K12 INC
Form DEF 14A
December 23, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549
SCHEDULE 14A
(RULE 14a-101)
PROXY STATEMENT PURSUANT TO SECTION 14(a) OF
THE SECURITIES EXCHANGE ACT OF 1934

Filed by the Registrant þ
Filed by a Party other than the Registrant o
Check the appropriate box:
o Preliminary Proxy Statement
o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
þ Definitive Proxy Statement
o Definitive Additional Materials
o Soliciting Material Pursuant to Sec. 240.14a-12

K12 INC.

(Name of Registrant as Specified In Its Charter)

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

Payment of Filing Fee (Check the appropriate box):
þ No fee required.

o Fee computed on table below per Securities Exchange Act Rules 14a-6(i)(1) and 0-11.
(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

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

(4) Proposed maximum aggregate value of transaction:

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o Check box if any part of the fee is offset as provided by Securities Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

December 23, 2010

Dear Fellow Stockholders:

On behalf of our Board of Directors, I cordially invite you to attend the special meeting of stockholders of K12 Inc. (K12 or the Company) to be held at the law firm of Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005, on Thursday, January 27, 2011 at 10:00 A.M., Eastern Time.

On July 23, 2010, we issued 2,750,000 shares of Series A Special Stock, par value $0.0001 per share, of K12 (the Series A Special Stock) to KCDL Holdings LLC as a part of the acquisition by merger of all of the equity interests of KC Distance Learning, Inc. (KCDL). The issuance of the shares of Series A Special Stock and the acquisition by merger of KCDL was consummated pursuant to an Agreement and Plan of Merger, dated as of July 23, 2010, by and among K12, Kayleigh Sub Two LLC, Kayleigh Sub One Corp., KCDL Holdings LLC and KCDL.

The holders of the Series A Special Stock currently have no right to covert their shares into another equity security of K12 and no voting rights. However, by the terms of the Series A Special Stock, from and after the approval of the conversion rights and voting rights of the Series A Special Stock by the holders of the outstanding shares of K12 common stock as required by the rules of the New York Stock Exchange (the NYSE), the holders of the Series A Special Stock will be entitled to vote on all matters presented to the holders of K12 common stock (other than for the election and removal of directors, on which the holders of Series A Special Stock will have no vote) and the shares of the Series A Special Stock will be convertible into an equal number of shares of K12 common stock, subject to anti-dilution adjustments, at the election of the holder or automatically upon transfer to any person or entity other than an affiliate of KCDL Holdings LLC (or automatically if they are owned by any person or entity other than KCDL Holdings LLC or any of its affiliates on the date of the approval of these rights by the K12 stockholders).

K12 common stock is listed on the NYSE, and as a result we are subject to certain NYSE listing rules. In particular, the NYSE rules restricted our ability to grant the conversion rights and voting rights of the Series A Special Stock upon the initial issuance of the shares without the approval of K12 stockholders. As a result, we issued the Series A Special Stock with the current limitations on the right of the holders of Series A Special Stock to convert their shares into K12 common stock or vote their shares and agreed to seek approval of the K12 stockholders to approve the conversion rights and voting rights of the Series A Special Stock pursuant to the rules of the NYSE.

Accordingly, at the special meeting, you will be asked to approve the conversion rights and voting rights of the Series A Special Stock pursuant to the rules of the NYSE.

The Board of Directors recommends that you vote FOR this proposal.

Details of the business to be conducted at the special meeting are given in the attached Notice of Special Meeting of Stockholders and the attached Proxy Statement.

Your vote is important. IT IS IMPORTANT THAT YOU BE REPRESENTED AT THE SPECIAL MEETING REGARDLESS OF THE NUMBER OF SHARES YOU OWN OR WHETHER YOU ARE ABLE TO ATTEND THE SPECIAL MEETING IN PERSON. Please complete sign, date and return the enclosed proxy card promptly in the accompanying reply envelope or submit your voting instructions by telephone or through the Internet if that option is available to you. If you decide to attend the special meeting and wish to change your proxy vote, you may do so by voting in person at the special meeting.

Thank you for your continued support of K12.

Sincerely,

Andrew H. Tisch
Chairman of the Board of Directors

K12 INC.

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON JANUARY 27, 2011

To the Stockholders of K12 Inc.:

Notice is hereby given that the special meeting of stockholders of K12 Inc., a Delaware corporation, will be held at the law firm of Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005, on Thursday, January 27, 2011 at 10:00 A.M., Eastern Time (the Special Meeting). The matters to be considered by stockholders at the Special Meeting are:

1. a proposal to approve the conversion rights and voting rights of the Series A Special Stock, par value $0.0001 per share, of K12 Inc. pursuant to the rules of the New York Stock Exchange, which we refer to as the Series A Rights Proposal;

2. a proposal to consider and approve any adjournments or postponements of the Special Meeting, if necessary, including to solicit additional proxies; and

3. to act upon such other matters as may properly come before the Special Meeting or any adjournments or postponements of the Special Meeting.

The foregoing matters are described in more detail in the accompanying Proxy Statement. Any action may be taken on the foregoing matters at the Special Meeting at the date specified above, or on any date or dates to which, by original or later adjournment, the Special Meeting may be adjourned or to which the Special Meeting may be postponed.

The Board of Directors has fixed the close of business on December 20, 2010 as the record date for determining the stockholders entitled to notice of and to vote at the Special Meeting. Consequently, only stockholders of record at the close of business on December 20, 2010 will be entitled to notice of and to vote at the Special Meeting.

The Board of Directors recommends that you vote FOR the Series A Rights Proposal (Proposal 1) and FOR the proposal to approve adjournments or postponements of the Special Meeting, if necessary (Proposal 2).

Your vote is important. It is important that your shares be represented at the Special Meeting regardless of the number of shares you own or whether you are able to attend the Special Meeting in person. A Proxy Statement, proxy card and self-addressed envelope are enclosed. WHETHER OR NOT YOU PLAN TO ATTEND THE SPECIAL MEETING IN PERSON, PLEASE COMPLETE, DATE, SIGN AND PROMPTLY RETURN THE PROXY CARD IN THE ENVELOPE PROVIDED, WHICH REQUIRES NO POSTAGE IF MAILED IN THE UNITED STATES, OR SUBMIT YOUR VOTING INSTRUCTIONS BY TELEPHONE OR THROUGH THE INTERNET IF THAT OPTION IS AVAILABLE TO YOU. IF YOU ARE THE RECORD HOLDER OF YOUR SHARES AND YOU ATTEND THE MEETING, YOU MAY WITHDRAW YOUR PROXY AND VOTE IN PERSON IF YOU SO CHOOSE, EVEN IF YOU HAVE PREVIOUSLY RETURNED YOUR PROXY CARD.

For admission to the meeting, all stockholders should come to the stockholder check-in table. Those who own shares in their own names should provide identification and have their ownership verified against the list of registered stockholders as of the record date. Those who have beneficial ownership of stock through a bank or broker must bring account statements or letters from their banks or brokers indicating that they owned shares of common stock of K12 Inc. as of December 20, 2010. In order to vote at the meeting, beneficial owners of stock must bring legal proxies, which can be obtained only from their brokers or banks.

By Order of the Board of Directors

Howard D. Polsky
General Counsel and Secretary

Herndon, Virginia
December 23, 2010

REFERENCES TO ADDITIONAL INFORMATION

This Proxy Statement incorporates important business and financial information about K12 Inc. from other documents that are not included in or delivered with this Proxy Statement. This information is available to you without charge upon your written or oral request. You can obtain those documents incorporated by reference into this Proxy Statement by requesting them in writing or by telephone from K12 Inc. at the following address and telephone number:

By mail:	K12 Inc. Attention: Investor Relations 2300 Corporate Park Drive Herndon, Virginia 20171
By telephone:	(703) 483-7000

If you would like to request documents, please do so by January 20, 2011 in order to receive them before the Special Meeting.

You should only rely on the information contained or incorporated by reference into this Proxy Statement to vote at the Special Meeting. No person or entity is authorized to give any information or to make any representation not contained or incorporated by reference into this Proxy Statement and, if given or made, that information or representation should not be relied upon as having been authorized.

See the discussion below under Where You Can Find More Information on page 41.

SUBMITTING PROXIES BY MAIL, TELEPHONE OR THROUGH THE INTERNET

If you are a stockholder of record, you may submit your proxy:

by mail, by signing and dating each proxy card you receive, indicating your voting preference on each proposal and returning each proxy card in the prepaid envelope which accompanied that proxy card;

by telephone, by calling the toll-free number (800) 454-8683 in the United States, Canada or Puerto Rico on a touch-tone phone and following the recorded instructions; or

through the Internet, by going to the following website: proxyvote.com, entering the information requested on your computer screen and following the simple instructions.

If you are a beneficial owner (but not the holder of record) of your shares, please refer to your proxy card or the information forwarded by your bank, broker or other holder of record to see which proxy submission options are available to you.

This Proxy Statement does not constitute an offer to sell, or a solicitation of an offer to purchase, any securities, or the solicitation of a proxy, by any person in any jurisdiction in which such an offer or solicitation is not authorized or in which the person making the offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such an offer or solicitation.

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING

The following questions and answers address briefly some questions you may have regarding the matters to be voted upon at the Special Meeting. These questions and answers may not address all questions that may be important to you as a K12 stockholder. Please refer to the more detailed information contained elsewhere in this Proxy Statement, the annexes to this Proxy Statement and the documents referred to or incorporated by reference in this Proxy Statement. In this Proxy Statement, the terms we, our, us, the Company, and K12 each refer to K12 Inc.

Why am I receiving this Proxy Statement?

K12 is soliciting proxies for a Special Meeting of its stockholders. You are receiving a Proxy Statement because you owned shares of K12 common stock on December 20, 2010, the record date for the Special Meeting, and that entitles you to vote at the meeting. By use of a proxy, you can vote, whether or not you attend the meeting. This Proxy Statement describes the matters on which we would like you to vote and provides information on those matters so that you can make an informed decision.

Why is K12 calling a Special Meeting?

We are calling the Special Meeting and submitting a proposal to you as a result of our issuance on July 23, 2010 of 2,750,000 shares of Series A Special Stock of K12 to KCDL Holdings LLC as consideration for the acquisition of KC Distance Learning, Inc. (KCDL). For more information on the acquisition of KCDL, see Acquisition of KC Distance Learning, Inc. beginning on page 16.

The holders of the Series A Special Stock currently have no rights to convert their shares into any other security and no voting rights. The rules of the New York Stock Exchange (NYSE) restricted our ability to grant the conversion rights and voting rights of the Series A Special Stock upon the initial issuance of the shares without the approval of K12 stockholders. As a result, we issued the Series A Special Stock with the current limitations on the right of the holders of Series A Special Stock to convert their shares into K12 common stock or vote their shares and agreed to seek approval of the K12 stockholders to approve the conversion rights and voting rights of the Series A Special Stock pursuant to the rules of the NYSE. As a result, we are calling the Special Meeting to seek stockholder approval of the rights of the holders of Series A Special Stock to convert their shares into Common Stock and to vote their shares. For more information on the proposal related to the conversion rights and voting rights of the Series A Special Stock, see Proposal 1 Approval of the Conversion Rights and Voting Rights of the Series A Special Stock beginning on page 4.

How does this Special Meeting differ from K12 s typical annual meeting?

The Special Meeting is being called only for the purpose of considering and voting on the approval of the conversion rights and voting rights of the Series A Special Stock. None of the usual activities of an annual meeting are expected to take place at the Special Meeting.

Have you had a 2010 Annual Meeting?

Yes. K12 separately convened and held its 2010 annual meeting of stockholders on December 16, 2010, at which meeting the annual meeting matters were considered and voted upon, including electing directors and ratifying the appointment of our independent registered public accounting firm. If you were a stockholder of K12 on November 3, 2010, the record date set for the 2010 annual meeting of stockholders, you received a separate proxy statement soliciting proxies for the annual meeting. **It is important that you submit a separate proxy to vote for the Special Meeting.**

What is the specific proposal that stockholders will consider with respect to the Series A Special Stock?

The proposal related to the Series A Special Stock is Proposal 1, which is a proposal to approve the conversion rights and voting rights of the Series A Special Stock, par value $0.0001 per share, of K12 Inc. pursuant to the rules of the NYSE.

How does the Board of Directors recommend that I vote?

Our Board of Directors recommends you vote **FOR** the approval of the conversion rights and voting rights of the Series A Special Stock (Proposal 1).

What factors has the Board of Directors considered in making this recommendation?

The Board of Directors considered several factors in making this recommendation. In particular, the Board of Directors considered that, if the stockholders do not approve the Series A Rights Proposal by July 23, 2011, the Company may be obligated to redeem all or a portion of the Series A Special Stock for cash. For more information on the effects of the failure to obtain the stockholder approval and the reasons for the recommendation of the Board of Directors, including in particular its reasons for approving the original issuance of the Series A Special Stock as part of the acquisition of KCDL and its reasons for recommending that stockholders approve the conversion rights and voting rights of the Series A Special Stock, see Effect of Failure to Obtain Stockholder Approval of Proposal 1 beginning on page 7 and Reasons for the Recommendation beginning on page 9, respectively.

What do I need to do now?

After carefully reading and considering the information in this Proxy Statement, please complete, date, sign and promptly return the proxy card in the envelope provided, which requires no postage if mailed in the United States, or submit your voting instructions by telephone or through the Internet if that option is available to you.

May I vote in person?

Yes. If you are a stockholder of record as of December 20, 2010, you may attend the Special Meeting and vote your shares in person instead of returning your signed proxy card or submitting your proxy by telephone or via the Internet. However, because you can revoke a previously granted proxy by attending the Special Meeting and voting your shares in person, we urge you to return your proxy card or submit your proxy by telephone or via the Internet even if you are planning to attend the Special Meeting.

If my shares are held in street name by my broker, will my broker vote my shares for me even if I do not give my broker voting instructions?

Your broker will vote your shares if you provide instructions on how to vote. Your broker does not have discretionary authority to vote on Proposal 1. Therefore, if your shares are held in street name by your broker and you do not provide your broker with instructions on how to vote your street name shares, your broker will not be permitted to vote on Proposal 1. You should therefore be sure to provide your broker with instructions on how to vote your shares.

Can I revoke my proxy and change my vote?

Yes. You have the right to revoke your proxy at any time prior to the time your shares are voted at the Special Meeting. If you are a stockholder of record, your proxy can be revoked in several ways: by timely delivery of a written revocation to our corporate secretary, by submitting another valid proxy bearing a later date or by attending the Special Meeting and voting your shares in person, even if you have previously returned your proxy card.

When and where is the Special Meeting?

The Special Meeting will be held at the law firm of Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005, on Thursday, January 27, 2011 at 10:00 A.M., Eastern Time.

Who can help answer my questions regarding the meeting or the merger?

You may contact K12 to assist you with your questions. You may reach K12 at:

K12 Inc.
Attention: Investor Relations
2300 Corporate Park Drive
Herndon, Virginia 20171
(703) 483-7000

PROXY STATEMENT

SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON JANUARY 27, 2011

This Proxy Statement and the accompanying proxy card and Notice of Special Meeting are provided in connection with the solicitation of proxies by and on behalf of the Board of Directors of K12 Inc., a Delaware corporation (K12 or the Company), for use at the special meeting of stockholders to be held at the law firm of Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005, on Thursday, January 27, 2011 at 10:00 A.M., Eastern Time, and any adjournments or postponements thereof (the Special Meeting). In this Proxy Statement, the terms we, our, us the Company, and K12 each refer to K12 Inc. The mailing address of our principal executive office is 2300 Corporate Park Drive, Herndon, Virginia 20171. This Proxy Statement, the accompanying proxy card and the Notice of Special Meeting are first being mailed on or about December 23, 2010 to holders of record as of December 20, 2010 of our common stock, par value $0.0001 per share (Common Stock).

THE SPECIAL MEETING

Record Date; Outstanding Shares; Shares Entitled to Vote

Our Board of Directors has fixed the close of business on December 20, 2010 as the record date (the Record Date) for determining the stockholders entitled to notice of, and to vote at, the Special Meeting. On the Record Date, we had 31,102,258 shares of Common Stock issued and outstanding. We have no other class of securities outstanding that are entitled to vote at the Special Meeting.

Stockholders of record on the Record Date will be entitled to one vote per share of Common Stock on any matter that may properly come before the Special Meeting and any adjournments or postponements of the Special Meeting.

Quorum

The presence, in person or by duly executed proxy, of stockholders representing a majority of all the votes entitled to be cast at the Special Meeting will constitute a quorum. If a quorum is not present at the Special Meeting, we expect that the Special Meeting will be adjourned or postponed to solicit additional proxies.

Matters to be Voted Upon

The matters to be considered by stockholders at the Special Meeting are:

1. a proposal to approve the conversion rights and voting rights of the Series A Special Stock, par value $0.0001 per share, of K12 Inc. pursuant to the rules of the New York Stock Exchange, which we refer to as the Series A Rights Proposal;

2. a proposal to consider and approve any adjournments or postponements of the Special Meeting, if necessary, including to solicit additional proxies; and

3. to act upon such other matters as may properly come before the Special Meeting or any adjournments or postponements of the Special Meeting.

Votes Required

If a quorum is present or represented, the proposal to approve the conversion rights and voting rights of the series of preferred stock designated as the Series A Special Stock, par value $0.0001 per share, of K12 Inc. (Series A Special Stock) pursuant to the rules of the New York Stock Exchange (the NYSE) must be approved

by the affirmative vote of a majority of votes cast on the proposal, provided that the total vote cast on the proposal represents over 50% of all shares of Common Stock entitled to vote on the proposal.

If a quorum is not present or represented, a majority of the votes cast that are present or represented in person or by proxy may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

If a quorum is present or represented, such other matters as may properly come before the Special Meeting or any adjournments or postponements of the Special Meeting must be approved by the affirmative vote of a majority of the votes properly cast at the Special Meeting.

Voting; Proxies

Shares of our Common Stock represented at the Special Meeting by properly executed proxies received prior to or at the Special Meeting, and not revoked prior to or at the Special Meeting, will be voted at the Special Meeting, and at any adjournments, continuations or postponements of the Special Meeting, in accordance with the instructions on the proxies.

If you are a stockholder of record, you may submit your proxy:

by mail, by signing and dating each proxy card you receive, indicating your voting preference on each proposal and returning each proxy card in the prepaid envelope which accompanied that proxy card;

by telephone, by calling the toll-free number (800) 454-8683 in the United States, Canada or Puerto Rico on a touch-tone phone and following the recorded instructions; or

through the Internet, by going to the following website: proxyvote.com, entering the information requested on your computer screen and following the simple instructions.

If you are a beneficial owner (but not the holder of record) of shares of Common Stock, please refer to your proxy card or the information forwarded by your bank, broker or other holder of record to see which proxy submission options are available to you.

If a proxy is duly executed and submitted without instructions, the shares of Common Stock represented by that proxy will be voted **FOR** the Series A Rights Proposal (Proposal 1) and FOR the proposal to adjourn or postpone the Special Meeting (Proposal 2).

If other matters are properly presented at the Special Meeting, or any adjournment or postponement of the Special Meeting, the persons named as proxies will vote in accordance with their best judgment with respect to those matters.

Revocation

The person who executes a proxy may revoke it at, or before, the Special Meeting by (i) delivering to our corporate secretary a written notice of revocation of a previously delivered proxy bearing a later date than the proxy, (ii) duly executing, dating and delivering to our corporate secretary a subsequent proxy, or (iii) attending the Special Meeting and voting in person. Attendance at the Special Meeting will not, in and of itself, constitute revocation of a proxy. Any written notice revoking a proxy should be delivered to K12 Inc., Attention: General Counsel and Secretary, 2300 Corporate Park Drive, Herndon, Virginia 20171. If your shares of Common Stock are held in a brokerage account,

you must follow your broker s instructions to revoke a proxy.

Abstentions and Broker Non-Votes

Broker non-votes occur when a nominee holding shares of voting securities for a beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power on that item and has not received instructions from the beneficial owner. Abstentions and broker non-votes are included in determining whether a quorum is present but are not deemed a vote cast For or Against a given proposal, and therefore, are not included in the tabulation of the voting results. As such, abstentions and broker non-votes do not affect the

voting results with respect to the issues requiring the affirmative vote of a majority of the votes cast at the Special Meeting. Abstentions and broker non-votes will have the effect of a vote against the approval of any items requiring the affirmative vote of the holders of a majority or greater of the outstanding Common Stock entitled to vote at the Special Meeting.

Attendance by Stockholders and Principal Accountants

Only stockholders of record and beneficial owners of shares of Common Stock as of the Record Date will be admitted into the Special Meeting. For admission to the meeting, all stockholders should come to the stockholder check-in table. Those stockholders who own shares in their own names will be required to provide identification and have their ownership verified against the list of registered stockholders as of the Record Date. Those stockholders who have beneficial ownership of stock through a bank or broker will be required to provide account statements or letters from their banks or brokers indicating that they owned shares of Common Stock as of the Record Date.

The Company also expects to invite representatives of BDO USA, LLP, the Company s independent registered public accounting firm for the fiscal year ending June 30, 2010, to be present at the Special Meeting and expects that they will be present and available to respond to questions applicable to the subject matter of the Special Meeting.

Proxy Solicitation

We are soliciting proxies for the Special Meeting from our stockholders. We will bear the entire cost of soliciting proxies from our stockholders. Copies of solicitation materials will be furnished to brokerage houses, fiduciaries and custodians holding Common Stock for the benefit of others so that such brokerage houses, fiduciaries and custodians may forward the solicitation materials to such beneficial owners. We may reimburse persons representing beneficial owners of Common Stock for their expenses in forwarding solicitation materials to those beneficial owners. Original solicitation of proxies by mail may be supplemented by telephone or personal solicitation by our directors, officers or other regular employees of the Company. No additional compensation will be paid to our directors, officers or other regular employees for these services.

Business; Adjournments

We do not expect that any matter other than the proposals presented in this Proxy Statement will be brought before the Special Meeting. However, if other matters are properly presented at the Special Meeting or any adjournment or postponement of the Special Meeting, the persons named as proxies will vote in accordance with their best judgment with respect to those matters.

If a quorum is not present at the Special Meeting, the Special Meeting may be adjourned from time to time upon the approval of the holders of shares representing a majority of the votes present in person, or by proxy at the Special Meeting, until a quorum is present. Any business may be transacted at the adjourned meeting which might have been transacted at the meeting originally noticed. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting will be given to each stockholder of record entitled to vote at the meeting. We do not currently intend to seek an adjournment of the Special Meeting.

PROPOSAL 1:

APPROVAL OF THE CONVERSION RIGHTS AND VOTING RIGHTS OF THE SERIES A SPECIAL STOCK

Summary

We are submitting Proposal 1 to you as a result of our issuance on July 23, 2010 of 2,750,000 shares of Series A Special Stock pursuant to an Agreement and Plan of Merger, dated as of July 23, 2010 (the Merger Agreement), by and among the Company, Kayleigh Sub Two LLC, a Delaware limited liability company and a wholly owned subsidiary of the Company (LLC Merger Sub), Kayleigh Sub One Corp., a Delaware corporation and a wholly owned subsidiary of the Company (Corporate Merger Sub), KCDL Holdings LLC, a Delaware limited liability company (Holdings), and KC Distance Learning, Inc., a Delaware corporation and a wholly owned subsidiary of Holdings (KCDL). Pursuant to the terms of the Merger Agreement, (i) KCDL merged with Corporate Merger Sub, with KCDL continuing as the surviving corporation of the merger (the First Merger), and (ii) immediately after the First Merger, KCDL (as the surviving corporation of the First Merger) merged with LLC Merger Sub, with LLC Merger Sub continuing as the surviving entity of the merger (the Second Merger and together with the First Merger, the Mergers). The Mergers were consummated on July 23, 2010 following the execution of the Merger Agreement. As a result of the Mergers, the surviving entity in the Mergers involving KCDL became a wholly owned subsidiary of the Company. For more information on the acquisition of KCDL, see Acquisition of KC Distance Learning, Inc. beginning on page 16.

The 2,750,000 shares of Series A Special Stock were issued to Holdings, as the sole stockholder of KCDL prior to the First Merger, as consideration for the acquisition of KCDL in the Mergers. For additional information on Holdings and its affiliates and their interests in K12, see Interests of Learning Group and its Affiliates in Issuance of Series A Special Stock on page 15.

We chose to issue the shares of Series A Special Stock to finance the acquisition of KCDL because this form of financing provided timely access to the requisite equity capital and without requiring payment of any underwriting costs and without using cash on hand. The use of cash on hand to finance the acquisition would have reduced the liquidity of the Company to pursue other transactions or operate its business. Alternative sources of equity or consideration potentially could have been obtained, but at risk of delaying completion of the acquisition of KCDL or resulting in other adverse effects to the Company. For example, to have issued all the equity capital in the form of Common Stock to Holdings would have required a stockholder vote prior to such issuance under the rules of the NYSE, and potentially other governmental approvals, and thereby would have delayed completion of the transaction. Any delay in consummating the acquisition of KCDL would have subjected the transaction to risk of competing buyers, disruptions and potential harms to the KCDL and K12 businesses prior to the start of the 2010-2011 school year and other risks. In addition, we could have pursued issuance of Common Stock or other securities in an underwritten offering or a private placement and to a purchaser other than Holdings. However, in addition to the delay in making that offering, the terms of that offering almost certainly would have required that we pay a fee to the underwriters and enter into other customary agreements with the underwriters, each of which would have resulted in additional cost and burden to the Company. Another purchaser in a private placement of Common Stock or other securities may have required that the shares be issued at a discounted price relative to the market price of such securities. Holdings agreed to accept securities that were not listed or freely tradeable or immediately convertible into such securities following the closing (in the form of the Series A Special Stock) and without a discount to the average market price prior to the closing, provided we use our reasonable best efforts to obtain stockholder approval of the conversion rights and voting rights of the Series A Special Stock and agreed to other customary terms and conditions related to the liquidity of their shares. We are now asking you for this approval.

Approval of Proposal 1 by our stockholders at the Special Meeting will result in conversion rights and voting rights for the 2,750,000 shares of Series A Special Stock outstanding. As a result of approving the conversion rights and voting rights of the Series A Special Stock, the shares of Common Stock into which the shares of Series A Special Stock will be convertible will represent approximately 8.1% of shares of Common Stock then outstanding as of the date of the Special Meeting (based on 31,102,258 shares of Common Stock outstanding as of December 20, 2010, the current conversion rate and assuming the full conversion of the Series A Special Stock). In addition, upon

approval of Proposal 1 by our stockholders at the Special Meeting, in the aggregate, the holders of the shares of Series A Special Stock will be entitled to cast votes with respect to such shares that represent approximately 8.1% of our voting power as of the date of the Special Meeting (based on 31,102,258 shares of Common Stock outstanding as of December 20, 2010), other than on those matters on which the shares of Series A Special Stock are not entitled to vote.

NYSE Stockholder Approval Requirement

Because our Common Stock is listed on the NYSE, we are subject to NYSE rules. NYSE Listed Company Manual Section 312.03(b) requires stockholder approval prior to the issuance or sale to any of our substantial security holders of Common Stock or securities convertible into shares of Common Stock in any transaction or series of transactions if the number of shares of Common Stock issued or into which the securities may be convertible exceeds either 1% of the number of shares of our Common Stock or 1% of the voting power outstanding before the issuance of the securities.

The issuance of shares of our Common Stock upon conversion of the Series A Special Stock may be subject to this rule because Holdings is an affiliate of Learning Group LLC (Learning Group), which may be deemed to be a substantial security holder under the NYSE Listed Company Manual, and the number of shares of our Common Stock issuable upon conversion of the Series A Special Stock and the voting power of the Series A Special Stock, in each case under the terms of the Series A Special Stock to be approved, exceeds 1% of both the number of shares of our Common Stock outstanding before the issuance of the Series A Special Stock and the voting power outstanding before their issuance, respectively. For additional information on Learning Group and its affiliates and their interests in K12, see Interests of Learning Group and its Affiliates in Issuance of Series A Special Stock on page 15. As a result, in order to comply with the NYSE Listed Company Manual, we are seeking stockholder approval of the rights of the holders of Series A Special Stock to convert their shares into Common Stock and to vote their shares, which rights were limited at the initial issuance of the shares of Series A Special Stock pending approval by the stockholders of the rights.

Relationships with Learning Group and its Affiliates

Holdings is affiliated with each of Learning Group, Knowledge Universe Learning Group LLC (KULG), Learning Group Partners, Hampstead Associates, L.L.C. (Hampstead), Cornerstone Financial Group LLC (Cornerstone) and Knowledge Industries LLC (Knowledge Industries). Each of these entities is a holder of our Common Stock, and each may be deemed, directly or indirectly, to be controlled by one or both of Michael R. Milken and Lowell J. Milken, the latter of which also owns shares of our Common Stock in his individual capacity. Holdings, Learning Group and certain of their other affiliates are parties to several agreements related to the Series A Special Stock and K12 s acquisition of KCDL as described in this Proxy Statement.

Prior to the issuance of the Series A Special Stock to Holdings on July 23, 2010, Learning Group, KULG, Learning Group Partners, Hampstead, Cornerstone, Knowledge Industries and Lowell J. Milken collectively held an aggregate of 5,256,527 shares of Common Stock, which represented approximately 17.3% of our then-outstanding voting power. Learning Group and the above mentioned affiliates collectively comprise our largest group of affiliated stockholders. If the Series A Rights Proposal is approved by our stockholders, Learning Group and these affiliates, including Holdings, will hold an aggregate of approximately 8,006,527 shares of Common Stock outstanding, on an as converted basis, which represented approximately 23.7% of our outstanding voting power as of December 20, 2010 (if the holders of Series A Special Stock had had a right to convert such shares into Common Stock or to vote such shares as of such date). These interests are described in Security Ownership of Management and Certain Beneficial Owners beginning on page 38.

By virtue of these interests, including in particular its interests in the Series A Special Stock, Learning Group and its affiliates may be deemed to have interests in the Series A Rights Proposal that are different from, or in addition to, those of our stockholders generally.

Additional information regarding Learning Group and its affiliates can be found in Interests of Learning Group and its Affiliates in Issuance of Series A Special Stock on page 15.

Required Vote for Proposal 1

Approval of Proposal 1 requires the affirmative vote of a majority of votes cast on the proposal, provided that the total vote cast on the proposal represents over 50% of all shares of Common Stock entitled to vote on the proposal. Abstentions and broker non-votes have no effect on this proposal, except that they will not constitute vote cast for purposes of obtaining the required minimum vote.

Effect of Stockholder Approval of Proposal 1

Conversion Rights

If the stockholders approve the Series A Rights Proposal, the existing 2,750,000 shares of Series A Special Stock will be convertible into an equal number of shares of Common Stock, subject to anti-dilution adjustments, at the election of the holder or automatically upon transfer to any person or entity other than an affiliate of Holdings. As a result of approving the conversion rights of the Series A Special Stock, the shares of Common Stock into which the shares of Series A Special Stock will be convertible will represent approximately 8.1% of shares of Common Stock then outstanding as of the date of the Special Meeting (based on 31,102,258 shares of Common Stock outstanding as of December 20, 2010, the current conversion rate and assuming the full conversion of the Series A Special Stock). The conversion rights are provided for in, and are subject to the terms of, the Certificate of Designations, Preferences and Relative and Other Special Rights of Series A Special Stock (the Certificate of Designations), a copy of which is attached to this Proxy Statement as Annex A. For additional information of the terms of the Series A Special Stock, see Description of Material Terms of the Series A Special Stock beginning on page 12.

In any event, even if the conversion rights are approved, the transfer of the shares of Series A Special Stock or any shares of Common Stock into which they may be converted may remain subject to separate transfer restrictions set forth in the Stockholders Agreement, dated July 23, 2010 (the Stockholders Agreement), entered into in connection with the closing of the initial issuance of the Series A Special Stock. For additional information on these transfer restrictions, see The Stockholders Agreement Transfer Restrictions on page 21.

Voting Rights

If the stockholders approve the Series A Rights Proposal, the existing 2,750,000 shares of Series A Special Stock will be entitled to vote on all matters presented to the holders of our Common Stock (other than for the election and removal of directors, on which the holders of Series A Special Stock will have no vote). In that case, the Series A Special Stock will vote on an as-converted to Common Stock basis with the holders of Common Stock (other than for the election and removal of directors, on which the holders of Series A Special Stock will have no vote). Holders of Series A Special Stock would be entitled to vote on all matters presented to the holders of Common Stock upon conversion of such shares into Common Stock, including upon conversion of the shares of Series A Special Stock, following a transfer of the shares of Series A Special Stock. The voting rights are provided for in, and are subject to, the terms of the Certificate of Designations. The approval of the voting rights of the Series A Special Stock by our stockholders will not result in the conversion of the Series A Special Stock into any other security or the issuance of any security (unless shares of the Series A Special Stock are, in fact, converted as described above) but instead will make effective certain voting rights provided in the Certificate of Designations that were not to be effective until receipt of the stockholder approval. For additional information of the terms of the Series A Special Stock, see Description of Material Terms of the Series A Special Stock beginning on page 12.

As a result of approving the voting rights of the Series A Special Stock, in the aggregate, the holders of the shares of Series A Special Stock will be entitled to cast votes with respect to such shares that represent approximately 8.1% of our voting power as of the date of the Special Meeting (based on 31,102,258 shares of Common Stock outstanding as

of December 20, 2010), other than on those matters on which the shares of Series A Special Stock are not entitled to vote.

The record date for the 2010 annual meeting (which is the date on which the holders of shares were determined eligible to vote at the meeting) occurred prior to the date on which the Series A Rights Proposal will be considered Accordingly, the holders of Series A Special Stock were not entitled to vote at the 2010 annual meeting.

Listing; Registration Rights

We will apply for listing of the shares of Common Stock that will become issuable upon conversion of the Series A Special Stock on the NYSE and, upon request from holders of the Series A Special Stock or their transferees, the registration of the shares of Common Stock under the Securities Act of 1933. Pursuant to the Stockholders Agreement, at any time and from time to time after the later of the occurrence of certain events, one or more stockholders holding a majority in interest of the shares of Common Stock issued or issuable pursuant to the conversion of Series A Special Stock held by all stockholders may request that the Company effect the registration of all or any part of the shares of Common Stock issued or issuable pursuant to the conversion of the Series A Special Stock held by the stockholders in an underwritten offering by the stockholders by giving written notice to the Company of such demand. Accordingly, as a result of these provisions, if the Series A Rights Proposal is approved by our stockholders, the shares of Common Stock into which the Series A Special Stock would be convertible are expected to be more liquid securities than the Series A Special Stock. For additional information on these registration rights, see The Stockholders Agreement Registration Rights on page 21.

Elimination of Holder Redemption Right and Restrictive Covenants

If the stockholders approve the Series A Rights Proposal, the Company will not be obligated to redeem the Series A Special Stock, which holders of the Series A Special Stock would have been entitled to require if stockholders do not approve the Series A Rights Proposal. (In that event, the Company will also lose some (but not all) of its rights to force the redemption of the Series A Special Stock.) In addition, the Company will not be bound by certain restrictive covenants that would apply to it if the stockholder approval of the Series A Rights Proposal is not obtained. For additional information on these redemption rights and restrictive covenants, see Effect of Failure to Obtain Stockholder Approval of Proposal 1 immediately below.

Effect of Failure to Obtain Stockholder Approval of Proposal 1

No Conversion Right or Voting Rights

If the stockholders do not approve the Series A Rights Proposal, then the holders of the 2,750,000 shares of Series A Special Stock will not have the right to convert these shares into shares of Common Stock, such shares of Series A Special Stock will continue to have no voting rights and the Series A Special Stock will remain outstanding until redeemed.

Redemption Obligation

If the stockholders do not approve the Series A Rights Proposal by July 23, 2011, upon the election of the holders of the Series A Special Stock the Company will be obligated to redeem all or a portion of such holder s Series A Special Stock for cash in an amount equal to such holder s Redemption Value (as defined below) as set forth in the Certificate of Designations, which is the higher of the then-current 10-day trailing average market price of the Common Stock or $22.95 (prior to giving effect to any adjustments), on the terms set forth in the Certificate of Designations. This price per share may be higher than the market price of Common Stock. However, in no event will the aggregate redemption liability if fully exercised be less than $63.1 million of cash. For additional information about current market prices of our Common Stock, see Market Price of Our Common Stock beginning on page 14.

The minimum aggregate price of the redemption, if available and fully exercised, is approximately $63.1 million. This is the product of $22.95, which is the 10-day trailing average market price of the Common Stock prior to the closing of the acquisition of KCDL, multiplied by the number of shares of Series A Special Stock issued in connection with the acquisition. This amount represents the implied amount of the aggregate consideration to which the parties to the

acquisition of KCDL agreed for the acquisition. Despite this prior relationship between the minimum aggregate price of the redemption and the value of the consideration used for purposes of the acquisition of KCDL, the Series A Rights Proposal does not relate to the acquisition, and you are not being asked to vote or take any action regarding the acquisition, including the consideration paid in the acquisition. The acquisition has closed. In addition, despite this prior relationship between the minimum aggregate price of the redemption and the value of the consideration used for purposes of the acquisition of KCDL, the actual aggregate price of the redemption could

be higher than that minimum aggregate amount. For additional information on the redemption price, see Description of Material Terms of the Series A Special Stock Redemption by Holder on page 14.

In addition, if we fail to redeem the shares of Series A Special Stock on a timely basis, a penalty in the amount of interest payments at an annualized rate of 8% of the Redemption Value will be assessed until the default is cured, and there will also be a rate increase of 1% imposed annually on the penalty rate should the default period extend beyond one year.

If the stockholders do not approve the Series A Rights Proposal, the obligation to redeem the shares of Series A Special Stock could significantly affect K12 s available cash reserves and, therefore, limit its ability to sufficiently fund ongoing current operations and its business, financial condition and results of operations would be adversely affected.

For additional information on these redemption obligations and the penalty payments, see Description of Material Terms of the Series A Special Stock Redemption By the Holder on page 14 and The Stockholders Agreement Remedies Upon Redemption Default on page 22, respectively.

Imposition of Restrictive Covenants

If our stockholders do not approve the Series A Rights Proposal by May 23, 2011, the Stockholders Agreement provides that the Company may not take any action or refrain from taking any action that would reasonably be expected to prohibit or materially limit the Company s ability to redeem the Series A Special Stock as and to the extent required by the Certificate of Designations, other than with respect to ordinary course of business activities for which the absence of which would significantly impair the value of the Company s business. In addition, in that case, the Company would be obligated to take commercially reasonable actions not prohibited by law to take actions that are reasonably necessary to facilitate the redemption of the shares of Series A Special Stock as and to the extent required by the Certificate of Designations that may occur following July 23, 2011. For example, in that case, the Stockholders Agreement specifically requires the Company to take commercially reasonable efforts to revalue the Company s and its subsidiaries assets to reflect market value if and only to the extent necessary to eliminate any capital deficit that might otherwise prohibit such redemption under applicable legal requirements. In addition, the obligation to take commercially reasonable actions not prohibited by law could require additional activities that are not specifically identified by the Stockholders Agreement, none of which have currently been discussed between K12 and Holdings.

In addition, if our stockholders do not approve the Series A Rights Proposal by July 23, 2011 and the Company were to breach of any of its obligations to redeem the Series A Special Stock, during the pendency of any such redemption default, the Stockholders Agreement provides that Company may not take any of the following actions:

declare or pay any dividend or make any other payment or distribution on account of its securities;

purchase, redeem or otherwise acquire or retire for value any of its securities (other than as contemplated by the Merger Agreement);

purchase, redeem, defease or otherwise acquire or retire for value prior to its maturity any indebtedness, unless so doing eliminates a limitation on the redemption of the Series A Special Stock;

make any capital investment other than capital investments for which the absence of which would significantly impair the value of the Company s business;

create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to any indebtedness other than ordinary course letters of credit and indebtedness to cure an applicable redemption default; or

issue any security of the Company that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, unless such maturity,

redemption or other right shall be expressly junior to the right of redemption of the holders of the Series A Special Stock.

In addition, these limitations imposed on the operation of the K12 businesses if the stockholders do not approve the Series A Rights Proposal could have adverse effects on K12 s operations and ability to pursue value-enhancing business strategies or transactions and, therefore, may have an adverse affect on our ability to operate our business.

For additional information on these redemption obligations and restrictive covenants, see The Stockholders Agreement Remedies Upon Redemption Default on page 22.

Board of Directors Recommendation

Our Board of Directors recommends that you vote **FOR** the approval of the conversion rights and voting rights of the Series A Special Stock (Proposal 1).

For additional information on the reasons for the recommendation of the Board of Directors, including in particular its reasons for approving the original issuance of the Series A Special Stock as part of the acquisition of KCDL and its reasons for recommending that stockholders approve the conversion rights and voting rights of the Series A Special Stock, see Effect of Failure to Obtain Stockholder Approval of Proposal 1 beginning on page 7 and Reasons for the Recommendation beginning on page 9, respectively.

Reasons for the Recommendation

The management of K12, in consultation with the Board of Directors and with the advice and assistance of its independent legal and financial advisors, evaluated and negotiated the terms of the acquisition of KCDL and the issuance of the Series A Special Stock over the course of more than five months.

At a meeting on July 22, 2010, the Board of Directors considered the Mergers and the Merger Agreement and the transactions contemplated thereby and thereafter unanimously determined that they were advisable, fair to and in the best interests of K12 and its stockholders.

In reaching its decision to approve the Merger Agreement and the transactions contemplated thereby, including the issuance of the Series A Special Stock, the Board of Directors consulted with K12 s management and independent advisors in connection with the transaction and took into account various material factors described below. Among the material information and factors considered by the Board of Directors related to the Series A Special Stock, and in particular the recommendation to approve the conversion rights and voting rights of the Series A Special Stock (Proposal 1), were the following:

 ieves
all of the
above
transactions
were
conducted at
arm s length.

Section 16(1) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires NeoMedia s officers and directors, and persons who own more than 10% of a registered class of NeoMedia s equity securities, to file reports of ownership and changes in ownership with the United States Securities and Exchange Commission (the SEC). Officers, directors and greater than 10% shareholders are required by SEC regulation to furnish NeoMedia with copies of all Section 16(a) forms they file.

Based solely on a review of the copies of such forms furnished to NeoMedia, NeoMedia believes that during 2003 all Section 16(a) filing requirements applicable to NeoMedia s officers, directors and 10% beneficial owners were complied with.

COMPENSATION COMMITTEE REPORT TO STOCKHOLDERS

The Compensation Committee, which meets on a periodic basis, is comprised of Messrs. Charles W. Fritz and Charles T. Jensen, officers of NeoMedia and James J. Keil, a non-employee member of the Board of Directors. The Compensation Committee formulates and administers compensation policies for the President and Chief Executive Officer and all vice presidents of NeoMedia. (A Stock Option Committee consisting of two non-employee Directors is responsible for determining to whom and under what terms stock options should be granted, other than options which are automatically granted to members of the Board of Directors, under the Plan.)

REPORT OF THE COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS ON EXECUTIVE COMPENSATION(1)

The following is a report of the Compensation Committee of the Board of Directors (the Committee) describing the compensation policies applicable to NeoMedia s executive officers during the fiscal year ended December 31, 2004.

The Committee is responsible for establishing and monitoring the general compensation policies and compensation plans of NeoMedia, as well as the specific compensation levels for executive officers.

General Compensation Philosophy

Under the supervision of the Committee, NeoMedia s compensation policy is designed to attract, motivate and retain qualified key executives critical to NeoMedia s success. It is the objective of NeoMedia to have a portion of each executive s compensation dependent upon NeoMedia s performance as well as upon the executive s individual performance. Accordingly, each executive officer s compensation package is comprised of three elements: (i) base salary which reflects individual performance and expertise, (ii) variable bonus payable in cash and tied to the achievement of certain annual performance goals and (iii) stock options which are designed to align the long-term interests of the executive officer with those of NeoMedia s stockholders. NeoMedia did not pay any bonuses related to fiscal years 2004 or 2003.

The Committee considers the total compensation of each executive officer in establishing each element of compensation, other than stock options which are the responsibility of the Stock Option Committee. All incentive compensation plans are reviewed at least annually to assure they meet the current strategies and needs of NeoMedia.

The summary below describes in more detail the factors that the Committee considers in establishing each of the three primary components of the compensation package provided to the executive officers.

Base Salary

Base salary ranges are established based on benchmark data from nationally recognized surveys of similar high-technology companies that compete with NeoMedia for executive officers and NeoMedia s research of peer companies. Each executive officer s base salary is established on the basis of the individual s qualifications and relevant experience.

Variable Bonus

The Committee believes that a substantial portion of the annual compensation of each executive should be in the form of variable incentive pay to reinforce the attainment of NeoMedia s goals. The Incentive Plan rewards achievement of specified levels of corporate profitability. A pre-determined formula, which takes into account profitability against the annual plan approved by the Board of Directors, is used to determine the bonus award. The individual executive officer s bonus award is based upon discretionary assessment of each officer s performance during the prior fiscal year.

NeoMedia did not pay any bonuses related to fiscal years 2004 or 2003.

Compensation for the Chief Executive Officer

During June 2002, Charles T. Jensen, NeoMedia s former Chief Financial Officer, was elected president and Chief Operating Officer, and also named acting Chief Executive Officer. During August 2004, Mr. Jensen was named permanent CEO.

Base Salary: The Committee reviews the Chief Executive Officer s major accomplishments and reported base salary information for the chief executive officers of other companies in NeoMedia s peer group. During the period from July 16, 2003 to March 31, 2005, Mr. Jensen s salary was $175,000 per year. On April 1, 2005, Mr. Jensen s salary was increased to $205,000 per year. Mr. Jensen is not under contract with NeoMedia.

Cash Incentive: The Chief Executive Officer s incentive target is at the discretion of the Committee. Achievement of the target is based on overall company income versus annual Plan income. Mr. Jensen did not earn a bonus relating to fiscal 2004 or 2003. During April 2003, Mr. Jensen s award under the 2000 Executive Incentive Plan was paid with shares of NeoMedia s common stock. The Company also paid all other employees, except one who declined, who had earned awards under the 2000 Executive Incentive Plan with shares of common stock.

Compensation Committee

Charles W. Fritz
Charles T. Jensen
A. Hayes Barclay
James J. Keil

(1)

This Section is not soliciting material, is not deemed filed with the SEC and is not to be incorporated by reference in any filing of NeoMedia under the 1933 Act or the 1934 Act whether made before or after the date hereof and irrespective of any general incorporation language in any such filing.

Compensation Committee Interlocks and Insider Participation

The Compensation Committee of the Board of Directors currently consists of Messrs. Fritz, Jensen, Barclay and Keil. During the last fiscal year, no interlocking relationship existed between NeoMedia s Board of Directors or Compensation Committee and the board of directors or compensation committee of any other company.

REPORT OF THE AUDIT COMMITTEE

The Audit Committee for the last fiscal year consisted of two nonemployee Directors. The Board of Directors has determined that none of the members of the Audit Committee has a relationship to NeoMedia that may interfere with his independence from NeoMedia and its management. The Audit Committee has a written charter, a copy of which was filed as Appendix A to NeoMedia s proxy statement filed on May 23, 2001.

The primary function of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibilities by reviewing financial reports and other financial information provided by NeoMedia to any governmental body or the public, NeoMedia s systems of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board of Directors have established, and NeoMedia s auditing, accounting and financial processes generally. The Audit Committee annually recommends to the Board of Directors the appointment of a firm of independent auditors to audit the financial statements of NeoMedia and meets with such personnel of NeoMedia to review the scope and the results of the annual audit, the amount of audit fees, NeoMedia s internal accounting controls, NeoMedia s financial statements contained in NeoMedia s Annual Report to Stockholders and other related matters.

The Audit Committee has reviewed and discussed with management the financial statements for fiscal year 2004 audited by Stonefield Josephson, Inc., NeoMedia s independent auditors. The Audit Committee has discussed with Stonefield Josephson, Inc. various matters related to the financial statements, including those matters required to be discussed by SAS 61 (Codification of Statements on Auditing Standards, AU § 380). The Audit Committee has also received the written disclosures and the letter from Stonefield Josephson, Inc. required by Independence Standards Board Standard No. 1 (Independence Standards Board Standard No. 1, Independence Discussions with Audit Committees), and has discussed with the firm its independence. Based upon such review and discussions the Audit Committee recommended to the Board of Directors that the audited financial statements be included in NeoMedia s Annual Report on Form 10-KSB for the fiscal year ending December, 2004 for filing with the Securities and Exchange Commission.

Audit Committee

James J. Keil

A. Hayes Barclay

The report of the Audit Committee shall not be deemed incorporated by reference by any general statement incorporating by reference this proxy statement into any filing under the Securities Act of 1933 or under the Securities Exchange Act of 1934, except to the extent that the filing specifically incorporates this information by reference, and shall not otherwise be deemed filed under such Acts.

PRINCIPAL HOLDERS OF VOTING SECURITIES

The following table sets forth certain information regarding beneficial ownership of NeoMedia s common stock as of November 1, 2005, (i) by each person or entity known by NeoMedia to own beneficially more than 5% of NeoMedia s Common Stock, (ii) by each of NeoMedia s directors and nominees, (iii) by each executive officer of NeoMedia named in the Summary Compensation Table, and (iv) by all executive officers and directors of NeoMedia as a group.

Class	Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership(1)	Percent of Class(1)
Common Stock	Charles W. Fritz(2)(3)	28,610,555	6.0 %
Common Stock	William Fritz(2)(4)	52,890,944	11.3 %
Common Stock	Charles T. Jensen(2)(5)	13,001,500	2.7 %
Common Stock	David A. Dodge(2)(6)	3,225,000	*
Common Stock	A. Hayes Barclay(2)(7)	2,405,000	*
Common Stock	James J. Keil(2)(8)	4,388,619	*
Common Stock	Martin N. Copus(9)	1,682,186	*
Common Stock	Officers and Directors as a Group (9 Persons)(10)	106,203,804	21.0 %

*

denotes ownership of less than one percent of issued and outstanding shares of NeoMedia s common stock.

(1)

Applicable percentage of ownership is based on 462,818,231 shares of common stock outstanding as of November 1, 2005, together with securities exercisable or convertible into shares of common stock within 60 days of November 1, 2005, for each stockholder. Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission and generally includes voting or investment power with respect to securities. Shares of common stock subject to securities exercisable or convertible into shares of common stock that are currently exercisable or exercisable within 60 days of November 1, 2005, are deemed to be beneficially owned by the person holding such securities for the purpose of computing the percentage of ownership of such person, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person. The common stock is the only outstanding class of equity securities of NeoMedia.

(2)

Address of the referenced individual is c/o NeoMedia Technologies, Inc., 2201 Second Street, Suite 402, Fort Myers, FL, 33901.

(3)

Charles W. Fritz is the Company s founder and the Chairman of the Board of Directors. Shares beneficially owned include 100 shares owned by each of Mr. Fritz s four children for an aggregate of 400 shares, 13,000,000 shares of common stock issuable upon exercise of options granted under the Company s 2003, 2002 and 1998 stock option

plans, 1,510,000 shares issuable upon exercise of stock warrants, 12,557,186 shares of common stock owned by Mr. Charles W. Fritz directly, and 1,542,969 shares of common stock held by the CW/LA II Family Limited Partnership, a family limited partnership for the benefit of Mr. Fritz s family.

(4)

William E. Fritz, the Company s corporate secretary and a director, and his wife, Edna Fritz, are the general partners of the Fritz Family Limited Partnership and therefore each are deemed to be the beneficial owners of the 1,511,742 shares held in the Fritz Family Partnership. As trustee of each of the Chandler R. Fritz 1994 Trust, Charles W. Fritz 1994 Trust and Debra F. Schiafone 1994 Trust, William E. Fritz is deemed to be the beneficial owner of the 165,467 shares of NeoMedia held in these trusts. Additionally, Mr. Fritz is deemed to own: 45,923,735 shares held directly by Mr. Fritz or his spouse, 2,540,000 shares to be issued upon the exercise of warrants held by Mr. Fritz or his spouse, and 2,750,000 shares to be issued upon the exercise of options held by Mr. Fritz or his spouse. Mr. William E. Fritz may be deemed to be a parent and promoter of NeoMedia, as those terms are defined in the Securities Act.

(5)

Charles T. Jensen is President, Chief Operating Officer, Acting Chief Executive Officer, and a member of the Board of Directors. Beneficial ownership includes 13,000,000 shares of common stock issuable upon exercise of options granted under NeoMedia s stock option plans, and 1,500 shares owned by Mr. Jensen s sons.

(6)

David A. Dodge is Vice President, Chief Financial Officer, and Controller. Beneficial ownership includes 3,225,000 shares of common stock issuable upon exercise of options granted under NeoMedia s stock option plans.

(7)

A. Hayes Barclay is a member of the Board of Directors. Ownership includes 2,400,000 shares of common stock issuable upon exercise of options granted under NeoMedia s stock option plans, and 5,000 shares owned by Mr. Barclay directly.

(8)

James J. Keil is a member of the Board of Directors. Shares benficially owned includes 2,500,000 shares issuable upon exercise of options and 1,888,619 shares owned by Mr. Keil directly.

(9)

Martin N. Copus is Chief Operating Office. Beneficial ownership includes 1,500,000 shares of common stock issuable upon exercise of options granted under NeoMedia s stock option plans, and 182,186 shares held by Mr. Copus directly.

(10)

Includes an aggregate of 38,375,000 currently exercisable options to purchase shares of common stock granted under NeoMedia s stock option plans, 4,050,000 currently exercisable warrants to purchase shares of common stock, and 63,778,804 shares owned directly by NeoMedia s officers and directors.

AUDITORS

Audit Fees

The aggregate fees billed by Stonefield Josephson, Inc., NeoMedia s independent auditors, for the audit of NeoMedia s annual consolidated financial statements and reviews of quarterly financial statements for the years ended December 31, 2004 and 2003 were $137,000 and $119,000, respectively.

Audit-related Fees

The aggregate fees billed by Stonefield Josephson, Inc., NeoMedia s independent auditors, for assurance and related services for the years ended December 31, 2004 and 2003 were $0 and $0, respectively.

Tax Fees

The aggregate fees billed by Wiltshire, Whitley, Richardson & English, NeoMedia s principal accountants for tax compliance, advice, and planning, were $9,000 for each of the years ended December 31, 2004 and 2003.

All Other Fees

The aggregate fees billed by Stonefield Josephson, Inc., for other products and services during the years ended December 31, 2004 and 2003 were $0 and $0, respectively.

Audit Committee Pre-approval

The audit committee of NeoMedia s board of directors approves all non-audit services provided by NeoMedia s primary accountants.

OTHER MATTERS TO BE ACTED UPON AT THE ANNUAL MEETING OF STOCKHOLDERS

The management of NeoMedia knows of no other matters to be presented at the Annual Meeting. Should any matter requiring a vote of the stockholders other than those listed in this Proxy Statement arise at the meeting, the persons named in the proxy will vote the proxies in accordance with their best judgment.

ADDITIONAL INFORMATION

Proposals of Shareholders for the Next Annual Meeting. Proposals of shareholders intended for presentation at the 2006 annual meeting must be received by NeoMedia on or before December 16, 2005, in order to be included in the proxy statement and form of proxy for that meeting. Additionally, NeoMedia must have notice of any shareholder proposal to be submitted at the 2006 Annual Meeting (but not required to be included in the Proxy Statement) by March 18, 2006, or such proposal will be considered untimely pursuant to Rule 14a-4 and Rule 14a-5(e) under the Exchange Act and persons named in the proxies solicited by management may exercise discretionary voting authority with respect to such proposal.

Proxy Solicitation Costs. NeoMedia is soliciting the enclosed proxies. The cost of soliciting proxies in the enclosed form will be borne by NeoMedia. Officers and regular employees of NeoMedia may, but without compensation other than their regular compensation, solicit proxies by further mailing or personal conversations, or by telephone, telex, facsimile or electronic means. NeoMedia will, upon request, reimburse brokerage firms for their reasonable expenses in forwarding solicitation materials to the beneficial owners of stock.

Incorporation by Reference. Certain financial and other information required pursuant to Item 13 of the Proxy Rules is incorporated by reference to NeoMedia s Annual Report on Form 10-KSB for the year ended December 31, 2004, which are being delivered to the shareholders with this proxy statement. In order to facilitate compliance with Rule 2-02(a) of Regulation S-X, one copy of the definitive proxy statement will include a manually signed copy of the accountant s report.

November 3, 2005
Fort Myers, Florida

/s/ Charles T. Jensen
Charles T. Jensen
President, CEO and Director

APPENDIX A

NEOMEDIA TECHNOLOGIES, INC.
2005 STOCK OPTION PLAN

1. Purpose of the Plan

This Stock Option Plan (the Plan) is intended as an incentive to key employees, consultants and directors of NeoMedia Technologies, Inc. (the Company) and its subsidiaries. The purpose of the Plan is to assist the Company in retaining its employees with a high degree of training, experience and ability, to attract new employees and consultants whose services are considered unusually valuable and to provide stock ownership opportunities to the members of the Board of Directors of the Company who are not employees of the Company or a subsidiary (Nonemployee Directors).

2. General Provisions

2.1 Definitions as Used in the Plan:

(a)

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

(b)

Code means the Internal Revenue Code of 1986, including any and all amendments thereto.

(c)

Committee means the options committee appointed by the Board of Directors from time to time to administer the Plan pursuant to Section 2.2.

(d)

Common Stock means the Company s Common Stock, $0.01 par value.

(e)

Participant means a person to whom a Stock Option has been granted under the Plan.

(f)

Rule 16b-3 means Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended from time to time, or any successor rule.

(g)

Stock Option means an option granted under the Plan.

(h)

Subsidiary means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if, at the time of the granting of the Stock Option, each of the corporations other than the last corporation in the unbroken chain owns 50% or more of the total voting power of all classes of stock in one of the other corporations in such chain.

2.2 Administration of the Plan

(a)

The Plan shall be administered by the Committee which shall at all times consist of two (2) or more persons, each of whom shall be a member of the Board of Directors. Each member of the Committee shall be a disinterested person (as such term is defined in Rule 16b-3). The Board of Directors may from time to time remove members from, or add members to, the Committee. Vacancies on the Committee, howsoever caused, shall be filled by the Board of Directors. The Committee shall select one of its members as Chairman, and shall hold meetings at such times and places as it may determine.

(b)

The Committee shall have the full power, subject to and within the limits of the Plan, to: (i) interpret and administer the Plan, and Stock Options granted under it; (ii) make and interpret rules and regulations for the administration of the Plan and to make changes in and revoke such rules and regulations (and in the exercise of this power, shall generally determine all questions of policy and expediency that may arise and may correct any defect, omission, or inconsistency in the Plan or any agreement evidencing the grant of any Stock Option in a manner and to the extent it shall deem necessary to make the Plan fully effective); (iii) determine those persons to whom Stock Options shall be granted and the number of Stock Options to be granted to any person; (iv) determine the terms of Stock Options granted under the Plan, consistent with the provisions of the Plan; and (v) generally, exercise such powers and perform such acts in connection with the Plan as are deemed necessary or expedient to promote the best interests of the Company. The interpretation and construction by the Committee of any provision of the Plan or of any Stock Option shall be final, binding and conclusive. Members of the Committee shall be subject to any additional restrictions necessary to satisfy the disinterested administration of the Plan as required in Rule 16b-3.

(c)

The Committee may act only by a majority of its members then in office; however, the Committee may authorize any one (1) or more of its members or any officer of the Company to execute and deliver documents on behalf of the Committee.

(d)

No member of the Committee shall be liable for any action taken or omitted to be taken or for any determination made by him or her in good faith with respect to the Plan, and the Company shall indemnify and hold harmless each member of the Committee against any cost or expense (including counsel fees) or liability (including any sum paid in settlement of a claim with the approval of the Committee) arising out of any act or omission in connection with the administration or interpretation of the Plan, unless arising out of such person s own fraud or bad faith.

2.3 Effective Date

The Plan shall become effective upon its adoption by the Board of Directors, and Stock Options may be granted upon such adoption and from time to time thereafter, subject, however, to approval of the Plan by affirmative vote of the holders of a majority of the shares of the Common Stock present in person or by proxy and entitled to vote at an annual meeting of the shareholders of the Company or at a special meeting of the shareholders of the Company expressly called for such purposes, or any adjournments thereof, within 12 months after the adoption of the Plan by the Board of Directors. If the Plan is not approved at such annual or special meeting or at any adjournments thereof, this Plan and all Stock Options previously granted thereunder shall become null and void.

2.4 Duration

If approved by the shareholders of the Company, as provided in Section 2.3, unless sooner terminated by the Board of Directors, this Plan shall remain in effect for a period of ten (10) years following its adoption by the Board of Directors.

2.5 Shares Subject to the Plan

The maximum number of shares of Common Stock which may be subject to Stock Options granted under the Plan shall be 60,000,000. The Stock Options shall be subject to adjustment in accordance with Section 5, as appropriate, and shares to be issued upon exercise of Stock Options may be either authorized and unissued shares of Common Stock or authorized and issued shares of Common Stock purchased or acquired by the Company for any purpose. If a Stock Option or portion thereof shall expire or is terminated, canceled or surrendered for any reason without being exercised in full, the unpurchased shares of Common Stock which were subject to such Stock Option or portion thereof shall be available for future grants of Stock Options under the Plan.

2.6 Amendments

The Plan may be suspended, terminated or reinstated, in whole or in part, at any time by the Board of Directors, provided however, that without the approval of NeoMedia s stockholders, no amendment shall be made which (i) increases the maximum number of shares of Common Stock which may be subject to stock options granted under the Plan, except for specified adjustment provisions, (ii) extends the term of the Plan, (iii) increases the period during which a stock option may be exercised beyond ten years from the date of the grant, (iv) materially increase the benefits accruing to participants under the Plan, (v) materially modifies the requirements as to eligibility for participation in the Plan, or (vi) will cause stock options granted under the Plan to fail to meet the requirements of Rule 16b-3. The Board of Directors may from time to time make such amendments to the Plan as it may deem advisable. Except as otherwise provided herein, termination or amendment of the Plan shall not, without the consent

of a Participant, affect such Participant s rights under any Stock Options previously granted to such Participant.

2.7 Participants and Grants

Stock Options may be granted by the Committee to (i) directors, officers and other full-time salaried employees of the Company and its Subsidiaries with managerial, professional or supervisory responsibilities and (ii) consultants and advisors who render bona fide services to the Company and its Subsidiaries, in each case, where the Committee determines that such officer, employee, consultant or advisor has the capacity to make a substantial contribution to the success of the Company. The Committee may grant Stock Options to purchase such number of shares of Common Stock (subject to the limitations of Sections 2.5) as the Committee may, in its sole discretion, determine. In granting Stock Options under the Plan, the Committee, on an individual basis, may vary the number of Stock Options as between Participants and may grant Stock Options to a Participant in such amounts as the Committee may determine in its sole discretion.

3. Stock Options

3.1 General

All Stock Options granted under the Plan shall be evidenced by written agreements executed by the Company and the Participant to whom granted, which agreement shall state the number of shares of Common Stock which may be purchased upon the exercise thereof and shall contain such investment representations and other terms and conditions as the Committee may from time to time determine.

3.2 Price

The purchase price per share of Common Stock subject to a Stock Option shall be determined by the Committee which may be less than the fair market value on the date of grant, provided, however, that the purchase price shall not be less than the par value of $0.01 per share of the Common Stock.

3.3 Period

The duration or term of each Stock Option granted under the Plan shall be for such period as the Committee shall determine but in no event more than ten (10) years from the date of grant thereof.

3.4 Exercise

Stock Options may be exercisable at such time or times as the Committee shall specify when granting the Stock Option subject to satisfaction of all conditions for exercise recited herein and in the Option Agreement. Without limiting the foregoing, the Stock Option may not be exercised unless the Participant at the time of such exercise shall have been in continuous employ of, or relationship with, the Company up to the date of exercise and unless the Committee has provided to the Participant a written determination no more than 30 days prior to the exercise date that the individual job performance of the Participant merits the Participant s right to exercise such Stock Option. The Committee shall be entitled to act in its sole discretion and the decision of the Committee as to the Participant s right to exercise the Participant s Stock Option shall be final, binding and conclusive on the Participant. Failure of the Committee to deliver the Participant such a written determination shall be deemed a determination that the Participant is not entitled to exercise such Stock Option.

Once exercisable, a Stock Option shall be exercisable, in whole or in part, by delivery of a written notice of exercise to the Secretary of the Company at the principal office of the Company specifying the number of shares of Common Stock as to which the Stock Option is then being exercised together with payment of the full purchase price for the shares being purchased upon such exercise. Until the shares of Common Stock as to which a Stock Option is exercised are issued, the Participant shall have none of the rights of a shareholder of the Company with respect to such shares.

3.5 Payment

The purchase price for shares of Common Stock as to which a Stock Option has been exercised and any amount required to be withheld, as contemplated by Section 6.1, may be paid:

(a)

In United States dollars in cash, or by check, bank draft or money order payable in United States dollars to the order of the Company; or

(b)

By the delivery by the Participant to the Company of whole shares of Common Stock having an aggregate fair market value on the date of payment equal to the aggregate of the purchase price of Common Stock as to which the Stock Option is then being exercised or by the withholding of whole shares of Common Stock having such fair market value upon the exercise of such Stock Option; or

(c)

By a combination of both (a) and (b) above.

The Committee may, in its discretion, impose limitations, conditions and prohibitions on the use by a Participant of shares of Common Stock to pay the purchase price payable by such Participant upon the exercise of a Stock Option.

3.6 Termination of Employment or Other Relationship

(a)

In the event a Participant s employment by, or relationship with, the Company shall terminate for any reason other than those reasons specified in Sections 3.6(b), (c), (d), (e) or (g) hereof while such Participant holds Stock Options granted under the Plan, then all rights of any kind under any outstanding Option held by such Participant which shall not have previously lapsed or terminated shall expire immediately.

(b)

If a Participant s employment by, or relationship with, the Company or its Subsidiaries shall terminate as a result of such Participant s total disability, each Stock Option held by such Participant (which has not previously lapsed or terminated) shall be exercisable by such Participant for a period of one year after termination but only to the extent the Option is otherwise exercisable during that period. For purposes of the foregoing sentence, total disability shall mean permanent mental or physical disability as determined by the Committee.

(c)

In the event of the death of a Participant, each Stock Option held by such Participant (which has not previously lapsed or terminated) shall be exercisable by the executor or administrator of the Participant s estate or by the person or persons to whom the deceased Participant s rights thereunder shall have passed by will or by the laws of descent or distribution, for a period of one year after such Participant s death but only to the extent the Option is otherwise exercisable during that period.

(d)

In the case of a Participant who is an employee of the Company, if a Participant s employment by the Company shall terminate by reason of such Participant s retirement in accordance with Company policies, each Stock Option held by such Participant at the date of termination (which has not previously lapsed or terminated) shall be exercisable for a period of three (3) months after termination, but only to the extent the Option is otherwise exercisable during that period.

(e)

In the event the Company terminates the employment of a Participant who had been continuously employed by the Company during the one (1) year period immediately preceding such termination, for any reason except good cause (hereafter defined) and except upon such Participant s death, total disability or retirement in accordance with Company policies, each Stock Option held by such Participant (which has not previously lapsed or terminated and which has been held by such Participant for more than six (6) months prior to such termination) shall be exercisable for a period of three (3) months after such termination, but only to the extent the Option is otherwise exercisable during that period. A termination for good cause shall be deemed to have occurred only if the Participant in question (i) is terminated by written notice for dishonesty, because of his conviction of a felony, or because of his violation of any material provision of any employment or other agreement, written or oral, with the Company or any of its Subsidiaries, or (ii) shall voluntarily resign or terminate his employment with the Company or any of its Subsidiaries under or followed by such circumstances as would constitute a breach of any material provision of any employment or other agreement between him and the Company or any of its Subsidiaries, or (iii) shall have committed an act of dishonesty not discovered by the Company or any of its Subsidiaries prior to the cessation of his employment with the Company or any of its Subsidiaries, but which would have resulted in his discharge if discovered prior to such date, or (iv) shall, either before or after cessation of his employment with the Company or any of its Subsidiaries, without the written consent of the Company or any of its Subsidiaries, use (except for the benefit of the Company or any of its Subsidiaries) or disclose to any other person any confidential information relating to the continuation or proposed continuation of the business or any trade secrets of the Company of any of its Subsidiaries obtained as a result of or in connection with such employment.

(f)

Notwithstanding the foregoing, if at any time after termination a Participant engages in detrimental activity (as hereinafter defined), the Committee in its discretion may cause the Participant s right to exercise such option to be forfeited. If an allegation of detrimental activity by a Participant is made to the Committee, the exercisability of the

Participant s options will be suspended for up to two months to permit the investigation of such allegation. For purposes of this section, detrimental activity means activity that is determined by the Committee in its sole and absolute discretion to be detrimental to the interests of the Company or any of its Subsidiaries, including but not limited to situations where such Participant: (1) divulges trade secrets of the Company, proprietary data or other confidential information relating to the Company or to the business of the Company and any Subsidiaries, (2) enters into employment with a competitor under circumstances suggesting that such Participant will be using unique or special knowledge gained as a Company employee to compete with the Company, (3) is convicted by a court of competent jurisdiction of any felony or a crime involving moral turpitude, (4) uses information obtained during the course of his or her employment for his or her own purposes, such as for the solicitation of business, (5) is determined to have engaged (whether or not prior to termination due to retirement) in either gross misconduct or criminal activity harmful to the Company, or (6) takes any action that harms the business interests, reputation, or goodwill of the Company and/or its subsidiaries.

(g)

In the case of Stock Options granted to a nonemployee director who ceases to be a member of the Board of Directors, such Stock Options then held by such individual shall be exercisable within one year after such termination of service.

3.7 Effect of Leaves of Absence

It shall not be considered a termination of employment when a Participant is on military or sick leave or such other type leave of absence which is considered as continuing intact the employment relationship of the Participant with the Company or any of its Subsidiaries. In case of such leave of absence, the employment relationship shall be deemed to have continued until the later of (i) the date when such leave shall have lasted ninety (90) days in duration, or (ii) the date as of which the Participant s right to employment shall have no longer been guaranteed either by statute or contract.

4. Assignability of Stock Options

Stock Options granted under the Plan shall not be assignable or otherwise transferable by the recipient except by will or the laws of intestate succession, or pursuant to a qualified domestic relations order as defined by the Code or Title I of the Employee Retirement Income Security Act, or the rules thereunder. Otherwise, Stock Options granted under this Plan shall be exercisable during the lifetime of the Participant only by the Participant for his or her individual account, and no purported assignment or transfer of such Stock Options thereunder, whether voluntary or involuntary, by operation of law or otherwise, shall vest in the purported assignee or transferee any interest or right therein whatsoever but immediately upon any such purported assignment or transfer, or any attempt to make the same, such Stock Options thereunder shall terminate and become of no further effect.

5. Reorganization and Recapitalization of the Company

(a)

The existence of this Plan and Stock Options granted hereunder shall not affect in any way the right or power of the Company or its stockholders to make or authorize any or all adjustments, recapitalization, reorganizations or other changes in the Company s capital structure or its business, or any merger or consolidation of the Company, or any issue of bonds, debentures, preferred or prior preference stocks ahead of or affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(b)

Except as hereinafter provided, the issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, for cash or property, or for labor or services, either upon direct sale or upon exercise of rights or warrants to subscribe therefore, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Common Stock subject to Stock Options granted hereunder.

(c)

If, and whenever, prior to the delivery by the Company or a Subsidiary of all of the shares of Common Stock which are subject to the Stock Options or rights granted hereunder, the Company shall effect a subdivision or consolidation of shares or other capital readjustments, the payment of a stock dividend or other increase or reduction of the number of shares of the Common Stock outstanding without receiving compensation therefore in money, services or property, the number of shares subject to the Plan shall be proportionately adjusted and the number of shares with respect to which Stock Options granted hereunder may thereafter be exercised shall: (i) in the event of an increase in the number of outstanding shares, be proportionately increased, and the cash consideration (if any) payable per share shall be proportionately reduced; and (ii) in the event of a reduction in the number of outstanding shares, be proportionately reduced, and the cash consideration (if any) payable per share shall be proportionately increased.

(d)

If the Company merges with one or more corporations, or consolidates with one or more corporations and the Company shall be the surviving corporation, thereafter, upon any exercise of Stock Options granted hereunder, the Participant shall, at no additional cost (other than the option price, if any) be entitled to receive (subject to any required action by stockholders) in lieu of the number of shares as to which such Stock Options shall then be exercisable the number and class of shares of stock or other securities to which the Participant would have been entitled pursuant to the terms of the agreement of merger or consolidation, if immediately prior to such merger or consolidation the Participant had been the holder of record of the number of shares of Common Stock of the Company equal to the number of shares as to which such Stock Options shall be exercisable. Upon any reorganization, merger or consolidation where the Company is not the surviving corporation, the Committee shall have the right to make all outstanding options vest and be exercisable immediately, by giving notice to each holder thereof or his or her personal representative and by permitting the exercise for a period not to exceed ninety (90) days from the date of such determination by the Committee. Upon liquidation or dissolution of the Company, all outstanding options shall be cancelled.

6. Miscellaneous Provisions

6.1 Withholding

The Company s obligations under this Plan shall be subject to applicable federal, state and local tax withholding requirements. Federal, state and local withholding tax due at the time of a grant or upon the exercise of any Stock Option may, in the discretion of the Committee, be paid in shares of Common Stock already owned by the Participant or through the withholding of shares otherwise issuable to such Participant, upon such terms and conditions as the Committee shall determine. If the Participant shall fail to pay, or make arrangements satisfactory to the Committee for the payment, to the Company of all such federal, state and local taxes required to be withheld by the Company, then the Company shall, to the extent permitted by law, have the right to deduct from any payment of any kind otherwise due to such Participant an amount equal to any federal, state or local taxes of any kind required to be withheld by the Company.

6.2 Compliance with Law and Approval of Regulatory Bodies

No Stock Option shall be exercisable and no shares will be delivered under the Plan except in compliance with all applicable federal and state laws and regulations including, without limitation, compliance with all federal and state securities laws and withholding tax requirements and with the rules of the Over-the-Counter Bulletin Board and of all other domestic stock exchanges on which the Common Stock may be listed. Any share certificate issued to evidence shares for which a Stock Option is exercised may bear legends and statements the Committee shall deem advisable to assure compliance with federal and state laws and regulations. No Stock Option shall be exercisable and no shares will be delivered under the Plan, until the Company has obtained consent or approval from regulatory bodies, federal or state, having jurisdiction over such matters as the Committee may deem advisable. In the case of the exercise of a Stock Option by a person or estate acquiring the right to exercise the Stock Option as a result of the death of the Participant, the Committee may require reasonable evidence as to the ownership of the Stock Option and may require consents and releases of taxing authorities that it may deem advisable.

6.3 No Right to Employment

Neither the adoption of the Plan nor its operation, nor any document describing or referring to the Plan, or any part thereof, nor the granting of any Stock Options hereunder, shall confer upon any Participant under the Plan any right to continue in the employ of the Company or any Subsidiary, or shall in any way affect the right and power of the Company or any Subsidiary to terminate the employment of any Participant at any time with or without assigning a reason therefore, to the same extent as might have been done if the Plan had not been adopted.

6.4 Exclusion from Pension Computations

By acceptance of a grant of a Stock Option under the Plan, the Participant shall be deemed to agree that any income realized upon the receipt or exercise thereof or upon the disposition of the shares received upon exercise will not be taken into account as base remuneration , wages , salary or compensation in determining the amount of any contribution to or payment or any other benefit under any pension, retirement, incentive, profit-sharing or deferred compensation plan of the Company or any Subsidiary.

6.5 Abandonment of Options

A Participant may at any time abandon a Stock Option prior to its expiration date. The abandonment shall be evidenced in writing, in such form as the Committee may from time to time prescribe. A Participant shall have no further rights with respect to any Stock Option so abandoned.

6.6 Severability as to Rule 16b-3

If any of the terms or provisions of the Plan conflict with the requirements of Rule 16b-3, then such terms or provisions shall be deemed inoperative to the extent they so conflict with the requirements of Rule 16b-3.

6.7 Interpretation of the Plan

Headings are given to the Sections of the Plan solely as a convenience to facilitate reference. Such headings, numbering and paragraphing shall not in any case be deemed in any way material or relevant to the construction of the Plan or any provision hereof. The use of the masculine gender shall also include within its meaning the feminine. The use of the singular shall also include within its meaning the plural and vice versa.

6.8 Use of Proceeds

Funds received by the Company upon the exercise of Stock Options shall be used for the general corporate purposes of the Company.

6.9 Construction of Plan

The place of administration of the Plan shall be in the State of Florida, and the validity, construction, interpretation, administration and effect of the Plan and of its rules and regulations, and rights relating to the Plan, shall be determined solely in accordance with the laws of the State of Florida.

APPENDIX B

REVOCABLE PROXY

NEOMEDIA TECHNOLOGIES, INC.

The undersigned hereby appoints CHARLES W. FRITZ and CHARLES T. JENSEN and WILLIAM E. FRITZ, or any of them individually, with full power of substitution, to act as proxy and to represent the undersigned at the 2005 Annual Meeting of shareholders and to vote all shares of common stock of NeoMedia Technologies, Inc. which the undersigned is entitled to vote if personally present at said meeting to be held at the Company s Headquarters, 2201 Second Street, Suite 600, Fort Myers, Florida on December 16, 2005 at 10:00 a.m., and at all postponements or adjournments thereof upon all business as may properly come before the meeting with all the powers the undersigned would possess if then and there personally present.

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS. THIS PROXY, WHEN PROPERLY EXECUTED WILL BE VOTED IN THE MANNER DIRECTED HEREIN. IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED FOR ALL OF THE NOMINEES FOR DIRECTOR LISTED IN PROPOSAL 1. PROXIES ARE GRANTED THE DISCRETION TO VOTE UPON ALL OTHER MATTERS THAT MAY PROPERLY BE BROUGHT BEFORE THE MEETING OR ANY POSTPONEMENT OR ADJOURNMENT THEREOF.

THIS PROXY, WHEN PROPERLY EXECUTED WILL BE VOTED IN THE MANNER DIRECTED HEREIN BY THE UNDERDSIGNED. IF NO DIRECTION IS MADE, THE SHARES WILL BE VOTED FOR PROPOSAL ONE. SUCH PROXY ALSO DELEGATES DISCRETIONARY AUTHORITY TO VOTE WITH REPSECT TO ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE MEETING OR ANY ADJOURNMENTS OR POSTPONEMENTS THEREOF.

(CONTINUED, AND TO BE SIGNED ON REVERSE SIDE)

PLEASE RETAIN THIS ADMISSION TICKET
FOR THE
ANNUAL MEETING OF STOCKHOLDERS OF
NEOMEDIA TECHNOLOGIES, INC.
COMPANY HEADQUARTERS
2201 SECOND STREET, SUITE 600
FT. MYERS, FLORIDA 33901
DECEMBER 16, 2005
10:00 A.M., EASTERN DAYLIGHT SAVINGS TIME

PRESENT THIS TICKET TO A NEOMEDIA TECHNOLOGIES, INC. REPRESENTATIVE AT THE ENTRANCE TO THE MEETING ROOM.

VOTE BY MAIL

Mark, sign, and date your proxy card and return it in the postage-paid envelope we have provided or return it to NeoMedia Technologies, Inc., c/o _____.

IT IS IMPORTANT THAT YOUR SHARES ARE REPRESENTED AT THIS MEETING, WHETHER OR NOT YOU ATTEND THE MEETING IN PERSON. TO MAKE SURE YOUR SHARES ARE REPRESENTED, WE

URGE YOU TO COMPLETE AND MAIL THE PROXY CARD BELOW.

IF YOU PLAN TO ATTEND THE 2005 ANNUAL MEETING OF STOCKHOLDERS, PLEASE MARK THE APPROPRIATE BOX ON THE PROXY CARD BELOW.

THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED

NEOMEDIA TECHNOLOGIES, INC.

Vote on Directors

1.

Election of directors The election of the following nominees to the Board of Directors unless otherwise indicated:

01) A. Hayes Barclay

04) Charles T. Jensen

02) Charles W. Fritz

05) James J. Keil

03) William E. Fritz

¨ For All ¨ Withhold All ¨ For All Except
To withhold authority to vote for any particular nominee, mark For All Except and write the nominee s number on the line below _____

Vote on Proposals

2.

To ratify the selection of Stonefield Josephson, Inc. as the Company s independent registered public accounting firm for the fiscal year ended December 31, 2005.

¨ FOR ¨ AGAINST ¨ ABSTAIN

3.

To approve the 2005 Stock Option Plan.

¨ FOR ¨ AGAINST ¨ ABSTAIN

4.

To transact such other business as may properly come before the meeting or any adjournments or postponements thereof.

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE NOTICE OF ANNUAL MEETING AND PROXY STATEMENT OF THE COMPANY.

Please sign your name exactly as it appears on your stock certificate. When signing as attorney-in-fact, executor, administrator, trustee or guardian, please add your title as such. When signing as joint tenants, all parties in the joint tenancy must sign. If signer is a corporation, please sign in full corporate name by duly authorized officer or officers

and affix the corporate seal.

Please indicate if you plan to attend this meeting: ¨ Yes ¨ No

Signature	Date	Signature (Joint Owners)	Date