CHAMPIONS ONCOLOGY, INC.
Form 4
November 04, 2015

FORM 4

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
TOBIN SCOTT R

(Last) (First) (Middle)

C/O CHAMPIONS ONCOLOGY, INC., ONE UNIVERSITY PLAZA, SUITE 307

(Street)

HACKENSACK, NJ 07601

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
CHAMPIONS ONCOLOGY, INC. [CSBR]

3. Date of Earliest Transaction (Month/Day/Year)
11/02/2015

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

__X__ Director _____ 10% Owner
_____ Officer (give title below) _____ Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)		8 D S (I
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares	
Stock Options	$ 5.46	11/02/2015		A		10,000		(1)	11/02/2020	Common Stock	10,000	

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
TOBIN SCOTT R C/O CHAMPIONS ONCOLOGY, INC. ONE UNIVERSITY PLAZA, SUITE 307 HACKENSACK, NJ 07601	X			

Signatures

/s/ Scott R. Tobin	11/02/2015
**Signature of Reporting Person	Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) The options vest and are exercisable over a twelve month period, with vesting to occur on November 2, 2015, February 1, 2016, May 1, 2016 and August 1, 2016, respectively.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. ="bottom" WIDTH="4%"> **Agile Common Stock** **Low** **High**

Fiscal Year ended April 30, 2006

First Quarter

$6.12 $6.77

Second Quarter

5.88 7.25

Third Quarter

5.98 6.63

Fourth Quarter

6.26 7.73

Year ended April 30, 2007

First Quarter

5.44 7.27

Second Quarter

5.08 7.01

Third Quarter

5.92 7.12

Fourth Quarter

6.16 7.61

Year ending April 30, 2008

First Quarter (through June 6, 2007)

7.05 8.03

The following table sets forth the closing per share sales price of our common stock, as reported on The Nasdaq Global Market on May 15, 2007, the last full trading day before the public announcement of the proposed merger, and on June 6, 2007, the latest practicable trading day before the printing of this proxy statement:

	Agile Common Stock Closing Price
May 15, 2007	$ 7.08
June 6, 2007	$ 8.02

We have never declared or paid cash dividends on our common stock. Our current policy is to retain earnings for use in our business. Following the merger there will be no further market for our common stock.

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THE SPECIAL MEETING

We are furnishing this proxy statement to our stockholders as part of the solicitation of proxies by our board of directors for use at the special meeting.

Date, Time And Place

We will hold the special meeting at our headquarters located at 6373 San Ignacio Avenue, San Jose, California 95119, at 10:00 a.m., local time, on Thursday, July 12, 2007.

Purpose Of Special Meeting

At the special meeting, we will ask holders of our common stock to consider and vote on a proposal to adopt the merger agreement. Our board of directors has unanimously approved the merger agreement and deems it advisable and in the best interests of our stockholders to consummate the merger and the other transactions contemplated by the merger agreement, on the terms and subject to the conditions set forth in the merger agreement. **Our board of directors recommends that our stockholders vote FOR the adoption of the merger agreement.**

Record Date; Stock Entitled To Vote; Quorum

Only holders of record of our common stock at the close of business on June 6, 2007, the record date, are entitled to notice of and to vote at the special meeting. On the record date, 59,355,970 shares of our common stock were issued and outstanding and held by 401 holders of record. A quorum is present at the special meeting if a majority of the shares of our common stock issued and outstanding and entitled to vote on the record date are represented in person or by proxy. In the event that a quorum is not present at the special meeting, it is expected that the meeting will be adjourned or postponed to solicit additional proxies. Holders of record of our common stock on the record date are entitled to one vote per share at the special meeting on the proposal to adopt the merger agreement.

Vote Required

The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the shares of our common stock outstanding on the record date. If a holder of our common stock abstains from voting or does not vote, either in person or by proxy, it will effectively count as a vote against the adoption of the merger agreement.

Voting By Agile s Directors and Executive Officers

At the close of business on the record date, our directors and executive officers and their affiliates owned and were entitled to vote 2,303,948 shares of our common stock, which represented approximately 3.88% of the shares of our common stock outstanding on that date. All of our directors and certain executive officers have entered into a voting agreement with Oracle, in their capacity as Agile stockholders, to vote shares held by them in favor of the adoption of the merger agreement. See The Voting Agreements.

Voting Of Proxies

All shares represented by properly executed proxies received in time for the special meeting will be voted at the special meeting in the manner specified by the holders. Properly executed proxies that do not contain voting instructions will be voted FOR the adoption of the merger agreement.

If you have shares registered directly with our transfer agent, Computershare Trust Company, N.A., you may choose to vote those shares via the Internet at *www.investorvote.com*, or you may vote telephonically,

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within the United States and Canada only, by calling Computershare at 1-800-652-8683. Additional instructions for voting via the Internet or telephonically are included on the proxy card. Proxies submitted by the Internet or telephone must be received by 1:00 a.m., Central Time, on July 12, 2007. If your shares are held in street name through a broker or bank, you may only vote by completing and returning the voting instruction form provided by your broker or bank or via the Internet or by telephone through your broker or bank, if such a service is provided.

Shares of our common stock represented, but not voting, at the special meeting, including shares of our 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.

Only shares affirmatively voted for the adoption of the merger agreement, including properly executed proxies that do not contain voting instructions, will be counted as favorable votes for that proposal. If a holder of our common stock abstains from voting or does not execute a proxy, it will effectively count as a vote against the adoption of the merger agreement. Brokers who hold shares of our common stock in street name for customers who are the beneficial owners of such shares may not give a proxy to vote those customers shares in the absence of specific instructions from those customers. These non-voted shares will effectively count as votes against the adoption of the merger agreement.

The persons named as proxies by a stockholder may propose and vote for one or more adjournments of the special meeting, including adjournments to permit further solicitations of proxies.

We do not expect that any matter other than the proposal to adopt the merger agreement will be brought before the special meeting. If, however, our board of directors properly presents other matters, the persons named as proxies will vote, with respect to each of such matters, in accordance with their judgment as to whether such matter is in the best interests of the stockholders.

Revocability Of Proxies

The grant of a proxy on the enclosed form of proxy does not preclude a stockholder from voting in person at the special meeting. A stockholder may revoke a proxy at any time prior to its exercise by:

- filing with our Secretary a duly executed revocation of proxy;
- submitting a duly executed proxy to our Secretary bearing a later date; or
- appearing at the special meeting and voting in person. Attendance at the special meeting will not in and of itself constitute revocation of a proxy.

If you have instructed your broker to vote your shares, you must follow directions received from your broker to change these instructions.

Solicitation Of Proxies

All costs of solicitation of proxies will be borne by us. We have retained Georgeson Inc. to aid in the solicitation of proxies and to verify records relating to the solicitation for a fee of $10,000, plus reimbursement of reasonable expenses. The extent to which these proxy soliciting efforts will be necessary depends entirely upon how promptly proxies are received. Please send in your proxy by mail without delay. We also reimburse brokers and other custodians, nominees and fiduciaries for their expenses in sending these materials to you and getting your voting instructions.

Stockholders should not send stock certificates with their proxies. A letter of transmittal with instructions for the surrender of our common stock certificates will be mailed to our stockholders as soon as reasonably practicable after completion of the merger.

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THE COMPANIES

Agile

We develop and sell an integrated suite of product lifecycle management, or PLM, software products and offer related business consulting and implementation services. Our solutions enable our customers to accelerate their time-to-market, reduce costs, improve product quality, manage regulatory compliance and drive innovation throughout the product lifecycle and across the product network. Over 11,000 customers have licensed Agile solutions.

We focus on providing comprehensive PLM solutions to companies in the electronics and high technology, life sciences, consumer packaged goods, automotive, aerospace and defense, industrial products and other industries. Our strategy is to deliver business-ready applications, which enable companies to manage the information, processes and decisions about their products across the global product network, that are cost-effective and quickly provide measurable results. Our strategy is industry-focused with product capabilities tailored to the requirements of our target industries. We sell our products through a direct sales channel and resellers.

We were incorporated in Delaware in 1999. Our principal executive offices are located at 6373 San Ignacio Avenue, San Jose, California 95119, and our telephone number is (408) 284-4000. Additional information regarding us is contained in our filings with the Securities and Exchange Commission. See Where You Can Find More Information.

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 get better results from their most valuable asset information. Oracle offers customers scalable, reliable, secure, standards-based, and integrated database, middleware and applications software that provides transactional efficiencies, adapts to an organization s unique industry-specific needs and allows better ways to access and manage information at a low total cost of ownership. 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 Securities and Exchange Commission. See Where You Can Find More Information.

Aqua Acquisition Corporation

Aqua Acquisition Corporation, which we refer to in this proxy statement as Aqua Acquisition, is a Delaware corporation and a wholly owned subsidiary of Oracle. Aqua Acquisition was organized solely for the purpose of entering into the merger agreement with us and completing the merger and has not conducted any business operations.

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THE MERGER

The following discussion summarizes the material terms of the merger. Stockholders should read the merger agreement, which is attached as Annex A to this proxy statement.

Background To The Merger

Over the past several years, we have considered a diverse range of strategic alternatives with a view to increasing stockholder value, including potential acquisitions by Agile, strategic equity offerings and the possible sale of Agile.

In the spring of 2005, we retained Citigroup to assist us with a potential major strategic acquisition and to identify additional acquisition targets. After a lengthy process, we were not able to reach an agreement on terms of the potential major acquisition and, in the spring of 2006, the potential strategic target pursued a transaction with a third party. During this period we also met with several private equity firms, who expressed their interest in financing a portion of the potential major acquisition by Agile, as well as their views on our overall valuation.

On June 27, 2006, we purchased Prodika for $15,000,000 in cash and up to $12,500,000 in contingent consideration.

On July 17, 2006, we announced that we would be unable to file our annual report on Form 10-K for the year ended April 30, 2006, as a result of a review of our financial statements and internal controls with respect to our Taiwan sales operations, which review had not been completed at that time. On October 26, 2006, we announced that we had concluded that we needed to restate certain annual and interim financial statements for our fiscal year 2000 and later periods as a result of our review of our historic stock option grant practices.

On September 5, 2006, we entered into an engagement letter with Citigroup to act as our exclusive financial advisor in connection with a possible transaction involving us.

At a special board meeting held on September 6, 2006, our board of directors, together with its financial and legal advisors, discussed in general various possible transaction scenarios; our board of directors discussed approximately fifteen potential strategic acquirors of Agile and potential private equity firms including some of those private equity firms referenced above. At this meeting, our board of directors authorized management and Citigroup to contact selected potential acquirors to ascertain their level of interest in a possible transaction.

Over the period from September 2006 through May 2007, Citigroup and Agile management contacted and held discussions with eight potential strategic acquirors and three private equity firms. Five of the potential strategic acquirors indicated that they did not wish to engage in discussions regarding a transaction. Oracle and two others expressed a willingness to engage in discussions. We entered into confidentiality agreements with these three potential strategic partners, including Oracle. Over the course of periodic discussions with the private equity firms, it became clear that private equity firms would not entertain valuation levels for Agile that we could achieve with potential strategic partners.

In the fall of 2006, we received an indication of interest from a company in acquiring us, initially for $8.50 per share and subsequently for a price between $8.40 and $8.70 per share. However that party was uncertain as to the timing of a potential transaction with us and unable to commit to timing for, and certainty of, executing a transaction.

By early December 2006, Oracle informed us that it was willing to discuss the potential for a transaction at a tentative price of $8.60, but only on an exclusive basis and subject to the results of its due diligence and understanding of the timing and extent of our financial statement restatement issues.

Our board of directors met on December 6, 2006, together with Citigroup and the board s legal advisor, O Melveny & Myers LLP, and received an update from management on the process and discussions to date with

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Oracle. Legal counsel also reviewed our board s overall fiduciary duties, and how those duties related to Oracle s requested exclusivity period. Our board of directors authorized management to enter into an exclusivity agreement with Oracle. On December 8, 2006, we entered into an exclusive negotiating period with Oracle, Oracle began conducting detailed due diligence, and Skadden, Arps, Slate, Meagher & Flom, LLP, counsel for Oracle, provided Agile with a draft definitive merger agreement. In early January 2007, Oracle informed us that it was withdrawing from negotiations, and the exclusive negotiation period was terminated. One of the reasons cited by Oracle for its withdrawal was uncertainty over when we would become current in our Securities and Exchange Act filings and file restated financial statements.

In mid-February, Citigroup contacted Oracle and the other two potential strategic acquirors to update them on the status of Agile s financial statements and to set the end of February as the deadline for submissions of interest. At a board meeting held on February 28, 2007, Citigroup updated our board of directors on the process to date and indications of interest received from the two remaining potential strategic acquirors. O Melveny & Myers LLP also reviewed in detail with our board of directors its fiduciary duties in the context of the type of transaction under consideration. After deliberation, our board of directors authorized management to enter into exclusive discussions with a company we refer hereinafter to as Company A, which had proposed an $8.75 per share cash price, subject to due diligence and the negotiation of definitive documentation.

Prior to entering into the exclusive arrangement, Citigroup inquired of both Oracle and the other remaining strategic acquirer, which we refer hereinafter to as Company B, as to whether either would be willing to proceed at a price of $9.00 or above, and both declined. However, Company A did agree to proceed with negotiations at a price of $9.00 and enhance certain other terms of its indication of interest.

On March 5, 2007, we filed a Form 10-K with the SEC, restating our consolidated balance sheet as of April 30, 2005 and our related statements of operations, stockholders equity and cash flows for each of the years in the two year period ended April 30, 2005, and each of the fiscal quarters in our 2005 fiscal year.

During March, we and Company A negotiated the terms of potential transaction documents, and Company A concluded an extensive due diligence of Agile. Our board of directors met on March 7, 2007, at which they received updates from management and Citigroup regarding the status of negotiations with Company A.

On March 30, 2007, Company A withdrew from negotiations as a result of significant business challenges they perceived as a result of their due diligence, and the exclusivity period was terminated. Mr. Fulcher subsequently notified the board of Company s A s withdrawal from the process.

By the third week of April, Company B indicated a willingness to proceed with an acquisition at a price of $7.50 per share. Oracle indicated that it would proceed at a price of $8.00 per share. At a meeting of our board of directors held on April 25, 2007, Citigroup updated our board of directors on the status of the process. Our board of directors authorized management to proceed with discussion with Oracle. Between April 25 and April 28, representatives of Oracle and Agile negotiated the price and timing of a potential transaction and tentatively agreed on a price per share of $8.10, with a two-week period to announcement of a transaction. On April 30, 2007, Oracle and we entered into an agreement for a new exclusive negotiation period.

Between April 30 and May 15, 2007, representatives of Agile and Oracle and their respective legal advisors, O Melveny & Myers LLP and Skadden, Arps, Slate, Meagher & Flom LLP, negotiated the terms of the definitive merger agreement, and Oracle continued to conduct business and legal due diligence. Also during this period, management provided updates to directors on the status of negotiations with Oracle and the terms of the definitive agreements.

On Saturday, May 12, 2007, our board of directors meet with management and our financial and legal advisors. In the first part of the meeting, our board discussed our preliminary fourth quarter 2007 financial results. Following that discussion, Citigroup made a presentation to our board of directors regarding the financial aspects of the proposed merger with Oracle. O Melveny & Myers LLP again reviewed with our board of

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directors its fiduciary duties, summarized the material terms of the proposed merger agreement, and described the remaining open issues, including issues relating to the operation of our business between signing and closing, the no solicitation covenant and the termination fee. Our board of directors discussed the process to date and the terms and timing of the proposed merger with Oracle. In particular, our board of directors discussed and considered the fact that the terms of the proposed merger agreement would allow Agile to pursue an alternative transaction it determines in good faith is reasonably likely to lead to a superior proposal (as defined in the merger agreement) and, with Citigroup and O Melveny & Myers LLP, whether a termination fee in the range contained in the merger agreement was likely to prevent other credible bidders from presenting to us a potentially superior proposal. Our board of directors instructed management to proceed with negotiations with Oracle.

During the morning of May 15, 2007, our board of directors met to review and deliberate regarding the final merger agreement. Citigroup orally delivered its opinion to our board of directors that, as of May 15, 2007, and subject to the considerations and limitations described in Citigroup s written opinion (which is attached hereto as Annex C), the consideration to be received by our stockholders pursuant to the merger agreement was fair, from a financial point of view, to such stockholders. Our management, Citigroup and O Melveny & Myers LLP advised our board of directors regarding open matters and likely timing. After discussion, our board of directors unanimously approved the merger agreement, deemed it advisable, and in the best interests of Agile s stockholders, to consummate the merger and the other transactions contemplated by the merger agreement, on the terms and subject to the conditions set forth in the merger agreement, and determined to recommend that our stockholders adopt the merger agreement.

In the afternoon of May 15, 2007, Agile and Oracle executed and delivered the merger agreement and publicly announced the transaction.

Reasons For The Merger And Board Of Directors Recommendation

Reasons for the Merger

In the course of reaching its decision to approve the merger and the merger agreement, our board of directors consulted with our senior management, legal counsel and financial advisor, reviewed a significant amount of information and considered a number of factors, including, among others, the following factors:

- information concerning our business, financial performance (both past and prospective) and condition and operations;
- our competitive position in the product lifecycle management industry, and the lack of predictability of our future financial performance in light of our competitive position in that industry;
- our business and financial prospects if we were to remain an independent company, and the scale required to effectively compete in the enterprise software industry;
- the possible alternatives to the merger (including the possibility of continuing to operate as an independent entity, and the perceived risks thereof), the range of possible benefits to our stockholders of those alternatives and the timing and the likelihood of accomplishing the goal of any of such alternatives, and our board of directors assessment that the merger with Oracle presented a superior opportunity to such alternatives;
- the results of discussions with third parties relating to a possible business combination or similar transaction with us;
- the process undertaken by the our board of directors in connection with pursuing a strategic transaction and the terms and conditions of the proposed merger, in each case in light of the current market dynamics in the product lifecycle management industry;

our financial condition, results of operations (both past and prospective), business and strategic objectives, as well as the risks of accomplishing those objectives;

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- current financial market conditions and historical market prices, volatility and trading information with respect to Agile common stock;

- the potential for obtaining a superior offer from an alternative purchaser in light of the other potential purchasers previously identified and contacted by our management or our financial advisors and the risk of losing the proposed transaction with Oracle; and

- the terms of the merger agreement, including the parties representations, warranties and covenants, the conditions to their respective obligations and the termination rights of the parties.

In the course of its deliberations, our board of directors also considered, among other things, the following positive factors:

- the value of the consideration to be received by our stockholders in the merger pursuant to the merger agreement;

- the fact that the $8.10 per share to be paid as the consideration in the merger represents a premium of approximately 21.7% over the 90-day average closing trading price of our common stock of $6.65 per share, a premium of approximately 14.4% over the 30 day average closing trading price of our common stock of $7.08 per share, and a premium of approximately 11.6% over the $7.26 closing trading price for the shares of our common stock on The Nasdaq Global Market on May 14, 2007, the last trading day prior to the date our board of directors approved the merger agreement;

- the multiple of our revenue represented by the $8.10 per share purchase price relative to multiples of revenue represented by the consideration paid in comparable precedent transactions;

- the financial presentation of Citigroup on May 15, 2007 and the oral opinion of Citigroup delivered on May 15, 2007 to our board of directors, subsequently confirmed by delivery of a written opinion dated May 15, 2007, to the effect that, as of the date of the written opinion, and based upon and subject to the considerations and limitations set forth in the written opinion, the $8.10 per share in cash to be received by holders of our common stock pursuant to the merger agreement was fair from a financial point of view to those holders (the full text of the written opinion, which sets forth the assumptions made, procedures followed, matters considered and limitations on the review undertaken by Citigroup in connection with the opinion, is attached as Annex C to the proxy statement);

- the likelihood that the proposed acquisition would be consummated, in light of the experience, reputation and financial capabilities of Oracle;

- the form of merger consideration, consisting solely of cash, which provides certainty of value to our stockholders;

- the process through which Agile, with the assistance of its financial advisors, engaged in or sought to engage in discussions with companies believed to be the most likely candidates to pursue a business combination with or acquisition of Agile;

- the belief of our board of directors that, after extensive negotiations with Oracle and its representatives, we have obtained the highest price per share that Oracle is willing to pay and the highest price obtainable on the date of signing of the merger agreement;

- the merger agreement, subject to the limitations and requirements contained in the agreement, allows our board of directors to furnish information to and conduct negotiations with third parties in certain circumstances and, upon payment to Oracle of a

termination fee of $16,400,000, to terminate the merger agreement to accept a superior offer;

the other terms and conditions of the merger agreement, including among other things the size of the termination fee and the circumstances when that fee may be payable; the limited number and nature of the conditions to Oracle s obligation to complete the merger, including (but not limited to) the absence of a financing condition and the adequacy of Oracle s capital resources to pay the merger consideration; and the definition of material adverse effect and the exceptions for what constitutes a material adverse effect for purposes of the merger agreement; and

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- the voting agreements with our officers and directors terminate in the event that we terminate the merger agreement which permits those persons to support a transaction involving a superior offer.

In the course of its deliberations, our board of directors also considered, among other things, the following negative factors:

- the potential loss of customer or other commercial relationships of Agile as a result of the customer s or other party s unwillingness to do business with Oracle, or other potential disruption to customer, vendor or other commercial relationships important to us as a result of the merger;
- the possibility that the merger will not be consummated and the potential negative effect of the public announcement of the merger on our sales, operating results and stock price and our ability to retain key management, sales and marketing and technical personnel;
- our stockholders would not participate in any future growth potential or benefit from any future increase in our value;
- the conditions to Oracle s obligation to complete the merger and the right of Oracle to terminate the merger agreement under certain circumstances;
- the possibility that we may be obligated to pay Oracle a termination fee or reimburse Oracle for its expenses if the merger agreement is terminated under certain circumstances;
- the fact that the merger consideration consists of cash and will therefore be taxable to our stockholders for U.S. federal income tax purposes;
- the restrictions on our ability to solicit or engage in discussions or negotiations regarding alternative business combination transactions, subject to specified exceptions, and the requirement that we pay a termination fee in order to accept a superior acquisition proposal, which may discourage a competing proposal to acquire us that may be more advantageous to our stockholders;
- the restrictions on the conduct of our business prior to the completion of the merger, requiring us to conduct our business in the ordinary course, subject to specific limitations, which may delay or prevent us from undertaking business opportunities that may arise pending completion of the merger;
- the risk of diverting management s focus and resources from other strategic opportunities and from operational matters while working to implement the merger, and the possibility of other management and employee disruption associated with the merger, including the possible loss of key management, technical or other personnel; and
- the interests that certain of our directors and executive officers may have with respect to the merger, in addition to their interests as stockholders of Agile generally, as described in The Merger Interests of Agile s Directors and Management in the Merger.

The preceding discussion of the information and factors considered by our board of directors is not, and is not intended to be, exhaustive. In light of the variety of factors considered in connection with its evaluation of the merger and the complexity of these matters, our board of directors did not find it practicable to, and did not, quantify or otherwise attempt to assign relative weights to the various 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 the ultimate determination of our board of directors, but rather our board of directors conducted an overall analysis of the factors described above, including discussions with and questioning of our senior management, legal counsel and financial advisors.

Board of Directors Recommendation

After careful consideration, our board of directors has unanimously approved the merger agreement, deems it advisable and in the best interests of Agile s stockholders to consummate the merger and the other transactions

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contemplated by the merger agreement, on the terms and subject to the conditions set forth in the merger agreement, and recommends that our stockholders adopt the merger agreement.

Opinion of Agile s Financial Advisor

Citigroup was retained to act as financial advisor to Agile in connection with the merger. Pursuant to Agile s engagement letter agreement with Citigroup, dated September 5, 2006, Citigroup rendered an opinion to the Agile board of directors on May 15, 2007 (which oral opinion was subsequently confirmed in writing on May 15, 2007) to the effect that, as of the date of the opinion, and based upon and subject to the considerations and limitations set forth in the opinion, Citigroup s work described below and other factors Citigroup deemed relevant, the per share merger consideration of $8.10 was fair, from a financial point of view, to the holders of Agile common stock.

The full text of Citigroup s opinion, which sets forth the assumptions made, general procedures followed, matters considered and limits on the review undertaken, is included as Annex C to this proxy statement. The summary of Citigroup s opinion set forth below is qualified in its entirety by reference to the full text of the opinion. **Holders of Agile common stock are urged to read the Citigroup opinion carefully and in its entirety.**

Citigroup s opinion was limited solely to the fairness of the merger consideration from a financial point of view as of the date of the opinion. Neither Citigroup s opinion nor the related analyses constituted a recommendation of the proposed merger to the Agile board of directors or any holder of Agile common stock. Citigroup makes no recommendation to any holder of Agile common stock regarding how such holder should vote with respect to the merger.

In arriving at its opinion, Citigroup reviewed the merger agreement and held discussions with certain senior officers, directors and other representatives and advisors of Agile and certain senior officers and other representatives and advisers of Oracle concerning the business, operations and prospects of Agile. Citigroup examined certain publicly available business and financial information relating to Agile as well as certain financial forecasts and other information and data relating to Agile that were provided to or discussed with, Citigroup by the management of Agile. Citigroup reviewed the financial terms of the merger as set forth in the merger agreement in relation to, among other things:

- current and historical market prices and trading volumes of Agile common stock;
- the historical and projected earnings and other operating data of Agile; and
- the capitalization and financial condition of Agile.

Citigroup considered, to the extent publicly available, the financial terms of certain other transactions that Citigroup considered relevant in evaluating the merger and analyzed certain financial, stock market and other publicly available information relating to the businesses of other companies whose operations Citigroup considered relevant in evaluating those of Agile. In connection with its engagement and at the direction of Agile, Citigroup was requested to approach and held discussions with selected third parties to solicit indications of interest in the possible acquisition of Agile. In addition to the foregoing, Citigroup conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as Citigroup deemed appropriate in arriving at its opinion.

In rendering its opinion, Citigroup assumed and relied, without assuming any responsibility for independent verification, upon the accuracy and completeness of all financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with it and upon the assurances of the management of Agile that they were not aware of any relevant information that had been omitted or remained undisclosed to Citigroup. With respect to financial forecasts and other information and data relating to Agile provided to or otherwise reviewed by or discussed with it, Citigroup was advised by the management of Agile that such forecasts and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of Agile as to the future financial performance of Agile.

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Citigroup assumed, with the consent of the Agile board of directors, that the merger will be consummated in accordance with the terms of the merger agreement reviewed by Citigroup, without waiver, modification or amendment of any term, condition or agreement material to Citigroup s opinion and that, in the course of obtaining the necessary regulatory or third party approvals, consents and releases for the merger, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on Agile or the merger.

Citigroup did not make and was not provided with an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Agile nor did Citigroup make any physical inspection of the properties or assets of Agile. Citigroup expresses no view as to, and Citigroup s opinion does not address, the relative merits of the merger as compared to any alternative business strategies that might exist for Agile or the effect of any other transaction in which Agile might engage. Citigroup s opinion was necessarily based upon information available to it, and financial, stock market and other conditions and circumstances existing, as of the date of its opinion.

The following is a summary of the material financial analyses presented to the Agile board of directors in connection with Citigroup s opinion on May 15, 2007. The summary includes information presented in tabular format. **In order to understand fully the financial analyses used by Citigroup, these tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses.** The following quantitative information, to the extent it is based on market data, is, except as otherwise indicated, based on market data as it existed at or prior to May 14, 2007, and is not necessarily indicative of current or future market conditions.

* * *

52-Week Trading Range

Citigroup reviewed the performance of Agile common stock, including the trading volume of Agile common stock, during the 52-week period ended May 14, 2007. Citigroup noted, among other matters, that the average per share price of Agile common stock for this period was $6.43, the volume weighted average price of Agile common stock for this period was $6.42, and that the highest volume of trading occurred when Agile common stock traded in a range of $6.25 to $6.50 per share. Citigroup also reviewed similar information for the period from March 5, 2007 (the date Agile filed its Annual Report on Form 10-K for the fiscal year ended April 30, 2006 and quarterly reports on Form 10-Q for the quarters ended July 31, 2006 and October 31, 2006) through May 14, 2007, and noted, among other matters, that the average per share price of Agile common stock for this period was $6.88, the volume weighted average price of Agile common stock for this period was $6.88, and that the highest volume of trading occurred when Agile common stock traded in a range of $7.20 to $7.40 per share. Citigroup further noted that the closing price of Agile common stock on May 14, 2007, the last trading day prior to the announcement of the merger, was $7.26. Citigroup noted that during the 52-week period ended May 14, 2007, Agile common stock traded in a range of $5.08 to $7.61 per share. Citigroup noted that the per share consideration in the merger of $8.10 was above that range.

Comparable Companies Analysis

Citigroup compared financial, operating and stock market data and forecasted financial information for selected publicly traded software companies that Citigroup deemed appropriate with similar information for Agile. The selected comparable companies considered by Citigroup were:

Parametric Technology Corporation

Lawson Software, Inc.

Aspen Technology, Inc.

Open Text Corporation

Epicor Software Corporation

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- Manhattan Associates, Inc.
- Ariba, Inc.
- Interwoven, Inc.
- MSC.Software Corporation
- JDA Software Group, Inc.
- Vignette Corporation
- Chordiant Software, Inc.
- Actuate Corporation
- Retalix Ltd.
- I2 Technologies, Inc.
- QAD Inc.

Citigroup noted that each of Lawson Software, Ariba, Interwoven, MSC Software, Vignette, Retalix and QAD have realized in the trailing twelve-months and are expected in the next twelve months to achieve adjusted operating profit margins below industry norms (e.g., below 15%). These companies, which we refer to herein as the Comparable Margin Companies, shared profitability characteristics with Agile and were thus considered by Citigroup to be more directly comparable to Agile than the broader group of comparable companies.

The forecasted financial information used by Citigroup in the course of this analysis for Agile was based on forecasts prepared by the management of Agile and, in certain cases as described below, consensus projections published by Thomson First Call Research and Reuters. Thomson First Call Research compiles summaries of financial forecasts published by various equity research firms. Reuters is a news company that provides financial information and research. The forecasted financial information used by Citigroup in the course of this analysis for each of the comparable companies was based on consensus projections published by Thomson First Call Research and Reuters. The historical financial information used by Citigroup in the course of this analysis was based on publicly available historical information. Calculations were made based on the closing price per share of each company s common stock as of May 14, 2007, the last trading day before the announcement of the merger.

For each of the selected comparable companies and Agile, Citigroup derived and compared, among other things:

- equity value;

firm value;

actual revenue for the last twelve months (LTM), projected revenue for the next twelve months (NTM) and projected NTM revenue growth (reflected as a percentage of LTM revenue);

actual LTM adjusted operating margin and projected NTM adjusted operating margin;

the ratio of firm value to each of actual LTM revenue and projected NTM revenue; and

the ratio of common share price to actual LTM adjusted earnings per share (EPS) and projected NTM adjusted EPS.

Equity value was calculated as the sum of all shares of common stock, assuming the exercise of all in-the-money options and the conversion of in-the-money convertible securities, times the closing share price as of May 14, 2007, less the proceeds from the exercise of such in-the-money options. Firm value was calculated as the sum of the value of:

equity value; plus

non-convertible indebtedness; plus

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non-convertible preferred stock; plus

minority interest; plus

out-of-the-money convertibles; minus

investments in unconsolidated affiliates and unrestricted cash and cash equivalents.

Information and data for Lawson Software was adjusted to reflect its recently completed convertible notes offering and a related share buyback. For Agile and each of the comparable companies, LTM data was based on the latest four reported quarters of financial information. NTM data for each of the comparable companies was based on consensus projections published by Thomson First Call Research and Reuters. In comparing trading multiples, NTM for Agile was based on consensus projections published by Thomson First Call Research and Reuters. In deriving the reference range as described below, NTM for Agile was based on preliminary results for Agile s next quarter and management projections for the three subsequent quarters. The difference between consensus projections and preliminary results for Agile s next quarter and management projections for the three subsequent quarters were not material to Citigroup s analysis. Agile s latest reported cash balance of $195 million as of January 31, 2007 was adjusted downward by $10 million to reflect the guaranteed (upon a change of control) earnout payment related to Agile s acquisition of Prodika in June of 2006. Equity value for Agile reflected 60.7 million diluted shares using the treasury stock method and a price per share of $7.26.

The results of this analysis were as follows:

($ in millions)	Equity Value	Firm Value	Revenue LTM	Revenue NTM	Revenue Growth	Operating Margin LTM	Operating Margin NTM	Firm Value/ Revenue LTM	Firm Value/ Revenue NTM	Price/ Earnings LTM	Price/ Earnings NTM
Comparable Companies											
Low	$ 260	$ 221	$ 98	$ 137	0.1%	(11.3)%	7.4%	0.9x	0.9x	15.1x	13.6x
Mean	$ 810	$ 741	$ 329	$ 372	9.8%	10.6%	14.7%	2.3x	2.0x	28.8x	21.1x
Median	$ 636	$ 504	$ 289	$ 298	8.3%	12.8%	16.3%	2.1x	1.9x	21.1x	18.8x
High	$ 2,146	$ 1,908	$ 884	$ 974	39.7%	19.9%	22.2%	3.9x	3.6x	61.8x	36.2x
Comparable Margin Companies											
Low	$ 260	$ 221	$ 194	$ 198	0.1%	4.9%	7.4%	0.9x	0.9x	18.0x	18.0x
Mean	$ 686	$ 547	$ 294	$ 324	7.0%	7.3%	9.5%	1.8x	1.7x	38.0x	26.2x
Median	$ 607	$ 476	$ 236	$ 258	7.4%	6.2%	9.3%	1.8x	1.7x	38.1x	24.6x
High	$ 1,625	$ 1,431	$ 676	$ 794	11.7%	11.7%	14.3%	2.5x	2.2x	61.8x	36.2x
Agile	$ 441	$ 256	$ 130	$ 141	8.0%	(4.5)%	(3.4)%	2.0x	1.8x	NM	NM

Note: NM indicates statistic is not meaningful.

Citigroup applied the results of this analysis to Agile s LTM and NTM revenue to determine:

the ranges of implied firm value;

the ranges of implied equity value; and

the ranges of equity value per share.

Based on these analyses, Citigroup derived an implied per share reference range for the equity value of Agile common stock of $6.50 to $7.60. Citigroup noted that the per share consideration in the merger of $8.10 was above the derived range.

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Precedent Transactions Analysis

Citigroup reviewed publicly available information for forty-one merger and acquisition transactions in the software industry announced since March 18, 2002.

The selected precedent transactions reviewed by Citigroup were:

Transaction (Announcement Date/Acquiror/Target)

04/12/07: Allen Systems Group, Inc. / Mobius Management Systems, Inc.

04/04/07: Software AG / webMethods Inc.

04/02/07: Infor Global Solutions / Workbrain Corporation

02/14/07: CheckFree Corporation / Corillian Corporation

02/12/07: Verint Systems Inc. / Witness Systems, Inc.

01/24/07: Siemens AG / UGS PLM Solutions

11/02/06: Oracle / Stellent, Inc.

10/23/06: Vista Equity Partners, LLC/Mobile Data Solutions Inc. / Indus International, Inc.

08/03/06: International Business Machines Corporation / MRO Software, Inc.

07/07/06: Open Text Corporation / Hummingbird Ltd.

05/15/06: Golden Gate Capital (Infor) / SSA Global Technologies, Inc.

04/24/06: JDA Software Group, Inc. / Manugistics Group, Inc.

04/18/06: HG Capital Plc / Visma ASA

04/12/06: Oracle / Portal Software Inc.

03/02/06: Dassault Systèmes/ENOVIA / MatrixOne

02/08/06: Nuance Communications, Inc. / Dictaphone Corporation

01/04/06: Magellan Holdings Inc. (Infor) / Datastream Systems, Inc.

11/10/05: Sage Group PLC / Adonix SA

11/07/05: Golden Gate Capital (Infor) / Geac Computer Corp. Ltd.

11/04/05: Autonomy Inc. / Verity

10/20/05: EMC Corporation / Captiva Software Corporation

10/04/05: Autodesk, Inc. / Alias Systems Corporation

08/22/05: BEA Systems, Inc. / Plumtree Software, Inc.

08/03/05: SSA Global Technologies, Inc. / E.piphany, Inc.

07/05/05: Concerto Software, Inc. / Aspect Communications Corporation

06/02/05: Lawson Software Inc. / Intentia International AB

05/09/05: Scansoft Inc. / Nuance Communications, Inc.

03/28/05: Francisco Partners Management LLC / WebTrends Inc.

03/22/05: Oracle / Retek Inc.

02/28/05: SAP Aktiengesellschaft / Retek Inc.

01/27/05: Infor Global Solutions / Mapics, Inc.

01/04/05: UGS PLM Solutions / Tecnomatix Technologies Ltd.

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04/26/04: Fair Isaac Corporation / London Bridge Software Holdings plc

04/22/04: TIBCO Software Inc. / Staffware plc

03/14/04: Investor Group / UGS PLM Solutions

01/23/04: Ariba, Inc. / FreeMarkets, Inc.

12/10/03: Sungard Data Systems Inc. / Systems & Computer Tech Corp

10/21/03: OpenText Corporation / IXOS Software Inc.

06/02/03: PeopleSoft Inc. / J.D. Edwards & Company

01/21/03: Microsoft Corporation / PlaceWare, Inc.

03/18/02: MSC.Software Corporation / Mechanical Dynamics, Inc.

For the selected transactions noted above and the merger, Citigroup derived and compared, among other things:

equity value of the transaction;

implied firm value of the target company;

the ratio of the target s firm value to its actual LTM revenue and projected revenue;

the projected increase in NTM revenue growth;

the ratio of the target common stock price to its projected EPS;

the price per share in the transaction as a percentage of target s highest price per share for the 52-weeks preceding the announcement of the transaction; and

the implied premium to the target share price one day and thirty days before announcement of the transaction.

With respect to the financial information for the companies involved in the selected precedent transactions, Citigroup relied on information available in public documents, Wall Street research and/or press announcements. Ratios of firm value to projected revenue and projected EPS were determined using estimates as of the time of announcement of each transaction. For the merger and each of the precedent transactions,

LTM was based on the latest four reported quarters of financial information. NTM for each of the precedent transactions was based on consensus projections published by Thomson First Call Research and Reuters when available, and on individual research reports when consensus estimates were not available. In comparing implied transaction metrics and deriving the reference range as described below, NTM and forward information for the merger was based on preliminary results for Agile s next quarter and management projections for the three subsequent quarters. With respect to the Oracle / Retek transaction, price per share amounts and aggregate equity value were adjusted to include the breakup fees associated with the previously announced acquisition of Retek by SAP. With respect to the financial information for Agile, Citigroup used the same data described above under Comparable Companies Analysis except that Citigroup applied the price per share to be paid in the merger. The results of these analyses were as follows:

($ in millions)	Deal Equity Value	Implied Firm Value	Firm Value/ Revenue LTM	Firm Value/ Revenue Forward	Revenue Growth NTM/ LTM	Forward Price/ Earnings	Offer Price/Target 52-week high	Premium 1 Day	Premium 30 Days
Comparable Companies									
Low	$ 94	$ 84	1.2x	1.1x	(6.8)%	16.1x	73.0%	3.6%	9.2%
Mean	$ 539	$ 502	2.2x	2.0x	9.6%	33.3x	106.6%	29.6%	35.6%
Median	$ 348	$ 310	2.1x	1.9x	9.3%	30.5x	105.3%	23.1%	30.8%
High	$ 2,104	$ 3,500	4.4x	3.7x	39.6	67.0x	131.0%	94.6%	96.6%
Oracle/Agile	$ 495	$ 311	2.4x	2.1x	12.7%	NM	106.4%	11.6%	14.4%

Note: NM indicates statistic is not meaningful.

$ in millions

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Citigroup applied the results of this analysis to Agile s LTM and NTM revenue to determine:

- the ranges of implied firm value;
- the ranges of implied equity value; and
- the ranges of equity value per share.

Based on these analyses, Citigroup derived an implied per share reference range for the equity value of Agile common stock of $7.10 to $8.50. Citigroup noted that the per share consideration in the merger of $8.10 was within the derived range.

Present Value of Agile Future Share Price

Citigroup performed an analysis of the present value of a derived equity value per share of Agile common stock as of December 31, 2008. For purposes of the analysis, Citigroup assumed the following:

- a compound annual revenue growth rate range for the next three-year period of 8% to 12%;
- a 2009 operating margin range of 8% to 12%;
- a diluted share outstanding count of 60.7 million using the treasury stock method (at Agile s closing price of $7.26 as of May 14, 2007);
- a blended cash tax rate of 28%; and
- a ratio of the price per share of Agile common stock to estimated earnings per share for 2009, or forward (2009) P/E, of 20.0x to 24.0x.

The derived price per share of Agile common stock was discounted back to June 30, 2007 using a discount rate of 12.0%. For purposes of this analysis, Citigroup valued Agile s latest reported cash balance of $195 million as of January 31, 2007 on a dollar-for-dollar basis without discount and net of deductions of $10 million to reflect the guaranteed (upon a change of control) earnout payment related to Agile s acquisition of Prodika in June of 2006. Citigroup further assumed that any free cash flows generated during 2007 and 2008 would be used to repurchase Agile common stock. Based on this analysis, Citigroup derived an implied per share reference range for the equity value of Agile based on an 8% compound annual revenue growth rate of $5.67 to $7.77. Citigroup noted that the per share consideration in the merger of $8.10 was above this range. Based on this analysis, Citigroup also derived an implied per share reference range for the equity value of Agile based on a 12% compound annual revenue growth rate of $5.97 to $8.31. Citigroup noted that the per share consideration in the merger of $8.10 was within this range.

* * *

Citigroup s advisory services and opinion were provided for the information of the Agile board of directors in its evaluation of the merger and did not constitute a recommendation of the merger to Agile or a recommendation to any holder of Agile common stock as to how that holder should vote on any matters relating to the merger.

The preceding discussion is a summary of the material financial analyses furnished by Citigroup to the Agile board of directors, but it does not purport to be a complete description of the analyses performed by Citigroup or of its presentation to the Agile board of directors. The preparation of financial analyses and fairness opinions is a complex process involving subjective judgments and is not necessarily susceptible to partial analysis or summary description. Citigroup made no attempt to assign specific weights to particular analyses or factors considered, but rather made qualitative judgments as to the significance and relevance of all the analyses and factors considered and determined to give its fairness opinion as described above. Accordingly, Citigroup believes that its analyses, and the summary set forth above, must be considered as a whole, and that selecting

portions of the analyses and of the factors considered by Citigroup, without considering all of the analyses and factors, could create a misleading or incomplete view of the processes underlying the analyses conducted by Citigroup and its opinion. With regard to the comparable companies and precedent transaction analyses summarized above, Citigroup selected comparable public companies and precedent transactions on the basis of various factors, including size and similarity of the line of business of the relevant entities; however, no company utilized in this analysis is identical to Agile and no precedent transaction is identical to the merger. As a result, this analysis is not purely mathematical, but also takes into account differences in financial and operating characteristics of the subject companies and other factors that could affect the transaction or the public trading value of the subject companies to which Agile is being compared.

In its analyses, Citigroup made numerous assumptions with respect to Agile, industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Agile and Oracle. Any estimates contained in Citigroup s analyses are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by these analyses. Estimates of values of companies do not purport to be appraisals or necessarily reflect the prices at which companies may actually be sold. Because these estimates are inherently subject to uncertainty, none of Agile, Oracle, the Agile board of directors, the Oracle board of directors, Citigroup or any other person assumes responsibility if future results or actual values differ materially from the estimates.

Citigroup s analyses were prepared solely as part of Citigroup s analysis of the fairness of the merger consideration and were provided to the Agile board of directors in that connection. The opinion of Citigroup was only one of the factors taken into consideration by the Agile board of directors in making its determination to approve the merger agreement and the merger. See Reasons For The Merger And Board of Directors Recommendation.

Citigroup is an internationally recognized investment banking firm engaged in, among other things, the valuation of businesses and their securities in connection with mergers and acquisitions, restructurings, leveraged buyouts, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for estate, corporate and other purposes. Agile selected Citigroup to act as its financial advisor to the board of directors of Agile in connection with the proposed merger on the basis of Citigroup s international reputation.

Pursuant to its engagement letter with Agile, Agile has agreed to pay Citigroup an aggregate fee equal to 1.130% of the Transaction Value, which fee is contingent upon the consummation of the merger. Transaction Value will be equal to the total proceeds and other consideration paid to or received by, or to be paid or received (including amounts paid into escrow) by, the Company or holders of common stock of the Company in their capacity as such, in connection with the merger, including but not limited to, (a) cash, (b) notes, securities and other property, which will be valued at fair market value, (c) installment payments, (d) the mutually agreed, risk adjusted net present value of any contingent payments (whether or not related to future earnings or operations) and (e) any extraordinary dividends or distributions. Agile has also agreed to reimburse Citigroup for reasonable travel and other expenses incurred by Citigroup in performing its services, including reasonable fees and expenses of its legal counsel, and to indemnify Citigroup against specific liabilities and expenses relating to or arising out of its engagement, including liabilities under the federal securities laws. Citigroup and its affiliates in the past have provided, and currently provide, services to Agile and Oracle unrelated to the merger, for which services Citigroup and/or its affiliates have received and expect to receive compensation, including, without limitation, providing advisory services to Agile since March 2006, acting as bookrunner in connection with Oracle s January 2006 $5.75 billion bond offering, acting as senior managing agent and lender in connection with a $5 billion bridge loan to Oracle in February 2006 and acting as lender to Oracle in connection with its existing $3 billion five-year credit facility. In the ordinary course of its business, Citigroup and its affiliates may actively trade or hold the securities of Agile and Oracle for its own account or for the account of its customers and, accordingly, may at any time hold a long or short position in such securities. In addition, Citigroup and its affiliates (including Citigroup Inc. and its affiliates) may maintain relationships with Agile, Oracle and their respective affiliates.

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Interests Of Agile s Directors And Management In The Merger

In considering the recommendation of our board of directors in favor of the merger, you should be aware that members of our board of directors and our executive officers have interests in the merger that are different from, or in addition to, yours. All such additional interests are described below, to the extent material. Except as described below, such persons have, to our knowledge, no material interest in the merger apart from those of stockholders generally. Our board of directors was aware of, and considered the interests of, our directors and executive officers in approving the merger agreement and the merger.

Indemnification and Insurance

The merger agreement provides that all rights of indemnification, advancement of expenses and exculpation from liabilities for acts or omissions occurring at or prior to the effective time of the merger existing in favor of our and our subsidiaries current and former directors or officers, as provided in our respective certificates of incorporation or by-laws or other comparable organizational documents, and any indemnification or other agreements in effect as of the date of the merger agreement will be assumed by the surviving corporation of the merger, and will continue in full force and effect in accordance with their terms. Oracle has agreed to cause the surviving corporation of the merger to comply with and honor those obligations, subject to applicable law. The merger agreement further 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 our 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. Oracle s obligation to provide this insurance coverage is subject to a cap of 200% of the current annual premium paid by us for our existing insurance coverage. If Oracle cannot maintain the existing or equivalent insurance coverage without exceeding the 200% cap, Oracle is required to maintain as much insurance coverage as can be obtained by paying an annual premium equal to the 200% cap. Alternatively, we may, and we currently expect to, acquire a six-year tail or runoff policy to our current directors and officer s liability insurance policy for an amount not exceeding the 200% cap, and Oracle and the surviving corporation of the merger will maintain that tail or runoff policy in full force and effect.

Stock Options and Restricted Shares

Under the merger agreement, at the effective time of the merger, each stock option granted under our stock option plans (other than certain options Oracle may elect not to assume, which will be accelerated so that these options will become fully vested, and cashed out at closing) will be assumed by Oracle and converted into an option to acquire a number of shares of Oracle common stock equal to the number of shares of our common stock subject to the stock option multiplied by the option exchange ratio. The exercise price per share of Oracle common stock under each converted stock option will be equal to the per share exercise price for the shares of our common stock otherwise purchasable pursuant to the stock option divided by the option exchange ratio. Oracle may elect not to assume options held by persons who are not employees of ours immediately prior to the effective time or who Oracle reasonably determines in its sole discretion will not be providing services to us, Oracle or our respective subsidiaries after the effective time. The options that are not assumed by Oracle will become fully vested at the effective time of the merger and exchanged into the right to receive an amount in cash (without interest and less applicable withholding) equal to the positive difference (if any) between $8.10 and the per-share exercise price of the option, multiplied by the number of shares of our common stock subject to the option. At the effective time of the merger, each share of restricted stock will be converted into a right to receive $8.10 in cash (without interest and less applicable withholding) from Oracle on a deferred basis if and when the conditions to vesting of the shares are satisfied or the restrictions imposed on the shares lapse. If the vesting conditions applicable to restricted shares are not satisfied, or if the restrictions imposed on the shares do not lapse, then the cash merger consideration payable with respect to those shares will generally be forfeited. See The Merger Effect On Awards Outstanding Under Agile s Stock Plans.

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Options granted to all our employees, including executive officers, under our 1995 Stock Option Plan and our 2000 Nonstatutory Stock Option Plan provide that the vesting of options (and restricted shares acquired upon exercise of those options) accelerates 100% in the event of a change of control of Agile, which would include the merger, where the options are not assumed by the acquiring company. In the merger, Oracle is assuming our outstanding options (except with respect to certain options, which will be accelerated and cashed out in the merger, as indicated above). However, the Agile plans and applicable option agreements further provide for an additional 18 months of vesting of an option if there is a change of control *and* the option is assumed *and,* within 18 months following the change of control, the optionee s employment is terminated by the acquiring company without cause or the optionee is constructively terminated, each as defined in the respective option plans. In April 2005, our board of directors accelerated the vesting of all options (other than those held by non-employee directors) with exercise prices in excess of $6.76 per share. In connection with this acceleration, we imposed restrictions on reselling the shares underlying the accelerated options such that those shares may only be sold at such time as the option under which they are acquired would have been vested, but for the acceleration. The restrictions on resale are eliminated in the same fashion and to the same extent as for options in the event of a change of control (which would include the merger).

Each of our executive officers has outstanding stock options that will be assumed by Oracle in the merger. Jay Fulcher, President and Chief Executive Officer, Carolyn V. Aver, Executive Vice President and Chief Financial Officer, Christopher L. Wong, Executive Vice President, Corporation Strategy, Jeff Johnson, Executive Vice President, Global Sales and Services, and Kevin Kennedy, Senior Vice President-Products, along with other officers of Agile, have entered into stock options agreement providing that if, within 18 months following a change of control, which would include the merger, the executive is terminated other than for cause, or by reason of constructive termination, each as defined or described in the respective option agreement, the following number of stock options will accelerate in full and, with respect to the options with respect to which vesting has been previously accelerated and shares of restricted stock issued upon the exercise of options, the resale restrictions on the following number of underlying shares will terminate (assuming, in each case, a July 31, 2007 closing and termination date):

Jay Fulcher, 162,783 options and resale restrictions with respect to 101,667 shares, which options and shares have an intrinsic value (with respect to options, the intrinsic value is the amount by which the merger consideration payable with respect to the underlying shares exceeds the aggregate exercise price thereof and with respect to restricted shares, the intrinsic value is $8.10 per share) of $1,029,849;

Carolyn Aver, 57,750 options and resale restrictions with respect to 74,750 shares, which options and shares have an intrinsic value of $705,885;

Christopher L. Wong, 25,201 options and resale restrictions with respect to 53,000 shares, which options and shares have an intrinsic value of $483,530;

Jeff Johnson, 23,334 options and resale restrictions with respect to 103,335 shares, which options and shares have an intrinsic value of $882,411; and

Kevin Kennedy, 15,000 options and resale restrictions with respect to 25,000 shares, which options and shares have an intrinsic value of $228,575.

Under the terms of the option agreements covering stock options granted to each of our non-employee directors, in the event of any corporate transaction (as defined in these option agreements, and which would include the merger), each such option will automatically vest in full so that the option will become fully exercisable immediately prior to the effective date of the merger. To the extent such option is not assumed in the merger, it will be cashed out as described above. The following number of options held by the following non-employee directors will accelerate and become fully vested in connection with the merger (assuming, in each case, a July 31, 2007 closing date):

Klaus Deiter-Laidig, 95,834 options, which options have an intrinsic value of approximately $102,709;

Gareth Chang, 95,834 options, which options have an intrinsic value of approximately $102,709;

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- Nancy J. Schoendorf, 95,834 options, which options have an intrinsic value of approximately $102,709;

- Ronald E.F. Codd, 97,918 options, which options have an intrinsic value of approximately $102,709;

- Bryan D. Stolle, 141,700 options, which options have an intrinsic value of approximately $116,440; and

- Paul Wahl, 95,834 options, which options have an intrinsic value of approximately $102,709.

Executive Retention and Severance Plan

We maintain an executive retention and severance plan, referred to as the ERSP, which provides certain severance and other benefits, in connection with a change in control of Agile, to our senior officers designated by our board of directors or its compensation committee. The merger will constitute a change in control under the terms of the ERSP. At present, the ERSP covers all our executive officers and certain other senior officers. If, during a change in control period (as described below), a participant s employment is terminated other than for cause or by the participant for good reason (each as defined in the ERSP), any such terminations of employment being referred to as a termination upon a change in control, then, provided that the participant executes a prescribed release of claims against us, the participant will be entitled to certain payments and benefits described below, in addition to all compensation and benefits earned by the participant through the date of the participant s termination of employment. The applicable change in control period commences on the consummation of a change in control and ends on the date which is 18 months following the change in control.

On a termination upon a change in control, an ERSP participant, other than Mr. Fulcher (whose benefits are described below under Employment Agreement with Jay Fulcher), will receive a lump sum cash severance payment in an amount equal to the sum of (1) one-half of the participant s annual base salary immediately prior to termination or, if higher, immediately prior to the change in control, plus (2) one-half of the greatest of:

- the aggregate of all bonuses earned by the participant for the fiscal year immediately preceding the fiscal year of the change in control;

- the aggregate of all bonuses earned by the participant for the fiscal year immediately preceding the fiscal year of the participant s termination upon a change in control; or

- the aggregate of all annual bonuses that would be earned by the participant at the targeted annual rate (assuming attainment of 100% of all applicable performance goals) for the fiscal year of the participant s termination upon a change in control.

Following a participant s termination upon a change in control, the ERSP also provides that we will provide the participant and his or her dependents with continued health and other group insurance benefits for the participant s benefit period (*i.e.*, 6 months) after the participant s termination upon change in control. The participant will also be indemnified by us to the fullest extent permitted under applicable law, as set forth in the ERSP. In addition, if any payment or benefit received or to be received by any participant pursuant to the ERSP or otherwise would be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code, then the ERSP provides that compensation and benefits payable upon a change in control will be determined in a manner that produces the greatest after-tax benefit for the employee. Accordingly, in some instances a reduction in payments may be made to an amount just below the safe harbor threshold under Section 280G of the Internal Revenue Code in order to produce a greater after-tax benefit to the executive by avoiding the payment of the excise tax on the value of the benefits, although we do not currently expect any such reductions.

The ERSP does not alter the treatment of options under our existing stock option plans.

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If benefits were triggered under the ERSP in connection with the merger, based upon information available as of the date of this proxy statement, the following executive officers would be entitled to the following cash payments:

- Carolyn Aver, $237,500;
- Christopher L. Wong, $187,500;
- Jeff Johnson, $325,000; and
- Kevin Kennedy, $212,500.

Employment Agreement with Jay Fulcher

Under the executive employment agreement between us and Jay Fulcher, our chief executive officer, if Mr. Fulcher is terminated following a change in control (which would include the merger), Mr. Fulcher will be entitled to receive health and other group insurance benefits for himself and his dependents for a period of 12 months, and cash severance payments in an amount equal to one year of his base salary and annual bonus in accordance with the terms of the ERSP (currently $400,000 and $300,000, respectively, for a total cash severance payment equal to $700,000).

Appraisal Rights

The discussion of the provisions set forth below is not a complete summary regarding your appraisal rights under Delaware law and is qualified in its entirety by reference to the text of the relevant provisions of Delaware law, which are attached to this proxy statement as Annex D. Stockholders intending to exercise appraisal rights should carefully review Annex D. Failure to follow precisely any of the statutory procedures set forth in Annex D may result in a termination or waiver of these rights.

If the merger is consummated, dissenting holders of our common stock who follow the procedures specified in Section 262 of the Delaware General Corporate Law, within the appropriate time periods, will be entitled to have their shares of our common stock appraised by a court and to receive the fair value of such shares in cash as determined by the Delaware Court of Chancery, in lieu of the consideration that such stockholder would otherwise be entitled to receive pursuant to the merger agreement.

The following is a brief summary of Section 262, which sets forth the procedures for dissenting from the merger and demanding statutory appraisal rights. Failure to follow the procedures set forth in Section 262 precisely could result in the loss of appraisal rights. This proxy statement constitutes notice to holders of our common stock concerning the availability of appraisal rights under Section 262. A stockholder of record wishing to assert appraisal rights must hold the shares of stock on the date of making a demand for appraisal rights with respect to such shares and must continuously hold such shares through the effective time of the merger.

Stockholders who desire to exercise their appraisal rights must satisfy all of the conditions of Section 262. A written demand for appraisal of shares must be filed with us before the special meeting on July 12, 2007. This written demand for appraisal of shares must be in addition to and separate from a vote against adoption of the merger agreement. Stockholders electing to exercise their appraisal rights must not vote for adoption of the merger agreement. Any proxy or vote against or failing to vote for the merger will not by itself constitute a demand for appraisal within the meaning of Section 262.

A demand for appraisal must be executed by or for the stockholder of record, fully and correctly, as such stockholder s name appears on the share certificate. If the shares are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, this demand must be executed by or for the fiduciary. If the shares are owned by or for more than one person, as in a joint tenancy or tenancy in common, such demand must be executed by or for all joint owners. An authorized agent, including an 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 and expressly disclose the fact that, in exercising the demand, he is acting as agent for the record owner. A person having a beneficial interest in our common stock held of record in the name of another person, such as a broker or nominee, must act promptly to cause the record holder to follow the steps summarized below, and in a timely manner, to perfect whatever appraisal rights the beneficial owner may have.

An Agile stockholder who elects to exercise appraisal rights should mail or deliver his, her or its written demand to us at our address at 6373 San Ignacio Avenue, San Jose, California 95119, Attention: Secretary. The written demand for appraisal should specify the stockholder s name and mailing address, and that the stockholder is thereby demanding appraisal of his, her or its Agile common stock. Within ten days after the effective time of the merger, we must provide notice of the effective time of the merger to all of our stockholders who have complied with Section 262 and have not voted for the merger.

Within 120 days after the effective time of the merger (but not thereafter), any stockholder who has satisfied the requirements of Section 262 may deliver to us a written demand for a statement listing the aggregate number of shares not voted in favor of the merger and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. We, as the surviving corporation of the merger, must mail such written statement to the stockholder no later than the later of ten days after the stockholders request is received by us or ten days after the latest date for delivery of a demand for appraisal under Section 262.

Within 120 days after the effective time of the merger (but not thereafter), either we or any stockholder who has complied with the required conditions 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 Agile shares of stockholders entitled to appraisal rights. We have no present intention to file such a petition if demand for appraisal is made.

Upon the filing of any petition by a stockholder in accordance with Section 262, service of a copy must be made upon us. Within 20 days after service of such copy, we must file, in the office of the Register in Chancery in which the petition was filed, a duly verified list containing the names and addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by us. If we file a petition, the petition must be accompanied by the verified list. The Register in Chancery, if so ordered by the court, will give notice of the time and place fixed for the hearing of such petition by registered or certified mail to us and to the stockholders shown on the list at the addresses therein stated, and notice will also be given by publishing a notice, at least one week before the day of the hearing, in a newspaper of general circulation published in the City of Wilmington, Delaware, or such publication as the court deems advisable. The forms of the notices by mail and by publication must be approved by the court, and we will bear the costs thereof. The Delaware Court of Chancery may require the stockholders who have demanded an appraisal for their shares (and who hold stock represented by certificates) to submit their stock certificates to the Register in Chancery for notation of the pendency of the appraisal proceedings and the Delaware Court of Chancery may dismiss the proceedings as to any stockholder that fails to comply with such direction.

If a petition for an appraisal is filed in a timely fashion, after a hearing on the petition, the court will determine which stockholders are entitled to appraisal rights and will appraise the shares owned by these stockholders, determining the fair value of such shares, exclusive of any element of value arising from the accomplishment or expectation of the merger, together with a fair rate of interest to be paid, if any, upon the amount determined to be the fair value.

Agile stockholders considering seeking appraisal of their shares should note that the fair value of their shares determined under Section 262 could be more, the same or less than the consideration they would receive pursuant to the merger agreement if they did not seek appraisal of their shares. The costs of the appraisal proceeding may be determined by the court and taxed against the parties as the court deems equitable under the circumstances. Upon application of a dissenting stockholder, the court may order that all or a portion of the

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expenses incurred by any dissenting stockholder in connection with the appraisal proceeding, including reasonable attorneys fees and the fees and expenses of experts, be charged pro rata against the value of all shares entitled to appraisal. In the absence of a determination or assessment, each party bears his, her or its own expenses.

Any stockholder who has duly demanded appraisal in compliance with Section 262 will not, after the effective time of the merger, be entitled to vote for any purpose the shares subject to demand or to receive payment of dividends or other distributions on such shares, except for dividends or distributions payable to stockholders of record at a date prior to the effective time of the merger.

At any time within 60 days after the effective time of the merger, any stockholder will have the right to withdraw his demand for appraisal and to accept the terms offered in the merger agreement. After this period, a stockholder may withdraw his demand for appraisal and receive payment for his shares as provided in the merger agreement only with our consent. If no petition for appraisal is filed with the court within 120 days after the effective time of the merger, stockholders rights to appraisal (if available) will cease. Inasmuch as we have no obligation to file such a petition, any stockholder who desires a petition to be filed is advised to file it on a timely basis. No petition timely filed in the court demanding appraisal may be dismissed as to any stockholder without the approval of the court, which approval may be conditioned upon such terms as the court deems just.

Failure by any Agile stockholder to comply fully with the procedures described above and set forth in Annex D to this proxy statement may result in termination of such stockholder s appraisal rights.

Accounting Treatment

The merger will be accounted for as a purchase transaction for financial accounting purposes.

Form of The Merger

Subject to the terms and conditions of the merger agreement and in accordance with Delaware law, at the effective time of the merger, Aqua Acquisition, a wholly owned subsidiary of Oracle and a party to the merger agreement, will merge with and into us. We will survive the merger as a wholly owned Delaware subsidiary of Oracle.

Merger Consideration

At the effective time of the merger, each outstanding share of our common stock, other than treasury shares, shares held by Oracle or Aqua Acquisition, those shares held by stockholders who perfect their appraisal rights (as described in The Merger Appraisal Rights) and shares of restricted stock (as described under The Merger Effect On Awards Outstanding Under Agile s Stock Plans), will be converted into the right to receive $8.10 in cash, without interest. Treasury shares and shares held by Oracle will be canceled immediately prior to the effective time of the merger.

As of the effective time of the merger, all shares of our common stock will no longer be outstanding and will automatically be canceled and will cease to exist and each holder of a certificate representing any shares of our common stock (other than stockholders who have perfected their appraisal rights) will cease to have any rights as a stockholder, except the right to receive $8.10 per share in cash, without interest. The price of $8.10 per share was determined through arm s-length negotiations between Oracle and us.

Conversion of Shares; Payment Procedures

The conversion of our common stock into the right to receive $8.10 per share in cash, without interest, will occur automatically at the effective time of the merger. Promptly after the effective time of the merger, the

exchange agent (to be selected by Oracle), will send a letter of transmittal to each former Agile stockholder. The letter of transmittal will contain instructions for obtaining cash in exchange for shares of our common stock. **You should not return stock certificates with the enclosed proxy.**

Upon surrender of a stock certificate representing shares of our common stock, together with a duly completed and validly executed letter of transmittal (or other evidence of transfer as the exchange agent may reasonably request in the case of shares held in book entry form), the holder of the certificate will be entitled to receive from the exchange agent, on behalf of Oracle, $8.10 in cash for each share surrendered and any surrendered stock certificate will be cancelled.

No interest will be paid or accrue on any cash payable upon the surrender of shares of our common stock. The cash paid upon conversion of shares of our common stock will be issued in full satisfaction of all rights relating to the shares of our common stock.

See The Merger Agreement Payment Procedures for additional information about the procedures for exchange of your shares of Agile common stock.

Effect On Awards Outstanding Under Agile s Stock Plans

Stock Options

Subject to the exception described below, immediately following the effective time of the merger, each outstanding option to purchase our common stock will be assumed by Oracle and converted into an option to purchase common stock of Oracle in accordance with the terms and conditions of the applicable Agile stock option plan and stock option agreement governing such option, except that:

- the number of shares of Oracle common stock subject to each such option will be determined by multiplying the number of shares of our common stock subject to such option immediately prior to the effective time of the merger by a fraction (referred to as the option exchange ratio), the numerator of which is $8.10 and the denominator of which is the average closing price of Oracle common stock on the Nasdaq Global Market on the five trading days immediately prior to the effective date of the merger (rounded down to the nearest share); and

- the exercise price per share of Oracle common stock will equal the per share exercise price for the shares of our common stock subject to each such option immediately prior to the effective time of the merger divided by the option exchange ratio (rounded up to the nearest cent).

Oracle will prepare and file with the Securities and Exchange Commission a registration statement on Form S-8 with respect to the shares of Oracle common stock subject to the converted Agile stock options promptly following the effective time of the merger, but in any event within fifteen business days after the effective time of the merger.

If (1) any options to purchase our common are held by a person who is not an employee of ours or any of our subsidiaries immediately prior to the effective time or, as reasonably determined by Oracle in its sole discretion, are held by a person who will not be a service provider of ours, Oracle s or any of our or its respective subsidiaries immediately following the effective time of the merger and (2) Oracle determines options held by such persons will not be treated as assumed options as described in the prior paragraph, then those options will be fully accelerated and converted into the right to receive an amount in cash (without interest and less applicable withholding) equal to the product obtained by multiplying the aggregate number of shares of our common stock that were issuable on exercise of that option immediately prior to the effective time and the positive different (if any) between $8.10 and the per share exercise price of such option.

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Restricted Shares

At the effective time, outstanding restricted shares will be converted into the right to receive $8.10 per share (without interest and less applicable withholding), which cash will be retained by Oracle for the benefit of the holders of restricted shares, subject to the same restrictions and vesting arrangements that were applicable to the restricted shares immediately prior to the effective time. The merger consideration will be paid to a holder of restricted shares on the date or dates those shares would have become vested under the applicable vesting schedule prior to the effective time, subject to the satisfaction of restrictions and other terms of such vesting schedule. All outstanding rights to repurchase restricted shares held by us (or similar restrictions in our favor, including, but not limited to, the forfeiture restrictions) immediately prior to the effective time will be assigned to Oracle and will be exercisable by Oracle on the same terms and subject to the same conditions as in effect immediately prior to the effective time, except that such rights may be exercised by Oracle retaining the cash into which the restricted shares were converted in the merger and paying to the former holder of the restricted shares the repurchase price (if any) applicable for each share subject to that right immediately prior to the effective time.

ESPP

We have agreed to accelerate the purchase period under our employee stock purchase plan in effect at the effective time so that outstanding purchase rights under the plan will be exercised immediately prior to the effective time. We have also agreed to take all actions necessary to ensure that no further offering period will commence under our employee stock purchase plan following the date of the merger agreement, to permit participants to exercise purchase rights immediately prior to the effective time of the merger, and to refund any amounts remaining in the plan after that exercise. We will then terminate our employee stock purchase plan immediately prior to, and effective as of, the effective time of the merger.

Effective Time Of The Merger

The merger will become effective upon the filing of a certificate of merger with the Delaware Secretary of State or at such later time as is agreed upon by Oracle and us and specified in the certificate of merger. The filing of the certificate of merger will occur as soon as practicable on or after the closing date, which will not be later than the second business day after satisfaction or waiver of the conditions to the completion of the merger described in the merger agreement.

Delisting And Deregistration Of Agile s Common Stock

If the merger is completed, our common stock will no longer be traded on The Nasdaq Global Market and will be deregistered under the Securities Exchange Act of 1934.

Material United States Federal Income Tax Consequences Of The Merger

The following is a summary of the material U.S. federal income tax consequences of the merger relevant to United States Holders (as defined below). This summary is based on the Internal Revenue Code of 1986, as amended (the Code), applicable Treasury Regulations, judicial authority and administrative rulings and practice, all as in effect as of the date hereof, and all of which may change, possibly with retroactive effect. This summary is written on the basis that shares of our common stock are held as capital assets within the meaning of Section 1221 of the Code. This summary is for general information only and does not address all of the tax consequences that may be relevant to particular holders in light of their personal circumstances or to those holders who may be subject to special rules under the U.S. federal income tax laws, including, without limitation, banks or other financial institutions, insurance companies, broker-dealers, persons who elect to mark to market their securities holdings, U.S. expatriates, tax-exempt organizations, persons who are not United States Holders, persons that are, or are holding our common stock through, S-corporations, partnerships or other pass through entities, persons who are subject to alternative minimum tax, persons who hold their shares of our common stock as a position in a straddle or as part of a hedging, conversion, or other constructive sale transaction,

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persons that have a functional currency other than the U.S. dollar, persons validly exercising appraisal rights, persons who acquired their shares of our common stock upon the exercise of stock options or otherwise as compensation or persons who own shares of restricted stock. In addition, this discussion does not address any tax consequences of the merger other than United States federal income tax consequences, and in particular it does not address any state, local or foreign tax consequences.

We urge you to consult your tax advisor to determine the particular tax consequences to you (including the application and effect of any federal, state, local or foreign income and other tax laws) of the receipt of cash in exchange for our common stock pursuant to the merger.

For purposes of this discussion, a United States Holder means a beneficial owner of our common stock that is for U.S. federal income tax purposes:

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

The receipt of cash in exchange for shares of our common stock pursuant to the merger will be a taxable transaction for U.S. federal income tax purposes. In general, a United States Holder will recognize capital gain or loss equal to the difference, between the amount of cash received in exchange for such United States Holder s common stock and the United States Holder s adjusted tax basis in such common stock. Any such gain or loss would be long-term capital gain or loss if the United States Holder s holding period in our common stock exceeded one year as of the date of the merger. If a United States Holder acquired different blocks of our common stock at different times or different prices, the United States Holder must calculate its gain or loss and determine its adjusted tax basis and holding period separately with respect to each block of our common stock. Long-term capital gain of United States Holders who are individuals is generally subject to tax at a reduced rate. Capital gain of corporate stockholders is generally taxable at the regular tax rates applicable to corporations. The deductibility of capital losses is subject to limitations.

Under the Code, a United States Holder may be subject, under certain circumstances, to information reporting on the cash received in the merger unless such United States Holder is a corporation or other exempt recipient. Backup withholding (currently at a rate of 28%) may also apply to a United States Holder with respect to payments made in connection with the merger, unless such holder properly provides proof of an applicable exemption or a correct taxpayer identification number and otherwise complies with the applicable requirements of the backup withholding rules. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against such holder s United States federal income tax liability, provided the required information is furnished to the Internal Revenue Service in a timely manner.

The foregoing does not purport to be a complete analysis of the potential tax considerations relating to the merger, and is not tax advice. Holders of our common stock are urged to consult their tax advisors as to the specific tax consequences to them of the merger, including the applicability and effect of federal, state, local, foreign and other tax laws.

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Regulatory Matters

HSR Act

Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the rules thereunder, certain transactions, including the merger, may not be completed unless certain waiting period requirements have been satisfied. On May 31, 2007, Oracle and we each filed a notification and report form pursuant to the Hart-Scott-Rodino Act with the Antitrust Division of the Department of Justice and the Federal Trade Commission. The successful completion of the applicable notification and waiting requirements under the Hart-Scott-Rodino Act will be effective for one year from the termination of the waiting period. If the completion occurs later than one year after the termination of the waiting period, a further Hart-Scott-Rodino filing and waiting period requirement will arise. Even if the waiting period is terminated, the Antitrust Division, the Federal Trade Commission or others could take action under the antitrust laws with respect to the merger, including seeking to enjoin the completion of the merger, to rescind the merger or to impose conditions upon completion of the merger. There can be no assurance that a challenge to the merger on antitrust grounds will not be made or, if such a challenge is made, that it would not be successful.

German Federal Cartel Office Review

The merger is subject to review by the German Federal Cartel Office (FCO) under the Act against Restraints of Competition *(Gesetz gegen Wettbewerbsbeschränkungen)*. A transaction that is subject to German merger control may not be completed before either the FCO has cleared the transaction or the relevant waiting period has expired without the FCO having prohibited the transaction. In practice, the FCO always issues a decision before expiration of the waiting period. After submission of a complete notification, the FCO must decide within one month whether to clear the transaction or to commence a second-stage investigation. Second-stage decisions must be issued within four months from the filing date. The four-month period may be further extended, provided that the notifying parties consent to such extension. On June 1, 20