

HOOKER FURNITURE CORP  
Form 8-K  
April 01, 2005

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# SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

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## Form 8-K

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### CURRENT REPORT

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

Date of Report (Date of earliest event reported): March 30, 2005

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# HOOKER FURNITURE CORPORATION

(Exact Name of Registrant as Specified in its Charter)

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Virginia

(State or Other Jurisdiction of Incorporation or Organization)

000-25349  
(Commission File No.)

54-0251350  
(I.R.S. Employer Identification No.)

440 East Commonwealth Boulevard, Martinsville, Virginia  
(Address of Principal Executive Offices)

24112  
(Zip Code)

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(276) 632-0459

(Registrant's Telephone Number, Including Area Code)

N/A

(Former Name or Former Address, if Changed Since Last Report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**ITEM 1.01 Entry into a Material Definitive Agreement**

On March 30, 2005, the shareholders of Hooker Furniture Corporation (the Company) approved the Company's 2005 Stock Incentive Plan (the Plan) at the Company's Annual Meeting of Shareholders. The terms of the Plan are set forth in the proxy statement dated March 1, 2005, for the Company's Annual Meeting of Shareholders, and the description of the Plan in the section of the proxy statement titled "Proposal to Approve the 2005 Stock Incentive Plan" is incorporated herein by reference.

**ITEM 9.01 Financial Statements and Exhibits**

(c) *Exhibit*

<u>Exhibit</u>	<u>Description</u>
99.1	Hooker Furniture Corporation 2005 Stock Incentive Plan (incorporated by reference to Appendix B of the Company's Definitive Proxy Statement dated March 1, 2005, for the Annual Meeting of Shareholders held on March 30, 2005 (SEC File No. 000-25349) is expressly incorporated herein by reference.)

Signature

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

HOOKER FURNITURE CORPORATION

By: /s/ R. GARY ARMBRISTER

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R. Gary Armbrister  
Chief Accounting Officer

Date: March 30, 2005

EXHIBIT INDEX

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***Section 16(a) Beneficial Ownership Reporting Compliance***

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires the Company's directors, executive officers and persons who own more than ten percent of the Company's common stock (collectively, "Filing Persons") to file with the SEC initial reports of ownership (Form 3), reports in changes of ownership (Form 4), and annual reports of ownership (Form 5). All Filing Persons are required by SEC regulations to furnish the Company with copies of all Section 16(a) forms they file.

The following table sets forth, to the Company's knowledge, based solely on its review of the copies of such reports furnished to the Company and upon certain other representations made, the number of late reports and the number of transactions that were not reported on a timely basis by the Company's

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Filing Persons during 2003. The Company does not know of any failures to file a required form during 2003 by the Company's Filing Persons.

Name	Form 3		Form 4	
	Number of Late Filings	Number of Transactions Reported Late	Number of Late Filings	Number of Transactions Reported Late
Lee K. Barba			4	4
Paul A. Helbling			3	3
Thor A. Clark*			3	3
Michael D. Coval*	1		1	1
Michael D. Gillespie*			1	1
Fred J. Johnston*			1	1
Robert A. Kittell*	2		1	1
Daniel S. Olson*			1	1
Andrew B. Scott*	1		1	1
Angela J. Williams*	1	1	1	1
Michael H. Goldsmith			2	2
Douglas T. Tansill			2	2
Hans von Meiss			2	2
Stephen C. Wood			2	2

\*

No longer subject to Section 16(a) filing obligations except as required under Securities Exchange Act Rules 16a-3(f) and 16a-2(b).

***Security Ownership of Certain Beneficial Owners and Management***

The following table sets forth information, as of April 15, 2004, with respect to the number of shares of Company common stock beneficially owned by (1) each director and/or Named Executive individually, (2) all executives and directors of the Company as a group and (3) each stockholder known by the Company to be the beneficial owner of more than 5% of the Company's common stock. The number of shares does not include shares allocated to the person's account through the Company's 401(k) plan.

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Except as noted below, each stockholder has sole voting and investment power with respect to the shares shown.

Owners	Number of Shares Beneficially Owned	Percent of Class
<b>Common Stock</b>		
Lee K. Barba(1)	2,354,492(2)	5.1%
Paul A. Helbling(1)	343,361	*
Thor A. Clark(1)	242,216	*
Michael D. Gillespie <i>(resigned March 15, 2004)</i>	145,467	*
Daniel S. Olson(1)	127,830	*
Michael H. Goldsmith	56,667	*
Douglas T. Tansill	123,000	*
Hans von Meiss(1)	681,778(3)	1.5%
Stephen C. Wood(1)	58,424(4)	*
All executive officers and directors as a group (11 persons)	4,596,175	10.0%
 Kinderhook Partners, L.P.(5) <i>1 Executive Drive, Suite 160 Fort Lee, New Jersey 07024</i>	 2,738,000	 6.0%
 Momentum Media Limited <i>304 Dominion Centre 14 Queens Road East Wanchai Hong Kong</i>	 3,299,980	 7.3%

\*  
Less than 1%

(1) Each of the share amounts for the directors and officers includes options to purchase additional shares, which are exercisable within the next 60 days, as follows: Lee K. Barba, 771,213; Paul A. Helbling, 99,627; Thor A. Clark, 101,177; Daniel S. Olson, 70,609; Hans von Meiss, 35,000; and Stephen C. Wood 11,242.

(2) Includes shares, as to which beneficial ownership is disclaimed, of 464,999 shares held for the benefit of family members.

(3) Includes shares, as to which beneficial ownership is disclaimed, of 451,333 shares held for the benefit of family members.

(4) Includes shares, as to which beneficial ownership is disclaimed, of 166 shares held for the benefit of family members.

(5) Based on a Schedule 13G filed by Stephen J. Clearman with the Securities and Exchange Commission on October 22, 2003. Mr. Clearman is the Managing Member of Kinderhook GP, LLC which is the General Partner of Kinderhook Partners, LP.

### ***Certain Relationships and Related Transactions***

In the past, as part of the normal course of business, some members of the Board of Directors have proposed business alliances between the Company and companies with which they are associated. In the opinion of management, each of these transactions or arrangements was entered into on terms as favorable to the Company as could have been obtained in transactions or arrangements with unaffiliated third parties. However, at this time no such arrangements or alliances exist.

### ***Audit Committee Report***

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The Audit Committee of the Board of Directors consists of Messrs. von Meiss, Goldsmith, Tansill and Wood. The duties and responsibilities of the Audit Committee are set forth in a written charter adopted by the Board of Directors and attached to this Proxy Statement as Appendix A. Each of the

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members of the Audit Committee is independent, as defined in Section 121A of the listing standards for the American Stock Exchange.

Management is responsible for the Company's internal controls and the financial reporting process. The independent accountants (auditors) are responsible for performing an independent audit of the Company's consolidated financial statements in accordance with generally accepted auditing standards and issuing a report thereon. It is the Audit Committee's responsibility to monitor these processes.

In this context, the Audit Committee has reviewed and discussed with the Company's auditors the overall scope and plans for the independent audit. Management represented to the Audit Committee that the Company's consolidated financial statements were prepared in accordance with generally accepted accounting principles. Discussions about the Company's audited financial statements included the auditors' judgments about the quality, not just the acceptability of the application of the accounting principles, the reasonableness of significant judgments and the clarity of disclosures in the financial statements. The Audit Committee also discussed with the auditors other matters required by Statement on Auditing Standards ("SAS") No. 61, *Communication with Audit Committees*, as amended by SAS No. 90, *Audit Committee Communications*.

The Company's auditors provided to the Audit Committee the written disclosures required by Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees), and the Audit Committee discussed the auditor's independence with management and the auditors. In addition, the Audit Committee considered whether the other non-audit consulting services provided by the auditor's firm could impair the auditor's independence and concluded that such services have not impaired the auditor's independence.

Based on the Audit Committee's discussion with management and the auditors and the Audit Committee's review of the representations of management and the report of the auditors to the Audit Committee, the Audit Committee recommended to the Board that the audited consolidated financial statements be included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003 filed with the SEC.

By the Audit Committee:

Hans von Meiss, Chairman  
Michael H. Goldsmith  
Douglas T. Tansill  
Stephen C. Wood

### ***Code of Business Conduct and Ethics***

In August 2003, the Board of Directors of the Company adopted a Code of Business Conduct and Ethics governing its Chief Executive Officer, Chief Financial Officer, its other executive officers and the Board of Directors. The Company's Code of Business Conduct and Ethics is available on the Company's corporate website at <http://www.investools.com> on the "Investor Relations" page under "Code of Business Conduct and Ethics for Members of the Board of Directors and Executive Officers." The Company intends to disclose on its website any waivers or amendments to its Code of Business Conduct and Ethics within five business days of such action.

### ***Principal Accountant Fees and Services***

#### **Audit Fees**

The aggregate fees billed for professional services rendered by KPMG LLP for the audit of the Company's financial statements for each of the fiscal years ended December 31, 2003 and

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December 31, 2002, and the reviews of the financial statements included in the Company's Forms 10-Q for such fiscal years were \$175,000 and \$170,000, respectively.

### **Audit-Related Fees**

There were no fees billed in either fiscal years ended December 31, 2003 or December 31, 2002 for assurance and related services rendered by KPMG LLP that are related to the performance of the audit or review of the Company's financial statements but not reportable as Audit Fees

### **Tax Fees**

There were no fees billed for professional services rendered by KPMG LLP for tax compliance, tax advice, and tax planning in either of the fiscal years ended December 31, 2003 or December 31, 2002.

### **All Other Fees**

There were no fees billed for services rendered by KPMG LLP not reportable as Audit Fees, Audit Related Fees or Tax Fees for either of the fiscal years ended December 31, 2003 or December 31, 2002.

### **Audit Committee Pre-Approval Policies**

The Audit Committee has established a policy intended to clearly define the scope of services performed by the Company's independent auditors for non-audit services. This policy relates to audit services, audit-related services, tax and all other services which may be provided by the Company's independent auditor and is intended to assure that such services do not impair the auditor's independence. The policy requires the pre-approval by the Audit Committee of all services to be provided by the Company's independent auditor. Under the policy, the Audit Committee will annually review and pre-approve the services that may be provided by the independent auditor without obtaining specific pre-approval from the Audit Committee or its designee. In addition, the Audit Committee may delegate pre-approval authority to one or more of its members. The member or members to whom such authority is delegated is required to report to the Audit Committee at its next meeting any services which such member or members has approved. The policy also provides that the Audit Committee will pre-approve the fee levels for all services to be provided by the independent auditor. Any proposed services exceeding these levels will require pre-approval by the Audit Committee.

All of the services provided by the Company's principal accounting firm described above under the captions "Audit Fees" were approved in accordance with this policy and the Audit Committee has determined that the auditor independence has not been compromised as a result of providing these services and receiving the fees for such services as noted above.

**(2) INVESTTOOLS INC. 2004 RESTRICTED STOCK PLAN**

**The Board of Directors unanimously recommends a vote *FOR* approval of the INVESTools Inc. 2004 Restricted Stock Plan.**

In April 2004, the Board of Directors of the Company approved the INVESTools Inc. 2004 Restricted Stock Plan (the "Plan"), subject to approval by the Company's stockholders. The Company is providing the following description of the Plan to you in connection with the solicitation of proxies for approval of the Plan. The following discussion summarizes the material terms of the Plan. This discussion does not purport to be complete and is qualified in its entirety by reference to the Plan, a copy of which is attached to this Proxy Statement as Appendix B.

**Purpose**

The purpose of the Plan is to (i) attract and retain employees of the Company and its subsidiaries, qualified individuals to serve as non-employee members of the Board, and consultants to provide services to the Company; (b) motivate participating employees, directors and consultants, by means of appropriate incentives, to achieve long-range goals; (c) provide incentive compensation opportunities that are competitive with those of other similarly situated companies; and (d) further identify Plan participants' interests with those of the Company's other stockholders through compensation alternatives based on the Company's stock; and thereby promote the long-term financial interest of the Company and its subsidiaries, including the growth in value of the Company's equity and enhancement of long-term stockholder return.

**Administration**

The Plan will be administered by the Compensation Committee (the "Committee") of the Board of Directors, which is comprised of at least two or more directors of the Company appointed by the Board. The Committee will have the authority to (i) select the employees, non-employee directors and consultants ("Participants") who are to receive restricted stock awards ("Awards") entitling the Participant to receive issuances of the Company's common stock, the vesting of which may be subject to a required period of employment or services as a director or consultant, or any other conditions established by the Committee, (ii) establish the terms and conditions, number of shares of Company common stock subject to such award, performance criteria, restrictions, and other provisions of such awards, and (iii) to amend, modify or suspend awards. The Committee may establish, amend, or rescind any rules and regulations relating to the Plan. The Committee's determinations under the Plan will be binding and conclusive on all persons.

**Effective Date and Awards Under Plan**

The Plan will be effective immediately upon approval by the Company's stockholders. As of the date of this Proxy Statement, no Awards have been made, and no benefits have been received by or allocated to any director, executive officer or other participant under the Plan. Because the level of Awards granted to any participant, including directors and executive officers, is determined in the discretion of the Committee, the amount to be received by or allocated to any such person under the Plan is not determinable at this time.

**Eligibility**

All employees, non-employee directors and consultants designated by the Committee are eligible to receive Awards.

### **Shares Subject to the Plan**

There are 500,000 shares of Company common stock available for issuance under the Plan. The shares of Company common stock awarded under the Plan may be either previously authorized but unissued shares or issued shares which have been reacquired by the Company after their original issuance (including but not limited to shares purchased on the open market). Shares of Company common stock awarded under the Plan and later reacquired by the Company pursuant to the Plan will again become available for Awards under the Plan.

### **Terms and Conditions of Awards**

Unless otherwise provided for in the Plan, Awards granted under the Plan may not be sold, assigned, transferred, pledged or otherwise encumbered for a period of four years or such shorter period as the Committee may determine (the "*Restricted Period*"). At its discretion, the Committee may, at any time after the date of an Award, adjust the length of the Restricted Period to account for individual circumstances of a Participant or group of Participants.

Unless otherwise determined by the Committee, a Participant whose employment or service with the Company or a subsidiary terminates prior to the end of the Restricted Period for any reason other than (i) death, (ii) disability, (iii) retirement or (iv) a Change of Control (as defined) of the Company, shall forfeit all Awards previously granted to him, which are still subject to the Restricted Period. If a Participant ceases to be employed by, or to provide services to, the Company or a subsidiary prior to the end of the Restricted Period due to his retirement or a Change of Control of the Company, the Committee may waive the Restricted Period so that any restriction lapses with respect to any Awards the Participant has received. Unless otherwise determined by the Committee, if a Participant ceases to be employed by, or to provide services to, the Company or a subsidiary prior to the end of the Restricted Period due to his death or disability, the Restricted Period will lapse with respect to all Awards received by the Participant.

### **Certain Adjustments**

In the event of any change in the outstanding shares of Company common stock by reason of any stock dividend, split, spinoff, recapitalization, merger, consolidation, combination, extraordinary dividend, exchange of shares or other similar change, the number of shares of Company common stock available under the Plan shall be appropriately adjusted by the Committee.

### **Amendment and Termination**

The Committee may at any time and in any way amend, suspend or terminate the Plan. Any amendment of the Plan (i) to increase the number of shares of Common Stock available under the Plan, (ii) materially modify the requirements as to eligibility for participation under the Plan, or (iii) to the extent required by applicable laws, regulations or rules will be subject to the approval of the Company's stockholders. The Plan will terminate on June 2, 2014.

## **MATTERS TO BE PRESENTED**

As of the date of this Proxy Statement, the only matters which management intends to present, or is informed that others will present, for action at the 2004 Annual Meeting, are the election of the Board of Directors and approval of the 2004 Restricted Stock Plan. If any other matters are presented at the Annual Meeting, the accompanying proxy will be voted in accordance with the best judgment of the proxy holders.

**ANNUAL REPORT ON FORM 10-K**

The Company will send, without charge, a copy of its Annual Report on Form 10-K for the fiscal year ended December 31, 2003, including the financial statements and the financial statement schedules, as filed with the SEC, to any person whose proxy is being solicited, upon written request to INVESTools Inc., Attention: Investor Relations, 5959 Corporate Drive, Suite LL250, Houston, Texas 77036.

**STOCKHOLDER PROPOSALS**

If a stockholder wishes to present a proposal for consideration for inclusion in the proxy materials for the 2005 Annual Meeting of Stockholders, the proposal must be sent by certified mail, return receipt requested, and must be received at the executive offices of the Company at 5959 Corporate Drive, Suite LL250, Houston, Texas 77036, Attention: Paul A. Helbling, no later than January 7, 2005. All proposals must conform to the rules and regulations of the Securities and Exchange Commission. Under Securities and Exchange Commission rules, if a stockholder notifies the Company of his or her intent to present a proposal for consideration at the 2005 Annual Meeting of Stockholders after March 22, 2005, the Company, acting through the persons named as proxies in the proxy materials for such meeting, may exercise discretionary authority with respect to such proposal without including information regarding such proposal in our proxy materials.

**EXPENSES OF SOLICITATION**

The Company will bear the expenses of preparing and mailing this proxy material, as well as the cost of any required solicitation. In addition to this solicitation of proxies, the officers, directors and regular employees of the Company, without receiving any additional compensation therefore, may solicit proxies by mail, telephone, or personal contact. The Company will also request stockholders, banks and other fiduciaries to forward proxy material to their principals or customers who are the beneficial owners of shares and will reimburse them for reasonable out-of-pocket expenses incurred.

BY ORDER OF THE BOARD OF DIRECTORS

Lee K. Barba  
Chairman of the Board

April 29, 2004  
New York, New York

**PLEASE SIGN, DATE AND MAIL YOUR PROXY NOW OR  
SUBMIT YOUR PROXY BY TELEPHONE OR THE INTERNET**

**INVESTTOOLS APPRCIATES YOUR PROMPT RESPONSE**

**AMENDED AND RESTATED  
AUDIT COMMITTEE CHARTER  
INVESTTOOLS INC.  
COMMITTEE ROLE**

The purpose of the Audit Committee (the "Committee") is to assist the Board of Directors (the "Board") in monitoring (1) the integrity of the financial statements of the Company, (2) the independent auditor's qualifications and independence, (3) the performance of the Company's internal audit function and independent auditor, and (4) the compliance by the Company with legal and regulatory requirements.

The Committee is also charged with responsibility to oversee all material aspects of the Company's reporting, control and audit functions, except those specifically related to the responsibilities of another standing committee of the Board. The Committee's role includes a particular focus on the qualitative aspects of financial reporting to shareholders and on Company processes for the management of business/financial risk and for compliance with significant applicable legal, ethical, and regulatory requirements.

The role also includes coordination with other Board committees and maintenance of strong, positive working relationships with management, independent and internal auditors, counsel and other Committee advisors.

**COMMITTEE MEMBERSHIP**

The Committee shall consist of at least three members. All Committee members shall meet the independence and experience requirements of Section 10A(m)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations of the Securities and Exchange Commission (the "Commission") and any exchange on which the Company's common stock may then be listed. At least one member, preferably the chairperson, shall be a financial expert as defined by the Commission. Committee appointments shall be approved annually by the full Board upon recommendation of the majority of the independent members of the Board. The Committee chairperson shall be selected by the Committee members or by a majority of the independent members of the Board.

**COMMITTEE MEETINGS**

The Committee shall meet as often as it determines, but not less frequently than four times annually. The Committee shall meet periodically with management and the independent auditor in separate sessions. The Committee may request any officer or employee of the Company, or the Company's outside counsel or independent auditor, to attend a meeting of the Committee or to meet with any member of, or consultants to, the Committee.

**COMMITTEE OPERATING PRINCIPALS**

The Committee shall fulfill its responsibilities within the context of the following overriding principles:

*Communications:* The chairperson and others on the Committee shall, to the extent the Committee deems appropriate, have contact throughout the year with management, other committee chairpersons and independent legal, accounting or other advisors to strengthen the Committee's knowledge of relevant current and prospective business issues.

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*Committee Education/Orientation:* The Committee, along with management, shall develop and participate in a process for review of important financial and operating topics that present potential significant risk to the Company. Additionally, individual Committee members are encouraged to participate in relevant and appropriate self-study education to assure understanding of the business and environment in which the Company operates.

*Annual Plan:* The Committee, with input from management and other independent advisors, shall develop an annual plan responsive to the "Primary Committee Responsibilities" detailed herein. The annual plan shall be reviewed and approved by the full board.

*Meeting Agenda:* Committee meeting agendas shall be the responsibility of the Committee chairperson, with input from Committee members. It is expected that the chairperson would also ask for management, independent advisors and perhaps others, to participate in this process.

*Committee Expectations and Information Needs:* The Committee shall communicate its expectations and the nature, timing, and extent of the Committee's information needs to management and external parties, including the independent auditor. Written materials, including key performance indicators and measures related to key business and financial risks, shall be received from management, the independent auditor and others at least one week in advance of meeting dates. Meeting conduct will assume board members have reviewed written materials in sufficient depth to participate in dialogue between the Committee and the Board.

*External Resources:* The Committee shall have the authority to retain independent legal, accounting or other consultants to advise the Committee. The Company shall provide appropriate funding, as determined by the Committee, for compensating the independent auditor and any advisors employed by the Committee. The Committee may request any officer or employee of the Company, or the Company's outside counsel or independent auditor, to attend a meeting of the Committee or to meet with any members of, or consultants to, the Committee. The Committee may also meet with the Company's investment bankers or financial analysts who follow the Company.

*Committee Meeting Attendees:* The Committee shall request members of management, outside counsel and the independent auditor, as applicable, to participate in Committee meetings, as necessary, to carry out the Committee responsibilities. As the Committee deems necessary, but not less than annually, Committee shall meet in private session with only the Committee members. It shall be understood that the independent auditor or outside counsel may, at any time, request a meeting with the Committee or Committee chairperson with or without management attendance. In any case, the Committee shall meet in executive sessions separately with the independent auditor, at least annually.

*Whistleblower Procedures:* The Committee shall establish procedures to address "whistleblower" communications. These procedures shall include the method of receipt, retention and treatment of complaints received by the Company regarding questionable accounting, internal accounting controls, or auditing matters. The procedures shall also allow for the confidential, anonymous submission by Company employees of concerns regarding questionable accounting or auditing matters.

*Reporting to the Board of Directors:* The Committee, through the Committee chairperson, shall report periodically, as deemed necessary, but at least semi-annually, to the Board. In addition, summarized minutes from Committee meetings, separately identifying monitoring activities from approvals, shall be available to each Board member at least one week prior to the subsequent Board meeting.

*Committee Self Assessment:* The Committee shall annually review, discuss and assess its own performance as well as the Committee role and responsibilities and its charter, seeking input from management, the Board and others. Changes in role and/or responsibilities, if any, shall be recommended to the Board for approval.

*Independent Board Members:* The Board shall be composed of executive and non-executive members. Independent members are members who meet the independence requirements of Section 10A(m)(3) of the Exchange Act.

### **REPORTING TO SHAREHOLDERS**

The Committee shall make available to shareholders a summary report on the scope of its activities. This report may be identical to the report that appears in the Company's annual report.

### **COMMITTEE'S RELATIONSHIP WITH INDEPENDENT AUDITOR**

The Committee shall have sole authority to appoint or replace the independent auditor (subject to stockholder ratification, if applicable), and shall be directly responsible for the compensation, retention and oversight of the work by the independent auditor (including resolution of disagreements between management and the independent auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The independent auditor shall report directly to the Committee, and the Committee shall approve all audit engagement fees and terms and all significant non-audit engagement with the independent auditor.

The Committee shall pre-approve all audit services and permitted non-audit services (including the fees and terms thereof) to be performed by the Company's independent auditor, subject to the *de minimis* exceptions contained in Section 10(A)(1)(B) of the Exchange Act for non-audit services which are approved by the Committee prior to the completion of the audit. The Committee shall consult with management but shall not delegate these responsibilities.

The independent auditor shall be responsible to the Board and the Committee as representatives of the stockholders.

As the independent auditor reviews financial reports, it will be reporting to the Committee. It shall report all relevant issues to the Committee responsive to agreed-on Committee expectations. In executing its oversight role, the board or Committee should review the audit plan and work of independent auditor.

The Committee shall annually review the performance (effectiveness, objectivity, and independence) of the independent auditor. The Committee shall ensure receipt of a formal written statement from the independent auditor consistent with standards set by the Independence Standards Board. Additionally, the Committee shall discuss with the auditor relationships or services that may affect auditor objectivity or independence. If the Committee is not satisfied with the independent auditor's assurances of independence, it shall take or recommend to the full Board appropriate action to ensure the independence of the independent auditor.

If the independent auditor identifies significant issues relative to the overall Board responsibility that have been communicated to management but, in their judgment, have not been adequately addressed, they should communicate these issues to the Committee chairperson.

The Committee shall discuss with the independent auditor certain matters required to be discussed by "Statement on Auditing Standards No. 61," relating to the conduct of the audit.

### **PRIMARY COMMITTEE RESPONSIBILITIES**

The Committee shall review and assess:

*CEO/CFO Certification:* The involvement by the Chief Executive Officer and Chief Financial Officer in the accounting and reporting for the Company enabling them to make the certifications required by the Sarbanes-Oxley Act of 2002.

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*Risk Management:* The Company's business risk management process, including the adequacy of the Company's overall control environment and controls in selected areas representing significant financial and business risk.

*Annual Reports and Other Major Regulatory Filings:* All audited financial statements in advance of filing or distribution. The Committee's review should include discussion with management and the independent auditor of significant issues regarding accounting principles, practices and judgments.

*Internal Controls and Regulatory Compliance:* The Company's system of internal controls for detecting accounting and reporting financial errors, fraud and defalcations, legal violations and noncompliance with the corporate code of conduct. The Committee shall also establish procedures for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters, and the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters.

*Regulatory Examinations:* Commission inquiries and the results of examinations by other regulatory authorities in terms of important findings, recommendations and management's response.

*External Audit Responsibilities:* Auditor independence and the overall scope and focus of the annual/interim audit, including the scope and level of involvement with unaudited quarterly or other interim-period information.

*Financial Reporting and Controls:* Key financial statement issues and risks, their impact or potential effect on reported financial information, the processes used by management to address such matters, related auditor views, and the basis for audit conclusions. Important conclusions on interim and/or year-end audit work in advance of the public release of financials.

*Auditor Recommendations:* Important independent auditor recommendations on financial reporting, controls, other matters, and management's response. The views of management and independent auditor on the overall quality of annual and interim financial reporting.

The Committee should review, assess, and approve:

The Company's code of ethical conduct.

Changes in important accounting principles and the application thereof in both interim and annual financial reports.

Significant conflicts of interest and related-party transactions.

Independent auditor performance and changes in independent audit firm (subject to ratification by the Board). The Committee shall ensure the rotation of the lead (or coordinating) audit partner having primary responsibility for the audit and the audit partner responsible for reviewing the audit as required by law. Consider whether, in order to assure continuing auditor independence, it is appropriate to adopt a policy of rotating the independent auditing firm on a regular basis.

## INVESTTOOLS INC.

## 2004 RESTRICTED STOCK PLAN

1. *Purpose.* This Restricted Stock Plan (the "*Plan*") has been established by the Company to: (a) attract and retain employees of the Company and its Subsidiaries, qualified individuals to serve as non-employee members of the Board, and consultants to provide services to the Company; (b) motivate participating employees, directors and consultants, by means of appropriate incentives, to achieve long-range goals; (c) provide incentive compensation opportunities that are competitive with those of other similarly situated companies; and (d) further identify Participants' interests with those of the Company's other stockholders through compensation alternatives based on the Company's stock; and thereby promote the long-term financial interest of the Company and its Subsidiaries, including the growth in value of the Company's equity and enhancement of long-term stockholder return.

2. *Definitions.*

(a) "Board" means the board of directors of the Company.

(b) "Cause" means "cause" as defined in any employment agreement then in effect between the Participant and the Company or any Subsidiary or if not defined therein, or if there shall be no such agreement, (i) the Participant's embezzlement, misappropriation of corporate funds, or other material acts of dishonesty, (ii) the Participant's commission or conviction of any felony, or of any misdemeanor involving moral turpitude, or entry of a plea of guilty or nolo contendere to any felony or misdemeanor, (iii) engagement in any activity that the Participant knows or should know could harm the business or reputation of the Company or a Subsidiary, (iv) the Participant's material failure to adhere to the Company's or a Subsidiary's corporate codes, policies or procedures as in effect from time to time, (v) the Participant's continued failure to meet performance standards as determined by the Company or a Subsidiary, (vi) the Participant's violation of any statutory, contractual, or common law duty or obligation to the Company or a Subsidiary, including, without limitation, the duty of loyalty, or (vii) the Participant's material breach of any confidentiality or non-competition covenant entered into between the Participant and the Company or a Subsidiary. The determination shall be conclusive for the purposes of this Plan.

(c) "Change of Control" means any of the following events:

(i) the acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act (a "Person"), of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 50% or more of either (A) the then outstanding shares of Common Stock of the Company or (B) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors; *provided, however*, that the following acquisitions shall not constitute a Change of Control: (I) any acquisition by the Company or (II) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company; or

(ii) Individuals who, as of the effective date hereof, constitute the Board (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the effective date of the Plan whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as

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a result of either an actual or threatened election contest or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company or the sale or other disposition of all or substantially all of the assets of the Company.

(d) "Code" means the Internal Revenue Code of 1986, as amended.

(e) "Committee" means the Compensation Committee of the Board which shall consist of two or more directors of the Company appointed by the Board.

(f) "Common Stock" means the common stock, par value \$0.01 per share, of the Company or such other class of shares or securities as to which the Plan may be applicable.

(g) "Company" means INVESTools Inc., a Delaware corporation.

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

(i) "Participant" means any employee of the Company or any Subsidiary, any non-employee member of the Company's Board, and any consultant providing services to the Company or any Subsidiary, who is selected by the Committee to participate in the Plan.

(j) "Restricted Period" has the meaning ascribed to it in Section 6(a).

(k) "Restricted Stock" awards are issuances of Common Stock to Participants, the vesting of which may be subject to a required period of employment or services as a director or consultant, or any other conditions established by the Committee.

(l) "Subsidiary" means any corporation of which 50% or more of the voting securities are owned directly or indirectly by the Company at any time during the existence of this Plan.

3. *Stock Subject to the Plan.* The total number of shares of Common Stock that may be awarded under the Plan is Five Hundred Thousand (500,000), subject to adjustment as provided in Section 7. The shares of Common Stock awarded under the Plan may be either previously authorized but unissued shares or issued shares which have been reacquired by the Company after their original issuance (including but not limited to shares purchased on the open market). Shares of Common Stock awarded under the Plan and later reacquired by the Company pursuant to the Plan shall again become available for awards under the Plan.

4. *Administration.* The authority to manage and control the operation and administration of the Plan shall be vested in the Committee. Subject to the provisions of the Plan, the Committee will have authority to select Participants to receive Restricted Stock awards, to determine the time or times of receipt, to determine the number of shares covered by the awards, to establish the terms, conditions, performance criteria, restrictions, and other provisions of such award, and to amend, modify or suspend awards. In making such award determination, the Committee may take into account the nature of services rendered by the Participant, his or her present and potential contribution to the Company's success and such other factors as the Committee deems relevant. The Committee is authorized to interpret the Plan, to establish, amend, and rescind any rules and regulations relating to the Plan, to determine the terms and provisions of any agreements made pursuant to the Plan, to modify such agreements, and to make all other determinations that may be necessary or advisable for the administration of the Plan.

The Committee shall function as follows: A majority of the Committee shall constitute a quorum, and the acts of a majority of the members present at any meeting at which a quorum is present, or acts approved in writing by all members of the Committee, shall be the acts of the Committee, unless provisions to the contrary are embodied in the Company's Bylaws or resolutions duly adopted by the

Board. All actions taken and decisions and determinations made by the Committee pursuant to the Plan shall be binding and conclusive on all persons interested in the Plan. No member of the Board or the Committee shall be liable for any action or determination taken or made in good faith with respect to the Plan.

5. *Eligibility.* The Committee shall designate the Participants who shall receive Restricted Stock awards and the number of shares of Common Stock that are subject to the award.

6. *Terms and Conditions of Awards.* All shares of Common Stock awarded to Participants under this Plan shall be subject to the following terms and conditions and to such other terms and conditions not inconsistent with the Plan as shall be prescribed by the Committee in its sole discretion and as shall be contained in the Agreement referred to in *Section 6(f)*.

(a) Restricted Stock awarded to Participants may not be sold, assigned, transferred, pledged or otherwise encumbered, except as hereinafter provided, for a period of 4 years or such shorter period as the Committee may determine, after the time of the award of such stock (the "*Restricted Period*"). Except for such restrictions, the Participant as owner of such shares shall have all the rights of a stockholder, including but not limited to the right to vote such shares and, except as otherwise provided by the Committee, the right to receive all dividends paid on such shares.

(b) The Committee may in its discretion, at any time after the date of the award of Restricted Stock, adjust the length of the Restricted Period to account for individual circumstances of a Participant or group of Participants.

(c) Except as otherwise determined by the Committee in its sole discretion, a Participant whose employment or service with the Company or a Subsidiary terminates prior to the end of the Restricted Period for Cause or for any other reason other than (i) death, (ii) disability, (iii) retirement with the Committee's discretionary waiver of the vesting requirements (as provided in *Section 6(d)* below), or (iv) a Change of Control with the Committee's discretionary waiver of the vesting requirements (as provided in *Section 6(d)* below), all shares of Restricted Stock theretofore awarded to him, which are still subject to the restrictions imposed by *Section 6(a)*, shall be forfeited and returned to the Company upon such termination without the necessity of payment therefor by the Company. "Disability" as used herein shall mean the total and permanent incapacity of a participant to perform the usual duties appertaining to the position. Whether or not a participant's termination was for disability shall be determined by the Committee in its sole and absolute discretion.

(d) Except as otherwise determined by the Committee in its sole discretion, a Participant whose employment or service with the Company or a Subsidiary terminates prior to the end of the Restricted Period by reason of his death or disability, the restrictions imposed by *Section 6(a)* shall lapse with respect to all shares theretofore awarded to him. If a Participant whose employment or service with the Company or a Subsidiary terminates prior to the end of the Restricted Period by reason of his retirement or a Change of Control, the Committee in its sole and absolute discretion shall have the right to waive the restrictions imposed by *Section 6(a)* so that such restrictions shall lapse with respect to all or a portion, as determined by the Committee, of the shares theretofore awarded to such Participant as of a date specified by the Committee, which date shall not occur later than the date on which restrictions imposed by *Section 6(a)* otherwise would have lapsed.

(e) Each certificate issued in respect of shares of Restricted Stock awarded under the Plan shall be registered in the name of the Participant and, at the discretion of the Committee, each such certificate may be deposited in a bank designated by the Committee. Each such certificate shall bear the following (or a similar) legend:

"THE TRANSFERABILITY OF THIS CERTIFICATE AND THE SHARES OF STOCK REPRESENTED  
HEREBY ARE SUBJECT TO

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THE TERMS AND CONDITIONS (INCLUDING FORFEITURE) CONTAINED IN THE INVESTTOOLS INC. 2004 RESTRICTED STOCK PLAN AND AN AGREEMENT ENTERED INTO BETWEEN THE REGISTERED OWNER AND INVESTTOOLS INC. A COPY OF SUCH PLAN AND AGREEMENT ARE ON FILE AT THE PRINCIPAL PLACE OF BUSINESS OF THE COMPANY."

(f) The Participant shall enter into an Agreement with the Company in a form specified by the Committee agreeing to the terms and conditions of the Restricted Stock award and such other matters, including compliance with applicable federal and state securities laws and methods of withholding required taxes, as the Committee shall, in its sole discretion, determine. Such Agreement shall incorporate by reference the terms and provisions of the Plan and in the event of any conflict between the provisions of the Agreement and the provisions of the Plan, the provisions of the Plan will prevail.

(g) At the expiration of the Restricted Period imposed pursuant to *Section 6(a)*, or upon the lapse of the restrictions as to any shares in accordance with *Section 6(c) or 6(d)*, the Company shall redeliver to the Participant, or his legal representative, the certificates representing the shares of Common Stock deposited with it pursuant to *Section 6(e)* with respect to which restrictions have lapsed or no longer apply. Such certificates, upon delivery to the participant, shall no longer bear the legend set forth in *Section 6(e)*.

(h) Notwithstanding the foregoing, if the Restricted Period as to the shares of Common Stock would otherwise lapse, such Restricted Period will not lapse unless and until the participant makes available to the Company the amount of federal or other withholding tax, if any, required to be withheld by the Company with respect to the lapse of the Restricted Period.

(i) Nothing in the Plan or in any agreement shall require the Company to issue or transfer any shares pursuant to Restricted Stock award if such issuance or transfer would, in the opinion of counsel for the Company, constitute or result in a violation of any applicable statute or regulation of any jurisdiction relating to the disposition of securities.

7. *Adjustments to Number of Shares Subject to the Plan.* In the event of any change in the outstanding shares of Common Stock of the Company by reason of stock dividend, split, spinoff, recapitalization, merger, consolidation, combination, extraordinary dividend, exchange of shares or other similar change, the number of shares of Common Stock as to which awards may be granted under the Plan shall be appropriately adjusted by the Committee whose determination shall be conclusive. Any shares of Common Stock or other securities or assets (other than ordinary cash dividends) received by a Participant with respect to shares awarded to him which are still subject to the restrictions imposed pursuant to *Section 6(a)* shall be subject to the restrictions imposed pursuant to *Section 6(a)* and shall be deposited by the Participant with the Company in the manner specified in *Section 6(e)*.

8. *Amendment and Termination of Plan.* Subject to the following provisions of this *Section 8*, the Committee may at any time and in any way amend, suspend or terminate the Plan. No amendment of the Plan and, except as provided in *Section 7*, no action by the Committee shall, without further approval of the stockholders of the Company, increase the total number of shares of Common Stock with respect to which awards may be made under the Plan, or materially modify the requirements as to eligibility for participation in the Plan, if stockholder approval of such amendment is a condition of Exchange Act Rule 16b-3 or its successor rule or statute, the Code or any exchange or market system on which the Common Stock is listed at the time such amendment is adopted. No amendment, suspension or termination of the Plan shall alter or impair any share of Common Stock previously awarded under the Plan without the consent of the holder thereof.

9. *Effective Date.* Subject to the approval of the holders of a majority of the Common Stock of the Company, the Plan shall be effective as of June 2, 2004. The Plan shall terminate on June 2, 2014.

10. *Transferability.* During the Restricted Period, Restricted Stock awarded under the Plan is not transferable except as designated by the Participant by will or by the laws of descent and distribution.

11. *Employee, Director, Consultant and Stockholder Status.* The Plan does not constitute a contract of employment or for services, and selection as a Participant will not give any employee, non-employee director or consultant the right to be retained in the employ, nor to continue to provide services as a director or consultant of the Company or any Subsidiary. No award under the Plan shall confer upon the holder thereof any right as a stockholder of the Company prior to the date on which he fulfills all service requirements and other conditions for receipt of shares of Common Stock. If the redistribution of shares is restricted pursuant to *Section 6(a)*, certificates representing such shares may bear a legend referring to such restrictions.

12. *Compliance With Applicable Laws and Withholding of Taxes.* Notwithstanding any other provision of the Plan, the Company shall have no liability to issue any shares of Common Stock under the Plan unless such issuance would comply with all applicable laws and the applicable requirements of any securities exchange or similar entity. Prior to the issuance of any shares of Common Stock under the Plan, the Company may require a written statement that the recipient is acquiring the shares for investment and not for the purpose or with the intention of distributing the shares. All awards under the Plan are subject to withholding of all applicable taxes, which withholding obligations may be satisfied, with the consent of the Committee, through the surrender of shares of Common Stock which the Participant already owns, or to which a Participant is otherwise entitled under the Plan. The Company shall have the right to deduct from all amounts paid in cash in connection with a Restricted Stock award under the Plan any taxes required by law to be withheld with respect to such cash payments. Upon termination of the Restricted Period with respect to a Restricted Stock award (or such earlier time, if any, as an election is made by the employee under Code Section 83(b), or any successor provisions thereto, to include the value of such shares in taxable income), the Company shall have the right to require the employee or other person receiving shares of Common Stock in respect of such Restricted Stock award to pay to the Company the amount of taxes that the Company is required to withhold with respect to such shares of Common Stock or, in lieu thereof, to retain or sell without notice a sufficient number of shares of Common Stock held by it to cover the amount required to be withheld. The Company shall have the right to deduct from all dividends paid with respect to Common Stock the amount of taxes that the Company is required to withhold with respect to such dividend payments.

# INVESTTOOLS INC.

## Vote by Internet, Telephone or Mail

Your Internet or telephone vote authorizes the named proxies to vote your shares in the same manner as if you marked, signed and returned your proxy card.

**INTERNET**

<http://www.proxyvoting.com/inv>

**TELEPHONE**

1-888-426-7035

**MAIL**

OR

OR

Use the Internet to vote your proxy. Have your proxy card in hand when you access the Web site. You will be prompted to enter your control number, which is shown above your name, to create and submit an electronic ballot.

Use any touch-tone telephone to vote your proxy. Have your proxy card in hand when you call. You will be prompted to enter your control number, which is shown above your name, and then follow the directions given.

1. Mark, sign and date your proxy card.
2. Detach your proxy card.
3. Return your proxy card in the postage paid envelope provided.

**Note: If you vote your proxy by Internet or telephone, DO NOT mail your proxy card.**

**FOLD AND DETACH HERE IF YOU ARE RETURNING YOUR VOTED PROXY CARD BY MAIL**

## Please Detach Here

You Must Detach This Portion of the Proxy Card Before Returning it in the Enclosed Envelope

### INVESTTOOLS INC.

- Item 1.** Election of Directors. To elect the following person to the Board of Directors to serve a three year term expiring at the 2007 Annual Meeting of Stockholders or until his successor shall have been elected and qualified:
- |                           |                                       |  |
|---------------------------|---------------------------------------|--|
| (01) Michael H. Goldsmith | <input type="radio"/> FOR the nominee | <input type="radio"/> WITHHOLD AUTHORITY for the nominee |
|---------------------------|---------------------------------------|--|
- Item 2.** Approval of INVESTTools Inc. 2004 Restricted Stock Plan
- |  |                           |                               |                               |
|--|---------------------------|-------------------------------|-------------------------------|
|  | <input type="radio"/> FOR | <input type="radio"/> AGAINST | <input type="radio"/> ABSTAIN |
|--|---------------------------|-------------------------------|-------------------------------|
- Item 3.** In their discretion the proxies are authorized to vote upon such other business as may properly come before the meeting.

This Proxy, when properly executed, will be voted in the manner directed herein by the Stockholder. IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED FOR THE NOMINEE LISTED IN ITEM 1, FOR APPROVAL OF THE INVESTTOOLS INC. 2004 RESTRICTED STOCK PLAN and IN THE DISCRETION OF THE PROXIES, FOR SUCH OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE MEETING. If more than one of the proxies designated hereby shall be present in person at the Annual Meeting, or at any adjournment thereof, either of said proxies present and voting, either in person or by substitution shall exercise all the powers herein given.

Date: 2003

\_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

Signature (if held jointly)

\_\_\_\_\_

Number of Shares

I (We) will  will not  attend the Annual Meeting in person.

## INVESTTOOLS INC.

**Your vote is important. Thank you for voting.**

FOLD AND DETACH HERE IF YOU ARE RETURNING YOUR VOTED PROXY CARD BY MAIL

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**REVOCABLE PROXY INVESTTOOLS INC.  
ANNUAL MEETING OF STOCKHOLDERS  
JUNE 2, 2004**

**THIS PROXY IS SOLICITED BY THE BOARD OF DIRECTORS**

The undersigned stockholder(s) of INVESTTools Inc. (the "Company") hereby appoints, constitutes and nominates Lee K. Barba and Paul A. Helbling, and each of them, the attorney, agent and proxy of the undersigned, with full power of substitution, to vote all shares of the Company, which the undersigned is entitled to vote at the Annual Meeting of Stockholders to be held at the Hilton New York, 1335 Avenue of the Americas, New York, New York 10019 on Wednesday, June 2, 2004 at 9:00 a.m. local time, and any and all adjournments thereof, as fully and with the same force and effect as the undersigned might or could do if personally present thereat, as follows:

The Board of Directors unanimously recommends a vote FOR each of the foregoing proposals. If any other business is properly presented at the Annual Meeting, this proxy shall be voted in accordance with the judgment of the proxy holders. **This Proxy is solicited on behalf of the Board of Directors and may be revoked prior to its use.**

**NOTE: Please sign your full name. Joint owners should each sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such. This Proxy may be revoked at any time before it is voted at the meeting.**

(Continued, and to be marked, dated and signed on the reverse.)

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QuickLinks

(1) ELECTION OF DIRECTORS FOR THE ENSUING YEAR

SUMMARY COMPENSATION TABLE

OPTION GRANTS IN LAST FISCAL YEAR

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR AND FISCAL YEAR END OPTION VALUES

COMPARISON OF FIVE YEAR CUMULATIVE TOTAL RETURN

(2) INVESTTOOLS INC. 2004 RESTRICTED STOCK PLAN

MATTERS TO BE PRESENTED

ANNUAL REPORT ON FORM 10-K

STOCKHOLDER PROPOSALS

EXPENSES OF SOLICITATION

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COMMITTEE MEMBERSHIP

COMMITTEE MEETINGS

COMMITTEE OPERATING PRINCIPALS

REPORTING TO SHAREHOLDERS

COMMITTEE'S RELATIONSHIP WITH INDEPENDENT AUDITOR

PRIMARY COMMITTEE RESPONSIBILITIES

APPENDIX B

INVESTTOOLS INC.