the vesting schedule applicable to the restricted stock prior to the effective time).

Stock Options. Except as described below, each option to purchase shares of Sun common stock that is outstanding immediately prior to the effective time of the merger will be automatically converted into an option to acquire, on substantially identical terms and conditions applicable to such Sun stock option immediately prior to the merger, a number of shares of Oracle common stock (rounded down to the nearest whole share) equal to the product of (x) the number of shares of Sun common stock subject to the option and (y) a fraction, the numerator of which is $9.50 and the denominator of which is the average closing price of Oracle common stock over the five trading days immediately preceding (but not including) the effective time of the merger.

The exercise price for assumed options will equal the per share exercise price for the shares of Sun common stock divided by the equity award exchange ratio (rounded upwards to the nearest whole cent).

Unless Oracle determines otherwise, options held by persons who are not employees of, or consultants to, Sun, or any subsidiary of Sun immediately prior to the effective time of the merger will not be assumed.

Accordingly, options held by Sun s outside directors, namely, James Barksdale, Stephen Bennett, Peter Currie, Robert Finocchio, James Greene, Michael Marks, Rahul Merchant, Patricia Mitchell, M. Kenneth Oshman and P. Anthony Ridder, will not be assumed, and pursuant to the terms of the applicable option agreement and equity incentive plan pursuant to which such options were granted, the unvested portion of such options will be accelerated. The options that are not assumed by Oracle, to the extent vested (after giving effect to any acceleration), will be automatically converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to the positive difference, if any, between $9.50 and the per share exercise price of the option. Although the options held by Sun s outside directors will be accelerated and converted into the right to receive an amount in cash as set forth above, they will not actually receive any economic value from such options in connection with the merger as the per share exercise price of each of their options is greater than $9.50.

Restricted Stock Units. Except as described below, restricted stock units denominated in shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be converted into the right to receive restricted stock units with respect to the number of shares of Oracle common stock calculated by multiplying the number of Sun restricted stock units by the equity award exchange ratio (rounded down to the nearest whole share). The Oracle restricted stock units will vest subject to and in accordance with the applicable vesting schedule for the Sun restricted stock units, with other terms and conditions substantially identical to the Sun restricted stock units.

Unless Oracle determines otherwise, restricted stock units held by persons who are not employees of, or consultants to, Sun, or one of its subsidiaries, immediately prior to the effective time of the merger will not be assumed.

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Accordingly, restricted stock units held by Sun s outside directors will not be assumed, and pursuant to the terms of the applicable restricted stock unit agreement and equity incentive plan pursuant to which such restricted stock units were granted, the unvested portion of such restricted stock units will be accelerated. The restricted stock units that are not assumed by Oracle, to the extent vested (after giving effect to any acceleration) will be automatically converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to $9.50 per share of Sun common stock that was issuable upon settlement of such restricted stock unit award immediately prior to the effective time of the merger.

Assuming that the merger was completed on August 19, 2009, the value of the acceleration and conversion into the right to receive an amount in cash of the restricted stock units (as set forth above) held by each of Sun s outside directors, with the exception of Messrs. Greene and Merchant, would be approximately $423,909. The value to Messrs. Greene and Merchant would be approximately $359,841 and $372,752, respectively.

Restricted Stock. Restricted shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be cancelled and converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to $9.50 per restricted share of Sun common stock, which cash amount shall be payable subject to and in accordance with the vesting schedule applicable to the restricted shares of Sun common stock as in effect immediately prior to the effective time.

Change of Control Arrangements. Prior to the date of the merger agreement, Sun entered into change of control letter agreements with each of Jonathan Schwartz, Michael Lehman, John Fowler, Gregory Papadopoulos, Peter Ryan, Scott McNealy, Michael Dillon, Anil Gadre, William MacGowan and Michael Splain (which we refer to as the Change of Control Agreements) that provide for certain severance benefits if the executive s (or with respect to Mr. McNealy, the director s) service is terminated in certain circumstances (as further described below) following a change of control of Sun. The consummation of the merger will constitute a change of control under the Change of Control Agreements. For purposes of the following description of the Change of Control Agreements, we refer to both the executives and Mr. McNealy each as an executive, or collectively, the executives. If, within twelve (12) months following the consummation of the merger, the executive separates from service with Sun and the separation from service is on account of an involuntary termination by Sun (or Oracle, following the effective time) without cause (as defined in the Change of Control Agreements) or a voluntary termination by the executive for good reason (as defined in the Change of Control Agreements), and the executive executes a separation agreement and release of claims, the executive will be entitled to receive:

(i) a lump sum payment equal to two and one-half (2 1/2) times his annual compensation (or, in the case of Mr. Schwartz and Mr. McNealy, the payment will equal three (3) times the executive s annual compensation), which includes his annual base salary (at the highest base salary rate that he was paid by Sun (or Oracle, following the consummation of the merger) in the twelve (12) month period prior to the date of his separation from service (which we refer to as the Look-Back Period)), 100% of the greatest on target annual bonus he was eligible for in the Look-Back Period, and 100% of the greatest on target commission for which he was eligible in the Look-Back Period,

(ii) continued health and group-term life insurance benefits for twenty-four (24) months (at the same percentage as provided to the executive and his family as of the change of control), and

(iii) full vesting acceleration with respect to outstanding equity awards (with options remaining exercisable for three (3) months following the executive s termination of employment, or such later date as may be applicable under the terms of the award agreement governing such option, but subject to the maximum term of the option).

In the event that any payment or benefit received or to be received by an executive in connection with the executive s separation from service would constitute a parachute payment within the meaning of Section 280G of the Code and would be subject to the excise tax imposed by Section 4999 of the Code, the Change of Control Agreements provide that the severance payments and benefits will be reduced to the largest amount that will result in no portion of the payments being subject to the excise tax.

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Assuming that the merger was completed and the executive officers were terminated on August 19, 2009 and that the executive officers were entitled to full benefits available under their respective change of control agreements, the executive officers would receive the approximate amounts set forth in the table below. You should note that the amounts indicated below are estimates based on multiple assumptions that may or may not actually occur, including assumptions described in this proxy statement and those prescribed by Section 280G of the Code. Some of these assumptions are based on information currently available and will need to be updated. As a result, the actual amounts, if any, to be received by an executive officer may differ in material respects from the amounts set forth below.

Name	Severance Pay	Health and/or Life Insurance Premiums	Equity Acceleration[2]	Section 280G Reduction[3]	Total
Jonathan Schwartz	$ 9,000,000	$ 25,199	$ 2,980,408	$ 0	$ 12,005,607
Scott McNealy	$ 7,500,000	$ 25,287	$ 2,008,736	$ 0	$ 9,534,022
Michael Dillon	$ 2,312,500	$ 25,053	$ 696,364	$ (273,815)	$ 2,760,102
John Fowler	$ 2,659,375	$ 25,233	$ 787,735	$ (152,775)	$ 3,319,568
Anil Gadre	$ 2,081,250	$ 25,287	$ 641,158	$ 0	$ 2,747,694
Michael Lehman	$ 4,000,000	$ 25,420	$ 0	$ 0	$ 4,025,420
William MacGowan	$ 2,196,875	$ 25,284	$ 696,364	$ 0	$ 2,918,524
Gregory Papadopoulos	$ 2,850,000	$ 15,239	$ 867,036	$ 0	$ 3,732,275
Peter Ryan	$ 3,352,437[1]	$ 3,584	$ 1,373,439	$ (387,194)	$ 4,342,266
Michael Splain	$ 2,312,500	$ 25,284	$ 617,679	$ (46,063)	$ 2,909,401

(1) The estimated severance pay for Mr. Ryan is based on his annual compensation of £822,500, converted to U.S. Dollars using the exchange rate reported in the Wall Street Journal on March 24, 2009 of 1.47231:1. The estimated severance pay for Mr. Ryan also includes a retention bonus in the amount of $325,000, the payment of which may accelerate upon termination following a change of control.

(2) To estimate the value of equity acceleration for each executive, we multiplied the aggregate number of unvested restricted stock units as of August 19, 2009, by $9.50 less any applicable exercise price per share. For executives that were granted performance-based restricted stock units in August 2008, the value of such awards has not been included in the value of the executives equity acceleration, as the actual number of restricted stock units to be awarded is based on performance measures, the achievement of which will not be determined until August 2009.

(3) In calculating the 280G reduction amount, Sun made a number of assumptions, including: (a) for the acceleration and conversion of unvested stock options, applying the method prescribed in Q&A 24(c) of the 280G Treasury Regulations to the conversion value of the options based on a Black-Scholes value analysis. In determining the conversion value of the options, Sun used the following Black-Scholes assumptions: (I) 0.29% risk free rate of return based on the U.S. Treasury Strip Rate as of May 1, 2009, (II) an exercise life of 3 months following termination as provided in the stock option agreement, and (III) an expected volatility of 103.12% based on the actual volatility experienced by the Sun common stock over a period of 52 weeks running from May 1, 2008 through May 1, 2009; (b) using the method prescribed in Q&A 24(c) of the 280G Treasury Regulations for determining the parachute value of a time vested payment in valuing the acceleration of the retention bonus for Mr. Ryan; (c) deriving the net present values of the change in control payments using the May 2009 AFR of 0.91% (short-term), 2.45% (mid-term) and 4.26% (long-term), as applicable; (d) assuming that all equity awards granted between June 30, 2008 and June 30, 2009 may be valued by the method prescribed in Q&A 24(c) of the 280G Treasury Regulations; and (e) calculating Mr. Ryan s prior compensation by multiplying the average monthly compensation amount derived from his UK forms P60 by the average exchange rate for the corresponding month.

Certain Relationships with KKR. James H. Greene, Jr., one of our directors, is the director designee of Kohlberg Kravis Roberts & Co. L.P. (which we refer to as KKR). Pursuant to the Note Purchase Agreement, dated January 23, 2007, by and between Sun, KKR and certain affiliates of KKR, certain affiliates of KKR either

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beneficially own or receive the economic benefits of ownership on all of our 0.625% convertible senior notes due 2012 (which we refer to as the 2012 Notes) and 0.750% convertible senior notes due 2014 (which we refer to as the 2014 Notes and, together with the 2012 Notes, the Notes). Under the indentures governing the Notes, the merger will constitute a Fundamental Change. The occurrence of a Fundamental Change allows the holders of the Notes to require us to repurchase the Notes at 100% of the outstanding principal amount, or $1,000 per note, plus accrued and unpaid interest. If the holders of the Notes do not elect to require us to repurchase the Notes, after the completion of the Merger, each Note will be convertible into $329.29 per $1,000 principal amount. If the Merger and no other Fundamental Change occurs, the Notes will remain outstanding.

Additionally, Michael E. Marks, one of our directors, was formerly a member of KKR and was the director designee of KKR prior to Mr. Greene s appointment to our board of directors in May 2008. Each of Messrs. Marks and Greene has an economic interest in certain affiliates of KKR that beneficially own or receive the economic benefits of ownership in our Notes.

Insurance and Indemnification of Sun s Directors and Officers. The merger agreement provides that, for six years after the effective time of the merger, the surviving corporation of the merger will, and Oracle will cause the surviving corporation of the merger to, maintain directors and officers liability insurance for acts or omissions occurring prior to the effective time of the merger covering those persons who were, as of the date of the merger agreement, covered by Sun s directors and officers liability insurance policies, on terms with respect to coverage and amounts no less favorable than those in effect on the date of the merger agreement. The surviving corporation of the merger and Oracle s obligation to provide this insurance coverage is subject to a cap of 250% of the current annual premium paid by Sun for its existing insurance coverage. If the surviving corporation or Oracle cannot maintain the existing or equivalent insurance coverage without exceeding the 250% cap, the surviving corporation or Oracle are required to maintain insurance policies that, in their judgment, provide the maximum insurance coverage available at an annual premium equal to the 250% cap.

In addition, the merger agreement provides that, prior to the effective time of the merger, Sun may purchase a pre-paid tail or runoff policy for directors and officers liability insurance for acts and omissions prior to the effective time of the merger so long as the cost of such policy does not exceed the 250% cap. The merger agreement further provides that, if such tail policy is purchased prior to the effective time of the merger. the surviving corporation of the merger will maintain such tail in full force and effect.

The merger agreement further provides that, from and after the consummation of the merger, the surviving corporation will, and Oracle will cause the surviving corporation and its subsidiaries to, fulfill and honor in all respects the obligations of Sun and its subsidiaries pursuant to (1) each indemnification agreement in effect between Sun and any of its subsidiaries and any person who is now, or has been prior to the execution of the merger agreement, or who becomes prior to the consummation of the merger, a director or officer of Sun or any of its subsidiaries and (2) any indemnification provision and any exculpation provision set forth in the certificate of incorporation or bylaws of Sun as in effect as of the date of the merger agreement. The merger agreement also provides that for six years after the effective time of the merger, the certificate of incorporation and bylaws of the surviving corporation will contain (and Oracle will cause the certificate of incorporation and bylaws of the surviving corporation of the merger to so contain) provisions no less favorable with respect to indemnification, advancement of expenses and exculpation of present and former directors of Sun and its subsidiaries that are presently set forth in the certificate of incorporation and bylaws of Sun. These provisions may not be amended, repealed or otherwise modified in a manner that could adversely affect the rights of any person benefited by such provisions. All claims for indemnification, for which Sun, the surviving corporation of the merger or Oracle receives written notice prior to the sixth year anniversary of the consummation of the merger, will survive until such time as such claim is fully and finally resolved (even if resolution occurs subsequent to the sixth year anniversary of the consummation of the merger).

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Material U.S. Federal Income Tax Consequences of the Merger

The following discussion is a summary of the material U.S. federal income tax consequences of the merger to U.S. holders (as defined below) of Sun common stock whose shares are exchanged for cash in the merger. This summary is based on the provisions of the Internal Revenue Code of 1986, as amended, which we refer to as the Code, U.S. Treasury regulations promulgated thereunder, judicial authorities and administrative rulings, all as in effect as of the date of the proxy statement and all of which are subject to change, possibly with retroactive effect. Any such change could affect the accuracy of the statements and conclusions set forth in this proxy statement.

For purposes of this discussion, the term U.S. holder means a beneficial owner of shares of Sun common stock that is, for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation (including any entity treated as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- a trust if (i) a U.S. court is able to exercise primary supervision over the trust s administration and one or more U.S. persons are authorized to control all substantial decisions of the trust or (ii) it has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person; or
- an estate the income of which is subject to U.S. federal income tax regardless of its source.

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) holds shares of Sun common stock, the tax treatment of a partner in such entity will generally depend on the status of the partner and the activities of the partnership. If you are a partner of a partnership holding shares of Sun common stock, you should consult your tax advisor.

This discussion assumes that a U.S. holder holds the shares of Sun common stock as a capital asset within the meaning of Section 1221 of the Code (generally, property held for investment). The following does not address all aspects of U.S. federal income tax that might be relevant to U.S. holders in light of their particular circumstances, or U.S. holders that may be subject to special rules (including, for example, dealers in securities or currencies, traders in securities that elect mark-to-market treatment, financial institutions, insurance companies, mutual funds, tax-exempt organizations, holders liable for the alternative minimum tax, partnerships or other flow-through entities and their partners or members, U.S. expatriates, holders whose functional currency is not the U.S. dollar, holders who hold Sun common stock as part of a hedge, straddle, constructive sale or conversion transaction or other integrated investment, holders who acquired Sun common stock pursuant to the exercise of employee stock options or otherwise as compensation, or holders who exercise statutory appraisal rights). In addition, the discussion does not address any aspect of foreign, state, local, estate, gift or other tax law that may be applicable to a U.S. holder.

Holders should consult their tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local or foreign income and other tax laws) of the receipt of cash in exchange for Sun common stock pursuant to the merger.

The receipt of cash in exchange for shares of Sun common stock in the merger will be a taxable transaction for U.S. federal income tax purposes. In general, a U.S. holder who receives cash in exchange for shares of Sun common stock pursuant to the merger will recognize capital gain or loss for U.S. federal income tax purposes in an amount equal to the difference, if any, between (1) the amount of cash received and (2) the holder s adjusted tax basis in such shares. Such gain or loss will be long-term capital gain or loss if the holder s holding period for such shares exceeds one year as of the date of the merger. Long-term capital gains of non-corporate U.S. holders, including individuals, are generally eligible for reduced rates of federal income taxation. The deductibility of capital losses is subject to limitations. If a U.S. holder acquired different blocks of Sun common stock at different

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times or different prices, such U.S. holder must determine its tax basis and holding period separately with respect to each block of Sun common stock.

Payments of cash made to a U.S. holder may, under certain circumstances, be subject to information reporting and backup withholding at the applicable rate (currently 28 percent), unless such holder properly establishes an exemption or provides a correct taxpayer identification number, and otherwise complies with the backup withholding rules. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be refunded or a credited against a holder s U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Regulatory Approvals

Under the provisions of the HSR Act, the merger may not be completed until the expiration or termination of a 30-day waiting period following the filing of notification and report forms with the Antitrust Division and the FTC by Sun and Oracle. In addition, the expiration or termination of the applicable waiting period in the required jurisdictions is a condition to each of Oracle and Sun s obligation to consummate the merger. Oracle and Sun filed their respective notification and report forms with the Antitrust Division and the FTC under the HSR Act on May 5, 2009. Oracle re-filed its notification and report form with the Antitrust Division and the FTC on May 27, 2009. Oracle and Sun are preparing anti-trust and competition filings in numerous foreign jurisdictions, including the European Union.

Voting Agreements

In connection with the transactions contemplated by the merger agreement, each of Mr. Jonathan I. Schwartz, our President and Chief Executive Officer and a member of our board of directors, and Mr. Scott G. McNealy, Chairman of our board of directors, beneficially owned, as of the record date, approximately 0.1% and 1.9%, respectively, of the total outstanding shares of Sun common stock, have entered into voting agreements with Oracle, to, among other things, vote their respective shares of Sun common stock in favor of the merger, unless the merger agreement has been terminated.

The following descriptions of the voting agreements describe the material terms of the voting agreements. These descriptions of the voting agreements are qualified in its entirety by reference to the copies of the form of voting agreement which is attached as Annex C and is incorporated herein by reference. We encourage you to read the form of voting agreement in its entirety. The shares of Sun common stock covered by these voting agreements are referred to as subject Sun shares.

The voting agreement provides that Mr. Schwartz and Mr. McNealy will vote, unless the merger agreement has been terminated, their subject Sun shares:

- in favor of the merger, the execution and delivery by Sun of the merger agreement and the adoption and approval of the merger agreement and the terms thereof; and
- against any of the following that would either (i) impede, frustrate, prevent or nullify any provision of the voting agreement, the merger or the merger agreement, (ii) result in a breach in any respect of any covenant, representation, warranty or any other obligation or agreement of Sun under the merger agreement or (iii) change in any manner the voting rights of the subject Sun shares:
  - an alternative acquisition proposal;
  - any merger or merger agreement with a party other than with Oracle and Soda Acquisition Corporation, consolidation, combination, sale of substantial assets, reorganization, recapitalization, dissolution, liquidation or winding up of Sun; or
  - any amendment of Sun s certificate of incorporation or bylaws.

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Concurrently with the execution of the voting agreement, Mr. Schwartz and Mr. McNealy also granted to Oracle a proxy to vote their respective Sun shares on any of the foregoing matters at any meeting of the Sun stockholders. Mr. Schwartz and Mr. McNealy also agreed (i) to be bound by the non-solicitation provisions of the merger agreement described below under The Merger Agreement No Solicitations, (i) to certain restrictions on the transfer of their subject Sun shares, and (iii) unless required by applicable law, not to, and cause their representatives not to, make certain public communications criticizing or disparaging the voting agreement and the merger agreement and the transactions contemplated thereby without prior written consent of Oracle.

Mr. Schwartz and Mr. McNealy further agreed to (i) waive and not exercise any rights of appraisal or rights to dissent from the merger that they may be entitled to under Delaware law and (ii) not commence or participate in, and take all actions necessary to opt out of any class in any class action with respect to, any claim, derivative or otherwise, against Sun, Oracle or Soda Acquisition Corporation (or any of their respective successors) relating to the negotiation, execution or delivery of the voting agreement or the merger agreement or the consummation of the merger including any claim (x) challenging the validity of, seeking to enjoin the operation of, any provision of the voting agreement or (y) alleging a breach of any fiduciary duty of the Sun board of directors in connection with the merger agreement or the transactions contemplated therein.

Litigation Related to the Merger

Three putative shareholder class actions challenging the proposed merger have been filed in Santa Clara County Superior Court naming Sun, certain officers and directors of Sun, as well as Oracle and its merger subsidiary, as defendants. Pfeffer v. Sun Microsystems, Inc., et al., No. 109CV140424 (filed April 20, 2009); Mandel v. McNealy, et al., No. 109CV141407 (filed April 30, 2009); and Oppenheim Asset Management Services v. Sun Microsystems, Inc., et al., No. 109CV141421 (filed April 30, 2009). The complaints, which are similar, seek to enjoin the proposed acquisition of Sun by Oracle and allege claims for breach of fiduciary duty against the individual defendants and for aiding and abetting a breach of fiduciary duty against Sun, Oracle and its merger subsidiary. The complaints generally allege that the consideration offered in the proposed transaction is unfair and inadequate. On May 15, 2009, plaintiffs in the Pfeffer and Mandel actions filed amended complaints alleging, in addition to the above allegations, that certain disclosures in the preliminary proxy statement filed with the SEC were inadequate. Plaintiffs have filed motions to consolidate the actions and for appointment of lead plaintiff and co-lead counsel, which motions are scheduled for hearing by the court on June 26, 2009. Sun and the other defendants have not yet responded to the complaints.

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THE MERGER AGREEMENT

The summary of the material provisions of the merger agreement below and elsewhere in this proxy statement is qualified in its entirety by reference to the merger agreement, a copy of which is attached to this proxy statement as Annex A and which we incorporate by reference into this document. This summary does not purport to be complete and may not contain all of the information about the merger agreement that is important to you. We encourage you to read carefully the merger agreement in its entirety.

The Merger

The merger agreement provides that, subject to the terms and conditions of the merger agreement, and in accordance with Delaware law at the effective time of the merger, Soda Acquisition Corporation will be merged with and into Sun and, as a result of the merger, the separate corporate existence of Soda Acquisition Corporation will cease and Sun will continue as the surviving corporation and become a wholly-owned subsidiary of Oracle. As the surviving corporation, Sun will continue to be governed by Delaware law and all of its rights, privileges, immunities, powers and franchises will continue unaffected by the merger.

Soda Acquisition Corporation and the surviving corporation will take all necessary actions such that, at the effective time of the merger, the certificate of incorporation of Sun will be amended to read in its entirety as set forth in the form attached to the merger agreement, and the bylaws of the surviving corporation will be those of Soda Acquisition Corporation as in effect immediately prior to the merger.

The closing of the merger will occur as soon as practicable but in any event within two business days after all of the conditions set forth in the merger agreement and described under Conditions to the Merger are satisfied or waived, or at such other time as agreed to by the parties.

The merger will become effective when the certificate of merger has been duly filed with the Delaware Secretary of State or at a later time as agreed to by the parties. It is currently anticipated that the effective time of the merger will occur during the summer of 2009. However, the parties cannot predict the exact timing of the completion of the merger or whether the merger will be completed at a later time as agreed by the parties or at all.

The Merger Consideration and the Conversion of Capital Stock

At the effective time of the merger, by virtue of the merger, each share of Sun common stock issued and outstanding immediately prior to the effective time of the merger will be cancelled and converted into the right to receive $9.50 in cash, without interest and less any applicable withholding taxes, other than the following shares, which will be cancelled and no payment made with respect thereto:

- shares of Sun common stock held by Sun as treasury stock; and
- shares of Sun common stock owned by Oracle or any subsidiary of either Sun or Oracle immediately prior to the effective time of the merger.

The price to be paid for each share of Sun common stock in the merger will be adjusted appropriately to reflect the effect of any change in the outstanding shares of capital stock of Sun, including by reason of any reclassification, recapitalization, stock split (including reverse stock split) or combination, exchange or readjustment of shares, or any stock dividend with respect to the shares of Sun common stock that occurs prior to the effective time of the merger.

Each share of common stock of Soda Acquisition Corporation outstanding immediately prior to the effective time of the merger will be converted into and become one share of common stock, par value $0.01 per share, of the surviving corporation with the same rights, powers and privileges as the shares so converted and will thereafter constitute the only outstanding shares of capital stock of the surviving corporation.

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Payment Procedures

Prior to the effective time of the merger, Oracle will deposit with the exchange agent for the merger the aggregate consideration to be paid to holders of shares of Sun common stock in the merger.

Each holder of shares of Sun common stock that are converted into the right to receive the merger consideration will be entitled to receive the merger consideration upon (i) surrender to the exchange agent of a certificate, together with a duly completed and validly executed letter of transmittal and such other documents as may reasonably be requested by the exchange agent, or (ii) receipt of an agent s message by the exchange agent (or such other evidence, if any, of transfer as the exchange agent may reasonably request) in the case of a book-entry transfer of uncertificated shares. Until so surrendered or transferred, each such certificate or uncertificated share will represent after the effective time of the merger for all purposes only the right to receive such merger consideration. No interest will be paid or accrued on the cash payable upon the surrender or transfer of such certificate or uncertificated share. Upon payment of the merger consideration pursuant to these provisions, each certificate or certificates so surrendered will immediately be cancelled.

Treatment of Options, Restricted Stock and Other Equity Awards

Stock Options. Except as described below, at the effective time of the merger and without any action on the part of the holders thereof, each outstanding option to purchase shares of Sun common stock that is outstanding immediately prior to the effective time of the merger will be automatically converted into an option to acquire, on substantially the same terms and conditions applicable to such Sun stock options immediately prior to the merger, a number of shares of Oracle common stock (rounded down to the nearest whole share) equal to the product of (x) the number of shares of Sun common stock subject to the option and (y) a fraction (referred to as the equity award exchange ratio), the numerator of which is $9.50 and the denominator of which is the average closing price of Oracle common stock over the five trading days immediately preceding (but not including) the effective time of the merger. The exercise price for assumed options will equal the per share exercise price for the shares of Sun common stock divided by the equity award exchange ratio (rounded upwards to the nearest whole cent).

Restricted Stock Units. Except as described below, restricted stock units denominated in shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be converted into the right to receive restricted stock units with respect to the number of shares of Oracle common stock calculated by multiplying the number of Sun restricted stock units by the equity award exchange ratio (rounded down to the nearest whole share). The Oracle restricted stock units will vest subject to and in accordance with the applicable vesting schedule for the Sun restricted stock units, with other terms and conditions substantially identical to the Sun restricted stock units.

Restricted Stock. Restricted shares of Sun common stock that are outstanding immediately prior to the effective time of the merger will automatically be cancelled and converted into the right to receive an amount of cash (without interest and less any applicable withholding taxes) equal to $9.50 per restricted share of Sun common stock, which cash amount will be payable subject to and in accordance with the vesting schedule applicable to the restricted shares of Sun common stock as in effect immediately prior to the effective time of the merger.

Cashed Out Equity Awards. Notwithstanding the foregoing, unless determined otherwise by Oracle, each Sun option and each Sun restricted stock unit that is held by a person who is not an employee of, or a consultant to, Sun or any subsidiary of Sun immediately prior to the effective time of the merger (which we refer to as the cashed out equity awards) will not be assumed by Oracle and will, immediately prior to the effective time of the merger, be cancelled and extinguished and, to the extent vested, be automatically converted into the right to receive an amount in cash equal to the product obtained by multiplying (x) the aggregate number of shares of Sun common stock that were issuable upon exercise or settlement of such cashed out equity award immediately prior

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to the effective time of the merger and (y) the merger consideration, less, if applicable, the aggregate exercise price of such cashed out equity award.

Employee Stock Purchase Plan. Prior to the effective time of the merger, Sun will:

- provide that the purchase price per share for shares of Sun common stock purchased under its ESPP for all offering periods beginning after the execution of the merger agreement will be equal to 95% of the fair market value of a share of Sun common stock on the exercise date;
- establish a new exercise date under the ESPP on the last day of the payroll period ending immediately prior to the effective time of the merger (but at least ten business days before the effective time) with respect to the offering period then in effect under the ESPP (which we refer to as the new exercise date);
- provide that no further offering periods will commence under the ESPP on or following the new exercise date; and
- terminate the ESPP as of the new exercise date.

Each outstanding option under the ESPP on the new exercise date will be exercised on such date for the purchase of shares of Sun common stock in accordance with the terms of the ESPP.

Stockholders Meeting

Pursuant to the terms of the merger agreement, Sun has established a record date for, duly called and given notice of, and will convene and hold a meeting of its stockholders (which we refer to as the special meeting) for the purpose of obtaining the vote of Sun s stockholders necessary to satisfy the voting condition described in Conditions to the Merger. Sun may delay, adjourn or postpone the date of the special meeting, (i) if and to the extent necessary to obtain a quorum of its stockholders to take action at the special meeting and during such delay, adjournment or postponement, Sun must use its reasonable best efforts to obtain such a quorum as soon as practicable and (ii) if and to the extent (and only to the extent) Sun determines in good faith that such delay, adjournment or postponement is required by applicable law or to comply with comments made by the SEC with respect to the proxy statement or otherwise.

Unless the merger agreement is terminated, as described below under Termination of the Merger Agreement, Sun has agreed to submit the merger agreement to a vote of Sun s stockholders, even if Sun s board of directors has approved, endorsed or recommended another takeover proposal, or withdraws or modifies its unanimous recommendation as described below under Sun Board Recommendation that Sun s stockholders vote in favor of the adoption of the merger agreement. As soon as practicable after the date that this definitive proxy statement is filed (but not more than five business days following the clearance of the definitive proxy statement by the SEC, which occurred on June 4, 2009), Sun has agreed to use its reasonable best efforts to mail to its stockholders the definitive proxy statement and all other proxy materials for the special meeting and, if necessary to comply with applicable securities laws, after the definitive proxy statement has been mailed, promptly circulate amended, supplemental or supplemented proxy materials and, if required in connection therewith, re-solicit proxies.

Representations and Warranties

The merger agreement contains representations and warranties made by Sun to Oracle and Soda Acquisition Corporation and representations and warranties made by Oracle and Soda Acquisition Corporation to Sun. The assertions embodied in those representations and warranties were made solely for purposes of the merger agreement and may be subject to important qualifications and limitations agreed to by the parties in connection with negotiating the terms of the merger agreement. Moreover, these representations and warranties have been qualified by certain disclosures that Sun made to Oracle and Soda Acquisition Corporation in connection with the

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negotiation of the merger agreement, which disclosures are not reflected in the merger agreement. Furthermore, some of those representations and warranties may not be accurate or complete as of any particular date because they are subject to a contractual standard of materiality or material adverse effect different from that generally applicable to public disclosures to stockholders. The representations and warranties were used for the purpose of allocating risk between the parties to the merger agreement rather than establishing matters of fact. For the foregoing reasons, you should not rely on the representations and warranties contained in the merger agreement as statements of factual information. The representations and warranties in the merger agreement and the description of them in this proxy statement should be read in conjunction with the other information contained in the reports, statements and filings Sun publicly files with the SEC. This description of the representations and warranties is included to provide Sun s stockholders with information regarding the terms of the merger agreement.

In the merger agreement, Sun has made representations and warranties to Oracle and Soda Acquisition Corporation with respect to, among other things:

- the due incorporation, valid existence, good standing, power and authority of Sun;
- its authority to enter into the merger agreement and to complete the transactions contemplated by the merger agreement and the enforceability of the merger agreement against Sun;
- the adoption and unanimous recommendation of the Sun board of directors to enter into the merger agreement, the merger and the transactions contemplated by the merger agreement;
- the required consents and approvals of governmental entities in connection with the transactions contemplated by the merger agreement;
- the absence of conflicts with, creation of liens, violations or defaults under Sun s or its subsidiaries governing documents, applicable laws or certain agreements as a result of entering into the merger agreement and the consummation of the merger;
- its capitalization, including in particular the number of outstanding shares of Sun common stock, preferred stock, and restricted stock and the number of shares of common stock issuable upon the exercise of stock options and warrants and upon conversion of its outstanding convertible debt;
- its subsidiaries and their due incorporation or organization, valid existence, good standing, power and authority;
- its SEC filings since June 30, 2008, including financial statements contained therein, internal controls and compliance with the Sarbanes-Oxley Act of 2002;
- conduct of business and absence of certain changes, except as contemplated by the merger agreement, including that there has been no fact, event, change, development or set of circumstances, that has had or would reasonably be expected to have, a material adverse effect to Sun;
- the absence of undisclosed material liabilities;

the absence of certain litigation;

Sun s and its subsidiaries compliance with applicable legal requirements since June 30, 2006;

matters with respect to Sun s material contracts;

matters related to Sun s employee benefit plans;

labor and employment matters;

tax matters;

compliance with laws and permits, including environmental laws and regulations;

title to properties and the absence of encumbrances;

inventory matters;

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intellectual property matters;

the accuracy and compliance with applicable securities laws of the information supplied by Sun in this proxy statement;

relationships with, and other matters related to, major customers and suppliers of Sun;

receipt by the Sun board of directors of a fairness opinion from Credit Suisse;

insurance matters;

compliance with the U.S. Foreign Corrupt Practices Act and other anti-corruption laws;

related party transaction matters;

the absence of undisclosed brokers fees and expenses; and

the inapplicability of state takeover statutes to the merger.

Many of the representations and warranties in the merger agreement made by Sun are qualified by a materiality or material adverse effect to Sun standard (that is, they will not be deemed to be untrue or incorrect unless their failure to be true or correct, individually or in the aggregate, would, as the case may be, be material or have a material adverse effect to Sun). For purposes of the merger agreement, a material adverse effect to Sun means (i) a material adverse effect on the business, financial condition or results of operations of Sun and its subsidiaries, taken as a whole, or (ii) matters preventing or materially delaying Sun s ability to consummate the merger.

For purposes of clause (i) above, the definition of material adverse effect to Sun excludes, alone or in combination, any adverse effect resulting from or arising out of:

the announcement or pendency of the merger (including any loss of or adverse change in the relationship of Sun and its subsidiaries with their respective employees, customers, partners or suppliers related thereto);

general economic or political conditions (including acts of terrorism or war) that do not disproportionately affect Sun and its subsidiaries, taken as a whole, as compared to other companies participating in the same industry as Sun;

general conditions in the industry in which Sun and its subsidiaries operate that do not disproportionately affect Sun and its subsidiaries, taken as a whole, as compared to other companies participating in the same industry as Sun;

any changes (after the date of the merger agreement) in GAAP or applicable law;

any failure to take any action in compliance with the restrictions or other prohibitions set forth in the merger agreement, or the taking of any specific action at the written direction of Oracle or expressly required by the merger agreement;

any failure of Sun to meet internal or analysts estimates or projections (although any cause of any such failure may be taken into consideration when determining whether a material adverse effect to Sun has occurred); and

any legal proceeding made or brought by any stockholder of Sun (on the holder s own behalf or on behalf of Sun) arising out of or related to the merger agreement or any of the transactions contemplated thereby (including the merger).

In the merger agreement, Oracle and Soda Acquisition Corporation made customary representations and warranties to Sun with respect to, among other things:

the due incorporation, valid existence, good standing and power of Oracle and Soda Acquisition Corporation;

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the authority of each of Oracle and Soda Acquisition Corporation to enter into the merger agreement and to complete the transactions contemplated by the merger agreement and the enforceability of the merger agreement against each of Oracle and Soda Acquisition Corporation;

the required consents and approvals of governmental entities in connection with the transactions contemplated by the merger agreement;

the absence of conflicts with, violations or defaults under Oracle s or Soda Acquisition Corporation s governing documents, applicable laws or certain agreements as a result of entering into the merger agreement and the consummation of the merger;

the absence of certain litigation;

the accuracy and compliance with applicable securities laws of the information supplied by Oracle and Soda Acquisition Corporation contained in this proxy statement; and

the sufficiency of funds to pay the merger consideration.

The representations and warranties contained in the merger agreement and in any certificate or other writing delivered pursuant to the merger agreement will not survive the effective time of the merger. This limit does not apply to any covenant or agreement of the parties which by its terms contemplates performance after the effective time of the merger.

Covenants Regarding Conduct of Business by Sun Pending the Merger

Except as required by applicable law or agreed to in writing by Oracle, from the date of the merger agreement until the earlier of the consummation of the merger or the termination of the merger agreement, Sun will, and will cause each of its subsidiaries to, conduct its business in the ordinary course, consistent with past practice, and use its commercially reasonable efforts to:

preserve its intellectual property, business organization and material assets;

keep available the services of its directors, officers and employees;

maintain in effect all of its government authorizations; and

maintain satisfactory relationships with its customers, lenders, suppliers, licensors, licensees, distributors and others that have business relationships with Sun.

In addition, except as required by the terms of the merger agreement or agreed to in writing by Oracle (which in certain specified instances may not be unreasonably withheld or delayed), from the date of the merger agreement until the earlier of the consummation of the merger or the termination of the merger agreement, Sun will not, nor will it permit its subsidiaries to:

amend their respective certificate of incorporation, bylaws or other comparable charter or organizational documents (whether by merger, consolidation or otherwise);

declare, set aside or pay any dividends on, or make any other distributions in respect of, or enter into any agreement with respect to the voting of, any capital stock of Sun or any of its subsidiaries, other than dividends and distributions by a direct or indirect wholly-owned subsidiary of Sun to its parent (except distributions under the ESPP in the ordinary course and for distributions resulting from the vesting or exercise of Sun stock options, restricted stock and restricted stock units (which we collectively refer to as Sun compensatory awards));

split, combine or reclassify any capital stock of Sun;

except as described below, issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for, shares of capital stock of Sun or any of its subsidiaries;

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take any action that would result in the amendment, modification or change of any term of certain indebtedness of Sun or any of its subsidiaries;

issue, deliver, sell, grant, pledge, transfer, subject to any lien or otherwise encumber or dispose of any securities of Sun or any of its subsidiaries, other than:

- the issuance of shares of Sun common stock upon the exercise of Sun stock options or pursuant to the terms of Sun restricted stock units that are outstanding as of the date of the merger agreement, in each case in accordance with the applicable equity award s terms as in effect on the date of the merger agreement; or
- the issuance of shares of Sun common stock pursuant to the ESPP;

purchase, redeem or otherwise acquire any securities of Sun or any of its subsidiaries, except in satisfaction by holders of Sun compensatory awards of the applicable exercise price and/or withholding taxes;

take any action that would result in any amendment, modification or change of any term of any indebtedness of Sun or any of its subsidiaries;

amend any term of any Sun security or any Sun subsidiary security;

adopt a plan or agreement of, or resolutions providing for or authorizing, complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization with respect to Sun or any of its subsidiaries;

incur any capital expenditures or any obligations or liabilities in respect thereof other than in accordance with a quarterly budget previously approved in writing by Oracle in its sole discretion;

acquire any business, assets or capital stock of any person or entity or division thereof, whether in whole or in part (whether by purchase of stock, purchase of assets, merger, consolidation, or otherwise);

acquire any other assets other than immaterial assets acquired in the ordinary course of business consistent with past practice;

sell, lease, license, pledge, transfer, subject to any lien or otherwise dispose of any of its intellectual property, material assets or material properties except (i) pursuant to existing contracts or commitments, (ii) sales of inventory or used equipment in the ordinary course of business consistent with past practice, (iii) permitted liens incurred in the ordinary course of business consistent with past practice or (iv) pursuant to non-exclusive licenses for intellectual property entered into in the ordinary course of business consistent with past practice;

grant to any current or former director, officer, employee or consultant of Sun or any of its subsidiaries any (i) increase in compensation, (ii) bonus or (iii) other benefits;

hire any new employee to whom a written offer of employment was made and accepted prior to the date of the merger agreement, or, after the date of the merger agreement, extend any new offers of employment with Sun or any of its subsidiaries to any individual;

grant to any current or former director, officer, employee or consultant of Sun or any of its subsidiaries any severance or termination pay or benefits or any increase in severance, change of control or termination pay or benefits;

establish, adopt, enter into or amend any Sun benefit plan (other than offer letters that contemplate at will employment without severance benefits) or collective bargaining agreement, in each case except as required by applicable law;

take any action to amend or waive any performance or vesting criteria or accelerate any rights or benefits or take any action to fund or in any other way secure the payment of compensation or benefits under any Sun benefit plan except to the extent required pursuant to the terms thereof or applicable law;

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make any person or entity a beneficiary of any retention plan under which such person or entity is not as of the date of the merger agreement a beneficiary which would entitle such person or entity to vesting, acceleration or any other right as a consequence of completion of the transactions contemplated by the merger agreement;

write down any of its material assets, including any capitalized inventory or Sun s intellectual property;

make any change in any method of financial accounting principles, method or practices, in each case except for any such change required by GAAP or applicable law;

repurchase, prepay or incur any indebtedness in, including by way of a guarantee or an issuance of debt securities;

issue and sell options, warrants, calls or other rights to acquire any debt securities of Sun or any of its subsidiaries, or enter into any keep well or other agreement to maintain any financial statement or similar condition of another person;

make any loans, advances or capital contributions to, or in, any other person or entity other than (i) Sun and its subsidiaries or (ii) accounts receivable and extensions of credit in the ordinary course of business, and advances in expenses to employees, in each case in the ordinary course of business consistent with past practice;

agree to any exclusivity, non-competition, most favored nation or similar provision or covenant restricting Sun, any of its subsidiaries or their affiliates from competing in any line of business or with any person or entity or in any area or engaging in any activity or business, or pursuant to which any benefit or right would be required to be given or lost as a result, or which would have any such effect on Oracle or its affiliates after the consummation of the merger;

enter into any contract, or relinquish or terminate any contract or other right, (i) related to the license of software in any individual case with an annual value in excess of $1,000,000 with a value over the life of the contract value in excess of $3,000,000 or (ii) related to the sale of hardware, with an annual value in excess of $5,000,000, other than:

- entering into software license agreements or agreements for the sale of hardware products in the ordinary course of business consistent with past practice;
- service or maintenance contracts entered into in the ordinary course of business consistent with past practice pursuant to which Sun or any of its subsidiaries is providing services to customers;
- non-exclusive distribution, marketing, reselling or consulting agreements entered into in the ordinary course of business consistent with past practice that provide for distribution of a product or service of Sun or any of its subsidiaries by a third party;
- non-exclusive OEM agreements entered into in the ordinary course of business consistent with past practice that are terminable without penalty within twelve months; or
- supply contracts with vendors or suppliers entered into in the ordinary course of business consistent with past practice;

make or change any material tax election, change any tax accounting period, adopt or change any material method of tax accounting, amend any material tax returns or file any claim for material tax refunds, enter into any closing agreement, enter into any tax allocation, tax sharing or tax indemnity agreement (other than any customary commercial or financing agreements entered into in the ordinary course of business consistent with past practices);

settle any material tax claim, audit or assessment or surrender any right to claim a tax refund;

except as set forth above with respect to immaterial taxes, institute, pay, discharge, compromise, settle or satisfy (or agree to do any of the preceding with respect to) any claims, liabilities or obligations, in

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excess of $250,000 in any individual case, other than (i) as required by their terms as in effect on the date of the merger agreement, (ii) claims, liabilities or obligations reserved against on the June 30, 2008 balance sheet of Sun (for amounts not in excess of such reserves) or (iii) incurred in the ordinary course of business consistent with past practice, (however, in the case of each of (i), (ii) or (iii), the payment, discharge, settlement or satisfaction of such claim, liability or obligation may not include any material obligation (other than the payment of money) to be performed by Sun or any of its subsidiaries following the consummation of the merger);

waive, relinquish, release, grant, transfer or assign any right with a value of more than $250,000 in any individual case except in the ordinary course of business consistent with past practice;

waive any material benefits of, or agree to modify in any adverse respect, or fail to enforce, or consent to any matter with respect to which its consent is required under, any confidentiality, standstill or similar contract to which Sun or any of its subsidiaries is a party;

(i) engage in any trade loading practices or any other promotional sales or discount activity with any customers or distributors with any intent of accelerating to prior fiscal quarters (including the current fiscal quarter) sales to the trade or otherwise that would otherwise be expected (based on past practice) to occur in subsequent fiscal quarters; (ii) any practice which would have the effect of accelerating to prior fiscal quarters (including the current fiscal quarter) collections of receivables that would otherwise be expected (based on past practice) to be made in subsequent fiscal quarters, (iii) any practice which would have the effect of postponing to subsequent fiscal quarters payments by Sun or any of its Subsidiaries that would otherwise be expected (based on past practice) to be made in prior fiscal quarters (including the current fiscal quarter) or (iv) any other promotional sales or discount activity, in each case in clauses (i) through (iv) in a manner outside the ordinary course of business consistent with past practices; or

authorize, commit or agree to take any of the things described above.

No Solicitations

Sun has agreed that, neither Sun nor any of its subsidiaries will, nor will Sun or any of its subsidiaries authorize or permit any of its or their directors, officers, employees, financial advisors, attorneys, accountants, consultants, agents and other authorized representatives acting in such capacity (whom we refer to collectively as representatives) to, and Sun will instruct, and cause each applicable subsidiary, if any, to instruct, each such representative not to, directly or indirectly:

solicit, initiate or knowingly take any action to facilitate or encourage the submission of any acquisition proposal (as defined below) or the making of any inquiry, offer or proposal that could reasonably be expected to lead to any acquisition proposal;

conduct or engage in any discussions or negotiations with, disclose any non-public information relating to Sun or any of its subsidiaries to, afford access to the business, properties, assets, books or records of Sun or any of its subsidiaries to, or knowingly assist, participate in, facilitate or encourage any effort by, any third party that has expressed an intention to make or has made any acquisition proposal;

approve any transaction under, or any third party becoming an interested stockholder under, Delaware law;

enter into any agreement in principle, letter of intent, term sheet, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other contract relating to any acquisition proposal or enter into any agreement or agreement in principle requiring Sun to abandon, terminate or fail to consummate the transactions contemplated by the merger agreement or breach its obligations under the merger agreement (other than a confidentiality agreement described below); or

resolve, propose or agree to do any of the foregoing.

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Sun also agreed to, and agreed to cause its subsidiaries to, cease immediately and cause to be terminated, and not authorize or knowingly permit any of its or their representatives to continue, any and all existing activities, discussions or negotiations, if any, with any third party conducted prior to the date of the merger agreement with respect to any acquisition proposal and to use its reasonable best efforts to cause any such third party (or its agents or advisors) in possession of non-public information in respect of Sun or any of its subsidiaries that was furnished by or on behalf of Sun and its subsidiaries to return or destroy (and confirm destruction of) all such information.

Acquisition proposal means any offer, proposal, inquiry or indication of interest from any third party relating to any transaction or series of related transactions involving any (i) acquisition or purchase by any person or entity, directly or indirectly, of 15% or more of any class of outstanding voting or equity securities of Sun, or any tender offer (including a self-tender) or exchange offer that, if consummated, would result in any person or entity beneficially owning 15% or more of any class of outstanding voting or equity securities of Sun, (ii) merger, amalgamation, consolidation, share exchange, business combination, joint venture or other similar transaction involving Sun or any of its subsidiaries, the business of which constitutes 15% or more of the net revenues, net income or assets of Sun and its subsidiaries, taken as a whole, (iii) sale, lease, exchange, transfer, license (other than licenses in the ordinary course of business), acquisition or disposition of 15% or more of the assets of Sun and any of its subsidiaries, taken as a whole (measured by the lesser of book or fair market value thereof), or (iv) any liquidation, dissolution, recapitalization, extraordinary dividend or other significant corporate reorganization of Sun or any of its subsidiaries, the business of which constitutes 15% or more of the net revenues, net income or assets of Sun and its subsidiaries, taken as a whole.

Notwithstanding the restrictions described above, at any time before the adoption of the merger agreement by Sun s stockholders, the Sun board of directors, directly or indirectly through any representative, may (i) engage in negotiations or discussions with any third party that has made (and not withdrawn) a bona fide unsolicited acquisition proposal in writing after the date of the merger agreement, that did not result from or arise out of a willful and material breach of the non-solicitation provisions of the merger agreement, and that the Sun board of directors believes in good faith, after consultation with its outside legal counsel and financial advisor of nationally recognized reputation, constitutes or would reasonably be expected to lead to a superior proposal (as defined below) and (ii) thereafter furnish to such third party non-public information relating to Sun or any of its subsidiaries pursuant to an acceptable confidentiality agreement, but in each case under the preceding clauses (i) and (ii), only if the Sun board of directors determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties under applicable law.

The merger agreement requires Sun to give Oracle at least three business days prior written notice that Sun intends to furnish non-public information to, or enter into discussions or negotiations with, the third party or group making the acquisition proposal. Sun is required to notify Oracle promptly (and in no event later than 24 hours) after it obtains knowledge of the receipt by Sun or any of its representatives of any acquisition proposal, any inquiry, offer or proposal that would reasonably be expected to lead to an acquisition proposal, or any request for non-public information relating to Sun or any of its subsidiaries or for access to the business, properties, assets, books or records of Sun or any of its subsidiaries by any third party. This notice is required to contain the identity of the third party and a description of the terms and conditions of the acquisition proposal, inquiry, offer, proposal or request. Sun must keep Oracle reasonably informed, on a reasonably prompt basis, of the status and material terms of any such acquisition proposal, inquiry or request, including any material amendments or proposed amendments as to price and other material terms thereof. Sun also must provide Oracle with at least 48 hours prior notice of any meeting of the Sun board of directors at which the Sun board of directors is reasonably expected to consider any acquisition proposal (or any lesser advance notice provided to the Sun board of directors in general). Sun also is obligated, subject to applicable law, promptly provide Oracle with any non-public information concerning Sun s business, present or future performance, financial condition or results of operations, provided to any third party that was not previously provided to Oracle.

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Sun Board Recommendation

Subject to the provisions described below, the Sun board of directors agreed to unanimously recommend that Sun s stockholders vote in favor of the adoption and approval of the merger agreement and approval of the merger in accordance with the applicable provisions of Delaware law (which we refer to as the board recommendation). The Sun board of directors also agreed to include the board recommendation in this proxy statement. Subject to the provisions described below, the merger agreement provides that neither the Sun board of directors nor any committee thereof will:

- fail to make, withdraw, amend or modify, or publicly propose to withhold, withdraw, amend or modify, in a manner adverse to Oracle or Soda Acquisition Corporation, the board recommendation;
- approve, endorse, adopt or recommend, or publicly propose to approve, endorse, adopt or recommend, any acquisition proposal or superior proposal;
- fail to recommend against acceptance of any tender offer or exchange offer for the common stock of Sun within ten business days after the commencement of such offer;
- make any public statement inconsistent with the board recommendation; or
- resolve or agree to take any of the foregoing actions.

We refer to each of the foregoing actions as an adverse recommendation change.

Notwithstanding these restrictions, the Sun board of directors may effect an adverse recommendation change at any time before the adoption of the merger agreement by Sun s stockholders if, following the receipt of and on account of a superior proposal:

- the Sun board of directors determines in good faith, after consultation with its outside legal counsel, that the failure to make an adverse recommendation change would be inconsistent with its fiduciary duties under applicable law;
- Sun first gives Oracle written notice of its intention to make an adverse recommendation change with respect to a superior proposal at least five business days prior to taking such action;
- Sun delivers to Oracle with such notice the most current version of the proposed agreement or a detailed summary of all material terms of any such superior proposal (which summary shall be updated on a reasonably prompt basis) and the identity of the third party making the superior proposal;
- Sun and its financial and legal advisors have, during the five business day notice period negotiated with Oracle in good faith to make such adjustments in the terms and conditions of the merger agreement so that the acquisition proposal is no longer a superior proposal (it being agreed that in the event that, after the commencement of the five business day notice period, there is any material revision to the terms of the superior proposal, including any revision in price, the notice period shall be extended, if applicable, to ensure that at least three business days remain in the notice period subsequent to the time that Sun notifies Oracle of any such material revision; and

Oracle has not made, within the notice period, an offer that is determined by the Sun board of directors in good faith, after consulting with its outside counsel and financial advisor of nationally recognized reputation, to be at least as favorable to Sun s stockholders as the superior proposal.

Superior proposal means any bona fide, unsolicited, written acquisition proposal that did not result from or arise out of a willful and material breach of the non-solicitation provisions of the merger agreement, made by a third party, that, if consummated, would result in such third party (or, in the case of a direct merger between such third party or any subsidiary of such third party and Sun, the stockholder of such third party) owning, directly or indirectly, all of the outstanding shares of Sun common stock, or all or substantially all of the consolidated assets of Sun and its subsidiaries, and which acquisition proposal the Sun board of directors determines in good faith,

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after considering the advice of its outside legal counsel and a financial advisor of nationally recognized reputation, and after taking into account all of the terms and conditions of such acquisition proposal (including any termination or breakup fees, expense reimbursement provisions and conditions to consummation), and after taking into account all financial, legal, regulatory, and other aspects of such acquisition proposal (including the financing terms and the financability of such acquisition proposal), (i) is more favorable to Sun s stockholders (other than Oracle and its affiliates) than as provided in the merger agreement (including any changes to the terms of the merger agreement proposed by Oracle in response to such superior proposal pursuant to and in accordance with the merger agreement), (ii) is not subject to any financing condition (and if financing is required, such financing is then fully committed to the third party), (iii) is reasonably capable of being completed on the terms proposed without unreasonable delay, and (iv) includes termination rights of the third party on terms no less favorable to Sun than the terms set forth in the merger agreement, all from a third party capable of performing such terms.

Notwithstanding the foregoing, at any time before the adoption of the merger agreement by Sun s stockholders, in response to a material fact, event, change, development or set of circumstances (other than an acquisition proposal occurring or arising after the date of the merger agreement) that was not known to the Sun board of directors nor reasonably foreseeable by the Sun board of directors as of or prior to the date of the merger agreement (and not relating in any way to any acquisition proposal), the Sun board of directors may make an adverse recommendation change if:

- the Sun board of directors determines in good faith, after consultation with its outside legal counsel, that, in light of such intervening event, the failure to effect such an adverse recommendation change would be inconsistent with the Sun board of directors fiduciary duties under applicable law;

- at least four business days prior to such adverse recommendation change, Sun provides Oracle written notice advising Oracle that the Sun board of directors intended to take such action and specifying the facts underlying the determination that an intervening event has occurred, and the reasons for the adverse recommendation change, in reasonable detail; and

- during the four business day period following Oracle s receipt of the notice of adverse recommendation change, Sun negotiates in good faith with Oracle to amend the merger agreement in such a manner that prevents the need for an adverse recommendation change as a result of the intervening event.

Notwithstanding the provisions described above, the merger agreement does not prohibit the Sun board of directors from complying with Rule 14d-9 and Rule 14e-2(a) under the Exchange Act with regard to an acquisition proposal although such disclosure (other than a stop, look and listen communication pursuant to Rule 14d-9(f)) will constitute an adverse recommendation change unless Sun s board of directors expressly publicly reaffirms the board recommendation in such communication or within two business days after requested to do so by Oracle.

Employee Compensation and Benefits

Employee Benefits and Service Credit. As of and for a period of twelve months following the effective time of the merger, Oracle has agreed to either continue certain of Sun s employee benefit plans and/or permit employees of Sun and its subsidiaries who continue employment with Oracle or the surviving corporation or their respective subsidiaries following the effective time of the merger (who we refer to as continuing employees), while they remain so employed by Oracle or the surviving corporation or their subsidiaries, and, as applicable, their eligible dependents, to participate in the employee benefit plans, programs or policies of Oracle or its affiliates, excluding any equity compensation plans, programs, agreements or arrangements, that are no less favorable, in the aggregate, as those provided to similarly situated employees of Oracle or its affiliates during such period.

To the extent Oracle elects to have continuing employees and their eligible dependents participate in its or its affiliates employee benefit plans, programs or policies following the effective time of the merger, Oracle has

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also agreed to recognize the prior service with Sun and its subsidiaries (and any predecessor employers where such prior service is recognized by Sun and its subsidiaries as of immediately prior to the effective time of the merger) of each continuing employee in connection with all employee benefit plans, programs or policies of Oracle and its affiliates in which continuing employees are eligible to participate for purposes of eligibility to participate, vesting and determination of level of benefits (but not (A) for purposes of vesting stock options and other equity awards, (B) for the purposes of benefit accruals under any defined benefit pension plan or (C) to the extent that such recognition would result in duplication of benefits). In addition, Oracle has agreed to (a) cause any pre-existing conditions or limitations and eligibility waiting periods under any of Oracle s or its affiliates group health plans to be waived with respect to continuing employees and their eligible dependents to the extent such continuing employees and their eligible dependents were not subject to such preexisting conditions and limitations and eligibility waiting periods under the comparable Sun employee benefit plan as of the time immediately preceding the effective time of the merger, and (b) provide each continuing employee with credit for any deductibles paid under any Sun employee benefit plan that provides group health plan benefits in the plan year in effect as of the effective time of the merger in satisfying any applicable deductible or out of pocket requirements under any group health plans of Oracle, the surviving corporation or its subsidiaries that such employees are eligible to participate in after the effective time of the merger to the same extent that such expenses were recognized under the comparable Sun employee benefit plan.

Treatment of Sun s 401(k) Plan. Unless Oracle requests otherwise, Sun shall terminate all of its 401(k) plans as of the day prior to the effective time of the merger.

Treatment of Sun s Nonqualified Deferred Compensation Plan. Within thirty days of the effective time of the merger and subject to and conditioned upon the consummation of the merger, Sun will terminate its U.S. nonqualified deferred compensation plan, subject to compliance with Section 409A of the Internal Revenue Code. As soon as is administratively practicable following the termination of Sun s U.S. nonqualified deferred compensation plan and subject to the terms of such plan and its related trust and trust agreement and compliance with Section 409A of the Internal Revenue Code, Sun will begin distributing the assets of such plan.

Other Covenants and Agreements

Access to Information; Confidentiality. From the date of the merger agreement until the consummation of the merger, subject to certain exceptions described in the merger agreement, Sun has agreed to (i) give Oracle and its representatives reasonable access to the offices, properties, contracts, books, records, contracts, governmental authorizations, documents, directors, officers and employees of Sun and its subsidiaries during normal business hours, (ii) furnish to Oracle and its representatives such financial, tax and operating data and other information as they may reasonably request and (iii) instruct its representatives to cooperate with Oracle and its representatives in Oracle s investigation. In addition, Oracle and Sun have agreed to remain bound by the confidentiality agreement executed by the parties prior to the execution of the merger agreement.

State Takeover Laws. If any control share acquisition , fair price , moratorium or other anti-takeover laws or regulations enacted under state, federal or foreign laws becomes or is deemed to have become applicable to Sun, Oracle, Soda Acquisition Corporation, the merger, the voting agreements or any other transaction contemplated by the merger agreement, then each of Sun, Oracle, Soda Acquisition Corporation, and their respective board of directors will grant such approvals and take such actions as are necessary to render such statutes inapplicable.

Voting of Shares. Oracle will vote any shares of Sun common stock beneficially owned by it or any of its subsidiaries in favor of adoption of the merger agreement at the special meeting, and will vote or cause to be voted the shares of Soda Acquisition Corporation held by it or any of its subsidiaries, as the case may be, in favor of adoption of the merger agreement.

Director and Officer Indemnification and Insurance. Oracle is required to, or to cause the surviving corporation to, maintain officers and directors liability insurance (which we refer to as D&O Insurance) for a

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period of not less than six years after the consummation of the merger with respect to acts or omissions occurring before the consummation of the merger covering each such person currently covered by Sun s officers and directors liability insurance policy. Oracle may substitute policies of substantially equivalent coverage and amounts containing terms no less favorable to the covered persons than the existing D&O Insurance. In satisfying the foregoing obligation, neither Oracle nor the surviving corporation will be required to pay aggregate annual premiums for insurance in excess of 250% of the aggregate premiums paid by Sun in fiscal year 2008. If Oracle or the surviving corporation in the merger is unable to obtain the amount of insurance required for such aggregate premium, Oracle or the surviving corporation in the merger will obtain as much insurance as can be obtained for aggregate premiums not in excess of 250% of such aggregate premium. In lieu of the foregoing, Sun may obtain prepaid policies prior to the consummation of the merger for an aggregate amount not in excess of 250% of the aggregate premiums paid by Sun in fiscal year 2008, which policies may provide the covered persons with D&O Insurance coverage of equivalent amount and on no more favorable terms than that provided by Sun s current D&O Insurance for an aggregate period of at least six years with respect to claims arising from facts or events that occurred before the consummation of the merger, including in connection with the approval of the merger agreement and the transactions contemplated thereby. If prepaid policies have been obtained prior to the consummation of the merger, Oracle will, and will cause the surviving corporation to, maintain such policies in full force and effect and continue to honor the obligations thereunder.

From and after the effective time of the merger, Oracle and the surviving corporation are required to honor and fulfill the obligations of Sun and its subsidiaries under their respective certificate of incorporation or bylaws (or equivalent organizational documents) and under any indemnification or other similar agreements between Sun or any of its subsidiaries and their current and former directors and officers (whom we refer to as indemnified parties) in effect on the date of the merger agreement.

For a period of six years after the consummation of the merger, the certificate of incorporation and bylaws of the surviving corporation must contain provisions no less favorable with respect to indemnification, advancement of expenses and exculpation of indemnified parties for periods prior to the consummation of the merger than are currently set forth in Sun s certificate of incorporation and bylaws.

If Oracle, the surviving corporation or any or its successors or assigns consolidates with or merges into any other person and is not the continuing or surviving corporation of such consolidation or merger, or transfers or conveys all or substantially all of its properties and assets to any person, then the merger agreement requires that proper provision be made so that the continuing or surviving corporation or transferee of assets will assume all of the applicable obligations described above.

The indemnified parties (and their successors and heirs) are intended third party beneficiaries of the indemnification and insurance provisions in the merger agreement, and these provisions may not be amended in a manner that is adverse to the indemnified parties (including their successors and heirs) or terminated without their consent.

Public Announcements. Subject to certain exceptions described in the merger agreement, Oracle and Sun have agreed that each will consult with the other before issuing any press release or making any other public statement with respect to the merger agreement or the transactions contemplated thereby. Neither will issue any such press release or make any such other public statement without the consent of the other party, which will not be unreasonably withheld, except as such release or announcement may be required by applicable law or any listing agreement with or rule of any national securities exchange or association upon which the securities of Sun or Oracle, as applicable, are listed, in which case the party required to make the release or announcement will consult with the other party about, and allow the other party reasonable time (taking into account the circumstances) to comment on, such release or announcement in advance of such issuance, and the party will consider such comments in good faith.

Bond Hedge and Warrant Transactions. The merger agreement provides that, from the date of the merger agreement and subject to certain limitations, Sun will use its best efforts to take all necessary or appropriate

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actions (subject to its existing contractual obligations) to cause its bond hedge and warrant transactions to be terminated to the extent the holders of such bonds elect to repurchase convertible bonds, at which point such bonds will represent solely the right to receive a cash payment. The merger agreement further provides that Sun will effect such termination and determine any amounts payable in good faith and on commercially reasonable terms in accordance with the terms of the existing bond hedge and warrant transactions.

Notification of Certain Events. Subject to applicable law and certain limitations, the merger agreement provides that Sun has agreed to consult in good faith on a reasonable basis with Oracle to report material (individually or in the aggregate) operational developments, the status of relationships with customers and resellers, the status of ongoing operations and other matters reasonably requested by Oracle pursuant to procedures reasonably requested by Oracle. In addition, the merger agreement provides that Oracle and Sun will promptly notify the other party of (i) any notice received indicating that consent from any entity or person is required for the consummation of the merger, (ii) any notice received from any governmental authority in connection with the transactions contemplated by the merger agreement, (iii) any litigation commenced or, to Oracle or Sun s knowledge, threatened against Sun or any of its subsidiaries or Oracle or any of its subsidiaries that breaches or violates the representations and warranties regarding litigation in the merger agreement and (iv) any inaccuracy of a representation or warranty or breach of covenant or agreement in the merger agreement that could be reasonably expected to cause the conditions to the merger not to be satisfied. Further, the merger agreement provides that Sun will promptly notify Oracle or any notice or other communication from any party to a material contract that such party is terminating or otherwise materially adversely modifying its relationship with Sun or any of its subsidiaries as a result of the merger.

Reasonable Best Efforts

Each of Sun, Oracle and Soda Acquisition Corporation will use its reasonable best efforts to take or cause to be taken all actions, to do, to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by the merger agreement, including (i) obtaining from governmental authorities all necessary actions or nonactions, waivers, consents and approvals and making all necessary registrations and filings and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any governmental authorities, (ii) obtaining of all necessary consents or waivers from third parties, and (iii) executing and delivering any additional instruments necessary to consummate the merger and to fully carry out the purposes of the merger agreement. Oracle has agreed to take all action necessary to cause Soda Acquisition Corporation to perform its obligations under the merger agreement and to consummate the merger.

Subject to applicable law relating to the exchange of information, Sun and Oracle and their respective counsel will (i) have the right to review in advance, and to the extent practicable each will consult the other on, any filing made with, or written materials to be submitted to, any governmental authority in connection with the transactions contemplated by the merger agreement, (ii) promptly inform each other of any communication (or other correspondence or memoranda) received from, or given to, the Antitrust Division, the FTC or any other governmental antitrust authority and (iii) furnish each other with copies of all correspondence, filings and written communications between them or their subsidiaries or affiliates, on the one hand, and any governmental authority or its respective staff, on the other hand, with respect to the transactions contemplated by the merger agreement. Sun and Oracle will, to the extent practicable, provide the other party and its counsel with advance notice of and the opportunity to participate in any discussion, telephone call or meeting with any governmental authority in respect of any filing, investigation or other inquiry in connection with the transactions contemplated by the merger agreement and to participate in the preparation for such discussion, telephone call or meeting. However, neither Oracle nor Sun will commit to or agree with any governmental authority to stay, toll or extend any applicable waiting period under the HSR Act or applicable foreign competition laws, without the prior written consent of the other.

Without limiting the other provisions of the merger agreement, the parties have further agreed to (i) provide or cause to be provided, as promptly as practicable to governmental authorities with regulatory jurisdiction over

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enforcement of any applicable antitrust laws, all information and documents either requested by such governmental antitrust authorities or necessary, proper or advisable to permit completion of the transactions contemplated by the merger agreement, and thereafter to respond as promptly as practicable to any request for additional information or documentary material that may be made under the HSR Act and any additional consents and filings under any antitrust laws; (ii) use their reasonable best efforts to take such actions as are necessary or advisable to obtain prompt approval of completion of the transactions contemplated by the merger agreement by any governmental authority; and (iii) use their reasonable best efforts to contest on the merits, through litigation in United States District Court and through administrative procedures in relation to other government authorities, any objections or opposition raised by any governmental authority. Oracle will not be required to appeal any decision or order by a governmental authority.

Each of Sun, Oracle and Soda Acquisition Corporation will give any notices to third parties, and use, and cause their respective subsidiaries to use, their commercially reasonable efforts to obtain any third-party consents. Oracle will have the opportunity to participate in the defense of any legal proceeding against Sun and/or its directors relating to the transactions contemplated by the merger agreement and Sun will obtain the prior written consent of Oracle prior to settling or satisfying any such legal proceeding.

The merger agreement provides that neither Oracle nor Sun is required to sell, hold separate or otherwise dispose of or conduct their business in a specified manner, or permit the sale, holding separate or other disposition of, any assets or business of Oracle, Sun or any of their respective subsidiaries or the conduct of their business in a specified manner. Each of Oracle and Soda Acquisition Corporation has agreed that, until the consummation of the merger, each will not take any action or propose, announce an intention or agree to take any action that would reasonably be expected to materially delay or prevent the completion of the transactions contemplated by the merger agreement.

Conditions to the Merger

The obligations of Oracle and Soda Acquisition Corporation, on the one hand, and Sun, on the other hand, to consummate the merger are subject to the satisfaction of the following conditions:

- approval and adoption of the merger agreement and the merger by an affirmative majority of the outstanding shares of Sun common stock;
- no governmental entity with jurisdiction over any party will have issued any binding order, injunction, decree, judgment, ruling or other action that is in effect (whether temporary, preliminary or permanent) restraining, enjoining or otherwise prohibiting the consummation of the merger;
- no law or regulation will have been adopted that makes the consummation of the merger illegal or otherwise prohibited; and
- the waiting period applicable to the merger under the antitrust laws of the United States and European Union, Canada, China, Israel, Switzerland, Russia, Australia, Turkey, Korea, Japan, Mexico and South Africa will have expired or been terminated and any affirmative approval of a governmental entity required under any applicable antitrust, competition, premerger notification or trade regulation laws in the required jurisdiction listed above will have been obtained.

The obligations of Oracle and Soda Acquisition Corporation to consummate the merger are subject to the satisfaction of the additional following conditions:

- the representations and warranties of Sun relating to corporate existence, power, authority, certain capitalization matters and finders fees associated with the merger set forth in the merger agreement, to the extent not qualified by materiality or material adverse effect thresholds, will be true in all material respects, and to the extent so qualified, will be true in all respects, on the date made and as of immediately prior to the effective time of the merger (other than those representations and warranties that were made only as of a specified date, which need only be true and correct as of such specified date);

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the other representations and warranties of Sun made in the merger agreement, disregarding materiality and material adverse effect thresholds, will be true when made and as of immediately prior to the effective time of the merger (other than those representations and warranties that were made only as of a specified date, which need only be true and correct as of such specified date), provided that such representations and warranties will be deemed to be true unless the individual or aggregate impact of the failure to be so true would have or would reasonably be expected to have a material adverse effect on Sun;

Sun will have performed in all material respects its obligations under the merger agreement on or prior to the consummation of the merger;

Oracle will have received a certificate signed on Sun s behalf by a senior executive officer of Sun as to the satisfaction of the conditions described in the preceding three bullets; and

there will not have been any fact, event, change, development or set of circumstances that has had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Sun, which is continuing.

The obligation of Sun to consummate the merger is subject to the satisfaction of the additional following conditions:

the representations and warranties of Oracle and Soda Acquisition Corporation made in the merger agreement, will be true and correct in all material respects as of the closing date (other than those representations and warranties that were made only as of a specified date, which need only be true and correct in all material respects as of such specified date);

Oracle and Soda Acquisition Corporation will have performed in all material respects their respective obligations under the merger agreement; and

Sun will have received a certificate signed on Oracle s behalf by a senior executive officer of Oracle as to the satisfaction of the conditions described in the preceding two bullets.

The above conditions may be amended or waived prior to the effective time of the merger if such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to the merger agreement or, in the case of a waiver, by each party against whom the waiver is to be effective. However, subsequent to the adoption of the merger agreement by Sun s stockholders, no such amendment or waiver will be made that requires the approval of Sun s stockholders under Delaware law unless the required further approval is obtained.

Termination of the Merger Agreement

Sun and Oracle may terminate the merger agreement by mutual written consent at any time before the consummation of the merger. In addition, either Oracle or Sun may terminate the merger agreement at any time before the consummation of the merger if:

the merger is not consummated on or before April 19, 2010 (which we refer to as the end date); provided, that if all of the conditions to the consummation of the merger shall have been satisfied, other than the expiration or termination of the applicable waiting period under the HSR Act or antitrust laws of the required jurisdictions and the receipt of required regulatory approvals under the applicable merger control laws of the required jurisdictions, the end date may be extended by a three month period by Oracle by written notice to Sun (the end date may be so extended not more than twice); provided further, that a party whose willful or intentional material breach of any provision of the merger agreement resulted in the failure of the merger to be consummated before the end date will not be entitled to exercise its right to terminate the merger agreement as described in this bullet point;

any governmental entity of competent jurisdiction issues an order, decree, injunction or ruling or takes any other action permanently enjoining, restraining or otherwise prohibiting the consummation of the merger and such order, decree, injunction, ruling or other action becomes final and non-appealable;

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any law or regulation is adopted that makes consummation of the merger illegal or otherwise prohibited; or

the merger agreement has been submitted to Sun s stockholders for adoption and the required vote has not been obtained by reason of the failure to obtain the required vote upon a final vote taken at the special meeting (or any adjournment or postponement thereof).

Oracle may also terminate the merger agreement if:

an adverse recommendation change has occurred;

Sun has entered into, or publicly announced its intention to enter into, a letter of intent, memorandum of understanding or other contract (other than an acceptable confidentiality agreement) relating to any acquisition proposal;

Sun or any of its representatives have willfully and materially breached any of its obligations under the non-solicitation provisions in the merger agreement; or

Sun materially breaches or fails to perform any of its representations, warranties or covenants contained in the merger agreement, or if any representation or warranty of Sun becomes inaccurate, in either case such that the conditions to the merger relating to the accuracy of Sun s representations and warranties and performance of covenants would not be satisfied as of the time of such breach or as of the time such representation and warranty became inaccurate (except that with respect to breaches or inaccuracies that are curable by Sun through the exercise of commercially reasonable efforts prior to and within 30 days of the end date, Oracle cannot terminate the merger agreement as described in this bullet point until the earlier of (i) the expiration of the 30-day period after delivery of written notice from Oracle to Sun of any such breach or inaccuracy, or (2) Sun s ceasing to exercise commercially reasonable efforts to cure the breach or inaccuracy, provided that Sun continues to exercise commercially reasonable efforts to cure the breach or inaccuracy).

Sun may also terminate the merger agreement if:

prior to the receipt of approval of the adoption of the merger agreement by Sun s stockholders, the Sun board of directors authorizes Sun, in compliance with the other terms of the merger agreement, to enter into a binding definitive agreement in respect of a superior proposal if (1) Sun pays the termination fee (described below in Termination Fees and Expenses) at or prior to termination of the merger agreement and (2) Sun substantially concurrently enters into a binding definitive agreement with respect to such superior proposal; or

Oracle or Soda Acquisition Corporation materially breaches or fails to perform any of its covenants or agreements contained in the merger agreement, or if any representation or warranty of Oracle or Soda Acquisition Corporation becomes inaccurate (except that with respect to breaches or inaccuracies that are curable by Oracle or Soda Acquisition Corporation through the exercise of commercially reasonable efforts prior to and within 30 days of the end date, Sun cannot terminate the merger agreement as described in this bullet point until the earlier of (i) the expiration of the 30-day period after delivery of written notice from Sun to Oracle of any such breach or inaccuracy, or (2) Oracle or Soda Acquisition Corporation, as the case may be, ceasing to exercise commercially reasonable efforts to cure the breach or inaccuracy, provided that Oracle or Soda Acquisition Corporation, as the case may be, continues to exercise commercially reasonable efforts to cure the breach or inaccuracy).

The party that desires to terminate the merger agreement must give notice of termination to each other party to the merger agreement, except in the case of termination by mutual written consent.

Termination Fees and Expenses

If the merger agreement is terminated, it will become void and of no effect without liability of any party (or any stockholder, director, officer, employee, agent, consultant or representative of such party) to each other party

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thereto. No such termination will relieve any party of any liability for damages resulting from any willful or intentional breach of the merger agreement.

Notwithstanding the foregoing, if Oracle terminates the merger agreement because:

- of an adverse recommendation change;
- Sun enters into, or publicly announces its intention to enter into, a letter of intent, memorandum of understanding or other contract (other than a permitted confidentiality agreement) relating to any acquisition proposal; or
- Sun or any of its representatives has willfully and materially breached any of its obligations under the non-solicitation provisions in the merger agreement,

then Sun will pay to Oracle, within two business days after any such termination, $260 million (which we refer to as the termination fee).

If Sun terminates the merger agreement because, prior to the receipt of approval of the adoption of the merger agreement by Sun s stockholders, the Sun board of directors authorizes Sun, in compliance with the other terms of the merger agreement, to enter into a binding definitive agreement in respect of a superior proposal and Sun substantially concurrently enters into a binding definitive agreement in respect to such superior proposal, then Sun will pay to Oracle, at or prior to such termination, the termination fee.

If either Sun or Oracle terminates the merger agreement because:

- the required approval of the stockholders of Sun has not been obtained by reason of the failure to obtain the required vote upon a final vote taken at the special meeting (or any adjournment or postponement thereof);
- prior to the special meeting, an acquisition proposal has been publicly announced and not publicly withdrawn; and
- within 12 months following the date of such termination Sun either enters into a definitive agreement with respect to, or consummates, an acquisition proposal with any party,

then Sun will pay to Oracle, within two business days after entering into such definitive agreement, or consummating such transaction, the termination fee (it being understood that all references in the definition of acquisition proposal to 15% will be deemed to be references to 50.1% instead for purposes of payment of the termination fee in these instances).

If either Oracle or Sun terminates the merger agreement because the required approval of the stockholders of Sun has not been obtained by reason of the failure to obtain the required vote upon a final vote taken at the special meeting (or any adjournment or postponement thereof), Sun will pay all of Oracle s documented reasonable out-of-pocket fees and expenses (including reasonable legal and other third party advisors fees and expenses) actually incurred by Oracle and its affiliates on or prior to the termination of the merger agreement in connection with the transactions contemplated by the merger agreement. In no event will Sun be required to reimburse Oracle for expenses exceeding $45 million; provided that the amount of any payment of such expenses will be credited against any obligation of Sun to pay the termination fee. Sun will make such payment as promptly as possible (but in any event within three business days) following receipt of an invoice for such expenses.

Sun acknowledged in the merger agreement that the agreements contained in the provisions regarding the termination fee are an integral part of the transactions contemplated by the merger agreement and that, without those provisions, Oracle and Soda Acquisition Corporation would not have entered into the merger agreement. If Sun fails to pay the foregoing fees to Oracle when due, Sun will pay the costs and expenses (including legal fees

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and expenses) in connection with any action taken to collect payment (including the prosecution of any lawsuit or other legal action), together with interest on the unpaid amount.

Except as expressly set forth in the merger agreement and described above, all fees, costs and expenses incurred in connection with the merger agreement and the merger will be paid by the party incurring such fees, costs and expenses, provided that Sun and Oracle will share equally all filing fees payable pursuant to the HSR Act or any foreign competition law.

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SUBMISSION OF STOCKHOLDER PROPOSALS

If the merger is consummated we will not have public stockholders, and there will be no public participation in any future meetings of stockholders. However, if the merger is not consummated by November 5, 2009, we expect to hold the 2009 annual meeting of stockholders.

For a stockholder proposal to be considered for inclusion in Sun s proxy statement for our 2009 annual meeting of stockholders, the written proposal must have been received by the Corporate Secretary of Sun no later than May 27, 2009. The proposal would have needed to comply with Rule 14a-8 of the Securities Exchange Act of 1934, as amended (which we refer to as the Exchange Act), which lists the requirements for the inclusion of stockholder proposals in company-sponsored proxy materials. If you intend to present a proposal at our 2009 annual meeting of stockholders, but you do not intend to have it included in our 2009 proxy statement, your proposal must be delivered to the attention of Michael A. Dillon, the Corporate Secretary of Sun, at our principal executive offices no earlier than June 26, 2009 and no later than July 26, 2009. If the date of our 2009 annual meeting of stockholders is more than 30 calendar days before or 60 calendar days after the one-year anniversary of the date of the 2008 annual meeting of stockholders, your proposal must be received by the Corporate Secretary of Sun no earlier than the close of business on the 90th day prior to such annual meeting and no later than the close of business on the later of (i) the 60th day prior to the date of such annual meeting or (ii) the tenth day following the day we publicly announce the date of the 2009 annual meeting of stockholders. As set forth in our Bylaws, your notice of a stockholder proposal not intended to be included in our 2009 proxy statement must set forth the information required pursuant to Sun s Bylaws.

Stockholders may propose director candidates for consideration by our board of director s Corporate Governance and Nominating Committee by written notice directed to Michael A. Dillon, the Corporate Secretary of Sun, at the address of our principal executive offices. In addition, our Bylaws permit stockholders to nominate directors for election at an annual meeting of stockholders. If you want to nominate an individual for election to our Board at the 2009 annual meeting of stockholders, you must deliver a written notice to the attention of Michael A. Dillon, the Corporate Secretary of Sun, no earlier than June 26, 2009 and no later than July 26, 2009. If the date of our 2009 annual meeting of stockholders is more than 30 calendar days before or 60 calendar days after the one-year anniversary of the date of our 2008 annual meeting of stockholders, your proposal must be received by the Corporate Secretary of Sun no earlier than the close of business on the 90th day prior to such annual meeting and no later than the close of business on the later of (i) the 60th day prior to the date of such annual meeting or (ii) the tenth day following the day we publicly announce the date of the 2009 annual meeting of stockholders. As set forth in our Bylaws, your notice relating to the recommendation or nomination of a director candidate must set forth the information required pursuant to Sun s Bylaws. The relevant Bylaw provisions regarding the requirements for making stockholder proposals and nominating director candidates are available on our website *www.sun.com/company/cgov/cert.jsp*. You may also contact the Corporate Secretary of Sun at our principal executive offices to request a copy of the relevant Bylaw provisions.

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APPRAISAL RIGHTS

Under Delaware law, you have the right to dissent from the merger and to receive payment in cash for the fair value of your shares of Sun common stock as determined by the Delaware Court of Chancery, together with interest, if any, as determined by the court, in lieu of the consideration you would otherwise be entitled to pursuant to the merger agreement. These rights are known as appraisal rights. Stockholders electing to exercise appraisal rights must comply with the provisions of Section 262 of Delaware law in order to perfect their rights. We will require strict compliance with the statutory procedures.

The following is intended as a brief summary of the material provisions of the Delaware statutory procedures required to be followed by a stockholder in order to dissent from the merger and perfect appraisal rights.

This summary, however, is not a complete statement of all applicable requirements and is qualified in its entirety by reference to Section 262 of Delaware law, the full text of which appears in Annex D to this proxy statement. Failure to precisely follow any of the statutory procedures set forth in Section 262 of Delaware law may result in a termination or waiver of your appraisal rights. All references in this summary to a stockholder are to the record holder of shares of Sun common stock unless otherwise indicated.

Section 262 requires that stockholders for whom appraisal rights are available be notified not less than 20 days before the stockholders meeting to vote on the merger that appraisal rights will be available. A copy of Section 262 must be included with such notice. This proxy statement constitutes our notice to Sun s stockholders of the availability of appraisal rights in connection with the merger in compliance with the requirements of Section 262. If you wish to consider exercising your appraisal rights, you should carefully review the text of Section 262 contained in Annex D to this proxy statement since failure to timely and properly comply with the requirements of Section 262 will result in the loss of your appraisal rights under Delaware law.

If you elect to demand appraisal of your shares, you must satisfy each of the following conditions:

- You must deliver to us a written demand for appraisal of your shares before the vote with respect to the merger is taken. This written demand for appraisal must be in addition to and separate from any proxy or vote abstaining from or voting against the adoption and approval of the merger agreement and the merger. Voting against or failing to vote for the adoption and approval of the merger agreement and the merger by itself does not constitute a demand for appraisal within the meaning of Section 262.

- You must not vote in favor of, or consent in writing to, the adoption and approval of the merger agreement and the merger. A vote in favor of the adoption and approval of the merger agreement and merger, by proxy, over the Internet, by telephone or in person, will constitute a waiver of your appraisal rights in respect of the shares so voted and will nullify any previously filed written demands for appraisal. A proxy which does not contain voting instructions will, unless revoked, be voted in favor of the adoption and approval of the merger agreement and the merger. Therefore, a stockholder who votes by proxy and who wishes to exercise appraisal rights must vote against the merger agreement and the merger or abstain from voting on the merger agreement and the merger.

- You must continue to hold your shares of Sun common stock through the effective date of the merger. Therefore, a stockholder who is the record holder of shares of Sun common stock on the date the written demand for appraisal is made but who thereafter transfers the shares prior to the effective date of the merger will lose any right to appraisal with respect to such shares.

If you fail to comply with any of these conditions and the merger is completed, you will be entitled to receive the merger consideration, but you will have no appraisal rights with respect to your shares of Sun common stock.

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All demands for appraisal should be addressed to Sun Microsystems, Inc., 4150 Network Circle, Santa Clara, California 95054, Attn: Corporate Secretary, and must be delivered before the vote on the merger agreement is taken at the special meeting and should be executed by, or on behalf of, the record holder of the shares of common stock. The demand must reasonably inform us of the identity of the stockholder and the intention of the stockholder to demand appraisal of his, her or its shares.

To be effective, a demand for appraisal by a holder of common stock must be made by, or in the name of, such registered stockholder, fully and correctly, as the stockholder s name appears on his or her stock certificate(s). Beneficial owners who do not also hold the shares of record may not directly make appraisal demands to us. The beneficial holder must, in such cases, have the registered owner, such as a broker, bank or other nominee, submit the required demand in respect of those shares. If shares are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, execution of a demand for appraisal should be made by or for the fiduciary; and if the shares are owned of record by more than one person, as in a joint tenancy or tenancy in common, the demand should be executed by or for all joint owners. An authorized agent, including an authorized agent for two or more joint owners, may execute the demand for appraisal for a stockholder of record; however, the agent must identify the record owner or owners and expressly disclose the fact that, in executing the demand, he or she is acting as agent for the record owner. A record owner, such as a broker, who holds shares as a nominee for others, may exercise his or her right of appraisal with respect to the shares held for one or more beneficial owners, while not exercising this right for other beneficial owners. In that case, the written demand should state the number of shares as to which appraisal is sought. Where no number of shares is expressly mentioned, the demand will be presumed to cover all shares held in the name of the record owner.

If you hold your shares of common stock in a brokerage account or in other nominee form and you wish to exercise appraisal rights, you should consult with your broker or the other nominee to determine the appropriate procedures for the making of a demand for appraisal by the nominee.

Within 10 days after the effective time of the merger, the surviving corporation must give written notice that the merger has become effective to each stockholder who has properly filed a written demand for appraisal and who did not vote in favor of the merger agreement and the merger. At any time within 60 days after the effective time, any stockholder who has demanded an appraisal, and who has not commenced an appraisal proceeding or joined that proceeding as a named party, has the right to withdraw the demand and to accept the cash payment specified by the merger agreement for his or her shares of common stock; after this period, the stockholder may withdraw such demand for appraisal only with the consent of the surviving corporation. Within 120 days after the effective date of the merger, any stockholder who has complied with Section 262 will, upon written request to the surviving corporation, be entitled to receive a written statement setting forth the aggregate number of shares not voted in favor of the merger agreement and the merger and with respect to which demands for appraisal rights have been received and the aggregate number of holders of such shares. A person who is the beneficial owner of shares of common stock held in a voting trust or by a nominee on behalf of such person may, in such person s own name, request from the corporation the statement described in the previous sentence. Such written statement will be mailed to the requesting stockholder within 10 days after such written request is received by the surviving corporation or within 10 days after expiration of the period for delivery of demands for appraisal, whichever is later. Within 120 days after the effective time, either the surviving corporation or any stockholder who has complied with the requirements of Section 262 and who is otherwise entitled to appraisal rights may file a petition in the Delaware Court of Chancery demanding a determination of the fair value of the shares held by all stockholders entitled to appraisal. A person who is the beneficial owner of shares of Sun common stock held in a voting trust or by a nominee on behalf of such person may, in such person s own name, file the petition described in the previous sentence. Upon the filing of the petition by a stockholder, service of a copy of such petition shall be made upon Sun, as the surviving corporation. The surviving corporation has no obligation to file such a petition in the event there are dissenting stockholders. Accordingly, the failure of a stockholder to file such a petition within the period specified could nullify the stockholder s previously written demand for appraisal. There is no present intent on the part of Sun to file an appraisal petition, and stockholders seeking to exercise appraisal rights should not assume that Sun will file such a petition or that Sun will initiate any negotiations with

respect to the fair value of such shares. Accordingly, stockholders who desire to have their shares appraised should initiate any petitions necessary for the perfection of their appraisal rights within the time periods and in the manner prescribed in Section 262.

If a petition for appraisal is duly filed by a stockholder and a copy of the petition is delivered to the surviving corporation, the surviving corporation will then be obligated, within 20 days after receiving service of a copy of the petition, to provide the Delaware Court of Chancery with a duly verified list containing the names and addresses of all stockholders who have demanded an appraisal of their shares and with whom agreements as to the value of their shares have not been reached by the surviving corporation. After notice to dissenting stockholders who demanded appraisal of their shares, the Delaware Court of Chancery is empowered to conduct a hearing upon the petition, and to determine those stockholders who have complied with Section 262 and who have become entitled to the appraisal rights provided thereby. The Delaware Court of Chancery may require the stockholders who have demanded appraisal for their shares to submit their stock certificates to the Register in Chancery for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with that direction, the Delaware Court of Chancery may dismiss the proceedings as to that stockholder.

After determination of the stockholders entitled to appraisal of their shares of common stock, the Delaware Court of Chancery will appraise the shares, determining their fair value exclusive of any element of value arising from the accomplishment or expectation of the merger, together with interest, if any. Unless the Delaware Court of Chancery in its discretion determines otherwise for good cause shown, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period between the effective date of the merger and the date of payment of the judgment. When the value is determined, the Delaware Court of Chancery will direct the payment of such value, with interest thereon accrued during the pendency of the proceeding, if the Delaware Court of Chancery so determines, to the stockholders entitled to receive the same, upon surrender by such holders of the certificates representing those shares.

In determining fair value, and, if applicable, interest, the Delaware Court of Chancery is required to take into account all relevant factors. In Weinberger v. UOP, Inc., the Delaware Supreme Court discussed the factors that could be considered in determining fair value in an appraisal proceeding, stating that proof of value by any techniques or methods which are generally considered acceptable in the financial community and otherwise admissible in court should be considered, and that fair price obviously requires consideration of all relevant factors involving the value of a company.

Section 262 provides that fair value is to be exclusive of any element of value arising from the accomplishment or expectation of the merger. In Cede & Co. v. Technicolor, Inc., the Delaware Supreme Court stated that such exclusion is a narrow exclusion [that] does not encompass known elements of value, but which rather applies only to the speculative elements of value arising from such accomplishment or expectation. In Weinberger, the Delaware Supreme Court construed Section 262 to mean that elements of future value, including the nature of the enterprise, which are known or susceptible of proof as of the date of the merger and not the product of speculation, may be considered.

You should be aware that the fair value of your shares as determined under Section 262 could be more than, the same as, or less than the value that you are entitled to receive under the terms of the merger agreement.

Costs of the appraisal proceeding may be imposed upon the surviving corporation and the stockholders participating in the appraisal proceeding by the Delaware Court of Chancery as the Court deems equitable in the circumstances. Upon the application of a stockholder, the Delaware Court of Chancery may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorneys fees and the fees and expenses of experts, to be charged pro rata against the value of all shares entitled to appraisal. Any stockholder who had demanded appraisal rights will not, after the effective time of the merger, be entitled to vote shares subject to that demand for any purpose or to receive

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payments of dividends or any other distribution with respect to those shares, other than with respect to payment as of a record date prior to the effective time; however, if no petition for appraisal is filed within 120 days after the effective time of the merger, or if the stockholder delivers a written withdrawal of his or her demand for appraisal and an acceptance of the terms of the merger within 60 days after the effective time of the merger, then the right of that stockholder to appraisal will cease and that stockholder will be entitled to receive the cash payment for shares of his, her or its shares of Class A common stock pursuant to the merger agreement. No appraisal proceeding in the Delaware Court of Chancery will be dismissed as to any stockholder without the prior approval of the Court, and such approval may be conditioned upon such terms as the Delaware Court of Chancery deems just; provided, however, that any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party will maintain the right to withdraw its demand for appraisal and to accept the cash that such holder would have received pursuant to the merger agreement within 60 days after the effective date of the merger.

In view of the complexity of Section 262, stockholders who may wish to dissent from the merger and pursue appraisal rights should consult their legal advisors.

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CURRENT MARKET PRICE OF COMMON STOCK

We did not pay or declare cash dividends in fiscal 2007, fiscal 2008 or fiscal 2009 to date, and we anticipate retaining available funds to finance future growth and have no present intention to pay cash dividends.

Sun common stock is traded on the NASDAQ Global Select Market under the symbol JAVA . Prior to August 27, 2007, our common stock traded under the symbol SUNW . On November 8, 2007, our stockholders approved a one-for-four reverse stock split, which became effective on November 12, 2007. All references to common stock price for all periods presented below have been adjusted to give effect to this reverse split. The following table sets forth the high and low sales prices of Sun common stock for the periods indicated as reported by the NASDAQ Global Select Market. The following table sets forth for the fiscal periods indicated the high and low sale prices for our common stock as reported by the NASDAQ Global Select Market:

	Common Stock Price	
Fiscal Period	**High**	**Low**
Fiscal 2007		
First Quarter: July 1 September 30	$ 21.32	$ 14.96
Second Quarter: October 1 December 31	$ 23.52	$ 19.56
Third Quarter: January 1 April 1	$ 27.12	$ 21.60
Fourth Quarter: April 2 June 30	$ 24.36	$ 19.32
Fiscal 2008		
First Quarter: July 1 September 30	$ 23.48	$ 18.00
Second Quarter: October 1 December 30	$ 25.04	$ 18.01
Third Quarter: December 31 March 30	$ 18.19	$ 14.20
Fourth Quarter: March 31 June 30	$ 16.37	$ 10.76
Fiscal 2009		
First Quarter: July 1 September 28	$ 11.00	$ 7.52
Second Quarter: September 29 December 28	$ 7.67	$ 2.60
Third Quarter: December 29 March 29	$ 9.27	$ 3.45
Fourth Quarter: March 30 June 30 (through June 5, 2009)	$ 9.36	$ 5.93

The following table sets forth the closing price of our common stock, as reported on the NASDAQ Global Select Market on March 17, 2009, the last full day before rumors about a potential merger transaction became public, April 17, 2009, the last full trading day before we publicly announced the signed merger agreement with Oracle, and on June 5, 2009, the last completed trading day prior to the filing of this proxy statement:

	Common Stock Price
March 17, 2009	$ 4.97
April 17, 2009	$ 6.69
June 5, 2009	$ 9.17

You are encouraged to obtain current market quotations for Sun common stock in connection with voting your shares. Following the merger, there will be no further market for our common stock.

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SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table shows the number of shares of our common stock beneficially owned as of June 5, 2009 by:

- Each person or group known by Sun, based on filings pursuant to Section 13(d) or (g) under the Exchange Act, to own beneficially more than 5% of the outstanding shares of our common stock as of June 5, 2009;
- Each member of our Board of Directors;
- Each person who is one of our Named Executive Officers; and
- All directors and executive officers as a group.

Name	Common Shares Currently Held (a)	Common Shares That May Be Acquired Within 60 Days of June 5, 2009[1] (b)	Total Beneficial Ownership (a)+(b)	Percent of Class[2]
Barclays Global Investors, NA[3] 400 Howard Street San Francisco, CA 94105	37,606,402	0	37,606,402	5.0%
Jonathan I. Schwartz[4]	538,886	1,592,225	2,131,111	*
James L. Barksdale[5]	231,785	5,625	237,410	*
Stephen M. Bennett	14,185	3,125	17,310	*
Peter L.S. Currie	26,685	2,500	29,185	*
Robert J. Finocchio, Jr.	6,685	5,000	11,685	*
John F. Fowler[6]	4,522	326,380	405,947	*
James H. Greene, Jr.				*
Michael E. Lehman	106,684	125,000	231,684	*
Michael E. Marks[7]	86,685	1,250	87,935	*
Scott G. McNealy[8]	14,569,210	3,204,700	17,773,910	2.4%
Rahul N. Merchant	575		575	*
Patricia E. Mitchell	1,685	5,000	6,685	*
Kenneth M. Oshman	584,985	5,625	590,610	*
Gregory M. Papadopoulos[9]	6,267	525,677	531,944	*
P. Anthony Ridder	4,185	2,500	6,685	*
Peter Ryan		62,631	62,631	*
All current directors and officers as a group (20 persons)[10]	16,277,866	7,022,114	23,299,980	3.1%

* Less than one percent.

(1) Includes shares represented by vested, unexercised options as of June 5, 2009 and options and restricted stock units that are expected to vest within 60 days thereof. These shares are deemed to be outstanding for the purpose of computing the percentage ownership of the person holding the options or restricted stock units, but are not treated as outstanding for the purpose of computing the percentage

ownership of any other person.

(2) Based on 751,353,139 shares issued and outstanding on June 5, 2009.

(3) Based solely on information provided in a Schedule 13G filed jointly by Barclays Global Investors, NA, Barclays Global Fund Advisors, Barclays Global Investors, Ltd., Barclays Global Investors Japan Limited, Barclays Global Investors Canada Limited, Barclays Global Investors Australia Limited and Barclays Global Investors (Deutschland) AG with the SEC on February 5, 2009 reporting beneficial ownership of Sun s stock as of December 31, 2008. According to the Schedule 13G, Barclays Global Investors, NA is a bank as defined in Section 3(a)(6) of the Investment Advisers Act of 1940 and Barclays Global Investors,

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Ltd., Barclays Global Investors Japan Limited, Barclays Global Investors Canada Limited, Barclays Global Investors Australia Limited and Barclays Global Investors (Deutschland) AG are each a non-U.S. institution in accordance with Section 240.13d-1(b)(1)(ii)(J) of the Investment Advisers Act of 1940. Barclays Global Investors, NA has (i) sole voting power with respect to 18,642,819 shares; and (ii) sole dispositive power with respect to 23,490,311 shares. Barclays Global Fund Advisors has (i) sole voting power with respect to 8,212,932 shares; and (ii) sole dispositive power with respect to 8,259,257 shares. Barclays Global Investors, Ltd. has (i) sole voting power with respect to 3,330,948 shares; and (ii) sole dispositive power with respect to 3,783,687 shares. Barclays Global Investors Japan Limited has (i) sole voting power with respect to 1,517,975 shares; and (ii) sole dispositive power with respect to 1,517,975 shares. Barclays Global Investors Canada Limited has (i) sole voting power with respect to 502,493 shares; and (ii) sole dispositive power with respect to 502,493 shares. Barclays Global Investors Australia Limited has (i) sole voting power with respect to 52,679 shares; and (ii) sole dispositive power with respect to 52,679 shares. Barclays Global Investors (Deutschland) AG has no voting or dispositive power.

(4) Includes 6,250 shares of unvested restricted stock that are subject to Sun s right of repurchase. Mr. Schwartz has sole voting power but no dispositive power with respect to these shares.

(5) Includes 600 shares held by a charitable remainder trust for which Mr. Barksdale serves as trustee. Mr. Barksdale disclaims beneficial ownership of these shares, except to the extent of his pecuniary interest therein.

(6) Includes: (i) 2,459 shares held by Mr. Fowler s wife; and (ii) 2,063 shares of unvested restricted stock that are subject to Sun s right of repurchase. Mr. Fowler has sole voting power but no dispositive power with respect to the shares held by him individually.

(7) Includes: (i) 50,000 shares held by WB Investors, LLC, an entity controlled by Mr. Marks; and (ii) 35,000 shares held by Epping Investment Holdings, LLC, an entity controlled by Mr. Marks and his spouse. Mr. Marks disclaims beneficial ownership of these shares, except to the extent of his pecuniary interest therein.

(8) Includes: (i) 6,250 shares of restricted stock held in an escrow account with respect to which Mr. McNealy has no voting power and which provides for the immediate sale of the shares upon vesting, subject to Sun s policies and applicable securities laws; (ii) 73,270 shares in a trust for which Mr. McNealy and his wife serve as trustees; (iii) 13,962,816 shares held by a trust for which Mr. McNealy serves as a trustee; (iv) 100,700 shares held in a trust for which Mr. McNealy s father-in-law serves as trustee and of which his children are the beneficiaries (the Trust Shares); (v) 9,648 shares held in California Uniform Transfer to Minors Act accounts for which Mr. McNealy s wife serves as custodian (the Children s Shares); and (vi) 383,754 shares held by a charitable foundation, for which Mr. McNealy s wife serves as president (the Foundation Shares). Mr. McNealy disclaims beneficial ownership of the Trust Shares, the Children s Shares and the Foundation Shares.

(9) Includes 2,063 shares of unvested restricted stock that are subject to Sun s right of repurchase. Mr. Papadopoulos has sole voting power but no dispositive power with respect to these shares.

(10) Includes 23,377 shares of unvested restricted stock for all directors and officers as a group that are subject to Sun s right of repurchase and to which each director and executive officer has sole voting power but no dispositive power with respect to such shares.

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC s public reference room located at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our SEC filings are also available to the public at the SEC s website at http://www.sec.gov. You also may obtain free copies of the documents we file with the SEC by going to the Investor Relations page of our corporate website at www.sun.com. Our website address is provided as an inactive textual reference only. The information provided on our website is not part of this proxy statement, and therefore is not incorporated herein by reference.

Statements contained in this proxy statement, or in any document incorporated by reference in this proxy statement regarding the contents of any contract or other document, are not necessarily complete and each such statement is qualified in its entirety by reference to that contract or other document filed as an exhibit with the SEC. The SEC allows us to incorporate by reference into this proxy statement documents we file with the SEC. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this proxy statement, and later information that we file with the SEC will update and supersede that information. We incorporate by reference the documents listed below and any documents filed by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this proxy statement and before the date of the special meeting:

- Annual Report on Form 10-K for the fiscal year ended June 30, 2008 (filed on August 29, 2008).
- Quarterly Reports filed on Form 10-Q for the fiscal quarter ended September 28, 2008 (filed on November 5, 2008), for the fiscal quarter ended December 28, 2008 (filed on February 6, 2009) and for the fiscal quarter ended March 29, 2009 (filed on May 8, 2009).
- Current Reports filed on Form 8-K dated August 1, 2008 (filed on August 1, 2008); dated August 4, 2008 (filed on August 4, 2008); dated August 27, 2008 (filed on September 2, 2008); dated November 4, 2008 (filed on November 7, 2008); dated November 12, 2008 (filed on November 14, 2008); dated December 8, 2008 (filed on December 8, 2008); dated January 7, 2009 (filed on January 13, 2009); dated February 2, 2009 (filed on February 2, 2009); dated April 19, 2009 (filed on April 20, 2009) and dated May 1, 2009 (filed on May 4, 2009).

Any person, including any beneficial owner, to whom this proxy statement is delivered may request copies of proxy statements and any of the documents incorporated by reference in this document or other information concerning us, without charge, by written or telephonic request directed to Sun Microsystems, Inc., Mail Stop UMPK14-336, 4150 Network Circle, Santa Clara, California 95054, Attn: Investor Relations Department, Telephone (408) 404-8427, on the Investor Relations page of our corporate website at www.sun.com or from the SEC through the SEC s website at the address provided above. Documents incorporated by reference are available without charge, excluding any exhibits to those documents unless the exhibit is specifically incorporated by reference into those documents.

THIS PROXY STATEMENT DOES NOT CONSTITUTE THE SOLICITATION OF A PROXY IN ANY JURISDICTION TO OR FROM ANY PERSON TO WHOM OR FROM WHOM IT IS UNLAWFUL TO MAKE SUCH PROXY SOLICITATION IN THAT JURISDICTION. YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED OR INCORPORATED BY REFERENCE IN THIS PROXY STATEMENT TO VOTE YOUR SHARES AT THE SPECIAL MEETING. WE HAVE NOT AUTHORIZED ANYONE TO PROVIDE YOU WITH INFORMATION THAT IS DIFFERENT FROM WHAT IS CONTAINED IN THIS PROXY STATEMENT. THIS PROXY STATEMENT IS DATED JUNE 8, 2009. YOU SHOULD NOT ASSUME THAT THE INFORMATION CONTAINED IN THIS PROXY STATEMENT IS ACCURATE AS OF ANY DATE OTHER THAN THAT DATE, AND THE MAILING OF THIS PROXY STATEMENT TO STOCKHOLDERS DOES NOT CREATE ANY IMPLICATION TO THE CONTRARY.

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Annex A

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

dated as of

April 19, 2009

among

SUN MICROSYSTEMS, INC.,

ORACLE CORPORATION,

and

SODA ACQUISITION CORPORATION

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this **Agreement**) dated as of April 19, 2009, among Sun Microsystems, Inc., a Delaware corporation (the **Company**), Oracle Corporation, a Delaware corporation (**Parent**), and Soda Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of Parent (**Merger Subsidiary**).

The parties hereto agree as follows:

WHEREAS, the Boards of Directors of each of the Company, Parent and Merger Subsidiary have approved this Agreement and deem it advisable and in the best interests of their respective stockholders to consummate the merger of Merger Subsidiary with and into the Company (the **Merger**) and the other transactions contemplated hereby, on the terms and conditions set forth herein; and

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Parent s and Merger Subsidiary s willingness to enter into this Agreement, certain stockholders of the Company are entering into Voting Agreements in the form attached as Exhibit A hereto (the **Voting Agreements**) pursuant to which those stockholders, among other things, will agree to vote all voting securities in the Company beneficially owned by them in favor of the approval and adoption of this Agreement and the Merger.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth below, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.01. *Definitions*.

(a) As used herein, the following terms have the following meanings:

Acquisition Proposal means any offer, proposal, inquiry or indication of interest from any Third Party relating to any transaction or series of related transactions involving (i) any acquisition or purchase by any Person, directly or indirectly, of 15% or more of any class of outstanding voting or equity securities of the Company, or any tender offer (including a self-tender) or exchange offer that, if consummated, would result in any Person beneficially owning 15% or more of any class of outstanding voting or equity securities of the Company, (ii) any merger, amalgamation, consolidation, share exchange, business combination, joint venture or other similar transaction involving the Company or any of its Subsidiaries, the business of which constitutes 15% or more of the net revenues, net income or assets of the Company and its Subsidiaries, taken as a whole, (iii) any sale, lease, exchange, transfer, license (other than licenses in the ordinary course of business), acquisition or disposition of 15% or more of the assets of the Company and its Subsidiaries, taken as a whole (measured by the lesser of book or fair market value thereof) or (iv) any liquidation, dissolution, recapitalization, extraordinary dividend or other significant corporate reorganization of the Company or any of its Subsidiaries, the business of which constitutes 15% or more of the net revenues, net income or assets of the Company and its Subsidiaries, taken as a whole.

Affiliate means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person. As used in this definition, the term control (including the terms controlling, controlled by and under common control with) means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

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Antitrust Laws means applicable federal, state, local or foreign antitrust, competition, premerger notification or trade regulation laws, regulations or Orders.

Applicable Law means, with respect to any Person, any international, national, federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as amended unless expressly specified otherwise.

Bond Hedge and Warrant Transactions means the following transactions, each dated as of January 23, 2007, between the Company and Credit Suisse International (the **Dealer**), by Credit Suisse, New York branch, as its agent: (i) the Convertible Senior Note Hedge Transaction with respect to the $350,000,000 principal amount of 0.625% convertible senior notes due 2012 (the **2012 Bond Hedge Transaction**), (ii) the Convertible Senior Note Hedge Transaction with respect to the $350,000,000 principal amount of 0.750% convertible senior notes due 2014 (the **2014 Bond Hedge Transaction** and together with the 2012 Bond Hedge Transaction, the **Bond Hedge Transactions**), (iii) the Issuer Warrant Transaction with respect to twenty (20) series of warrants with the Expiration Dates (as defined therein) occurring in May 2012 (the **2012 Warrant Transaction**), and (iv) the Issuer Warrant Transaction with respect to twenty (20) series of warrants with the Expiration Dates (as defined therein) occurring in May 2014 (the **2014 Warrant Transaction** and, together with the 2012 Warrant Transaction, the **Warrant Transactions**).

Business Day means a day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Applicable Law to close.

Closing Date means the date of Closing.

Code means the Internal Revenue Code of 1986, as amended.

Company Balance Sheet means the consolidated balance sheet of the Company and its Subsidiaries as of June 30, 2008.

Company Balance Sheet Date means June 30, 2008.

Company Board means the Board of Directors of the Company. For purposes of this Agreement, unless otherwise specifically provided for herein, any determination or action by the Company Board shall be a determination or action approved by the greater of (i) a majority of the entire number of directors or (ii) the number of directors required to approve such action at a meeting duly called and held at which all members of the Company Board were present and voting.

Company IP means any and all Intellectual Property that is used or is held for use in the business of the Company or any of its Subsidiaries as currently conducted.

Company Material Adverse Effect means (i) a material adverse effect on the business, financial condition or results of operations of the Company and its Subsidiaries, taken as a whole, or (ii) preventing or materially delaying the Company s ability to consummate the Merger, excluding in the case of clause (i) above, alone or in combination, any adverse effect resulting from or arising out of (A) the announcement or pendency of the Merger (including any loss of or adverse change in the relationship of the Company and its Subsidiaries with their respective employees, customers, partners or suppliers related thereto), (B) general economic or political conditions (including acts of terrorism or war) to the extent that such conditions do not disproportionately affect the Company and its Subsidiaries, taken as a whole, as compared to other companies participating in the same industry as the Company, (C) general conditions in the industry in which the Company and its Subsidiaries operate to the extent that such conditions do not disproportionately affect the Company and its Subsidiaries, taken as a whole, as compared to other companies participating in the same industry as the Company, (D) any

changes (after the date hereof) in GAAP or Applicable Law, (E) any failure to take any action in compliance with the restrictions or other prohibitions set forth in Section 6.01(b), or the taking of any specific action at the written direction of Parent or expressly required by this Agreement, (F) any failure of the Company to meet internal or analysts estimates or projections (it being understood that any cause of any such failure may be taken into consideration when determining whether a Company Material Adverse Effect has occurred), or (G) any Proceeding made or brought by any holder of shares of Company Common Stock (on the holder s own behalf or on behalf of the Company) arising out of or related to this Agreement or any of the transactions contemplated hereby (including the Merger).

Company Products means each product (including any software product) or service developed, manufactured, sold, licensed, leased or delivered by the Company or any of its Subsidiaries that is listed on the Company s most recent price list prior to the date of this Agreement.

Company Registered IP means all of the Registered IP in effect and owned by or filed in the name of the Company or any of its Subsidiaries.

Company Restricted Stock Award means each award with respect to a share of restricted Company Common Stock outstanding under any Company Stock Plan that is, at the time of determination, subject to forfeiture or repurchase by the Company.

Company RSU means each award of restricted stock units outstanding under any Company Stock Plan or otherwise.

Company Stock Option means each compensatory option to purchase Company Common Stock outstanding under any Company Stock Plan or otherwise.

Company Stock Plan means any stock option, stock incentive or other equity compensation plan or agreement sponsored or maintained by the Company or any Subsidiary or Affiliate of the Company.

Contract means any legally binding written or oral contract, agreement, note, bond, indenture, mortgage, guarantee, option, lease (or sublease), license, sales or purchase order, warranty, commitment, or other instrument, obligation, arrangement or understanding of any kind.

Controlled Group Liability means any and all liabilities (i) under Title IV of ERISA, (ii) under section 302 of ERISA, (iii) under sections 412 and 4971 of the Code, (iv) as a result of a failure to comply with the continuation coverage requirements of section 601 et seq. of ERISA and section 4980B of the Code, and (v) under corresponding or similar provisions of foreign laws or regulations, other than such liabilities that arise solely out of, or relate solely to, the Company Employee Plans.

Delaware Law means the General Corporation Law of the State of Delaware.

Environmental Law means any Applicable Law or any agreement with any Governmental Authority, relating to human health and safety, the environment or any Hazardous Substance.

Environmental Permits means, with respect to any Person, all Governmental Authorizations relating to or required by Environmental Law and affecting, or relating in any way to, the business of such Person or any of its Subsidiaries.

Equity Interest means any share, capital stock, partnership, member or similar interest in any entity, and any option, warrant, right or security convertible, exchangeable or exercisable therefor.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

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ERISA Affiliate of any entity means any other entity that, together with such entity, would be treated as a single employer within the meaning of Section 414(b), (c) or (m) of the Code or Section 4001(b)(1) of ERISA.

Exchange Act means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

Executive Officer shall have the meaning set forth in Rule 3b-7 of the Exchange Act.

GAAP means generally accepted accounting principles in the United States, as in effect on the date hereof.

Governmental Authority means (i) any government or any state, department, local authority or other political subdivision thereof, (ii) any governmental or quasi-governmental body, agency, authority (including any Taxing Authority or transgovernmental or supranational entity or authority), minister or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or (iii) any business or commercial entity owned or controlled by an government or governmental body.

Governmental Authorizations means, with respect to any Person, all licenses, permits, certificates, waivers, consents, franchises (including similar authorizations or permits), exemptions, variances, expirations and terminations of any waiting period requirements and other authorizations and approvals issued to such Person by or obtained by such Person from any Governmental Authority.

Hazardous Substance means any pollutant, contaminant, waste or chemical or any toxic, radioactive, ignitable, corrosive, reactive or otherwise hazardous substance, waste or material, or any substance, waste or material having any constituent elements displaying any of the foregoing characteristics, including any substance, waste or material regulated under any Environmental Law.

HSR Act means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

Indebtedness means, collectively, any (i) indebtedness for borrowed money, (ii) indebtedness evidenced by any bond, debenture, note, mortgage, indenture or other debt instrument or debt security, (iii) amounts owing as deferred purchase price for the purchase of any property outside the ordinary course of business, or (iv) guarantees with respect to any indebtedness or obligation of a type described in clauses (i) through (iii) above of any other Person.

Intellectual Property means the rights in or arising out of: (i) United States, international and foreign patents and applications therefor and all reissues, divisions, divisionals, renewals, extensions, provisionals, continuations and continuations-in-part thereof, and all patents, applications, documents and filings claiming priority to or serving as a basis for priority thereof; (ii) trade secrets and similar rights in confidential technical or business information; (iii) all copyrights, copyrights registrations and applications therefor, and all other rights corresponding thereto throughout the world; (iv) rights in mask works; (v) rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefor throughout the world; (vi) all databases and all rights therein throughout the world; (vii) all moral and economic rights of authors and inventors, however denominated, throughout the world; (viii) all Web addresses, sites and domain names and numbers; and (ix) any similar or equivalent rights to any of the foregoing anywhere in the world.

International Plan means any Company Employee Plan that is entered into, maintained, administered or contributed to by the Company or any of its Affiliates, and covers any employee or former employee of the Company or any of its Subsidiaries who is or was employed by the Company or any of its Subsidiaries outside the United States.

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IT Assets means all hardware, software (in both object and source code form), firmware, networks and connecting media and related infrastructure used by the Company or any of its Subsidiaries in support of their respective business operations.

Knowledge of the Company means knowledge, after reasonable inquiry, of each of the individuals identified in Section 1.01 of the Company Disclosure Schedule.

Lien means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest, encumbrance or other adverse claim of any kind in respect of such property or asset. For purposes of this Agreement, a Person shall be deemed to own subject to a Lien any property or asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such property or asset.