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SPACEDEV INC  
Form 424B3  
January 10, 2006

Filed Pursuant to Rule 424(b)(3)  
Registration File No. 333-130244

[ SpaceDev Logo ]

[ Starsys Research Logo ]

Dear Shareholders of SpaceDev, Inc. and Starsys Research Corporation:

We are pleased to report that the boards of directors of SpaceDev, Inc. ("SpaceDev") and Starsys Research Corporation ("Starsys") have each approved the Agreement and Plan of Merger and Reorganization, as amended, (referred to in this joint proxy statement/prospectus as the merger agreement) providing for a reorganization involving our two companies. Pursuant to the merger, SpaceDev will acquire Starsys. Before we can complete the reorganization, we are seeking the approval of each of our company's shareholders to the merger and some related matters. We are sending you this joint proxy statement/prospectus to ask you to vote in favor of the merger agreement and these other matters.

Starsys shareholders will be entitled to receive the following consideration at the effective time of the merger, subject to reduction as provided in the merger agreement: (1) cash in the aggregate amount of up to \$1,500,000; and (2) an aggregate number of shares of SpaceDev common stock equal to the quotient of (A) up to \$7,500,000 divided by (B) the volume weighted average price of SpaceDev common stock for the 20 trading days preceding the merger, but not less than \$1.40 or more than \$1.90. The cash and shares to be paid at the closing of the merger are subject to reduction for transaction expenses and a working capital adjustment. Starsys management anticipates that, after these reductions, only approx. \$547,000 in cash and \$6,152,000 in shares of SpaceDev common stock, calculated as described above, will be paid to Starsys shareholders at the closing of the merger. Approximately one half of the shares issued pursuant to the merger at the closing or for the first performance period will be placed in escrow to satisfy indemnification obligations of Starsys shareholders under the merger agreement and to pay certain expenses of the shareholder agent. Following the merger, Starsys shareholders may also be entitled to receive, based on the achievement by the Starsys business of certain performance criteria after the closing, additional performance consideration consisting of up to an aggregate of \$1,050,000 in cash and shares of SpaceDev common stock valued at up to \$18,000,000, subject to reduction for some merger related expenses and to the aforesaid escrow arrangements. For more information, see "The Merger - Merger Consideration" beginning on page 57.

SpaceDev has scheduled a special meeting of shareholders at which SpaceDev will be submitting the merger-related proposals as well as several additional proposals for the consideration and approval of its shareholders. Starsys has also scheduled a special meeting for its shareholders to vote on the merger and a related proposal. The dates and times of these meetings are set forth in this joint proxy statement/prospectus.

YOUR VOTE IS VERY IMPORTANT. Whether or not you plan to attend your meeting, please take the time to vote by completing, signing, dating and returning the enclosed proxy card to SpaceDev or Starsys, as applicable. WE ENCOURAGE YOU TO READ THIS ENTIRE JOINT PROXY STATEMENT/PROSPECTUS CAREFULLY AND WE ESPECIALLY ENCOURAGE YOU TO READ THE SECTION ENTITLED "RISK FACTORS" BEGINNING ON PAGE 15. This document provides you with detailed information about the merger and the other proposals of SpaceDev and the merger and related proposal of Starsys. As described in the next few pages, you can also find more

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information about SpaceDev from publicly available documents on file with the Securities and Exchange Commission. SpaceDev's common stock trades on the OTC Bulletin Board under the symbol "SPDV.OB," and the last reported sale price of shares of SpaceDev's common stock on December 16, 2005 was \$1.48.

We enthusiastically support this reorganization, and we join with the members of our boards of directors in recommending that you vote FOR the merger agreement, the merger and the other proposals.

JAMES W. BENSON  
Chairman and Chief Executive Officer  
SpaceDev, Inc.

SCOTT TIBBITTS  
Chairman and Chief Executive Officer  
Starsys Research Corporation

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THE SPACEDEV COMMON STOCK ISSUED PURSUANT TO THE MERGER OR PASSED UPON THE ADEQUACY OR ACCURACY OF THIS JOINT PROXY STATEMENT/PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

This joint proxy statement/prospectus is dated December 29, 2005 and is first being mailed to shareholders on or about December 30, 2005.

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IF YOU ARE A STARSYS SHAREHOLDER, PLEASE COMPLETE, SIGN AND RETURN THE FOLLOWING  
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DOCUMENTS TO THE EXCHANGE AGENT, CONTINENTAL STOCK TRANSFER & TRUST CO., ATTN:  
-----  
REORGANIZATION DEPARTMENT, 17 BATTERY PLACE, NEW YORK, NY 10004:  
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- The proxy card;
- The letter of transmittal and Form W-9; and
- Your original Starsys stock certificate(s) endorsed for transfer (or affidavit in lieu of a lost, mutilated or destroyed certificate).

Please use the enclosed envelope to send your original signed documents to the exchange agent, and also please fax a copy of such documents to the attention of Hillary Hebert of Holland & Hart, LLP at (303) 295-8261. The exchange agent must receive your original signed documents by close of business on January 26, 2005. If you do not send your original signed documents to the exchange agent by the due date, you may bring them to the Starsys shareholder meeting. Payment for your shares will only be made upon receipt of a completed and signed letter of transmittal and your original stock certificates (or affidavit in lieu of a lost, mutilated or destroyed certificate). If the merger is not consummated, your original stock certificate will be returned to you.

### ADDITIONAL INFORMATION

This joint proxy statement/prospectus:

- Incorporates important business and financial information about SpaceDev from documents filed with the Securities and Exchange Commission that is not included in or delivered with this document but is available online at <http://www.sec.gov>, as well as from other sources; and
- Does not include some information included in the registration statement on Form S-4 filed with the Securities and Exchange Commission by SpaceDev, of

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which this joint proxy statement/prospectus is a part, or information included in the exhibits to the registration statement.

The information described above is available to you without charge upon your written or oral request. You can obtain any of the information described above by requesting it in writing or by telephone from SpaceDev at the following address and telephone number:

SpaceDev, Inc.  
13855 Stowe Drive  
Poway, CA 92064  
Attention: Investor Relations  
(858) 375-2026

IN ORDER FOR YOU TO RECEIVE TIMELY DELIVERY OF THE DOCUMENTS IN ADVANCE OF THE MEETINGS, SPACEDEV SHOULD RECEIVE YOUR REQUEST NO LATER THAN JANUARY 23, 2006, WHICH IS FIVE BUSINESS DAYS BEFORE THE DATE OF SPACEDEV'S SPECIAL MEETING.

Please also see "Where You Can Find More Information" beginning on page 157.

If you have any questions about the merger, the non merger-related proposals of SpaceDev or the meetings of SpaceDev and Starsys, including the procedures for voting your shares, or if you need additional copies of this joint proxy statement/prospectus or the enclosed proxy, please contact:

### FOR SPACEDEV SHAREHOLDERS:

SpaceDev, Inc.  
13855 Stowe Drive  
Poway, CA 92064  
Attention: Investor Relations  
(858) 375-2026

### FOR STARSYS SHAREHOLDERS:

Starsys Research Corporation  
4909 Nautilus Court North  
Boulder, Colorado 80301  
Attention: Chief Executive Officer  
(303) 583-1400

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The "SpaceDev" family of related marks, images and symbols are the properties, trademarks and service marks of SpaceDev. The "Starsys" family of related marks, images and symbols are the properties, trademarks and service marks of Starsys. Additional company and product names may be trademarks of their respective owners.

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## SUMMARY

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### QUESTIONS AND ANSWERS

#### ABOUT THIS PROXY SOLICITATION, THE SPACEDEV SPECIAL MEETING, THE STARSYS SPECIAL MEETING, THE COMPANIES AND THE MERGER

The following questions and answers are intended to address briefly some commonly asked questions regarding this proxy solicitation, the SpaceDev special meeting, the Starsys special meeting, the companies and the merger. These questions and answers may not address all of the information that may be important to you. Please refer to the more detailed information contained elsewhere in this joint proxy statement/prospectus and in the documents referred to or incorporated by reference in this joint proxy statement/prospectus.

Q: WHY AM I RECEIVING THIS JOINT PROXY STATEMENT/PROSPECTUS?

A: You are receiving this joint proxy statement/prospectus because you have been identified as a shareholder of either SpaceDev or Starsys, and thus you may be entitled to vote at the upcoming special meeting of shareholders of either SpaceDev or Starsys, as applicable. This document serves as both a joint proxy statement of SpaceDev and Starsys, used to solicit proxies for the meetings, and as a prospectus of SpaceDev, used to offer shares of SpaceDev common stock to the Starsys shareholders pursuant to the terms of the merger agreement. This document contains important information about the merger, the shareholder proposals of SpaceDev and Starsys and the meetings of SpaceDev and Starsys, and you should read it carefully.

Q: HOW MANY VOTES DO SPACEDEV SHAREHOLDERS HAVE?

A: Each holder of record of SpaceDev common stock on December 9, 2005 will be entitled to one vote for each share of common stock held of record on that date.

Q: HOW MANY VOTES DO STARSYS SHAREHOLDERS HAVE?

A: Each holder of record of Starsys common stock as of December 1, 2005 and participants in the separate plan holding Starsys common stock under the Starsys 401(k) and Stock Bonus Plan dated August 4, 1997, will be entitled to one vote for each share of common stock held on that date.

Q: WHAT DO I NEED TO DO NOW?

A: We urge you to read this joint proxy statement/prospectus carefully and then vote your proxy for the relevant proposals. If you are a SpaceDev shareholder, you may vote in person at the SpaceDev special meeting or vote by proxy using the enclosed SpaceDev proxy card.

- To vote in person, attend the special meeting, and you will be given a ballot when you arrive.
- To vote by proxy, simply complete, sign and date the applicable enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card before the meeting, your shares will be voted as you direct.
- If your shares are held in "street name" by your broker, you should follow the instructions provided by your broker regarding how to instruct your broker to vote your shares.

If you are a Starsys shareholder, you may vote in person at the Starsys special meeting or vote by proxy using the enclosed Starsys proxy card.

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- To vote in person, attend the special meeting, and you will be given a ballot when you arrive.
- To vote by proxy, simply complete, sign and date the applicable enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card before the meeting, your shares will be voted as you direct.

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Please also see the instructions included with the applicable enclosed proxy card. Regardless of whether you return your proxy, you may attend the applicable meeting and vote your shares in person. Please note, however, that if your SpaceDev shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must obtain from the record holder a proxy issued in your name or you must bring an account statement or other acceptable evidence of ownership of SpaceDev common stock as of the close of business on December 9, 2005, the record date for voting.

Q: WHAT HAPPENS IF I DO NOT VOTE?

A: The failure of a SpaceDev shareholder to vote in person or by proxy may have the effect of voting AGAINST SpaceDev Proposal No. 1 and will have the effect of voting AGAINST Proposal No. 3. The failure of a SpaceDev shareholder to vote in person or by proxy will not directly affect the outcome of any of the other SpaceDev proposals but will reduce the number of votes required to approve these proposals and could also contribute to a failure to meet a quorum for the meeting.

The failure of a Starsys shareholder to vote in person or by proxy will have the effect of voting AGAINST Starsys Proposal No. 1 and Proposal No. 2. In addition, the merger agreement contains a closing condition requiring the affirmative vote of 98% of the shares of outstanding Starsys common stock for Proposal No. 1, which condition SpaceDev may waive.

Q: WHAT VOTES ARE REQUIRED TO APPROVE THE SPACEDEV PROPOSALS?

A: PROPOSAL NO. 1 - If the shares of SpaceDev common stock are not listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, adoption and approval of the merger agreement and approval of the merger and the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger will require the affirmative vote of a majority of the outstanding shares of SpaceDev common stock. In addition, the merger agreement contains a closing condition in favor of SpaceDev and Starsys that not more than 1.5% of outstanding SpaceDev shares will have exercised, or retained the right to exercise, dissenters' rights, which condition SpaceDev and Starsys may waive. If the shares of SpaceDev common stock are listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, adoption and approval of the merger agreement and approval of the merger and the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger will not be required under applicable law or the articles of incorporation or bylaws of SpaceDev. Nevertheless, in that case, the board of directors of SpaceDev would still seek shareholder approval of Proposal No. 1 as a matter of good corporate governance; and, if the number of votes present in person or represented by proxy cast in favor of Proposal No. 1 does not exceed the number of votes cast in opposition to Proposal No. 1, the board of directors would reconsider its decision to approve the merger agreement, the merger and

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the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger.

If the shares of SpaceDev common stock are not listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, abstentions and broker non-votes will have the same effect as voting AGAINST Proposal No. 1. If the shares of SpaceDev common stock are listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, abstentions will be counted towards the tabulation of votes cast on this proposal, and broker non-votes will be counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

PROPOSAL NO. 2 - Approval of the amendments to the 2004 Equity Incentive Plan requires the number of votes present in person or represented by proxy cast in favor of the amendments to exceed the number of votes cast in opposition to the amendments. Abstentions will be counted towards the tabulation of votes cast on this proposal. Broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

PROPOSAL NO. 3 - Approval of the amendment to SpaceDev's articles of incorporation to increase the number of authorized shares of common stock by 50,000,000 shares to a total of 100,000,000 shares requires the affirmative vote of a majority of the outstanding shares of SpaceDev common stock. Abstentions and broker non-votes will have the same effect as voting AGAINST Proposal No. 3.

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PROPOSAL NO. 4 - Approval of the proposal to authorize SpaceDev's board of directors to sell more than 20% of SpaceDev's common stock (or securities convertible into or exercisable for common stock) in private offerings requires the number of votes present in person or represented by proxy cast in favor of the proposal to exceed the number of votes cast in opposition to the proposal. Abstentions will be counted towards the tabulation of votes cast on this proposal, and broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

In addition, for any of the proposals to pass, a quorum of no less than a majority of outstanding shares of SpaceDev common stock must be present in person or represented by proxy at the special meeting.

Q: WHAT VOTES ARE REQUIRED TO PASS THE STARSYS PROPOSALS?

A: PROPOSAL NO. 1 - Adoption and approval of the merger agreement and approval of the merger requires the affirmative vote of a majority of the outstanding shares of Starsys common stock.

PROPOSAL NO. 2 - Approval of the appointment and authorization of Scott Tibbitts, the Chairman and Chief Executive Officer of Starsys, as the shareholder agent under the merger agreement and related escrow agreement requires the affirmative vote of a majority of the outstanding shares of Starsys common stock.

In addition, the merger agreement contains a closing condition requiring the affirmative vote in favor of the merger of 98% of the outstanding shares of Starsys common stock, which condition may be waived by SpaceDev.

Q: MAY I CHANGE MY VOTE AFTER I HAVE SUBMITTED MY PROXY?

A: Yes. You may revoke your proxy at any time before your proxy is voted at



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the applicable meeting. You can do this in any of three ways:

- delivering to the Corporate Secretary of SpaceDev or Starsys, as applicable, a written notice, dated later than the proxy you wish to revoke, stating that the proxy is revoked;
- submitting to the Corporate Secretary of SpaceDev or Starsys, as applicable, a new, signed proxy card with a later date than the proxy you wish to revoke; or
- attending the special meeting of shareholders of SpaceDev or Starsys, as applicable, and voting in person (attendance in itself will not revoke your proxy).

If your SpaceDev shares are held in "street name," please see the next question and answer.

Q: IF MY SHARES OF SPACEDEV COMMON STOCK ARE HELD IN "STREET NAME" BY MY BROKER, WILL MY BROKER VOTE MY SHARES FOR ME?

A: If your SpaceDev shares are held in "street name" (that is, through a bank, broker or other nominee), your broker will vote your shares for you only if you provide instructions to your broker on how to vote your shares. You should follow the directions provided by your broker regarding how to instruct your broker to vote your shares. Your broker cannot vote your shares on these proposals without specific instructions from you. If you hold shares in street name and would like to attend the special meeting and vote in person, you will need to bring an account statement or other acceptable evidence of ownership of SpaceDev common stock as of the close of business on December 9, 2005, the record date for voting. Alternatively, in order to vote, you may contact the person in whose name your shares are registered, obtain a proxy from that person and bring it to the special meeting.

Q: WHO IS PAYING FOR THIS PROXY SOLICITATION?

A: SpaceDev and Starsys are conducting this proxy solicitation and will bear the cost of soliciting proxies, including the assembly, printing and mailing of this joint proxy statement/prospectus, the proxy cards and any additional information furnished to shareholders.

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Q: WHO CAN HELP ANSWER MY QUESTIONS?

A: If you have any questions about the merger, the proposals of SpaceDev or Starsys or the meetings of SpaceDev or Starsys, including the procedures for voting your shares, or if you need additional copies of the joint proxy statement/prospectus or an enclosed proxy, please contact:

If you are a SpaceDev shareholder:

SpaceDev, Inc.  
13855 Stowe Drive  
Poway, California 92064  
Attention: Investor Relations  
(858) 375-2026

If you are a Starsys shareholder:

Starsys Research Corporation  
4909 Nautilus Court North  
Boulder, CO 80301  
Attention: Chief Executive Officer  
(303) 583-1400

You may also obtain additional information about SpaceDev from the documents it files with the Securities and Exchange Commission or by following

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the instructions in the section entitled "Where You Can Find More Information" on page 157.

### THE COMPANIES

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Q: WHAT IS THE GENERAL BUSINESS OF SPACEDEV?

A: SpaceDev is engaged in the conception, design, development, manufacture, integration and operation of space technology systems, products and services. SpaceDev is currently focused on the commercial and military development of low-cost microsatellites, nanosatellites and related subsystems, hybrid rocket propulsion for space, launch and human flight vehicles as well as associated engineering and technical services, which are provided primarily to government agencies, and specifically the Department of Defense. SpaceDev's products and solutions are sold, mainly on a project-basis, directly to these customers and include sophisticated micro- and nano-satellites, hybrid rocket-based launch vehicles, maneuvering and orbital transfer vehicles and safe sub-orbital and orbital hybrid rocket-based propulsion systems. Although SpaceDev believes there will be a commercial market for its microsatellite and nanosatellite products and services in the future, virtually all of its current work is for branches of the United States military. SpaceDev is also developing commercial hybrid rocket motors for use in small launch vehicles, targets and sounding rockets, and small, high-performance space vehicles and subsystems for commercial customers.

SpaceDev's website can be accessed at <http://www.spacedev.com>. The information on SpaceDev's website is not a part of this joint proxy statement/prospectus. SpaceDev's principal executive office is located at 13855 Stowe Drive, Poway, California 92064.

Q: WHAT IS THE MARKET FOR SPACEDEV'S COMMON STOCK?

A: The common stock of SpaceDev is traded on the OTC Bulletin Board ("OTCBB") under the symbol "SPDV.OB." On October 25, 2005, the last full trading day prior to the public announcement of the proposed merger, the last reported sale price of SpaceDev's common stock on the OTCBB was \$1.49 per share. On December 16, 2005, the last reported sale price of SpaceDev's common stock on the OTCBB was \$1.48 per share.

Q: DOES SPACEDEV ANTICIPATE ANY MANAGEMENT CHANGES BEFORE THE CLOSING OF THE MERGER?

A: Yes. Effective December 30, 2005, Mark N. Sirangelo will succeed James W. Benson as chief executive officer and will also become vice chairman and a director of SpaceDev. Mr. Benson will remain chairman of the board and will assume the role of chief technology officer.

For information about Mr. Sirangelo's background and employment arrangement with SpaceDev, see "Management of SpaceDev After the Merger" beginning on page 132. For information about Mr. Sirangelo's interests in the merger, see "Interests of Certain SpaceDev Persons in the Merger" beginning on page 42.

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Q: WHAT IS THE GENERAL BUSINESS OF STARSYS?

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A: Starsys Research Corporation is engaged in the development and manufacturing of engineered electro-mechanical systems and components for the aerospace industry. Starsys provides mechanical systems, structures and mechanisms that open, close, release and move components on spacecraft. Starsys' products include motion-control actuators, cover systems, deployment systems and separation systems.

Starsys is a privately-held company and there is currently no established market for its securities. Its website can be accessed at <http://www.starsys.com>. The information on Starsys' website is not a part of this joint proxy statement/prospectus. Starsys' principal executive office is located at 4909 Nautilus Court North, Boulder, Colorado 80301.

### THE MERGER

Q: WHAT IS THE MERGER?

A: SpaceDev, Monoceros Acquisition Corp. ("Monoceros"), a Colorado corporation and wholly-owned subsidiary of SpaceDev, Starsys, Scott Tibbitts, as shareholder agent for the Starsys shareholders, and Scott Tibbitts, as a key shareholder, have entered into an Agreement and Plan of Merger and Reorganization dated October 24, 2005 (referred to in this joint proxy statement/prospectus as the merger agreement, as the same may be amended from time to time), which contains the terms and conditions of the proposed business combination of SpaceDev and Starsys. The merger agreement is attached to this joint proxy statement/prospectus as Annex A. Under the merger agreement, Starsys will merge with and into Monoceros (referred to in this joint proxy statement/prospectus as the merger) and Monoceros will survive the merger as a wholly-owned subsidiary of SpaceDev. For more information, see "The Merger - The Merger Agreement" beginning on page 56.

Q: WHAT ARE THE REASONS FOR THE MERGER?

A: SpaceDev believes a business combination with Starsys will benefit SpaceDev in various ways:

- SpaceDev's design expertise and manufacturing capability in the nano- and micro-satellite markets will complement Starsys' expertise in design and manufacturing of components and other products primarily in the mainframe satellite market;
- The increased size and capabilities of a combined company will enable SpaceDev to participate in more diverse projects with greater revenue generation potential and potentially lead to a more diversified and predictable revenue stream;
- The increased market capitalization of a combined company will place SpaceDev in a better position to have its shares listed on a national securities exchange and to attract institutional investors and analyst coverage;
- A second location in a favorable aerospace labor market will enable more rapid growth to meet future business needs; and,
- SpaceDev's reputation for high customer satisfaction places it in a unique position to take advantage of the increased capabilities that will result from the merger.

In addition to the potential benefits described above that would be applicable to Starsys shareholders, Starsys' board of directors believes that the merger has the following benefits and potential benefits for Starsys shareholders:

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- The opportunity for Starsys shareholders to participate in the microsatellite and hybrid rocket propulsion markets served by SpaceDev.
- The opportunity for Starsys shareholders to participate in the potential growth of SpaceDev after the merger.

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- The value of the consideration provided for in the merger agreement based on the market price of SpaceDev common stock at the time of board approval and over the past year.
- The ability to complete the merger as a reorganization for United States federal income tax purposes.
- The potential receipt of performance consideration, as described under the caption "The Merger - Merger Consideration" beginning on page 57.
- Access to SpaceDev's greater depth of technologies, marketing resources and financial and operating resources which Starsys' board believes should enhance Starsys' ability to win larger contracts with favorable terms.
- The public market for SpaceDev common stock will offer Starsys shareholders liquidity, albeit subject to limitations described under "The Merger - Restriction on Resales of SpaceDev Common Stock" beginning on page 54.

For more information, see "The Merger - SpaceDev's Reasons for the Merger" beginning on page 40 and "The Merger - Starsys' Reasons for the Merger" beginning on page 42.

Q: WHAT WERE THE FACTORS CONSIDERED BY THE SPACEDEV BOARD OF DIRECTORS IN DECIDING TO MERGE?

A: SpaceDev's board of directors reviewed a number of factors in evaluating the merger, including but not limited to the following:

- the judgment, advice and analysis of SpaceDev's management and its financial advisors with respect to the potential strategic, financial and operational benefits of the transaction, including management's favorable recommendation of the transaction, based in part on the business, technical, financial, accounting and legal due diligence investigations performed with respect to Starsys;
- the importance of the merger for pursuing SpaceDev's strategic plan;
- the potential benefits to SpaceDev shareholders of growth opportunities following the merger;
- the possibility, as an alternative to the merger, of opening facilities in new, strategically desirable locations and expanding SpaceDev's manufacturing capability through internal growth or other potential acquisitions;
- the competitive and market environments in which SpaceDev and Starsys operate;
- the results of operations and financial condition of SpaceDev and Starsys;
- the interests that certain executive officers and directors of SpaceDev may

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have with respect to the merger in addition to their general interests as shareholders of SpaceDev, as described in more detail under "Interests of Certain SpaceDev Persons in the Merger" beginning on page 42;

- the terms of the merger agreement and the agreements related to the merger, including the consideration to be paid by SpaceDev and the structure of the merger which were deemed by both the board of directors and management of SpaceDev to provide a fair and equitable basis for the transaction; and,
- the likelihood that the transaction will be completed in a timely manner.

For more information see, "The Merger - SpaceDev's Reasons for the Merger" beginning on page 40

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Q: WHAT WERE OTHER FACTORS CONSIDERED BY THE STARSYS BOARD OF DIRECTORS IN DECIDING TO MERGE?

A: Starsys' board of directors reviewed a number of factors in evaluating the merger, including but not limited to the following:

- the repayment by SpaceDev of Starsys' long term debt, which is subject to a forbearance agreement that requires Starsys to pursue a financing or sale of the company to repay the debt;
- the interests that certain executive officers and directors of Starsys may have with respect to the merger in addition to their general interests as shareholders of Starsys, as described in more detail under "The Merger - Interests of Certain Starsys Persons in the Merger" beginning on page 44
- information concerning the financial performance and condition, results of operations, competitive position, management and business of SpaceDev and Starsys before and after giving effect to the merger;
- current financial market conditions and historical market prices, volatility and trading information with respect to SpaceDev common stock;
- the current financial condition of Starsys;
- the opportunity for Starsys to receive additional working capital investment, as described under the caption "The Merger - SpaceDev Post-Closing Covenants" beginning on page 73;
- the ability of Starsys to obtain additional financing as a stand-alone entity; and,
- results of (1) the review of SpaceDev's filings with the Securities and Exchange Commission regarding SpaceDev's business and financial condition, and (2) the due diligence investigation conducted by Starsys' management regarding the stability of SpaceDev's long term contracts and work backlog.

For more information see, "The Merger - Starsys' Reasons for the Merger" beginning on page 42.

Q: WHAT WILL STARSYS SHAREHOLDERS RECEIVE IN THE MERGER?

A: Starsys shareholders will be entitled to receive the following consideration at the effective time of the merger, subject to adjustment as

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provided in the merger agreement:

- cash in the aggregate amount of up to \$1,500,000, which is expected by Starsys' management to be reduced by approximately \$770,000 in transaction costs and to be further reduced by approximately \$183,000 working capital adjustments, or approximately \$547,000 after reductions; and,
- an aggregate number of shares of SpaceDev common stock equal to the quotient of (A) \$7,500,000, which is expected by Starsys' management to be reduced by approximately \$431,000 in transaction costs and to be further reduced by approximately \$917,000 in working capital adjustments, or approximately \$6,152,000 after reductions, divided by (B) the volume weighted average price of SpaceDev common stock for the twenty trading days preceding the merger, but not less than \$1.40 or more than \$1.90.

The amounts presented as transaction costs and working capital adjustments are only estimates and may increase prior to closing. Based on the formula and estimates described above, at the closing of the merger, Starsys shareholders are expected to receive merger consideration of approximately \$12.83 per share of Starsys common stock, consisting of approximately \$1.05 per share in cash and approximately \$11.78 per share in shares of SpaceDev common stock (based on 522,437.47 shares of Starsys common stock outstanding as of December 1, 2005, the record date for the special meeting of Starsys shareholders, which may increase if any outstanding Starsys stock options are exercised prior to the merger).

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Fifty percent (50%) of the number of shares of SpaceDev common stock issued at closing (without taking into account any shares of SpaceDev common stock deliverable to the shareholder agent at the closing for the satisfaction of certain transaction expenses incurred by Starsys related to the sale of the company) will be deposited in escrow as security for the payment of indemnification claims under the merger agreement and to pay certain expenses of the shareholder agent, which escrow will continue until ten (10) days following the date of audited financial statements prepared for the surviving corporation for the fiscal year ending 2006 (i.e., approximately April 2007), subject to extension in the event claims are outstanding on that date.

Following the merger, Starsys shareholders may also be entitled to receive, based on the achievement by the Starsys business of certain performance criteria for each of the fiscal years ending December 31, 2005, December 31, 2006 and December 31, 2007, additional performance-based consideration consisting of up to:

- For the fiscal year ended December 31, 2005, \$350,000 in cash and an aggregate number of shares of SpaceDev common stock equal to the quotient of (A) up to \$3,000,000 divided by (B) the volume weighted average price of SpaceDev common stock for the twenty trading days preceding the date of the audit opinion for Starsys' fiscal year ended December 31, 2005, but not less than \$2.00;
- For the fiscal year ended December 31, 2006, \$350,000 in cash and an aggregate number of shares of SpaceDev common stock equal to the quotient of (A) up to \$7,500,000 divided by (B) the volume weighted average price of SpaceDev common stock for the twenty trading days preceding the date of the audit opinion for Starsys' fiscal year ended December 31, 2006, but not less than \$2.50; and

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- For the fiscal year ended December 31, 2007, \$350,000 in cash and an aggregate number of shares of SpaceDev common stock equal to the quotient of (A) up to \$7,500,000 divided by (B) the volume weighted average price of SpaceDev common stock for the twenty trading days preceding the date of the audit opinion for Starsys' fiscal year ended December 31, 2007, but not less than \$3.00.

Starsys believes it is unlikely that it will achieve one of the performance criteria for the fiscal year ending December 31, 2005. This performance criteria is subject to adjustment following the year end pursuant to its audit of its financial records. If Starsys does not meet this performance criteria, the Starsys shareholders will not receive any performance consideration for 2005.

If any shares of SpaceDev common stock are payable as performance consideration for the fiscal year ending December 31, 2005, fifty percent (50%) of those shares will be deposited in the escrow described above. In addition, 1% of any shares of SpaceDev common stock payable as performance consideration will be paid as transaction expenses to Robert Vacek, the president of Starsys.

In addition, Starsys shareholders will be entitled to receive the maximum amount of performance consideration for a particular fiscal year if SpaceDev materially breaches specific covenants of the merger agreement and is unable to cure the breach within the cure period set forth in the merger agreement.

For more information, see "The Merger - The Merger Agreement - Merger Consideration" beginning on page 56

Q: WHAT IS REQUIRED TO COMPLETE THE MERGER?

A. To complete the merger, a majority of the shares of SpaceDev common stock outstanding on the record date for the SpaceDev special meeting of shareholders must approve the merger proposal (unless the shares of SpaceDev common stock are listed at the time of the closing of the merger on the American Stock Exchange or another applicable national securities exchange, in which case approval by the SpaceDev shareholders of the merger will not be required under applicable law but may still be required by the SpaceDev board of directors) and the proposal to amend SpaceDev's articles of incorporation to increase the authorized number of shares of common stock. In addition, a majority of the outstanding shares of Starsys common stock on the record date of the Starsys special meeting of shareholders must also approve and adopt the merger agreement and approve the merger proposal. SpaceDev and Starsys must also satisfy or waive all other closing conditions set forth in the merger agreement, including the following:

- The volume weighted average price of SpaceDev common stock as of the trading day immediately preceding the closing will not be less than \$1.00 per share.
- Vectra Bank Colorado will not have foreclosed or collected on any collateral securing any loan made to Starsys.
- The aggregate debt and associated liabilities of Starsys at the closing under loans from Vectra Bank Colorado, SpaceDev and Starsys shareholders will not exceed \$6,800,000.
- Shareholders of Starsys holding not less than 98% of the shares of each class of capital stock of Starsys will have approved the merger agreement and the merger.
- Not more than 1.5% of outstanding shares of SpaceDev common stock will have

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exercised, or will retain the unexpired right to exercise, dissenters' rights (or similar rights of dissent), if any, in respect of the merger.

- SpaceDev will have consummated a private financing of debt or equity securities of at least \$4.5 million in gross proceeds.

For more information, see "The Merger - The Merger Agreement - Conditions to Completion of Merger" beginning on page 70.

Q: ARE THERE ANY SPACEDEV OR STARSYS OFFICERS, DIRECTORS OR SHAREHOLDERS ALREADY COMMITTED TO VOTING IN FAVOR OF THE MERGER?

A: Yes. James W. Benson, SpaceDev's chairman of the board and chief executive officer, Richard B. Slansky, SpaceDev's president, chief financial officer, corporate secretary, and a SpaceDev director, and Susan C. Benson, a SpaceDev director, are parties to voting agreements under which each is obligated to vote his or her shares in favor of the merger, the merger agreement and related proposals. As of November 1, 2005, Mr. Benson, Ms. Benson and Mr. Slansky collectively held approximately 42% of the outstanding shares of SpaceDev common stock. 'Mr. Benson's shift in officer duties from chief executive officer to chief technology officer to occur on December 30, 2005 will not affect Mr. Benson's obligations under the voting agreement. For more information on SpaceDev's pending management changes, see the answer to the question, "Does SpaceDev anticipate any management changes before the closing of the merger?"

Scott Tibbitts, Starsys' chairman and chief executive officer, is also party to a similar voting agreement under which he is obligated to vote his shares of Starsys common stock in favor of the merger, the merger agreement and the related proposal. As of November 1, 2005, Mr. Tibbitts held approximately 48% of the outstanding shares of Starsys common stock.

Q: WHAT ARE THE INTERESTS OF SPACEDEV OFFICERS AND DIRECTORS IN THE MERGER?

A: Certain of the directors and officers of SpaceDev have interests in the merger that are different from, or in addition to, the general interests of the other shareholders of SpaceDev. The SpaceDev board of directors was aware of these interests to the extent they existed at the time and considered them, among other matters, in approving the merger, the merger agreement and the transactions contemplated by the merger agreement. These other interests include the following:

- Mark N. Sirangelo, who will become chief executive officer, vice chairman and a director of SpaceDev effective December 30, 2005, is a member of QS Advisors, LLC and also a member of The QuanStar Group, business advisors to SpaceDev. Upon the closing of the merger, QS Advisors will receive \$200,000 cash and 250,000 shares of SpaceDev common stock.
- Upon the completion of the merger, Mr. Sirangelo will also receive (1) an increase in base salary from \$22,500 per month to \$25,000 per month, and (2) a bonus of \$25,000, in each case pursuant to the terms of his executive employment agreement with SpaceDev.

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- Upon the completion of the merger, Richard B. Slansky, the president, chief financial officer, a director and secretary of SpaceDev, will receive (1) an increase in base salary from \$14,500 per month to \$16,500 per month, and (2) a bonus of \$25,000, in each case pursuant to the terms of his amended and restated executive employment agreement with SpaceDev.



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- Upon the completion of the merger, James W. Benson, the chairman and current chief executive officer of SpaceDev, will receive (1) an increase in base salary from \$14,000 per month to \$15,500 per month, and (2) a bonus of \$22,500, in each case pursuant to the terms of his executive employment agreement with SpaceDev.

Q: WHAT ARE THE INTERESTS OF STARSYS OFFICERS AND DIRECTORS IN THE MERGER?

A: Certain of the directors and officers of Starsys have interests in the merger that are different from, or in addition to, the general interests of the other shareholders of Starsys. The Starsys board of directors was aware of these interests to the extent they existed at the time and considered them, among other matters, in approving the merger, the merger agreement and the transactions contemplated by the merger agreement. These other interests include the following, among others:

- Scott Tibbitts, the chairman and chief executive officer of Starsys, is the guarantor of amounts owed to Vectra Bank Colorado under a credit facility with Starsys. This credit facility will be paid in full at closing, and Mr. Tibbitts will be removed as guarantor. As of November 30, 2005, the amount owed to Vectra Bank Colorado under the credit facility was approximately \$3.9 million.
- Each of Jack Tibbitts, Steve Tibbitts, and Ted Tibbitts, relatives of Scott Tibbitts, loaned \$100,000 to Starsys, which loans will be paid at closing.
- Pursuant to his employment agreement with Starsys, Robert Vacek, the president and general manager of Starsys, will receive a merger bonus of 1% of the total consideration for the merger, or approximately \$140,000, consisting of both cash and stock.
- SpaceDev has agreed to enter into executive employment agreements with Scott Tibbitts and Robert Vacek contingent and effective upon the closing of the merger. The agreement for Mr. Tibbitts will have a three year term.
- SpaceDev has agreed to enter into a three-year non-compete agreement with Scott Tibbitts under which Mr. Tibbitts will receive \$100,000 annually for each year he abides by the terms of the agreement.
- Scott Tibbitts beneficially owns approximately 48% of the outstanding shares of Starsys common stock.
- Scott Tibbitts is expected to act as the shareholder agent under the merger agreement and related agreements.

For more information, see "The Merger - Interests of Certain Starsys Persons in the Merger" beginning on page 44 and "The Merger - Shareholder Agent" beginning on page 66.

Q: ARE THERE RISKS INVOLVED IN UNDERTAKING THE MERGER?

A: Yes. The merger (including the possibility that the merger may not be consummated) poses a number of substantial and material risks. In addition, both SpaceDev and Starsys are subject to various risks associated with their respective businesses and industries, certain of which may be heightened by the merger. These risks are discussed in greater detail under the caption "Risk Factors" beginning on page 15. We encourage you to read and consider all of these risks carefully.

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Q: WHAT ARE THE MATERIAL FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER TO ME?

A: The merger is intended to qualify as a tax-free reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended. Assuming the merger qualifies as a reorganization, Starsys shareholders will not recognize gain or loss for United States federal income tax purposes upon the exchange of shares of Starsys common stock for shares of SpaceDev common stock, except with respect to any cash consideration received. The treatment of the transaction as a tax-free reorganization is based on certain factual assumptions. If any of these assumptions is inaccurate, the transaction may not qualify as a reorganization. In that case, holders of Starsys common stock would recognize gain or loss in an amount equal to the difference between the fair market value of the consideration they receive in the merger and their tax bases in their Starsys common stock.

Tax matters are very complicated, and the tax consequences of the merger to a particular shareholder will depend significantly upon certain factual issues, including the nature of the consideration of the shareholders in the merger and such shareholder's particular circumstances. We accordingly urge you to consult your own tax advisor for a full understanding of the tax consequences of the merger to you, including the applicability and effect of federal, state, local and foreign income and other tax laws. For more information, see the section entitled "The Merger - Material United States Federal Income Tax Considerations" on page 46.

Q. WHY WAS THE MINIMUM SPACEDEV STOCK PRICE CLOSING CONDITION CHANGED IN AMENDMENT NO. 1 TO THE MERGER AGREEMENT FROM \$0.77 PER SHARE TO \$1.00 PER SHARE?

A. The merger agreement included a closing condition applicable to both SpaceDev and Starsys which required that the price of SpaceDev common stock at the closing be at least \$0.77 per share. This closing condition was included because both Starsys and SpaceDev desire that the merger be treated as a tax-free reorganization for federal income tax purposes. The minimum SpaceDev stock price in the original merger agreement was the value calculated at the time, based on a number of assumptions, to be the minimum price necessary so that the merger would be treated as a tax-free reorganization. For more information on these assumptions, see "The Merger - Material United States Federal Income Tax Considerations" beginning on page 46.

At the time of the amendment to the merger agreement, the assumptions underlying the necessary minimum per-share price had changed. Based on the updated assumptions, including updated information on the anticipated closing working capital adjustments and transaction expense payments, a new minimum per-share price of \$1.00 was calculated as being necessary to ensure the merger would be treated as a tax-free reorganization for federal income tax purposes. Neither value represents our estimate or projection of the future value of SpaceDev common stock.

Q: WHAT IS THE LETTER OF TRANSMITTAL?

A: If you are a Starsys shareholder, you will need to return a completed letter of transmittal, attached as Annex F to this joint proxy/prospectus, to claim your merger consideration. You will need to provide, among other items of information, your taxpayer identification number (in the case of individuals, your social security number) in the letter and to complete the attached Form W-9. You will also need to send your certificate(s) for your Starsys common stock along with the letter; if you have lost your certificate(s), or they have been stolen or destroyed, the letter contains an affidavit to this effect and you need not deliver your certificate(s) along with the letter. The letter also

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includes a general release of all claims you may have against Starsys as a shareholder, including any dissenters' rights.

Q: SHOULD I SEND IN A LETTER OF TRANSMITTAL AND MY STARSYS STOCK CERTIFICATES NOW?

A: If you are not attending the Starsys shareholders meeting, Starsys encourages you to send in your completed letter of transmittal (including the attached Form W-9) and all of your Starsys share certificates together with your proxy card. The letter of transmittal includes a certification that, if any of your share certificates are not attached, that those certificates have been lost, stolen or are otherwise missing. If the merger does not close, Starsys will return these share certificates to you. If you are attending the meeting, Starsys encourages you to bring the completed letter of transmittal and all of your Starsys share certificates to the meeting. In either case, if the merger is approved, Starsys will deliver the completed letter of transmittal, Form W-9 and share certificates to the exchange agent for the merger on your behalf. One of the conditions to the closing of the merger is that SpaceDev receive share certificates from Starsys shareholders evidencing not less than 98% of all outstanding Starsys shares, which condition SpaceDev may waive.

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Q: WHEN DO YOU EXPECT THE MERGER TO BE COMPLETED?

A: SpaceDev and Starsys are working toward consummating the merger as quickly as possible. We hope to consummate the merger by January 31, 2006 promptly following the approval of the merger by the shareholders of SpaceDev and Starsys. However, the merger is subject to numerous conditions that could affect the timing of its consummation.

Q: ARE THERE ANY REGULATORY CONSENTS OR APPROVALS THAT ARE REQUIRED TO COMPLETE THE MERGER?

A: Neither SpaceDev or Starsys is aware of the need to obtain any regulatory approvals in order to complete the merger other than the declaration by the Securities and Exchange Commission of the effectiveness of the registration statement on Form S-4, of which this joint proxy statement/prospectus is a part, and registration by coordination of the Form S-4 with the Colorado Secretary of State pursuant to Colorado Revised Statutes Section 11-51-303.

Q: AM I ENTITLED TO APPRAISAL OR DISSENTERS' RIGHTS WITH RESPECT TO THE MERGER?

A: If you are a holder or beneficial owner of Starsys common stock, you are or may be entitled to dissenters' rights under Article 113 the Colorado Business Corporation Act in connection with the merger. If a holder or beneficial owner of Starsys common stock elects to exercise dissenters' rights, the holder or beneficial owner, as applicable, must comply precisely with all the procedures set forth in Article 113 of the Colorado Business Corporation Act, which is reprinted in its entirety and attached to this joint proxy statement/prospectus as Annex B. If you properly exercise dissenters' rights and the merger is completed, you will be entitled to a judicial appraisal of the fair value of your shares and you will not receive the consideration described in this joint proxy statement/prospectus.

If you are a SpaceDev shareholder and a class of equity securities of SpaceDev is not listed on the American Stock Exchange (or another applicable national securities exchange) at the time of the merger, under California law you may have the right to dissent from the merger by exercising dissenters'

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rights. If a SpaceDev shareholder elects to exercise dissenters' rights, the shareholder must precisely comply with all of the procedures set forth in Chapter 13 of the California General Corporation Law. Chapter 13 of the California General Corporation Law is reprinted in its entirety and attached to this joint proxy statement/prospectus as Annex C.

SpaceDev shareholders are not entitled to dissenters' rights under Colorado law.

For more information, see the section entitled "The Merger - Appraisal and Dissenters' Rights" beginning on page 50.

Q: WHY DO CALIFORNIA CORPORATE LAWS APPLY TO SPACEDEV, A CORPORATION ORGANIZED UNDER THE LAWS OF COLORADO?

A: SpaceDev is currently subject to Section 2115 of the California General Corporation Law, which mandates that certain of California's corporate laws apply to non-California corporations, because (1) a majority of the holders of record of SpaceDev's common stock were residents of California on the record date for the latest meeting of shareholders held during its latest full income year and (2) SpaceDev met certain tests regarding property, payroll and sales in California during its latest full income year. However, Section 2115 will not apply to SpaceDev once SpaceDev has equity securities qualified for trading on the American Stock Exchange or another applicable national securities exchange (although SpaceDev could again become subject to Section 2115 if it no longer has equity securities trading on the American Stock Exchange or another qualified market).

Q: DOES SPACEDEV EXPECT TO HAVE A CLASS OF EQUITY SECURITIES LISTED ON THE AMERICAN STOCK EXCHANGE?

A: Initial listing on the American Stock Exchange requires the satisfaction by SpaceDev of certain quantitative listing standards relating to shareholders' equity, market capitalization, number of public shareholders, market value public float and other criteria. SpaceDev does not currently qualify for listing under these criteria. After the filing of the Form S-4 registration statement of which this joint proxy statement/prospectus is a part, SpaceDev will work diligently to be listed on the American Stock Exchange immediately prior to the consummation of the merger but can give no assurance that such listing will occur during that time frame, or at all.

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Q: WILL ANY CONTINGENT FEES BE PAID TO BROKERS OR CONSULTANTS IN CONNECTION WITH THE MERGER?

A: Yes. Upon the consummation of the merger, QS Advisors, LLC, business advisor to SpaceDev, will receive \$200,000 cash and 250,000 shares of SpaceDev common stock, St. Charles Capital, LLC, financial advisor to Starsys, will receive \$250,000 cash and shares of SpaceDev common stock valued at approximately \$386,000. Mark N. Sirangelo, who will succeed James W. Benson as chief executive officer and who will also become vice chairman and a director of SpaceDev effective December 30, 2005, is a member of QS Advisors, LLC and also a member of The QuanStar Group LLC business advisors to SpaceDev.

Q: HOW WILL THE MERGER AFFECT MY STOCK OPTIONS AND WARRANTS TO ACQUIRE STARSYS COMMON STOCK?

A: The holders of options, warrants and other rights to purchase Starsys common stock must exercise such rights on or before the closing of the merger.

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Any options, warrants or other rights to purchase Starsys common stock which are not exercised prior to the closing of the merger will be cancelled and will terminate and expire in accordance with their terms as of the closing of the merger. Neither SpaceDev nor the surviving corporation will assume any options, warrants or other rights to purchase Starsys common stock after the consummation of the merger.

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### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Some of the information relating to SpaceDev, Starsys and the combined company contained or incorporated by reference into this joint proxy statement/prospectus is forward-looking in nature. All statements included or incorporated by reference into this joint proxy statement/prospectus or made by management of SpaceDev or Starsys, other than statements of historical fact regarding SpaceDev or Starsys, are forward-looking statements. Words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates" and similar expressions or variations of such words are intended to identify forward-looking statements, but are not the exclusive means of identifying forward-looking statements in this joint proxy statement/prospectus. Additionally, statements concerning future matters such as the development of new products, enhancements of technologies, sales levels, expense levels and other statements regarding matters that are not historical are forward-looking statements.

Although forward-looking statements in this joint proxy statement/prospectus reflect the good faith judgment of the management of SpaceDev and Starsys, such statements can only be based on facts and factors currently known by management. Consequently, forward-looking statements are inherently subject to risks and uncertainties and actual results and outcomes may differ materially from the results and outcomes discussed in or anticipated by the forward-looking statements. Factors that could cause or contribute to such differences in results and outcomes include without limitation those discussed in the section entitled "Risk Factors," as well as those discussed elsewhere in this joint proxy statement/prospectus. Readers are urged not to place undue reliance on these forward-looking statements, which speak only as of the date of this joint proxy statement/prospectus. SpaceDev undertakes no obligation to revise or update any forward-looking statements in order to reflect any event or circumstance that may arise after the date of this joint proxy statement/prospectus. Readers are urged to review and consider carefully the various disclosures made in this joint proxy statement/prospectus that attempt to advise interested parties of the risks and factors that may affect our business, financial condition, results of operations and prospects.

### COMPARATIVE PER SHARE MARKET VALUE

The common stock of SpaceDev is traded on the OTC Bulletin Board, or OTCBB, under the symbol "SPDV.OB". On October 25, 2005, the last full trading day prior to the public announcement of the proposed merger, the last reported sale price of SpaceDev's common stock on the OTCBB was \$1.49 per share. Starsys is a privately-held company and there is currently no established market for its securities.

At the closing of the merger, Starsys shareholders are expected to receive merger consideration of approximately \$12.83 per share of Starsys common stock, consisting of approximately \$1.05 per share in cash and approximately \$11.78 per share in shares of SpaceDev common stock. The estimated merger consideration per share is based on 522,437.47 shares of Starsys common stock outstanding as of December 1, 2005, the record date for the special meeting of Starsys

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shareholders, and assumes that an aggregate of approximately \$547,000 in cash, after estimated adjustments, and an aggregate of approximately \$6,152,000 in shares of SpaceDev common stock, after estimated adjustments, will be paid to the Starsys shareholders at the closing of the merger. Starsys shareholders may also be entitled to receive additional performance-based consideration following the closing of the merger payable in cash and shares of SpaceDev common stock. For more information on the merger consideration to be received by the Starsys shareholders pursuant to the merger agreement, see "The Merger - Merger Agreement - Merger Consideration" beginning on page 57.

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### RISK FACTORS

The merger involves a high degree of risk. By voting in favor of the merger, Starsys shareholders will be choosing to invest in SpaceDev common stock. In addition to the risks described in SpaceDev's reports filed with the Securities and Exchange Commission, you should carefully consider the risks described below relating to the merger and the risks to the combined company's business after the merger. You should also consider the other information contained in, or incorporated by reference into, this joint proxy statement/prospectus. If any of these risks actually occur, the business, financial condition or results of operations of SpaceDev and for Starsys may be seriously harmed. In such case, the market price of SpaceDev common stock may decline, and you may lose all or part of your investment.

#### RISKS RELATED TO THE MERGER

IF SPACEDEV AND STARSYS FAIL TO INTEGRATE THEIR OPERATIONS EFFECTIVELY, THE COMBINED COMPANY WILL NOT REALIZE ALL THE POTENTIAL BENEFITS OF THE MERGER.

The integration of SpaceDev and Starsys may be time consuming and expensive and may disrupt the combined company's operations if it is not completed in a timely and efficient manner. If this integration effort is not successful, the combined company's results of operations could be harmed, employee morale could decline, key employees could leave, customers could cancel existing orders or choose not to place new ones and the combined company could have difficulty entering into new contracts with customers and complying with regulatory requirements. In addition, the combined company may not achieve anticipated synergies or other benefits of the merger. The combined company may encounter difficulties, costs and delays involved in integrating their operations, including the following:

- failure to successfully manage relationships with customers and other important relationships;
- failure of customers to accept new services or to continue using the products and services of the combined company;
- difficulties in successfully integrating the management teams and employees of the two companies;
- challenges encountered in managing larger, more geographically dispersed operations;
- the loss of key employees;
- diversion of the attention of management from other ongoing business concerns;

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- potential incompatibilities of technologies and systems;
- potential difficulties integrating and harmonizing financial reporting systems; and
- potential incompatibility of business cultures.

If the combined company's operations after the merger do not meet the expectations of existing customers of either company, these customers may reduce the amount of business or cease doing business with the combined company altogether, which would harm the results of operations and financial condition of the combined company.

If the anticipated benefits of the merger are not realized or do not meet the expectations of financial or industry analysts, the market price of SpaceDev common stock may decline after the merger. The market price of SpaceDev common stock may decline as a result of the merger if, among other reasons:

- the integration of the two companies is unsuccessful;

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- the combined company does not achieve the expected benefits of the merger as quickly as anticipated or the costs of or operational difficulties arising from the merger are greater than anticipated;
- the combined company's financial results after the merger are not consistent with the expectations of management or financial or industry analysts;
- the anticipated operating and product synergies of the merger are not realized; or,
- the combined company experiences the loss of significant customers or employees as a result of the merger.

FAILURE TO COMPLETE THE MERGER COULD ADVERSELY AFFECT THE FUTURE BUSINESS AND OPERATIONS OF SPACEDEV AND STARSYS AS WELL AS THE MARKET PRICE OF SPACEDEV COMMON STOCK.

The merger is subject to the satisfaction of closing conditions, including the approval by both SpaceDev and Starsys shareholders, and may not be successfully completed. In the event that the merger is not completed, SpaceDev may be subject to a number of risks, including:

- The price of SpaceDev's common stock may decline to the extent that the current market price of SpaceDev's common stock reflects a market assumption that the merger will be completed.
- SpaceDev could suffer the loss of customers, revenues and employees due to uncertainties resulting from an uncompleted merger.
- SpaceDev's costs related to the merger, such as legal and accounting fees, must be paid even if the merger is not completed, and these costs would reduce reported earnings or increase reported loss, for the period when it was determined that the merger would not be consummated.

If the merger is not completed, Starsys may be subject to a number of risks including:

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- Vectra Bank Colorado may foreclose on Starsys' credit facility, which could force Starsys into bankruptcy and could result in Vectra owning all of the assets of Starsys.
- Starsys could suffer the loss of customers, revenues and employees due to uncertainties resulting from the uncompleted merger.
- Starsys could have difficulty attracting new customers or maintaining current customers because of its difficult financial situation.
- Starsys's costs related to the merger, such as legal and accounting fees, must be paid even if the merger is not completed.

COMPLETION OF THE MERGER MAY RESULT IN DILUTION OR REDUCTION OF SPACEDEV'S FUTURE EARNINGS PER SHARE.

The completion of the merger may not result in improved earnings per share or a financial condition superior to that which would have been achieved on a stand-alone basis. The combined company will have substantially more shares outstanding than SpaceDev alone, and earnings need to increase proportionately in order to maintain the present earnings per share. The merger could therefore result in a reduction of SpaceDev's earnings per share as compared to the earnings per share that would have been achieved if the merger had not occurred.

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THE COSTS ASSOCIATED WITH THE MERGER ARE DIFFICULT TO ESTIMATE, MAY BE HIGHER THAN EXPECTED AND MAY HARM THE FINANCIAL RESULTS OF THE COMBINED COMPANY.

SpaceDev and Starsys estimate that they will incur aggregate direct transaction costs of approximately \$2,000,000 associated with the merger, and additional costs associated with consolidation and integration of operations, which cannot be estimated accurately at this time. If the total costs of the merger exceed estimates or the benefits of the merger do not exceed the total costs of the merger, the financial results of the combined company could be adversely affected.

SPACEDEV'S AND STARSYS' BUSINESS COULD SUFFER DUE TO THE ANNOUNCEMENT AND CLOSING OF THE MERGER.

Further disclosures concerning the merger, and closing of the merger, may have a negative impact on SpaceDev's and Starsys' respective ability to sell products and services, attract and retain key management, technical, sales or other personnel, maintain and attract new customers and maintain strategic relationships with third parties. For example, SpaceDev and Starsys may experience deferrals, cancellations or declines in the size or rate of orders for their respective products or services or a deterioration in their respective customer or business partner relationships. Any such events could harm the operating results and financial condition of the combined company following the merger.

SPACEDEV'S OPERATING RESULTS MAY SUFFER AS A RESULT OF PURCHASE ACCOUNTING TREATMENT AND THE IMPACT OF AMORTIZATION OF INTANGIBLE ASSETS RELATED TO THE MERGER.

In accordance with U.S. generally accepted accounting principles that apply to SpaceDev, the merger will be accounted for using the purchase method of accounting, which will result in incremental expenses that could have an adverse impact on the market value of SpaceDev common stock following completion of the merger. Under the purchase method of accounting, the total estimated purchase



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price will be allocated to Starsys' net tangible assets and identifiable intangible assets based on their fair values as of the date of completion of the merger. The excess of the purchase price over those fair values will be recorded as goodwill. Goodwill is not amortized but is tested for impairment at least annually. The combined company will incur additional amortization expense based on the identifiable amortizable intangible assets acquired pursuant to the merger agreement and their relative useful lives. Additionally, to the extent the value of goodwill or identifiable intangible assets or other long-lived assets become impaired, the combined company may be required to record material charges relating to the impairment. These amortization and potential impairment charges could have a material impact on the combined company's results of operations. Changes in earnings per share, including changes that result from this amortization expense, could adversely affect the trading price of SpaceDev common stock.

STARSYS AND SPACEDEV EXECUTIVE OFFICERS AND DIRECTORS HAVE INTERESTS THAT ARE DIFFERENT FROM, OR IN ADDITION TO, THOSE OF STARSYS SHAREHOLDERS GENERALLY.

Certain executive officers and directors of Starsys and SpaceDev have interests in the merger that are different from, or are in addition to, those of Starsys or SpaceDev shareholders generally, as applicable. The receipt of compensation or other benefits in the merger, including employment agreements, and/or the provision of and continuation of indemnification and insurance arrangements for these individuals following completion of the merger, may influence these individuals in making their recommendation that you vote in favor of the adoption of the merger agreement. You should be aware of these interests when you consider the recommendation of the boards of Starsys and SpaceDev that you vote in favor of the merger agreement, the merger and the related proposal. See the sections entitled "The Merger --Interests of Certain SpaceDev Persons in the Merger" beginning on page 42 and "The Merger--Interests of Certain Starsys Persons in the Merger" beginning on page 44.

STARSYS CURRENTLY FACES A LIQUIDITY CHALLENGE AND ITS PRIMARY BANK LENDER HAS PLACED STARSYS INTO FORBEARANCE. STARSYS WILL REQUIRE A FURTHER FORBEARANCE AGREEMENT IN ORDER TO AVOID THE LENDER HAVING A RIGHT TO FORECLOSE AFTER JANUARY 31, 2006. ANY DELAY OF THE CONSUMMATION OF THE MERGER COULD HAVE SIGNIFICANT ADVERSE CONSEQUENCES TO STARSYS.

In April 2005, Starsys was notified by Vectra Bank Colorado, its primary bank lender, that Starsys' access to capital was severely diminished, and that the lender had elected to place Starsys into forbearance, an option available to the lender as a part of Starsys' secured credit facility. The forbearance agreement expires on January 31, 2006, at which

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time Vectra may foreclose on its collateral for the loans to Starsys. While the merger agreement provides that at closing, SpaceDev will pay off the remaining amounts due from Starsys to Vectra and the Starsys shareholders (up to \$4.6 million in the aggregate), subject to the limitations described elsewhere in this joint proxy statement/prospectus, the merger may not close prior to January 31, 2006, and a further forbearance agreement from Vectra may be necessary to avoid foreclosure. Vectra may not grant a further forbearance agreement on terms acceptable to Starsys, or at all. The terms of any forbearance agreement could result in the violation of one or more covenants by Starsys in the merger agreement, or the failure of a closing condition in the merger agreement, either of which could give SpaceDev the right to terminate the merger agreement. Any failure to obtain a further forbearance agreement, or delay in the consummation of the merger, could have a severe negative effect on Starsys' ability to continue as a going concern.

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THE MERGER MAY NOT QUALIFY AS A TAX-FREE REORGANIZATION, IN WHICH CASE THE TRANSACTION WILL BE FULLY TAXABLE TO THE STARSYS SHAREHOLDERS.

The treatment of the transaction as a tax-free reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, is based on certain factual assumptions. If any of these assumptions is inaccurate, the merger may not qualify as a reorganization. In that case, holders of Starsys common stock would recognize gain or loss in an amount equal to the difference between the fair market value of the consideration they receive in the merger and their tax bases in their Starsys common stock. See "The Merger - Material United States Federal Income Tax Considerations" on page 46.

STARSYS MAY NOT ACHIEVE THE PERFORMANCE CRITERIA IN THE MERGER AGREEMENT FOR THE YEARS ENDING DECEMBER 31, 2005, 2006 AND 2007, WHICH WOULD RESULT IN STARSYS SHAREHOLDERS NOT RECEIVING SOME OR ALL OF THE PERFORMANCE CONSIDERATION DESCRIBED IN THE MERGER AGREEMENT.

The payment of the performance consideration to Starsys shareholders by SpaceDev is subject to the achievement by Starsys of the performance criteria listed in the merger agreement. This performance criteria consists of Net Revenues Targets and EBITDA Targets for the fiscal years ending December 31, 2005, 2006, and 2007. If Starsys does not achieve 80% of either Target during a particular year, the Starsys shareholders will not receive the performance consideration for that year.

THE EXCHANGE RATIO AND NUMBER OF SHARES OF SPACEDEV COMMON STOCK THAT YOU WILL BE ENTITLED TO RECEIVE IS BASED ON AN AVERAGE CLOSING PRICE OF SPACEDEV COMMON STOCK OVER A PERIOD OF TIME, WITH A FLOOR PRICE, BOTH OF WHICH COULD BE LOWER THAN THE MARKET VALUE OF THE SHARES.

The use of an exchange ratio that is tied to an average closing price over an extended period of time is intended to provide Starsys stockholders with a negotiated level of appropriate "value" of SpaceDev common stock for each share of Starsys common stock exchanged for SpaceDev common stock, without permitting one-day trading spikes, arbitrage or other unusual market activity to artificially raise or lower the exchange rate. In addition, the average price of SpaceDev common stock at the closing and upon payment of the performance consideration, if any, may be below the applicable floor prices in the merger agreement. If so, Starsys shareholders would receive SpaceDev common stock based on the floor price, even though the average price is less than the floor price. However, you may not be able to sell your shares at the average closing price or the floor price, as applicable. If the SpaceDev average closing price over the measurement period or the floor price, as applicable, is higher than the market price of the SpaceDev common stock at the effective time of the merger or the payment of performance consideration, the SpaceDev common stock issued pursuant to the merger or the payment of performance consideration, together with any cash consideration issued, would be worth less than the nominal amount of initial merger consideration or performance consideration per share of Starsys common stock, as applicable.

THE SHAREHOLDERS' AGENT MAY NOT ACT IN THE MANNER YOU DESIRE.

Scott Tibbitts, Chairman and Chief Executive Officer of Starsys, is being appointed as the shareholders' agent to act as the shareholders' representative in certain matters involving the indemnification by the shareholders of SpaceDev and the performance consideration that Starsys may be entitled to receive upon achievement of certain performance criteria by Starsys. As shareholders' agent, Scott Tibbitts will have the right, among other things, to compromise and to settle claims for damages made by SpaceDev against the escrow account. The shareholders' agent

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may not act in the manner you desire and decisions made by the agent could have the effect of reducing the aggregate consideration you ultimately receive pursuant to the merger.

### RISKS RELATED TO THE COMBINED COMPANY FOLLOWING THE MERGER

To facilitate a reading of the risks that we believe will apply to SpaceDev and Starsys as a combined company following the completion of the merger, in referring to "we," "us" and other first person declarations in these risk factors, we are referred to the combined company as it would exist following the merger.

EACH OF SPACEDEV AND STARSYS HAVE EXPERIENCED LOSSES FROM OPERATIONS IN PRIOR PERIODS AND HAVE BEEN REQUIRED TO SEEK ADDITIONAL FINANCING TO SUPPORT THEIR BUSINESSES.

In prior years, both SpaceDev and Starsys have experienced operating losses and, in some periods, revenues from operations have not been sufficient to fund their respective operations. On a pro forma basis, the combined company would have had a net loss from operations of \$4,962,858 for the year ended December 31, 2004 and \$955,631 for the nine months ended September 30, 2005, assuming the merger had occurred on January 1, 2004. See "Unaudited Pro Forma Consolidated Financial Statements" beginning on page 89. The success of the combined company's business depends upon our ability to generate revenue from existing contracts, to execute programs cost-effectively, to attract and complete successfully additional government and commercial contracts, and additional financing. In the past, both SpaceDev and Starsys have relied upon cash from financing activities to fund part of the cash requirements of their respective businesses. If we are in need of further financing, we may be unable to obtain such financing or contracts as needed or on terms favorable to us. The likelihood of our success must be considered in light of the expenses, difficulties and delays frequently encountered in connection with developing businesses, those historically encountered by us, and the competitive environment in which we operate.

IF WE ARE UNABLE TO RAISE CAPITAL, WE MAY BE UNABLE TO FUND OPERATING CASH SHORTFALLS.

SpaceDev will need additional financing to fulfill its obligations under the merger agreement and fund its projected operations for the next twelve months. Additional financing may not be available to us on acceptable terms, or at all. Any inability to obtain needed financing would hinder our ability to close the merger while funding our projected operating needs and may result in a default under the merger agreement, which in turn could have a material adverse effect on our business. Any financing may cause additional dilution to existing shareholders. Any debt financing or other issuance of securities senior to common stock likely will include financial and other covenants that will restrict our operating flexibility and our ability to pay dividends to shareholders. SpaceDev has not paid dividends on its common stock in the past and does not anticipate paying dividends on its common stock in the foreseeable future.

SOME OF OUR GOVERNMENT CONTRACTS ARE STAGED AND WE CANNOT GUARANTEE THAT ALL STAGES OF THE CONTRACTS WILL BE AWARDED TO US OR AT ALL.

Some of our government contracts are phased contracts in which the customer may determine to terminate the contract between phases for any reason. Accordingly, the entire contract amount may not be realized by us. For

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example, recently, SpaceDev was informed by the Missile Defense Agency that it would not be exercising its option for a second cluster of three microsats under the March 31, 2004 Missile Defense Agency contract. SpaceDev estimates that the second cluster represented approximately \$10 million of the \$43 million of total potential payments under the contract. In the event that subsequent phases of some of our government contracts, including but not limited to the Missile Defense Agency contract, are not awarded to us, it could have a material adverse effect on our financial position and results of operations.

SPACEDEV RELIES ON A SMALL NUMBER OF CUSTOMERS FOR SUBSTANTIALLY ALL OF OUR REVENUES AND THE LOSS OF ONE OR MORE OF THESE CUSTOMERS WOULD SERIOUSLY HARM OUR BUSINESS.

For the 2004 fiscal year and the nine months ended September 2005, two customers accounted for approximately 77% and 79% of SpaceDev's net sales. We expect that our dependence on a small number of government agency customers will continue into the foreseeable future. Many of our contracts are staged, or contain termination rights in favor of the customer. In the event we experience terminations or are not awarded future stages of our contracts, our results of operations could be materially adversely affected.

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A SUBSTANTIAL PORTION OF OUR NET SALES ARE GENERATED FROM GOVERNMENT CONTRACTS, WHICH MAKES US SUSCEPTIBLE TO THE UNCERTAINTIES INHERENT IN THE GOVERNMENT BUDGETING PROCESS. IN ADDITION, MANY OF OUR CONTRACTS CAN BE TERMINATED BY THE CUSTOMER.

Our concentration of government work makes us susceptible to government budget cuts and policy changes, which may impact the award of new contracts or future phases of existing contracts. Government budgets are subject to the prevailing political climate, which is subject to change at any time. Additionally, awarded contracts could be altered or terminated prior to the time we recognize our projected revenue. Many contracts are awarded in phases where future phases are not guaranteed to us. In addition, obtaining contracts and subcontracts from government agencies is challenging, and contracts often include provisions that are not standard in private commercial transactions. For example, government contracts may:

- include provisions that allow the government agency to terminate the contract without penalty under some circumstances;
- be subject to purchasing decisions of agencies that are subject to political influence;
- contain onerous procurement procedures; and,
- be subject to cancellation if government funding becomes unavailable.

Securing government contracts can be a protracted process involving competitive bidding. In many cases, unsuccessful bidders may challenge contract awards, which can lead to increased costs, delays and possible loss of the contract for the winning bidder.

SPACEDEV'S LIMITED OPERATING HISTORY AND LACK OF EXPERIENCE IN OUR NEW OR PROPOSED LINES OF BUSINESS MAKES IT DIFFICULT TO PREDICT OUR FUTURE PROSPECTS.

SpaceDev has limited operating history and, as a result, its historical financial information is of limited value in projecting SpaceDev's future success in these markets. SpaceDev launched its first microsatellite, CHIPSat,

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in January 2003 and, in June, September and October, 2004, SpaceDev's hybrid rocket technology was first utilized in connection with SpaceShipOne. SpaceDev plans to sell an increasing percentage of its products and services in commercial markets, but virtually all of its historical work has been from government contracts and government-related work. SpaceDev recently announced its intention to enter the launch services market by providing a microsat bus, integration services, and a launch vehicle as a package. SpaceDev will be dependent on the performance of Space Exploration Technologies, a small company with limited operating history which has not yet had a successful launch, for its first launch vehicle. SpaceDev's microsatellites, nanosatellites and launch services may not achieve market acceptance, and our future prospects are therefore difficult to evaluate.

WE MAY NOT SUCCESSFULLY OR TIMELY DEVELOP PRODUCTS.

Many of our products and technologies (including our hybrid rocket technology) are currently under various stages of development. Further development and testing of our products and technologies will be required to prove additional performance capability beyond current levels and to confirm commercial viability. Additionally, the final cost of development cannot be determined until development is complete. Our ongoing and future product development will depend, in part, on the ability to timely complete our projects within estimated cost parameters and ultimately deploy the product in a cost-effective manner. In addition, Starsys has contracted to execute development programs under fixed price contracts. Under these contracts, even if our costs begin to exceed the amount to be paid by the customer under the contract, we are required to complete the contract without receiving any additional payments from the customer. It is difficult to predict accurately the total cost of executing these programs. If the costs to complete these programs significantly exceeds the payments from the customers under the contracts, our results of operations will be harmed.

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WE PROVIDE OUR PRODUCTS AND SERVICES PRIMARILY THROUGH FIXED-PRICE AND COST PLUS FIXED FEE CONTRACTS. STARSYS HAS EXPERIENCED SIGNIFICANT LOSSES ON FIXED-PRICE CONTRACTS. COST OVERRUNS MAY RESULT IN FURTHER LOSSES AND, IF SIGNIFICANT, COULD IMPAIR OUR LIQUIDITY POSITION.

Under fixed-price contracts, our customers pay us for work performed and products shipped without adjustment for the costs we incur in the process. Therefore, we generally bear all or a significant portion of the risk of losses as a result of increased costs on these contracts. Starsys has experienced significant cost overruns on development projects under its fixed-price contracts, resulting in estimated losses on uncompleted contracts of \$2 million for Starsys' fiscal 2004, and an additional \$4.3 million for the nine months ended September 30, 2005. As of September 30, 2005, based on a formal evaluation process, Starsys has reserved \$1.6 million for potential risks on these remaining development projects. Fixed-price contracts may provide for sharing of unexpected costs incurred or savings realized within specified limits and may provide for adjustments in price depending on actual contract performance other than costs. We bear the entire risk of cost overruns in excess of the negotiated maximum amount of unexpected costs to be shared. Any significant overruns in the future could materially impair our liquidity and operations.

Under cost plus fixed fee contracts, we are reimbursed for allowable incurred costs plus a fee, which may be fixed or variable. There is no guarantee as to the amount of fee we will be awarded under a cost plus fixed fee contract with a variable fee. The price on a cost plus fixed fee reimbursable contract is

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based on allowable costs incurred, but generally is subject to contract funding limitations. Therefore, we could bear the amount of costs in excess of the funding limitation specified in the contract, and we may not be able to recover those cost overruns.

THE MARKETPLACE FOR OUR TECHNOLOGY AND PRODUCTS IS UNCERTAIN.

The demand for our technology, products and services is uncertain and we may not obtain a sufficient market share to sustain our business or to increase profitability. Our business plan assumes that near-term revenues will be generated largely from government contracts for microsatellites and electromechanical systems for spacecraft with a long-term commercial market developing for private manned and unmanned space exploration. Microsatellites and commercial space exploration are still relatively new concepts, and it is difficult to predict accurately the ultimate size of the market. In addition, we are developing new product areas such as large deployable structures, solar array drives, slip rings and precision scanning assemblies for spacecraft. Many of our products and services are new and unproven, and the true level of customer demand is uncertain. Lack of significant market acceptance of our products and services, delays in such acceptance, or failure of our markets to develop or grow could negatively affect our business, financial condition, and results of operations.

WE EXPECT OUR OPERATING RESULTS TO FLUCTUATE ON A QUARTERLY AND ANNUAL BASIS, WHICH COULD CAUSE OUR STOCK PRICE TO FLUCTUATE OR DECLINE.

We believe that our operating results may fluctuate substantially from quarter-to-quarter and year-to-year for a variety of reasons, many of which are beyond our control. Factors that could affect our quarterly and annual operating results include those listed below as well as others listed in this "Risk Factors" section:

- we may not be awarded all stages of existing or future contracts;
- the timing of new technological advances and product announcements or introductions by us and our competitors;
- changes in the terms of our arrangements with customers or suppliers;
- our current reliance on a few customers for a significant portion of our net sales;
- the failure of our key suppliers to perform as expected;
- general political conditions that could affect spending for the products that we offer;
- delays or failures to satisfy our obligations under our contracts on a timely basis;

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- the failure of our products to successfully launch or operate;
- the uncertain market for our technology and products;
- the availability and cost of raw materials and components for our products; and,
- the potential loss of key personnel.

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As a result of these factors, period-to-period comparisons of our operating results may not be meaningful, and you should not rely on them as an indication of our future performance. In addition, our operating results may fall below the expectations of public market analysts or investors. In this event, our stock price could decline significantly.

WE FACE SIGNIFICANT COMPETITION AND MANY OF OUR COMPETITORS HAVE GREATER RESOURCES THAN WE DO.

We face significant competition for our government and commercial contracts. Many of our competitors have greater resources than we do and may be able to devote greater resources than us to research and development, and marketing. Given the sophistication inherent in our operations, larger competitors may have a significant advantage and may be able to more efficiently adapt and implement technological advances. Furthermore, it is possible that other domestic or foreign companies or governments, some with greater experience in the space industry and many with greater financial resources than we possess, could seek to produce products or services that compete with our products or services, including new mechanisms and electromechanical subsystems using new technology which could render our products less viable. Some of our foreign competitors currently benefit from, and others may benefit in the future from, subsidies from or other protective measures implemented by their home countries.

OUR PRODUCTS AND SERVICES ARE TECHNOLOGICALLY ADVANCED AND MAY NOT FUNCTION UNDER CERTAIN CONDITIONS.

Most of our products are technologically advanced and sometimes novel systems that must function under demanding operating conditions. Our products may not be successfully launched or operated, or perform as intended. Like most organizations that have launched satellite programs, we have and in the future will likely experience some product and service failures, cost overruns, schedule delays, and other problems in connection with our products. Our products and services are and will continue to be subject to significant technological change and innovation. Our success will generally depend on our ability to continue to conceive, design, manufacture and market new products and services on a cost-effective and timely basis. We anticipate that we will incur significant expenses in the design and initial manufacture and marketing of new products and services.

LAUNCH FAILURES COULD HAVE SERIOUS ADVERSE EFFECTS ON OUR BUSINESS.

A launch failure of one of our microsattellites could have serious adverse effects on our business. Microsatellite launches are subject to significant risks, the realization of which can cause disabling damage to or total loss of a microsatellite. Delays in the launch could also adversely affect our net sales. Delays could be caused by a number of factors, including:

- designing, constructing, integrating, or testing the microsatellite, microsatellite components, or related ground systems;
- delays in receiving the license necessary to operate the microsatellite systems;
- delays in obtaining the customer's payload;
- delays related to the launch vehicle;
- weather; and,
- other events beyond our control.

Delays and the perception of potential delay could negatively affect our marketing efforts and limit our ability to obtain new contracts and projects.

OUR EXPANSION INTO OTHER NEW LINES OF BUSINESS MAY DIVERT MANAGEMENT'S ATTENTION FROM OUR EXISTING OPERATIONS AND PROVE TO BE TOO COSTLY.

Our current business plan contemplates the migration of SpaceDev's technology from projects into products for microsatellites and hybrid rocket motors over the next several years. In the meantime, we are investigating other applications of our technology and other markets for our technologies and prospective products. Our expansion into new lines of business may be difficult for us to manage because they may involve different disciplines and require different expertise than our core business. Consequently, this expansion may divert management's time and attention away from our core business, and we may need to incur significant expenses in order to develop the expertise, and reputation we desire. Any revenues generated by new lines of business may not be significant enough to offset the expenditures required to enter such business, or provide the anticipated return on investment.

OUR U.S. GOVERNMENT CONTRACTS ARE SUBJECT TO AUDITS THAT COULD RESULT IN A MATERIAL ADVERSE AFFECT ON OUR FINANCIAL CONDITION AND RESULTS OF OPERATIONS IF A MATERIAL ADJUSTMENT IS REQUIRED.

The accuracy and appropriateness of our direct and indirect costs and expenses under our contracts with the U.S. government are subject to extensive regulation and audit by the Defense Contract Audit Agency, by other agencies of the U.S. government or prime contractors. These entities have the right to audit our cost estimates and/or allowable cost allocations with respect to certain contracts. From time to time we may in the future be required to make adjustments and reimbursements as a result of these audits. Responding to governmental audits, inquiries or investigations may involve significant expense and divert management attention. Also, an adverse finding in any such audit, inquiry or investigation could involve contract termination, suspension, fines, injunctions or other sanctions.

OUR SUCCESS DEPENDS ON OUR ABILITY TO RETAIN OUR KEY PERSONNEL.

Our success will be dependent upon the efforts of key members of our management and engineering team, including our current chief executive officer, James W. Benson, who will continue to be a key member of our management team after December 30, 2005, in his capacity as chairman and chief technology officer, our new chief executive officer effective December 30, 2005, Mark N. Sirangelo, our president and chief financial officer, Richard B. Slansky, our vice president of engineering, Frank Macklin, our vice president of programs and new business development, Randall K. Simpson, the chief executive officer of Starsys, Scott Tibbitts, the president of Starsys, Robert Vacek, and certain other SpaceDev and Starsys personnel. The loss of any of these persons, or other key employees, including personnel with security clearances required for classified work and highly skilled technicians and engineers, could have a material adverse effect on us. Our future success is likely to depend substantially on our continued ability to attract and retain highly qualified personnel. The competition for such personnel is intense, and our inability to attract and retain such personnel could have a material adverse effect on us. At this time we do not maintain key man life insurance on any of our key personnel.

OUR GROWTH MAY NOT BE MANAGEABLE AND OUR BUSINESS COULD SUFFER AS A RESULT.

Even if we are successful in obtaining new business, failure to manage the



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growth could adversely affect our operations. We may experience extended periods of very rapid growth, which could place a significant strain on our management, operating, financial and other resources. Our future performance will depend in part on our ability to manage growth effectively. We must develop management information systems, including operating, financial, and accounting systems, improve project management systems and expand, train, and manage employees to keep pace with growth. Our inability to manage growth effectively could negatively affect results of operations and the ability to meet obligations as they come due.

WE MAY NOT ADDRESS SUCCESSFULLY THE PROBLEMS ENCOUNTERED IN CONNECTION WITH ANY POTENTIAL FUTURE ACQUISITIONS.

We expect to consider opportunities to acquire or make investments in other technologies, products and businesses that could enhance our capabilities, complement our current products or expand the breadth of our markets

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or customer base. We have limited experience in acquiring other businesses and technologies. Potential and completed acquisitions and strategic investments involve numerous risks, including:

- problems assimilating the purchased technologies, products or business operations;
- problems maintaining uniform standards, procedures, controls and policies;
- unanticipated costs associated with the acquisition;
- diversion of management's attention from our core business;
- adverse effects on existing business relationships with suppliers and customers;
- risks associated with entering new markets in which we have no or limited prior experience;
- potential loss of key employees of acquired businesses; and,
- increased legal and accounting costs as a result of the newly adopted rules and regulations related to the Sarbanes-Oxley Act of 2002.

IF OUR KEY SUPPLIERS FAIL TO PERFORM AS EXPECTED, OUR REPUTATION MAY BE DAMAGED. WE MAY EXPERIENCE DELAYS, LOSE CUSTOMERS AND EXPERIENCE DECLINES IN REVENUES, PROFITABILITY, AND CASH FLOW.

We purchase a significant percentage of our product components and subassemblies from third parties, many of which are sole source suppliers in the industry. If our subcontractors fail to perform as expected or encounter financial difficulties, we may have difficulty replacing them or identifying qualified replacements in a timely or cost effective manner. As a result, we may experience performance delays that could result in additional program costs, contract termination for default or damage to our customer relationships which may cause our revenues, profitability and cash flow to decline. In addition, negative publicity from any failure of one of our products or sub-systems as a result of a supplier failure could damage our reputation and prevent us from winning new contracts.

OUR LIMITED INSURANCE MAY NOT COVER ALL RISKS INHERENT IN OUR OPERATIONS.

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We may find it difficult to insure certain risks involved in our operations, including our launch vehicle and satellite operations, accidental damage to high value customer hardware during the manufacturing process and damages to customer spacecraft caused by our products not working to specification. Insurance market conditions or factors outside of our control at the time insurance is purchased could cause premiums to be significantly higher than current estimates. Additionally, the U.S. Department of State has published regulations which could significantly affect the ability of brokers and underwriters to place insurance for certain launches. These factors could cause other terms to be significantly less favorable than those currently available, may result in limits on amounts of coverage that we can obtain, or may prevent us from obtaining insurance at all. Furthermore, proceeds from insurance may not be sufficient to cover losses.

SEVERAL YEARS OF LOW DEMAND AND OVERCAPACITY IN THE COMMERCIAL SATELLITE MARKET HAVE RESULTED IN SLOW GROWTH IN DEMAND FOR SPACE PRODUCTS.

The commercial satellite market has experienced pricing pressures due to excess capacity in the telecommunications industry and weakened demand over the past several years. Satellite demand, and thus subsystem and component orders, have also been impacted by the business difficulties encountered by the commercial satellite services industry. This has resulted in a reduction in the total market size in the near term. While the market appears to be making a recovery, growth in the demand for our products may be limited.

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OUR COMPETITIVE POSITION WILL BE SERIOUSLY DAMAGED IF WE CANNOT PROTECT INTELLECTUAL PROPERTY RIGHTS IN OUR TECHNOLOGY.

Our success, in part, depends on our ability to obtain and enforce intellectual property protection for our technology. We rely on a combination of patents, trade secrets and contracts to establish and protect our proprietary rights in our technology. However, we may not be able to prevent misappropriation of our intellectual property, and the agreements we enter into may not be enforceable. In addition, effective trademark and trade secret protection may be unavailable or limited in some foreign countries.

There is no guarantee any patent will issue on any patent application that we have filed or may file. Further, any patent that we may obtain will expire, and it is possible that it may be challenged, invalidated or circumvented. If we do not secure and maintain patent protection for our technology and products, our competitive position will be significantly harmed because it will be much easier for competitors to sell products similar to ours. Alternatively, a competitor may independently develop or patent technologies that are substantially equivalent to or superior to our technology. If this happens, any patent that we may obtain may not provide protection and our competitive position could be significantly harmed.

As we expand our product line or develop new uses for our products, these products or uses may be outside the protection provided by our current patent applications and other intellectual property rights. In addition, if we develop new products or enhancements to existing products, there is no guarantee that we will be able to obtain patents to protect them. Even if we do receive patents for our existing or new products, these patents may not provide meaningful protection. In some countries outside of the United States, patent protection is not available. Moreover, some countries that do allow registration of patents do not provide meaningful redress for violations of patents. As a result, protecting intellectual property in these countries is difficult and our

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competitors may successfully sell products in those countries that have functions and features that infringe on our intellectual property.

We may initiate claims or litigation against third parties in the future for infringement of our proprietary rights or to determine the scope and validity of our proprietary rights or the proprietary rights of competitors. These claims could result in costly litigation and divert the efforts of our technical and management personnel. As a result, our operating results could suffer and our financial condition could be harmed.

CLAIMS BY OTHER COMPANIES THAT WE INFRINGE THEIR INTELLECTUAL PROPERTY OR THAT PATENTS ON WHICH WE RELY ARE INVALID COULD ADVERSELY AFFECT OUR BUSINESS.

From time to time, companies may assert patent, copyright and other intellectual proprietary rights against our products or products using our technologies or other technologies used in our industry. These claims may result in our involvement in litigation. We may not prevail in such litigation given the complex technical issues and inherent uncertainties in intellectual property litigation. If any of our products were found to infringe on another company's intellectual property rights, we could be required to redesign our products or license such rights and/or pay damages or other compensation to such other company. If we were unable to redesign our products or license such intellectual property rights used in our products, we could be prohibited from making and selling such products.

Other companies or entities also may commence actions seeking to establish the invalidity of our patents. In the event that one or more of our patents are challenged, a court may invalidate the patent or determine that the patent is not enforceable, which could harm our competitive position. If any of our key patents are invalidated, or if the scope of the claims in any of these patents is limited by court decision, we could be prevented from licensing the invalidated or limited portion of such patents. Even if such a patent challenge is not successful, it could be expensive and time consuming to address, divert management attention from our business and harm our reputation.

WE ARE SUBJECT TO SUBSTANTIAL REGULATION. ANY FAILURE TO COMPLY WITH EXISTING REGULATIONS, OR INCREASED LEVELS OF REGULATION, COULD HAVE A MATERIAL ADVERSE EFFECT ON US.

Our business activities are subject to substantial regulation by various agencies and departments of the United States government and, in certain circumstances, the governments of other countries. Several government agencies, including NASA and the U.S. Air Force, maintain Export Control Offices to ensure that any disclosure of scientific and technical information complies with the Export Administration Regulations and the International Traffic in Arms

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Regulations or, "ITAR." Exports of our products, services and technical information require either Technical Assistance Agreements, manufacturing license agreements or licenses from the U.S. Department of State depending on the level of technology being transferred. This includes recently published regulations restricting the ability of U.S.-based companies to complete offshore launches, or to export certain satellite components and technical data to any country outside the United States. The export of information with respect to ground-based sensors, detectors, high-speed computers, and national security and missile technology items are controlled by the Department of Commerce. The government has indicated that failure to comply with the ITAR and/or the Commerce Department regulations may subject guilty parties to fines of up to \$1 million and/or up to 10 years imprisonment per violation. Failure to comply with

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any of the above mentioned regulations could have serious adverse effects as dictated by the rules associated with compliance to the ITAR regulations.

In addition, the space industry has specific regulations with which we must comply. Command and telemetry frequency assignments for space missions are regulated internationally by the International Telecommunications Union, which we refer to as the ITU. In the United States, the Federal Communications Commission, which we refer to as the FCC, and the National Telecommunications Information Agency, which we refer to as NTIA, regulate command and telemetry frequency assignments. All launch vehicles that are launched from a launch site in the United States must pass certain launch range safety regulations that are administered by the U.S. Air Force. In addition, all commercial space launches that we would perform require a license from the Department of Transportation. Satellites that are launched must obtain approvals for command and frequency assignments. For international approvals, the FCC and NTIA obtain these approvals from the ITU. These regulations have been in place for a number of years to cover the large number of non-government commercial space missions that have been launched and put into orbit in the last 15 to 20 years. Any commercial deep space mission that we would perform would be subject to these regulations.

We are also subject to laws and regulations regulating the formation, administration and performance of, and accounting for, U.S. government contracts. With respect to such contracts, any failure to comply with applicable laws could result in contract termination, price or fee reductions, penalties, suspension or debarment from contracting with the U.S. government.

We are also required to obtain permits, licenses, and other authorizations under federal, state, local and foreign laws and regulations relating to the environment. Our failure to comply with applicable law or government regulations, including any of the above-mentioned regulations, could have serious adverse effects on our business.

SPACEDEV'S STOCK PRICE HAS BEEN AND MAY CONTINUE TO BE VOLATILE, WHICH COULD RESULT IN SUBSTANTIAL LOSSES FOR INVESTORS PURCHASING SHARES OF SPACEDEV COMMON STOCK.

The market prices of securities of technology-based companies like ours are often highly volatile. The market price of SpaceDev common stock has fluctuated significantly in the past. During the 52-week period ended November 1, 2005, the high and low closing price of a share of SpaceDev common stock was \$2.31 and \$1.43, respectively. Our market price may continue to exhibit significant fluctuations in response to a variety of factors, many of which are beyond our control, including:

- deviations in our results of operations from estimates;
- changes in estimates of our financial performance;
- changes in our markets, including decreased government spending or the entry of new competitors;
- our inability to obtain financing necessary to operate our business and consummate the merger;
- changes in technology;
- potential loss of key personnel;
- changes in market valuations of similar companies and stock market price;
- the merger; and,

- volume fluctuations generally.

OUR NET OPERATING LOSS CARRYFORWARDS MAY BE SUBJECT TO AN ANNUAL LIMITATION ON THEIR UTILIZATION, WHICH MAY INCREASE OUR TAXES AND DECREASE NET INCOME AND CASH FLOWS.

At December 31, 2004 and September 30, 2005, we had federal tax net operating loss carryforwards of approximately \$4,826,000 and \$4,325,000, state tax net operating loss carryforwards of approximately \$2,146,000 and \$1,629,000 respectively. The federal tax loss carryforwards will expire in 2023 and the state tax carryforwards will expire in 2013, respectively, unless previously utilized. The State of California suspended the utilization of net operating loss for 2002 and 2003 and limited them for 2004. If our net operating loss carryforwards are subject to an annual limitation on their utilization, our taxes may increase and our cash flows and net income may decrease.

Our use of Starsys' net operating loss carryforwards may be limited as a result of cumulative changes in ownership of more than 50% over a three year period. At December 31, 2004 and September 30, 2005, Starsys had federal tax net operating loss carryforwards of approximately \$1,500,000 and \$3,546,000, state tax net operating loss carryforwards of approximately \$3,270,000 and \$5,315,000. The federal and state tax loss carryforwards will expire in 2024 unless previously utilized.

THE CONCENTRATION OF OWNERSHIP OF OUR COMMON STOCK GIVES A FEW INDIVIDUALS SIGNIFICANT CONTROL OVER IMPORTANT POLICY DECISIONS AND COULD DELAY OR PREVENT CHANGES IN CONTROL.

As of November 1, 2005, SpaceDev executive officers and directors together beneficially owned approximately 45% of the issued and outstanding shares of SpaceDev common stock, and Starsys executive officers and directors together beneficially owned approximately 59% of the issued and outstanding shares of Starsys common stock. As a result, following the merger these persons could have the ability to exert significant influence over matters concerning us, including the election of directors, changes in the size and composition of the board of directors, and mergers and other business combinations involving us. In addition, through control of the board of directors and voting power, our officers and directors may be able to control certain decisions, including decisions regarding the qualification and appointment of officers, dividend policy, access to capital (including borrowing from third-party lenders and the issuance of additional equity securities), and the acquisition or disposition of our assets. In addition, the concentration of voting power in the hands of those individuals could have the effect of delaying or preventing a change in control of our company, even if the change in control would benefit our shareholders. A perception in the investment community of an anti-takeover environment at our company could cause investors to value our stock lower than in the absence of such a perception.

SPACEDEV HAS NOT PAID DIVIDENDS ON ITS COMMON STOCK IN THE PAST AND DOES NOT ANTICIPATE PAYING DIVIDENDS ON ITS COMMON STOCK IN THE FORESEEABLE FUTURE.

SpaceDev has not paid common stock dividends since its inception and does not anticipate paying dividends in the foreseeable future. Our current business plan provides for the reinvestment of earnings in an effort to complete development of our technologies and products, with the goal of increasing sales and long-term profitability and value. In addition, the revolving credit facility with Laurus Master Fund Ltd. and the terms of our preferred stock currently restrict, and any other credit or borrowing arrangements that we may

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enter into may in the future restrict or limit, our ability to pay common stock dividends to our shareholders.

SPACEDEV COMMON SHAREHOLDERS WILL EXPERIENCE DILUTION IF OUR PREFERRED STOCK IS CONVERTED OR OUR OUTSTANDING WARRANTS AND OPTIONS ARE EXERCISED.

As of December 20, 2005, SpaceDev is obligated to issue 3,369,127 shares of SpaceDev common stock if all of SpaceDev's outstanding warrants are exercised and shares of preferred stock converted. In addition, as of December 20, 2005, SpaceDev has outstanding stock options to purchase an aggregate of 9,572,266 shares of SpaceDev common stock. The total number of shares, issuable upon the exercise of currently vested warrants, options and preferred stock (12,941,393 shares) represents approximately 52% of SpaceDev's issued and outstanding shares of common stock as of December 20, 2005. In addition, SpaceDev has agreed in the merger agreement to issue up to 5,357,143 shares at the closing of the merger, up to 7,000,000 shares as performance consideration and up to 1,843,571 shares as options under SpaceDev's equity incentive plan to executives, managers, employees and consultants of Starsys. In addition, to

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complete the financing necessary to repay the Starsys bank and shareholder loans and to pay other costs and expenses associated with the merger, SpaceDev currently anticipates it needs to issue another approximately 4,500,000 shares in connection with the merger. The total number of shares which SpaceDev may thus issue in connection with the merger (18,700,714 shares) represents approximately 75% of SpaceDev's outstanding shares of common stock as of December 20, 2005.

FUTURE SALES OF OUR COMMON STOCK MAY DEPRESS THE PRICE OF THE COMMON STOCK.

Sales by SpaceDev's current and future stockholders of a substantial number of shares, including sales by the Starsys shareholders following the merger, or the expectation that such sales may occur, could significantly reduce the market price of our common stock. As described in the immediately preceding risk factor, SpaceDev has a significant number of shares that are issuable upon exercise of options and warrants or upon conversion of shares of preferred stock. All of these shares are either registered with the SEC and may be sold without restriction (except for volume limitations applicable to our officers, directors and significant shareholders with respect to their option shares, and contractual lockup restrictions obtained from some of the Starsys shareholders) or have registration rights requiring us to register these shares with the SEC. In the future, we may issue additional shares of common stock, convertible securities, options and warrants.

CHANGES IN STOCK OPTION ACCOUNTING RULES MAY ADVERSELY AFFECT OUR REPORTED OPERATING RESULTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, OUR STOCK PRICE AND OUR EFFORTS IN RECRUITING ADDITIONAL EMPLOYEES.

Technology companies in general, and our company in particular, depend upon and use broad based employee stock option programs to hire, incentivize and retain employees in a competitive marketplace. Currently, we do not recognize compensation expense for stock options issued to employees or directors, except in limited cases involving modifications of stock options, and we instead disclose in the notes to our financial statements information about what such charges would be if they were expensed. An accounting standard setting body has recently adopted a new accounting standard that will require us to record equity-based compensation expense for stock options and employee stock purchase plan rights granted to employees based on the fair value of the equity instrument at the time of grant. We will be required to record these expenses beginning with the first quarter of the year ending December 31, 2006. The change in accounting rules will lead to a decrease in reported earnings, if we

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have earnings, or an increased loss, if we do not have earnings. This may negatively impact our future stock price. In addition, this change in accounting rules could impact our ability to utilize broad based employee stock plans to reward employees and could result in a competitive disadvantage to us in the employee marketplace.

WE ARE SUBJECT TO NEW CORPORATE GOVERNANCE AND INTERNAL CONTROL REPORTING REQUIREMENTS, AND OUR COSTS RELATED TO COMPLIANCE WITH, OR OUR FAILURE TO COMPLY WITH EXISTING AND FUTURE REQUIREMENTS COULD ADVERSELY AFFECT OUR BUSINESS.

We face new corporate governance requirements under the Sarbanes-Oxley Act of 2002, as well as new rules and regulations subsequently adopted by the SEC, the Public Company Accounting Oversight Board and the American Stock Exchange (if our common stock is approved for listing on the American Stock Exchange). These laws, rules and regulations continue to evolve and may become increasingly stringent in the future. In particular, we will be required to include management and independent registered public accounting firm reports on internal controls as part of our annual report for the year ending December 31, 2007 pursuant to Section 404 of the Sarbanes-Oxley Act. We are in the process of evaluating our control structure to help ensure that we will be able to comply with Section 404 of the Sarbanes-Oxley Act. We cannot assure you that we will be able to fully comply with these laws, rules and regulations that address corporate governance, internal control reporting and similar matters. Failure to comply with these laws, rules and regulations could materially adversely affect our reputation, financial condition and the value of our securities.

THE TERMS OF SPACEDEV'S OUTSTANDING SHARES OF PREFERRED STOCK, AND ANY SHARES OF PREFERRED STOCK ISSUED IN THE FUTURE, MAY REDUCE THE VALUE OF YOUR COMMON STOCK.

SpaceDev is authorized to issue up to 10,000,000 shares of preferred stock in one or more series. SpaceDev currently has outstanding 250,000 shares of its Series C Convertible Preferred Stock. Our board of directors may determine the terms of future preferred stock offerings without further action by our shareholders. If we issue additional

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preferred stock, it could affect your rights or reduce the value of your common stock. In particular, specific rights granted to future holders of preferred stock could be used to restrict our ability to merge with or sell our assets to a third party. These terms may include voting rights, preferences as to dividends and liquidation, conversion and redemption rights, and sinking fund provisions. SpaceDev's Series C Preferred Stock ranks senior to the common stock with respect to dividends and liquidation.

BECAUSE SPACEDEV COMMON STOCK IS SUBJECT TO THE SEC'S PENNY STOCK RULES, BROKER-DEALERS MAY EXPERIENCE DIFFICULTY IN COMPLETING CUSTOMER TRANSACTIONS AND TRADING ACTIVITY IN SPACEDEV SECURITIES MAY BE ADVERSELY AFFECTED.

Transactions in SpaceDev common stock are currently subject to the "penny stock" rules promulgated under the Securities Exchange Act of 1934. Under these rules, broker-dealers who recommend SpaceDev securities to persons other than institutional accredited investors must:

- make a special written suitability determination for the purchaser;
- receive the purchaser's written agreement to a transaction prior to sale;
- provide the purchaser with risk disclosure documents which identify certain risks associated with investing in "penny stocks" and which describe the

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market for these "penny stocks" as well as a purchaser's legal remedies; and,

- obtain a signed and dated acknowledgment from the purchaser demonstrating that the purchaser has actually received the required risk disclosure document before a transaction in a "penny stock" can be completed.

As a result of these rules, broker-dealers may find it difficult to effectuate customer transactions and trading activity in SpaceDev securities may be adversely affected. As a result, the market price of SpaceDev securities may be depressed, and you may find it more difficult to sell our securities.

THE REVOLVING CREDIT FACILITY WITH LAURUS MASTER FUND, LTD. IS COLLATERALIZED BY A GENERAL SECURITY INTEREST IN OUR ASSETS. IF WE WERE TO BORROW AND THEN DEFAULT UNDER THE TERMS OF THE REVOLVING CREDIT FACILITY, THEN LAURUS WOULD HAVE THE RIGHT TO FORECLOSE ON OUR ASSETS.

In June 2003, SpaceDev entered into a revolving credit facility with Laurus Master Fund, Ltd., which currently permits borrowings up to a maximum principal amount of \$1.5 million. Borrowings under the revolving credit facility are collateralized by a general security interest in SpaceDev's assets. As of September 30, 2005, there was no balance outstanding under the revolving credit facility, however, subject to the amount of our eligible accounts receivable, we may be able to borrow funds in the future under the revolving credit facility. Although, we have no intention of borrowing under the revolving credit facility, if we were to borrow and then default under the terms and conditions of the revolving credit facility, Laurus would have the right to accelerate any indebtedness outstanding and foreclose on our assets in order to satisfy our indebtedness. Such a foreclosure could have a material adverse effect on our business, liquidity, results of operations and financial position.

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### SPECIAL MEETING OF SPACEDEV SHAREHOLDERS

SpaceDev is furnishing this joint proxy statement/prospectus to you in order to provide you with important information regarding the matters to be considered at the special meeting of SpaceDev shareholders and at any adjournment or postponement of the special meeting. SpaceDev first mailed this joint proxy statement/prospectus and the accompanying form of proxy to its shareholders on or about December 29, 2005.

#### DATE, TIME AND PLACE OF THE SPECIAL MEETING

SpaceDev will hold its special meeting of shareholders at SpaceDev's offices at 13855 Stowe Drive, Poway, California 92064, on Monday, January 30, 2006, at 9:00 a.m. Pacific Standard Time.

#### MATTERS TO BE CONSIDERED AT THE SPECIAL MEETING

At the special meeting, shareholders of SpaceDev will be asked to consider and vote upon the following proposals:

PROPOSAL NO. 1 - To adopt and approve the Agreement and Plan of Merger and Reorganization (referred to in this joint proxy statement/prospectus as the merger agreement) dated as of October 24, 2005 among Starsys Research Corporation ("Starsys"), SpaceDev, Monoceros Acquisition Corp., a Colorado corporation and wholly owned subsidiary of SpaceDev, and certain other parties, and to approve the merger contemplated thereby and the issuance and reservation for issuance of shares of SpaceDev common stock to Starsys



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shareholders pursuant to the merger agreement.

PROPOSAL NO. 2 - To approve amendments to the SpaceDev 2004 Equity Incentive Plan: (1) to increase by 3,000,000 shares the number of authorized shares under the plan; (2) to add per person annual share award limits; and (3) to clarify the limitation on the number of shares which may be issued as incentive stock options.

PROPOSAL NO. 3 - To approve an amendment to SpaceDev's Articles of Incorporation to increase the number of authorized shares of common stock by 50,000,000 shares to a total of 100,000,000 shares. PROPOSAL NO. 4 - To give to SpaceDev's board of directors discretionary authority to sell more than 20% of SpaceDev's common stock (or securities convertible into or exercisable for common stock) in one or more private financings.

### RECORD DATE; SHAREHOLDERS ENTITLED TO VOTE

The record date for determining the SpaceDev shareholders entitled to vote at the special meeting is December 9, 2005. Only holders of record of SpaceDev common stock at the close of business on that date are entitled to vote at the special meeting. On the record date, there were issued and outstanding 24,410,176 shares of SpaceDev common stock. Shares of SpaceDev preferred stock are not entitled to vote on any of the proposals.

As of the record date, the directors and executive officers of SpaceDev and their affiliates held shares of common stock representing approximately 45% of the outstanding shares of SpaceDev common stock.

A list of shareholders eligible to vote at the meeting will be available for your review during SpaceDev's regular business hours at its headquarters in Poway, California for at least ten days prior to the special meeting for any purpose related to the special meeting.

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### VOTING AGREEMENTS

James W. Benson, the chairman and current chief executive officer of SpaceDev, Susan C. Benson, a director of SpaceDev, and Richard B. Slansky, the president, chief financial officer, corporate secretary, and a director of SpaceDev, who in the aggregate hold approximately 42% of the voting power of SpaceDev as of the record date, have entered into voting agreements pursuant to which each has agreed to vote in favor of the merger agreement, the merger and the other proposals described in this joint proxy statement/prospectus.

### VOTING AND REVOCATION OF PROXIES

The proxy accompanying this joint proxy statement/prospectus is solicited on behalf of the board of directors of SpaceDev for use at the special meeting.

General. Shares represented by a properly signed and dated proxy will be voted at the special meeting in accordance with the instructions indicated on the proxy. Proxies that are properly signed and dated but that do not contain voting instructions will be voted FOR each of the proposals described in this joint proxy statement/prospectus.

Abstentions. SpaceDev will count a properly executed proxy marked ABSTAIN with respect to a particular proposal as present for purposes of determining whether a quorum is present, but the shares represented by that proxy will not be voted at the special meeting with respect to such proposal. Because approval

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of Proposal No. 1 may, and Proposal No. 3 will, require the affirmative vote of a majority of the voting power of the SpaceDev shares outstanding, abstentions on these proposals may have the same effect as a vote AGAINST Proposal No. 1 and will have the same effect as a vote AGAINST Proposal No. 3. However, abstentions will have no direct effect on the outcome of any other proposal, assuming that a quorum is present at the special meeting, but will reduce the number of votes required to approve those proposals.

**Broker Non-Votes.** If your shares are held by your broker, your broker will vote your shares for you if you provide instructions to your broker on how to vote. You should follow the directions provided by your broker regarding how to instruct your broker to vote your shares. "Broker non-votes" are shares held by a broker or other nominee that are represented at the special meeting, but with respect to which the broker or nominee is not instructed by the beneficial owner of the shares to vote on the particular proposal and the broker does not have discretionary voting power on the proposal. Broker non-votes will be counted for purposes of determining the presence or absence of a quorum but will not be counted for purposes of determining the number of shares represented and voting with respect to a proposal. Failure to instruct your broker on how to vote your shares on Proposal No. 1 may, and on Proposal No. 3 will, have the effect of voting AGAINST Proposal No. 1 or Proposal No. 3, as the case may be.

**Voting Shares in Person that are Held Through Brokers.** If your SpaceDev shares are held in "street name" (that is, through a bank, broker or other nominee) and you would like to attend the special meeting and vote in person, you will need to bring an account statement or other acceptable evidence of ownership of SpaceDev common stock as of the close of business on December 9, 2005, the record date for voting. Alternatively, in order to vote, you may contact the person in whose name your shares are registered, obtain a properly executed legal proxy from that person, identifying you as a SpaceDev shareholder, authorizing you to act on behalf of the nominee at the SpaceDev special meeting and identifying the number of shares with respect to which the authorization is granted, and bring that proxy to the special meeting.

**Revocation of Proxies.** If you submit a proxy, you may revoke it at any time before it is voted by:

- delivering to the corporate secretary of SpaceDev a written notice, dated later than the proxy you wish to revoke, stating that the proxy is revoked;
- submitting to the corporate secretary of SpaceDev a new, signed proxy card with a later date than the proxy you wish to revoke; or,
- attending the special meeting and voting in person (attendance by itself will not revoke your proxy).

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Notices to the corporate secretary of SpaceDev should be sent to 13855 Stowe Drive, Poway, California 92064.

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

### REQUIRED SHAREHOLDER VOTE

In order to conduct business at the SpaceDev special meeting, a quorum must be present. The holders of a majority of the votes entitled to be cast by holders of common stock at the special meeting, present in person or represented by proxy, constitute a quorum under SpaceDev's articles of incorporation.

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SpaceDev will treat shares of SpaceDev common stock represented by a properly signed and returned proxy, including abstentions and broker non-votes, as present at the SpaceDev special meeting for the purposes of determining the existence of a quorum. If a quorum is not present, it is expected that the shareholder meeting will be adjourned to solicit additional proxies.

With respect to any matter submitted to a vote of the SpaceDev shareholders, each holder of SpaceDev common stock will be entitled to one vote, in person or by proxy, for each share of SpaceDev common stock held in his, her or its name on the books of SpaceDev on the record date.

PROPOSAL NO. 1 - If the shares of SpaceDev common stock are not listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, adoption and approval of the merger agreement and approval of the merger and the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger requires the affirmative vote of a majority of the outstanding shares of SpaceDev common stock. If the shares of SpaceDev common stock are listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, adoption and approval of the merger agreement and approval of the merger and the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger will not be required under applicable law or the articles of incorporation or bylaws of SpaceDev. Nevertheless, in that case, the board of directors of SpaceDev would still seek shareholder approval of Proposal No. 1 as a matter of good corporate governance; and, if the number of votes present in person or represented by proxy cast in favor of Proposal No. 1 does not exceed the number of votes cast in opposition to Proposal No. 1, the board of directors would reconsider its decision to approve the merger agreement, the merger and the proposal to issue and reserve for issuance shares of SpaceDev common stock in connection with the merger.

If the shares of SpaceDev common stock are not listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, abstentions and broker non-votes will have the same effect as voting AGAINST Proposal No. 1. In addition, the merger agreement contains a closing condition in favor of SpaceDev and Starsys that not more than 1.5% of outstanding SpaceDev shares will have exercised, or retained the right to exercise, dissenters' rights, which condition SpaceDev and Starsys may waive. If the shares of SpaceDev common stock are listed on the American Stock Exchange or another applicable national securities exchange prior to the closing of the merger, abstentions will be counted towards the tabulation of votes cast on this proposal; and broker non-votes will be counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

PROPOSAL NO. 2 - Approval of the amendments to the 2004 Equity Incentive Plan requires the number of votes present in person or represented by proxy cast in favor of the amendments to exceed the number of votes cast in opposition to the amendments. Abstentions will be counted towards the tabulation of votes cast on this proposal. Broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

PROPOSAL NO. 3 - Approval of the amendment to SpaceDev's articles of incorporation to increase the number of authorized shares of common stock by 50,000,000 shares to a total of 100,000,000 shares requires the affirmative vote of a majority of the outstanding shares of SpaceDev common stock. Abstentions and broker non-votes will have the same effect as voting AGAINST Proposal No. 3.

PROPOSAL NO. 4 - Approval of the proposal to authorize SpaceDev's board of directors to sell more than 20% of SpaceDev's common stock (or securities convertible into or exercisable for common stock) in private offerings

requires the number of votes present in person or represented by proxy cast in favor of the proposal to exceed the number of votes cast in opposition to the proposal. Abstentions will be counted towards the tabulation of votes cast on this proposal. Broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

The inspector of elections for the SpaceDev special meeting will tabulate the votes.

RECOMMENDATION BY THE BOARD OF DIRECTORS

After careful consideration, the board of directors of SpaceDev has determined that each proposal is advisable and in the best interests of SpaceDev and its shareholders and recommends that SpaceDev shareholders vote FOR each of the proposals.

SOLICITATION OF PROXIES

SpaceDev and Starsys are conducting this proxy solicitation and will bear the cost of soliciting proxies, including the assembly, printing and mailing of this joint proxy statement/prospectus, the respective proxy cards and any additional information furnished to shareholders. SpaceDev will also make arrangements with brokerage houses and other custodians, nominees and fiduciaries to send the proxy materials to their principals and will reimburse them for their reasonable expenses in so doing. To the extent necessary in order to assure sufficient representation at the SpaceDev special meeting, officers and regular employees of SpaceDev may solicit the return of proxies from SpaceDev shareholders by mail, telephone, telegram and personal interview. No compensation in addition to regular salary and benefits will be paid to any such officer or regular employee for such solicitation. The total estimated cost of the solicitation of SpaceDev proxies is approximately \$35,000.

SECURITY OWNERSHIP OF PRINCIPAL SHAREHOLDERS, DIRECTORS AND EXECUTIVE OFFICERS

For information regarding the security ownership of SpaceDev common stock by principal shareholders, directors and executive officers of SpaceDev, see the disclosure below under the caption "Ownership of SpaceDev Common Stock" beginning on page 129.

APPRAISAL AND DISSENTERS' RIGHTS

Holders of SpaceDev common stock may have dissenters' rights under California law with respect to the merger transaction. For information regarding such dissenters' rights, see "The Merger - Appraisal and Dissenters' Rights" beginning on page 50.

INTEREST OF CERTAIN PERSONS IN MATTERS TO BE ACTED UPON

With respect to Proposal No. 1 and two other merger related proposals, certain officers and directors of SpaceDev have interests in the merger that are different from, or are in addition to, those of SpaceDev shareholders generally. For information regarding the interests of SpaceDev's officers and directors in the merger, see "The Merger - Interests of Certain SpaceDev Persons in the Merger" beginning on page 42.

In addition, the officers and directors of SpaceDev have an interest in the passing of Proposal No. 2 to the extent they may in the future receive awards under the 2004 Equity Incentive Plan, the total authorized shares of which are proposed to be increased by 3,000,000 shares.

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Other than as provided above, the officers and directors of SpaceDev do not have interests in the proposals that are materially different from those of SpaceDev shareholders generally.

### SHAREHOLDER PROPOSALS AND NOMINATIONS

Requirements for Shareholder Proposals to be Brought Before an Annual Meeting. For shareholder nominations to the board of directors or other proposals to be considered at an annual meeting, the shareholder must have given timely notice of the proposal or nomination in writing to the company's Corporate Secretary pursuant to

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Rule 14a-4 under the Securities Exchange Act of 1934. To be timely for the 2006 annual meeting, a shareholder's notice must be delivered to or mailed and received by SpaceDev's Corporate Secretary at SpaceDev's principal executive offices not later than June 3, 2006. A shareholder's notice to the Corporate Secretary must set forth, as to each matter the shareholder proposes to bring before the annual meeting, the information required by SpaceDev's bylaws.

Requirements for Shareholder Proposals to be Considered for Inclusion in SpaceDev's Proxy Materials. Shareholder proposals submitted pursuant to Rule 14a-8 under the Securities Exchange Act of 1934 and intended to be presented at SpaceDev's 2006 annual meeting must be received by SpaceDev not later than March 20, 2006 to be considered for inclusion in SpaceDev's proxy materials for that meeting.

THE MATTERS TO BE CONSIDERED AT THE SPECIAL MEETING ARE OF GREAT IMPORTANCE TO THE SHAREHOLDERS OF SPACEDEV. YOU ARE ACCORDINGLY URGED TO READ AND CAREFULLY CONSIDER THE INFORMATION PRESENTED IN THIS JOINT PROXY STATEMENT/PROSPECTUS, AND TO SUBMIT YOUR PROXY BY MAIL IN THE ENCLOSED POSTAGE-PAID ENVELOPE.

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### SPECIAL MEETING OF STARSYS SHAREHOLDERS

Starsys is furnishing this joint proxy statement/prospectus to you in order to provide you with important information regarding the matters to be considered at the special meeting of the Starsys shareholders and at any adjournment or postponement of the special meeting. Starsys first mailed this joint proxy statement/prospectus and the accompanying form of proxy to its shareholders on or about December 29, 2005.

### DATE, TIME AND PLACE OF THE SPECIAL MEETING

Starsys will hold its special meeting of shareholders at Starsys' offices at 4909 Nautilus Court North, Boulder, Colorado 80301 on Monday, January 30, 2006, at 10:00 a.m. Mountain Standard Time.

### MATTERS TO BE CONSIDERED AT THE SPECIAL MEETING

At the special meeting, shareholders of Starsys will be asked to consider and vote upon the following proposals:

PROPOSAL NO. 1 - To adopt and approve the Agreement and Plan of Merger and Reorganization (referred to in this joint proxy statement/prospectus as the

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merger agreement) dated as of October 24, 2005, among Starsys, SpaceDev, Inc. ("SpaceDev"), Monoceros Acquisition Corp., a Colorado corporation and wholly owned subsidiary of SpaceDev, and certain other parties, and to approve the merger contemplated thereby.

PROPOSAL NO. 2 - To approve the appointment and authorization of Scott Tibbitts, the Chairman and Chief Executive Officer of Starsys, as the shareholder agent under the merger agreement and related escrow agreement.

### RECORD DATE; SHAREHOLDERS ENTITLED TO VOTE

The record date for determining the Starsys shareholders entitled to vote at the special meeting is December 1, 2005. Only holders of record of Starsys common stock at the close of business and participants in the separate plan holding Starsys common stock under the Starsys 401(k) and Stock Bonus Plan dated August 4, 1997, on that date are entitled to vote at the special meeting. On the record date, there were issued and outstanding 522,437.47 shares of Starsys common stock (including the shares held in the separate plan holding Starsys common stock under the Starsys 401(k) and Stock Bonus Plan dated August 4, 1997).

As of the record date, the directors and executive officers of Starsys and their affiliates held 300,102.17 shares of Starsys common stock, representing approximately 57% of the outstanding shares of Starsys common stock. A list of shareholders eligible to vote at the meeting will be available for your review during Starsys' regular business hours at its headquarters in Boulder, Colorado for at least ten days prior to the special meeting for any purpose related to the special meeting.

### VOTING AGREEMENTS

Scott Tibbitts, the chairman and chief executive officer of Starsys, who holds approximately 48% of the voting power of Starsys as of the record date, has entered into a voting agreement pursuant to which he is obligated to vote in favor of both proposals.

### VOTING AND REVOCATION OF PROXIES

The proxy accompanying this joint proxy statement/prospectus is solicited on behalf of the board of directors of Starsys for use at the special meeting.

General. Shares represented by a properly signed and dated proxy will be voted at the special meeting in accordance with the instructions indicated on the proxy. Proxies that are properly signed and dated but that do not contain voting instructions will be voted FOR each of the proposals described above.

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Abstentions. Starsys will count a properly executed proxy marked ABSTAIN with respect to a particular proposal as present for purposes of determining whether a quorum is present, but the shares represented by that proxy will not be voted at the special meeting with respect to such proposal. Because approval of Proposal No. 1 and Proposal No. 2 each requires the affirmative vote of a majority of the voting power of shares of Starsys' common stock outstanding, abstentions on either proposal will have the same effect as a vote AGAINST the proposal.

Revocation of Proxies. If you submit a proxy, you may revoke it at any time before it is voted by:

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- delivering to the secretary of Starsys a written notice, dated later than the proxy you wish to revoke, stating that the proxy is revoked;
- submitting to the secretary of Starsys a new, signed proxy card with a later date than the proxy you wish to revoke; or
- attending the special meeting and voting in person for attendance by itself will not revoke your proxy.

Notices to the secretary of Starsys should be sent to 4909 Nautilus Court North, Boulder, Colorado 80301.

### REQUIRED SHAREHOLDER VOTE

In order to conduct business at the Starsys special meeting, a quorum must be present. The holders of a majority of the votes entitled to be cast by holders of common stock at the special meeting, present in person or represented by proxy, constitutes a quorum under Starsys' bylaws. Starsys will treat shares of common stock represented by a properly signed and returned proxy, including abstentions, as present at the Starsys special meeting for the purposes of determining the existence of a quorum. If a quorum is not present, it is expected that the special meeting will be adjourned to solicit additional proxies.

With respect to any matter submitted to a vote of the Starsys shareholders, each holder of Starsys common stock will be entitled to one vote, in person or by proxy, for each share of Starsys common stock held in his, her or its name on the books of Starsys on the record date.

PROPOSAL NO. 1 - Adoption and approval of the merger agreement and approval of the merger requires the affirmative vote of a majority of the voting power of Starsys' common stock outstanding.

PROPOSAL NO. 2 - Approval of the appointment and authorization of Scott Tibbitts, the chairman and chief executive officer of Starsys, as the shareholder agent under the merger agreement and related escrow agreement, requires the affirmative vote of a majority of the voting power of Starsys' common stock outstanding.

In addition, the merger agreement contains a closing condition requiring the affirmative vote in favor of the merger of holders of 98% of the voting power of Starsys' common stock outstanding. This closing condition may be waived by SpaceDev.

The inspector of elections for the Starsys special meeting will tabulate the votes.

### UNANIMOUS RECOMMENDATION BY THE BOARD OF DIRECTORS

After careful consideration, the board of directors of Starsys has determined that the merger and the merger agreement, and the the appointment and authorization of Scott Tibbitts as shareholder agent, is advisable and in the best interests of Starsys and its shareholders and unanimously recommends that Starsys shareholders vote FOR each of the proposals described above.

### SOLICITATION OF PROXIES

SpaceDev and Starsys are conducting this proxy solicitation and will bear the cost of soliciting proxies, including the assembly, printing and mailing of this joint proxy statement/prospectus, the respective proxy cards and

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any additional information furnished to shareholders. To the extent necessary in order to assure sufficient representation at the Starsys special meeting, officers and regular employees of Starsys may solicit the return of proxies from Starsys shareholders by mail, telephone, telegram and personal interview. No compensation in addition to regular salary and benefits will be paid to any such officer or regular employee for such solicitation. The total estimated cost of the solicitation of Starsys proxies is approximately \$15,000.

### SECURITY OWNERSHIP OF PRINCIPAL SHAREHOLDERS, DIRECTORS AND EXECUTIVE OFFICERS

For information regarding the security ownership of Starsys common stock by principal shareholders, directors and executive officers of Starsys, see "Ownership of Starsys Common Stock" beginning on page 148.

### APPRAISAL AND DISSENTERS' RIGHTS

Holders of Starsys common stock may be entitled to dissenters' rights under Colorado law with respect to the merger transaction. For more information regarding dissenters' rights, see the disclosure under "The Merger - Appraisal and Dissenters' Rights" beginning on page 50. In addition, the merger agreement includes a closing condition that at least 98% of the outstanding shares of Starsys common stock vote to approve the merger and the merger agreement, which closing condition SpaceDev may waive.

### INTEREST OF CERTAIN PERSONS IN MATTERS TO BE ACTED UPON

Certain officers and directors of Starsys have interests in the merger that are different from, or are in addition to, those of Starsys shareholders generally. For information regarding the interests of Starsys' officers and directors in the merger, see "The Merger - Interests of Certain Starsys Persons in the Merger" beginning on page 44.

### LETTER OF TRANSMITTAL AND STARSYS SHARE CERTIFICATES

If you are attending the Starsys shareholders meeting, Starsys encourages you to bring the completed letter of transmittal, attached to this joint proxy statement/prospectus as Annex F, including the attached Form W-9, and all of your Starsys share certificates to the meeting. If the merger does not close, Starsys will return these share certificates to you.

If you are not attending the meeting, Starsys encourages you to send in your completed letter of transmittal (including the attached Form W-9) and all of your Starsys share certificates together with your proxy card to the exchange agent. If you deliver the completed letter of transmittal, Form W-9 and share certificates to Starsys, Starsys will deliver them to the exchange agent for the merger on your behalf. A closing condition to the merger requires Starsys shareholders holding 98% of the outstanding shares of Starsys common stock to deliver their share certificates prior to the closing, which condition may be waived by SpaceDev.

The letter of transmittal includes a certification that, if any of your share certificates are not attached, that those certificates have been lost, stolen or are otherwise missing. The letter also includes a general release of all claims you may have against Starsys as a shareholder, including any dissenters' rights.

THE MATTERS TO BE CONSIDERED AT THE SPECIAL MEETING ARE OF GREAT IMPORTANCE TO THE SHAREHOLDERS OF STARSYS. YOU ARE ACCORDINGLY URGED TO READ AND CAREFULLY CONSIDER THE INFORMATION PRESENTED IN THIS JOINT PROXY STATEMENT/PROSPECTUS, AND TO PROPERLY COMPLETE AND SUBMIT YOUR PROXY.



SPACEDEV PROPOSAL NO. 1 AND STARSYS PROPOSAL NO. 1 -  
THE MERGER

This section of this joint proxy statement/prospectus describes the principal aspects of SpaceDev Proposal No. 1 and Starsys Proposal No. 1, including the merger and the merger agreement. While SpaceDev and Starsys believe that this description covers the material terms of the merger and the related transactions, this summary may not contain all of the information that is important to SpaceDev and Starsys shareholders. You can obtain a more complete understanding of the merger by reading the merger agreement, a copy of which is attached to this joint proxy statement/prospectus as Annex A. You are encouraged to read the merger agreement and the other annexes to this joint proxy statement/prospectus carefully and in their entirety.

BACKGROUND OF THE MERGER

The management and boards of directors of both SpaceDev and Starsys continually review their companies' respective market positions in light of the changing competitive environment of the aerospace industry with the objective of determining which strategic alternatives are available to enhance shareholder value. From time to time, the management of each of SpaceDev and Starsys have had conversations with other companies to explore opportunities to improve their companies' respective market positions, including through potential acquisitions or dispositions of assets, joint ventures and other strategic transactions.

The provisions of the merger agreement are the result of arms-length negotiations conducted among representatives of SpaceDev and Starsys and their respective legal and financial advisors. The following is a summary of the meetings, negotiations, and discussions between the parties that preceded the execution of the merger agreement.

Beginning in 2001, Starsys entered into some fixed-price development programs which resulted in cost overruns and financial challenges to meet program needs. These overruns have been funded through Starsys credit facilities, term loans, and other loans. As these cost overruns continued to increase, Starsys faced additional financial duress and required additional capital resources.

In May 2005, Starsys was notified by its primary bank lender, Vectra Bank Colorado, which we refer to as Vectra, that Starsys was out of compliance with various loan covenants, and that Vectra had elected to place Starsys into forbearance, an option available to Vectra under the credit facility. On May 24, 2005, Starsys signed a forbearance agreement with Vectra, which included an incremental schedule for Starsys to obtain additional investments to repay Vectra and to provide additional working capital to Starsys.

In June 2005, Starsys promoted Robert Vacek to the position of president and general manager, with the founder of Starsys, Scott Tibbitts retaining the role of chief executive officer. In his role as president, Mr. Vacek was responsible for stabilizing Starsys' finances, completing the programs with cost overruns and establishing processes and systems to support the growing company. It was anticipated that Mr. Vacek's efforts could lead to a sale of Starsys.

On June 22, 2005, Starsys engaged St. Charles Capital, LLC, which we refer to as St. Charles, to provide investment banking services in connection with Starsys' review of its strategic alternatives, including the possible sale of Starsys or the raising of private equity financing. St. Charles, as part of its investment banking business, regularly values businesses and their securities in connection with capital market transactions, merger and acquisitions, private placements and valuations for estate, corporate and other purposes.

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In July and August 2005, St. Charles produced marketing documents and financial models for use in the solicitation of interested parties. During these months, St. Charles contacted approximately 21 potential interested parties, and distributed offering memorandums to 10 parties. Also during this time, St. Charles and Starsys met with interested parties to describe more fully the opportunity of acquiring Starsys, including a meeting with Mark N. Sirangelo of QS Advisors, LLC and The QuanStar Group LLC, which we refer to as QS Advisors or QuanStar, business advisors to SpaceDev, on July 20, 2005. Mr. Sirangelo will succeed James W. Benson as chief executive officer of SpaceDev and will also become vice chairman and a director of SpaceDev effective December 30, 2005.

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On July 28, 2005, Starsys met with management of SpaceDev at the Starsys facility. SpaceDev management toured the facility and began to conduct due diligence.

By August 2, 2005, three parties, including SpaceDev, had submitted proposals to Starsys to enter into a strategic transaction. All three proposals provided for the repayment of the Starsys bank debt. Two of the proposals were for acquisition of Starsys, and one was for strategic investment. Each proposal placed a different enterprise value on Starsys.

On August 8, 9 and 10, 2005, Starsys provided counterproposals to two of the parties, including SpaceDev. Starsys and St. Charles believed that those parties were motivated and capable of meeting Starsys' time schedule.

On August 10 and 11, 2005, representatives of the management of Starsys and SpaceDev met in San Diego, California, together with St. Charles, to discuss the valuation of Starsys and the potential terms of a merger transaction. The parties also conducted due diligence. Starsys management toured the SpaceDev facility.

On August 21, 2005, Starsys and St. Charles updated SpaceDev and QS Advisors on Starsys' working capital needs and operational results. The parties also discussed potential transaction terms.

On August 22, 2005, Starsys terminated negotiations with the second party after the second party could not meet Starsys' time and enterprise valuation requirements. Starsys further discussed potential transaction terms with SpaceDev.

On August 23, 2005, Starsys and SpaceDev entered into a letter of intent. Under the letter of intent, SpaceDev and Starsys agreed to negotiate a definitive agreement for SpaceDev to acquire all of the outstanding capital stock of Starsys and repay Starsys' indebtedness to Vectra. This letter of intent included binding provisions regarding exclusivity and non-binding provisions regarding a bridge loan for \$1.2 million, cash and equity at closing and in future periods, employment agreements and option reserves and a target closing date.

On September 7, 2005, SpaceDev management met with various Starsys representatives to conduct further due diligence. Starsys financial and personnel records were collected, and Starsys engineering, operational, and support capabilities were assessed.

On September 8, 2005, Starsys and SpaceDev entered into a bridge loan agreement under which SpaceDev agreed to loan to Starsys \$1.2 million for the purpose of paying down Starsys' credit facility with Vectra. The loan accrues interest at

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8% per annum and matures on December 31, 2005 or earlier in certain circumstances. No principal or interest payments are due before maturity. The maturity date may be accelerated upon the occurrence of certain events of default. The loan is secured by a security interest in all of the assets of Starsys, subject to an intercreditor agreement with Vectra. This intercreditor agreement precludes SpaceDev from foreclosing on its loan, absent Vectra's consent, until May 31, 2006. Starsys was required to use the proceeds of the loan to make a progress payment to Vectra on the outstanding principal balance of loans under the credit facility, which payment was due under the forbearance agreement.

On September 22, 2005, on behalf of SpaceDev, Sheppard, Mullin, Richter & Hampton, LLP, which we refer to as Sheppard Mullin, legal representative of SpaceDev, delivered an initial draft of the merger agreement to Starsys and its advisors. From this point until the signing of the merger agreement, Starsys and SpaceDev performed legal, financial and technical due diligence on each other.

From September 22 through October 19, 2005, Starsys and SpaceDev and their respective legal and other advisors exchanged drafts of the merger agreement and agreements ancillary to the merger agreement and negotiated various provisions and deal terms.

On October 19, 2005, at a meeting of the Starsys board of directors, the Starsys board of directors reviewed and discussed the proposed acquisition. The Starsys board of directors reviewed the status of the negotiations and key deal terms, the status and findings of due diligence on SpaceDev, the strategic rationale for the proposed acquisition, the potential risks and potential benefits of the proposed acquisition, regulatory and shareholder approval requirements in connection with the proposed transaction, and the key business and financial terms of the proposed transaction.

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Representatives of St. Charles and Holland & Hart LLP, legal advisor to Starsys, reviewed the deal terms and relevant issues for the Starsys board of directors, and St. Charles reviewed its updated financial analysis of the proposed merger with the board members. Following this review and discussion, the Starsys board of directors unanimously approved the merger agreement and the merger.

On October 20, the board of directors of SpaceDev approved the merger and the merger agreement (with such changes as management deemed appropriate) and the transactions contemplated thereby, and recommended that the merger and the merger agreement be presented to the shareholders of SpaceDev for their approval.

On October 20, and through October 24, 2005, management of Starsys and SpaceDev, as well as their respective legal advisors, participated in various meetings and discussions regarding the merger agreement and exchanged additional drafts of the merger agreement and ancillary agreements.

On October 24, 2005, the parties executed and delivered the merger agreement, which is attached to this joint proxy statement/prospectus as Annex A.

On December 7, 2005, the parties amended the merger agreement, which amendment is included as part of Annex A attached to this joint proxy statement/prospectus.

On December 20, 2005, Starsys and SpaceDev agreed to extend to January 31, 2006 the maturity date of the \$1.2 million loan from SpaceDev to Starsys, which loan

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was originally extended to Starsys in September 2005 pursuant to the terms of a bridge loan agreement described above.

### SPACEDEV'S REASONS FOR THE MERGER

SpaceDev believes a business combination with Starsys will benefit SpaceDev in several ways:

- SpaceDev's design expertise and manufacturing capability in the nano- and micro-satellite markets will complement Starsys' expertise in design and manufacturing of components and other products primarily in the mainframe satellite market;

- the increased size and capabilities of a combined company will enable SpaceDev to participate in more diverse projects with greater revenue generation potential and potentially lead to more predictable revenue streams;

- the increased market capitalization of a combined company will place SpaceDev in a better position to have its shares listed on a national securities exchange and to attract institutional investors and analyst coverage;

- a second location in a favorable aerospace labor market will enable more rapid growth to meet future business needs; and,

- SpaceDev's reputation for high customer satisfaction places it in a unique position to take advantage of the increased capabilities that will result from the merger.

SpaceDev's board of directors has determined that the merger is in the best interests of SpaceDev and its shareholders and has approved the merger agreement, the merger, the issuance of shares of SpaceDev common stock pursuant to the merger agreement and the other transactions contemplated by the merger agreement. In reaching its determination, SpaceDev's board of directors considered a number of factors, including the factors discussed above and listed below. The conclusions reached by SpaceDev's board of directors with respect to the following factors supported its determination that the merger and the issuance of shares of SpaceDev common stock pursuant to the merger are fair to, and in the best interests of, SpaceDev and its shareholders:

- the judgment, advice and analysis of SpaceDev's management and its financial advisors with respect to the potential strategic, financial and operational benefits of the transaction, including

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management's favorable recommendation of the transaction, based in part on the business, technical, financial, accounting and legal due diligence investigations performed with respect to Starsys;

- the importance of the merger for pursuing SpaceDev's strategic plan;

- the potential benefits to SpaceDev shareholders of growth opportunities following the merger;

- the possibility, as an alternative to the merger, of opening facilities in new, strategically desirable locations and expanding SpaceDev's manufacturing capability through internal growth or other potential acquisitions;

- the competitive and market environments in which SpaceDev and Starsys

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operate;

- the expected qualification of the transactions contemplated by the merger agreement as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code;
- the likelihood that SpaceDev will be able to retain key management and other personnel of Starsys who may be critical to the ongoing success of each company's business and to the successful integration of the businesses;
- the interests that certain executive officers and directors of SpaceDev may have with respect to the merger in addition to their general interests as shareholders of SpaceDev, as described in more detail under "The Merger - Interests of Certain SpaceDev Persons in the Merger" beginning on page 42;
- the results of operations and financial condition of SpaceDev and Starsys;
- the terms of the merger agreement and the agreements related to the merger, including the consideration to be paid by SpaceDev and the structure of the merger which were deemed by both the board of directors and management of SpaceDev to provide a fair and equitable basis for the transaction; and,
- the likelihood that the transaction will be completed in a timely manner.

SpaceDev's board of directors also considered a number of risks and potentially negative factors in its deliberation concerning the merger, including in particular:

- the risk that the benefits sought to be achieved by the transaction, including those outlined above, will not be achieved;
- the general challenges and costs of combining the operations of two companies and the substantial expenses to be incurred in connection with the merger;
- the effect of public announcement of the transaction on SpaceDev's common stock;
- the risks of unexpected expenses or liabilities associated with the merger, including the potential for cost overruns of the type that motivated Starsys to consider entering into a transaction such as the merger;
- the need to raise additional financing to meet SpaceDev's obligations under the merger agreement;
- the other risks and uncertainties discussed above in the section entitled "Risk Factors", beginning on page 15; and,
- the diversion of management resources from other strategic opportunities and operational matters.

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The above discussion of information and factors considered by SpaceDev's board of directors is not intended to be exhaustive but is believed to include the material factors considered by SpaceDev's board of directors. In view of the wide variety of factors considered by SpaceDev's board of directors, the board did not find it practical to quantify or otherwise assign relative weight to the specific factors considered. In addition, SpaceDev's board of directors did not reach any specific conclusion on each factor considered, or any aspect

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of any particular factor, but conducted an overall analysis of these factors.

Individual members of SpaceDev's board of directors may have given different weight to different factors. However, after taking into account all of the factors described above, SpaceDev's board of directors determined that the merger, the merger agreement, the issuance of shares of SpaceDev's common stock pursuant to the merger agreement and the other agreements related to the merger were fair to, and in the best interests of, SpaceDev and SpaceDev's shareholders, and that SpaceDev should proceed with the merger.

### INTERESTS OF CERTAIN SPACEDEV PERSONS IN THE MERGER

You should be aware that, as described below, certain of the directors and officers of SpaceDev have interests in the merger that are different from, or in addition to, the general interests of the other shareholders of SpaceDev. The SpaceDev board of directors was aware of these interests to the extent they existed at the time and considered them, among other matters, in approving the merger, the merger agreement and the transactions contemplated by the merger agreement. These other interests include the following:

#### Contingent Fee Payable to QS Advisors, LLC

Mark N. Sirangelo, who will become chief executive officer, vice chairman and a director of SpaceDev effective December 30, 2005, is a member of QS Advisors, LLC, and also a member of The QuanStar Group LLC which served as business advisors to SpaceDev in connection with the merger. Upon the closing of the merger, QS Advisors will receive \$200,000 cash and 250,000 shares of SpaceDev common stock.

#### Employment Agreements

Upon the completion of the merger, Mr. Sirangelo will receive (1) an increase in base salary from \$22,500 per month to \$25,000 per month, and (2) a bonus of \$25,000, in each case pursuant to the terms of his executive employment agreement with SpaceDev.

Upon the completion of the merger, Richard B. Slansky, the president, chief financial officer, a director and secretary of SpaceDev, will receive (1) an increase in base salary from \$14,500 per month to \$16,500 per month, and (2) a bonus of \$25,000, in each case pursuant to the terms of his amended and restated executive employment agreement with SpaceDev.

Upon the completion of the merger, James W. Benson, the chairman and current chief executive officer of SpaceDev, will receive (1) an increase in base salary from \$14,000 per month to \$15,500 per month, and (2) a bonus of \$22,500, in each case pursuant to the terms of his executive employment agreement with SpaceDev.

THE INTERESTS DESCRIBED ABOVE MAY INFLUENCE SPACEDEV'S DIRECTORS AND EXECUTIVE OFFICERS IN MAKING THEIR RECOMMENDATION THAT YOU VOTE IN FAVOR OF THE ADOPTION OF THE MERGER AGREEMENT AND THE MERGER. YOU SHOULD BE AWARE OF THESE INTERESTS WHEN YOU CONSIDER THE SPACEDEV'S BOARD'S RECOMMENDATION THAT YOU VOTE IN FAVOR OF THE SPACEDEV PROPOSALS.

#### STARSYS' REASONS FOR THE MERGER

Starsys' board of directors has determined that the terms of the merger and the merger agreement are advisable and fair to, and in the best interests of, Starsys and its shareholders, and determined to recommend that the shareholders of Starsys adopt the merger agreement. In its evaluation of the merger and the merger agreement, Starsys' board of directors consulted with Starsys' senior management, as well as its legal and financial advisors. The decision of Starsys' board of directors to approve the merger and the merger agreement was

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based upon, among other things, several

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potential benefits of the merger to Starsys and its shareholders compared to Starsys continuing to operate as an independent business.

Prior to approving the merger and the merger agreement, Starsys' board of directors considered a number of alternatives for enhancing Starsys' business, including raising new capital to facilitate remaining an independent entity. Based on such information, Starsys' board of directors concluded that remaining an independent entity was not in its shareholders' best interests. In addition, the board of directors was concerned about Starsys' liquidity position and believed that Starsys would not be able to continue as a going concern. Starsys' board of directors believed Starsys' prospects for raising new capital were not sufficient to permit Starsys to remain a viable independent company in light of its weakened liquidity position.

In addition to the potential benefits described under "SpaceDev's Reasons for the Merger" that would be applicable to Starsys shareholders, Starsys' board of directors believes that the merger could be beneficial to Starsys and its shareholders for the following reasons:

- The opportunity for Starsys shareholders to participate in the microsatellite and hybrid rocket propulsion markets served by SpaceDev.
- The opportunity for Starsys shareholders to participate in the potential growth of SpaceDev after the merger.
- The value of the consideration provided for in the merger agreement based on the market price of SpaceDev common stock at the time of board approval and over the past year.
- The ability to complete the merger as a reorganization for United States federal income tax purposes.
- The potential receipt of performance consideration, as described in the merger agreement.
- Access to SpaceDev's greater depth of technologies, marketing resources and financial and operating resources which Starsys' board believes will should enhance Starsys' ability to win larger contracts with favorable terms.
- The public market for SpaceDev common stock will offer Starsys shareholders liquidity, albeit subject to limitations described under "The Merger - Restriction on Resales of SpaceDev Common Stock" beginning on page 54.

Starsys' board of directors reviewed a number of factors in evaluating the merger, including but not limited to the following:

- The repayment by SpaceDev of Starsys long term debt, which is subject to a forbearance agreement that requires Starsys to pursue a financing or sale of the company to repay the debt.
- Information concerning the financial performance and condition, results of operations, competitive position, management and business of SpaceDev and Starsys before and after giving effect to the merger.
- Current financial market conditions and historical market prices, volatility and trading information with respect to SpaceDev common stock.

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- The interests that certain executive officers and directors of Starsys may have with respect to the merger in addition to their general interests as shareholders of Starsys, as described in more detail under "The Merger - Interests of certain Starsys' Persons in the Merger" beginning on page 44.
- The current financial condition of Starsys.

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- The opportunity for Starsys to receive additional working capital investment, as described under the caption "The Merger - SpaceDev Post-Closing Covenants" beginning on page 73.
- The ability of Starsys to obtain additional financing as a stand-alone entity.
- Results of (i) the review of SpaceDev's Securities and Exchange Commission filings regarding SpaceDev's business and financial condition, and (ii) the due diligence investigation conducted by Starsys' management regarding the stability of SpaceDev's long term contracts and work backlog.

Starsys' board of directors also considered the terms of the merger agreement regarding Starsys' rights and limits on its ability to consider and negotiate other acquisition proposals, as well as the possible effects of the provisions regarding termination and termination fees.

In view of the wide variety of factors considered in connection with its evaluation of the merger and the complexity of these matters, the Starsys board of directors did not find it useful to and did not attempt to quantify, rank or otherwise assign relative weights to these factors. In addition, the Starsys board of directors did not undertake to make any specific determination as to whether any particular factor, or any aspect of any particular factor, was favorable or unfavorable to the ultimate determination of the Starsys board of directors, but rather the Starsys board of directors conducted an overall analysis of the factors described above, including discussions with and questioning of Starsys' management and legal, accounting and other advisors.

In considering the recommendation of Starsys' board of directors with respect to the merger agreement, Starsys shareholders should be aware that certain directors and officers of Starsys have interests in the merger that are different from, or are in addition to, the interests of other Starsys shareholders. Please see "The Merger--Interests of Starsys' Officers and Directors in the Merger" below.

### INTERESTS OF CERTAIN STARSYS PERSONS IN THE MERGER

You should be aware that, as described below, the directors and officers of Starsys may have interests in the merger that may be different from, or in addition to, the general interests of the other shareholders of Starsys. The Starsys board of directors was aware of these interests to the extent they existed at the time and considered them, among other matters, in approving the merger, the merger agreement and the transactions contemplated by the merger agreement. These other interests, to the extent material, include the following:

#### Bank Guarantee

Scott Tibbitts is guarantor of Starsys' obligations under the forbearance agreement between Starsys and Vectra dated June 24, 2005. The merger agreement



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provides that Vectra will be paid at closing and Mr. Tibbitts will be removed as guarantor. As of November 30, 2005, the amount due under the credit facility to Vectra was approximately \$3.9 million.

### Shareholder Loans

Jack Tibbitts, Steve Tibbitts, and Ted Tibbitts, relatives of Scott Tibbitts, each loaned \$100,000 to Starsys pursuant to subordinated notes. Each of these loans has a loan premium of \$10,000 and bears interest at 15% per annum. These loans will be repaid at closing.

### Stock Ownership of Executive Officers and Directors

As of November 1, 2005, Scott Tibbitts beneficially owned approximately 48% of the outstanding shares of Starsys capital stock and the Starsys executive officers and directors in total beneficially owned approximately 59% of the outstanding shares of Starsys' capital stock.

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### SpaceDev Employment Agreements

SpaceDev has agreed to enter into a three year executive employment agreement with Scott Tibbitts, contingent and effective upon the closing of the merger, pursuant to which Mr. Tibbitts will be employed as managing director of SpaceDev. Under the agreement, Mr. Tibbitts will earn an annual base salary of \$150,000 and will be eligible for quarterly performance bonuses, as determined by SpaceDev's board of directors or compensation committee, up to an annual aggregate amount of 50% of his base salary. Bonus milestones will be mutually agreed upon in good faith by Mr. Tibbitts and by SpaceDev's board of directors or compensation committee. SpaceDev will pay severance to Mr. Tibbitts if his employment is terminated by SpaceDev without cause or by Mr. Tibbitts for good reason. The severance payment is equal to: (1) if Mr. Tibbitts' employment is terminated by SpaceDev without cause, his then-current base salary per month multiplied by the number of months remaining in the term of the agreement (prorated with respect to any partial month); and, (2) if Mr. Tibbitts' employment is terminated by Mr. Tibbitts for good reason, his then-current base salary per month multiplied by the lesser of twelve months and the number of months remaining in the term of the agreement. Under the agreement, SpaceDev will indemnify Mr. Tibbitts to the extent provided in SpaceDev's articles of incorporation, as may be amended from time to time, and pursuant to SpaceDev's standard indemnification agreement with its officers and directors, provided that SpaceDev will have no obligation to indemnify or defend Mr. Tibbitts for any action, suit or other proceeding to the extent based on acts, omissions, events or circumstances occurring prior to the merger. We anticipate that the employment agreement with Mr. Tibbitts will be modified to provide him with the more comprehensive indemnification terms included in the SpaceDev employment agreements with Messrs. Sirangelo, Slansky and Benson.

SpaceDev has also agreed to enter into an employment agreement with Mr. Vacek, contingent and effective upon the closing of the merger, pursuant to which Mr. Vacek will be employed as president of the surviving corporation. The other terms of this agreement remain to be negotiated, though the parties anticipate the severance and indemnity terms and conditions will be similar to the terms included in the SpaceDev employment agreements with Messrs. Sirangelo, Slansky and Benson.

### Starsys Employment Agreements

Starsys entered into an employment agreement dated June 10, 2005 with

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Robert Vacek for the position of president and general manager, which agreement provides for a bonus to be paid to Mr. Vacek in connection with a merger, acquisition, or equity event and for third and fourth quarter performance. Pursuant to the employment agreement, Mr. Vacek will receive a merger bonus of 1% of the total consideration for the merger divided between cash and stock. Mr. Vacek will receive approximately \$140,000 in cash and stock for the initial closing consideration plus 1% of performance consideration, if any.

Starsys entered into a verbal agreement with Bob Harr in November 2004, pursuant to which Starsys agreed to provide to Mr. Harr a monthly automobile allowance in the amount of approximately \$825. Starsys has not paid to Mr. Harr any amounts in connection with this agreement. Starsys anticipates paying the accrued amounts owed to Mr. Harr at the closing.

Dave Edwards, Starsys' director of business management, is to receive a \$10,000 bonus to be paid upon the closing of the merger.

### Non-Competition Agreement

SpaceDev has agreed to enter into a non-competition agreement with Scott Tibbitts, contingent and effective upon the closing of the merger, pursuant to which Mr. Tibbitts will agree not to be employed by or have any interest in an entity that engages in a similar business to Starsys related to the aerospace industry for three years, shall not solicit any business from any past or present customer of SpaceDev, not solicit or encourage any SpaceDev employee to leave or reduce his or her employment, not to encourage a consultant under contract with SpaceDev to cease or diminish his or her work with SpaceDev, not to use SpaceDev's intellectual property other than for the benefit of SpaceDev and not to make any negative or disparaging statements regarding SpaceDev to any third party. Mr. Tibbitts will receive \$100,000 annually each year he abides by the covenant not to compete.

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THE INTERESTS DESCRIBED ABOVE MAY INFLUENCE STARSYS' DIRECTORS AND EXECUTIVE OFFICERS IN MAKING THEIR RECOMMENDATION THAT YOU VOTE IN FAVOR OF THE ADOPTION OF THE MERGER AGREEMENT AND THE MERGER AND FOR THE APPOINTMENT AN AUTHORIZATION OF MR. TIBBITTS AS SHAREHOLDER AGENT. YOU SHOULD BE AWARE OF THESE INTERESTS WHEN YOU CONSIDER THE STARSYS BOARD'S RECOMMENDATION THAT YOU VOTE IN FAVOR OF THE TWO STARSYS PROPOSALS.

### MATERIAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following discussion summarizes the material United States federal income tax consequences of the merger that are generally applicable to U.S. holders of Starsys common stock. This discussion is based on the Internal Revenue Code of 1986, as amended, which we refer to as the Code, United States Treasury Regulations, administrative rulings and court decisions in effect as of the date of this joint proxy statement/prospectus, all of which may change at any time, possibly with retroactive effect.

For purposes of this discussion, we use the term "U.S. holder" to mean:

- an individual who is a citizen or resident of the United States;
- a corporation created or organized under the laws of the United States or any of its political subdivisions;
- a trust that (i) is subject to the supervision of a court within the United States and the control of one or more United States persons or (ii) has a

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valid election in effect under applicable United States Treasury Regulations to be treated as a United States person; or

- an estate that is subject to United States federal income tax on its income regardless of its source.

This discussion assumes that holders of Starsys common stock hold their stock as capital assets within the meaning of Section 1221 of the Code and do not hold any shares or rights to acquire shares of SpaceDev common stock either actually or constructively under Section 318 of the Code. This discussion does not address all aspects of United States federal income taxation that may be important to a Starsys shareholder in light of his or her particular circumstances or particular tax status, including the following:

- shareholders who are not U.S. holders;
- shareholders who are subject to the alternative minimum tax provisions of the Code;
- banks and other financial institutions;
- tax-exempt organizations and governmental entities;
- insurance companies;
- S corporations, entities taxable as partnerships, and other pass-through entities;
- shareholders who have a functional currency other than the U.S. dollar;
- brokers or dealers in securities or foreign currency;
- traders in securities who elect the mark-to-market method of accounting for their securities holdings;
- shareholders who acquired their shares in connection with stock option or stock purchase plans or in other compensatory transactions; and,
- persons holding shares as part of a hedge, straddle, conversion transaction or risk reduction transaction.

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In addition, the following discussion does not address the tax consequences of other transactions effectuated prior to, concurrently with, or after the merger (including exercise of options or warrants to purchase Starsys common stock), whether or not such transactions are in connection with the merger. Furthermore, no foreign, state or local tax considerations are addressed. THEREFORE, WE URGE YOU TO CONSULT YOUR OWN TAX ADVISOR AS TO THE SPECIFIC FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES TO YOU OF THE MERGER AND RELATED REPORTING OBLIGATIONS.

### Federal Income Tax Consequences of the Merger

Subject to the assumptions set forth herein, the material United States federal income tax consequences of the merger should be as follows:

- No gain or loss should be recognized by Starsys, Monoceros or SpaceDev solely as a result of the merger.

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- No gain or loss should be recognized by holders of Starsys common stock solely upon their receipt of SpaceDev common stock in the merger; provided, however, that a portion of the shares deposited and held in escrow and a portion of any performance consideration (both stock and cash) may be treated as imputed interest and taxable to the Starsys shareholders as ordinary income when such stock or cash is transferred to the Starsys shareholders. Any SpaceDev common stock so treated as imputed interest (a) will have a basis equal to its fair market value and a holding period beginning the day after its receipt by a Starsys shareholder; and, (b) is excluded from the discussion of gain, basis and holding period below.

- Holders of Starsys common stock receiving only SpaceDev common stock and cash will recognize gain, but not loss, to the extent of the cash received in the merger. Provided that a Starsys shareholder does not choose to accelerate any gain caused by the receipt of contingent cash, gain caused by the receipt of cash should be recognizable by the Starsys shareholders on an "installment" basis as contingent cash is paid. The amount of gain realized by a Starsys shareholder will be equal to the difference, if any, between: (i) the fair market value of the SpaceDev common stock and cash received; and, (ii) the Starsys shareholder's adjusted tax basis in the Starsys common stock surrendered in the merger. If the exchange has the "effect of a distribution of a dividend," some or all of the gain recognized will be treated as a dividend and installment sale treatment will not be available. If the exchange does not have the "effect of a distribution of a dividend," all of the gain recognized will be capital gain. The determination of whether the exchange of stock for cash pursuant to the merger has the "effect of a distribution of a dividend" will be made, on a shareholder-by-shareholder basis, by applying the rules of Section 302 of the Code, under which exchange treatment generally applies to a shareholder: (i) whose post-merger percentage interest in SpaceDev is less than 50% and also less than 80% of the what the shareholder's interest in SpaceDev would have been if all of such Starsys shareholder's shares of Starsys common stock had been exchanged for shares of SpaceDev common stock (such percentage ownership being determined pursuant to the ownership attribution rules of Section 318 of the Code); or, (ii) whose receipt of the cash is "not essentially equivalent to a dividend." Whether the exchange will be "not essentially equivalent to a dividend" with respect to a Starsys shareholder depends upon the particular circumstances applicable to such shareholder - there being no precise mathematical formula or clearly applicable rules developed by the Internal Revenue Service or the courts whereby it is possible to assure that this test has been met. It is anticipated, however, that under such rules the Starsys shareholders will not be subject to dividend-type treatment but will qualify for capital gain treatment on any cash received. Holders of Starsys common stock who have held their stock for one year or less at the closing of the merger will be taxed on cash received at ordinary income tax rates, rather than the lower income tax rates applicable to long-term capital gain or qualified dividends.

- The aggregate tax basis of the SpaceDev common stock received in the merger by a holder of Starsys common stock should be the same as the aggregate tax basis of the Starsys common stock surrendered in exchange therefor, decreased by the amount of cash received by such shareholder, and increased by the amount of capital gain recognized by such shareholder and the amount, if any, treated as a dividend to such shareholder.

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- If: (i) a Starsys shareholder elects to accelerate any gain caused by the receipt of contingent cash; (ii) the receipt of cash by a Starsys shareholder in the merger is treated as a dividend under the rules referred to above; or, (iii) shares of SpaceDev common stock held in escrow are forfeited, there could be adjustments to the gain recognized and the basis of stock received in the

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merger.

- The holding period of SpaceDev common stock received in the merger by a holder of Starsys common stock should include the holding period of the Starsys common stock surrendered in exchange therefor.

The federal income tax consequences described above are subject to certain assumptions. One significant assumption is that the fair market value of the SpaceDev common stock issued in the merger, as such value is determined on the closing of the merger, is at least 40% of the fair market value of all of the consideration transferred to the Starsys shareholders in the merger (including SpaceDev common stock and cash). If the fair market value of the SpaceDev common stock issued in the merger is less than 40% of the fair market value of all of the consideration transferred to the Starsys shareholders in the merger, then the merger may not qualify as a reorganization under Section 368(a) of the Code.

If the merger does not qualify as a reorganization, the transaction will be taxable to Starsys and the holders of Starsys common stock as if Starsys sold all of its assets in a fully taxable transaction and then liquidated. In that case, (i) Starsys will recognize gain or loss in an amount equal to the difference between the fair market value of the consideration it is deemed to receive and the tax basis in its assets and (ii) holders of Starsys common stock will recognize gain or loss in an amount equal to the difference between the fair market value of the consideration they receive and the tax bases in their Starsys common stock exchanged.

In this regard, we rely on the following additional, related assumptions:

- The value of the SpaceDev stock upon consummation of the merger will not be lower than \$1.00 per share. If the value of the SpaceDev stock is lower than \$1.00 per share at the closing of the merger, and if one of the other assumptions set forth below is inaccurate, then the fair market value of the SpaceDev common stock issued in the merger, as such value is determined on the closing of the merger, may be less than 40% of the fair market value of all the consideration transferred to the Starsys shareholders in the merger.

- No shares of SpaceDev stock received by Starsys shareholders (which do not include the shares deposited in the escrow account) will be redeemed or otherwise acquired by SpaceDev or any person related (as defined in Treasury Regulations Sec. 1.368-1(e)) to SpaceDev or Starsys in connection with the merger. Shares that are so redeemed or otherwise acquired will not be treated as SpaceDev common stock issued in the merger, thereby reducing the percentage of SpaceDev common stock treated as issued at the closing of the merger.

- All loans made to Starsys that will be outstanding on the closing of the merger (including those loans made by Starsys shareholders and Vectra Bank Colorado, but excluding the secured loan of \$1.2 million made by SpaceDev) will be respected as indebtedness for federal income tax purposes (see the discussion under the caption "The Merger Agreement - Merger Consideration - Loan Repayments" below). If these loans are characterized as equity of Starsys for tax purposes instead of indebtedness, then the cash paid to retire these loans at closing of the merger could be treated as additional cash consideration paid to Starsys shareholders in the merger, thereby reducing the percentage of SpaceDev common stock issued at the closing of the merger.

- The amount of the working capital deficit of Starsys on the date two business days prior to the closing of the merger, after payment of the Starsys transaction expenses and repayment of the Starsys loans, will not exceed \$2.43 million so as to (alone or in combination with other factors) reduce the stock portion of the merger consideration to less than 40% (see the discussion under the caption "The Merger Agreement - Merger Consideration - Working Capital

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Adjustment" below). To the extent the working capital deficit of Starsys exceeds \$1.68 million, 1/6 of the excess will reduce the amount of cash paid to the Starsys shareholders at closing of the merger and 5/6 of such excess will reduce

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the amount of SpaceDev common stock issued at the closing of the merger. Starsys anticipates that the working capital deficit will exceed \$1.68 million by approximately \$750,000, which (together with any further increase in the working capital deficit) will reduce the percentage of SpaceDev common stock issued at the closing of the merger.

These assumptions are purely factual in nature. We believe that the assumptions set forth above are reasonable, and that the merger should qualify as a reorganization under Section 368(a) of the Code. However, neither SpaceDev nor Starsys will request a ruling from the Internal Revenue Service regarding the tax consequences of the merger to SpaceDev, Starsys or the Starsys shareholders.

### Federal Income Tax Consequences to Dissenting Starsys Stockholders

If all of the shares of Starsys common stock actually or constructively owned by a Starsys shareholder are exchanged solely for cash as a result of the exercise of dissenter rights, the transaction will be treated as a sale by the Starsys shareholder of his or her shares of Starsys common stock exchanged, and such shareholder will recognize capital gain or loss measured by the difference between such shareholder's tax basis in the shares of Starsys common stock actually owned by him or her and the amount of cash received by him or her in exchange for such shares.

If a Starsys shareholder exchanges all the shares of Starsys common stock actually owned by him or her solely for cash as a result of the exercise of dissenter rights, but shares of Starsys common stock treated as constructively owned by him or her are exchanged in whole or in part for SpaceDev common stock, then the tax consequences to such shareholder will be determined under the "effect of a distribution of a dividend" rules discussed above, which will determine whether the cash received is taxed as dividend income or capital gain. However, in certain limited circumstances, and pursuant to certain procedures set forth in the Code, the application of the constructive ownership rules as they apply to family members of the Starsys shareholder can be waived, in which case the transaction will be treated as a sale and the shareholder will recognize capital gain or loss on the exchange as described in the preceding paragraph.

### Backup Withholding

If you are a non-corporate holder of Starsys common stock, you may be subject to information reporting and backup withholding on any cash payments received in respect of SpaceDev common stock. A non-corporate holder will not be subject to backup withholding, however, if such holder:

- furnishes a correct taxpayer identification number and certifies that such holder is not subject to backup withholding on the substitute Form W-9 or successor form included in the letter of transmittal to be delivered to it following the completion of the merger; or,
- is otherwise exempt from backup withholding.

Any amounts withheld under the backup withholding rules will be allowed as

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a refund or credit against United States federal income tax liability, provided the required information is furnished to the Internal Revenue Service.

### Reporting

Starsys shareholders will be required to attach a statement to their United States federal income tax returns for the year of the merger that contains the information listed in Treasury Regulation Section 1.368-3(b). Such statement must include the shareholder's tax basis in shares of Starsys common stock and a description of the SpaceDev common stock received.

THE PRECEDING DISCUSSION OF MATERIAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT PURPORT TO BE A COMPLETE ANALYSIS OR DISCUSSION OF ALL POTENTIAL TAX EFFECTS RELEVANT THERETO. THE FOREGOING DISCUSSION NEITHER BINDS THE IRS NOR PRECLUDES IT FROM ADOPTING A CONTRARY POSITION. STARSYS SHAREHOLDERS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE SPECIFIC TAX CONSEQUENCES TO THEM OF THE MERGER, INCLUDING REPORTING REQUIREMENTS, THE APPLICABILITY AND EFFECT OF FEDERAL, STATE, LOCAL, FOREIGN AND OTHER APPLICABLE TAX LAWS AND THE EFFECT OF ANY CHANGES IN TAX LAWS.

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### ANTICIPATED ACCOUNTING TREATMENT

SpaceDev intends to account for the merger as a purchase transaction for financial reporting and accounting purposes under accounting principles generally accepted in the United States. After the merger, the results of operations of Starsys will be included in the consolidated financial statements of SpaceDev. The purchase price, which is equal to the aggregate merger consideration, will be allocated based on the fair values of the Starsys assets acquired and the Starsys liabilities assumed. These allocations will be based upon valuations and other studies that have not yet been finalized.

### APPRAISAL AND DISSENTERS' RIGHTS

In connection with the merger, holders of Starsys common stock may be entitled to dissenters' rights under Colorado law, and holders of SpaceDev common stock may be entitled to dissenters' rights under California law if (i) SpaceDev's common stock is not listed on the American Stock Exchange (or another applicable national securities exchange) at the effective time of the merger, and (ii) SpaceDev is subject to Section 2115 of the California General Corporation Law, which is discussed below, at the effective time of the merger. Holders of SpaceDev common stock are not entitled to dissenters' rights under Colorado law with respect to the merger.

Although SpaceDev is incorporated in Colorado, SpaceDev may be subject to certain provisions of California law pursuant to Section 2115 of the California General Corporation Law. Therefore, despite what SpaceDev's articles of incorporation and bylaws may provide, SpaceDev may be subject to California law with respect to Chapter 13 (Dissenters' Rights) of the California General Corporation Law, as referenced below.

If SpaceDev is listed on the American Stock Exchange (or another applicable national securities exchange) at the effective time of the merger, Section 2115 will not be applicable to SpaceDev, holders of SpaceDev common stock will not be entitled to dissenters' rights under California law, and SpaceDev will not honor any demands by SpaceDev shareholders under Chapter 13 of the California General Corporation Law.

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Under both California and Colorado law, a shareholder of a corporation participating in certain major corporate transactions may, under varying circumstances, be entitled to appraisal/dissenters' rights pursuant to which such shareholder may receive cash in the amount of the fair value of such shareholder's shares in lieu of the consideration such shareholder would otherwise receive in the transaction.

### California General Corporation Law

If the merger is completed, and SpaceDev is subject to Section 2115 of the California General Corporation Law when the merger becomes effective, holders of SpaceDev common stock who do not vote in favor of the merger and merger agreement and who comply with the procedures prescribed in Chapter 13 of the California General Corporation Law (including making written appraisal demand to SpaceDev prior to the occurrence of the special meeting) may be entitled to a judicial appraisal of the fair market value of their shares which, for purposes of the exercise of appraisal rights under the California General Corporation Law, is determined as of the day before the first announcement of the terms of the merger, excluding any appreciation or depreciation in consequence of the merger, and to require SpaceDev to purchase the shareholder's shares for cash at such fair market value. To the extent required by California law, a further notice of dissenters' rights will be sent to any shareholder eligible to exercise or exercising such rights within ten days after the special meeting. The following is a brief summary of the statutory procedures that must be followed by a shareholder of SpaceDev in order to dissent from the merger and perfect appraisal rights under the California General Corporation Law. This summary is not intended to be a complete statement of the law of dissenters' rights and is qualified in its entirety by reference to Chapter 13 of the California General Corporation Law, the full text of which is attached to this proxy statement as Annex C and is incorporated herein by reference. We advise any shareholders of SpaceDev considering exercising appraisal rights to consult legal counsel.

Under Sections 181 and 1201 of the California General Corporation Law, the merger constitutes a "reorganization" of Space Dev. Chapter 13 of the California General Corporation Law provides appraisal rights for shareholders dissenting from reorganization under certain circumstances.

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Even though a shareholder who wishes to exercise dissenters' rights may be required to take certain actions before the special meeting, if the merger agreement is later terminated and the merger is abandoned, no shareholder of the company will have the right to any payment from us by reason of having taken that action. The following discussion is subject to these qualifications.

For a holder of common stock to exercise dissenters' rights as to any shares of the common stock in connection with the merger, the shareholder must not vote in favor of the merger and merger agreement and must make a written demand to have the company purchase the shares at their fair market value.

The written demand must:

- be received not later than the date of the special meeting;
- specify the shareholder's name and mailing address and the number and class of the company's shares held of record which the shareholder demands the company purchase;
- state that the shareholder is demanding purchase of the shares and payment



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of their fair market value; and,

- state the price which the shareholder claims to be the relevant (see below) fair market value of the shares, which statement will constitute an offer by the shareholder to sell the shares to the company at that price.

Written demands should be addressed to:

SpaceDev, Inc.  
13855 Stowe Drive  
Poway, CA 92064  
Attention: Corporate Secretary  
Fax No.: 858-375-1000

Simply failing to vote for, or voting against, the merger and merger agreement will not be sufficient to constitute the demand described above.

In addition, within thirty (30) days after notice of the approval of the merger is mailed to shareholders, the shareholder must also submit to the company or a transfer agent of the company, for endorsement as dissenting shares, the stock certificates representing SpaceDev's shares as to which the shareholder is exercising dissenters' rights.

Shares of SpaceDev's stock held by shareholders who have perfected their dissenters' rights in accordance with Chapter 13 of the California General Corporation Law and have not withdrawn their demands or otherwise lost their rights are referred to in this summary as "dissenting shares." Under the California General Corporation Law, a dissenting shareholder may not withdraw his, her or its demand for payment of the fair market value of the shareholder's dissenting shares in cash unless we consent.

Within ten (10) days after the approval of the merger by SpaceDev's shareholders, SpaceDev must mail a notice of the approval to each holder of common stock who did not vote in favor of the merger. This notice must state the price determined by SpaceDev to represent the relevant fair market value of the dissenting shares, which statement will constitute an offer by the company to purchase the dissenting shares at the stated amount if the merger closes. Chapter 13 of the California General Corporation Law states that the fair market value, for this purpose, is determined "as of the day before the first announcement" of the terms of the proposed merger, excluding appreciation or depreciation as a consequence of the proposed merger. The company's notice must also include a brief description of the procedures to be followed by those holders if the holders desire to exercise their dissenters' rights and a copy of Section 1300 through 1304 of Chapter 13 of the California General Corporation Law.

Irrespective of the percentage of SpaceDev's common stock with respect to which demands for appraisal have been properly filed, we must mail the notice referred to above to any shareholder who has filed a demand with respect

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to our shares and that are subject to transfer restrictions imposed by us or by any law or regulation. We are not aware of any transfer restrictions on our shares of common stock, except for those restrictions which apply to our common stock held by shareholders who are deemed to be affiliated of the company as that term is defined in Rule 144 adopted by the Securities and Exchange Commission under the Securities Act. Any shareholder who believes there is another type of restriction on its shares should consult with its advisor as to the nature of the restriction and its relationship to the availability of

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dissenters' rights in connection with the merger. If the shareholder and SpaceDev agree that the shares of SpaceDev's common stock as to which the shareholder is seeking dissenters' rights are dissenting shares, and also agree upon the price to be paid to purchase the shares, then the dissenting shareholder is entitled to the agreed price with interest thereon at the legal rate on judgments under California General Corporation Law from the date of the merger agreement. Any agreements fixing the fair market value of any dissenting shares as between SpaceDev and any dissenting shareholder must be filed with the Secretary of SpaceDev.

However, if SpaceDev denies that the shareholder's shares qualify as dissenting shares eligible for purchase under Chapter 13 of the California General Corporation Law, or if SpaceDev and the shareholder fail to agree upon the fair market value of the shares, then the shareholder may, within six months after the date on which SpaceDev mailed to the shareholder the notice of approval of the merger by the shareholders of SpaceDev, but not thereafter, file a complaint in the California Superior Court of the proper county requesting the court to determine whether the shareholder's shares qualify as dissenting shares that are eligible to be repurchased pursuant to the exercise of dissenters' rights, the fair market value of such shares, or both, or may intervene in any action pending on such a complaint. If the court is requested to determine the fair market value of the shares, it shall appoint one or more impartial appraisers to determine the fair market value of the shares. Within ten (10) days of their appointment, the appraisers, or a majority of them, will make and file a report with the court. If the court finds the report reasonable, the court may confirm it.

However, if the appraisers cannot determine the fair market value within ten (10) days of their appointment, or within a longer time determined by the court or the report is not confirmed by the court, then the court will determine the fair market value. If the court determines that the shareholder's shares qualify as dissenting shares, then, following determination of their fair market value, SpaceDev will be obligated to pay the dissenting shareholder the fair market value of the shares, as so determined, together with interest thereon at the legal rate from the date on which judgment is entered. Payment on this judgment will be due upon the endorsement and delivery to SpaceDev of the certificates for the shares as to which the appraisal rights are being exercised. The costs of the appraisal action, including reasonable compensation to the appraisers appointed by the court, will be allocated among SpaceDev and dissenting shareholders as the court deems equitable. However, if the appraisal of the fair market value of the shares exceeds the price offered by SpaceDev, then SpaceDev shall pay an additional amount equal to the difference. If the fair market value of the shares awarded by the court exceeds 125% of the price offered by SpaceDev for the shares in the notice of approval of the merger by the shareholders of SpaceDev, then the court may in its discretion include attorneys' fees, fees of expert witnesses and interest at the legal rate on judgments in the amounts payable by SpaceDev.

Shareholders of SpaceDev considering whether to seek appraisal should bear in mind that the fair value of their SpaceDev common stock determined under Chapter 13 of the California General Corporation Law could be more than, the same as or less than the value of consideration to be paid in the merger as set forth in the merger agreement. Also, SpaceDev reserves the right to assert in any appraisal proceeding that, for purposes thereof, the "fair value" of the capital stock of SpaceDev is less than the value of the consideration to be issued and paid in the merger as set forth in the merger agreement. The process of dissenting requires strict compliance with technical prerequisites. Shareholders wishing to dissent should consult with their own legal counsel in connection with compliance with Chapter 13 of the California General Corporation Law. Any shareholder who fails to comply with the requirements of Chapter 13 of the California General Corporation Law, attached as Annex C to this joint proxy statement/prospectus, will forfeit such shareholder's rights to dissent from the

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merger and exercise appraisal rights and will receive the consideration to be issued and paid in the merger as set forth in the merger agreement.

### Colorado Business Corporation Act

In connection with the proposed merger, holders of Starsys common stock are or may be entitled to exercise dissenters' rights as provided in Article 113 of the Colorado Business Corporation Act, which we refer to as the CBCA. If a Starsys shareholder meets all the requirements of this law, and follows all of its required procedures, a shareholder

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may receive cash in an amount equal to the fair value of its Starsys common stock in lieu of the merger consideration described in this joint proxy statement/prospectus.

The following is a brief summary of the statutory procedures that must be followed by a shareholder of Starsys in order to dissent from the merger and perfect appraisal rights under the CBCA. This summary is not intended to be complete and is qualified in its entirety by reference to Article 113 of the CBCA, the full text of which is attached to this joint proxy\ statement/prospectus as Annex B.

Under Colorado law, a holder of common stock may have the right to dissent from the merger and obtain payment of the fair market value in cash of its shares of common stock. The shareholder will have the right to seek appraisal of the value of its common shares and be paid the appraisal value if the shareholder: (1) notifies Starsys in writing, before the vote is taken, of the shareholder's intention to demand payment for the shares if the proposed merger is effectuated; (2) does not vote the shares in favor of the merger; and, (3) otherwise complies with the provisions governing dissenters' rights under Colorado law. The written notice must be received by Starsys, before the vote is taken, and the certificates must be deposited as set forth by Starsys in its dissenters' notice. If the holder possesses uncertificated shares of Starsys, the holder's ability to freely transfer the uncertificated shares will be restricted after the holder's payment demand is received. The shareholder may not withdraw such demand unless as provided by Section 7-113-207 or 7-113-209(1)(b) of the CBCA.

If a holder of common stock dissents from the merger and the conditions outlined above are met, the shareholder's only right will be to receive the fair value of its shares in cash. The appraised value may be more or less than the consideration the shareholder would receive under the terms of the merger agreement. The shareholder should be aware that submission of a signed proxy card without indicating a vote with respect to the merger will be deemed a vote for the merger and a waiver of your dissenters' rights. Additionally, voting in favor of such merger, or failure to send the required dissenters' notice or to follow such other procedures will result in a waiver of your dissenters' rights. A vote against the merger does not dispense with the other requirements to request an appraisal under Colorado law.

Any demands, notices, certificates or other documents delivered to Starsys prior to the merger may be sent to Starsys Research Corporation, 4909 Nautilus Court North, Boulder, CO 80301, Attention: Corporate Secretary. Thereafter, they may be sent to SpaceDev, Inc., 13855 Stowe Drive, Poway, CA 92064, Attention: Corporate Secretary.

If you hold dissenting shares, Starsys will pay you the amount Starsys estimates to be the fair value of your dissenting shares, plus accrued interest,

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immediately before the effective date of the merger. The payment will be sent to the address stated in your payment demand, or if no such address was stated, at the address shown on SpaceDev's current record of shareholders, accompanied by: (a) a copy of the Starsys' corporate balance sheet as of the end of its most recent fiscal year; (b) a statement of Starsys' estimate of the fair value of the shares; (c) an explanation of how interest was calculate; (d) a statement of the procedure to follow if you are dissatisfied with the payment you are given under Section 7-113-209 of CBCA; and, (e) a copy of Article 113 of CBCA.

If the shareholder fails to accept the fair value of the Starsys common stock offered by Starsys, Starsys may commence proceedings in the district court of the proper county in Colorado requesting that the court determine such issue. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. If Starsys fails to commence proceedings within sixty days of receiving the payment demand, Starsys shall pay to each dissenter whose demand remains unresolved the amount demanded by each such dissenter.

Failure to take any necessary step will result in a termination or waiver of the shareholder's rights under Article 113 of CBCA. A person having beneficial interest in the common stock that is held of record in the name of another person, such as trustee or nominee, must act promptly to cause the record holder to follow the requirements of Article 113 of CBCA in a timely manner if such person elects to demand payment of the fair value of such shares.

### GOVERNMENTAL AND REGULATORY MATTERS

Neither SpaceDev or Starsys is aware of the need to obtain any regulatory approvals in order to complete the merger other than the declaration by the SEC of the effectiveness of the Form S-4 registration statement of which this

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joint proxy statement / prospectus is a part, and registration by coordination of the Form S-4 with the Colorado Secretary of State pursuant to Colorado Revised Statutes Section 11-51-303.

### LISTING OF SPACEDEV COMMON STOCK TO BE ISSUED IN THE MERGER

If SpaceDev's common stock is traded on the American Stock Exchange at the time of the merger, the shares of SpaceDev common stock to be issued pursuant to the merger agreement will be required to be approved for listing on the American Stock Exchange.

### RESTRICTION ON REALES OF SPACEDEV COMMON STOCK

The SpaceDev common stock to be issued in the merger will be registered under the Securities Act, thereby allowing such shares to be freely transferable without restriction by all former holders of Starsys common stock who are not deemed under the Securities Act to be "affiliates" of Starsys at the time of the Starsys special meeting and who do not become "affiliates" of SpaceDev after the merger. Persons who may be deemed to be "affiliates" of SpaceDev or Starsys generally include individuals or entities that control, are controlled by or are under common control with SpaceDev or Starsys, and may include some of their respective executive officers and directors, as well as their respective significant shareholders.

Shares of SpaceDev common stock received by those shareholders of Starsys who are deemed to be "affiliates" of Starsys or SpaceDev under the Securities Act may not be sold except pursuant to an effective registration statement under the

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Securities Act covering the resale of those shares, or pursuant to Rule 145 under the Securities Act or any other applicable exemption under the Securities Act. Starsys has agreed to provide a list of those shareholders considered to be "affiliates" to SpaceDev prior to the closing of the merger.

This joint proxy statement/prospectus does not cover the resale of any SpaceDev common stock received by any person who may be deemed to be an "affiliate" of SpaceDev or Starsys.

### STANDSTILLS AND LOCKUPS

After the effectiveness of the merger agreement and pursuant to its terms, SpaceDev requested that the executive officers, directors and significant shareholders of Starsys enter into a standstill and lock-up agreement with SpaceDev. In addition, upon the effectiveness of this joint proxy statement/prospectus and pursuant to the terms of the merger agreement, SpaceDev will request other shareholders of Starsys, as well as recipients of Starsys transaction expenses, who will or may receive more than 50,000 shares of SpaceDev common stock at the closing of the merger and for the first performance period to enter into such a standstill and lock-up agreement. The completion and delivery of these agreements is a condition to the closing of the merger, which condition SpaceDev may waive.

The agreements provide for a lock-up period of 270 days beginning upon the consummation of the merger. During that period, the signatory may not directly or indirectly sell, offer, pledge, transfer the economic risk of ownership, enter into any commitment or contract for, or make any short sale, pledge or otherwise transfer: (1) any shares of SpaceDev common stock, whenever acquired; or, (2) any commitments or securities convertible into or exchangeable or exercisable for any other rights to purchase or acquire shares of SpaceDev common stock. The only exceptions are for specified involuntary transfers by operation of law and with the prior written consent of SpaceDev.

The agreement also provides for a standstill period of three (3) years from the consummation of the merger. During this period, the signatory may not directly or indirectly:

- other than pursuant to the merger agreement, acquire any shares of SpaceDev common stock, or any other class of SpaceDev voting securities, or transfer any shares of SpaceDev common stock or such other class of voting securities, if after the acquisition or transfer the signatory or transferee (or any group to which the transferee may belong) would beneficially own or have the right to acquire more than 5% of the outstanding shares of SpaceDev common stock or other class of SpaceDev voting securities;

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- make or participate in any solicitation of proxies to vote any shares of SpaceDev common stock or other class of SpaceDev voting securities, or seek to influence the vote of any other holder of such stock or securities, or initiate, propose or solicit any such holder for the approval of any shareholder proposal, or initiate or propose any shareholder proposal;

- make any statement or proposal to any director or officer of SpaceDev or otherwise announce an intent or make any proposal to enter into any merger, business combination or similar transaction, or material transfer of assets, liquidation or other extraordinary corporate transaction, with or involving SpaceDev or any of its affiliates;

- form, join or in any way participate in a group, or otherwise act in

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concert with any person, with respect to any securities of SpaceDev for the purpose of either circumventing the standstill restrictions, or holding, acquiring, voting or transferring any shares of SpaceDev common stock or other class of SpaceDev voting securities;

- enter into any arrangement or contract for the voting of shares of SpaceDev common stock or other class of SpaceDev voting securities, except as contemplated in the merger agreement and related agreements;

- otherwise act, alone or in concert with others (including by providing financing, advice or other assistance to another person), to seek or offer to exercise any control or influence, in any manner, over the management, board of directors or policies of SpaceDev or its affiliates, other than by voting shares of SpaceDev common stock consistent with the standstill provisions;

- make a public request to SpaceDev to amend or waive any provisions of the agreement;

- participate in any action by written consent of the shareholders of SpaceDev; or,

- take any action, or request SpaceDev to take any action, which might require SpaceDev or any of its affiliates to make a public announcement concerning the acquisition of shares of SpaceDev common stock or other class of voting securities, or certain reorganizations or asset transfers involving SpaceDev or its affiliates and the signatory or its affiliates.

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### THE MERGER AGREEMENT

The following summary describes the material provisions of the merger agreement. This summary may not contain all of the information about the merger agreement that is important to you. The following summary is qualified in its entirety by reference to the complete text of the merger agreement, which is attached to this joint proxy statement/prospectus as Annex A and is incorporated by reference into this joint proxy statement/prospectus. We encourage you to read it carefully in its entirety for a more complete understanding of the merger agreement.

The merger agreement has been included to provide you with information regarding its terms. It is not intended to provide any other factual information about us. Such information can be found elsewhere in this joint proxy statement/prospectus and in the other public filings SpaceDev makes with the Securities and Exchange Commission, which we refer to as the SEC, which are available without charge at [www.sec.gov](http://www.sec.gov).

The merger agreement contains a number of representations and warranties which SpaceDev and Starsys have made to each other. The assertions embodied in those representations and warranties are qualified by information in confidential disclosure schedules that SpaceDev and Starsys have exchanged in connection with signing the merger agreement. These disclosure schedules contain information that has been included in the general prior public disclosures of SpaceDev, as well as additional non-public information. While we do not believe that this non-public information is required to be publicly disclosed by SpaceDev or Starsys under the applicable securities laws, that information does modify, qualify and create exceptions to the representations and warranties set forth in the merger agreement. In addition, these representations and warranties were made as of the date of the merger agreement. Information concerning the subject matter of the representations and warranties may have changed since the date of

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the merger agreement, which subsequent information may or may not be fully reflected in the public disclosures of SpaceDev. Moreover, representations and warranties are frequently utilized in merger agreements as a means of allocating risks, both known and unknown, rather than to make affirmative factual claims or statements. Accordingly, YOU SHOULD NOT RELY ON THE REPRESENTATIONS AND WARRANTIES AS CURRENT CHARACTERIZATIONS OF FACTUAL INFORMATION ABOUT SPACEDEV AND STARSYS.

### THE MERGER

The merger agreement provides that, upon the closing, Starsys will merge with and into Monoceros Acquisition Corp., a wholly-owned subsidiary of SpaceDev which we refer to as Monoceros. Monoceros will survive the merger as a wholly-owned subsidiary of SpaceDev. We refer to this transaction as the merger, we refer to Monoceros as the surviving corporation following the effectiveness of the merger and we refer to the business of Starsys prior to the merger as the Starsys business.

### COMPLETION AND EFFECTIVENESS OF THE MERGER

The parties will close the merger when all of the conditions to completion of the merger contained in the merger agreement are satisfied or waived, including adoption of the merger and the merger agreement by the shareholders of Starsys and SpaceDev. As soon as practicable after the satisfaction or waiver of the closing conditions, the parties will cause the merger to be effected by filing a statement of merger with the Colorado Secretary of State, which we refer to as the effective time.

Pursuant to the merger agreement, at the effective time, Monoceros will succeed to all of the properties, rights, privileges and powers, and all liabilities, obligations and debts, of Starsys. In particular, the merger agreement provides that outstanding warrants, options or other commitments or rights to purchase shares of Starsys capital stock, including under the Starsys stock option plan, will not be assumed by the surviving corporation and no consideration will be delivered at closing for any holder of any such warrants, options, commitments or rights.

SpaceDev and Starsys plan to complete the merger soon after the special meetings occur and anticipate that they will be in a position to complete the merger on or prior to January 31, 2006.

The articles of incorporation, bylaws, directors and officers of Monoceros prior to the effective time will remain the officers and directors of Monoceros thereafter, except that the name of Monoceros will be changed to "Starsys Research Corporation" or a similar name, immediately after the effective time.

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### MERGER CONSIDERATION

#### Shareholder Consideration

Upon the effectiveness of the merger, each outstanding share of common stock of Starsys will be cancelled and retired, and the holders of Starsys shares will be entitled to receive the following shareholder closing and performance consideration.

Closing Consideration. SpaceDev will pay and issue up to the following total maximum consideration to the Starsys shareholders at the effective time of the merger on a pro rata basis:

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- cash in the aggregate amount of \$1,500,000; and,
- a number of shares of SpaceDev common stock equal to \$7,500,000 divided by the volume-weighted average price of SpaceDev common stock for the preceding 20 trading days, subject to a minimum price of \$1.40 per share and a maximum price of \$1.90 per share.

These amounts are subject to reduction for the payment of some Starsys transaction expenses and for any excess working capital deficit about the time of the merger, as described under the subcaptions "- Starsys Transaction Expenses" and "- Working Capital Adjustment" below. Starsys management anticipates that, after the payment of these expenses and the application of these adjustments, \$547,000 in cash and up to \$6,152,000 in shares of SpaceDev common stock will be available for distribution to Starsys shareholders. In addition, 50% of the shares issued at the time of the merger will be placed in an escrow account and in an expense fund, as described under the caption "Escrow" below.

Performance Consideration. Following the merger, Starsys shareholders may also be entitled to receive additional performance-based consideration, based on the achievement by the Starsys business of certain performance criteria for the fiscal years ending December 31, 2005, December 31, 2006 and December 31, 2007. The performance consideration will be based on the achievement by the Starsys business of net revenue and earnings targets, up to the following maximum amounts:

- For the fiscal year ending December 31, 2005, \$350,000 in cash and a number of shares of SpaceDev common stock equal to \$3,000,000 divided by the volume-weighted average price of SpaceDev common stock for the 20 trading days preceding the date of the Starsys audit opinion for the fiscal year ended December 31, 2005, subject to a minimum price of \$2.00 per share.
- For the fiscal year ending December 31, 2006, \$350,000 in cash and a number of shares of SpaceDev common stock equal to \$7,500,000 divided by the volume-weighted average price of SpaceDev common stock for the 20 trading days preceding the date of the Starsys audit opinion for the fiscal year ended December 31, 2006, subject to a minimum price of \$2.50 per share.
- For the fiscal year ending December 31, 2007, \$350,000 in cash and a number of shares of SpaceDev common stock equal to \$7,500,000 divided by the volume-weighted average price of SpaceDev common stock for the 20 trading days preceding the date of the Starsys audit opinion for the fiscal year ended December 31, 2007, subject to a minimum price of \$3.00 per share.

The actual performance consideration earned for each of the three fiscal years will depend on the ability of the Starsys business to meet the specified net revenues and EBITDA targets. Net revenues is calculated based on gross sales less certain sales adjustments, and EBITDA is net income before interest, taxes, depreciation and amortization. Both non-GAAP financial measures are subject to certain protective restrictions and limitations set forth in the merger agreement.

No performance consideration will be paid in any of the fiscal years unless at least 80% of both performance targets are met for that year; the full amount will be paid for a fiscal year only if both targets are met or exceeded for that year. Between the 80% and 100% thresholds, the performance consideration will be paid on a straight-line basis (e.g., if 85% of the target is met, 25%



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of the performance consideration will be paid, or if 90% of the target is met, 50% of the performance consideration will be paid), with 60% of the weight placed on the EBITDA target and 40% on the net revenues target.

For example, if for the fiscal year 2006 the Starsys business achieves 120% of the EBITDA target and 90% of the net revenues target, the performance consideration would be 80% of the maximum amount. This is calculated as follows: 60% due to meeting 100% or more of the EBITDA target (which carries 60% of the weight), and 20% due to reaching 90%, or 50% on the straight-line scale between 80% and 100%, of the net revenues target (which carries 40% of the weight).

The targets for the three fiscal years are:

FISCAL YEAR	NET REVENUES TARGET	EBITDA TARGET
2005	\$ 21,500,000	\$ 250,000
2006	\$ 22,500,000	\$ 2,000,000
2007	\$ 24,000,000	\$ 2,500,000

Starsys believes that it will achieve Net Revenues equal to at least 80% of the Net Revenues Target of \$21,500,000. However, Starsys believes that it is unlikely that it will achieve at least 80% of the EBITDA Target for the fiscal year ending December 31, 2005. Starsys' EBITDA is not final on December 31, 2005, and is subject to adjustment following the year end pursuant to its audit of its financial records during the first quarter of 2006. If Starsys does not achieve 80% of both the Net Revenues Target and the EBITDA Target, Starsys shareholders will not receive any performance consideration for 2005.

In addition, Starsys shareholders will be entitled to receive the full amount of performance consideration for a particular fiscal year if SpaceDev materially breaches the following covenants contained in the merger agreement and, after notice, is unable to cure any breach within the cure periods set forth in the merger agreement:

- SpaceDev does not maintain separate books and records for the Starsys business;
- SpaceDev sells all or substantially all of the surviving corporation or the Starsys business before the expiration of the final performance period;
- SpaceDev does not make a minimum number of stock options available to Starsys executives, managers, employees and consultants; or
- SpaceDev does not make the minimum capital investments in Starsys required under the merger agreement for the fiscal years ended December 31, 2005 and 2006.

These covenants are described in more detail under the caption "SpaceDev Post-Closing Covenants" below. Under the merger agreement, the selection of this remedy would be exclusive of any other remedy, including the indemnity provisions discussed under the caption "Indemnification" below.

The amount of performance consideration distributed to Starsys shareholders is subject to reduction for the payment of some Starsys transaction expenses, as described under the captions "Merger Consideration - Starsys Transaction Expenses" below. In addition, 50% of the shares, if any, which are issued as performance consideration for fiscal year 2005 will be placed in an escrow account, as described under the caption "Escrow Account" below.

The shareholder agent will have the exclusive right to object to the calculation of the performance consideration by SpaceDev. In the event the shareholder agent decides to dispute SpaceDev's calculations, the merger agreement sets

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forth specific non-judicial dispute resolution procedures. The outcome of these procedures will be binding on all interested parties, including all non-dissenting Starsys shareholders.

**Withholding Rights.** The surviving corporation, SpaceDev and the exchange agent each is entitled to deduct and withhold from the consideration otherwise payable to Starsys shareholders in connection with the merger any amounts required to be deducted or withheld under federal, state or other tax laws.

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**Dissenting Shareholders.** The shares of dissenting Starsys shareholders will not be exchanged for the foregoing shareholder consideration. SpaceDev will retain the consideration payable to any dissenting shareholders of Starsys. The dissenting Starsys shareholders will receive the consideration outlined in "SpaceDev Proposal No. 1 and Starsys Proposal No. 1 - The Merger - Appraisal and Dissenters' Rights" beginning on page 50.

### Working Capital Adjustment

The amount of cash and shares of SpaceDev common stock to be delivered by SpaceDev at the closing of the merger may be adjusted based on the Starsys adjusted working capital deficit on the date two business days prior to the closing of the merger. The adjustment is based on the amount by which the Starsys business working capital deficit, after payment of the Starsys transaction expenses and repayment of the Starsys loans (as described under the subcaptions "- Loan Repayments" and "- Starsys Transaction Expenses" below), exceeds \$1.68 million. If this amount is a positive value, the cash to be paid by SpaceDev at the closing will be reduced by one-sixth of that amount, and the \$7.5 million amount used to calculate the number of shares of SpaceDev common stock to be delivered at the closing will be reduced by five-sixths of that amount.

### Loan Repayments

At the closing of the merger, SpaceDev will: (i) subject to a \$4.6 million limit on loan repayments, repay the remaining principal and interest of all loans to Starsys from Vectra Bank Colorado, which we refer to as Vectra, together with any other costs, expenses and liabilities incurred in connection with those loans, which we refer to as the Vectra loans; (ii) cancel and terminate the secured loan of \$1.2 million and all accrued interest and fees, from SpaceDev to Starsys, which we refer to as the SpaceDev loan; and, (iii) repay subordinated loans in the aggregate principal amount of approximately \$800,000 owed by Starsys to certain Starsys shareholders plus interest. SpaceDev will not be obligated to pay off more than \$4,600,000 in the aggregate (excluding the amount of the SpaceDev loan) for all of these loans and related costs.

### Starsys Transaction Expenses

Prior to the closing of the merger, Starsys will deliver to SpaceDev an itemized schedule of the expenses it has occurred in connection with the sale of Starsys, including any costs associated with the merger agreement, the preparation and filing of this joint proxy statement/prospectus and the holding of the Starsys shareholder meeting, which we refer to as the payment schedule. The payment schedule may involve payments of up to \$2 million to be made at closing and payments of up to \$250,000 to be made at the end of some or all of the performance periods. These payments will be made out of the cash and shares of SpaceDev which SpaceDev will deliver at the closing of the merger and, if applicable, the cash and shares, if any, which SpaceDev may deliver as

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performance consideration for any performance period.

Starsys currently anticipates these payments will total approximately \$1,201,000 at the closing and 1% of any performance based payments, consisting of the following payments:

EXPENSE	CASH		STOCK	
	CLOSING PAYMENTS	PERFORMANCE PAYMENTS	CLOSING PAYMENTS	PERFORMANCE
Financial Advisor Fees	\$ 250,000	-	\$ 365,000	
Legal Fees . . . . .	\$ 380,000	-		-
Accounting Fees. . . . .	\$ 45,000	-		-
Merger Bonuses . . . . .	\$ 80,000	1%	\$ 66,000	
Misc.. . . . .	\$ 15,000	-		-
TOTAL. . . . .	\$ 770,000	1%	\$ 431,000	

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Transfer of Contingent Rights.

No person may transfer any interest in, or any right to obtain proceeds from, performance consideration, the escrow account or the expense fund, except for involuntary transfers required by law or transfers to the key shareholder.

Estimated Merger Consideration Per Share at Closing

At the closing of the merger, Starsys shareholders are expected to receive merger consideration of approximately \$12.83 per share of Starsys common stock, consisting of approximately \$1.05 per share in cash and approximately \$11.78 per share in shares of SpaceDev common stock. The estimated merger consideration per share is based on 522,437.47 shares of Starsys common stock outstanding as of December 1, 2005, the record date for the special meeting of Starsys shareholders, and assumes that no outstanding Starsys options will be exercised prior to the closing of the merger, and that an aggregate of approximately \$547,000 in cash, after estimated adjustments, and an aggregate of approximately \$6,152,000 in shares of SpaceDev common stock, after estimated adjustments, will be paid to the Starsys shareholders at the closing of the merger.

ESCROW

Escrow Account

At the closing of the merger, SpaceDev will, on behalf of the Starsys shareholders, and for the benefit of SpaceDev and related indemnified parties under the merger agreement, deposit into an escrow account, which we will refer to as the escrow account, 50% of the SpaceDev common stock to be distributed to the Starsys shareholders at the closing of the merger (without taking into account any shares of SpaceDev common stock deliverable to the shareholder agent at the closing for the satisfaction of certain transaction expenses incurred by Starsys related to the sale of the company, as described under the caption "Merger Consideration - Starsys Transaction Expenses" above). Moreover, if any performance consideration is to be distributed to the Starsys shareholders for

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fiscal year 2005, SpaceDev will on behalf of the Starsys shareholders, and for the benefit of SpaceDev and related indemnified parties under the merger agreement, deposit into the same escrow account 50% of the SpaceDev common stock issuable as the performance consideration (without taking into account any shares of SpaceDev common stock deliverable to the shareholder agent, contemporaneously with the payment of the performance consideration, for the satisfaction of the above-referenced Starsys transaction expenses).

The escrow account will serve as security for the payment of indemnification claims made by SpaceDev and certain related parties under the merger agreement. If an eligible person has a claim for indemnification against the escrow account, the shares of SpaceDev common stock will be valued, for purposes of satisfying the claim, at the per-share value used in calculating the number of shares to be issued by SpaceDev at the closing or for the first performance period, as applicable, with recourse first being had against the closing shares.

The escrow account will be opened at the closing and is scheduled to be closed ten (10) days following the date of audited financial statements prepared for the Starsys business for the fiscal year 2006 (i.e., approximately April 2007), which period we refer to as the escrow period. All shares of SpaceDev common stock, if any, which are in the escrow account at the end of the escrow period will be distributed by the escrow agent to the Starsys shareholders, except that if any party entitled to indemnification under the merger agreement will have made a claim against the Starsys shareholders during the escrow period, the escrow period will be extended and a sufficient number of shares and other assets will remain in the escrow account as security for that claim and will not be released to the Starsys shareholders until that claim (and any other pending claims) have been resolved and satisfied.

In addition, if at the time any shares or cash in the escrow account would be distributed to the key shareholder, those shares or cash will be used to satisfy any claims against the key shareholder by an eligible indemnified person under the merger agreement. The escrow account will be administered pursuant to the terms of an escrow agreement among SpaceDev, the escrow agent and the shareholder agent.

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### Expense Fund

At the closing of the merger, on behalf of the Starsys shareholders, SpaceDev will transfer shares of SpaceDev common stock having a value of \$100,000 from the escrow account to a separate escrow account, which escrow account we refer to as the expense fund. The escrow agent will maintain the expense fund solely for the purpose of paying the out-of-pocket fees and expenses, including independent accounting firm fees and attorneys' fees, reasonably incurred by the shareholder agent in connection with performing and exercising his duties under the merger agreement and escrow agreement. See the discussion under the "Shareholder Agent" caption below for more information concerning the shareholder agent.

The shares held in the expense fund may not be sold, pledged or otherwise transferred for a period of 270 days after the closing of the merger. Accordingly, the expense fund will not be available to pay the above-referenced fees and expenses for 270 days after the closing and the shareholder agent will need to find alternate means to fund out-of-pocket fees and expenses in the interim.

The expense fund will be terminated after the escrow period has lapsed and the final determination of the performance consideration (if any) for the final performance period. Upon termination any remaining assets will be transferred

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to the escrow account for release and distribution in accordance with its terms.

### Shareholder Agent

The shareholder agent under the merger agreement will serve as the shareholder agent under the escrow agreement. See the discussion under the caption "- Shareholder Agent" below. The shareholder agent will serve as the exclusive representative and agent for the pre-merger Starsys shareholders in relation to the merger agreement, the escrow agreement and the transactions contemplated thereby, including the merger.

### Escrow Agent

The escrow agent will be responsible for establishing, maintaining and administrating the escrow account and expense fund. SpaceDev and the shareholder agent have agreed to appoint Zions First National Bank, which is affiliated with Vectra Bank Colorado, as the initial escrow agent under the escrow agreement.

SpaceDev will pay the escrow agent customary fees for its services and will reimburse the escrow agent's out-of-pocket expenses. In performing any duties under the escrow agreement, the escrow agent will not be liable to any party for damages, losses or expenses, except for gross negligence or willful misconduct on the part of the escrow agent. The escrow agent will not incur any liability for any action taken or omitted in reliance upon an instrument, including any written statement or affidavit, that the escrow agent in good faith believes to be genuine. SpaceDev and, to the extent of the assets on deposit in the escrow account, the pre-merger Starsys shareholders are obligated jointly and severally to indemnify and hold the escrow agent harmless against any and all losses, including reasonable costs of investigation, attorneys fees and disbursements, that may be imposed on or incurred by the escrow agent in connection with the performance of its duties under the escrow agreement.

The escrow agent may resign at any time by written notice to SpaceDev and the shareholder agent, and the escrow agent may be removed at any time by SpaceDev. SpaceDev will be responsible for appointing a successor escrow agent.

### STARSYS OPTIONS AND WARRANTS

The holders of options, warrants and other rights to purchase Starsys common stock must exercise such rights on or before the closing of the merger. The merger agreement provides that any options, warrants or other rights to purchase Starsys common stock which are not exercised prior to the closing of the merger will be cancelled and will terminate and expire in accordance with their terms as of the closing of the merger. Starsys has agreed to terminate the separate plan holding Starsys stock under the Starsys 401(k) and stock bonus plan dated August 4, 1997 and to distribute the shares to the participants prior to the merger.

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### EXCHANGE OF STOCK CERTIFICATES

Exchange Procedures. A letter of transmittal to be used for exchanging shares of Starsys common stock for the merger consideration to be paid to the shareholders of Starsys is attached to this joint proxy statement/prospectus as Annex F. Upon surrender of a Starsys certificate to the exchange agent for exchange, together with a duly executed letter of transmittal and such other documents as may be reasonably required by the exchange agent, the exchange agent will: (1) deliver to the holder of such certificate a certificate representing the number of shares of SpaceDev common stock that such holder has

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the right to receive at the closing pursuant to the merger agreement; and, (2) deliver to the escrow agent under the escrow agreement on behalf of such holder a certificate in the name of the escrow agent with respect to the portion of the escrow shares that such holder has placed in escrow pursuant to the merger agreement. See the discussion under the caption "Escrow Account" for more information about the escrow. Starsys shareholders may, and are encouraged to, deliver the letter of transmittal together with the shareholder's certificates evidencing shares of Starsys common stock to SpaceDev at any time prior to the closing.

**Distributions With Respect to Unexchanged Shares.** No dividends or other distributions declared or made with respect to SpaceDev common stock with a record date after the closing of the merger but prior to the surrender of a certificate (or the delivery of an affidavit and any required bond in lieu of a lost, stolen or mutilated certificate) for Starsys common stock will be paid to the holder of that certificate on account of the shares of SpaceDev common stock for which that stock certificate may be exchanged.

**Transfers of Ownership.** If any certificate for shares of SpaceDev common stock is to be issued in a name other than that of the registered holder of the certificates surrendered, it will be a condition of its issuance that the certificates so surrendered will be properly endorsed and otherwise in proper form for transfer and that the person requesting the exchange will have paid to SpaceDev (or any agent designated by it) any transfer or other taxes required by reason of the issuance of a certificate for shares of SpaceDev common stock in any name other than that of the registered holder of the certificates surrendered, or established to the satisfaction of SpaceDev (or any agent designated by it) that the tax has been paid or is not payable.

**Lost Stock Certificates.** If any certificate evidencing shares of Starsys common stock was lost, stolen or destroyed, SpaceDev will deliver the shareholder consideration exchangeable for those shares only upon: (i) the making of an affidavit of that fact by the applicable holder of record claiming the certificate to be lost, stolen, or destroyed (which affidavit may be in the form included in the letter of transmittal); and, (ii) if SpaceDev reasonably requires, the posting by the holder of a bond in a reasonable amount directed by SpaceDev, to serve as indemnity against any claim that may be made against it with respect to such certificate. A form of affidavit is included in the letter of transmittal attached to this joint proxy statement/prospectus as Annex F.

### SHARE ADJUSTMENTS

**Fractional Shares.** SpaceDev will not issue any fractional shares of SpaceDev common stock in connection with the merger or any transactions contemplated by the merger agreement. Instead, any fractional share will be rounded up to the nearest whole share of SpaceDev common stock.

**Capitalization Adjustments.** The number of shares of SpaceDev common stock which are payable are subject to appropriate adjustment to reflect fully the effect of any capitalization adjustment of SpaceDev common stock, such as a stock split, reverse stock split, stock dividend, combination, reclassification or similar event.

### REPRESENTATIONS AND WARRANTIES

The merger agreement contains customary representations and warranties of SpaceDev, Monoceros, Scott Tibbitts, a key shareholder of Starsys identified as a "Key Shareholder" in the merger agreement, whom we refer to as the key shareholder, and Starsys that are subject, in some cases, to specified exceptions and qualifications contained in the merger agreement or in the disclosure schedules delivered in connection with the merger agreement. YOU SHOULD NOT RELY ON THE REPRESENTATIONS AND WARRANTIES AS CURRENT

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CHARACTERIZATIONS OF FACTUAL INFORMATION ABOUT SPACEDEV AND STARSYS.

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### Representations and Warranties of Starsys

The representations and warranties of Starsys and, with respect to those items marked with an asterisk (\*), the key shareholder, relate to, among other things:

- corporate organization and qualification;
- absence of subsidiaries;
- Starsys capital structure (\*);
- the absence of a need to obtain governmental consents, authorizations or filings in order to complete the merger;
- authority to enter into and carry out the obligations under the merger agreement and the enforceability of the merger agreement (\*);
- the absence of any conflict with or violation of corporate charter documents, applicable law or contracts as a result of entering into and carrying out the obligations under the merger agreement;
- consents required of any governmental body or other third party in connection with the merger;
- corporate books and records;
- the accuracy of financial statements;
- the absence of undisclosed liabilities;
- the absence of off-balance sheet arrangements;
- the absence of a material adverse effect and certain other payments, actions, transactions or changes since December 31, 2004;
- compliance with tax laws and other tax matters;
- the absence of restrictions on business activities;
- title of properties, absence of liens and encumbrances and condition of equipment;
- ownership, use and protection of intellectual property;
- material agreements, contracts and commitments, including government contracts;
- related party transactions;
- the receipt of all necessary governmental authorizations and permits;
- the absence of litigation;
- accounts receivable, customers and inventory;

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- compliance with environmental laws;
- the absence of broker's or finder's fees related to the merger;

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- employee compensation, benefit plan, labor and other matters;
- insurance;
- the absence of improper relationships or transactions with governmental authorities;
- product warranties and disclaimers;
- delivery of complete copies of documents during the merger negotiations;
- customer relations;
- equity ownership (\*);
- expenses incurred in the sale of Starsys (\*); and,
- the accuracy and completeness of the information and materials provided to SpaceDev, including information supplied by Starsys for inclusion in this joint proxy statement/prospectus (\*).

### Representations and Warranties of SpaceDev and Monoceros

The representations and warranties of SpaceDev and Monoceros relate to, among other things:

- corporate organization and qualification;
- subsidiaries;
- capital structure;
- the absence of a need to obtain governmental consents, authorizations or filings in order to complete the merger;
- corporate authority to enter into and carry out the obligations under the merger agreement and the enforceability of the merger agreement;
- the absence of any conflict with or violation of corporate charter documents, applicable law or contracts as a result of entering into and carrying out the obligations under the merger agreement;
- the accuracy and completeness of the SpaceDev SEC filings and the financial statements contained in those filings;
- the absence of undisclosed liabilities;
- the absence of broker's and finder's fees related to the merger;
- the trading of SpaceDev common stock;
- material agreements, contracts and commitments, including government contracts;



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- the validity of shares to be issued in the merger; and,
- the completeness and accuracy of information provided to Starsys and in this joint proxy statement/prospectus.

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### INDEMNIFICATION

By Starsys Shareholders. Pursuant to the merger agreement, the Starsys shareholders will indemnify, defend and hold harmless SpaceDev, its affiliates (including the surviving corporation) and its representatives (including its officers, directors, employees, managers, consultants, contractors, agents and financial, banking or legal advisors), which we refer to collectively as the SpaceDev indemnified parties, against losses, liabilities and damages, which we refer to collectively as losses, arising out of or resulting from, directly or indirectly, any material inaccuracy or breach of a representation, warranty or certification of Starsys contained in the merger agreement (without giving effect either to the update of Starsys disclosure schedules after the signing of the merger agreement or to sections or portions of the original Starsys disclosure schedules identified by SpaceDev in its original disclosure schedules), or in certain other documents contemplated by the merger agreement.

The indemnity does not apply to losses which were reflected on the balance sheet of Starsys used for calculating the working capital deficit at the closing of the merger (see the description under the heading "Merger Consideration - Working Capital Adjustment" above), or to losses arising out of specially approved transactions (see the discussion under the heading "Conduct of Business Before Completion of the Transaction - Approved Transactions" below).

The SpaceDev indemnified parties may recover the losses described above: (i) first, from the escrow account described under the caption "Escrow - Escrow Account" above, until no additional amounts remain in the escrow account; and (ii) next, to the extent such losses have not been fully recovered, from the key shareholder, subject to limitations described below. The Starsys shareholders, other than the key shareholder, will have no liability for losses in excess of the amounts deposited on their behalf in the escrow account.

By Starsys Key Shareholder. In addition, pursuant to the merger agreement, the key shareholder will indemnify, defend and hold harmless the SpaceDev indemnified parties against losses arising out of or resulting from, directly or indirectly:

- any material inaccuracy or breach of a representation, warranty or certification of the key shareholder contained in the merger agreement (without giving effect either to the update of Starsys disclosure schedules after the signing of the merger agreement or to sections or portions of the original Starsys disclosure schedules identified by SpaceDev in its original disclosure schedules), or in certain other documents contemplated by the merger agreement; or,
- any breach by the key shareholder of any covenants applicable to him contained in the merger agreement or the non-competition agreement between SpaceDev and the key shareholder.

Absent fraud or willful misrepresentation, the key shareholder will have no liability for losses in excess of the total merger consideration actually received by the key shareholder, as reduced by the amount of certain taxes actually paid by the key shareholder on the merger consideration.

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By SpaceDev. Pursuant to the merger agreement, SpaceDev will indemnify, defend and hold harmless the Starsys shareholders against losses arising out of or resulting from, directly or indirectly, any material inaccuracy or breach of a representation, warranty or certification of SpaceDev or (prior to the closing of the merger) Monoceros contained in the merger agreement (without giving effect to the update of SpaceDev disclosure schedules after the signing of the merger agreement) or in certain other documents contemplated by the merger agreement.

SpaceDev will have no liability for losses in excess of 50% of the total cash consideration and shares of SpaceDev common stock actually paid by SpaceDev to the Starsys shareholders, except in the event of a breach of SpaceDev's representations concerning its capitalization and accuracy of SEC filings and financial statements, in which case SpaceDev will have no liability to the Starsys shareholders in excess of 75% of the total cash consideration and shares of SpaceDev common stock actually paid by SpaceDev to the Starsys shareholders. SpaceDev will make all payments for its liabilities for indemnification claims to the shareholder agent (as described under the caption "Shareholder Agent" below) for the benefit of the Starsys shareholders, but will have no obligation to allocate those payments among Starsys shareholders.

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Survival. The representations and warranties made in the merger agreement will generally survive for a period of eighteen (18) months following the closing of the merger. The representations and warranties in the merger agreement relating to tax matters and government contracts will survive for three (3) years following the close of the merger. The representations and warranties in the merger agreement relating to capital structure, corporate authority, stock records, capitalization and equity ownership will survive until the termination of the applicable statute of limitations applicable to the subject matter of the representation and warranty. No contractual time limitation will apply to claims based on fraud or willful misrepresentation.

Basket Amount. Neither the SpaceDev indemnified parties nor the Starsys shareholders will be entitled to indemnification until the total of all losses to the SpaceDev indemnified parties or Starsys shareholders, as applicable, exceeds \$100,000 (except in the event of fraud or a willful or intentional breach of the merger agreement), in which case the SpaceDev indemnified parties or Starsys shareholders, as applicable, will be able to recover all losses, including the \$100,000.

Arbitration of Conflicts. The merger agreement provides that any disputes relating to indemnification for losses will be resolved by binding arbitration, and that the arbitrator's written decision will be binding on all parties.

### SHAREHOLDER AGENT

By virtue of the approval of the merger and the approval and adoption of the merger agreement, and the appointment and authorization of Scott Tibbitts as shareholder agent under the merger agreement and the escrow agreement, at the Starsys shareholders meeting described under the caption "Shareholder Meetings and Recommendation of Boards of Directors" below, each of the Starsys shareholders, including the key shareholder, will have irrevocably appointed and constituted Scott Tibbitts as the shareholders' exclusive agent and representative, whom we refer to in that capacity as the shareholder agent, under the merger agreement and related agreements, including the escrow agreement. Under the merger agreement and escrow agreement, the shareholder agent serves as the exclusive agent and representative of all Starsys

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shareholders to do, among other things, the following:

- with respect to claims made or potentially made against, or any other action to be taken or omitted by or on behalf of, any Starsys shareholders pursuant to the merger agreement or the escrow agreement or otherwise in connection with the merger, including with respect to any indemnification claims, performance consideration calculations, breaches of representations, warranties or covenants and any other matters;
- give, fail to give and receive notices and communications from and to SpaceDev, the escrow agent, pre-merger Starsys shareholders or other persons;
- agree to, negotiate, prosecute, defend, enter into settlements and compromises of, make and demand arbitration or other alternative dispute resolution;
- comply with orders of courts and awards of arbitrators and referees;
- satisfy indemnity claims from the shares, cash and other assets held in the escrow account;
- take all actions necessary or appropriate in the judgment of the shareholder agent for accomplishing any of the foregoing;
- use the shares of SpaceDev common stock in the escrow account (as described under the caption "- Escrow - Escrow Account" above) as collateral to secure the rights of the SpaceDev indemnified parties;
- deposit and withdraw funds into and from the expense fund (as described under the caption "- Escrow - Expense Fund" above) for the payment of the shareholder agent's reasonable out-of-pocket expenses; and,

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- agree to amendments and waivers of the merger agreement and escrow agreement, and time extensions under the merger agreement, on behalf of the per-merger Starsys shareholders, as described under the "- Amendment, Extension and Waiver of the Merger Agreement" caption below.

The shareholder agent will not receive compensation for its services. The shareholder agent will not be liable for any act done or omitted under the merger agreement as shareholder agent while acting in good faith, or pursuant to the advice of counsel. The shareholder agent may also recover its reasonable out-of-pocket costs and expenses incurred in connection with the performance of its duties, rights and responsibilities hereunder on behalf of the Starsys shareholders from the expense fund, as described under the caption "Escrow - Expense Fund" above. No bond will be required of the shareholder agent.

The shareholder agent may resign at any time by written notice to SpaceDev and the escrow agent, and the shareholder agent may be removed at any time by written notice signed by pre-merger Starsys shareholders holding not less than a majority of the shares of Starsys outstanding immediately preceding the merger. The pre-merger Starsys shareholders will be responsible for appointing a successor shareholder agent by act of such shareholders holding not less than a majority of the shares of Starsys outstanding immediately preceding the merger. The successor shareholder agent must be the key shareholder, a director or officer of Starsys or the surviving corporation, or reasonably acceptable to SpaceDev. If the shareholders fail to appoint a successor shareholder agent within ten (10) days of the resignation or removal of the shareholder agent, SpaceDev may petition a proper court to appoint a successor.

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Any successor shareholder agent under the merger agreement will automatically, without any further act or notice, become the successor shareholder agent for all purposes of the escrow agreement.

### CONDUCT OF BUSINESS BEFORE COMPLETION OF THE TRANSACTION

Starsys has agreed in the merger agreement that, until the earlier of the completion of the merger or termination of the merger agreement, except as contemplated by the merger agreement or as SpaceDev consents in writing, it will:

- carry on its businesses only in the ordinary course of business, consistent with past practice;
- use its best efforts to preserve intact its business organization and assets, maintain its rights and franchises, retain the services of its officers and employees and maintain its relationships with customers, suppliers, consultants, licensors, licensees and others having business dealings with it; and,
- use its best efforts to keep in full force and effect liability insurance and bonds comparable in amount and scope of coverage to those currently maintained.

### Negative Covenants.

In addition to the above general agreements regarding the conduct of the Starsys business prior to the merger, Starsys has agreed to various additional specific restrictions on the conduct of its business, including not to do, or to agree to do, any of the following without the prior written consent of SpaceDev:

- take any of various employment-related actions, including modifying salary or other compensation or benefits of current Starsys directors, officers or employees, or hiring or terminating employees;
- reorganize or otherwise alter its capital structure, increase or decrease the number of its outstanding shares, pay any dividend or make any other distribution on its outstanding shares;
- acquire any other business, in whole or in part;
- enter into, amend or otherwise modify certain contracts, including leases;

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- change its organizational documents;
- change its tax elections or filings or settle any tax claims;
- make or agree to make new capital expenditures in excess of \$10,000;
- transfer, encumber or license any of its property, except in the ordinary course of business consistent with past practice;
- incur or guarantee any debt or capital lease obligation, except in the ordinary course of business consistent with past practice pursuant to certain contracts specified in the Starsys disclosure schedules,
- pay, discharge, settle or satisfy any liabilities, other than: (i)

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payments, discharges or satisfactions of obligations in the ordinary course of business consistent with past practice and in accordance with their terms or liabilities reflected or reserved against in the financial statements of Starsys; (ii) payments on debt after providing notice to SpaceDev; or, (iii) legal, accounting or other fees and expenses related to the merger;

- amend, terminate or waive any material benefits of any contract;
- enter into or make any contract or commitment with, or amend any existing contract or commitment with, any related party;
- change any method of accounting or accounting practice or policy other than those required by GAAP or a governmental body;
- take any action or fail to take any action that could reasonably be expected to have an adverse effect on Starsys prior to the closing of the merger or an adverse effect on the surviving corporation or SpaceDev after the closing of the merger, or that would adversely affect the ability of Starsys prior to the closing of the merger, or SpaceDev or the surviving corporation after the closing of the merger, to obtain consents of third parties or governmental permits;
- collect accounts receivable or pay accounts payable other than in the ordinary course of business consistent with past practice; or,
- take, propose to take, or commit or agree in writing or otherwise to take, any of the actions described above, or any actions which would, individually or taken together, make any of the representations or warranties made in the merger agreement (or other agreement contemplated thereby) untrue, misleading, incomplete or incorrect.

### Covenants

Further Assurances. Starsys and SpaceDev have agreed to cooperate to obtain any governmental and third-party consents and permits required to be obtained, and to make any necessary filings, in connection with the proposed merger.

Notifications. Starsys will notify SpaceDev promptly if, among other things: (i) any events or circumstances occur, or fail to occur, which are likely to cause any of the Starsys representations and warranties to be untrue as of the closing of the proposed merger in a material respect; (ii) Starsys breaches any of its agreements under the merger agreement in a material respect; or, (iii) any events or circumstances occur which are likely to have a material adverse effect on Starsys.

Tax Matters. Starsys has agreed to file timely and accurate tax returns, to submit its tax returns to SpaceDev for review at least ten (10) days before filing and not to file any tax return without SpaceDev's approval.

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Access to Information. Starsys will give SpaceDev and its representatives reasonable access to Starsys officers, employees, consultants, properties and facilities and its books and records for inspection and investigation. Starsys will cause its representatives to provide SpaceDev with financial, accounting, tax, business and operating data upon reasonable request. SpaceDev will keep the confidential and proprietary information it receives confidential.

Consents to Merger; Export Licenses; Settlements. Starsys will use its best

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efforts to obtain the written consents to the consummation of the merger from certain material contracting parties identified by Starsys in certain disclosure schedules to the merger agreement. Starsys will also use its best efforts to amend the permanent export licenses and manufacturing license agreement identified by SpaceDev in certain disclosure schedules to the merger agreement, as required by the International Traffic in Arms Regulations promulgated under the Arms Export Control Act. Starsys will also use its commercially reasonable efforts to reach a fixed settlement regarding certain pending royalty claims.

Retention of Employees. Starsys will also use its best efforts to retain its employees and consultants in their employment or consulting relationship until and following the closing of the merger.

### Approved Transactions

The merger agreement provides for a special procedure under which Starsys may obtain the prior consent of SpaceDev to engage in a transaction. At SpaceDev's request, Starsys must provide a written description of the transaction and any agreements proposed to be executed in connection with the transaction. If SpaceDev provides the requested special approval, Starsys will have no obligation to indemnify SpaceDev or its representatives under the merger agreement for any losses which Starsys suffers arising from that transaction.

### NO SOLICITATION OF OTHER PROPOSALS

Until the earlier of the closing of the merger or the termination of the merger agreement pursuant to its terms, Starsys and the key shareholder will not, and will cause their respective representatives, directly or indirectly, not to:

- initiate, solicit or encourage (including by way of furnishing information regarding Starsys) any inquiries, concerning the sale of Starsys, its businesses or its property whether by way of merger, purchase of capital shares, purchase of assets or otherwise, each of which we refer to as a competing transaction; or,
- subject to the fiduciary duties of the board of directors of Starsys under applicable law, hold any discussions or enter into any agreements with or cooperate with, or provide any information to or respond to, any third party concerning a proposed competing transaction.

If during this period Starsys or its representatives are approached in any manner by a third party concerning a competing transaction, Starsys must promptly inform SpaceDev about any inquiry or proposal and keep SpaceDev informed of the status and details of any future developments.

If Starsys or the key shareholder breaches any of the obligations described above, in addition to any other remedies available to SpaceDev, Starsys will be liable to SpaceDev for the greater of: (i) all of the expenses incurred in connection with the preparation, negotiation and drafting of the merger agreement and certain agreements contemplated thereby; and, (ii) \$250,000.

These obligations generally will survive the termination of the merger agreement. See the discussion under the "Termination of the Merger Agreement" caption below.

### SHAREHOLDER MEETINGS AND RECOMMENDATION OF BOARDS OF DIRECTORS

SpaceDev and Starsys have each agreed to mail this joint proxy statement/prospectus to their respective shareholders promptly after the date on which the Form S-4 registration statement, of which this joint proxy statement/prospectus forms a part, is declared effective by the SEC, and to take

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all action necessary in accordance with the Colorado Business Corporation Act and their respective articles of incorporation and bylaws to call, hold and

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promptly convene a special meeting of their respective shareholders to approve the merger proposal and (with respect to SpaceDev) the other shareholder proposals described in this joint proxy statement/prospectus. As neither board of directors of SpaceDev or Starsys has concluded that a recommendation to its shareholders to vote in favor of the merger proposal and (with respect to SpaceDev) the other shareholder proposals described in this joint proxy statement/prospectus would be a violation of any of its fiduciary obligations under applicable law, each board of directors has included in this joint proxy statement/prospectus its recommendation that its shareholders vote in favor of the merger proposal and the merger agreement.

SpaceDev or Starsys may adjourn or postpone the SpaceDev or Starsys shareholders meeting, as applicable, to the extent necessary to ensure that any required supplement or amendment to this joint proxy statement/prospectus is provided to the respective shareholders or, if as of the time for which either shareholder meeting is originally scheduled (as set forth in this joint proxy statement/prospectus) there are insufficient shares of the common stock represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of the applicable shareholder meeting.

### SPACEDEV PRIVATE PLACEMENT

SpaceDev will use its best efforts to execute definitive agreements for a private financing of debt or equity securities of SpaceDev of at least \$4.5 million in gross proceeds no later than December 15, 2005 and to close that financing prior to the date the SEC declares effective the Form S-4 registration statement of which this joint proxy statement/prospectus forms a part. The parties anticipate these funds will be used to pay off various Starsys loans or make the other payments described under the "Merger Consideration - Loan Repayments" caption above and the "SpaceDev Post-Closing Covenants" caption below.

### CONDITIONS TO COMPLETION OF THE MERGER

#### Conditions to the Obligation of Each Party

The obligation of each party to complete the merger is subject to the satisfaction or waiver of each of the following conditions:

- No governmental body will have acted to prevent or prohibit the merger or other transactions contemplated by the merger agreement.
- The SpaceDev shareholders will have approved the merger agreement, the merger and an increase in the authorized shares of SpaceDev common stock at the SpaceDev shareholder meeting, which approval will have satisfied all shareholder approval requirements under applicable law.
- Not more than 1.5% of outstanding shares of SpaceDev common stock will have exercised, or will retain the unexpired right to exercise, dissenters' rights (or similar rights of dissent), if any, in respect of the merger.
- The SEC will not have issued or threatened to issue a stop order suspending the effectiveness of the Form S-4 registration statement, of which this joint proxy statement/prospectus is a part, and any the requirements of material state securities laws applicable to the issuance of the shares of

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SpaceDev common stock in connection with the merger will have been satisfied.

- There will be no pending or threatened action: (i) challenging or seeking to restrain or prohibit the consummation of the merger or other transactions contemplated by the merger agreement; (ii) relating to the merger or other transactions contemplated by the merger agreement and seeking to obtain from SpaceDev, Monoceros or Starsys any damages that may be material to SpaceDev, Monoceros or Starsys; (iii) seeking to prohibit or limit in any respect SpaceDev's ability to vote, receive dividends with respect to or otherwise exercise ownership rights with respect to the stock of Starsys or the surviving corporation; or, (iv) which would have a material adverse effect on Starsys or a material adverse effect on SpaceDev's ability to operate the Starsys business or to own, use and

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enjoy the property of the surviving corporation after consummation of the merger and other transactions contemplated by the merger agreement.

- The volume-weighted average price of SpaceDev common stock as of the trading day immediately preceding the closing of the merger will not be less than \$1.00 per share.

Conditions to the Obligations of SpaceDev or Monoceros

The obligations of SpaceDev and Monoceros to complete the merger are subject to the satisfaction or waiver of each of the following additional conditions, among others:

- Each of the representations and warranties of or in respect of Starsys and the key shareholder contained in the merger agreement was true and correct as of the date of the merger agreement and will be true and correct as of the closing of the merger as though made as of the closing of the merger, except for representations and warranties which address matters only as of a particular date, which representations and warranties were true and correct as of such date, and, with respect to most of the representations and warranties, except for failures of the representations and warranties to be true and correct as described above which are not "material." For purposes of determining the truth and correctness of the representations and warranties, updates to the original Starsys disclosure schedules will be disregarded. For purposes of the SpaceDev closing conditions, "material" means that SpaceDev reasonably calculates the resulting losses to exceed 10% of the consideration which would be paid to Starsys shareholders at the closing of the merger.

- Starsys and the key shareholder will have performed or complied with, in all material respects, all agreements and conditions contained in the merger agreement required to be performed or complied with by them prior to or on the closing of the merger.

- Starsys will have obtained and delivered to SpaceDev the requisite number of third party consents from its material counterparties, and not more than a specified percentage of the material counterparties will have indicated that they will not consent to the merger.

- Vectra will not have foreclosed or collected on any collateral for any Vectra loan or otherwise.

- The aggregate debt and associated liabilities of Starsys at the closing under the Vectra loan, the SpaceDev loan and the Starsys shareholder loans will not exceed \$6,800,000.



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- Starsys will have delivered to SpaceDev a certificate dated as of the closing of the merger, signed by the chief executive officer, the president and the director of business management of Starsys, certifying the fulfillment of certain of the foregoing conditions and certain other factual matters. The key shareholder will have delivered a similar certificate.
- No events, effects, violations or breaches will have occurred since the date of the merger agreement which have had, or are likely to have, a "material" adverse effect on Starsys (using the meaning "material" described above).
- The escrow agent and the shareholder agent will have entered into the escrow agreement, which will be in full force and effect as of the closing of the merger.
- Shareholders of Starsys holding not less than 98% of the shares of each class of capital stock of Starsys will have approved the merger agreement and the merger.
- Starsys and its shareholders will have delivered to SpaceDev certificates representing not less than 98% of the shares of Starsys capital stock, including shares issued upon the exercise of any options on or prior to the closing of the merger, or, in lieu of a certificate, an affidavit and (if reasonably requested) a bond.

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- Starsys will have delivered or arranged to be delivered the following additional documents to SpaceDev:
  - a pay off letter or similar paid-in-full receipt from Vectra and the Starsys shareholder lenders, and other documents reasonably requested by SpaceDev to evidence the repayment in full of the Vectra loans and the termination of the security interests and liens on Starsys properties;
  - an executed non-competition agreement from the key shareholder;
  - an employment agreement with: (i) Scott Tibbitts (for the position of managing director of SpaceDev); and, (ii) Robert Vacek (for the position of president of the surviving corporation);
  - a release of all claims (except for some wage and benefit-related claims) against Starsys and its officers and directors signed by Scott Tibbitts, Robert Vacek and other executive officers of Starsys;
  - a legal opinion from special counsel to Starsys;
  - an executed standstill and lockup agreement from each Starsys shareholder or other person expected to be entitled to receive an aggregate of 50,000 or more shares of SpaceDev common stock at the closing of the merger and as performance consideration for fiscal year 2005, under which such shareholder or other person would agree not to sell, pledge or otherwise transfer shares of SpaceDev common stock for a period of 270 days after the merger (most of which must have been delivered promptly after the signing of the merger agreement);
  - updated disclosure schedules, including an updated shareholder table;
  - an updated payment schedule, indicating how much cash and stock to pay from the closing and performance consideration to various third parties in connection with the costs and expenses of Starsys incurred in connection with its sale;

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- a duly executed letter of transmittal from each shareholder of Starsys who voted in favor of the merger, each Starsys option holder who net exercised options in contemplation of the merger and each person receiving shares of SpaceDev common stock under the transaction expense payment schedule; and,
- various other certificates and documents set forth in the merger agreement.

### Conditions to the Obligations of Starsys

The obligations of Starsys to complete the merger are subject to the satisfaction or waiver of each of the following additional conditions, among others:

- Each of the representations and warranties of or in respect of SpaceDev and Monoceros contained in the merger agreement was true and correct as of the date of the merger agreement and will be true and correct as of the closing of the merger as though made as of the closing of the merger, except for representations and warranties which address matters only as of a particular date, which representations and warranties were true and correct as of such date, and, with respect to most of the representations and warranties, except for failures of the representations and warranties to be true and correct as described above which are not "material." For purposes of determining the truth and correctness of the representations and warranties, updates to the original SpaceDev disclosure schedules will be disregarded. For purposes of the Starsys closing conditions, "material" means that

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Starsys reasonably calculates the resulting losses to exceed 10% of the consideration which would be paid to Starsys shareholders at the closing of the merger.

- SpaceDev and Monoceros will have performed, in all material respects (considered collectively and individually), all covenants and obligations in the merger agreement required to be performed by SpaceDev or Monoceros as of the closing of the merger.

- SpaceDev will have consummated a private financing of debt or equity securities of at least \$4.5 million in gross proceeds, as described under the caption "SpaceDev Private Placement" above.

- SpaceDev's quantity contract awarded by the Missile Defense Agency on March 31, 2004 will not have terminated without a successor contract being in effect.

- SpaceDev will have delivered to Starsys a certificate signed by the president and chief financial officer of SpaceDev certifying the fulfillment of certain of the foregoing conditions.

- SpaceDev will have tendered or delivered the cash consideration and the shares of SpaceDev common stock required to be delivered at the closing of the merger.

- SpaceDev will have delivered a duly executed counterpart of the non-competition agreement with the key shareholder.

- SpaceDev will have delivered a duly executed counterpart of the employment agreements with Scott Tibbitts and Robert Vacek.

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- SpaceDev will have delivered a duly executed counterpart of the escrow agreement.
- Sufficient funds to pay the Vectra loan and Starsys shareholder loans in full will have been wired or delivered to the respective lenders of such loans contemporaneously with the closing of the merger.
- Starsys will have received a legal opinion from special counsel to SpaceDev.

### SPACEDEV POST-CLOSING COVENANTS

SpaceDev is subject to various post-merger covenants in the merger agreement. A number of these covenants are intended to protect the interests of the Starsys shareholders in earning the potential performance consideration, as discussed under the "Merger Consideration - Shareholder Consideration - Performance Consideration" caption above. The most important of these protective covenants are as follows:

- From the closing of the merger until the end of the fiscal year 2007, which period we refer to as the performance period, SpaceDev will operate the Starsys business separately and will maintain separate books and records for the Starsys business, so that the financial results of the Starsys business can be audited and reported as a separate business unit.
- SpaceDev will not sell all or substantially all of the surviving corporation or the Starsys business during the performance period, except in connection with the sale of all or substantially all of the shares or assets of SpaceDev, in which case SpaceDev must provide the Starsys shareholders with substantially similar protective covenants.
- Following the closing of the merger, SpaceDev will cause the compensation committee of its board of directors to reserve for issuance to the executives, managers, employees and consultants from time to time of the Starsys business, whom we refer to as option eligible employees, options to purchase a number of shares of SpaceDev common stock equal to at least 15% of the number of shares of SpaceDev common stock issued at the closing of the merger. Following a distribution of stock performance consideration for any performance period, SpaceDev will, subject to the fiduciary duties

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of the compensation committee, cause the compensation committee to grant to option eligible employees under SpaceDev's stock or equity plan in effect at the time of grant options for a number of shares of SpaceDev common stock equal to 15% of the number of shares of SpaceDev common stock in the aggregate in the applicable stock performance consideration (with due regard to the joint recommendations of the chief executive officers of SpaceDev and the surviving corporation).

- SpaceDev will make working capital investments in the Starsys business of not less than \$1,250,000 during the 30-day period following the closing of the merger, and of not less than an additional \$1,250,000 by the end of fiscal year 2006, which investments will be used by the surviving corporation to implement the surviving corporation's strategic plan, ongoing programs and internal initiatives.

If SpaceDev materially breaches any of the first three of these protective covenants (separate books and records; sale of surviving corporation; stock

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options), or if SpaceDev fails to reserve or grant the required number of options or to make the required working capital investments set forth in the last two of these protective covenants (stock options; capital investments), and SpaceDev does not cure the breach within 30 days of notice from the shareholder agent, the shareholder agent will be entitled to demand for the Starsys shareholders the maximum performance consideration available under the merger agreement for the affected performance periods (that is, the amount that would be paid if both the net revenues and EBITDA targets had been fully met). For more information on the performance consideration, please see the discussion under the "Merger Consideration - Shareholder Consideration - Performance Consideration" caption above.

In addition, SpaceDev has agreed to the following post-merger covenants, among others:

- During the performance periods, SpaceDev will use its best efforts to operate the surviving corporation in accordance with sound business practices and will make all business decisions which affect the financial or operating results of the Starsys business in good faith, and not with the purpose of distorting results in a manner adverse to the pre-merger Starsys shareholders.

- SpaceDev will cause its board of directors to appoint Scott Tibbitts to its board of directors, unless doing so would violate their fiduciary duties to SpaceDev's shareholders.

- Pursuant to the merger agreement, SpaceDev is seeking the approval of its shareholders in this joint proxy/prospectus to increase the amount of shares available under the SpaceDev 2004 Equity Incentive Plan to provide sufficient reserves for the issuance to option eligible employees of the options described above.

### TERMINATION OF THE MERGER AGREEMENT

At any time prior to the closing of the merger, the merger agreement may be terminated by written notice explaining the reason for such termination as follows:

- By the mutual written consent of SpaceDev and Starsys.
- By SpaceDev, if:
  - SpaceDev has not received, as promptly as practicable after October 24, 2005, a standstill and lockup agreement from each Starsys shareholder or other person expected to receive in excess of 50,000 shares of SpaceDev common stock at the closing and as performance consideration for fiscal year 2005, except that Starsys will not solicit a standstill and lockup agreement, and is not required to deliver to SpaceDev a standstill and lockup agreement, from any of those shareholders or other persons who is not a director or executive officer of Starsys and who does not own 5% or more of the outstanding shares of Starsys common stock, until after the date the Form S-4 registration statement of which this joint proxy statement/prospectus forms a part has been declared effective by the Securities and Exchange Commission;

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- Starsys or the key shareholder is in material breach of the merger agreement, subject to the expiration of any cure period; or,

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- Vectra forecloses or collects on any collateral for any Vectra loan.
- By Starsys, if:
  - SpaceDev or Monoceros is in material breach of the merger agreement, subject to the expiration of any cure period; or,
  - SpaceDev has not held the SpaceDev shareholder meeting within 45 days of the effective date of the Form S-4 registration statement of which this joint proxy statement/prospectus forms a part.
- By either SpaceDev or Starsys, if:
  - (i) SpaceDev has not received notice from the SEC that the SEC will review the Form S-4 registration statement or any other report filed by SpaceDev with the SEC; (ii) shares of SpaceDev common stock have been listed on the American Stock Exchange; (iii) the closing has not occurred on or prior to January 31, 2006 for any reason; (iv) the terminating party is not, on the date of termination, in material breach of the merger agreement; and, (v) the terminating party has not breached the merger agreement in a manner which is responsible for delaying the closing of the merger;
  - (i) the closing of the merger has not occurred on or prior to March 31, 2006 for any reason; (ii) the terminating party is not, on the date of termination, in material breach of the merger agreement; and, (iii) the terminating party has not breached the merger agreement in a manner which is responsible for delaying the closing of the merger; or,
  - (i) the satisfaction of a closing condition of the terminating party is impossible; (ii) the terminating party is not, on the date of termination, in material breach of the merger agreement; and, (iii) the terminating party has not breached the merger agreement in a manner causing the impossibility of satisfying the applicable closing condition.

If the merger agreement is terminated as described above, all obligations of the parties under the merger agreement will terminate, except for:

- the no-solicitation obligations described under the caption "No Solicitation of Other Proposals" above, unless SpaceDev terminated the merger agreement and neither Starsys nor the key shareholder was in material breach of the merger agreement or responsible for the failure of a condition to the merger to be satisfied (in which case those obligations will terminate as well);
- miscellaneous provisions generally pertaining to the interpretation of the merger agreement, jurisdiction, governing law, notices, expenses (described under the "Fees and Expenses" caption below) and similar matters; and,
- the confidentiality and non-disclosure provisions (and associated remedies) contained in the merger agreement.

The termination of the merger agreement for any reason will not affect any of SpaceDev's rights with respect to the loan made to Starsys or any documentation related to that loan, including the secured note.

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Starsys and the shareholder agent will be solely responsible for their respective legal, accounting and other fees and expenses incurred or reasonably expected to be incurred by Starsys or the shareholder agent in connection with the preparation, execution and delivery of the merger agreement and the consummation of the transactions contemplated thereby, including the preparation of the Form S-4 registration statement, of which this joint proxy statement/prospectus forms a part, and the holding of the Starsys shareholders meeting.

SpaceDev and Monoceros will be solely responsible for their respective legal, accounting and other fees and expenses incurred by SpaceDev or Monoceros in connection with the preparation, execution and delivery of the merger agreement and the consummation of the transactions contemplated thereby, including the preparation of the Form S-4 registration statement, of which this joint proxy statement/prospectus forms a part, and the holding of the SpaceDev shareholders meeting.

### AMENDMENT, EXTENSION AND WAIVER OF THE MERGER AGREEMENT

Amendment. The merger agreement may not be amended except upon the execution and delivery of a written agreement executed by SpaceDev, Starsys (prior to the closing of the merger), the key shareholder and the shareholder agent.

Extension and Waiver. At any time following the closing of the merger, SpaceDev and the surviving corporation, on the one hand, and the shareholder agent, on the other hand, to the extent legally allowed, may: (i) extend the time for the performance of any of the obligations of the other of them; (ii) waive any inaccuracies in the representations and warranties contained in the merger agreement or in any certificate, instrument or other document delivered pursuant to the merger agreement; or, (iii) waive compliance with any of the agreements contained in the merger agreement. Any agreement to any extension or waiver will be valid only if set forth in an instrument in writing signed on behalf of the party against which enforcement of the extension or waiver is sought.

THE SPACEDEV BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR" PROPOSAL NO. 1 TO APPROVE THE MERGER, THE MERGER AGREEMENT AND THE TRANSACTIONS CONTEMPLATED THEREBY, AND THE ISSUANCE AND RESERVATION OF SHARES FOR ISSUANCE PURSUANT TO THE MERGER AGREEMENT.

THE STARSYS BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR" PROPOSAL NO. 1 TO ADOPT THE MERGER AND THE MERGER AGREEMENT AND THE TRANSACTIONS CONTEMPLATED THEREBY.

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### SPACEDEV PROPOSAL NO. 2 - AMENDMENT OF THE 2004 EQUITY INCENTIVE PLAN

In November 2005, SpaceDev's Board of Directors approved an amendment to SpaceDev's 2004 Equity Incentive Plan, referred to as the 2004 Plan, subject to shareholder approval: (1) to increase by 3,000,000 shares the number of authorized shares under the plan; (2) to add per person annual share limits; and (3) to clarify the limitation on the number of shares which may be issued as incentive stock options. The board also changed the method for determining the fair market value of shares, which amendment did not require shareholder approval. A copy of the Amendment No. 2 to the SpaceDev, Inc. 2004 Equity Incentive Plan is attached to this joint proxy statement/prospectus as Annex D.

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As of November 1, 2005, no shares had been issued under the 2004 Plan, and options to purchase 1,273,500 shares at exercise prices ranging from \$1.49 to \$4.80 per share were outstanding under the 2004 Plan. Excluding the increase of 3,000,000 shares for which shareholder approval is being sought pursuant to this Proposal No. 2, as of November 1, 2005 there were 2,726,500 shares (plus any shares that might in the future be returned to the 2004 Plan as a result of cancellations or expiration of options) remaining for future grant under the 2004 Plan.

Shareholders are requested in this Proposal 2 to approve the amendments to the 2004 Plan approved by the Board of Directors in November 2005 and subject to shareholder approval. Approval of this proposal requires the number of votes present or represented by proxy cast in favor of the proposal to exceed the number of votes cast in opposition to the proposal. Abstentions will be counted towards the tabulation of votes cast on this proposal. Broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

THE SPACEDEV BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR"  
THE PROPOSAL TO APPROVE THE AMENDMENT TO THE 2004 EQUITY INCENTIVE PLAN.  
SUMMARY OF THE 2004 EQUITY INCENTIVE PLAN

The purpose of the 2004 Plan is to provide selected eligible employees, directors and certain types of consultants of and to SpaceDev, its subsidiaries, and affiliates an opportunity to participate in SpaceDev's future by offering them an opportunity to acquire stock in SpaceDev so as to retain, attract and motivate them. Options granted under the 2004 Plan may be incentive stock options or nonstatutory stock options, as determined by the Board of Directors or a committee appointed by the Board of Directors at the time of grant. Limited rights and stock awards may also be granted under the 2004 Plan. The options, limited rights and awards are collectively referred to in this discussion as "awards."

### Administration

The 2004 Plan is administered by the Compensation Committee. Subject to the provisions of the 2004 Plan and the Compensation Committee Charter, and subject to the approval of any relevant authorities, the Compensation Committee shall have the authority in its discretion:

- to determine the fair market value;
- to select the employees, directors and consultants to whom awards may from time to time be granted;
- to approve forms of agreement for use under the 2004 Plan;
- to determine the terms and conditions of any award granted under the 2004 Plan, including, but not limited to, the exercise price, the time or times when awards may be exercised (which may be based on performance criteria), any vesting and any restriction or limitation regarding any award or the common stock relating thereto;
- to reduce the exercise price of any option to the then current fair market value if the fair market value of the common stock covered by the option has declined since the grant date;

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- to prescribe, amend and rescind rules and regulations relating to the 2004

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Plan, including rules and regulations relating to sub-plans established for the purpose of qualifying for preferred tax treatment under foreign tax laws;

- to allow participants in the 2004 Plan to satisfy withholding tax obligations on options by electing to have SpaceDev withhold from the common stock to be issued upon exercise of an option that number of shares having a fair market value equal to the amount required to be withheld. The fair market value to be withheld will be determined on the date that the amount of tax to be withheld is to be determined; and,

- to construe and interpret the terms of the 2004 Plan and awards granted pursuant to the 2004 Plan.

### Awards

A stock option is the right to purchase a specified number of shares of stock, at a specified exercise price for a specified period of time. The exercise price of incentive stock options may not be less than 100% of the fair market value of the common stock as of the date of grant (or 110% of the fair market value if the grant is to an employee who beneficially owns more than 10% of the total combined voting power of all classes of SpaceDev's capital stock). The U.S. Internal Revenue Code of 1986, as amended, referred to as the Code, currently limits to \$100,000 the aggregate value of common stock for which incentive stock options may first become exercisable in any calendar year under the 2004 Plan or any other option plan adopted by SpaceDev. The 2004 Plan permits nonstatutory stock options to be granted at an exercise price of not less than 85% of the fair market value of the common stock on the date of grant; however, the Compensation Committee does not intend to make grants with exercise prices below 100% of the fair market value so long as such grants would result in the imposition of additional taxes under Section 409A of the Internal Revenue Code. See "American Jobs Creation Act of 2004" below. Nonstatutory stock options may be granted without regard to any restriction on the amount of common stock to which the option may first become exercisable in any calendar year. We currently issue options at 100% of the fair market value, as determined by the Board of Directors. Regardless of which type of option is granted to an employee of SpaceDev, unless otherwise determined by the Board of Directors, the option will expire 90 days after termination of employment for any reason other than death, disability or retirement (but in no event later than the expiration of the term of such option); provided, however, that all rights under any options expire immediately upon termination of an employee for cause. The Compensation Committee may grant a "limited right" in connection with grants of stock options. A limited right is the right to receive the net of the market price of a share of stock and the exercise price of the right, either in cash or in stock, in the future. In no event may a limited right issued under the 2004 Plan be exercisable in whole or in part before the expiration of six months from the date of grant, and the right may only be exercised in the event of a change in control of SpaceDev. In addition, limited rights issued under the 2004 Plan may be exercised only when the underlying option is exercisable and the fair market value of the shares on the date of exercise is greater than the exercise price of the underlying option. The limited right and the option terminate simultaneously upon exercise of one or the other. Limited rights issued under the plan may be for no more than 100% of the difference between the purchase price and the fair market value of the stock subject to the underlying option.

The Compensation Committee may issue restricted stock awards under the 2004 Plan to employees and independent directors. The Compensation Committee has discretion to determine the dates on which stock awards will vest and any specific conditions or performance goals which must be satisfied prior to vesting of any portion of the award. Stock awards which are not fully vested at the time of termination of the employee for any reason other than death, disability or retirement or as a result of termination for cause, the unvested portion of the award will be forfeited as of the date of termination.



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The Compensation Committee has discretion to accelerate the vesting of any award issued under the 2004 Plan.

The Compensation Committee may award incentive stock options only to full-time employees (including officers) of SpaceDev and its affiliates under the 2004 Plan. A non-employee director, as well as part-time employees and certain consultants, of SpaceDev are not eligible to receive incentive stock options, but may receive nonstatutory stock options under the 2004 Plan.

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### Shares Subject to the 2004 Plan

Subject to adjustment, the maximum number of shares of common stock reserved for awards under the 2004 Plan is 4,000,000 shares, currently, and would be 7,000,000 shares if this proposal is approved by shareholders. These shares of common stock may be either authorized but unissued shares or authorized shares previously issued and reacquired by SpaceDev. To the extent that options and stock awards are granted under the 2004 Plan, the shares underlying such awards will be unavailable for any other use including future grants under the 2004 Plan except that, to the extent that stock awards or options terminate, expire, or are forfeited without having been exercised (or in cases where a limited right has been granted in connection with an option, the amount of such limited right received in lieu of the exercise of such option), new awards may be made with respect to those shares underlying such terminated, expired or forfeited options or stock awards. Notwithstanding the foregoing, the maximum number of shares that may be issued under incentive stock options will be 7,000,000 if this proposal is approved, and shares that are reacquired by us will not be available for grants of incentive stock options.

### Adjustments

The Compensation Committee will make adjustments to the number of shares subject to any award based on any change in the outstanding shares of common stock of SpaceDev resulting from any stock dividend or split, recapitalization, merger, consolidation, spin-off, reorganization, combination or exchange of shares, or any similar corporate change, or other increase or decrease in such shares without receipt or payment of consideration by SpaceDev. The number of shares reserved and the per person annual share limits will also adjust in such circumstances.

### Amendment or Termination

The Board of Directors may amend or modify the 2004 Plan in any or all respects. However, certain amendments may require shareholder approval pursuant to applicable laws and regulations. The 2004 Plan will terminate on August 5, 2014.

### Certain Federal Income Tax Consequences

THE FOLLOWING IS A GENERAL SUMMARY AS OF THIS DATE OF THE FEDERAL INCOME TAX CONSEQUENCES TO US AND TO U.S. PARTICIPANTS FOR AWARDS GRANTED UNDER THE 2004 PLAN. IT DOES NOT REFLECT PROVISIONS OF THE INCOME TAX LAWS OF ANY MUNICIPALITY, STATE OR FOREIGN COUNTRY IN WHICH A RECIPIENT MAY RESIDE, NOR DOES IT REFLECT THE TAX CONSEQUENCES OF A RECIPIENT'S DEATH. THE FEDERAL TAX LAWS MAY CHANGE AND THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES FOR ANY PARTICIPANT WILL DEPEND UPON HIS OR HER INDIVIDUAL CIRCUMSTANCES. TAX CONSEQUENCES FOR ANY PARTICULAR INDIVIDUAL MAY BE DIFFERENT.

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Incentive stock options granted under the 2004 Plan will be afforded favorable federal income tax treatment under the U.S. Internal Revenue Code of 1986, as amended, which we refer to as the Code. If an option is treated as an incentive stock option, the recipient will recognize no income upon grant or exercise of the option unless the alternative minimum tax rules apply. Upon a recipient's sale of the shares (assuming that the sale occurs more than two years after grant of the option and more than one year after exercise of the option), any gain will be taxed to the recipient as long-term capital gain. If the recipient disposes of the shares prior to the expiration of either of the above holding periods, then the recipient will recognize ordinary income in an amount generally measured as the difference between the exercise price and the lower of the fair market value of the shares at the exercise date or the sale price of the shares. Any gain recognized on such a disqualifying disposition of the shares in excess of the amount treated as ordinary income will be characterized as capital gain.

All other options granted under the 2004 Plan will be nonstatutory stock options and will not qualify for any special tax benefits to the recipient. A recipient generally will not recognize any taxable income at the time he or she is granted a nonstatutory stock option with an exercise price equal to or greater than the fair market value of the stock on the grant date. However, upon exercise of the Non-Statutory Stock Option, the recipient will recognize ordinary income for federal income tax purposes in an amount generally measured as the excess of the then fair market value of each share over its exercise price. Upon a recipient's resale of such shares, any difference between the sale price and the fair market value of such shares on the date of exercise will be treated as capital gain or loss and will generally

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qualify for long term capital gain or loss treatment if the shares have been held for more than one year. The Code provides for reduced tax rates for long-term capital gains based on the taxpayer's income and the length of the taxpayer's holding period.

The recipient of a restricted stock award will generally recognize ordinary income when such shares are no longer subject to a substantial risk of forfeiture within the meaning of Code Section 83, or become transferable, based on the excess of the value of the shares at that time over the price, if any, paid for such shares. However, if the recipient makes a timely election under the Code to be subject to tax upon the receipt of the shares, the recipient will recognize ordinary income at that time equal to the fair market value of the shares over the price paid, if any, and no further income will be recognized when the shares vest.

No taxable income is recognized upon the receipt of a limited right with an exercise price equal to or greater than the fair market value of the underlying shares of common stock on the date of grant. The recipient will recognize ordinary income, in the year in which the right is exercised only, equal to the excess of the fair market value of the underlying shares of common stock on the exercise date over the exercise price in effect for the exercised right, and the recipient will be required to satisfy the tax withholding requirements applicable to such income. SpaceDev will be entitled to an income tax deduction equal to the amount of ordinary income recognized by the recipient in connection with the exercise of the limited right. The deduction will be allowed for the taxable year of SpaceDev in which such ordinary income is recognized. Unless limited by Code Section 162(m), we are generally entitled to a deduction for federal income tax purposes equal to the amount of ordinary income recognized by the recipient of an award at the time such income is recognized.

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### Section 162(m) limits

Section 162(m) of the Code places a limit of \$1,000,000 on the amount of compensation that we may deduct in any one year with respect to each of our five most highly paid executive officers. Certain performance-based compensation approved by shareholders is not subject to the deduction limit. The 2004 Plan as proposed to be amended is qualified such that awards under the 2004 Plan may constitute performance-based compensation not subject to Section 162(m) of the Code. One of the requirements for equity compensation plans is that there must be a limit to the number of shares granted to any one individual under the plan. Accordingly, the 2004 Plan as proposed to be amended provides that the aggregate number of shares subject to awards granted under the 2004 Plan during any calendar year to any one participant may not exceed 1,000,000, except that in connection with his or her initial service, a participant may be granted awards covering up to an additional 1,000,000 shares of common stock.

### American Jobs Creation Act of 2004

The American Jobs Creation Act of 2004 contains deferred compensation provisions added as Section 409A of the Code. These provisions make compensation deferred under a nonqualified deferred compensation plan taxable on a current basis (or, if later, when vested), unless certain requirements are met. The Internal Revenue Service has recently issued proposed regulations on the provisions of Section 409A, and further guidance is expected to follow. It is the intent of our company that all awards granted under the 2004 Plan will not cause an imposition of additional taxes provided by Section 409A of the Code, and the Compensation Committee intends to administer the 2004 Plan so that such taxes are not imposed.

### New Plan Benefits

Except for our obligation to reserve stock options for eligible employees of Starsys following the closing of the merger described above under "The Merger Agreement -- SpaceDev Post-Closing Covenants," we have no other plans, proposals, or arrangements to grant any awards out of the additional share reserve under the 2004 Plan that is proposed to be approved in this Proposal No. 2. The benefits or amounts of awards that may be granted to our CEO, our executive officers named in the summary compensation table included in our proxy statement for our 2005 annual meeting, our executive officers as a group, our non-executive directors as a group, and our non-executive employees as a group, and the benefits or amounts that would have been granted to such persons or classes of persons for our last completed fiscal year if these amendments had been in effect during such year, are not presently determinable.

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### EQUITY COMPENSATION PLAN INFORMATION

The following table provides information about SpaceDev's equity compensation plans as of December 31, 2004:

	Number of securities to be issued upon the exercise of outstanding options,	Weighted-average exercise price of outstanding options,	Number of remaining ava future issu equity compensa (excluding
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Plan category	warrants and rights	warrants and rights	reflected in
EQUITY COMPENSATION PLANS APPROVED BY SECURITY HOLDERS	3,878,766	\$1.05	
EQUITY COMPENSATION PLANS NOT APPROVED BY SECURITY HOLDERS (1)	2,500,000	\$2.00	
TOTAL	6,378,766	\$1.50	

(1) Consists of options to purchase up to an aggregate of 2,500,000 shares of common stock granted to Mr. James W. Benson, SpaceDev's chairman and current chief executive officer. On July 21, 2005, options on 2,000,000 shares of common stock granted to Mr. Benson expired unvested and unexercised.

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SPACEDEV PROPOSAL NO. 3 -  
 AMENDMENT TO ARTICLES OF INCORPORATION  
 TO INCREASE AUTHORIZED NUMBER OF SHARES

In October 2005, SpaceDev's Board of Directors approved an amendment to SpaceDev's articles of incorporation to increase the authorized number of shares of common stock from 50,000,000 to 100,000,000. The form of articles of amendment is attached to this joint proxy statement/prospectus as Annex E.

The additional shares of common stock to be authorized by adoption of the amendment would have rights identical to the currently outstanding shares of common stock. Adoption of the amendment would not affect the rights of the holders of currently outstanding common stock, except to the extent additional shares are actually issued, which may have certain effects, including dilution of the earnings per share and voting rights of current holders of common stock. If the amendment is adopted, it will become effective upon filing of the articles of amendment with the Secretary of State of the State of Colorado. If the amendment is adopted, the articles of amendment giving effect to the amendment will be filed as soon as practicable. On December 20, 2005, there were 24,606,255 shares of SpaceDev common stock outstanding, and 16,493,865 were reserved for options, employee equity plans and other purposes (not including shares issuable in the merger described in Proposal No. 1, the increased shares authorized under the 2004 Equity Incentive Plan described in Proposal No. 2, or shares that may be sold or issuable in one or more private placements described in Proposal No. 4). Upon the approval of this Proposal No. 3, there would be approximately 62,750,000 authorized and unreserved shares available for issuance, excluding for the purposes described in Proposals No. 1, No. 2 and No. 4. We estimate that up to approximately 15,600,000 of these shares could be used if Proposal No. 1 and Proposal No. 2 are approved.

The affirmative vote of the holders of a majority of the voting power of the outstanding shares of SpaceDev's common stock is required to approve this proposal. As a result, abstentions and broker non-votes will have the same effect as negative votes.

PURPOSE AND EFFECT OF THE AMENDMENT

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The principal purpose of this amendment is to provide SpaceDev with the flexibility to issue shares of common stock for proper corporate purposes, which may be identified in the future, such as to raise equity capital, make acquisitions through the use of stock or reserve additional shares for issuance under equity incentive plans. SpaceDev intends to use a portion of the newly authorized shares of common stock to perform its obligations under the merger agreement described in Proposal No. 1, as reserve for the additional shares proposed to be authorized under the 2004 Equity Incentive Plan described in Proposal No. 2, and for one or more private placements as described in Proposal No. 4. Except as discussed above, SpaceDev has at this time no plans, proposals or arrangements, written or otherwise, to issue any of the additional authorized shares of common stock.

The increased reserve of shares available for issuance may be used to facilitate public or private financings. If required operating funds cannot be generated by operations, SpaceDev may need to, among other things, issue and sell unregistered common stock, or securities convertible into common stock, in private transactions. Such transactions might not be available on terms favorable to SpaceDev, or at all. SpaceDev may sell common stock at prices less than the public trading price of the common stock at the time, and may grant additional contractual rights to purchase not available to other holders of common stock, such as warrants to purchase additional shares of common stock or anti-dilution protections.

The increased reserve of shares available for issuance also may be used in connection with potential acquisitions. The ability to use its stock as consideration provides SpaceDev with negotiation benefits and increases its ability to execute its growth strategy which may include the acquisition of other businesses or technologies.

In addition, the increased reserve of shares available for issuance may be used for SpaceDev's future equity incentive plans for grants to its employees, consultants and directors. Such equity incentive plans could also be used to attract and retain employees of acquired companies in connection with potential acquisitions.

The flexibility of the board of directors to issue additional shares of common stock could also enhance the ability of SpaceDev's board of directors to negotiate on behalf of the shareholders in a takeover situation. The

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authorized, but unissued shares of common stock could be used by the board of directors to discourage, delay or make more difficult a change in the control of SpaceDev. For example, such shares could be privately placed with purchasers who might align themselves with the board of directors in opposing a hostile takeover bid. The issuance of additional shares could dilute the stock ownership of persons seeking to obtain control and increase the cost of acquiring a given percentage of the outstanding stock. Shareholders should therefore be aware that approval of the amendment could facilitate future efforts by SpaceDev to deter or prevent changes in control of SpaceDev, including transactions in which the shareholders might otherwise receive a premium for their shares over then current market prices.

The availability of additional shares of common stock is particularly important in the event that the board of directors needs to undertake any of the foregoing actions on an expedited basis and therefore needs to avoid the time (and expense) of seeking shareholder approval in connection with the contemplated action. If the amendment is approved by the shareholders, the board of directors does not intend to solicit further shareholder approval prior to the issuance of

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any additional shares of common stock, except as may be required by applicable law or rules. For example, if our common stock trades on the American Stock Exchange, under the rules and policies of such exchange, shareholder approval is required for any issuance of 20% or more of our outstanding shares in connection with acquisitions or discounted private placements. Additionally, under California law, to the extent it may apply to SpaceDev under Section 2115 of the California General Corporation Law, shareholder approval is required for the issuance of securities in connection with certain acquisitions where shareholders, immediately before such issuance, do not continue to hold at least five-sixths of SpaceDev's combined voting power after such issuance. SpaceDev reserves the right to seek a further increase in the authorized number of shares from time to time as considered appropriate by the board of directors.

### EXISTING ANTI-TAKEOVER MECHANISMS

SpaceDev's articles of incorporation and bylaws contain provisions that may make it less likely that our management would be changed, or someone would acquire voting control of us, without the consent of our board of directors. These provisions include:

- Shares of our authorized but unissued "blank check" preferred stock (as well as shares of our authorized but unissued common stock) could be issued in an effort to dilute the stock ownership and voting power of persons seeking to obtain control of our company, or could be issued to purchasers who would support our board of directors in opposing an unsolicited takeover proposal;
- Our shareholders are only allowed to take actions by unanimous written consent, other than actions taken at a duly noticed meeting of shareholders; and,
- Our board of directors increase the number of directors and may fill the vacancies created by such action.

Other than as described above, there are no anti-takeover mechanisms present in SpaceDev's governing documents or otherwise, and SpaceDev has no present plans or proposals to adopt other provisions or enter into other arrangements that may have material anti-takeover consequences.

THE SPACEDEV BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR" THE PROPOSAL TO AMEND THE ARTICLES OF INCORPORATION TO INCREASE AUTHORIZED COMMON STOCK.

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### SPACEDEV PROPOSAL NO. 4 - AUTHORIZATION TO SELL MORE THAN 20% OF SPACEDEV'S COMMON STOCK IN PRIVATE OFFERINGS

Shareholders are being asked to authorize SpaceDev to sell shares of its common stock (or securities convertible into or exercisable for common stock) in one or more related private offerings pursuant to the following terms:

- The private offerings for which SpaceDev seeks shareholder approval will be for gross proceeds up to an aggregate of \$10 million, exclusive of any amounts which may be received by SpaceDev upon the exercise of warrants, options or other rights to purchase SpaceDev common stock which may be granted to investors in connection with the private offerings;
- SpaceDev will not sell in such private offerings: (1) its common stock at a price less than 35% of the then current market value of SpaceDev's common stock; or, (2) other securities exercisable for or convertible into SpaceDev common stock for an exercise price or conversion price, as applicable, less than

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35% of the then current market value of SpaceDev's common stock, and in each case, current market value to be determined by the board in good faith; and,

- SpaceDev will not sell to investors in any such private offerings, warrants, options or other rights to purchase in excess of 40% of the total amount of SpaceDev common stock (including any common stock issuable upon the conversion of preferred stock or convertible debt) sold in such private offerings.

SpaceDev intends to use the proceeds of these transactions to fund its continued operations, and management believes that failure to approve this proposal could have a material adverse effect on SpaceDev. If approved at the special meeting, this authorization will expire three months following the date of the special meeting of shareholders, (i.e. April 30, 2006).

Why is SpaceDev requesting this authorization?

SpaceDev is requesting this authorization to ensure compliance with the listing requirements of the American Stock Exchange, on which SpaceDev intends to apply for listing of its common stock. The rules of the American Stock Exchange require each listed company to seek the approval of its shareholders prior to the issuance of securities under certain circumstances, including in connection with a transaction (other than a public offering) involving the sale or issuance by a listed company of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding for less than the greater of book value or market value of the stock before such issuance, which listing requirement we refer to as the 20% Financing Rule. For purposes of applying the 20% Financing Rule, we must treat all sales of common stock that are part of a single plan of financing as a single sale of common stock. If SpaceDev common stock is listed on the American Stock Exchange and SpaceDev does not comply with the 20% Financing Rule, then we expect we would be delisted from the American Stock Exchange.

SpaceDev must raise additional capital in order to fulfill its obligations under the merger agreement described in Proposal No. 1 (including the second \$1,250,000 working capital contribution required by the end of 2006) and to fund its planned operations for the next twelve months, and expects to raise this capital primarily through the sale of common stock or securities that can be converted into or exercised for common stock. During the thirty (30) days preceding December 2, 2005, the market price of SpaceDev's common stock fluctuated between \$1.50 and \$1.63 per share, and SpaceDev's book value was approximately \$0.24 per share at September 30, 2005.

In October 2005, SpaceDev raised \$2.5 million through the sale of 2,032,520 shares of common stock and warrants exercisable for 450,000 shares of common stock. If these sales are counted towards the 20% Financing Rule, SpaceDev can sell approximately only two million additional shares without shareholder approval under the 20% Financing Rule.

Over the next several months, SpaceDev intends to raise an additional \$5 to \$7 million through the sale of equity securities. The specific amount we will raise, and the amount of common stock we will sell to raise this amount,

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will depend upon SpaceDev's stock price, short term capital needs, expectation of revenues from operations, the state of the capital markets generally, SpaceDev's ability to obtain debt-based financing as opposed to equity-based financing, and the specific financing terms that may be offered to SpaceDev. If

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revenues do not increase in the near term, or if the merger is completed and Starsys requires working capital in addition to the amounts SpaceDev is required to contribute under the merger agreement, then SpaceDev may need to raise more than \$5 to \$7 million (but not to exceed \$10 million under the shareholder authorization for this Proposal No. 4) from the sale of equity securities in order to fund its operations.

SpaceDev believes it will be difficult to structure a financing transaction and then seek shareholder approval of the specific transaction due to the time necessary to organize, call and hold a meeting of shareholders. SpaceDev is accordingly requesting the shareholders to approve this proposal, which allows management broad discretion (within the parameters set forth above) to structure and close a private financing transaction without obtaining shareholder approval of the particular transaction.

Also, SpaceDev would not be obligated to sell any shares of common stock, and if we did sell shares SpaceDev would not have to sell them in transactions that would count against the 20% Financing Rule. However, we expect that we will sell shares of common stock and that the financing transactions will count against the 20% Financing Rule. At this time, SpaceDev does not have commitments for any specific transaction obligating us to issue common stock up to or in excess of the amount permitted under the 20% Financing Rule, although we expect that we will have commitments for such transactions on or before the closing of the merger.

Any sales of common stock we make will be on terms negotiated by us, and these terms may not be beneficial to SpaceDev's current shareholders. For example, most of the financing proposals that have been presented to us recently either involve a purchase price for common stock that is discounted from the market price of SpaceDev's common stock at the time of sale or the sale, of convertible preferred stock with rights and preferences, including dividends and liquidation preferences, senior to the common stock. These features are intended to protect the new investor against a decline in SpaceDev's share price, but generally this benefit to the new investor is to the detriment of the existing shareholders. If we enter into a transaction that provides for the sale of shares at a price below the market value per share, the ownership interests of SpaceDev's current shareholders will be diluted.

### Preferred Stock

SpaceDev is authorized to issue up to 10,000,000 shares of preferred stock in one or more series and may issue preferred stock in the private offerings. As of November 1, 2005, SpaceDev has outstanding 248,460 shares of its Series C Convertible Preferred Stock. SpaceDev's board of directors may determine the terms of future preferred stock offerings without further action by SpaceDev's shareholders. If SpaceDev issues additional preferred stock, it could affect your rights or reduce the value of your common stock. In particular, specific rights granted to future holders of preferred stock could be used to restrict SpaceDev's ability to merge with or sell our assets to a third party. These terms may include voting rights, preferences as to dividends and liquidation, conversion and redemption rights, and sinking fund provisions.

### Price Reset Features and Floating Price Provisions

Although we do not intend to enter into a financing transaction with price reset features, we may be required to do so under certain conditions in one or more transaction. These types of transactions fix a price at the time of issue, which may be at a discount to market price, and then reduce the price at a future specified date if the market price is lower on that future date than it was on the issue date. We may also agree to one or more transactions with floating price provisions. These transactions are convertible securities that permit the holder to convert into common stock at a price equal to the lesser of



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a price fixed on the date the convertible security is issued, which may be below the market price on that date, or a price related to the market price of the common stock on the date of conversion, which also may be below the market price on that date. If we enter into a transaction with a price reset feature or a floating price, then generally the reset or pricing feature will have the effect of requiring us to issue more shares of SpaceDev's common stock to the new investors if SpaceDev's stock price falls but without SpaceDev receiving any additional compensation for the additional shares we issue. An issuance under these circumstances would dilute the economic interests of SpaceDev's current shareholders, in the same manner as a below market sale. However, reset and floating price transactions also involve the risk that the number of shares that we will have to issue is not fixed. For example, if the

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price of SpaceDev's stock declines then the number of shares issuable to the new investors would increase, which could, in turn, put additional downward pressure on SpaceDev's stock price and result in a downward spiral ultimately resulting in a dramatic drop in SpaceDev's stock price, very large dilution to SpaceDev's current shareholders and a large ownership interest for the new investors. We will use our best efforts to avoid any financing transaction that provides for a price reset or floating price provision, and if we do agree to such a provision, we will make every effort to include a reasonable limit on the number of shares issuable as a result of the provision.

What happens if shareholders do not approve the authorization contemplated by this proposal?

If shareholders do not authorize us to sell additional common stock in excess of the number that may be sold without shareholder approval under the 20% Financing Rule, then SpaceDev would have to:

- violate the 20% Financing Rule;
- raise the capital necessary for SpaceDev's operations in transactions that do not require shareholder approval under the 20% Financing Rule; or,
- seek shareholder approval in the future for a particular transaction which requires such approval under the 20% Financing Rule.

Unless SpaceDev's stock price increases significantly, we believe it is unlikely that we will be able to raise the necessary capital in transactions that do not fall within the 20% Financing Rule. We accordingly expect that if this proposal is not adopted, SpaceDev would still raise the necessary funds, and if SpaceDev common stock is then listed on the American Stock Exchange, seek shareholder approval for the particular transaction or face the possibility of delisting from the American Stock Exchange. Delisting from the American Stock Exchange could have a material adverse effect on the trading market for SpaceDev's common stock, and would increase regulatory burdens applicable to us, such as Section 2115 of the California General Corporation Law (see "The Merger - Approval and Dissenters' Rights") and certain state and federal securities laws and rules which grant exemptions from state qualification requirements for securities traded on the American Stock Exchange or other qualifying exchanges. We would also likely become subject again to the penny stock rules which apply to certain companies whose shares are not traded on a qualifying exchange and trade below \$5 per share. See "Risk Factors" beginning on page 15.

THE SPACEDEV BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT SPACEDEV'S SHAREHOLDERS VOTE "FOR" APPROVAL OF THE AUTHORIZATION TO SELL MORE THAN 20% OF SPACEDEV'S COMMON STOCK IN PRIVATE OFFERINGS.

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STARSYS PROPOSAL NO. 2 -  
APPOINTMENT AND AUTHORIZATION OF SCOTT TIBBITTS  
AS SHAREHOLDER AGENT UNDER THE MERGER AGREEMENT

Shareholders are being asked to appoint and constitute Scott Tibbitts as the shareholder's exclusive agent and representative under the merger agreement and related escrow agreement. Mr. Tibbitts is the Chairman and Chief Executive Officer of Starsys and beneficially owns approximately 48% of the common stock of Starsys. It is expected that Mr. Tibbitts will be appointed to the board of directors of SpaceDev following the merger. For more information, see "The Merger - Interests of Certain Starsys Persons in the Merger" beginning on page 44.

The role of the shareholder agent and representative is to be the exclusive agent of the shareholders and to perform, among other things, the following:

- with respect to claims made or potentially made against, or any other action to be taken or omitted by or on behalf of, any shareholders pursuant to the merger agreement or the escrow agreement or otherwise in connection with the merger, including with respect to any indemnification claims, performance consideration calculations, breaches of representations, warranties or covenants and any other matters;
- give, fail to give and receive notices and communications from and to SpaceDev, the escrow agent, Starsys shareholders or other persons;
- agree to, negotiate, prosecute, defend, enter into settlements and compromises of, make and demand arbitration or other alternative dispute resolution;
- comply with orders of courts and awards of arbitrators and referees;
- satisfy indemnity claims from the shares, cash and other assets held in the escrow account;
- to take all actions necessary or appropriate in the judgment of the shareholder agent for accomplishing any of the foregoing; and,
- use the shares of SpaceDev common stock in the escrow account (as described under the caption "The Merger Agreement - Escrow - Escrow Account" above) as collateral to secure the rights of the SpaceDev indemnified parties;
- deposit and withdraw funds into and from the expense fund (as described under the caption "The Merger Agreement - Escrow - Expense Fund" above) for the payment of the shareholder agent's reasonable out-of-pocket expenses; and
- agree to amendments and waivers of the merger agreement and escrow agreement, and time extensions under the merger agreement, on behalf of the shareholders, as described under the "The Merger Agreement - Amendment, Extension and Waiver of the Merger Agreement" caption above.

Mr. Tibbitts will not be liable for any act done or omitted as shareholder agent while acting in good faith and in the exercise of reasonable judgment. Mr. Tibbitts shall not receive any compensation for his services as shareholder agent.

The shareholder agent may resign at any time by written notice to SpaceDev and

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the escrow agent, and the shareholder agent may be removed at any time by written notice signed by pre-merger Starsys shareholders holding not less than a majority of the shares of Starsys outstanding immediately preceding the merger. The pre-merger Starsys shareholders will be responsible for appointing a successor shareholder agent by act of such shareholders holding not less than a majority of the shares of Starsys outstanding immediately preceding the merger. The successor shareholder agent must be the key shareholder, a director or officer of Starsys or the surviving corporation, or reasonably acceptable

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to SpaceDev. If the shareholders fail to appoint a successor shareholder agent within ten (10) days of the resignation or removal of the shareholder agent, SpaceDev may petition a proper court to appoint a successor.

Approval of Proposal No. 2 requires the affirmative vote of a majority of the outstanding shares of Starsys common stock. Approval of this Proposal No. 2 constitutes, without any further action on the part of any shareholders, the appointment by each of the shareholders of Mr. Tibbitts to act as shareholder agent under the merger agreement and related escrow agreement, for and on each of their behalf.

THE STARSYS BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STARSYS' SHAREHOLDERS VOTE "FOR" THE

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APPOINTMENT AND AUTHORIZATION OF SCOTT TIBBITTS AS SHAREHOLDER AGENT UNDER THE MERGER AGREEMENT.

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### UNAUDITED PRO FORMA COMBINED CONSOLIDATED FINANCIAL STATEMENTS

#### HOW THE PRO FORMA FINANCIAL STATEMENTS WERE PREPARED

The following unaudited pro forma combined financial statements give effect to the proposed merger of SpaceDev and Starsys using the purchase method of accounting, as required by Statement of Financial Accounting Standard No. 141, "Business Combinations." SpaceDev will legally be acquiring Starsys and will be viewed for accounting purposes as the "accounting acquirer." Under this method of accounting, the combined company will allocate the purchase price to the fair value of assets of Starsys deemed to be acquired, including identifiable intangible assets and goodwill. The purchase price allocation is subject to revision when the combined company obtains additional information regarding asset valuation. The unaudited pro forma combined financial statements are based on respective historical consolidated financial statements and the accompanying notes of SpaceDev, and those of Starsys included herein.

The unaudited pro forma combined statements of operations for the year ended December 31, 2004 and the nine months ended September 30, 2005 assume the merger took place on January 1, 2004. The unaudited pro forma combined balance sheet assumes the merger took place on September 30, 2005. The unaudited pro forma combined statement of operations for the year ended December 31, 2004 combines SpaceDev's historical statement of operations for the year ended December 31, 2004 with Starsys' historical statement of operations for the year ended December 31, 2004. The pro forma combined statement of operations for the nine months ended September 30, 2005 combines SpaceDev's historical statement of operations for the nine months ended September 30, 2005 with Starsys' historical

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statement of operations for the nine months ended September 30, 2005. The unaudited pro forma combined balance sheet combines SpaceDev's historical balance sheet as of September 30, 2005 with Starsys' historical balance sheet as of September 30, 2005.

THESE PRO FORMA FINANCIAL STATEMENTS HAVE BEEN BASED ON ASSUMPTIONS

The unaudited pro forma combined financial statements data is based on estimates and assumptions described in the notes to them. This data is presented for information purposes only and is not intended to represent or be indicative of the consolidated results of operations or financial condition of SpaceDev that would have been reported had the merger been completed as of the dates presented, and should not be taken as representative of future consolidated results of operations or financial condition of SpaceDev.

YOU SHOULD READ THESE PRO FORMA UNAUDITED COMBINED FINANCIAL STATEMENTS IN CONJUNCTION WITH EACH COMPANY'S HISTORICAL FINANCIAL STATEMENTS

The unaudited pro forma combined financial statements should be read in conjunction with the related notes included in this joint proxy statement/prospectus and the consolidated audited and unaudited financial statements of SpaceDev and the consolidated audited and unaudited financial statements of Starsys included in this joint proxy statement/prospectus. The unaudited pro forma combined financial statements are not necessarily indicative of what the actual results of operations and financial position would have been had the merger taken place on January 1, 2004 or September 30, 2005, and do not indicate future results of operations or financial position.

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UNAUDITED PRO FORMA COMBINED CONSOLIDATED BALANCE SHEET

	SEPTEMBER 30, 2005		
	HISTORICAL		
	SPACEDEV	STARSYS	TOTAL PRO FORMA ADJUSTMENTS
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash . . . . .	\$ 4,022,243	\$ 216,934	\$ (6,194,536) (d) & (e)
Accounts receivable . . . . .	1,096,645	3,045,479	-
Inventory . . . . .	-	311,649	-
Costs in excess of billings	-	2,095,781	-
Other current assets . . . . .	-	327,465	(236,025) (f)
Work in Progress . . . . .	10,412	-	-
Note Receivable . . . . .	1,326,453	-	(1,326,453) (d)
<b>Total current assets . . . . .</b>	<b>6,455,753</b>	<b>5,997,308</b>	<b>(7,757,014)</b>
<b>FIXED ASSETS - Net . . . . .</b>	<b>822,980</b>	<b>2,031,440</b>	<b>-</b>

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GOODWILL . . . . .	-	-	12,493,143 (a), (b) & (c)
OTHER ASSETS . . . . .	64,469	26,469	-
TOTAL ASSETS . . . . .	\$ 7,343,202	\$8,055,217	\$ 4,736,129

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UNAUDITED PRO FORMA COMBINED CONSOLIDATED BALANCE SHEET

	SEPTEMBER 30		
	HISTORICAL		
	SPACEDEV	STARSYS	TOTAL PRO FORMA
<b>LIABILITIES AND STOCKHOLDERSEQUITY</b>			
<b>CURRENT LIABILITIES</b>			
Current portion of notes payable	\$ 18,797	\$ 6,014,536	\$ (6,014,536)
Current portion of capitalized lease obligations . . . . .	2,479	33,998	
Accounts payable and accrued expenses	398,443	1,291,739	
Accrued payroll, vacation and related taxes	350,145	1,079,268	
Customer deposits and deferred revenue . .	126,453	-	(126,453)
Billings in excess of costs incurred and estimated earnings.	-	1,073,751	
Provision for anticipated loss	-	1,603,482	
Employee Stock Purchase Plan	9,974	-	
Other accrued liabilities	168,470	451,586	
<b>TOTAL CURRENT LIABILITIES .</b>	<b>1,074,761</b>	<b>11,548,360</b>	<b>(6,140,986)</b>
DEFERRED GAIN - ASSETS HELD FOR SALE.	859,996	-	
DEFERRED REVENUE . . . . .	-	-	
<b>TOTAL LIABILITIES . . . . .</b>	<b>1,934,757</b>	<b>11,548,360</b>	<b>(6,140,986)</b>
<b>COMMITMENTS AND CONTINGENCIES</b>			
<b>STOCKHOLDERSEQUITY (DEFICIT)</b>			
Convertible preferred stock . .	248	-	
Common stock . . . . .	2,231	520	(2,751)
Additional paid-in capital . . .	20,091,408	51,886	7,447,600
Accumulated deficit . . . . .	(14,685,442)	(3,545,549)	3,429,509

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TOTAL STOCKHOLDERSEQUITY (DEFICIT) . . . . .	5,408,445	(3,493,143)	10,877,1
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY.	\$ 7,343,202	\$ 8,055,217	\$ 4,736,1

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UNAUDITED PRO FORMA COMBINED CONSOLIDATED  
STATEMENT OF OPERATIONS

	YEAR ENDED DECEMBER		
	HISTORICAL		
	SPACEDEV	STARSYS	PRO
NET SALES . . . . .	\$ 4,890,743	\$18,085,414	\$
COST OF SALES . . . . .	3,820,683	18,720,454	
GROSS MARGIN. . . . .	1,070,060	(635,040)	
OPERATING EXPENSES			
Marketing and sales expense. . . . .	418,831	-	
Research and development . . . . .	39,473	-	
Impairment of goodwill and development . .	-	-	
EMC - stock based compensation . . . . .	-	-	
Stock and stock option based compensation.	-	-	
General and administrative . . . . .	467,471	4,472,103	
TOTAL OPERATING EXPENSES. . . . .	925,775	4,472,103	
INCOME/(LOSS) FROM OPERATIONS . . . . .	144,285	(5,107,143)	
NON-OPERATING EXPENSE/(INCOME)			
Interest income. . . . .	(19,497)	-	
Rental Income. . . . .	-	(15,294)	
Other Expense. . . . .	-	528,264	
Interest expense . . . . .	52,077	288,761	
Non-cash interest expense debt discount. .	-	-	
Gain on Building Sale. . . . .	(117,272)	-	
Loan Fee - Equity Compensation . . . . .	3,254,430	-	
TOTAL NON-OPERATING EXPENSE/(INCOME) . . . . .	3,169,739	801,731	
INCOME (LOSS) BEFORE INCOME TAXES . . . . .	(3,025,454)	(5,908,874)	
Income tax provision. . . . .	1,600	(317,014)	
NET INCOME (LOSS) . . . . .	\$ (3,027,054)	\$ (5,591,860)	\$
NET INCOME (LOSS) PER SHARE:			

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Net income (loss) . . . . .	\$	(0.16)	\$	(10.74)	\$
Weighted-Average Shares Outstanding . . . . .		18,610,141		520,447	

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UNAUDITED PRO FORMA COMBINED CONSOLIDATED  
STATEMENT OF OPERATIONS

	YEAR ENDED DECEMBER			
	HISTORICAL			
	SPACEDEV	STARSYS	PRO	
NET SALES . . . . .	\$	5,942,558	\$13,597,334	\$
COST OF SALES . . . . .		4,571,505	11,087,931	
GROSS MARGIN . . . . .		1,371,053	2,509,403	
OPERATING EXPENSES				
Marketing and sales expense . . . . .		493,344	-	
Research and development . . . . .		-	-	
Impairment of goodwill and development . . . . .		-	-	
EMC - stock based compensation . . . . .		-	-	
Stock and stock option based compensation . . . . .		-	-	
General and administrative . . . . .		654,524	3,572,194	
TOTAL OPERATING EXPENSES . . . . .		1,147,868	3,572,194	
INCOME/(LOSS) FROM OPERATIONS . . . . .		233,185	(1,062,791)	
NON-OPERATING EXPENSE/(INCOME)				
Interest income . . . . .		(69,632)	(75,998)	
Rental Income . . . . .		-	(3,250)	
Other Expense . . . . .		-	-	
Interest expense . . . . .		2,283	378,513	
Non-cash interest expense debt discount . . . . .		-	-	
Gain on Building Sale . . . . .		(87,953)	-	
Loan Fee - Equity Compensation . . . . .		28,875	-	
TOTAL NON-OPERATING EXPENSE/(INCOME) . . . . .		(126,427)	299,265	
INCOME (LOSS) BEFORE INCOME TAXES . . . . .		349,612	(1,362,056)	
Income tax provision . . . . .		1,200	-	
NET INCOME (LOSS) . . . . .	\$	348,412)	\$ (1,362,056)	\$
NET INCOME (LOSS) PER SHARE:				

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Net income (loss) . . . . .	\$	0.02	\$	(2.62)	\$
Weighted-Average Shares Outstanding . . . . .		21,777,211		520,447	

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NOTES TO THE UNAUDITED PRO FORMA COMBINED  
CONSOLIDATED STATEMENTS

The unaudited pro forma combined consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States after eliminating all material intercompany accounts and transactions. The acquisition of Starsys is being accounted for under the purchase method of accounting.

The purchase price of Starsys is approximately \$9.0 million and is proposed to be allocated as follows:

Current, tangible and identifiable intangible assets	\$ 8,055,217
Liabilities assumed . . . . .	11,548,360
Net liabilities . . . . .	(3,493,143)
Implied Intangibles/Goodwill . . . . .	12,493,143
Total purchase consideration . . . . .	\$ 9,000,000
Comprised of:	
Cash . . . . .	\$ 1,500,000
Stock consideration . . . . .	7,500,000
Total purchase consideration . . . . .	\$ 9,000,000

Under the terms of the agreement and in accordance with SFAS No. 141, for accounting purposes, SpaceDev has been deemed to be the acquirer. The cash and stock consideration has been calculated by taking the outstanding common shares of Starsys as of September 30, 2005, of approximately 520,000 shares of common stock, and dividing it into the \$9.0 million in cash and equity in SpaceDev. This calculation results in a purchase consideration greater than the net book value of Starsys as of September 30, 2005. This difference has been reflected as an increase in the carrying value of the acquired intangible assets of SpaceDev. At this time, the combined Company has not completed an independent valuation and the allocation of the purchase price has not been completed. Thus, these



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numbers do not include the effects, if any; of adjustments that might result from the amortization of any potential identifiable intangible assets (separate from goodwill). In addition, the purchase price excludes any reorganization costs. For purposes of this presentation, the purchase price excludes the impact of any value attributable to assumed stock options as their value was not deemed to be material based on the value of the consideration to be issued in the merger.

THE FOLLOWING PRO FORMA ADJUSTMENTS HAVE BEEN RECORDED TO REFLECT THE ACQUISITION:

Combined Consolidated Balance Sheet—adjustments to reflect the acquisition as if it had occurred on September 30, 2005.

(a) The issuance of approximately 5.0 million SpaceDev common shares, and options for the issued and outstanding common stock and outstanding options of Starsys, at a total value of \$7.5 million. The common shares of SpaceDev increase by approximately \$500 and additional paid in capital increased by approximately \$7,499,500.

(b) Elimination of Starsys pre-acquisition shareholders' equity, as follows:

Common stock . . . . .	\$	(520)
Additional paid-in capital		(51,886)
Accumulated deficit . . . .		3,545,549
-----		-----
		\$3,493,143
		-----

(c) Excess of the fair value of purchase consideration over the fair value of the net tangible assets and identifiable intangible assets acquired. This excess has been recorded in the pro forma statements as an increase in the carrying value of the acquired intangible assets of Starsys. The final figure for intangibles and/or goodwill will

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be increased by any reduction in net assets at the date of closure of the acquisition and by the reorganization costs which will be incurred as a result of the transaction.

(d) Elimination of approximately \$4.6 million of short term debt of Starsys as required by the Agreement and Plan of Merger. Also, the forgiveness of approximately \$1.3 million of notes receivable and applicable fees from SpaceDev to Starsys also based on the Agreement and Plan of Merger.

(e) Cash consideration at close of \$1.5 million to Starsys and Starsys shareholders by SpaceDev, Inc. The actual allocation of the purchase price will not occur until the closing and will be based on the respective fair values of the assets and liabilities of Starsys at that time.

(f) For the total of \$236,025 pro forma adjustment in current assets

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represents the release of the \$120,000 fee on the Bridge Loan as well as the payment of loan premium to Starsys shareholders at close and deferred legal and other closing costs to be paid by Starsys at closing in the amount of \$116,025.

(g) Represent remaining debt in the amount of \$94,536 for the remaining short term notes payable in which Starsys will pay at time of closing.

The unaudited pro forma combined consolidated information reflects our best estimates; however the actual financial position and results of operations may differ from the pro forma amounts reflected herein because of various factors, including, without limitation, access to additional information, changes in value and changes in operating results between the date of preparation of the unaudited pro forma combined consolidated financial information and the date on which the acquisition closes. However, in the opinion of management any final adjustments will not be material to the future financial position and/or results of operations of SpaceDev.

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### COMPARISON OF RIGHTS OF SHAREHOLDERS OF SPACEDEV AND SHAREHOLDERS OF STARSYS

This section describes material differences between the rights of holders of SpaceDev common stock and the rights of holders of Starsys common stock.

SpaceDev and Starsys are both organized under the laws of the State of Colorado. While SpaceDev and Starsys believe that this description covers the material differences between the two, this summary is not intended to be a complete discussion of the articles of incorporation and bylaws of SpaceDev and the articles of incorporation and bylaws of Starsys and is qualified in its entirety by reference to the applicable document and applicable Colorado law. Starsys shareholders should carefully read this entire document and the documents referred to in this summary for a more complete understanding of the differences between the rights of holders of SpaceDev common stock and the rights of holders of Starsys common stock. Therefore, any differences in the rights of holders of SpaceDev capital stock and Starsys capital stock arise primarily from differences in their respective articles of incorporation and bylaws. Additionally, SpaceDev's shareholders may have different rights by virtue of Section 2115 of the California General Corporation Law, which applies certain provisions of its corporate law to corporations incorporated in other states with a significant nexus in California. Under Section 2115, the specified California law is to be applied with respect to the foreign corporation "to the exclusion" of the law of the jurisdiction in which the foreign company is incorporated whenever there is a conflict. Section 2115 does not apply to a "listed" corporation, which is defined under California law as a corporation with (1) outstanding securities listed on the New York or American Stock Exchange or (2) a class of securities designated as a national market security on NASDAQ. Upon completion of the merger, holders of Starsys capital stock will become holders of SpaceDev capital stock and their rights will be governed by Colorado law, the articles of incorporation and bylaws of SpaceDev, as well as certain provision of California law if Section 2115 applies. The following discussion summarizes material differences between the rights of SpaceDev shareholders and Starsys shareholders under the articles of incorporation and bylaws of SpaceDev and of Starsys.

Because this summary does not provide a complete description of these documents, all Starsys shareholders are urged to carefully read the relevant provisions of Colorado law, as well as the articles of incorporation and bylaws of both SpaceDev and Starsys. Copies of the articles of incorporation and bylaws of

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Starsys and SpaceDev will be sent to SpaceDev and Starsys shareholders upon request. See "Where You Can Find More Information" for more information.

### SPACEDEV

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### STARSYS

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#### Capitalization

SpaceDev's articles of incorporation authorize:

- 50,000,000 shares of common stock, par value \$.0001 per share
  - o of which 24,606,255 were issued and outstanding as of December 20,2005
  - o of which 12,941,393 were reserved for issuance upon conversion of preferred stock and exercise of warrants, options and convertible debt as of December 20, 2005
- 10,000,000 shares of preferred stock, par value \$.001 per share, of which 248,460 were issued and outstanding as of December 20, 2005

Starsys' articles of incorporation authorize:

- 25,000,000 shares of common stock, \$.001 per share, of which 522,437.4 issued and outstanding as of August 2005
- 10,000,000 shares of preferred stock, par value, of which none are issued and outstanding as of November 9, 2005

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#### Number of Directors

SpaceDev's bylaws provide the number of directors of our company shall be fixed from time to time by the board of directors, but in no event shall the number of directors be less than one. SpaceDev's articles of incorporation provide that the number of directors may from time to time be increased or decreased in such manner as is provided in the bylaws. Currently, SpaceDev has nine directors.

Starsys' bylaws provide that the board of directors shall consist of two directors and the number may be changed by amending the bylaws in the manner set forth in the bylaws. Starsys has two directors.

Upon completion of the merger, Starsys merged into Monoceros and the board of directors of the surviving corporation will consist of two directors.

#### Cumulative Voting

Each holder of SpaceDev common stock is entitled to one vote for each share held of record. Under Colorado law, cumulative voting will apply in the election of directors unless the articles of incorporation contain an express provision to exclude cumulative voting in the election of directors. SpaceDev's articles of incorporation provide that cumulative voting shall not be allowed.

Each shareholder of Starsys shall be entitled to one vote for each share of capital stock. The articles of incorporation provide that cumulative voting shall not be permitted in the election of directors or otherwise.

However, SpaceDev is currently subject to Section 2115 of California law. California law states that the right to vote cumulatively is mandatory and cannot be taken away by a provision of the

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articles of incorporation. Hence, under California law, SpaceDev's shareholders may exercise cumulative voting rights in the election of directors. If cumulative voting rights exist, each holder of common stock will be entitled, for each share held, to the number of votes equal to the number of directors to be elected. Each shareholder may give one candidate, who has been nominated prior to voting, all the votes such shareholder is entitled to cast or may distribute such votes among as many such candidates as such shareholder chooses.

### Shareholder Vote

SpaceDev's articles of incorporation provide that whenever shareholders must approve or authorize any matter, whether now or hereafter required by the state of Colorado, the affirmative vote of a majority of the shares entitled to vote thereon shall be necessary to constitute such approval or authorization.

Starsys' articles of incorporation provide with respect to any action taken by the shareholders of Starsys, unless Colorado law requires the vote or concurrence of the holders of two-thirds of the outstanding shares entitled to vote thereon, or of any class of securities entitled to vote thereon, unless otherwise provided for in the corporation's bylaws, such action may be taken by the affirmative vote or concurrence of a majority of such shares or series thereof eligible to vote.

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### Shareholder Voting - Statutory Mergers

California law generally requires that a majority of the shareholders of both acquiring and target corporations approve statutory mergers.

Colorado law generally requires that a majority of the shareholders of both acquiring and target corporations approve statutory mergers.

Although Colorado law does not require approval of the surviving or acquiring entity or its parent entity in a merger (other than as described above), under California law, applicable to SpaceDev under Section 2115, shareholder approval is required for reorganizations where shareholders of the parent entity immediately prior to the reorganization will own immediately after the reorganization equity securities constituting less than five sixths of the voting power of the surviving or acquiring corporation or its parent entity.

### Removal of Directors

SpaceDev's directors may be removed in accordance with Colorado law. Under Colorado law, a director of a corporation that does not have a staggered board of directors or cumulative voting may be removed with or without cause with the approval of a majority of the outstanding shares entitled to vote at an election of directors. In the case of a Colorado corporation having cumulative voting, if less than the entire board is to be removed, a

Starsys' articles of incorporation provide that a director may be removed from office only if approved by the affirmative vote of the holders of not less than a majority of the number of shares of common stock then outstanding. Except as otherwise provided by law or otherwise provided in Starsys' articles of incorporation, the provisions shall not apply with respect to the removal of a director elected by the holders of any

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director may not be removed without cause if the number of shares voted against such removal would be sufficient to elect the director under cumulative voting.

Under California law, applicable to SpaceDev under Section 2115, any director or the entire board of directors may be removed, with or without cause, with the approval of a majority of the outstanding shares entitled to vote; however, no individual director may be removed (unless the entire board is removed) if the number of votes cast against such removal would be sufficient to elect the director under cumulative voting. A corporation's board of directors may not remove a director unless such director has been declared of unsound mind by an order of court or convicted a felony. A vacancy created by a removal of a director may be filled only by the approval of shareholders. In addition, California law provides that the superior court may, at the suit of shareholders holding at least ten percent of the number of outstanding shares of any class, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation and may bar from reelection any director so removed for a period prescribed by the court.

or series of stock having a preference over common stock as to dividends or li

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### Special Meetings of Shareholders

Under SpaceDev's bylaws, special meetings of the shareholders for any purpose, unless otherwise provided for by statute, may be called by the chief executive officer, the president, the board of directors or by the chief executive officer or president at the request of the holders of not less than one-tenth of all the shares of SpaceDev entitled to vote at the meeting.

Starsys' bylaws provide that special meetings of the shareholders, for any purpose, unless otherwise prescribed by statute, may be called by the president and shall be called by the president or secretary at the request in writing of the holders of at least one-tenth of the board of directors, or at the request in writing of the holders of twenty percent of all outstanding shares of the corporation entitled to vote at the meeting.

### Notice Provisions for Meetings of Shareholders

SpaceDev's bylaws provide that written notice, stating the place, day and hour of the meeting and, in case of a special meeting, the purpose for which the meeting is called, shall be delivered as required by the laws of the state of Colorado shall provide. Under Colorado law, a corporation shall give notice to shareholders of the date, time and place of each annual and special shareholders' meeting no fewer than ten and no more than sixty days before the date of the meeting; except that, if the number of authorized shares is to be increased, at least thirty days' notice shall be given. Unless otherwise required by law or the articles of incorporation, the corporation is

Starsys' bylaws provide that written notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than more than thirty days before the date of the meeting, either personally or by mail to the attention of the president or secretary or directors, to each shareholder entitled to vote at such meeting.

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required to give notice only to shareholders entitled to vote at the meeting.

### Proxies

SpaceDev's bylaws provide that at all meetings of shareholders, a shareholder may vote by proxy executed in writing by the shareholder or his duly authorized attorney in fact. Such proxy shall be filed with the secretary of SpaceDev before or at the time of the meeting. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy.

Starsys' bylaws provide that each shareholder entitled to vote may vote in person or by proxy but no proxy shall be voted or acted upon more than eleven months from its date,

### Amendment to Articles of Incorporation

SpaceDev's articles of incorporation provide that its articles of incorporation may be amended by resolution of the board of directors and by affirmative vote of the shareholders of at least a majority of the shares entitled to vote thereon at a meeting called for that purpose, or, when authorized, when such action is ratified by the written consent of all the shareholders of the

Under Colorado law, the board of directors of a corporation holding shares representing at least a certain percent of all of the votes entitled to vote on the amendment may propose an amendment to the articles of incorporation for submission to the shareholders. For an amendment to be adopted, the board shall recommend the amendment to the shareholders unless the amendment is proposed by the shareholders or unless the board determines that it should make no recommendation and conduct its business on its basis for its determination. The board shall recommend the amendment to the shareholders with the amendment, and the shareholders entitled to vote on the amendment shall approve the amendment.

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### Distributions to Shareholders

Under California law, no distributions to a corporation's shareholders may be made unless: (i) the amount of the retained earnings of the corporation immediately prior to the distribution equals or exceeds the amount of the proposed distribution; (ii) immediately after the distribution, the sum of the assets of the corporation (excluding certain items) is at least equal to 1 times its liabilities; and the current assets of the corporation is at least equal to its current liabilities, or if the average of the earnings of the corporation before taxes on income and before interest expense for the two preceding fiscal years was less than the average of the interest expense of the corporation for those two fiscal years, at least equal to 1 times its current liabilities. California law generally provides that a corporation may acquire its own shares, with the payment for such shares being subject to the same restrictions as dividend payments.

Under Colorado law, a board of directors of a corporation may authorize, and the corporation may make, distributions to its shareholders subject to any restriction in the articles of incorporation and subject to the limitations under Colorado law. Colorado law provides that no distribution may be made if, after giving it effect: (i) the corporation would not be able to pay its debts as they become due in the usual course of business; or (ii) the corporation's total assets would be less than the sum of its total liabilities (unless the articles of incorporation otherwise) the amount that would be needed to satisfy the claims of the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those of the shareholders receiving the distribution.

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### Appraisal and Dissenters' Rights

See disclosure in "The Merger - Appraisal and Dissenters' Rights" above.

See disclosure in "The Merger - Appraisal and Dissenters' Rights" above.

### Fiduciary Duties of Directors

Under California law, the duty of loyalty requires directors to perform their duties in good faith and in a manner that the director reasonably believes to be in the best interests of the corporation and its shareholders. The duty of care requires that directors act with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Under Colorado law, general standards for directors and officers, requires each to discharge the director's duties as including the director's duties as a member of a committee, and each officer with such duty shall discharge that duty: (i) in good faith; (ii) with the care an ordinarily prudent person in a like situation would exercise under similar circumstances, and (iii) in a manner that the director or officer reasonably believes to be in the best interest of the corporation.

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### Conflicting Interest Transactions

SpaceDev's articles of incorporation provide that no contract or other transactions of SpaceDev with any other person, firm, or corporation, or in which SpaceDev is interested, shall be affected or invalidated by (i) the fact that any one or more of the directors or officers of SpaceDev is interested in or is a director or officer of such other firm or corporation; or (ii) the fact that any director or officer of SpaceDev, individually or jointly with others, may be a party to or may be interested in any such contract or transaction, so long as the contract or transaction is authorized, approved or ratified at a meeting of the board of directors by sufficient vote thereon by directors not interested therein, to which such fact or relationship or interest has been disclosed, or so long as the contract or transaction is fair and reasonable to the corporation.

SpaceDev's officers, directors and other members of management shall be subject to the doctrine of corporate opportunities only insofar as it applies to business opportunities in which SpaceDev has expressed an interest as determined by SpaceDev's board of directors as evidenced by resolutions appearing in SpaceDev's minutes. When such areas of interest are delineated, all such business opportunities within such areas of interest which come to the attention of the officer, directors, and other members of management of SpaceDev shall be disclosed promptly to SpaceDev and made available to SpaceDev. The board of directors may reject any business opportunity presented to it and thereafter any officer, director, or other member of management may avail himself of such opportunity. Until such time as SpaceDev has

Starsys' articles of incorporation describe the types of conflicting interest transactions that shall be void or voidable, including a loan or other assistance by Starsys to a director or officer of Starsys or an entity in which a director or officer of Starsys is a director or officer or has a financial interest; (ii) a guaranty by a director or officer of Starsys or an entity in which a director or officer of Starsys is a director or officer or has a financial interest; or (iii) a contract or transaction between Starsys and a director or officer of Starsys or between Starsys and an entity in which a director or officer of Starsys is a director or officer or has a financial interest. No conflicting transaction shall be void or voidable, or be enjoined, or set aside, or give rise to an award of damages solely because the conflicting transaction involves a director or officer of Starsys or an entity in which a director or officer of Starsys is a director or officer or has a financial interest or solely because the director or officer of Starsys or an entity in which a director or officer of Starsys is a director or officer or has a financial interest participates in the meeting of Starsys or the committee of the board of directors or of the committee of the board of directors, or solely because the director's vote is counted for such purpose. (i) the material facts as to the nature of the relationship or interest and as to the nature of the conflicting interest transaction are disclosed or approved or ratified by the board or directors or the committee of the board or committee in good faith and (ii) the director approves or ratifies the conflicting transaction by the affirmative vote of a majority of the disinterested directors or officers, though the disinterested directors are not a quorum; (ii) the material facts as to the nature of the director's relationship or interest and

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designated an area of interest, the officer, directors, and other members of management of SpaceDev shall be free to engage in such areas of interest on their own and the corporate opportunities provision shall not limit the rights of any director, officer, or other member of management to continue a business existing prior to the time that such area of interest is designated by SpaceDev.

conflicting transaction are disclosed or to the shareholders entitled to vote on the conflicting interest transaction specifically authorized, approved or ratified in good faith by a vote of the shareholders of the conflicting interest transaction is Starsys as of the time it is authorized or ratified by the board, a committee of the shareholders. Common or interested shareholders may be counted in determining the presence of a quorum at a meeting of the board or of a committee which authorizes, approves or ratifies a conflicting interest transaction.

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### Preferred Stock

SpaceDev's board of directors has the authority, within the limitations and restrictions stated in SpaceDev's articles of incorporation, to provide for the issuance of up to 10,000,000 shares of preferred stock in one or more series and to fix and determine the relative rights and preferences of the shares of any such series so established to the full extent permitted by its articles of incorporation and Colorado law in respect of: (i) the number of shares to constitute a series, (ii) the rate of preference of dividends, (iii) whether shares may be redeemed and, if so, the redemption price and terms and condition of redemption, (iv) the amount payable upon shares in event of liquidation, (v) sinking fund or other provisions, if any, for the redemption or purchase of shares, (vi) the terms and conditions upon which shares may be converted, (vii) voting powers and (viii) any other relative rights and preferences of shares of such series. Issuance of such preferred stock, depending on its rights, preferences and designations may have the effect of delaying, deterring or preventing a change in control.

Starsys' board of directors has the authority, within the limitations and restrictions stated in Starsys' articles of incorporation, to provide for the issuance of up to 10,000,000 shares of preferred stock in one or more series and to fix and determine the relative rights and preferences of the shares of any such series so established to the full extent permitted by its articles of incorporation and Colorado law.

As of November 1, 2005, of the 10,000,000 authorized shares of Preferred Stock, SpaceDev currently has issued and outstanding 248,460 shares of Series C Convertible Preferred Stock.

Each share of the Series C Preferred Stock is convertible into shares of SpaceDev's common stock at a rate of \$1.54 per share.

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### Dividend Rights

Holders of SpaceDev common stock will be entitled to receive dividends or other distributions when and if declared by SpaceDev's board of directors. The right of SpaceDev's board of directors to

Holders of Starsys common stock shall be entitled to receive dividends as may be declared from time to time by Starsys' board of directors, subject to the preferences, limitations, and relative



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declare dividends, however, is subject to the rights of holders of any outstanding SpaceDev preferred stock and the availability of sufficient funds under Colorado law to pay dividends.

of holders of shares of outstanding stock.

SpaceDev's articles of incorporation provide that the rights of holders of common stock to receive dividends or shares in the distribution of assets in the event of liquidation, dissolution, or winding up of the affairs of SpaceDev shall be subject to the preferences, limitations and relative rights of the shares of preferred stock fixed in the resolution or which may be adopted from time to time by the board providing for the issuance of one or more series of preferred stock.

SpaceDev currently has one series of preferred stock issued and outstanding. In 2004, SpaceDev issued 250,000 shares of Series C Convertible Preferred Stock to Laurus Master Fund, Ltd. for an aggregate purchase price of \$2,500,000, or \$10.00 per share. Holders of the preferred shares shall be entitled to receive quarterly preferential cumulative dividends at a rate of 6.85%. Dividends stock at the holder's option, subject to certain exceptions.

### Liquidation Rights

As to distribution of SpaceDev assets upon liquidation, dissolution or winding up, whether voluntary or involuntary, the Series C Preferred Stock are ranked senior to the common stock.

Starsys' articles of incorporation provide that the holders of common stock shall be entitled to receive the net assets of Starsys upon dissolution or liquidation, subject to the payment of preferences thereto applicable to the preferred stock.

Under SpaceDev's articles of incorporation, upon the dissolution, liquidation, or winding-up of SpaceDev, whether voluntary or involuntary, the holders of the Series C Preferred Stock shall be entitled to receive before any payment or distribution is made on the common or other such junior stock, out of the assets of SpaceDev available for distribution to shareholders, an amount equal to the original issue price adjusted for any stock dividends, combinations or splits with respect to such shares of the Series C Preferred Stock then outstanding plus all accrued and unpaid dividends to and including the date thereof. Upon payment in full of the amounts due to holders of the Series C Preferred Stock, the holders of common stock and any class of junior stock shall receive all remaining assets of SpaceDev legally available for distribution. If upon liquidation, the assets of SpaceDev available for distribution to the holders of the preferred stock are insufficient to permit payment in full, then all such assets shall be ratably distributed among the holders of the Series C Preferred Stock.

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### INFORMATION REGARDING BUSINESS OF SPACEDEV

#### OVERVIEW

SpaceDev, Inc. is engaged in the conception, design, development, manufacture, integration and operations of space technology subsystems, systems, products and services. SpaceDev is currently focused on the commercial and military development of low-cost microsattelites, nanosatellites and related subsystems, hybrid rocket propulsion for space and launch vehicles, as well as the associated engineering technical services to government, aerospace and other commercial enterprises. SpaceDev's products and solutions are sold directly to these customers and include sophisticated micro- and nanosatellites, hybrid rocket-based launch vehicles, orbital Maneuvering and orbital Transfer Vehicles as well as safe sub-orbital and orbital hybrid rocket-based propulsion systems. SpaceDev is also developing commercial hybrid rocket motors for possible use in small launch vehicles, targets and sounding rockets, and small high performance space vehicles and subsystems.

SpaceDev's approach is to provide smaller spacecraft - generally 250 kg (550 pounds) mass and less - and cleaner, safer hybrid propulsion systems to commercial, government, university and limited international customers. SpaceDev is developing smaller spacecraft and miniaturized subsystems using proven, lower cost, high-quality off-the-shelf components. SpaceDev's space products are modular and reproducible, which allows it to create affordable space solutions for SpaceDev's customers. By utilizing SpaceDev's innovative technology and experience, and space-qualifying commercial industry-standard hardware, software and interfaces, SpaceDev provides increased reliability with reduced costs and risks.

SpaceDev has been awarded, has successfully concluded or is successfully concluding contracts from such esteemed government, university and commercial customers as the Air Force Research Laboratory, Boeing, the California Space Authority, the Defense Advanced Research Projects Agency, NASA's Jet Propulsion Laboratory, Lockheed Martin, Lunar Enterprise Corporation, Malin Space Science Systems, the Missile Defense Agency (formerly the "Ballistic Missile Defense Organization"), the National Reconnaissance Office, Scaled Composites and the University of California at Berkeley via NASA.

SpaceDev was incorporated under the laws of the State of Colorado on December 23, 1996 as Pegasus Development Group, Inc. ("PDGI"). SpaceDev, LLC of Colorado was originally formed in 1997 for commercial space exploration and was the sole owner of shares of common stock of SpaceDev (a Nevada corporation) ("SpaceDev"), formed on August 22, 1997. On October 22, 1997, PDGI issued 8,245,000 of its \$0.0001 par value common stock for 100 percent (1,000,000 shares) of SpaceDev's common stock owned by SpaceDev, LLC. Upon the acquisition of the SpaceDev stock, SpaceDev was merged into PDGI and, on December 17, 1997, PDGI changed its name to SpaceDev, Inc. After the merger, SpaceDev, LLC, changed its name to SD Holdings, LLC on December 17, 1997. SpaceDev became a publicly traded company in October 1997 and is currently trading on the Nasdaq Over-the-Counter Bulletin Board ("OTCBB") under the symbol of "SPDV."

In February 1998, SpaceDev acquired Integrated Space Systems, located in San Diego. Integrated Space Systems was fully integrated into SpaceDev. Most of the Integrated Space Systems' employees were former commercial Atlas launch vehicle engineers and managers who worked for General Dynamics in San Diego. As SpaceDev employees, they primarily develop systems and products based on hybrid rocket motor technology and launch vehicle systems. Integrated Space Systems was dissolved in 2003.

In August 1998, SpaceDev acquired a license to the patents and intellectual property produced by the American Rocket Company, which we refer to as AMROC.

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The acquisition provided SpaceDev access to a large cache of hybrid rocket documents, designs and test results. AMROC specialized in the design, development and testing of hybrid rocket technology (solid fuel plus liquid oxidizer) for small sounding rockets and launch vehicles.

In late 1998, SpaceDev bid and won a government-sponsored research and development contract, which was directly related to SpaceDev's strategic commercial space interests. SpaceDev competed with seven other industry teams and was one of five firms selected by NASA's Jet Propulsion Laboratory to perform a mission and spacecraft feasibility assessment study for the proposed 200-kg Mars MicroMissions. The final report was delivered to the Jet Propulsion Laboratory in March 1999 and, as a result, SpaceDev now offers lunar and Mars commercial deep-space missions based on this and subsequent innovative space system designs.

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In mid-1999, SpaceDev won an R&D contract from the National Reconnaissance Office to study small hybrid-based "micro" kick-motors for small-satellite orbital transfer applications. During the contract, SpaceDev successfully developed three Secondary Payload Orbital Transfer Vehicle design concepts. SpaceDev subsequently created a prototype, which led to the development of SpaceDev's capability to apply the Secondary Payload Orbital Transfer Vehicle concept to SpaceDev's subsequent Maneuvering and Orbit Transfer Vehicle development programs.

In November 1999, SpaceDev won a \$4.9 million mission contract by the Space Sciences Laboratory at the University of California at Berkeley. SpaceDev was competitively selected to design, build, integrate, test and operate, for one year, a small NASA-sponsored scientific, Earth-orbiting spacecraft called CHIPSat. CHIPSat is the first and, to SpaceDev's knowledge, only successful mission of NASA's low-cost University-Class Explorer series to date. Due to additional NASA and customer reviews, additional work, schedule extensions and a fee for one year of satellite operations, the CHIPSat contract award was increased by approximately \$2.5 million in 2001 and 2002, bringing the total contract value for design, build, launch and operations to approximately \$7.4 million. CHIPSat launched as a secondary payload on a Delta-II rocket on January 12, 2003. CHIPSat is the world's first orbiting Internet node. The satellite achieved 3-axis stabilization with all individual components and systems successfully operating and continues to work well in orbit. After more than two years. The CHIPSat program generated approximately \$2.1 million, \$3.2 million, \$1.7 million, \$0.4 million and \$0.1 million of revenue in 2000, 2001, 2002, 2003 and 2004, respectively.

On March 22, 2000, the California Spaceport Authority and the California Space and Technology Alliance awarded SpaceDev a grant of approximately \$100,000 to be used for test firing SpaceDev's hybrid rocket motors. California's Western Commercial Space Center also awarded SpaceDev approximately \$200,000 to help build and equip its satellite and space vehicle manufacturing facilities. These capabilities were used to expand SpaceDev's project and technology base.

In July 2000, the National Reconnaissance Office granted SpaceDev two separate follow-on competitive awards of approximately \$400,000 each for further hybrid rocket engine design, test, evaluation, and development. SpaceDev's work for the National Reconnaissance Office has helped fund two innovative hybrid rocket motor potential products:

- a family of small versatile orbital Maneuver and Orbit Transfer Vehicles using clean, safe hybrid rocket propulsion technology; and,

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- a protoflight hybrid propulsion module for a 50-kg class microsatellite.

Both of those contracts were successfully completed.

In September 2001, Scaled Composites awarded SpaceDev a contract for a proprietary hybrid propulsion development program for Scaled's "SpaceShipOne," valued in excess of \$1 million. The entire contract, awarded upon the submitted designs, was valued at approximately \$2.2 million. The contract was indicative of an increased demand for SpaceDev's hybrid motor technology and expertise in the space industry. Work on this project generated approximately \$1.2 million and \$397,000 of revenue in 2002 and 2003, respectively. In September of 2003, SpaceDev was selected by Scaled Composites as the sole supplier of hybrid propulsion systems, and was awarded the follow-on SpaceShipOne propulsion contract. SpaceDev generated approximately \$115,000 of revenue in 2003 and \$686,000 of revenue in 2004 from this contract and related engineering change orders, with approximately \$180,000 from engineering change orders and approximately \$506,000 from the contract.

- On December 17, 2003, which corresponded with the 100th anniversary of the Wright Brothers flight, SpaceDev's hybrid propulsion system, which SpaceDev believe is the world's largest of its kind, aboard SpaceShipOne, successfully powered a pilot toward space on its historic first powered supersonic flight. After being released by the White Knight, a carrier aircraft, the SpaceShipOne Test Pilot flew the ship to a stable, 0.55 mach gliding flight condition, started a pull-up, and fired SpaceDev's hybrid rocket motor. Nine seconds later, SpaceShipOne broke the sound barrier and continued its steep powered ascent. The climb was very aggressive, accelerating forward at more than 3-g while pulling upward at more than 2.5-g. At motor shutdown, 15 seconds after ignition, SpaceShipOne was climbing at a 60-degree angle and flying near 1.2 Mach (930 mph). The test

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pilot then continued the maneuver to a vertical climb, achieving zero speed at an altitude of 68,000 feet.

- On June 21, 2004, SpaceDev's proprietary hybrid rocket motor technology successfully powered SpaceShipOne on its fourth and most important history-making flight to space. At approximately 7:45 AM PDT on Monday, June 21st, SpaceDev powered SpaceShipOne well beyond the 50 mile altitude required to be considered a space flight, and created the world's first private sector astronaut. After being released by the White Knight, SpaceShipOne's test pilot, Mike Melvill, fired the rocket motor at the planned altitude and the rocket motor then propelled SpaceShipOne to over 328,000 feet in approximately 80 seconds, flying near Mach 5.0.

- On September 29, 2004 and October 4, 2004, SpaceDev's hybrid propulsion technology helped propel Scaled Composites/Paul Allen's SpaceShipOne into space flight history as the craft garnered the \$10 Million Ansari X Prize, a contest created to stimulate the development of the private sector human space flight industry. SpaceDev provided several critical components and the hybrid rocket technology for the craft's motor, including igniter, injector and main operating valve, which successfully performed as expected and powered SpaceShipOne on its historic manned flight. SpaceShipOne exceeded the altitude requirement on both scheduled flights as required by the Ansari X Prize competition. The hybrid propulsion system burned full duration and pilot Brian Binnie steered SpaceShipOne high above the Mojave, California desert to a height of 367,442 feet altitude (69.5 miles), which far exceeded the required 328,000 feet altitude - the goal required by the X Prize Foundation of St. Louis, Missouri. The altitude is generally considered to be the threshold of space.

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Although SpaceDev was not the recipient of the Ansari X Prize, it was a contest designed to jumpstart the space tourism industry through competition among the most talented entrepreneurs and rocket experts in the world. SpaceShipOne was built and launched with private funds from Paul Allen. The craft was able to carry equivalent weight of three people to 100 kilometers (62.5 miles) and return safely to earth. The competition followed in the footsteps of more than 100 aviation incentive prizes offered between 1905 and 1935 credited with spawning today's multibillion-dollar air transport industry. By helping SpaceShipOne succeed, SpaceDev was instrumental in moving the private space community closer to realizing its vision of creating safe, affordable, commercial human space flight.

On April 4, 2002, SpaceDev, Inc., an Oklahoma corporation, was formed for the purpose of investigating and developing commercial space products in the state of Oklahoma. SpaceDev currently has no plans to develop this business in Oklahoma and SpaceDev's subsidiary there remains dormant.

On April 30, 2002, the Company was awarded Phase I of a contract to develop a Shuttle-compatible propulsion module for the Air Force Research Laboratory. SpaceDev received an award for Phase II of the contract on March 28, 2003. SpaceDev is using the project to further expand SpaceDev's Maneuvering and Orbital Transfer Vehicle technology and product line to satisfy government space transportation requirements. The first two phases of the contract have an estimated value of approximately \$2.5 million, of which \$100,000 was awarded for Phase I. Phase II of the contract is cost-plus fixed fee. In order to complete Phase II, SpaceDev requested and was granted approximately four months of additional time and approximately \$240,000 of additional funding, memorialized by a contract amendment executed on July 7, 2004. In addition to the Phase I and Phase II awards, there is an option worth approximately \$800,000, which was initiated on May 3, 2004. The additional funding to complete AFRL Phase II came in part from the original \$1 million option; thereby reducing the option to approximately \$800,000. An additional effort to develop a miniaturized Shuttle-compatible propulsion module has been added to this contract and is worth approximately \$150,000.

On July 9, 2003, SpaceDev was awarded a contract by the Missile Defense Agency to explore the use of microsatellites in national missile defense. It was a precursor contract to the \$43 million contract mentioned below. SpaceDev's microsatellites are operated over the Internet and are capable of pointing and tracking targets in space or on the ground. This study explored fast response microsatellite launch and commissioning; small, low-power passive sensors; target acquisition and tracking; formation flying and local area networking within a cluster of microsatellites; and an extension of SpaceDev's proven use of the Internet for on-orbit command, control and data handling. The contract was successfully concluded on February 27, 2004. The total contract value was \$800,000. This contract was considered an investigatory phase by MDA.

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Also, on July 9, 2003, SpaceDev was awarded a Phase I Small Business Innovation Research contract by Air Force Research Lab to design and effectively begin the development of SpaceDev's small launch vehicle. The SpaceDev Small Launch Vehicle will be designed to lift up to 1,000 pounds to Low Earth Orbit responsively and affordably. The SpaceDev Small Launch Vehicle concept is based on a proprietary combination of technologies to increase the performance of hybrid rocket motor technology. Hybrid rocket motors are a combination of solid fuel and liquid oxidizer, and can be relatively safe, clean, non-explosive, and storable, and can be throttled, shut down and restarted. This contract was valued at approximately \$100,000, and was a fixed price, milestone-based

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agreement, which was completed in about one year. The Phase II of this SBIR was awarded on September 29, 2004 and is worth approximately \$1,557,000. The contract outlines the development and test firing of SpaceDev's large Common Core Booster for the SpaceDev Small Launch Vehicle. Congress has awarded SpaceDev approximately \$3.0 million in additional funding for this project, which SpaceDev expects will be available by mid-2005. SpaceDev believes that there is additional interest by Congress in providing further funding to expand and accelerate the scope of the work; however, there can be no assurance that such work will be awarded to SpaceDev.

Also, on July 9, 2003, SpaceDev was awarded a Phase I contract to develop micro and nanosatellite bus and subsystem designs. This Air Force Research Laboratory Small Business Innovation Research contract, valued at approximately \$100,000, has enabled SpaceDev to explore the further miniaturization of SpaceDev's unique and innovative microsatellite subsystems. It has also enabled SpaceDev to explore ways to reduce the time and cost to build small satellites through further standardization in order to help define de facto standards for payload hardware and software interfaces. The contract is fixed price, milestone-based and was completed in about one year. On August 23, 2004, SpaceDev was awarded the Phase II of this Small Business Innovation Research grant, which was later amended on September 8, 2004 to shorten the length of the overall contract, worth approximately \$739,000 for carry-forward work.

On July 24, 2003, SpaceDev was awarded a contract by Lunar Enterprise of California for a first phase project to begin developing a conceptual mission and spacecraft design for a lunar lander program. The unmanned mission is being designed to put a small dish antenna near the south pole of the Moon. From that location it will be in near-constant sunlight for solar power generation, and should be able to perform multi-wavelength astronomy while communicating with ground stations on Earth. The contract value was \$100,000 and was completed by November 2003. SpaceDev was awarded a follow-on phase to further analyze launch opportunities, spacecraft design, trajectory possibilities, potential landing areas, available technologies for a small radio astronomy system, and communications and data handling requirements on July 20, 2004 in the amount of \$150,000. The contract has been completed.

On December 18, 2003, SpaceDev was awarded a contract by the Defense Advanced Research Projects Agency for the study of Novel Satcom Microsat Constellation Deployment. The contract was a milestone-based, fixed price contract with total consideration of approximately \$200,000. On August 6, 2004, an additional \$39,849 was added to the contract for increased scope, bringing the total contract value on this fixed price effort to approximately \$240,000. The contract has been completed.

On March 31, 2004, SpaceDev was awarded a five-year, cost-plus-fixed fee indefinite delivery/indefinite quantity contract for up to \$43,362,271 to conduct a microsatellite distributed sensing experiment, an option for a laser communications experiment, and other microsatellite studies and experiments as required in support of the Advanced Systems Deputate of the Missile Defense Agency. This effort will be accomplished in a phased approach, with the first Task Order for approximately \$1.1 million awarded on April 1, 2004 and completed by September 30, 2004. The second Task Order for approximately \$8.3 million was awarded on October 20, 2004. The principal place of performance will be Poway, California. SpaceDev expects to complete the work under the contract before March 2009. Government contract funds will not expire at the end of the current government fiscal year. The microsatellite distributed sensing experiment is intended to design and build up to six responsive, affordable, high performance microsatellites to support national missile defense. The milestone-based, multiyear, multiphase contract had an effective start date of March 1, 2004. Approximately \$1.14 million of revenue was generated under the first phase of this contract. The first phase or "Task Order," resulted in a detailed mission and microsatellite design. The second phase or "Task Order," was signed on

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October 20, 2004 with an effective date of October 1, 2004. The second Task Order is expected to be completed by January 2006. The overall contract calls for SpaceDev to analyze, design, develop, fabricate, integrate, test, operate and support a networked cluster of three formation-flying boost phase and midcourse tracking microsattellites, with an option to design, develop, fabricate, integrate, test, operate and support a

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second cluster of three formation flying microsattellites to be networked on-orbit with high speed laser communications technology. The third phase is anticipated to begin on or before February 2006.

### BUSINESS STRATEGY

SpaceDev's strategy is based on the belief that innovative advancements in technology and the application of standard business processes and practices will make access to space much more practical and affordable. SpaceDev believes these factors will cause growth in certain areas of space commerce and will create new space markets and increased demand for SpaceDev's proprietary products.

SpaceDev's business strategy is to:

- Introduce commercial business practices into the space arena, use off-the-shelf technology in innovative ways and standardize hardware and software to reduce costs and to increase reliability and profits;
- Start with small, practical and profitable projects, and leverage credibility and profits into larger and ever more bold initiatives, utilizing partnerships where appropriate;
- Bid, win and leverage government programs to fund SpaceDev's research and development and product development efforts;
- Integrate SpaceDev's smaller, low cost commercial spacecraft and hybrid space transportation systems to provide one-stop turnkey payload and/or data delivery services to target customers;
- Apply SpaceDev's low cost space products to new applications and to create new users, new markets and new revenue streams;
- Produce and fly commercial missions, in conjunction with partners and investors, throughout the inner solar system in the commercial beyond earth orbit "space";
- Join or establish a team to build a safe, affordable sub-orbital, passenger space plane to help initiate the space tourism business; and
- Establish a team to build a safe, affordable orbital passenger vehicle as a potential shuttle replacement.

SpaceDev believe that its business model provides the following competitive advantages:

- Enables small-space customers to contract for end-to-end mission solutions, reducing the need for and complexity of finding other contractors for different project tasks;
- Decreases schedule time and lowers total project costs, thereby providing greater value and increases return on investment for SpaceDev and its customers;

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and,

- Creates barriers to entry by and competition from competitors.

### PRODUCTS AND SERVICES; MARKET

SpaceDev currently has two primary lines of space products and services on which it believes a sound foundation and profitable, cash generating business can be built:

- Spacecraft Products and Services - Microsatellites & Nanosatellites, BD-II Spacecraft Buses, and Maneuvering and orbital Transfer Vehicles; and,

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- Propulsion Products and Services - Hybrid Propulsion and Launch Vehicle Systems.

These products and services are being marketed and sold directly into primarily domestic government, university, military and commercial markets. SpaceDev considers itself a project company rather than a product company today, although products are generated from projects. SpaceDev's long term goal and vision is to migrate from a project company to a product company. SpaceDev's business is not seasonal to any significant extent; however, its business follows normal industry trends such as increased demand during bullish economic periods, or slow-downs in demand during periods of recession.

In addition, SpaceDev is working with partners to create new markets that can generate new space-related service, media, tourism and commercial revenue streams. While SpaceDev believes that certain space market opportunities are still several years away, it is currently working with industry-leading partners to develop unique enabling technology for the potentially very large sub-orbital manned space plane tourism market; and, creating a new unmanned Beyond Earth Orbit commercial market with spacecraft derived from SpaceDev's NASA JPL Mars MicroMission and Boeing Lunar Orbiter mission design contracts.

### SPACEDEV'S SPACECRAFT PRODUCTS AND SERVICES

Microsatellites & Nanosatellites - SpaceDev designs and builds small, light, high-performance, reliable and affordable micro- and nanosatellites. The primary benefit of micro- and nanosatellites is lower cost and weight. Since SpaceDev can dramatically reduce manufacturing costs and the costs to launch the satellites to earth-orbit and deep space, SpaceDev can pass those cost savings on to SpaceDev's customers. Small, inexpensive satellites were once the exclusive domain of scientific and amateur groups; however, smaller satellites are now a viable alternative to larger, more expensive ones, as they provide cost-effective solutions to traditional problems. SpaceDev designs and builds low cost, high-performance space-mission solutions involving microsatellites (generally less than 100 kg) and even smaller satellites (less than 50 kg). SpaceDev's approach is to provide smaller spacecraft and compatible low cost, safe hybrid propulsion space systems to a growing market of commercial, government and potentially international customers.

BD-II (Boeing Delta-II compatible) spacecraft buses - SpaceDev has a qualified microsatellite bus available to sell as a standard, fixed-price product to government and commercial customers needing an affordable satellite for small payloads. SpaceDev began developing this product in 1999, when SpaceDev was selected as the mission designer, spacecraft bus provider, integrator and mission operator of the University of California at Berkeley Space Sciences Laboratory's Cosmic Hot Interstellar Plasma Spectrometer ("CHIPS") mission.



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CHIPSat was launched at 4:45 PM PST on January 12, 2003 from Vandenberg Air Force Base in California. The satellite achieved 3-axis stabilization with all individual components and systems successfully operating and continues to work well in orbit.

Maneuvering and orbital Transfer Vehicle - SpaceDev's Maneuvering and orbital Transfer Vehicle system is a family of small, affordable, elegantly simple, throttleable, and restartable propulsion and integrated satellite products. SpaceDev's Maneuvering and orbital Transfer Vehicle can be used as a standard propulsion module to transport a customer's payload to different orbits. The Maneuvering and orbital Transfer Vehicle provides the change in velocity and maneuvering capabilities to support a wide variety of applications for on-orbit maneuvering, proximity operations, rendezvous, inspection, docking, surveillance, protection, inclination changes and orbital transfers.

Spacecraft and Subsystem Design - SpaceDev also provide reliable, affordable access to space through innovative solutions currently lacking in the marketplace. SpaceDev's approach is to provide smaller spacecraft - generally 250 kg mass and less - and compatible hybrid propulsion space systems to commercial, university and government customers. The small spacecraft market is supported by the evolution and enabling of microelectronics, common hardware & software interface standards, and smaller launch vehicles. Reduction of the size and mass of traditional spacecraft electronics has reduced the overall spacecraft size, mass, and volume over the past 10 to 15 years. For example, SpaceDev's miniature flight computer is only 24 cubic inches and provides 300 million instructions per second of processing power versus a competitor's more "traditional" solution that requires about 63 cubic inches and only provides 10 MIPS.

Microsatellite & Nanosatellite Launches - To support the growth in customer demand within the small satellite market, SpaceDev works with launch providers to identify and market affordable launch opportunities and to provide customers with a complete on-orbit data delivery service that combines SpaceDev's spacecraft and hybrid

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propulsion products. These innovative, low-cost, turnkey launch solutions will allow SpaceDev to provide one-stop shopping for launch services, spacecraft, payload accommodation, total flight system integration and test and mission operations. The customer only needs to provide the payload, and SpaceDev has the capacity to perform all the tasks required for the customer to get to orbit and to begin collecting their data. In November 2005, SpaceDev signed a contract with SpaceX of El Segundo, CA to purchase specified launch services on a Falcon I launch vehicle. The launch vehicle is planned for multiple primary microsatellite payloads and multiple secondary nanosatellite payloads produced by SpaceDev or other suppliers. SpaceDev has tentatively scheduled the first launch for May 2008, with additional optional launches to follow. SpaceDev plans to launch a combination of microsatellites and nanosats on each Falcon launch. SpaceDev considers the Falcon I launch vehicle, which is capable of delivering more than 600kg (1200 pounds) to low earth orbit, to be one of the most cost-effective domestic launch vehicles currently available.

Mission Control and Operations - SpaceDev's mission control and operations center, located in SpaceDev's headquarters building near San Diego, coupled with SpaceDev's mission control and operations package, is uniquely Internet-based and allows for the operation and control of missions from anywhere in the world that has access to the Internet. CHIPSat was the first U.S. mission to use end-to-end satellite operations with TCP/IP and FTP. While this concept has been analyzed and demonstrated by the NASA OMNI team, CHIPSat is the first to

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implement the concept as the only means of satellite communication. A formation flying cluster or constellation of TCP/IP-based microsattellites, similar to the cluster of microsats SpaceDev is developing for the Missile Defense Agency, can be designed to communicate directly with each other, as in a wide area network in space. Provided any one satellite/node in this network is in line-of-sight with any ground station at any given time, the entire constellation could always maintain ground station connectivity, thus creating a network on-orbit and on the web, a direct extension of CHIPSat's elegantly simple TCP/IP mission operations architecture.

### SPACEDEV'S PROPULSION PRODUCTS AND SERVICES

Hybrid Rocket Propulsion and Launch Vehicle Systems - SpaceDev provides a wide variety of safe, clean, simple, reliable, cost-effective hybrid propulsion systems to safely and inexpensively enable satellites and on-orbit delivery systems to rendezvous and maneuver on-orbit and deliver payloads to sub-orbital altitudes. Hybrid rocket propulsion is a safe and low-cost technology that has tremendous benefits for current and future space missions. SpaceDev's hybrid rocket propulsion technology features a simple design, is restartable, is throttleable and is easy to transport, handle and store.

Hybrid Orbital Vehicle - SpaceDev has begun designing a reuseable, piloted, sub-orbital space ship that could be scaled to safely and economically transport passengers to and from low earth orbit, including the International Space Station. The name of the vehicle is the SpaceDev DreamChaser(TM). SpaceDev signed a non-binding Space Act Memorandum of Understanding with NASA Ames Research Center, which confirms SpaceDev's intention to explore novel, hybrid propulsion based hypersonic test beds for routine human space access. SpaceDev will explore with NASA collaborative partnerships to investigate the potential of using SpaceDev's proven hybrid propulsion and other technologies, and a low cost, private space program development approach, to establish and design new piloted small launch vehicles and flight test platforms to enable near-term, low-cost routine space access for NASA and the United States. One possibility for collaboration is the SpaceDev DreamChaser(TM) project, which is currently being discussed with NASA Ames. Unlike the more complex SpaceShipOne, for which SpaceDev provided critical proprietary hybrid rocket motor propulsion technologies and components, the SpaceDev DreamChaser(TM) would be crewed and launch vertically, like most launch vehicles, and would glide back for a normal horizontal runway landing. The sub-orbital SpaceDev DreamChaser(TM) will have an altitude goal of approximately 160 km (about 100 miles) and will be powered by a single, high performance hybrid rocket motor, under parallel development by SpaceDev for the SpaceDev Streaker(TM), a family of small, expendable launch vehicles, designed to deliver affordably small satellites to low earth orbit. The SpaceDev DreamChaser(TM) will use motor technology being developed for the SpaceDev Streaker(TM) booster stage, the most powerful motor in the Streaker family. The SpaceDev DreamChaser(TM) motor will produce approximately 100,000 pounds of thrust, about six times the thrust of the SpaceShipOne motor, but less than one-half the thrust of the 250,000 pounds of thrust produced by hybrid rocket motors developed several years ago by the American Rocket Company. SpaceDev's non-explosive hybrid rocket motors use synthetic rubber as the fuel, and nitrous oxide for the oxidizer to make the rubber burn. Traditional rocket motors use two liquids, or a solid propellant that combines the fuel and oxidizer, but both types of rocket motors are explosive, and all solid motors produce copious quantities of toxic exhaust. SpaceDev's hybrid rocket motors are non-toxic and do not detonate like solid or liquid rocket motors.

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Mission Analysis and Design - SpaceDev can provide end-to-end mission design and analysis, including the design of the mission and its science, commerce or

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technology demonstration goals, the design of an appropriate space vehicle (satellite or spacecraft), prototype development, construction and testing of the spacecraft, integration of one or more payloads (instruments, experiments or technologies) into the spacecraft, integration of the spacecraft onto the launch vehicle (rocket), the launch and the mission control and operations during the life of the mission. Many of SpaceDev's products and services are now qualified or are nearing qualification to assist with missions that orbit the earth, travel to another planetary body, or cruise through space taking measurements and transmitting valuable data back to Earth.

### COMPONENTS AND RAW MATERIALS

Although SpaceDev may experience a shortage of certain parts and components related to its products, SpaceDev has many alternative suppliers and distributors and is not dependent on any individual supplier or distributor. Furthermore, SpaceDev has not experienced difficulty in its ability to obtain parts or component materials, nor does it expect this to be a problem in the future.

### COMPETITION

SpaceDev competes for sales of its products and services based on price, performance, technical features, contracting approach, reliability, availability, customization, and, in some situations, geography. SpaceDev's primary competition for low-cost propulsion systems using clean, safe, commercially available hybrid rocket motor technology comes from Cesaroni Technology Incorporated in Canada and their affiliates. While Lockheed Martin has demonstrated large-scale hybrid rocket capability, and there are a number of smaller enterprises, especially academic-based organizations, in the domestic market currently investigating various aspects of hybrid rocket technology. To date, SpaceDev has seen limited competitive pressures arising from these organizations.

The primary domestic competition for unmanned earth-orbiting microsattellites, unmanned deep space micro-spacecraft and microsattellite subsystems as well as software systems comes from other small companies such as AeroAstro, Orbital Sciences and Spectrum Astro. The most established international competitors are Surrey Satellite Technology Limited in the United Kingdom, OHB Systems in Germany, an OHB Technology AG Company, and EADS Astrium with locations throughout Western Europe. Swedish Space Corporation is also able to compete in the small-sattellite arena, particularly in the European market. In addition to private companies, there are a limited number of universities in the United States that have the capability to produce reasonably simple microsattellites; these include, Weber State in Ogden, Utah and Colorado University in Boulder, Colorado.

While SpaceDev believes that its product and service offerings provide a wide breadth of solutions for SpaceDev's customers and prospective customers, some of its competitors compete across many of SpaceDev's product lines. Several of SpaceDev's current and potential competitors have greater resources, including technical and engineering resources. SpaceDev is not aware of any established large companies (e.g., Northrop Grumman, Lockheed Martin, Boeing), which have expressed corporate goals to design and build inexpensive micro-spacecraft for a mission, which would be SpaceDev's direct competition.

SpaceDev also competes with each of its competitors for qualified engineers. There are a limited number of individuals with all of the requirements that SpaceDev seek and there can be no assurance that SpaceDev can locate and recruit these individuals in a timely and cost-effective manner. Many of SpaceDev's competitors have greater resources than SpaceDev does and can offer higher salaries or better incentives to attract these individuals.

REGULATION

SpaceDev's business activities are regulated by various agencies and departments of the U.S. government and, in certain circumstances, the governments of other countries. Several government agencies, including NASA and the United States Air Force, maintain Export Control Offices to ensure that any disclosure of scientific and technical information complies with the Export Administration Regulations and the International Traffic in Arms Regulations ("ITAR"). Exports of the Company's products, services and technical data require either Technical Assistance Agreements or licenses from the United States Department of State, depending on the level of technology being transferred. This includes recently published regulations restricting the ability of United States-based companies to

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complete offshore launches, or to export certain satellite components and technical data to any country outside the United States. The export of information with respect to ground-based sensors, detectors, high-speed computers, and national security and missile technology items are controlled by the Department of Commerce. The government is very strict with respect to compliance and has served notice that failure to comply with the ITAR and/or the Commerce Department regulations may subject guilty parties to fines of up to \$1 million and/or up to 10 years imprisonment per violation. The failure of the Company to comply with any of the foregoing regulations could have serious adverse effects as dictated by the rules associated with compliance to the ITAR regulations. Also, SpaceDev's ability to successfully market and sell into international markets may be severely hampered due to ITAR regulation requirements. SpaceDev's conservative position is to consider any material beyond standard marketing material to be regulated by ITAR regulations. In 2003, SpaceDev began an active and comprehensive internal and external ITAR training program provided by SpaceDev's regulatory consulting firm, Q International Group, and the Society for International Affairs, both for SpaceDev's employees and SpaceDev's Empowered Official, Mr. Slansky. SpaceDev also introduced in 2003 an Internal Export Compliance Control Program for defense articles and defense services controlled by the U.S. Department of State under ITAR.

In addition to the standard local, state and national government regulations that all businesses must adhere to, the space industry has specific regulations. In the United States, command and telemetry frequency assignments for space missions are primarily regulated by the Federal Communications Commission for SpaceDev's domestic commercial products. SpaceDev's products geared toward domestic government customers are regulated by the National Telecommunications Information Agency and any of SpaceDev's products sold internationally, if any, are regulated by the International Telecommunications Union. All launch vehicles that are launched from a launch site in the United States must pass certain launch range safety regulations that are administered by the United States Air Force. In addition, all commercial space launches that SpaceDev might perform require a license from the Department of Transportation. Satellites that are launched must obtain approvals for command and frequency assignments. For international approvals, the Federal Communications Commission and National Telecommunications and Information Administration obtain these approvals from the International Telecommunication Union. These regulations have been in place for a number of years to cover the large number of non government commercial space missions that have been launched and put into orbit in the last 15 to 20 years. Any commercial deep space mission that SpaceDev might perform would be subject to these regulations. Presently, SpaceDev is not aware of any additional or unique government regulations related to commercial deep space missions.

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SpaceDev is also required to obtain permits, licenses, and other authorizations under federal, state, local and foreign statutes, laws or regulations or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof. Presently, SpaceDev does not have a requirement to obtain any special environmental licenses or permits.

SpaceDev may need to utilize the Deep Space Network on some of its missions. The Deep Space Network is a United States funded network of large antennas that supports interplanetary spacecraft missions and radio and radar astronomy observations for the exploration of the solar system and the universe. The network also supports selected Earth-orbiting missions. The network is a facility of NASA, and is managed and operated for NASA by the Jet Propulsion Laboratory. The Telecommunications and Mission Operations Directorate manages the program within the Jet Propulsion Laboratory. Coordination for the use of this facility is arranged with the Telecommunications and Mission Operations Command.

Also, as some of SpaceDev's projects with the Department of Defense proceed, SpaceDev may need special clearances to continue working on and advancing SpaceDev's projects. Classified programs generally will require that SpaceDev comply with various Executive Orders, Federal laws and regulations and customer security requirements that may include specialized facilities and restrictions on how SpaceDev develops, stores, protects and shares information. Laboratories, manufacturing and assembly areas, meeting spaces, office areas, storage areas, computers systems and networks and telecommunications systems may require modification or replacement in order to comply with customer requirements. Classified programs may require SpaceDev's employees to obtain government clearances and restrict SpaceDev's ability to have key employees work on these programs until these clearances are received from

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the appropriate United States government agencies. In order to staff these programs SpaceDev may need to recruit personnel with the appropriate professional training, experience and security clearances. There are a very limited number of individuals with all of the requirements that SpaceDev seeks. There is no assurance that SpaceDev can locate and recruit these individuals in a timely and cost-effective manner. SpaceDev may be required to modify existing facilities and to develop new facilities and capabilities that will only be utilized by these classified programs. SpaceDev may be required to install computer networks, communications systems and monitoring systems that are dedicated to these classified programs. Some or all of these requirements may entail substantial additional expense. It is uncertain whether SpaceDev will be able to recover any of the costs of these systems from SpaceDev's customers. Many of these classified programs are regulated by Executive Orders, various Federal laws and regulations and customer requirements. The failure of the Company to comply with any of the foregoing Executive Orders, Federal laws and regulations and customer requirements could have serious adverse effects. Also, SpaceDev's ability to successfully market and sell into the Department of Defense markets may be severely hampered if SpaceDev is unable to meet classified program requirements. There is no assurance that SpaceDev will be able to pass successfully the criteria required in order to win a classified program or to maintain current contracts, such as SpaceDev's Missile Defense

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Agency contract (which may become classified), and there is no assurance that SpaceDev will maintain that status once it has been obtained. This year SpaceDev began an active program to complete the steps required in order to win preliminary certification for classified programs. A number of SpaceDev's employees have received preliminary and permanent security clearances. SpaceDev received preliminary certification for classified computer system processing in early 2005.

### EMPLOYEES

At December 9, 2005, SpaceDev employed approximately 50 persons, full and part-time, most of whom are spacecraft, propulsion, systems, mechanical and electrical engineers. SpaceDev expects to hire other personnel as necessary for completion of projects, product development, quality assurance, sales and marketing, finance and administration. In addition, due to the nature of SpaceDev's business, it may become necessary to lay off employees whose work is no longer required to maintain operations in order to prevent cost overruns. SpaceDev does not anticipate any such lay-offs in the near future. SpaceDev does not have any collective bargaining agreements with its employees and believes its relations with employees are good.

### INTELLECTUAL PROPERTY

SpaceDev relies, in part, on patents, trade secrets and know-how to develop and maintain its competitive position and technological advantage. SpaceDev has protected and intend to continue to protect its intellectual property through a combination of patents, license agreements, trademarks, service marks, copyrights, trade secrets and other methods of restricting disclosure and transferring title. SpaceDev has filed patent applications relating to its hybrid propulsion and satellite technology. There can be no assurance that these applications will be granted. SpaceDev has and intends to continue to enter into confidentiality agreements with its employees, consultants and vendors, to enter into license agreements with third parties and generally to seek to control access to and distribution of its intellectual property.

In August 1998, SpaceDev acquired rights to intellectual property (including three patents and trade secrets) from an individual who had acquired them from the former American Rocket Company, which specialized in hybrid rocket technology. SpaceDev is obligated to issue warrants to this individual to purchase a minimum of 100,000 and a maximum of 3,000,000 shares of SpaceDev's common stock over ten years beginning at the inception of the agreement, depending on SpaceDev's annual revenues directly related to sales of hybrid technology-based products from the original technology acquisition. To date, SpaceDev has issued warrants to purchase a total of 100,000 shares of SpaceDev's common stock under the agreement, of which, none of the warrants have been exercised and 25,000 warrants expired unexercised. SpaceDev acquired some of its expertise in hybrid propulsion technology from the American Rocket Company; however, SpaceDev is using its own technology to develop the responsive, affordable SpaceDev Streaker(TM) small launch vehicle under an Air Force contract.

### PROPERTIES

In January 2003, SpaceDev entered into a sale and leaseback of its 25,000 square foot headquarters facility in Poway, California. SpaceDev originally purchased the facility in December 1998. The rent is approximately \$26,000

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per month with a 3.5% increase annually. SpaceDev is responsible for property

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tax and liability insurance on the facility. SpaceDev was required to make an advance payment in the form of a security deposit of approximately \$25,700. SpaceDev's Chief Executive Officer provided a guarantee for the lease. The lease is scheduled to expire in 2013.

The facility includes a small Spacecraft Assembly and Test facility with an 1,800 square foot Class 100,000 clean room, avionics development lab, machine shop with rocket motor casting capability, mechanical assembly lab, and mission control and operations center. Key uses of the facility are program and project conferences and meetings, engineering design, engineering analysis, spacecraft assembly, avionics labs and software labs and media outreach. SpaceDev also has an Internet-based Mission Control and Operations Center within the facility.

### LITIGATION

SpaceDev is currently not aware of any legal proceedings or claims that it believes will have, individually or in the aggregate, a material adverse affect on its business, financial condition or operating results.

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### SPACEDEV'S MARKET PRICE AND DIVIDEND INFORMATION

#### MARKET INFORMATION

SpaceDev common stock has been traded on the Over-the-Counter Bulletin Board ("OTCBB") since August 1998 under the symbol "SPDV" or "SPDV.OB." The following table sets forth the trading history of SpaceDev common stock on the OTCBB for each quarter from fiscal 2003 through the third quarter of fiscal 2005 as reported by Yahoo! Finance Historical Prices ([www.finance.yahoo.com](http://www.finance.yahoo.com)). The quotations reflect inter-dealer prices, without retail mark-up, markdown or commission and may not represent actual transactions.

QUARTER ENDING	QUARTERLY HIGH	QUARTERLY LOW
3/31/2003. . .	\$ 0.55	\$ 0.41
6/30/2003. . .	\$ 0.75	\$ 0.33
9/30/2003. . .	\$ 1.80	\$ 0.55
12/31/2003 . .	\$ 1.15	\$ 0.81
3/31/2004. . .	\$ 1.85	\$ 0.92
6/30/2004. . .	\$ 2.38	\$ 1.04
9/30/2004. . .	\$ 2.46	\$ 1.43
12/31/2004 . .	\$ 2.42	\$ 1.51
3/14/2005. . .	\$ 1.97	\$ 1.55
6/30/2005. . .	\$ 1.75	\$ 1.51
9/30/2005. . .	\$ 1.70	\$ 1.43

#### HOLDERS OF RECORD

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As of December 9, 2005, there were approximately 600 holders of record of SpaceDev common stock.

### DIVIDENDS

SpaceDev has never paid a cash dividend on its common stock. Payment of common stock dividends is at the discretion of the board of directors. The board of directors plans to retain earnings, if any, for operations and does not intend to pay common stock dividends in the foreseeable future.

SpaceDev accrued dividends on its Series C Convertible Cumulative Preferred Stock from August 25, 2004 through December 31, 2004 of approximately \$61,000. The accrued dividends became payable in January 2005 and were converted into shares of SpaceDev common stock at a conversion rate of \$1.54 per share. Payment of future dividends on SpaceDev's Series C Convertible Cumulative Preferred Stock may be in cash or shares of common stock.

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### MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF SPACEDEV

The following discussion should be read in conjunction with the consolidated financial statements of SpaceDev for the years ended December 31, 2004 and 2003 and the nine months ended September 30, 2005 and 2004 and related notes and the other financial information appearing elsewhere in this document. You are also urged to carefully review and consider the various disclosures in this joint proxy statement/prospectus about SpaceDev including the risk factors related to the combined company. See "Special Note Regarding Forward-Looking Information" on page 14. In the following Management's Discussion and Analysis of Financial Condition and Results of Operations of SpaceDev, references to "us," "we," "our" and other first person declarations refer to SpaceDev.

### OVERVIEW

We are engaged in the conception, design, development, manufacture, integration and operation of space technology systems, products and services. We are currently focused on the commercial and military development of low-cost microsatellites, nanosatellites and related subsystems, hybrid rocket propulsion for space, launch and human flight vehicles as well as associated engineering and technical services which are provided primarily to government agencies, and specifically the Department of Defense. Our products and solutions are sold, mainly on a project-basis, directly to these customers and include sophisticated micro- and nanosatellites, hybrid rocket-based launch vehicles, maneuvering and orbital transfer vehicles and safe sub-orbital and orbital hybrid rocket-based propulsion systems. Although we believe there will be a commercial market for our microsatellite and nanosatellite products and services in the future, virtually all of our current work is for branches of the United States military. We are also developing commercial hybrid rocket motors for use in small launch vehicles, targets and sounding rockets, and small, high-performance space vehicles and subsystems for commercial customers.

During the first nine months of 2005, 93% of our net sales were generated from direct government contracts and 7% were generated from government-related work through subcontracts with others. In 2004, approximately 90% of our net sales were generated by government or government-related work. We anticipate that over 90% of net sales generated during the remainder of 2005 will be generated by government or government-related work. We will continue to seek both government and commercial business and anticipate that net sales from government



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sources will continue to represent in excess of 70% of our net sales for the next several years as we increase government and commercial marketing efforts for both our technology and product areas. Currently, we are focusing on the domestic United States government market, which we believe is only about one-half of the global government market for our technology, products and services. Although we are interested in exploring international revenue and contract opportunities, we are restricted by export control regulations, including International Traffic in Arms Regulations, which may limit our ability to develop market opportunities outside the United States.

At this time, over 90% of our forecasted sales for 2005 are under contract or near contract award. We may not be able to win enough new business to achieve our targeted growth projection or to maintain a positive cash flow position. During the first nine months of 2005, we submitted five bids for government or commercial programs and continued our work with the United States Congress to identify directed funding for our programs.

In order to perform the Missile Defense Agency contract on schedule and successfully execute other existing and new business opportunities, We must substantially increase our staff and hire new engineers or subcontract the work to third parties. We are actively seeking to hire spacecraft and propulsion engineers, and we are investigating various partnership arrangements to increase resource availability.

### RECENT DEVELOPMENTS

In September 2005, we made a secured loan to Starsys in the principal amount of \$1.2 million. The loan accrues interest at 8% per annum and was originally scheduled to mature on December 31, 2005, or earlier in certain circumstances. Principal or interest payments are due before maturity. The maturity date may be accelerated upon the occurrence of certain events of default. The loan is secured by a security interest in all of the assets of Starsys, subject to an intercreditor agreement with Vectra Bank Colorado, National Association. On December 20, 2005, we agreed to extend the maturity date of the loan to January 31, 2006.

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In July 2005, we were awarded a small contract by Lunar Enterprise Corporation, a wholly owned subsidiary of Space Age Publishing Company to perform the work necessary to create a conceptual mission architecture and mission design for a human servicing mission to the Lunar south pole targeted for the period of 2010 to 2015. We were awarded an earlier phase by Lunar Enterprise for a conceptual mission and spacecraft design for a lunar lander program to further analyze launch opportunities, spacecraft design, trajectory possibilities, potential landing areas, available technologies for a small radio astronomy system, and communications and data handling requirements. These contracts are expected to result in revenues of \$125,000 and \$150,000, respectively. The current contract calls for us to identify and evaluate existing technology, technology currently under development, and proposed technology that could be developed by NASA, other countries or the private sector in time to be incorporated into the mission.

On July 18, 2005, we were awarded a subcontract to provide scientific, engineering, development and programmatic support to the development and demonstration of innovative SSA (space situational awareness) nanosatellite  
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