

Section 1: 10-Q (RP-2018.03.31 10Q)

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

FORM 10-Q

(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended March 31, 2018
or
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from _____ to _____
Commission File Number: 001-34846

RealPage, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-2788861
(I.R.S. Employer
Identification No.)

**2201 Lakeside Boulevard
Richardson, Texas**
(Address of principal executive offices)

75082-4305
(Zip Code)

(972) 820-3000

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

| | | | |
|-------------------------|---|---------------------------|--------------------------|
| Large accelerated filer | <input checked="" type="checkbox"/> | Accelerated filer | <input type="checkbox"/> |
| Non-accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input type="checkbox"/> |
| | (Do not check if a smaller reporting company) | Emerging growth company | <input type="checkbox"/> |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class
Common Stock, \$0.001 par value

April 20, 2018

85,075,874

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PART I—FINANCIAL INFORMATION

Item 1. Financial Statements.

RealPage, Inc.

**Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)**

| | <u>March 31, 2018</u> | <u>December 31, 2017</u> |
|--|-----------------------|--------------------------|
| | (unaudited) | |
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 101,646 | \$ 69,343 |
| Restricted cash | 112,478 | 96,002 |
| Accounts receivable, less allowance for doubtful accounts of \$7,821 and \$3,951 at March 31, 2018 and December 31, 2017, respectively | 101,005 | 124,505 |
| Prepaid expenses | 15,400 | 12,107 |
| Other current assets | 9,838 | 6,622 |
| Total current assets | 340,367 | 308,579 |
| Property, equipment, and software, net | 145,522 | 148,428 |
| Goodwill | 751,017 | 751,052 |
| Identified intangible assets, net | 238,704 | 252,337 |
| Deferred tax assets, net | 45,205 | 44,887 |
| Other assets | 19,533 | 11,010 |
| Total assets | <u>\$ 1,540,348</u> | <u>\$ 1,516,293</u> |
| Liabilities and stockholders' equity | | |
| Current liabilities: | | |
| Accounts payable | \$ 29,020 | \$ 26,733 |
| Accrued expenses and other current liabilities | 76,284 | 79,379 |
| Current portion of deferred revenue | 109,965 | 116,622 |
| Current portion of term loans | 16,133 | 14,116 |
| Customer deposits held in restricted accounts | 112,334 | 96,057 |
| Total current liabilities | 343,736 | 332,907 |
| Deferred revenue | 5,457 | 5,538 |
| Revolving facility | 50,000 | 50,000 |
| Term loans, net | 299,343 | 303,261 |
| Convertible notes, net | 284,046 | 281,199 |
| Other long-term liabilities | 35,739 | 41,513 |
| Total liabilities | 1,018,321 | 1,014,418 |
| Commitments and contingencies (Note 9) | | |
| Stockholders' equity: | | |
| Preferred stock, \$0.001 par value: 10,000,000 shares authorized and zero shares issued and outstanding at March 31, 2018 and December 31, 2017, respectively | — | — |
| Common stock, \$0.001 par value: 125,000,000 shares authorized, 87,160,085 and 87,153,085 shares issued and 84,507,545 and 83,180,401 shares outstanding at March 31, 2018 and December 31, 2017, respectively | 87 | 87 |
| Additional paid-in capital | 651,996 | 637,851 |
| Treasury stock, at cost: 2,652,540 and 3,972,684 shares at March 31, 2018 and December 31, 2017, respectively | (68,407) | (61,260) |
| Accumulated deficit | (61,924) | (75,046) |
| Accumulated other comprehensive income | 275 | 243 |
| Total stockholders' equity | 522,027 | 501,875 |
| Total liabilities and stockholders' equity | <u>\$ 1,540,348</u> | <u>\$ 1,516,293</u> |

See accompanying notes.

RealPage, Inc.
Condensed Consolidated Statements of Operations
(in thousands, except per share data)
(unaudited)

| | Three Months Ended March 31, | |
|--|-------------------------------------|-------------|
| | 2018 | 2017 |
| Revenue: | | |
| On demand | \$ 193,300 | \$ 146,213 |
| Professional and other | 8,001 | 6,706 |
| Total revenue | 201,301 | 152,919 |
| Cost of revenue | 76,660 | 63,042 |
| Gross profit | 124,641 | 89,877 |
| Operating expenses: | | |
| Product development | 29,040 | 20,387 |
| Sales and marketing | 50,241 | 35,147 |
| General and administrative | 27,090 | 24,251 |
| Total operating expenses | 106,371 | 79,785 |
| Operating income | 18,270 | 10,092 |
| Interest expense and other, net | (7,670) | (1,086) |
| Income before income taxes | 10,600 | 9,006 |
| Income tax (benefit) expense | (301) | 811 |
| Net income | \$ 10,901 | \$ 8,195 |
| Net income per share attributable to common stockholders: | | |
| Basic | \$ 0.13 | \$ 0.10 |
| Diluted | \$ 0.13 | \$ 0.10 |
| Weighted average shares used in computing net income per share attributable to common stockholders: | | |
| Basic | 81,166 | 78,263 |
| Diluted | 84,817 | 81,386 |

See accompanying notes.

RealPage, Inc.

Condensed Consolidated Statements of Comprehensive Income
(in thousands)
(unaudited)

| | Three Months Ended March 31, | |
|---|-------------------------------------|-----------------|
| | 2018 | 2017 |
| Net income | \$ 10,901 | \$ 8,195 |
| Gain on interest rate swaps, net | 159 | 106 |
| Foreign currency translation adjustment | (127) | (50) |
| Comprehensive income | \$ 10,933 | \$ 8,251 |

See accompanying notes.

RealPage, Inc.

Condensed Consolidated Statements of Stockholders' Equity
(in thousands)
(unaudited)

| | <u>Common Stock</u> | | <u>Additional Paid-in Capital</u> | <u>Accumulated Other Comprehensive Income</u> | <u>Accumulated Deficit</u> | <u>Treasury Shares</u> | | <u>Total Stockholders' Equity</u> |
|--|---------------------|---------------|---|---|--------------------------------|------------------------|--------------------|---|
| | <u>Shares</u> | <u>Amount</u> | | | | <u>Shares</u> | <u>Amount</u> | |
| Balance as of December 31, 2017 | 87,153 | \$ 87 | \$ 637,851 | \$ 243 | \$ (75,046) | (3,973) | \$ (61,260) | \$ 501,875 |
| Cumulative effect of adoption of ASU 2014-09 | — | — | — | — | 2,221 | — | — | 2,221 |
| Issuance of common stock | 7 | — | 5,038 | — | — | 241 | — | 5,038 |
| Issuance of restricted stock | — | — | (1,303) | — | — | 1,336 | 1,303 | — |
| Treasury stock purchases, at cost | — | — | — | — | — | (257) | (8,450) | (8,450) |
| Stock-based expense | — | — | 10,410 | — | — | — | — | 10,410 |
| Interest rate swap agreements | — | — | — | 258 | — | — | — | 258 |
| Foreign currency translation | — | — | — | (127) | — | — | — | (127) |
| Reclassification of realized gain on cash flow hedge to earnings, net of tax | — | — | — | (99) | — | — | — | (99) |
| Net income | — | — | — | — | 10,901 | — | — | 10,901 |
| Balance as of March 31, 2018 | <u>87,160</u> | <u>\$ 87</u> | <u>\$ 651,996</u> | <u>\$ 275</u> | <u>\$ (61,924)</u> | <u>(2,653)</u> | <u>\$ (68,407)</u> | <u>\$ 522,027</u> |

See accompanying notes.

RealPage, Inc.

Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

| | Three Months Ended March 31, | |
|---|------------------------------|-------------------|
| | 2018 | 2017 |
| Cash flows from operating activities: | | |
| Net income | \$ 10,901 | \$ 8,195 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Depreciation and amortization | 23,260 | 14,440 |
| Amortization of debt discount and issuance costs | 3,012 | 89 |
| Deferred taxes | (1,154) | 243 |
| Stock-based expense | 10,318 | 10,092 |
| Loss on disposal and impairment of other long-lived assets | 942 | 24 |
| Acquisition-related consideration | 402 | 121 |
| Changes in assets and liabilities, net of assets acquired and liabilities assumed in business combinations: | | |
| Accounts receivable | 15,648 | 5,987 |
| Prepaid expenses and other current assets | (3,738) | (845) |
| Other assets | (1,015) | (655) |
| Accounts payable | 6,943 | 1,084 |
| Accrued compensation, taxes, and benefits | (7,391) | (5,556) |
| Deferred revenue | (3,031) | 1,810 |
| Customer deposits | 16,277 | 12,723 |
| Other current and long-term liabilities | (603) | (769) |
| Net cash provided by operating activities | <u>70,771</u> | <u>46,983</u> |
| Cash flows from investing activities: | | |
| Purchases of property, equipment, and software | (12,660) | (9,925) |
| Acquisition of businesses, net of cash acquired | — | (66,103) |
| Purchase of other investment | (1,800) | — |
| Net cash used in investing activities | <u>(14,460)</u> | <u>(76,028)</u> |
| Cash flows from financing activities: | | |
| Payments on term loans | (2,016) | — |
| Deferred financing costs | (1,087) | (1,288) |
| Payments on capital lease obligations | (114) | (101) |
| Payments of acquisition-related consideration | (776) | (6,461) |
| Issuance of common stock | 5,038 | 7,927 |
| Purchase of treasury stock related to stock-based compensation | (8,450) | (3,576) |
| Net cash used in financing activities | <u>(7,405)</u> | <u>(3,499)</u> |
| Net increase (decrease) in cash, cash equivalents and restricted cash | 48,906 | (32,544) |
| Effect of exchange rate on cash | (127) | (50) |
| Cash, cash equivalents and restricted cash: | | |
| Beginning of period | 165,345 | 188,540 |
| End of period | <u>\$ 214,124</u> | <u>\$ 155,946</u> |

See accompanying notes.

RealPage, Inc.**Condensed Consolidated Statements of Cash Flows, continued**
(in thousands)
(unaudited)

| | Three Months Ended March 31, | |
|--|-------------------------------------|-------------|
| | 2018 | 2017 |
| Supplemental cash flow information: | | |
| Cash paid for interest | \$ 2,886 | \$ 789 |
| Cash (received) paid for income taxes, net | \$ (71) | \$ 325 |
| Non-cash investing activities: | | |
| Accrued property, equipment, and software | \$ 675 | \$ 9,941 |

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the Condensed Consolidated Balance Sheets that sum to the total of the same such amounts shown in the Condensed Consolidated Statements of Cash Flows:

| | Three Months Ended March 31, | |
|---|-------------------------------------|-------------|
| | 2018 | 2017 |
| Cash and cash equivalents | \$ 101,646 | \$ 59,516 |
| Restricted cash | 112,478 | 96,430 |
| Total cash, cash equivalents and restricted cash shown in the Condensed Consolidated Statements of Cash flows | \$ 214,124 | \$ 155,946 |

See accompanying notes.

RealPage, Inc.

**Notes to the Condensed Consolidated Financial Statements
(unaudited)**

1. The Company

RealPage, Inc., a Delaware corporation (together with its subsidiaries, the “Company” or “we” or “us”), is a leading global provider of software and data analytics to the real estate industry. Our platform of data analytics and software solutions enables the rental real estate industry to manage property operations (such as marketing, pricing, screening, leasing, and accounting), identify opportunities through market intelligence, and obtain data-driven insight for better operational and financial decision-making. Our integrated, on demand platform provides a single point of access and a massive repository of real-time lease transaction data, including prospect, renter, and property data. By leveraging data as well as integrating and streamlining a wide range of complex processes and interactions among the rental real estate ecosystem (owners, managers, prospects, renters, service providers, and investors), our platform helps our clients improve financial and operational performance and prudently place and harvest capital.

During May 2018, the Company learned it was the subject of a targeted email phishing campaign that led to a business email compromise, pursuant to which an unauthorized party gained access to an external third party system used by a subsidiary that was acquired by the Company in 2017. The incident resulted in the diversion of approximately \$8 million of funds intended for disbursement to three clients. RealPage immediately notified relevant financial institutions and certain government agencies of the incident and restored all funds to the client accounts. No client consumer data was compromised.

The Company immediately engaged a leading forensics firm to investigate the incident. The intrusion was limited to the external third party system used by its subsidiary that the Company was migrating to the core Company platform. Although the investigation is ongoing, there is no evidence at this time that this event involved access to any other Company systems, including operational, security or proprietary risk management systems, whether corporate or client-facing. The Company has taken action to remediate the security weakness that gave rise to the incident. While certain remedial actions have been completed, the Company continues to actively plan for and implement additional control procedures.

This incident did not have an impact on the business, cash flows, financial condition or results of operations of the Company for the three months ended March 31, 2018. The Company maintains insurance coverage to limit its losses related to criminal and network security events. During the three months ended June 30, 2018, the Company expects to take a charge related to the diverted funds and other associated expenses offset by a receivable for amounts deemed probable of recovery from applicable insurance coverage. Presently, the Company believes that such net charge will not be material to its 2018 financial results.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited Condensed Consolidated Financial Statements and footnotes have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”). The unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. We believe that the disclosures made are appropriate and conform to those rules and regulations, and that the condensed or omitted information is not misleading.

The unaudited Condensed Consolidated Financial Statements included herein reflect all adjustments (consisting of normal, recurring adjustments) which are, in the opinion of management, necessary to state fairly the results for the interim periods presented. All intercompany balances and transactions have been eliminated in consolidation. The results of operations for the interim periods presented are not necessarily indicative of the operating results to be expected for any subsequent interim period or for the fiscal year.

These financial statements should be read in conjunction with the financial statements and the notes thereto included in our Annual Report on Form 10-K filed with the SEC on March 1, 2018 (“Form 10-K”).

Segment and Geographic Information

Our chief operating decision maker is our Chief Executive Officer, who reviews financial information presented on a company-wide basis. As a result, we determined that the Company has a single reporting segment and operating unit structure.

Principally, all of our revenue for the three months ended March 31, 2018 and 2017 was earned in the United States. Net property, equipment, and software located in the United States amounted to \$136.9 million and \$140.0 million at March 31, 2018 and December 31, 2017, respectively. Net property, equipment, and software located in our international subsidiaries amounted to \$8.6 million and \$8.4 million at March 31, 2018 and December 31, 2017, respectively. Substantially all of the net property, equipment, and software held in our international subsidiaries was located in the Philippines, Spain, and India at both March 31, 2018 and December 31, 2017.

Concentrations of Credit Risk

Our cash accounts are maintained at various financial institutions and may, from time to time, exceed federally insured limits. The Company has not experienced any losses in such accounts.

Concentrations of credit risk with respect to accounts receivable result from substantially all of our clients being in the residential rental housing market. Our clients, however, are dispersed across different geographic areas. We do not require collateral from clients. We maintain an allowance for doubtful accounts for credits we offer our clients in certain instances and to reflect our best estimate of the amount of consideration we will ultimately receive based on relevant factors such as our historical experience, current contractual requirements, potential client buying patterns, age of the outstanding balance, and our clients' ability to pay.

No single client accounted for 10% or more of our revenue or accounts receivable for the three months ended March 31, 2018 or 2017.

Accounting Policies and Use of Estimates

The preparation of financial statements in conformity with GAAP requires our management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities, and the disclosure of contingent assets and liabilities, at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting periods. Significant estimates include the allowance for doubtful accounts; the useful lives of intangible assets and the recoverability or impairment of tangible and intangible asset values; fair value measurements; contingent commissions related to the sale of insurance products; valuation of net assets acquired and contingent consideration in connection with business combinations; revenue and deferred revenue and related reserves; stock-based expense; and our effective income tax rate and the recoverability of deferred tax assets, which are based upon our expectations of future taxable income and allowable deductions. Actual results could differ from these estimates. For greater detail regarding these accounting policies and estimates, refer to our Form 10-K.

Cash and Cash Equivalents

We consider all highly liquid investments with a maturity date, when purchased, of three months or less to be cash equivalents.

Restricted Cash

Restricted cash consists of cash collected from tenants that will be remitted primarily to our clients.

Business Combinations

The Company applies the guidance contained in ASC Topic 805, *Business Combinations* ("ASC 805") in determining whether an acquisition transaction constitutes a business combination. ASC 805 defines a business as consisting of inputs and processes applied to those inputs that have the ability to create outputs. The acquisition transactions in Note 3 were determined to constitute business combinations and were accounted for under ASC 805.

Purchase consideration includes assets transferred, liabilities assumed, and/or equity interests issued by us, all of which are measured at their fair value as of the date of acquisition. Our business combination transactions may be structured to include an up-front cash payment and deferred and/or contingent cash payments to be made at specified dates subsequent to the date of acquisition. Deferred cash payments are included in the acquisition consideration based on their fair value as of the acquisition date. The fair value of these obligations is estimated based on the present value, as of the date of acquisition, of the anticipated future payments. The future payments are discounted using a rate that considers an estimate of the return expected by a market-participant and a measurement of the risk inherent in the cash flows, among other inputs. Deferred cash payments are generally subject to adjustments specified in the underlying purchase agreement related to the seller's indemnification obligations. Contingent cash payments are obligations to make future cash payments to the seller, the payment of which is contingent upon the achievement of stipulated operational or financial targets in the post-acquisition period. Contingent cash payments are included in the purchase consideration at their fair value as of the acquisition date. The fair value of these payments is estimated using a probability weighted discount model based on the achievement of the specified targets. The fair value of these liabilities is re-evaluated on a quarterly basis, and any change is reflected in the line "General and administrative" in the accompanying Condensed Consolidated Statements of Operations. These estimates are inherently uncertain and unpredictable. Unanticipated events and circumstances may occur that would affect the accuracy or validity of these estimates.

The total purchase consideration is allocated to the assets acquired and liabilities assumed based on their estimated fair values. Any excess consideration is classified as goodwill. Acquired intangibles are recorded at their estimated fair value based on the income approach using market-based estimates. Acquired intangibles generally include developed product technologies, which are amortized over their useful life on a straight-line basis, and client relationships, which are amortized over their useful

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life proportionately to the expected discounted cash flows derived from the asset. When trade names acquired are not classified as indefinite-lived, they are amortized on a straight-line basis over their expected useful life.

Acquisition costs are expensed as incurred and are included in the line “General and administrative” in the accompanying Condensed Consolidated Statements of Operations. We include the results of operations from acquired businesses in our Condensed Consolidated Financial Statements from the effective date of the acquisition.

Derivative Financial Instruments

The Company is exposed to interest rate risk related to our variable rate debt. The Company manages this risk through a program that includes the use of interest rate derivatives, the counterparties to which are major financial institutions. Our objective in using interest rate derivatives is to add stability to interest cost by reducing our exposure to interest rate movements. We do not use derivative instruments for trading or speculative purposes.

Our interest rate derivatives are designated as cash flow hedges and are carried in the Condensed Consolidated Balance Sheets at their fair value. Unrealized gains and losses resulting from changes in the fair value of these instruments are classified as either effective or ineffective. The effective portion of such gains or losses is recorded as a component of accumulated other comprehensive income (“AOCI”), while the ineffective portion is recorded as a component of interest expense in the period of change. Amounts reported in AOCI related to interest rate derivatives are reclassified into interest expense as interest payments are made on our variable-rate debt. If an interest rate derivative agreement is terminated prior to its maturity, the amounts previously recorded in AOCI are recognized into earnings over the period that the forecasted transactions impact earnings. If the hedging relationship is discontinued because it is probable that the forecasted transactions will not occur according to our original strategy, any related amounts previously recorded in AOCI are recognized in earnings immediately.

Accounts Receivable

Accounts receivable primarily represent trade receivables from clients that are recorded at the invoice amount, net of an allowance for doubtful accounts and credits. For certain transactions, we have met the requirements to recognize revenue in advance of invoicing the client. In these instances, we record unbilled receivables for the amount that will be due from the client upon invoicing.

We maintain an allowance for doubtful accounts for credits we offer our clients in certain instances and to reflect the Company’s best estimate of the amount of consideration to which it is entitled and that it will ultimately receive. In evaluating the sufficiency of the allowance for doubtful accounts, we consider relevant factors such as the Company’s historical experience, current contractual requirements, potential client buying patterns, age of the outstanding balance, and our clients’ ability to pay. Any change in the assumptions used in analyzing a specific account receivable might result in an additional allowance for doubtful accounts being recognized in the period in which the change occurs. A portion of our allowance is for services not yet rendered and is therefore classified as an offset to deferred revenue.

Accounts receivable are written off upon determination of non-collectability following established Company policies. During the three months ended March 31, 2018 and 2017, we incurred bad debt expense of \$0.6 million and \$0.4 million, respectively.

Accounts receivable includes commissions due to the Company related to the sale of insurance products to individuals and commissions which are contingent based upon the activity in the underlying policies. Contingent commissions receivables are recorded at their estimated net realizable value, based on estimates and considerations which include, but are not limited to, the historical and projected loss rates incurred by the underlying policies.

Deferred Revenue

Deferred revenue primarily consists of billings issued or payments received for service obligations we have not yet completed. For several of our solutions, we invoice our clients in annual, monthly, or quarterly installments in advance of the commencement of the service period. Accordingly, the deferred revenue balance does not represent the total contract value of annual or multi-year, non-cancellable subscription agreements. Deferred revenue that will be recognized during the succeeding twelve-month period is recorded as current deferred revenue and the remaining portion is recorded as noncurrent.

Revenue Recognition

We derive our revenue from two primary sources: (1) on demand software solutions and (2) professional services and other goods and services. We recognize revenue as we satisfy one or more service obligations under the terms of a contract, generally as control of goods and services are transferred to our clients. Revenue is measured as the amount of consideration we expect to receive in exchange for transferring goods or providing services. We include estimates of variable consideration in revenue to the extent that it is probable that a significant reversal of cumulative revenue will not occur once the uncertainty is resolved.

We determine revenue recognition through the following steps:

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- identification of the contract, or contracts, with a client;
- identification of the performance obligations in the contract;
- determination of the transaction price;
- allocation of the transaction price to the performance obligations in the contract; and
- recognition of revenue when, or as, we satisfy a performance obligation.

On Demand Revenue

Our on demand revenue consists of license and subscription fees, transaction fees related to certain of our software-enabled value-added services, and commissions derived from our sales of certain risk mitigation services.

We generally recognize revenue from subscription fees on a straight-line basis over the access period beginning on the date that we make our service available to the client. Our subscription agreements generally are non-cancellable, have an initial term of one year or longer and are billed either monthly or annually in advance. Recognition on subscription fees starts and is recorded when, or as, service obligations are satisfied. Non-refundable upfront fees billed at the initial order date that are not associated with an upfront service obligation are recognized as revenue on a straight-line basis over the period over which the client is expected to benefit, which we consider to be three years.

We recognize revenue from transaction fees in the month the related services are performed based on the amount we have a right to invoice.

As part of our resident services offerings, we offer risk mitigation services to our clients by acting as an insurance agent and derive commission revenue from the sale of insurance products to our clients' residents. The commissions are based upon a percentage of the premium that our insurance company underwriting partners charge to the policyholder and are subject to forfeiture in instances where a policyholder cancels prior to the end of the policy. Our contracts with our underwriting partners also provide for contingent commissions to be paid to us in accordance with the agreements. Such commissions are variable in nature and based on a calculation that considers, on the policies sold by us, earned premiums less i) earned agent commissions; ii) a percent of premium retained by our underwriting partner; iii) incurred losses; and iv) profit retained by our underwriting partner during the time period. Our estimate of contingent commission revenue considers historical loss experience on the policies sold by us. If the policy is cancelled, our commissions are forfeited as a percent of the unearned premium. As a result, we recognize commissions related to these services as earned ratably over the policy term.

Professional and Other Revenue

Professional services and other revenues generally consists of the fees we receive for providing implementation and consulting services, submeter equipment and ongoing maintenance of our existing on premise licenses.

Professional services are billed either on a fixed rate per hour (time) and materials basis or on a fixed price basis, and revenue is recognized over time as we perform the obligation. Professional services are typically sold bundled in a contract with other on demand solutions but may be sold separately. Professional service contracts sold separately generally have terms of one year or less. For bundled arrangements, where the Company accounts for individual services as a separate performance obligation, the transaction price is allocated between separate services in the bundle based on their relative standalone selling prices.

Other revenues consist primarily of submeter equipment sales that include related installation services. Such sales are considered bundled, and revenue from these bundled sales is recognized in proportion to the number of fully installed units completed to date as compared to the total contracted number of units to be provided and installed. For all other equipment sales, we generally recognize revenue when control of the hardware has transferred to our client. Revenue recognized for on premise software sales generally consists of annual maintenance renewals on existing term or perpetual licenses, which is recognized ratably over the service period.

Contracts with Multiple Performance Obligations

The majority of the contracts we enter into with clients, including multiple contracts entered into at or near the same time with the same client, require us to provide one or more on demand software solutions, professional services and/or equipment. For these contracts, we account for individual performance obligations separately i) if they are distinct or ii) if the promised obligations represent a series of distinct services that are substantially the same and have the same pattern of transfer to the client. Once we determine the performance obligations, we determine the transaction price, which includes estimating the amount of variable consideration, if any, to be included in the transaction price. If the contract contains a single performance obligation, we allocate the entire transaction price to the single performance obligation. For contracts with multiple performance obligations, we allocate the transaction price to the separate performance obligations on a relative standalone selling price basis. The standalone selling prices of our services are typically estimated using a market assessment approach

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based on our overall pricing objectives taking into consideration market conditions and other factors including the number of solutions sold, client demographics, and the number and types of users within our contracts.

Sales, value add, and other taxes we collect from clients and remit to governmental authorities are excluded from revenues.

Reserves for Variable Consideration

We recognize revenues from on demand and professional service sales at the net sales price (transaction price), which includes estimates of reserves we establish for credits we offer our clients in certain instances. These reserves are based on the amounts expected to be credited on the related sales and are classified as reductions of revenue and the related accounts receivable. Where appropriate, these estimates take into consideration relevant factors such as the Company's historical experience, current contractual requirements, specific known market events and trends, and forecasted buying and payment patterns. These reserves reduce revenue to an amount that reflects the Company's best estimates of the amount of consideration to which it is entitled and that it will ultimately receive based on the terms of the contract. The amount of variable consideration which is included in the transaction price may be constrained, and is included in the net sales price only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue recognized will not occur in a future period. Actual amounts of consideration ultimately received may differ from the Company's estimates. If actual results in the future vary from the Company's estimates, the Company will adjust these estimates, which will affect net revenue and earnings in the period such variances become known.

Deferred Commissions

Sales commissions, including sales-based incentive payments, earned by our direct sales force are considered incremental and recoverable costs of obtaining a contract with a client. These costs are deferred in "Other current assets" and "Other assets" and amortized into "Sales and marketing expense" on a straight line basis over a period of benefit that we have determined to be three years. We determined the period of benefit by taking into consideration our client contracts, our technology, historical pricing practices and other factors. We periodically review these capitalized costs for impairment.

Fair Value Measurements

Certain assets and liabilities are carried at fair value under GAAP. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

Legal Contingencies

We review the status of each legal matter and record a provision for a liability when we consider that it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. We review these provisions quarterly and make adjustments where needed as additional information becomes available. If either or both of the criteria are not met, we assess whether there is at least a reasonable possibility that a loss, or additional losses beyond those already accrued, may be incurred. If there is a reasonable possibility that a material loss (or additional material loss in excess of any accrual) may be incurred, we disclose an estimate of the amount of loss or range of losses, either individually or in the aggregate, as appropriate, if such an estimate can be made, or disclose that an estimate of loss cannot be made.

Recently Adopted Accounting Standards

Accounting Standards Update 2014-09

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09, *Revenue from Contracts with Customers (Topic 606)*. ASU 2014-09, as amended by certain supplementary ASU's released in 2016, replaces all current GAAP guidance on this topic and eliminates all industry-specific guidance. The new revenue recognition standard requires the recognition of revenue when promised goods or services are transferred to clients in an amount that reflects the consideration for which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also includes Subtopic 340-40, *Other Assets and Deferred Costs - Contracts with Customers*, which requires the deferral of incremental costs of obtaining a contract with a client. Collectively, we refer to Topic 606 and Subtopic 340-40 as the "new revenue standard" or "ASC 606."

We adopted the requirements of the new revenue standard on January 1, 2018 using the modified retrospective method. We recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings at the beginning of 2018. Comparative information from prior year periods has not been restated and continues to be reported under the accounting standards in effect for those periods. The cumulative effects of the changes made to our condensed consolidated January 1, 2018 balance sheet for the adoption of the new revenue standard were as follows:

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| | Balance at December 31, 2017 | Adjustments due to ASU 2014-09 | Balance at January 1, 2018 |
|---|---|---|---------------------------------------|
| | (in thousands) | | |
| Assets | | | |
| Accounts receivable, less allowance for doubtful accounts | \$ 124,505 | \$ (7,925) | \$ 116,580 |
| Other current assets | 6,622 | 2,771 | 9,393 |
| Deferred tax assets, net | 44,887 | (780) | 44,107 |
| Other assets | 11,010 | 4,459 | 15,469 |
| Liabilities | | | |
| Current portion of deferred revenue | 116,622 | (3,696) | 112,926 |
| Stockholders' Equity | | | |
| Accumulated deficit | (75,046) | 2,221 | (72,825) |

Adoption of the new revenue standard resulted in changes to our accounting policies for revenue recognition, certain variable considerations, and commissions expense. The adoption of the new revenue standard did not have a significant effect on our revenue; however, it did have an impact on the timing of when we expense commission costs incurred to obtain a contract and the reserves we establish for variable consideration from credits or other pricing accommodations we provide our clients. We expect the effect of the new revenue standard to be immaterial to our revenue on an ongoing basis. The primary effect to our net income on an ongoing basis relates to the reserve for credit accommodations and deferral of incremental commission costs incurred to obtain new contracts. Under the new revenue standard, we accrue for credit accommodations in our reserve during the month of billing and credits reduce this reserve when issued. Further, we now initially defer commission costs and amortize these costs to expense over a period of benefit that we have determined to be three years.

See Note 4 for additional required disclosures related to the impact of adopting the new revenue standard and our accounting for costs to obtain a contract.

Accounting Standards Update 2016-18

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows - Restricted Cash*, which requires entities to show the changes in the total of cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. This ASU must be adopted retrospectively.

We adopted ASU 2016-18 effective January 1, 2018. As a result of our adoption, changes in customer deposits held in restricted accounts will result in an increase or reduction in our cash flows from operating activities. Under previous rules, such changes were largely offset by the corresponding change in restricted cash and had a minimal impact on our statement of cash flows. The prior period financial statements included in this filing have been adjusted to reflect the adoption of ASU 2016-18. The effects of those adjustments to the Condensed Consolidated Statements of Cash Flows have been summarized in the table below:

| | Originally Reported | Effect of Change | As Adjusted |
|--|--------------------------------|-------------------------|--------------------|
| | (in thousands) | | |
| Statement of Cash Flows for the three months ended March 31, 2017 | | | |
| Net cash provided by operating activities | \$ 34,207 | \$ 12,776 | \$ 46,983 |
| Cash, cash equivalents and restricted cash at end of period | 59,516 | 96,430 | 155,946 |

Accounting Standards Update 2017-09

In May 2017, the FASB issued ASU 2017-09, *Compensation - Stock Compensation (Topic 718): Scope of Modification Accounting*, which provides clarification on when modification accounting should be used for changes to the terms or conditions of a share-based payment award. This ASU does not change the accounting for modifications but clarifies that modification accounting guidance should only be applied if there is a change to the fair value, vesting conditions, or award classification (as equity or liability) and would not be required if the changes are considered non-substantive. This new standard was effective for the Company on January 1, 2018. Adoption of ASU 2017-09 did not have a material impact on our consolidated financial statements.

Accounting Standards Update 2017-01

In January 2017, the FASB issued ASU 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business* to assist entities with evaluating whether a set of transferred assets and activities (a "set") is a business. Under the new guidance, an entity first determines whether substantially all of the fair value of the set is concentrated in a single identifiable

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asset or a group of similar identifiable assets. If this threshold is met, the set is not a business. If the threshold is not met, the entity evaluates whether the set meets the requirements that a business include, at a minimum, an input and a substantive process that together significantly contribute to the ability to create outputs. The provisions of this ASU became effective for the Company on January 1, 2018, and the adoption did not have a significant impact on our classification of businesses and complementary technologies acquired.

Accounting Standards Update 2016-01

In January 2016, the FASB issued ASU 2016-01, *Financial Instruments - Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities* and ASU 2018-03, *Technical Corrections and Improvements to Financial Instruments - Overall (Subtopic 825-10)* in February 2018, which provides clarification on certain guidance issued under ASU 2016-01. Among other things, ASU 2016-01 eliminates the cost method of accounting and requires that investments in equity securities that were previously accounted for under the cost method must now be measured at fair value, with changes in fair value recognized in net income. Equity instruments that do not have readily determinable fair values may be measured at cost less impairment, plus or minus changes resulting from observable price changes in orderly transactions for identical or similar investments of the same issuer. This ASU became effective on January 1, 2018. The Company holds an investment which was accounted for under the cost method of accounting prior to January 1, 2018, which does not have a readily determinable fair value and has had no observable price change. Therefore, we continue to measure this investment at cost, less any impairment. The adoption of this standard did not have a material impact on our consolidated financial statements.

Recently Issued Accounting Standards

In February 2018, the FASB issued ASU 2018-02, *Income Statement - Reporting Comprehensive Income (Topic 220): Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income*, which provides companies the option to reclassify tax effects stranded in accumulated other comprehensive income as a result of the 2017 Tax Cuts and Jobs Act (“Tax Reform Act”) to retained earnings. ASU 2018-02 is effective for annual reporting periods beginning after December 15, 2018, including interim periods within those fiscal years, and should be applied either in the period of adoption or retrospectively to each period in which the effect of the change in the U.S. federal corporate income tax rate in the Tax Reform Act is recognized. Early adoption is permitted. We are currently evaluating this ASU, but the adoption is not expected to have a material impact on our consolidated financial statements.

In August 2017, the FASB issued ASU 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*, which expands an entity’s ability to apply hedge accounting for nonfinancial and financial risk components and allows for a simplified approach for fair value hedging of interest rate risk. Certain of the amendments in this ASU as they relate to cash flow hedges, eliminate the requirement to separately record hedge ineffectiveness currently in earnings. Instead, the entire change in the fair value of the hedging instrument is recorded in Other Comprehensive Income (“OCI”), and amounts deferred in OCI will be reclassified to earnings in the same income statement line item in which the earnings effect of the hedged item is reported. Additionally, this ASU simplifies the hedge documentation and effectiveness assessment requirements under the previous guidance. ASU 2017-12 is effective for annual reporting periods beginning after December 15, 2018, including interim periods within those fiscal years, and early adoption is permitted. The changes in this ASU will be applied on a modified retrospective basis through a cumulative effect adjustment to the opening balance of retained earnings as of the initial application date.

While we are continuing to assess all potential impacts of ASU 2017-12 on our consolidated financial statements, its most immediate effect will be the initial recognition of the entire change in the fair value of our interest rate swaps in other comprehensive income. Similar to our current treatment of the effective portion of a change in fair value, the ineffective portion will be reclassified into interest expense as interest payments are made on our variable rate debt. Under our current practice, the ineffective portion is initially recorded as a component of interest expense in the period of change. We have not yet selected an adoption date and do not expect the changes in the ASU to have a material impact on our consolidated financial statements.

In July 2017, the FASB issued ASU 2017-11, *Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815)*. The amendments of this ASU allow companies to exclude a down round feature when determining whether a financial instrument (or embedded conversion feature) is considered indexed to the entity’s own stock. As a result, financial instruments (or embedded conversion features) with down round features may no longer be required to be accounted for as derivative liabilities. A company will recognize the value of a down round feature only when it is triggered and the strike price has been adjusted downward. For equity-classified freestanding financial instruments, an entity will treat the value of the effect of the down round as a dividend and a reduction of income available to common shareholders in computing basic earnings per share. For convertible instruments with embedded conversion features containing down round provisions, entities will recognize the value of the down round as a beneficial conversion discount to be amortized to earnings. ASU 2017-11 is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted, and the guidance is to be applied using a full or modified retrospective approach. We are currently evaluating the impact of adopting ASU 2017-11 on our consolidated financial statements.

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In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. The amendments in this ASU replace the incurred loss impairment methodology in current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. ASU 2016-13 is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted in fiscal years beginning after December 15, 2018. The amendments in this ASU are to be applied through a cumulative-effect adjustment to retained earnings as of the first reporting period in which the ASU is effective. We have not yet selected a transition date and are currently evaluating the impact of adopting ASU 2016-13 on our consolidated financial statements.

On February 25, 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*. The new guidance requires lessees to recognize the assets and liabilities arising from all leases, with a lease term of more than 12 months, including those classified as operating leases under previous accounting guidance, on the balance sheet. It also requires disclosure of key information about leasing arrangements to increase transparency and comparability among organizations.

ASU 2016-02 is effective for interim and annual periods beginning after December 15, 2018. Early adoption is permitted. On March 7, 2018, the FASB affirmed a proposal that allows entities to apply the legacy ASC 840 guidance and relevant disclosure requirements to comparative periods. The Company anticipates electing the new transition approach when it adopts this ASU on January 1, 2019. We have formed a team to identify and analyze our existing lease agreements and are in the process of implementing changes to our systems, processes, disclosures and internal controls in conjunction with such review. The team has begun assessing the population for the new standard and evaluating the impact to our consolidated financial statements. We anticipate the standard will have a material impact on our balance sheet, but do not expect a material impact to the income statement. The most significant impact will be from the recognition of right of use assets and lease liabilities for operating leases, while we expect our accounting for finance leases to remain substantially unchanged.

3. Acquisitions

Current Acquisition Activity

No acquisitions were completed during the three months ended March 31, 2018.

2017 Acquisitions

Lease Rent Options

In February 2017, we entered into an agreement with The Rainmaker Ventures, LLC (“Rainmaker”) to acquire substantially all of the assets and liabilities that comprised Rainmaker’s multifamily revenue optimization business (“LRO”). We completed the acquisition when the transaction closed in December 2017. LRO is a revenue management solution that empowers optimized pricing for multifamily housing communities. This acquisition extended our revenue management footprint, augmented our repository of real-time lease transaction data, and increased our data science talent and capabilities. We also expect the acquisition of LRO to increase the market penetration of our YieldStar Revenue Management solution and drive revenue growth in our other asset optimization solutions.

We acquired LRO for a purchase price of \$299.9 million. The purchase price consisted of a cash payment of \$298.0 million, a deferred cash obligation of up to \$1.6 million, which had a fair value of \$1.5 million on the date of acquisition, and the assumption of certain liabilities totaling \$0.4 million. Subject to any indemnification claims made, the deferred cash obligation will be released on the first anniversary of the closing date. The acquisition of LRO was financed using funds available under our Credit Facility, as defined in Note 7, and cash on hand.

The acquired identified intangible assets consisted of developed technology, client relationships, and trade names. These intangible assets were assigned estimated useful lives of seven, ten, and two years, respectively. Preliminary goodwill recognized of \$203.2 million is primarily comprised of anticipated synergies from leveraging LRO’s repository of lease transaction data and data science talent with our existing platform of pricing, demand, and credit optimization tools. Goodwill and the acquired identified intangible assets are deductible for tax purposes. Accounts receivable acquired had a gross contractual value of \$4.7 million at acquisition, of which \$0.2 million was estimated to be uncollectible. Acquisition costs associated with this transaction, totaled \$13.8 million, including \$10.7 million incurred related to the Hart-Scott-Rodino Antitrust Improvements Act review process, and were expensed as incurred.

PEX Software

In October 2017, the Company acquired all of the issued and outstanding shares of PEX Software Limited (“PEX”). PEX is a rental housing solution provider based in the United Kingdom that helps companies transform work practices and service delivery models, create and leverage competitive advantage, reduce costs, and scale businesses. PEX’s platform serves market-leading clients in the United Kingdom, European Union, and Australia. The acquisition of PEX will help us to secure a leading market position in the private rental segment of the United Kingdom’s housing market and facilitate our expansion into the European Union and other international markets.

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We acquired PEX for a purchase price of \$6.0 million. The purchase price consisted of a cash payment of \$5.1 million at closing, net of cash acquired of \$0.1 million, and a deferred cash obligation of up to \$1.0 million. The deferred cash obligation is payable over a period of 24 months, and its fair value was \$0.9 million at the date of acquisition. This acquisition was financed using cash on hand, which included a portion of the net offering proceeds from the issuance of the Convertible Notes.

The acquired identified intangible assets consisted of developed technology, client relationships, and trade names. These intangible assets were assigned estimated useful lives of seven, nine, and six years, respectively. Preliminary goodwill recognized of \$3.2 million is chiefly attributable to the presence we gained in international markets and anticipated synergies from combining PEX's consumer facing solutions with our platform of property management, accounting, and asset optimization solutions. Goodwill and the acquired identified intangible assets are not deductible for tax purposes. Acquisition costs associated with this transaction totaled \$0.4 million and were expensed as incurred.

On-Site

In September 2017, we acquired certain discrete assets of On-Site Manager, Inc., including its ownership interest in its majority-owned subsidiary, DepositIQ & RentersIQ Insurance Agency, LLC ("DIQ") (collectively, "On-Site"). We also acquired the remaining minority interest in DIQ. On-Site is a leasing platform for property managers and renters that assimilates leads from any source and converts them into signed leases for both the multifamily and single family housing industries. The acquisition of On-Site increased the footprint of our screening services and added incremental consumer-oriented data that benefits our data analytics solutions. Additionally, we anticipate On-Site will improve the integration of our leasing solutions into other major property management systems.

We acquired On-Site, including the minority interest in DIQ, for an aggregate purchase price of \$253.4 million. The purchase price consisted of a cash payment of \$225.3 million at closing, net of cash acquired of \$1.7 million, and a deferred cash obligation of up to \$29.6 million. The fair value of the deferred cash obligation was \$28.1 million at the date of acquisition. Subject to any indemnification claims made, the deferred cash obligation will be paid over a period of 36 months, with the majority due approximately twelve months following the acquisition date. This acquisition was financed using cash on hand, which included a portion of the net offering proceeds from the issuance of the Convertible Notes.

The acquired identifiable intangible assets consisted of trade names, developed technologies, and client relationships, which will be amortized over estimated useful lives of two, five, and ten years, respectively. Preliminary goodwill recognized of \$184.5 million primarily arises from anticipated synergies from leveraging our existing cost structure and integrated sales force. Goodwill and the acquired identified intangible assets arising from the acquisition of On-Site Manager are deductible for tax purposes; those arising from the acquisition of DIQ are not. Accounts receivable acquired had a gross contractual value of \$5.6 million at acquisition, of which \$0.9 million was estimated to be uncollectible. Acquisition costs associated with this transaction, including those related to the Hart-Scott-Rodino Antitrust Improvements Act review process, totaled \$1.8 million and were expensed as incurred.

American Utility Management

In June 2017, RealPage acquired substantially all of the assets of American Utility Management ("AUM"), a provider of utility and energy management services for the multifamily housing industry. AUM helps maximize cost recovery, reduces energy usage and expense, and provides the tools operators of rental real estate need to manage their utilities more effectively. Additionally, AUM's platform includes tools that enable operators to benchmark energy cost and consumption against their peers. The acquired assets will be integrated with our existing resident utility management platform and our data analytics tools.

We acquired AUM for a purchase price of \$69.4 million. The purchase price consisted of a cash payment of \$64.8 million at closing, net of cash acquired of \$0.1 million, and a deferred cash obligation of up to \$5.1 million. The fair value of the deferred cash obligation was \$4.6 million at the date of acquisition and is payable over a period of four years following the date of acquisition. This acquisition was financed using cash on hand, which included a portion of the net offering proceeds from the issuance of the Convertible Notes.

The acquired identifiable intangible assets consisted of trade names, developed technology, non-compete agreements, and client relationships, which will be amortized over estimated useful lives of two, three, five, and ten years, respectively. Preliminary goodwill recognized of \$45.9 million primarily arises from anticipated synergies from integrating the acquired assets with our existing resident utility management system and leveraging the energy cost and consumption benchmarking capabilities and data acquired. Goodwill and the acquired identified intangible assets are deductible for tax purposes. Accounts receivable acquired had a gross contractual value of \$2.7 million at acquisition, of which \$0.3 million was estimated to be uncollectible. Acquisition costs associated with this transaction totaled \$0.3 million and were expensed as incurred.

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Axiometrics LLC

In January 2017, we acquired substantially all of the assets of Axiometrics LLC (“Axiometrics”). Axiometrics provides its customers with timely market intelligence on apartment markets accumulated from survey and research data. Axiometrics also provides tools to analyze the data at an asset level by multiple variables such as asset class, age, and specific competitive floor plans. The acquisition of Axiometrics expanded our multifamily data analytics platform and was integrated with MPF Research, our market research database, to form Data Analytics.

We acquired Axiometrics for a purchase price of \$73.8 million. The purchase price consisted of a cash payment of \$66.1 million at closing; deferred cash obligations of up to \$7.5 million, payable over a period of two years following the date of acquisition; and contingent cash obligations of up to \$5.0 million if certain revenue targets are achieved during the twelve-month period ending December 31, 2018. The fair value of the deferred and contingent cash obligations was \$6.9 million and \$0.8 million, respectively, at the date of acquisition. This acquisition was financed using cash on hand.

The acquired identified intangible assets consisted of developed technology, client relationships, and trade names. These intangible assets were assigned estimated useful lives of five, ten, and three years, respectively. We recognized goodwill in the amount of \$54.2 million related to this acquisition, which is primarily comprised of anticipated synergies with our existing multifamily data analytics platform. Goodwill and the acquired identified intangible assets are deductible for tax purposes. Acquisition costs associated with this transaction totaled \$0.3 million and were expensed as incurred.

Purchase Price Allocation

For certain of the acquisitions in the table below, the estimated fair values of assets acquired and liabilities assumed are provisional and are based primarily on the information available as of the acquisition dates. We believe this information provides a reasonable basis for estimating the fair values of assets acquired and liabilities assumed, but the Company is awaiting additional information necessary to finalize those values. Therefore, the provisional measurements of fair value are subject to change, and such changes could be significant. We expect to finalize the valuation of these assets and liabilities as soon as practicable, but no later than one year from the acquisition dates. The allocation of each purchase price, including the effects of measurement period adjustments recorded as of March 31, 2018, was as follows:

| | Axiometrics | AUM | On-Site | PEX | LRO |
|---|------------------|------------------|-------------------|-----------------|-------------------|
| | (Final) | (Provisional) | (Provisional) | (Provisional) | (Provisional) |
| | (in thousands) | | | | |
| Restricted cash | \$ — | \$ 5,954 | \$ 3,458 | \$ — | \$ — |
| Accounts receivable | 1,620 | 2,409 | 4,718 | 174 | 4,498 |
| Property, equipment, and software | 400 | 319 | 789 | 8 | 1,507 |
| Intangible assets: | | | | | |
| Developed product technologies | 15,500 | 10,800 | 16,960 | 2,350 | 42,000 |
| Client relationships | 6,830 | 7,470 | 41,360 | 590 | 49,000 |
| Trade names | 3,200 | 208 | 7,000 | 160 | 666 |
| Non-compete agreements | — | 3,920 | — | — | — |
| Goodwill | 54,190 | 45,907 | 184,534 | 3,242 | 203,171 |
| Other assets | 273 | 850 | 826 | 78 | 475 |
| Accounts payable and accrued liabilities | (367) | (2,150) | (952) | (242) | (533) |
| Client deposits held in restricted accounts | — | (5,954) | (3,458) | — | — |
| Deferred revenue | (7,115) | (321) | (565) | (221) | (861) |
| Other long-term liabilities | (774) | — | — | — | — |
| Deferred tax liability | — | — | (1,240) | (108) | — |
| Total purchase price | <u>\$ 73,757</u> | <u>\$ 69,412</u> | <u>\$ 253,430</u> | <u>\$ 6,031</u> | <u>\$ 299,923</u> |

At March 31, 2018 and December 31, 2017, deferred cash obligations related to acquisitions completed in 2017 totaled \$44.0 million and \$44.8 million, and were carried net of a discount and indemnified obligations of \$1.2 million and \$2.3 million, respectively, in the Condensed Consolidated Balance Sheets. The aggregate fair value of contingent cash obligations related to these acquisitions was \$0.1 million and \$0.2 million at March 31, 2018 and December 31, 2017, respectively. During the three months ended March 31, 2018, we recognized a gain of \$0.1 million due to changes in the fair value of contingent cash obligations related to acquisitions completed in 2017. We made deferred cash payments of \$0.2 million during the three months ended March 31, 2018, related to these acquisitions.

Acquisition Activity Prior to 2017

At March 31, 2018 and December 31, 2017, the aggregate carrying value of deferred cash obligations related to acquisitions completed prior to 2017 totaled \$3.8 million and \$4.4 million, respectively. We paid deferred cash obligations related to these acquisitions in the amount of \$0.6 million and \$6.7 million during the three months ended March 31, 2018 and 2017, respectively. During the same period in 2018, we made contingent cash obligation payments of \$0.2 million related to acquisitions completed prior to 2017.

No contingent cash obligations remained outstanding at March 31, 2018 related to acquisitions completed prior to 2017. The aggregate carrying value of contingent cash obligations related to these acquisitions was estimated to be \$0.2 million at December 31, 2017. During the three months ended March 31, 2018, we paid contingent cash obligations in the amount of \$0.2 million related to acquisitions completed prior to 2017. We recognized an expense of \$0.2 million during the three months ended March 31, 2017, due to changes in the fair value of contingent cash obligations related to these acquisitions.

Pro Forma Results of Acquisitions

The following table presents unaudited pro forma results of operations for the three months ended March 31, 2017, as if the aforementioned acquisitions had occurred as of January 1, 2016. The pro forma information includes the business combination accounting effects resulting from these acquisitions, including interest expense, tax benefit, and additional amortization resulting from the valuation of amortizable intangible assets. We prepared the pro forma financial information for the combined entities for comparative purposes only, and it is not indicative of what actual results would have been if the acquisitions had occurred at the beginning of the periods presented, or of future results.

| | Three Months Ended March 31, 2017 Pro Forma |
|-----------------------|--|
| | (in thousands, except per share amounts) |
| Total revenue | \$ 184,519 |
| Net income | 4,952 |
| Net income per share: | |
| Basic and Diluted | \$ 0.06 |

No pro forma results of operations are presented for the three months ended March 31, 2018, as no acquisitions were completed during the first quarter of 2018.

4. Revenue Recognition

On January 1, 2018, we adopted the new revenue standard using the modified retrospective method for those contracts with remaining service obligations as of January 1, 2018. Results for reporting periods beginning after January 1, 2018 are presented under the new revenue standard, while prior period amounts are not adjusted and continue to be reported under the accounting standards in effect for the prior period.

We recorded a net increase to opening equity of \$2.2 million as of January 1, 2018 as the cumulative effect of adopting the new revenue standard. The effect on revenues of adopting the new revenue standard for the three months ended March 31, 2018 was immaterial.

Disaggregation of Revenue

The following table presents our revenues disaggregated by major revenue source. Sales and usage-based taxes are excluded from revenues.

| | Three Months Ended March 31, | |
|-------------------------|-------------------------------------|-------------|
| | 2018 | 2017 |
| | (in thousands) | |
| On demand | | |
| Property management | \$ 45,319 | \$ 40,341 |
| Resident services | 77,177 | 60,968 |
| Leasing and marketing | 39,416 | 27,816 |
| Asset optimization | 31,388 | 17,088 |
| Total on demand revenue | 193,300 | 146,213 |
| Professional and other | 8,001 | 6,706 |
| Total revenue | \$ 201,301 | \$ 152,919 |

On Demand Revenue

We generate the majority of our on demand revenue by licensing software-as-a-service (“SaaS”) solutions to our clients on a subscription basis. We group our SaaS solutions in four primary categories: property management, resident services, leasing and marketing and asset optimization. Each solution category generally represents a different stage of the renter life cycle and the operations of a property owner’s or manager’s rental properties. Each of our solution categories includes multiple product centers that provide distinct capabilities that can be bundled as a package or licensed separately. Each on demand solution is provided pursuant to contractual commitments that typically include a promise that we will stand ready, on a monthly basis, to deliver access to our technology platform over defined service delivery periods. The Company has concluded these promises represent a single performance obligation that includes a series of distinct services since they provide a form of rental real estate management and property operation service that we consider to be substantially similar and which has the same pattern of transfer to the client. The majority of our on demand sales revenue continues to be recognized over time as clients receive and consume the benefits of accessing our on demand solutions.

Consideration for the Company’s on demand subscription services consist of fixed, variable and usage-based fees. We invoice a portion of our fees at the initial order date and then monthly or annually thereafter. Subscription fees are generally fixed based on the number of sites and the level of services selected by the client.

We sell certain usage-based services, primarily within our property management, resident services and leasing and marketing solutions, to clients based on a fixed rate per transaction. Revenues are calculated based on the number of transactions processed monthly and will vary from month to month based on actual usage of these transaction-based services over the contract term, which is typically one year in duration. The fees for usage-based services are not associated with every distinct service promised in the series of distinct services we provide our clients. As a result, we allocate variable usage-based fees only to the related transactions and recognize them in the month that usage occurs. Usage-based fees are considered fully constrained until the related usage occurs.

As part of our resident services offerings, we offer risk mitigation services to our clients by acting as an insurance agent and derive commission revenue from the sale of insurance products to our clients’ residents. The commissions are based upon a percentage of the premium that the insurance company underwriting partners charge to the policyholder and are subject to forfeiture in instances where a policyholder cancels prior to the end of the policy. The overall insurance services we provide represent a single performance obligation that qualifies as a separate series in accordance with the new revenue standard. Our contracts with our underwriting partners also provide for contingent commissions to be paid to us in accordance with the agreements. Such commissions are variable in nature and are calculated in accordance with the terms of the agreements, which consider, on the policies sold by us, earned premiums less i) earned agent commissions; ii) a percent of premium retained by our underwriting partners; iii) incurred losses; and iv) profit retained by our underwriting partners during the time period. Our estimate of contingent commission revenue considers historical loss experience on the policies sold by us. The contingent commissions are not associated with every distinct service promised in the series of distinct insurance services we provide. We generally accrue and recognize contingent commissions monthly based on estimates of the factors described above.

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Professional Services and Other Revenues

Professional services and other revenues generally consists of the fees we receive for providing implementation and consulting services, submeter equipment and ongoing maintenance of our existing on premise licenses.

Professional Services: Professional services revenues primarily consist of fees for implementation services, consulting services and training. Professional services are billed either on a fixed rate per hour (time) and materials basis or on a fixed price basis. Professional services are typically sold bundled in a contract with other on demand solutions but may be sold separately. Professional service contracts sold separately generally have terms of one year or less. For bundled arrangements, the Company accounts for individual services as a separate performance obligation if a service is separately identifiable from other items in the bundled arrangement and if a client can benefit from it on its own or with other resources readily available to the client. In these cases, the transaction price is allocated between separate services in the bundle based on their relative standalone selling prices.

Equipment: The majority of other revenue is related to our sale of submeter hardware and bundled installation services we provide as part of our utility management solutions. We consider the delivery and installation of submeters to be part of a single performance obligation due to the significance of the integration and interdependency of the installation services with the meter equipment. Our typical payment terms for submeter installations require a percentage of the overall transaction price to be paid upfront, with the remainder billed as progress payments. We recognize submeter revenue in proportion to the number of fully installed units completed to date as compared to the total contracted number of units to be provided and installed. We also sell other hardware used for storing mail packages and for processing renter payments and invoices to our clients. For all other equipment sales, we generally recognize revenue when control of the hardware has transferred to our client, which occurs at a point in time, typically upon delivery to the client.

On Premise: A small percentage of other revenue is derived from sales of our on premise software solutions, which are distributed to our clients and maintained locally on the client's hardware. We no longer actively market our legacy on premise software solutions to new clients, and the majority of on premise revenue consists of maintenance renewals from clients who renew for an additional one-year term. Maintenance renewal revenue is recognized ratably over the service period based upon the standalone selling price of that service obligation.

Contract Balances

Contract assets generally consist of amounts recognized as revenue before they can be invoiced to clients or amounts invoiced to clients prior to the period in which the service is provided where the right to payment is subject to conditions other than just the passage of time. These contract assets are included in "Accounts receivable" in the accompanying Condensed Consolidated Financial Statements and related disclosures. Contract liabilities are comprised of billings or payments received from our clients in advance of performance under the contract. We refer to these contract liabilities as "Deferred revenue" in the accompanying Condensed Consolidated Financial Statements and related disclosures. We recognized \$63.8 million of on demand revenue during the quarter ended March 31, 2018, which was included in the line "Deferred revenue" in the accompanying Condensed Consolidated Balance Sheet as of the beginning of the period.

Contract Acquisition Costs

Under the new revenue standard, we are required to initially capitalize certain contract acquisition costs consisting of commissions earned when contracts are signed. We will subsequently amortize such costs to expense over a period of benefit that we have determined to be three years. Under the previous guidance, we expensed commissions in the period they were earned by our sales representatives. As of March 31, 2018, the current and noncurrent balance of capitalized commissions costs recorded in the lines "Other current assets" and "Other assets" in the accompanying Condensed Consolidated Balance Sheet was \$3.6 million and \$5.4 million, respectively. During the quarter ended March 31, 2018, we amortized commission costs totaling \$0.8 million. No impairment loss was recognized in relation to these costs capitalized.

Transaction Price Allocated to Remaining Performance Obligations

Our client contracts from license and subscription fees relating to our on demand software solutions typically possess a one year renewable term. As such, we disclose within Item 2 the annual client value to allow investors to evaluate future revenue potential.

Certain clients commit to purchase our solutions for terms ranging from two to seven years. We expect to recognize approximately \$354.0 million of revenue in the future related to performance obligations for on demand contracts with an original duration greater than one year that were unsatisfied or partially unsatisfied as of March 31, 2018. Our estimate does not include amounts related to:

- professional and usage-based services that are billed and recognized based on services performed in a certain period;
- amounts attributable to unexercised contract renewals that represent a material right; or
- amounts attributable to unexercised client options to purchase services that do not represent a material right.

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We expect to recognize revenue on approximately 75.0% of the remaining performance obligations over the next 24 months, with the remainder recognized thereafter. Revenue from remaining performance obligations for professional service contracts as of March 31, 2018 was immaterial.

Impact on Financial Statements

In accordance with the new revenue standard requirements, the following tables summarize the effects of this new standard on selected unaudited line items within our Condensed Consolidated Statement of Operations and Balance Sheet:

| | Three Months Ended March 31, 2018 | | |
|---------------------------|--|---|---|
| | As reported | Balances without adoption of ASU 2014-09 | Effect of Change on Net Income Higher/ (Lower) |
| (in thousands) | | | |
| Revenue | | | |
| On demand | \$ 193,300 | \$ 193,455 | \$ (155) |
| Professional and other | 8,001 | 7,419 | 582 |
| Total revenue | <u>\$ 201,301</u> | <u>\$ 200,874</u> | <u>\$ 427</u> |
| Operating expenses | | | |
| Sales and marketing | \$ 50,241 | \$ 52,101 | \$ 1,860 |
| Net income | 10,901 | 8,614 | 2,287 |

| | Balances at March 31, 2018 - as reported | Balances at March 31, 2018 without adoption of ASU 2014-09 | Effect of Change Higher/ (Lower) |
|---|---|---|---|
| | (in thousands) | | |
| Assets | | | |
| Accounts receivable, less allowance for doubtful accounts | \$ 101,005 | \$ 109,266 | \$ (8,261) |
| Other current assets | 9,838 | 6,201 | 3,637 |
| Other assets | 19,533 | 14,114 | 5,419 |
| Liabilities | | | |
| Current portion of deferred revenue | 109,965 | 110,305 | (340) |
| Deferred revenue | 5,457 | 5,457 | — |

The adoption of ASU 2014-09 had no net effect on the Company's Condensed Consolidated Statement of Cash Flows for the three months ended March 31, 2018.

5. Property, Equipment, and Software

Property, equipment, and software consisted of the following at March 31, 2018 and December 31, 2017:

| | March 31, 2018 | December 31, 2017 |
|---|-----------------------|--------------------------|
| | (in thousands) | |
| Leasehold improvements | \$ 59,864 | \$ 59,179 |
| Data processing and communications equipment | 75,112 | 83,922 |
| Furniture, fixtures, and other equipment | 31,292 | 28,752 |
| Software | 113,497 | 107,924 |
| Property, equipment, and software, gross | <u>279,765</u> | <u>279,777</u> |
| Less: Accumulated depreciation and amortization | (134,243) | (131,349) |
| Property, equipment, and software, net | <u>\$ 145,522</u> | <u>\$ 148,428</u> |

Depreciation and amortization expense for property, equipment, and purchased software was \$6.9 million and \$6.6 million for the three months ended March 31, 2018 and 2017, respectively.

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The carrying amount of capitalized software development costs was \$77.7 million and \$73.4 million at March 31, 2018 and December 31, 2017, respectively. Total accumulated amortization related to these assets was \$30.4 million and \$27.8 million at March 31, 2018 and December 31, 2017, respectively. Amortization expense related to capitalized software development costs totaled \$2.6 million and \$1.7 million for the three months ended March 31, 2018 and 2017, respectively.

6. Goodwill and Identified Intangible Assets

Changes in the carrying amount of goodwill during the three months ended March 31, 2018 were as follows, in thousands:

| | | |
|---------------------------------|----|---------|
| Balance as of December 31, 2017 | \$ | 751,052 |
| Measurement period adjustments | | (35) |
| Balance as of March 31, 2018 | \$ | 751,017 |

Identified intangible assets consisted of the following at March 31, 2018 and December 31, 2017:

| | March 31, 2018 | | | December 31, 2017 | | |
|--------------------------------------|-----------------|--------------------------|------------|-------------------|--------------------------|------------|
| | Carrying Amount | Accumulated Amortization | Net | Carrying Amount | Accumulated Amortization | Net |
| (in thousands) | | | | | | |
| Finite-lived intangible assets: | | | | | | |
| Developed technologies | \$ 164,847 | \$ (82,267) | \$ 82,580 | \$ 164,639 | \$ (76,576) | \$ 88,063 |
| Client relationships | 213,718 | (84,756) | 128,962 | 213,728 | (78,390) | 135,338 |
| Vendor relationships | 5,650 | (5,650) | — | 5,650 | (5,650) | — |
| Trade names | 17,506 | (5,852) | 11,654 | 17,556 | (4,325) | 13,231 |
| Non-compete agreements | 4,173 | (802) | 3,371 | 4,173 | (605) | 3,568 |
| Total finite-lived intangible assets | 405,894 | (179,327) | 226,567 | 405,746 | (165,546) | 240,200 |
| Indefinite-lived intangible assets: | | | | | | |
| Trade names | 12,137 | — | 12,137 | 12,137 | — | 12,137 |
| Total identified intangible assets | \$ 418,031 | \$ (179,327) | \$ 238,704 | \$ 417,883 | \$ (165,546) | \$ 252,337 |

Amortization expense related to finite-lived intangible assets was \$13.8 million and \$6.1 million for the three months ended March 31, 2018 and 2017, respectively.

7. Debt

Credit Facility

On September 30, 2014, we entered into an agreement for a secured credit facility to refinance our outstanding revolving loans. The credit facility agreement was subsequently amended during the years ended 2016 and 2017, and was further amended in March 2018 by the Seventh Amendment, discussed below (inclusive of these amendments, the “Credit Facility”). For more information regarding these amendments, refer to our 2017 Form 10-K. The Credit Facility matures on February 27, 2022, and includes the following:

Revolving Facility: The Credit Facility provides \$350.0 million in aggregate commitments for revolving loans, with sublimits of \$10.0 million for the issuance of letters of credit and \$20.0 million for swingline loans (“Revolving Facility”).

Term Loan: In February 2016, we originated a term loan in the original principal amount of \$125.0 million under the Credit Facility (“Term Loan”). We make quarterly principal payments of \$0.8 million, which will increase to \$1.5 million beginning on June 30, 2018, and to \$3.1 million beginning on June 30, 2020.

Delayed Draw Term Loan: In December 2017, we drew funds of \$200.0 million available under the delayed draw term loan (“Delayed Draw Term Loan”). Subsequent to disbursement of the Delayed Draw Term Loan funds, we began making quarterly principal payments on the Delayed Draw Term Loan equal to an initial amount of \$1.3 million. The quarterly principal payments increase to \$2.5 million beginning on June 30, 2018, and to \$5.0 million beginning on June 30, 2020.

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Revolving loans under the Credit Facility may be voluntarily prepaid and re-borrowed. Principal payments on the Term Loan and Delayed Draw Term Loan (collectively, the “Term Loans”) are due in quarterly installments, as described above, and may not be re-borrowed. All outstanding principal and accrued but unpaid interest is due on the maturity date. The Term Loans are subject to mandatory repayment requirements in the event of certain asset sales or if certain insurance or condemnation events occur, subject to customary reinvestment provisions. The Company may prepay the Term Loans in whole or in part at any time, without premium or penalty, with prepayment amounts to be applied to remaining scheduled principal amortization payments as specified by the Company.

Accordion Feature: The Credit Facility also allows us, subject to certain conditions, to request additional term loans or revolving commitments up to an aggregate principal amount of \$150.0 million, plus an amount that would not cause our Senior Leverage Ratio, as defined below, to exceed 3.50 to 1.00.

At our option, amounts outstanding under the Credit Facility accrue interest at a per annum rate equal to either LIBOR, plus a margin ranging from 1.25% to 2.25%, or the Base Rate, plus a margin ranging from 0.25% to 1.25% (“Applicable Margin”). The base LIBOR is, at our discretion, equal to either one, two, three, or six month LIBOR. The Base Rate is defined as the greater of Wells Fargo’s prime rate, the Federal Funds Rate plus 0.50%, or one month LIBOR plus 1.00%. In each case, the Applicable Margin is determined based upon our Net Leverage Ratio, as defined below. Accrued interest on amounts outstanding under the Credit Facility is due and payable quarterly, in arrears, for loans bearing interest at the Base Rate and at the end of the applicable interest period in the case of loans bearing interest at the adjusted LIBOR.

Certain of our existing and future material domestic subsidiaries are required to guarantee our obligations under the Credit Facility, and the obligations under the Credit Facility are secured by substantially all of our assets and the assets of the subsidiary guarantors. The Credit Facility contains customary covenants, subject in each case to customary exceptions and qualifications. Our covenants include, among other limitations, a requirement that we comply with a maximum Consolidated Net Leverage Ratio, a minimum Consolidated Interest Coverage Ratio, and a maximum Consolidated Senior Secured Net Leverage Ratio.

Consolidated Net Leverage Ratio: The Consolidated Net Leverage Ratio (“Net Leverage Ratio”) is the ratio of consolidated funded indebtedness, as defined in the Credit Facility, on the last day of each fiscal quarter to the sum of the four previous consecutive fiscal quarters’ consolidated EBITDA, as defined in the Credit Facility. As modified by the Seventh Amendment, this ratio generally may not exceed 5.00 to 1.00. The Net Leverage Ratio may increase, at our option, to 5.50 to 1.00 following an acquisition having aggregate consideration greater than \$150.0 million and occurring within a specified time period following the Seventh Amendment Effective Date, defined below. The option to increase this ratio may be elected no more than one time during any consecutive 24 month period over the term of the Credit Facility, and lasts for four consecutive fiscal quarters. As of March 31, 2018, we had not exercised our option to increase the Net Leverage Ratio.

Consolidated Interest Coverage Ratio: The Consolidated Interest Coverage Ratio (“Interest Coverage Ratio”) is the ratio of the sum of our four previous fiscal quarters’ consolidated EBITDA to consolidated interest expense, as defined in the Credit Facility, for the same period. The Interest Coverage Ratio must not be less than 3.00 to 1.00 on the last day of each fiscal quarter. The Interest Coverage Ratio excludes non-cash interest attributable to the Convertible Notes (see Convertible Notes below).

Consolidated Senior Secured Net Leverage Ratio: The Consolidated Senior Secured Net Leverage Ratio (“Senior Leverage Ratio”) is the ratio of consolidated senior secured indebtedness, as defined in the Credit Facility, on the last day of each fiscal quarter to the sum of the four previous consecutive fiscal quarters’ consolidated EBITDA and, as modified by the Seventh Amendment, may not exceed 3.75 to 1.00. At our option, this ratio may be increased to 4.25 to 1.00 for four consecutive fiscal quarters following the completion of an acquisition having aggregate consideration greater than \$150.0 million and occurring within a specified time period following the Seventh Amendment Effective Date, defined below. We are not permitted to exercise this option more than one time during any consecutive 24 month period. As of March 31, 2018, we had not exercised our option to increase the Senior Leverage Ratio.

As of March 31, 2018, we were in compliance with the covenants under our Credit Facility.

Seventh Amendment: On March 12, 2018 (“Seventh Amendment Effective Date”), we entered into the seventh amendment (“Seventh Amendment”) to the Credit Facility. This amendment allowed for an increase of \$150.0 million in available credit under our Revolving Facility, consequently providing aggregate commitments for revolving loans up to \$350.0 million. Among other modifications, the Seventh Amendment provided for an increase in the maximum Net Leverage Ratio and Senior Leverage Ratio to 5.00 to 1.00 and 3.75 to 1.00, respectively. The Seventh Amendment also modified the Accordion Feature definition to allow for incremental commitments which would not cause our Senior Leverage Ratio to exceed 3.50 to 1.00. We incurred debt issuance costs in the amount of \$1.1 million related to the execution of this amendment.

As of March 31, 2018, we had \$300.0 million of available credit under our Revolving Facility. We incur commitment fees on the unused portion of the Revolving Facility.

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Principal outstanding, and unamortized debt issuance costs for the Term Loans, were as follows at March 31, 2018 and December 31, 2017:

| | March 31, 2018 | | | December 31, 2017 | | |
|----------------------------|-------------------|------------------------|--------------------|-------------------|------------------------|--------------------|
| | Term Loan | Delayed Draw Term Loan | Revolving Facility | Term Loan | Delayed Draw Term Loan | Revolving Facility |
| (in thousands) | | | | | | |
| Principal outstanding | \$ 119,590 | \$ 197,500 | \$ 50,000 | \$ 120,356 | \$ 198,750 | \$ 50,000 |
| Unamortized issuance costs | (217) | (767) | — | (233) | (821) | — |
| Unamortized discount | (173) | (457) | — | (185) | (490) | — |
| Carrying value | <u>\$ 119,200</u> | <u>\$ 196,276</u> | <u>\$ 50,000</u> | <u>\$ 119,938</u> | <u>\$ 197,439</u> | <u>\$ 50,000</u> |

Unamortized debt issuance costs for the Revolving Facility were \$1.6 million and \$0.6 million at March 31, 2018 and December 31, 2017, respectively, and are included in the line “Other assets” in the Condensed Consolidated Balance Sheets.

Future maturities of principal under the Term Loans are as follows for the years ending December 31, in thousands:

| | Term Loans |
|------------|-------------------|
| 2018 | \$ 12,100 |
| 2019 | 16,133 |
| 2020 | 28,232 |
| 2021 | 32,266 |
| Thereafter | 228,359 |
| | <u>\$ 317,090</u> |

Convertible Notes

In May 2017, the Company issued convertible senior notes with aggregate principal of \$345.0 million (including the underwriters’ exercise in full of their over-allotment option of \$45.0 million) which mature on November 15, 2022 (“Convertible Notes”). The Convertible Notes were issued under an indenture dated May 23, 2017 (“Indenture”), by and between the Company and Wells Fargo Bank, N.A., as Trustee. We received net proceeds from the offering of approximately \$304.2 million after adjusting for debt issuance costs, including the underwriting discount, the net cash used to purchase the Note Hedges and the proceeds from the issuance of the Warrants which are discussed below.

The Convertible Notes accrue interest at a rate of 1.50%, payable semi-annually on May 15 and November 15 of each year beginning on November 15, 2017. On or after May 15, 2022, and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their Convertible Notes at their option. The Convertible Notes are convertible at an initial rate of 23.84 shares per \$1,000 of principal (equivalent to an initial conversion price of approximately \$41.95 per share of our common stock). The conversion rate is subject to customary adjustments for certain events as described in the Indenture. Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. It is the Company’s current intent to settle conversions of the Convertible Notes through combination settlement, which involves repayment of the principal portion in cash and any excess of the conversion value over the principal amount in shares of our common stock.

Holders may convert their Convertible Notes, at their option, prior to May 15, 2022 only under the following circumstances:

- during any calendar quarter commencing after the calendar quarter ending on June 30, 2017 (and only during such calendar quarter), if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;
- during the five business day period after any five consecutive trading day period (the “Measurement Period”) in which the trading price per \$1,000 principal amount of the Convertible Notes for each trading day of the Measurement Period was less than 98% of the product of the last reported sales price of our common stock and the conversion rate on each such trading day; or
- upon the occurrence of specified corporate events, as defined in the Indenture.

We may not redeem the Convertible Notes prior to their maturity date, and no sinking fund is provided for them. If we undergo a fundamental change, as described in the Indenture, subject to certain conditions, holders may require us to

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repurchase for cash all or any portion of their Convertible Notes. The fundamental change repurchase price is equal to 100% of the principal amount of the Convertible Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date. If holders elect to convert their Convertible Notes in connection with a make-whole fundamental change, as described in the Indenture, the Company will, to the extent provided in the Indenture, increase the conversion rate applicable to the Convertible Notes.

The Convertible Notes are senior unsecured obligations and rank senior in right of payment to any of our indebtedness that is expressly subordinated in right of payment to the Convertible Notes and equal in right of payment to any of our existing and future unsecured indebtedness that is not subordinated. The Convertible Notes are effectively junior in right of payment to any of our secured indebtedness (to the extent of the value of assets securing such indebtedness) and structurally junior to all existing and future indebtedness and other liabilities, including trade payables, of our subsidiaries. The Indenture does not limit the amount of debt that we or our subsidiaries may incur. The Convertible Notes are not guaranteed by any of our subsidiaries.

The Indenture does not contain any financial or operating covenants or restrictions on the payments of dividends, the incurrence of indebtedness, or the issuance or repurchase of securities by us or any of our subsidiaries. The Indenture contains customary events of default with respect to the Convertible Notes and provides that upon certain events of default occurring and continuing, the Trustee may, and the Trustee at the request of holders of at least 25% in principal amount of the Convertible Notes shall, declare all of principal and accrued and unpaid interest, if any, of the Convertible Notes to be due and payable. In case of certain events of bankruptcy, insolvency or reorganization, involving us or a significant subsidiary, all of the principal of and accrued and unpaid interest on the Convertible Notes will automatically become due and payable.

In accounting for the issuance of the Convertible Notes, the Company separated the Convertible Notes into liability and equity components. We allocated \$282.5 million of the Convertible Notes to the liability component, and \$62.5 million to the equity component. The excess of the principal amount of the liability component over its carrying amount is amortized to interest expense over the term of the Convertible Notes using the effective interest method. The equity component will not be remeasured as long as it continues to meet the conditions for equity classification.

We incurred issuance costs of \$9.8 million related to the Convertible Notes. Issuance costs were allocated to the liability and equity components based on their relative values. Issuance costs attributable to the liability component are being amortized to interest expense over the term of the Convertible Notes, and issuance costs attributable to the equity component are included along with the equity component in stockholders' equity.

The net carrying amount of the Convertible Notes at March 31, 2018 and December 31, 2017, was as follows:

| | March 31, 2018 | December 31, 2017 |
|---|-------------------|-------------------|
| | (in thousands) | |
| Liability component: | | |
| Principal amount | \$ 345,000 | \$ 345,000 |
| Unamortized discount | (54,033) | (56,557) |
| Unamortized debt issuance costs | (6,921) | (7,244) |
| | <u>\$ 284,046</u> | <u>\$ 281,199</u> |
| Equity component, net of issuance costs and deferred tax: | \$ 61,390 | \$ 61,390 |

The following table sets forth total interest expense related to the Convertible Notes for the three months ended March 31, 2018:

| | Three Months Ended March 31, 2018 |
|--|--------------------------------------|
| | (in thousands) |
| Contractual interest expense | \$ 1,294 |
| Amortization of debt discount | 2,524 |
| Amortization of debt issuance costs | 323 |
| | <u>\$ 4,141</u> |
| Effective interest rate of the liability component | <u>5.87%</u> |

No interest expense related to the Convertible Notes was incurred for the three months ended March 31, 2017, as the Convertible Notes were issued during the second quarter of 2017.

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Convertible Note Hedges and Warrants

On May 23, 2017, we entered into privately negotiated transactions to purchase hedge instruments (“Note Hedges”), covering approximately 8.2 million shares of our common stock at a cost of \$62.5 million. The Note Hedges are subject to anti-dilution provisions substantially similar to those of the Convertible Notes, have a strike price of approximately \$41.95 per share, are exercisable by us upon any conversion under the Convertible Notes, and expire on November 15, 2022.

The Note Hedges are generally expected to reduce the potential dilution to our common stock (or, in the event the conversion is settled in cash, to reduce our cash payment obligation) in the event that at the time of conversion our stock price exceeds the conversion price under the Convertible Notes. The cost of the Note Hedges is expected to be tax deductible as an original issue discount over the life of the Convertible Notes, as the Convertible Notes and the Note Hedges represent an integrated debt instrument for tax purposes. The cost of the Note Hedges was recorded as a reduction of our additional paid-in capital in the accompanying Condensed Consolidated Financial Statements.

On May 23, 2017, the Company also sold warrants for the purchase of up to 8.2 million shares of our common stock for aggregate proceeds of \$31.5 million (“Warrants”). The Warrants have a strike price of \$57.58 per share and are subject to customary anti-dilution provisions. The Warrants will expire in ratable portions on a series of expiration dates commencing on February 15, 2023. The proceeds from the issuance of the Warrants were recorded as an increase to our additional paid-in capital in the accompanying Condensed Consolidated Financial Statements.

The Note Hedges are transactions that are separate from the terms of the Convertible Notes and the Warrants, and holders of the Convertible Notes and the Warrants have no rights with respect to the Note Hedges. The Warrants are similarly separate in both terms and rights from the Note Hedges and the Convertible Notes. As of March 31, 2018, no Note Hedges or Warrants had been exercised.

8. Stock-based Expense

During the three months ended March 31, 2018, the Company made the following grants of time-based restricted stock:

| Three Months Ended March 31, 2018 | Vesting |
|--|--|
| 814,678 | Shares vest ratably over a period of twelve quarters beginning on the first day of the second calendar quarter immediately following the grant date. |
| 3,600 | Shares fully vested on the first day of the calendar quarter immediately following the grant date. |

During the three months ended March 31, 2018, we granted 517,364 shares of restricted stock that become eligible to vest based on the achievement of certain market-based conditions, as described below:

| Three Months Ended March 31, 2018 | Condition to Become Eligible to Vest |
|--|--|
| 129,341 | After the grant date and prior to July 1, 2021, the average closing price per share of our common stock equals or exceeds \$60.89 for twenty consecutive trading days. |
| 129,341 | After the grant date and prior to July 1, 2021, the average closing price per share of our common stock equals or exceeds \$66.98 for twenty consecutive trading days. |
| 129,341 | After the grant date and prior to July 1, 2021, the average closing price per share of our common stock equals or exceeds \$73.07 for twenty consecutive trading days. |
| 129,341 | After the grant date and prior to July 1, 2021, the average closing price per share of our common stock equals or exceeds \$85.24 for twenty consecutive trading days. |

Shares that become eligible to vest, if any, become Eligible Shares. These awards vest ratably over four calendar quarters beginning on the first day of the next calendar quarter immediately following the date on which they become Eligible Shares. Vesting is conditional upon the recipient remaining a service provider, as defined in the plan document, to the Company through each applicable vesting date.

Grants of restricted stock may be fulfilled through the issuance of previously authorized but unissued common stock shares, or the reissuance of shares held in treasury. All awards were granted under the Amended and Restated 2010 Equity Incentive Plan.

The Company capitalized \$0.2 million of stock-based expense for software development costs during the three months ended March 31, 2018.

9. Commitments and Contingencies

Lease Commitments

The Company leases office facilities and equipment for various terms under long-term, non-cancellable operating lease agreements. The leases expire at various dates through 2028 and provide for renewal options. The agreements generally require the Company to pay for executory costs such as real estate taxes, insurance, and repairs. At March 31, 2018, minimum annual rental commitments under non-cancellable operating leases were as follows for the years ending December 31, in thousands:

| | | |
|------------|----|----------------|
| 2018 | \$ | 11,529 |
| 2019 | | 13,775 |
| 2020 | | 11,599 |
| 2021 | | 10,910 |
| 2022 | | 9,336 |
| Thereafter | | 46,121 |
| | \$ | <u>103,270</u> |

Guarantor Arrangements

We have agreements whereby we indemnify our officers and directors for certain events or occurrences while the officer or director is or was serving at our request in such capacity. The term of the indemnification period is for the officer or director's lifetime. The maximum potential amount of future payments we could be required to make under these indemnification agreements is unlimited; however, we have a director and officer insurance policy that limits our exposure and enables us to recover a portion of any future amounts paid. As a result of our insurance policy coverage, we believe the estimated fair value of these indemnification agreements is minimal. Accordingly, we had no liabilities recorded for these agreements as of March 31, 2018 or December 31, 2017.

In the ordinary course of our business, we include standard indemnification provisions in our agreements with clients. Pursuant to these provisions, we indemnify our clients for losses suffered or incurred in connection with third-party claims that our products infringed upon any U.S. patent, copyright, trademark, or other intellectual property right. Where applicable, we generally limit such infringement indemnities to those claims directed solely to our products and not in combination with other software or products. With respect to our products, we also generally reserve the right to resolve any such claims by designing a non-infringing alternative, by obtaining a license on reasonable terms, or by terminating our relationship with the client and refunding the client's fees.

The potential amount of future payments to defend lawsuits or settle indemnified claims under these indemnification provisions is unlimited in certain agreements; however, we believe the estimated fair value of these indemnification provisions is minimal, and, accordingly, we had no liabilities recorded for these agreements as of March 31, 2018 or December 31, 2017.

Litigation

From time to time, in the normal course of our business, we are a party to litigation matters and claims. Litigation can be expensive and disruptive to our normal business operations. Moreover, the results of complex legal proceedings are difficult to predict and our view of these matters may change in the future as the litigation and events related thereto unfold. We expense legal fees as incurred. Insurance recoveries associated with legal costs incurred are recorded when they are deemed probable of recovery.

On February 23, 2015, we received from the Federal Trade Commission ("FTC") a Civil Investigative Demand consisting of interrogatories and a request to produce documents relating to our compliance with the FCRA. We responded to the request and requests for additional information by the FTC. On November 2, 2017, the FTC staff informed us of its belief that there is a basis for claims that could include monetary and injunctive relief against us for failing to follow reasonable procedures to assure maximum possible accuracy of our tenant screening reports. We believe that our business practices did not, and do not, violate the FCRA or any other laws, and we intend to vigorously defend our position. We have had ongoing discussions with the FTC to attempt to resolve the matter. However, we cannot be certain that the matter will be resolved as a result of these discussions.

At March 31, 2018 and December 31, 2017, we had accrued amounts for estimated settlement losses related to legal matters. The Company does not believe there is a reasonable possibility that a material loss exceeding amounts already recognized may have been incurred as of the date of the balance sheets presented herein.

We are involved in other litigation matters not described above that are not likely to be material either individually or in the aggregate based on information available at this time. Our view of these matters may change as the litigation and events related thereto unfold.

10. Net Income per Share

Basic net income per share is computed by dividing net income by the weighted average number of common shares outstanding during the period. Diluted net income per share is computed by using the weighted average number of common shares outstanding, including potential dilutive shares of common stock assuming the dilutive effect of outstanding stock options and restricted stock using the treasury stock method. Weighted average shares from common share equivalents in the amount of 659,745 and 729,637 for the three months ended March 31, 2018 and 2017, respectively, were excluded from the dilutive shares outstanding because their effect was anti-dilutive.

For purposes of considering the Convertible Notes in determining diluted net income per share, it is the current intent of the Company to settle conversions of the Convertible Notes through combination settlement, which involves repayment of the principal portion in cash and any excess of the conversion value over the principal amount (the “conversion premium”) in shares of our common stock. Therefore, only the impact of the conversion premium will be included in total dilutive weighted average shares outstanding using the treasury stock method. The dilutive effect of the conversion premium is shown in the table below.

The Warrants sold in connection with the issuance of the Convertible Notes will not be considered in calculating the total dilutive weighted average shares outstanding until the price of the Company’s common stock exceeds the strike price of \$57.58 per share, as described in Note 7. When the price of the Company’s common stock exceeds the strike price of the Warrants, the effect of the additional shares that may be issued upon exercise of the Warrants will be included in total dilutive weighted average shares outstanding using the treasury stock method. The Note Hedges purchased in connection with the issuance of the Convertible Notes are considered to be anti-dilutive and therefore do not impact the Company’s calculation of diluted net income per share. Refer to Note 7 for further discussion regarding the Convertible Notes.

The following table presents the calculation of basic and diluted net income per share:

| | Three Months Ended March 31, | |
|---|---|-------------|
| | 2018 | 2017 |
| | (in thousands, except per share amounts) | |
| Numerator: | | |
| Net income | \$ 10,901 | \$ 8,195 |
| Denominator: | | |
| Basic: | | |
| Weighted average common shares used in computing basic net income per share | 81,166 | 78,263 |
| Diluted: | | |
| Add weighted average effect of dilutive securities: | | |
| Stock options and restricted stock | 2,332 | 3,123 |
| Convertible Notes | 1,319 | — |
| Weighted average common shares used in computing diluted net income per share | 84,817 | 81,386 |
| Net income per share: | | |
| Basic | \$ 0.13 | \$ 0.10 |
| Diluted | \$ 0.13 | \$ 0.10 |

11. Income Taxes

We make estimates and judgments in determining our provision for income taxes for financial statement purposes. These estimates and judgments occur in the calculation of certain tax assets and liabilities that arise from differences in the timing of recognition of revenue and expense for tax and financial statement purposes.

Our provision for income taxes in interim periods is based on our estimated annual effective tax rate. We record cumulative adjustments in the quarter in which a change in the estimated annual effective rate is determined. The estimated annual effective tax rate calculation does not include the effect of discrete events that may occur during the year. The effect of these events, if any, is recorded in the quarter in which the event occurs.

On December 22, 2017, the Tax Cuts and Jobs Act (“Tax Reform Act”) was enacted into law which changed U.S. tax law, including, but not limited to: (1) reducing the U.S. federal corporate income tax rate from 35% to 21% (2) requiring companies to pay a one-time transition tax on certain unrepatriated earnings of foreign subsidiaries (3) generally eliminating U.S. federal corporate income taxes on dividends from foreign subsidiaries (4) capitalizing U.S. R&D expenses which are amortized over five years and (5) other changes affecting how foreign and domestic earnings are taxed. Due to the complexities involved in

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accounting for the enactment of the new law, the SEC issued Staff Accounting Bulletin No. 118 ("SAB 118") to address the application of US GAAP in situations where a registrant does not have the necessary information available, prepared, or analyzed (including computations) in reasonable detail to complete the accounting for certain income tax effects of the Tax Reform Act. At December 31, 2017, we recorded provisional estimates in accordance with SAB 118, including a provisional determination of the impact of the change in corporate tax rates on our deferred tax balances, and a provisional estimate of the amount of transition tax associated with the mandatory deemed repatriation of foreign earnings. We did not make any changes to our provisional estimates during the quarter ended March 31, 2018. We will continue to analyze the impact of the Tax Reform Act as additional guidance is provided by the IRS and state taxing authorities. Additional impacts will be recorded as they are identified during the measurement period provided for in SAB 118.

The Tax Reform Act includes a provision to tax global intangible low-taxed income ("GILTI") of foreign subsidiaries and a base erosion anti-abuse tax ("BEAT") measure that taxes certain payments between a U.S. corporation and its foreign subsidiaries. These provisions of the Tax Reform Act were effective for the Company beginning January 1, 2018. The FASB Staff Q&A, Topic 740, No. 5, *Accounting for Global Intangible Low-Taxed Income*, states that an entity can make an accounting policy election to either recognize deferred taxes for temporary differences expected to reverse as GILTI in future years or provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. Given the complexity of the GILTI provisions, the Company is still evaluating the effects of the GILTI provisions and have not yet determined our accounting policy. At March 31, 2018, because we are still evaluating the GILTI provisions and our analysis of future taxable income that is subject to GILTI, we have included GILTI related to current year operations only in our estimated annual effective tax rate and have not provided additional GILTI on deferred items.

Our effective income tax rate was (2.8)% and 9.0% for the three months ended March 31, 2018 and 2017, respectively. Our effective rate is lower than the statutory rate for the three months ended March 31, 2018, primarily because of excess tax benefits from stock-based compensation of \$4.2 million recognized as a discrete item, as required by ASU 2016-09. The effective tax rate was lower than the statutory rate for the three months ended March 31, 2017, primarily because of excess tax benefits from stock-based compensation of \$2.7 million recognized as a discrete item.

As a result of our adoption of ASU 2014-09, on January 1, 2018, we recorded a net deferred tax liability of \$0.8 million, with a corresponding increase to accumulated deficit.

12. Fair Value Measurements

The Company records certain assets and financial liabilities at fair value on a recurring basis. The Company determines fair values based on the price it would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants at the measurement date and in the principal or most advantageous market for that asset or liability.

The prescribed fair value hierarchy is as follows:

Level 1 - Inputs are quoted prices in active markets for identical assets or liabilities.

Level 2 - Inputs are quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; inputs other than quoted prices that are observable; and market-corroborated inputs which are derived principally from or corroborated by observable market data.

Level 3 - Inputs are derived from valuation techniques in which one or more of the significant inputs or value drivers are unobservable.

The categorization of an asset or liability within the fair value hierarchy is based on the inputs described above and does not necessarily correspond to the Company's perceived risk of that asset or liability. Moreover, the methods used by the Company may produce a fair value calculation that is not indicative of the net realizable value or reflective of future fair values. Furthermore, although the Company believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments and non-financial assets and liabilities could result in a different fair value measurement at the reporting date.

Assets and liabilities measured at fair value on a recurring basis:

Interest rate swap agreements: The fair value of the Company's interest rate swap agreements are determined using widely accepted valuation techniques including discounted cash flow analysis on the expected cash flows of the swap agreements. This analysis reflects the contractual terms of the swap agreements, including the period to maturity, and uses observable market-based inputs, including interest rate curves. The Company incorporates credit valuation adjustments to appropriately reflect both its own nonperformance risk and the respective counterparty's nonperformance risk in the fair value measurements.

Although the Company has determined that the majority of the inputs used to value its swap agreements fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with its swap agreements utilize Level 3 inputs, such as estimates of current credit spreads, to evaluate the likelihood of default by the Company and its counterparties. The Company

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has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its swap agreements' positions and has determined that the credit valuation adjustments are not significant to the overall valuation of its swap agreements. As a result, the Company determined that its valuation of the swap agreements in its entirety is classified in Level 2 of the fair value hierarchy.

Contingent consideration obligations: Contingent consideration obligations consist of potential obligations related to our acquisition activity. The amount to be paid under these obligations is contingent upon the achievement of stipulated operational or financial targets by the business subsequent to acquisition. The fair value of contingent consideration obligations is estimated using a probability weighted discount model which considers the achievement of the conditions upon which the respective contingent obligation is dependent. The probability of achieving the specified conditions is assessed by applying a Monte Carlo weighted-average model. Inputs into the valuation model include a discount rate specific to the acquired entity, a measure of the estimated volatility, and the risk free rate of return.

In addition to the inputs described above, the fair value estimates consider the projected future operating or financial results for the factor upon which the respective contingent obligation is dependent. The fair value estimates are generally sensitive to changes in these projections. We develop the projected future operating results based on an analysis of historical results, market conditions, and the expected impact of anticipated changes in our overall business and/or product strategies.

Significant unobservable inputs used in the contingent consideration fair value measurements included the following at March 31, 2018 and December 31, 2017:

| | March 31, 2018 | December 31, 2017 |
|--------------------------|----------------|-------------------|
| Discount rates | 16.3% | 16.3% |
| Volatility rates | 25.0% | 24.0% |
| Risk free rate of return | 1.9% | 1.6% |

The following tables disclose the assets and liabilities measured at fair value on a recurring basis as of March 31, 2018 and December 31, 2017, by the fair value hierarchy levels as described above:

| | Fair value at March 31, 2018 | | | |
|---|------------------------------|---------|----------|---------|
| | Total | Level 1 | Level 2 | Level 3 |
| | (in thousands) | | | |
| Assets: | | | | |
| Interest rate swap agreements | \$ 1,529 | \$ — | \$ 1,529 | \$ — |
| Liabilities: | | | | |
| Contingent consideration related to the acquisition of: | | | | |
| Axiometrics | 104 | — | — | 104 |
| Total liabilities measured at fair value | \$ 104 | \$ — | \$ — | \$ 104 |

| | Fair value at December 31, 2017 | | | |
|---|---------------------------------|---------|----------|---------|
| | Total | Level 1 | Level 2 | Level 3 |
| | (in thousands) | | | |
| Assets: | | | | |
| Interest rate swap agreements | \$ 1,329 | \$ — | \$ 1,329 | \$ — |
| Liabilities: | | | | |
| Contingent consideration related to the acquisition of: | | | | |
| AssetEye | 247 | — | — | 247 |
| Axiometrics | 167 | — | — | 167 |
| Total liabilities measured at fair value | \$ 414 | \$ — | \$ — | \$ 414 |

There were no transfers between Level 1 and Level 2, or between Level 2 and Level 3 measurements during the three months ended March 31, 2018.

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Changes in the fair value of Level 3 measurements were as follows for the three months ended March 31, 2018 and 2017:

| | Three Months Ended March 31, | |
|---|------------------------------|-----------------|
| | 2018 | 2017 |
| | (in thousands) | |
| Balance at beginning of period | \$ 414 | \$ 541 |
| Initial contingent consideration | — | 812 |
| Settlements through cash payments | (247) | — |
| Net (gain) loss on change in fair value | (63) | 163 |
| Balance at end of period | <u>\$ 104</u> | <u>\$ 1,516</u> |

Gains and losses recognized on the change in fair value of our Level 3 measurements are reflected in the line, “General and administrative” in the accompanying Condensed Consolidated Statements of Operations.

Financial Instruments

The financial assets and liabilities that are not measured at fair value in our Condensed Consolidated Balance Sheets include cash and cash equivalents, restricted cash, accounts receivable, cost-method investments, accounts payable and accrued expenses, acquisition-related deferred cash obligations, obligations under the Term Loans, obligations under the Revolving Facility, and the Convertible Notes.

The carrying values of cash and cash equivalents; restricted cash; accounts receivable; and accounts payable and accrued expenses reported in our Condensed Consolidated Balance Sheets approximates fair value due to the short term nature of these instruments. Acquisition-related deferred cash obligations are recorded on the date of acquisition at their estimated fair value, based on the present value of the anticipated future cash flows. The difference between the amount of the deferred cash obligation to be paid and its estimated fair value on the date of acquisition is accreted over the obligation period. As a result, the carrying value of acquisition-related deferred cash obligations approximates their fair value.

Revolving Facility: Due to its short-term nature and market-indexed interest rates, we concluded that the carrying value of the Revolving Facility approximated its fair value at March 31, 2018.

Term Loans: The fair value of the Term Loans was estimated by discounting future cash flows using prevailing market interest rates on debt with similar creditworthiness, terms, and maturities. We concluded that this fair value measurement should be categorized within Level 2.

Convertible Notes: We estimated the fair value of the Convertible Notes based on quoted market prices as of the last trading day for the three months ended March 31, 2018; however, the Convertible Notes have only a limited trading volume and as such, this fair value estimate is not necessarily the value at which the Convertible Notes could be retired or transferred. We concluded this measurement should be classified within Level 2.

The fair value and carrying value of the Term Loans and Convertible Notes were as follows at March 31, 2018 and December 31, 2017:

| | March 31, 2018 | | December 31, 2017 | |
|-------------------|----------------|----------------|-------------------|----------------|
| | Fair Value | Carrying Value | Fair Value | Carrying Value |
| | (in thousands) | | | |
| Term Loans | \$ 312,497 | \$ 315,476 | \$ 303,806 | \$ 317,377 |
| Convertible Notes | 466,613 | 284,046 | 430,301 | 281,199 |

The carrying value of the Term Loans and Convertible Notes are reflected net of unamortized discount and issuance costs in our Condensed Consolidated Balance Sheets.

13. Stockholders’ Equity

In May 2014, our board of directors approved a share repurchase program authorizing the repurchase of up to \$50.0 million of our outstanding common stock for a period of up to one year after the approval date. Shares repurchased under the plan are retired. Our board of directors approved a one year extension of this program in both 2015 and 2016. On April 28, 2017, our board of directors again approved a one year extension of the share repurchase program. The terms of this extension permit the repurchase of up to \$50.0 million of our common stock during the period commencing on the extension day and ending on May 4, 2018.

There was no repurchase activity during the three months ended March 31, 2018 and 2017.

14. Derivative Financial Instruments

On March 31, 2016, the Company entered into two interest rate swap agreements (collectively the “Swap Agreements”), which are designed to mitigate our exposure to interest rate risk associated with a portion of our variable rate debt. The Swap Agreements cover an aggregate notional amount of \$75.0 million from March 2016 to September 2019 by replacing the obligation’s variable rate with a blended fixed rate of 0.89%. The Company designated the Swap Agreements as cash flow hedges of interest rate risk.

The effective portion of changes in the fair value of the Swap Agreements is recorded in accumulated other comprehensive income and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. The ineffective portion of the change in the fair value of the Swap Agreements is recognized directly in earnings. Amounts reported in accumulated other comprehensive income related to the Swap Agreements will be reclassified to interest expense as interest payments are made on our variable-rate debt. The Company estimates that an additional \$0.9 million will be reclassified as a decrease of interest expense during the twelve-month period ending March 31, 2019.

As of March 31, 2018, the Swap Agreements were still outstanding. The table below presents the notional and fair value of the Swap Agreements as well as their classification in the Condensed Consolidated Balance Sheets as of March 31, 2018 and December 31, 2017:

| | Balance Sheet Location | Notional | Fair Value |
|--|------------------------|-----------|------------|
| (in thousands) | | | |
| Derivatives designated as cash flow hedging instruments: | | | |
| Swap agreements as of March 31, 2018 | Other assets | \$ 75,000 | \$ 1,529 |
| Swap agreements as of December 31, 2017 | Other assets | \$ 75,000 | \$ 1,329 |

As of March 31, 2018, the Company has not posted any collateral related to the Swap Agreements. If the Company had breached any of the Swap Agreement’s default provisions at March 31, 2018, it could have been required to settle its obligations under the Swap Agreements at their termination value of \$1.5 million.

The tables below present the amount of gains and losses related to the effective and ineffective portions of the Swap Agreements and their location in the Condensed Consolidated Statements of Operations and the Condensed Consolidated Statements of Comprehensive Income for the three months ended March 31, 2018 and 2017, in thousands:

| Derivatives Designated as Cash Flow Hedges | Effective Portion | | Ineffective Portion | | |
|--|-------------------------------|--|----------------------------------|--|----------------------------------|
| | Gain (Loss) Recognized in OCI | Location of Gain (Loss) Recognized in Income | Gain (Loss) Recognized in Income | Location of Gain (Loss) Recognized in Income | Gain (Loss) Recognized in Income |
| Three months ended March 31, 2018: | | | | | |
| Swap agreements, net of tax | \$ 258 | Interest expense and other | \$ 99 | Interest expense and other | \$ (16) |
| Three months ended March 31, 2017: | | | | | |
| Swap agreements, net of tax | \$ 93 | Interest expense and other | \$ (21) | Interest expense and other | \$ (18) |

15. Investments

Compstak

In August 2016, we acquired a minority interest in Compstak, Inc. (“Compstak”), which is an unrelated company that specializes in the aggregation of commercial lease data. The shares we acquired represent an ownership interest of less than 20%. We evaluated our relationship with Compstak and determined we do not have significant influence over its operations nor is it economically dependent upon us. The carrying value of this investment at both March 31, 2018 and December 31, 2017 was \$3.0 million and is included in “Other assets” in the accompanying Condensed Consolidated Balance Sheets.

WayBlazer

In January 2018, we paid \$2.0 million in cash in return for a convertible promissory note (“Note”) from WayBlazer, Inc. (“WayBlazer”), which is an unrelated company that specializes in an artificial intelligence platform for the travel industry. The Note bears interest at 8% per annum and matures in December 2020. The Note is convertible into WayBlazer’s common stock shares upon a qualified financing event, as defined in the Note. If converted, the shares would represent an approximate 8% ownership interest. This investment is included in “Other assets” in the accompanying Condensed Consolidated Balance Sheets.

We also entered into a strategic development agreement (“Development Agreement”) with WayBlazer for the development of property management applications. Under the terms of the development Agreement, we will pay direct

development costs, and a license fee to use any property management applications developed. The initial license term is five years. At the end of the license term, the Company has the right to purchase a perpetual license for the applications.

16. Subsequent Events

ClickPay

On April 19, 2018, we entered into an acquisition agreement, by which we acquired substantially all of the outstanding membership units of NovelPay, LLC (“NovelPay”), other than those owned by ClickPay Services, Inc. On the same day, we also entered into an agreement and plan of merger, by which we acquired all of the outstanding stock of ClickPay Services, Inc. (collectively with NovelPay, “ClickPay”). Under the acquisition agreement, certain holders retained a portion of their units representing approximately 12% of the membership units of NovelPay, subject to put rights that may be exercised by the holders after September 1, 2018 and call rights that may be exercised by RealPage after October 1, 2018. The exercise price of the put rights and call rights is the same as the per unit price of the membership units purchased at the closing.

The combined purchase price, assuming exercise of the put or call rights, is approximately \$218.5 million, consisting of a cash payment of \$142.2 million and \$76.3 million in shares of our common stock, subject to a working capital adjustment and a holdback of a portion of the purchase price to serve as security in respect of the indemnification and post-closing purchase price adjustments. The holdback will be payable on or shortly after the first and second anniversary dates of the acquisition date.

ClickPay provides for an electronic payment platform servicing resident units across multiple segments of real estate, which offers integrated payment services to increase operational efficiencies for property owners and managers. The acquisition of ClickPay broadens our presence in the real estate industry, and solidifies the integration of our leasing platform with third-party property management systems.

Due to the timing of this acquisition, certain disclosures required by ASC 805, including the allocation of the purchase price, have been omitted because the initial accounting for the business combination was incomplete as of the filing date of this report. Such information will be included in the Company's subsequent Form 10-Q.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

This Quarterly Report on Form 10-Q contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (which Sections were adopted as part of the Private Securities Litigation Reform Act of 1995). Statements preceded by, followed by, or that otherwise include the words “anticipates,” “believes,” “could,” “seeks,” “estimates,” “expects,” “intends,” “may,” “plans,” “potential,” “predicts,” “projects,” “should,” “will,” “would,” or similar expressions and the negatives of those terms are generally forward-looking in nature and not historical facts. These forward-looking statements involve known and unknown risks, uncertainties, and other factors which may cause our actual results, performance, or achievements to be materially different from any anticipated results, performance, or achievements. Factors that might cause or contribute to such differences include, but are not limited to, those discussed in the section entitled “Risk Factors” in Part II, Item 1A of this report. You should carefully review the risks described herein and in the other documents we file from time to time with the Securities and Exchange Commission (“SEC”), including our Annual Report on Form 10-K for fiscal year 2017 previously filed with the SEC on March 1, 2018. You should not place undue reliance on forward-looking statements herein, which speak only as of the date of this report. Except as required by law, we disclaim any intention, and undertake no obligation, to revise any forward-looking statements, whether as a result of new information, a future event, or otherwise.

Overview

We are a leading global provider of software and data analytics to the real estate industry. Clients use our platform of solutions to improve operating performance and increase capital returns. By leveraging data as well as integrating and streamlining a wide range of complex processes and interactions among the rental real estate ecosystem, our platform helps our clients improve financial and operational performance and prudently place and harvest capital.

The substantial majority of our revenue is derived from sales of our on demand software solutions and are sold pursuant to subscription license agreements. We also derive revenue from our professional and other services. For our insurance-based solutions, we earn revenue based on a commission rate that considers earned premiums; agent commission; incurred losses; and profit retained by our underwriting partner. Our transaction-based solutions are priced based on a fixed rate per transaction. We sell our solutions through our direct sales organization and derive substantially all of our revenue from sales in the United States.

We believe there is increasing demand for solutions that bring efficiency and precision to the rental real estate industry, which has historically lacked the tools available to other investment classes. While the use of, and transition to, data analytics and on demand software solutions in the rental real estate industry is growing rapidly, we believe it remains at a relatively early stage of adoption. Additionally, there is a low level of penetration of our on demand software solutions in our existing client

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base. We believe these factors present us with significant opportunities to generate revenue through sales of additional data analytics and on demand software solutions.

Our company was formed in 1998 to acquire Rent Roll, Inc., which marketed and sold on premise property management systems for the conventional and affordable multifamily rental housing markets. In June 2001, we released OneSite, our first on demand property management system. Since 2002, we have expanded our platform of solutions to include property management, leasing and marketing, resident services, and asset optimization capabilities. In addition to the multifamily markets, we now serve the single family, senior living, student living, military housing, commercial, hospitality, and vacation rental markets. Since July 2002, we have completed over 40 acquisitions of complementary technologies to supplement our internal product development and sales and marketing efforts and expand the scope of our solutions, the types of rental housing and vacation rental properties served by our solutions, and our client base. In connection with this expansion and these acquisitions, we have committed greater resources to developing and increasing sales of our platform of data analytics and on demand solutions. As of March 31, 2018, we had approximately 5,700 employees.

Solutions and Services

Our platform is designed to serve as a single system of record for all of the constituents of the rental real estate ecosystem; to support the entire renter life cycle, from prospect to applicant to residency or guest to post-residency or post-stay; and to optimize operational yields and returns on investment. Common authentication, work flow, and user experience across solution categories enable each of these constituents to access different applications as appropriate for their roles.

Our platform consists of four primary categories of solutions: Property Management, Leasing and Marketing, Resident Services, and Asset Optimization. These solutions provide complementary asset performance and investment decision support; risk mitigation, billing and utility management; resident engagement, spend management, operations and facilities management; and lead generation and lease management capabilities that collectively enable our clients to manage all the stages of the renter life cycle. Each of our solution categories includes multiple product centers that provide distinct capabilities that can be bundled as a package or licensed separately. Each product center integrates with a central repository of lease transaction data, including prospect, renter, and property data. In addition, our open architecture allows third-party applications to access our solutions using our RealPage Exchange platform.

We offer different versions of our platform for different types of properties in different real estate markets. For example, our platform supports the specific and distinct requirements of:

- conventional single family properties;
- conventional multifamily properties;
- affordable Housing and Urban Development ("HUD") properties;
- affordable tax credit properties;
- rural housing properties;
- privatized military housing;
- commercial properties;
- student housing;
- senior living; and
- vacation rentals.

Property Management

Our property management solutions are referred to as ERP systems. These solutions manage core property management business processes, including leasing, accounting, budgeting, purchasing, facilities management, document management, and support and advisory services. The solutions include a central database of prospect, applicant, renter, and property information that is accessible in real time by our other solutions. Our property management solutions also interface with most popular general ledger accounting systems through our RealPage Exchange platform. This makes it possible for clients to deploy our solutions using our accounting system or a third-party accounting system. Our property management solution category consists of eight primary solutions including OneSite, Propertyware, RealPage Financial Services, Kigo, Spend Management Solutions, The RealPage Cloud, SmartSource, and EasyLMS.

Leasing and Marketing

Leasing and marketing solutions aim to optimize marketing spend and the leasing process. These solutions manage core leasing and marketing processes, including websites and syndication, paid lead generation, organic lead generation, lead management, automated lead closure, lead analytics, real-time unit availability, automated online apartment leasing, and applicant screening. Our leasing and marketing solutions category consists of six primary solutions: Online Leasing, Contact

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Center, Websites & Syndication, MyNewPlace, Lead2Lease CRM, and Resident Screening. In 2017, we acquired On-Site and Intelligent Lease Management (ILM), two platforms for property managers and renters that offer solutions to complement our existing leasing and marketing solutions. Our integration of these platforms, which we intend to complete over time, is expected to enhance our existing leasing and marketing solutions.

Resident Services

Our resident services solutions provide a platform to optimize the transactional and social experience of prospects and renters, and enhance a property's reputation. These solutions facilitate core renter management business processes including utility billing, renter payment processing, service requests, lease renewal, renter's insurance, and consulting and advisory services. In connection with our On-Site acquisition, we acquired Deposit IQ, a subsidiary of On-Site, which added additional solutions to our platform. Our resident services solution category consists of five primary solutions: Resident Utility Management, Resident Payments, Resident Portal, Contact Center Maintenance, and Renter's Insurance.

Asset Optimization

Our asset optimization solutions aim to optimize property financial and operational performance, and provide comprehensive analytics-based decision support for optimum investment performance throughout the phases of real estate investment (e.g., acquisition, operation, renovation, and disposition). These solutions facilitate core asset management, business intelligence, performance benchmarking and investment analysis including real-time yield management, revenue growth forecasting, key variable sensitivity forecasting, internal operating metric benchmarking and external market benchmarking. Our asset optimization solution category consists of three primary solutions: YieldStar Revenue Management, Business Intelligence, and Asset and Investment Management.

Professional Services

We have developed repeatable, cost-effective consulting and implementation services to assist our clients in taking advantage of the capabilities enabled by our asset optimization solutions. Our consulting and implementation methodology leverages the nature of our on demand software architecture, the industry-specific expertise of our professional services employees, and the design of our platform to simplify and expedite the implementation process. Our consulting and implementation services include project and application management procedures, business process evaluation, business model development and data conversion. Our consulting teams work closely with customers to facilitate the smooth transition and operation of our solutions.

We offer training programs for training administrators and onsite property managers on the use of our solutions. Training options include regularly hosted classroom and online instruction (through our online learning courseware), as well as online webinars. Our clients can integrate their own training content with our content to deliver an integrated and customized training program for their on-site property managers.

Recent Developments

Credit Facility

In March 2018, we executed the Seventh Amendment to our 2014 Credit Facility. This amendment allowed for an increase of \$150.0 million in available credit under our Revolving Facility, consequently providing aggregate commitments for revolving loans up to \$350.0 million. Among other modifications, the Seventh Amendment provided for an increase in the maximum Net Leverage Ratio and Senior Leverage Ratio to 5.00 to 1.00 and 3.75 to 1.00, respectively. The Seventh Amendment also modified the Accordion Feature definition to allow for incremental commitments which would not cause our Senior Leverage Ratio to exceed 3.50 to 1.00.

Refer to Note 7 of the accompanying Condensed Consolidated Financial Statements for applicable definitions, further discussion of this amendment, and other terms and conditions of the Credit Facility.

Current Acquisition Activity

No acquisitions were completed during the three months ended March 31, 2018.

ClickPay

In April 2018, we entered into an acquisition agreement, by which we acquired substantially all of the outstanding membership units of NovelPay, LLC ("NovelPay"), other than those owned by ClickPay Services, Inc. On the same day, we also entered into an agreement and plan of merger, by which we acquired all of the outstanding stock of ClickPay Services, Inc. (collectively with NovelPay, "ClickPay"). Under the acquisition agreement, certain holders retained a portion of their units representing approximately 12% of the membership units of NovelPay, subject to put rights that may be exercised by the holders after September 1, 2018 and call rights that may be exercised by RealPage after October 1, 2018. The exercise price of the put rights and call rights is the same as the per unit price of the membership units purchased at the closing.

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The combined purchase price, assuming exercise of the put or call rights, is approximately \$218.5 million, consisting of a cash payment at closing of \$142.2 million and \$76.3 million in shares of our common stock, subject to a working capital adjustment and a holdback of a portion of the purchase price to serve as security in respect of the indemnification and post-closing purchase price adjustments. The holdback will be payable on or shortly after the first and second anniversary dates of the acquisition date.

Other Event

During May 2018, we learned that we were the subject of a targeted email phishing campaign that led to a business email compromise, pursuant to which an unauthorized party gained access to an external third party system used by a subsidiary we acquired in 2017. The incident resulted in the diversion of approximately \$8 million of funds intended for disbursement to three clients. We immediately notified relevant financial institutions and certain government agencies of the incident and restored all funds to the client accounts. No client consumer data was compromised.

We immediately engaged a leading forensics firm to investigate the incident. The intrusion was limited to the external third party system used by our subsidiary that we were migrating to our core platform. Although the investigation is ongoing, there is no evidence at this time that this event involved access to any other systems, including operational, security or proprietary risk management systems, whether corporate or client-facing. We have taken action to remediate the security weakness that gave rise to the incident. While certain remedial actions have been completed, we continue to actively plan for and implement additional control procedures.

This incident did not have an impact on our business, cash flows, financial condition or results of operations for the three months ended March 31, 2018. We maintain insurance coverage to limit our losses related to criminal and network security events. During the three months ended June 30, 2018, we expect to take a charge related to the diverted funds and other associated expenses offset by a receivable for amounts deemed probable of recovery from applicable insurance coverage. Presently, we have determined that such net charge will not be material to our 2018 financial results.

Key Business Metrics

In addition to traditional financial measures, we monitor our operating performance using a number of financially and non-financially derived metrics that are not included in our Condensed Consolidated Financial Statements. We monitor the key performance indicators reflected in the following table:

| | Three Months Ended March 31, | |
|---|------------------------------|------------|
| | 2018 | 2017 |
| (in thousands, except dollar per unit data and percentages) | | |
| Revenue: | | |
| Total revenue | \$ 201,301 | \$ 152,919 |
| On demand revenue | \$ 193,300 | \$ 146,213 |
| On demand revenue as a percentage of total revenue | 96.0% | 95.6% |
| Non-GAAP total revenue | \$ 201,614 | \$ 153,624 |
| Non-GAAP on demand revenue | \$ 193,613 | \$ 146,918 |
| Adjusted EBITDA | \$ 54,161 | \$ 37,078 |
| Ending on demand units | 13,173 | 11,112 |
| Average on demand units | 13,088 | 11,050 |
| On demand annual client value | \$ 779,446 | \$ 596,159 |
| Annualized on demand revenue per average on demand unit | \$ 59.17 | \$ 53.65 |

On demand revenue: This metric represents the GAAP revenue derived from license and subscription fees relating to our on demand software solutions, typically licensed over one year terms; commission income from sales of renter's insurance policies; and transaction fees for certain of our on demand software solutions. We consider on demand revenue to be a key business metric because we believe the market for our on demand software solutions represents the largest growth opportunity for our business.

On demand revenue as a percentage of total revenue: This metric represents on demand revenue for the period presented divided by total revenue for the same period. We use on demand revenue as a percentage of total revenue to measure our

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success executing our strategy to increase the penetration of our on demand software solutions and expand our recurring revenue streams attributable to these solutions. We expect our on demand revenue to remain a significant percentage of our total revenue although the actual percentage may vary from period to period due to a number of factors, including the timing of acquisitions; professional and other revenues; and on premise perpetual license sales and maintenance fees.

Non-GAAP total revenue: This metric is calculated by adding acquisition-related and other deferred revenue adjustments to total revenue. We believe it is useful to include deferred revenue written down for GAAP purposes under purchase accounting rules and revenue deferred due to a lack of historical experience determining the settlement of the contractual obligation in order to appropriately measure the underlying performance of our business operations in the period of activity and associated expense. Further, we believe this measure is useful to investors as a way to evaluate our ongoing performance.

The following provides a reconciliation of GAAP to non-GAAP total revenue:

| | Three Months Ended March 31, | |
|--|------------------------------|-------------------|
| | 2018 | 2017 |
| (in thousands) | | |
| Total revenue | \$ 201,301 | \$ 152,919 |
| Acquisition-related and other deferred revenue adjustments | 313 | 705 |
| Non-GAAP total revenue | <u>\$ 201,614</u> | <u>\$ 153,624</u> |

Non-GAAP on demand revenue: This metric reflects total on demand revenue plus acquisition-related and other deferred revenue adjustments, as described above. We believe inclusion of these items provides a useful measure of the underlying performance of our on demand business operations in the period of activity and associated expense. Further, we believe that investors and financial analysts find this measure to be useful in evaluating our ongoing performance because it provides a more accurate depiction of on demand revenue.

The following provides a reconciliation of GAAP to non-GAAP on demand revenue:

| | Three Months Ended March 31, | |
|--|------------------------------|-------------------|
| | 2018 | 2017 |
| (in thousands) | | |
| On demand revenue | \$ 193,300 | \$ 146,213 |
| Acquisition-related and other deferred revenue adjustments | 313 | 705 |
| Non-GAAP on demand revenue | <u>\$ 193,613</u> | <u>\$ 146,918</u> |

Adjusted EBITDA: We define Adjusted EBITDA as net income, plus (1) acquisition-related and other deferred revenue adjustments, (2) depreciation, asset impairment, and the loss on disposal of assets, (3) amortization of intangible assets, (4) acquisition-related expense, (5) costs arising from the Hart-Scott-Rodino review process, (6) interest expense, net, (7) income tax (benefit) expense, and (8) stock-based expense. We believe that investors and financial analysts find this non-GAAP financial measure to be useful in analyzing our financial and operational performance, comparing this performance to our peers and competitors, and understanding our ability to generate income from ongoing business operations.

The following provides a reconciliation of net income to Adjusted EBITDA:

| | Three Months Ended March 31, | |
|--|------------------------------|------------------|
| | 2018 | 2017 |
| (in thousands) | | |
| Net income | \$ 10,901 | \$ 8,195 |
| Acquisition-related and other deferred revenue adjustments | 313 | 705 |
| Depreciation, asset impairment, and loss on disposal of assets | 7,818 | 6,675 |
| Amortization of intangible assets | 16,384 | 7,789 |
| Acquisition-related expense | 1,007 | 1,210 |
| Costs arising from Hart-Scott-Rodino review process | — | 481 |
| Interest expense, net | 7,721 | 1,120 |
| Income tax (benefit) expense | (301) | 811 |
| Stock-based expense | 10,318 | 10,092 |
| Adjusted EBITDA | <u>\$ 54,161</u> | <u>\$ 37,078</u> |

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Ending on demand units: This metric represents the number of rental housing units managed by our clients with one or more of our on demand software solutions at the end of the period. We use ending on demand units to measure the success of our strategy of increasing the number of rental housing units managed with our on demand software solutions. Property unit counts are provided to us by our clients as new sales orders are processed. Property unit counts may be adjusted periodically as information related to our clients' properties is updated or supplemented, which could result in adjustments to the number of units previously reported.

Average on demand units: We calculate average on demand units as the average of the beginning and ending on demand units for each quarter in the period presented. This metric is a measure of our success increasing the number of on demand software solutions utilized by our clients to manage their rental housing units, our overall revenue, and profitability.

On demand annual client value ("ACV"): ACV represents our estimate of the annual value of our on demand revenue contracts at a point in time. We monitor this metric to measure our success in increasing the number of on demand units, and the amount of software solutions utilized by our clients to manage their rental housing units.

On demand revenue per average on demand unit ("RPU"): We define RPU as ACV divided by average on demand units. We monitor this metric to measure our success in increasing the penetration of on demand software solutions utilized by our clients to manage their rental housing units.

Non-GAAP Financial Measures

We report our financial results in accordance with GAAP; however, we believe that, in order to properly understand our short-term and long-term financial, operational, and strategic trends, it may be helpful for investors to exclude certain non-cash or non-recurring items when used as a supplement to financial performance measures in accordance with GAAP. These non-cash or non-recurring items result from facts and circumstances that vary in both frequency and impact on continuing operations. We also use results of operations excluding such items to evaluate our operating performance compared against prior periods, make operating decisions, determine executive compensation, and serve as a basis for long-term strategic planning. These non-GAAP financial measures provide us with additional means to understand and evaluate the operating results and trends in our ongoing business by eliminating certain non-cash expenses and other items that we believe might otherwise make comparisons of our ongoing business with prior periods more difficult, obscure trends in ongoing operations, reduce our ability to make useful forecasts, or obscure the ability to evaluate the effectiveness of certain business strategies and management incentive structures. In addition, we also believe that investors and financial analysts find this information helpful in analyzing our financial and operational performance and comparing this performance to our peers and competitors. These non-GAAP financial measures are used in conjunction with traditional GAAP financial measures as part of our overall assessment of our performance.

We do not place undue reliance on non-GAAP financial measures as measures of operating performance. Non-GAAP financial measures should not be considered substitutes for other measures of financial performance or liquidity reported in accordance with GAAP. There are limitations to using non-GAAP financial measures, including that other companies may calculate these measures differently than we do; that they do not reflect changes in, or cash requirements for, our working capital; and that they do not reflect our capital expenditures or future requirements for capital expenditures. We compensate for the inherent limitations associated with using non-GAAP financial measures through disclosure of these limitations, presentation of our financial statements in accordance with GAAP, and reconciliation of non-GAAP financial measures to the most directly comparable GAAP financial measures.

We exclude or adjust each of the items identified below from the applicable non-GAAP financial measure referenced above for the reasons set forth with respect to each excluded item:

Acquisition-related and other deferred revenue: These items are included to reflect deferred revenue written down for GAAP purposes under purchase accounting rules and revenue deferred due to a lack of historical experience determining the settlement of the contractual obligation in order to appropriately measure the underlying performance of our business operations in the period of activity and associated expense.

Asset impairment and loss on disposal of assets: These items comprise gains and/or losses on the disposal and impairment of long-lived assets, which are not reflective of our ongoing operations. We believe exclusion of these items facilitates a more accurate comparison of our results of operations between periods.

Depreciation of long-lived assets: Long-lived assets are depreciated over their estimated useful lives in a manner reflecting the pattern in which the economic benefit is consumed. Management is limited in its ability to change or influence these charges after the asset has been acquired and placed in service. We do not believe that depreciation expense accurately reflects the performance of our ongoing operations for the period in which the charges are incurred, and are therefore not considered by management in making operating decisions.

Amortization of intangible assets: These items are amortized over their estimated useful lives and generally cannot be changed or influenced by management after acquisition. Accordingly, these items are not considered by us in making operating

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decisions. We do not believe such charges accurately reflect the performance of our ongoing operations for the period in which such charges are incurred.

Acquisition-related expense: These items consist of direct costs incurred in our business acquisition transactions and the impact of changes in the fair value of acquisition-related contingent consideration obligations. We believe exclusion of these items facilitates a more accurate comparison of the results of the Company's ongoing operations across periods and eliminates volatility related to changes in the fair value of acquisition-related contingent consideration obligations.

Costs arising from Hart-Scott-Rodino review process: This item consists of direct costs incurred related to reviews by the United States Federal Trade Commission and Department of Justice of our 2017 acquisitions of LRO and On-Site under the Hart-Scott-Rodino Antitrust Improvements Act. We believe that these costs are not reflective of our ongoing operations or our normal acquisition activity. We believe exclusion of these costs facilitates a more accurate comparison of our results across periods.

Stock-based expense: This item is excluded because these are non-cash expenditures that we do not consider part of ongoing operating results when assessing the performance of our business, and also because the total amount of the expenditure is partially outside of management's control because it is based on factors such as stock price, volatility, and interest rates, which may be unrelated to our performance during the period in which the expenses are incurred.

Key Components of Our Results of Operations

Revenue

We derive our revenue from two primary sources: our on demand software solutions and our professional and other services.

On demand revenue: Revenue from our on demand software solutions is comprised of license and subscription fees relating to our on demand software solutions, typically licensed for one year terms; commission income from sales of renter's insurance policies; and transaction fees for certain on demand software solutions, such as payment processing, spend management, and billing services. For our insurance based solutions, our agreement provides for a fixed commission on earned premiums related to the policies sold by us. The agreement also provides for a contingent commission to be paid to us in accordance with the agreement. Our transaction-based solutions are priced based on a fixed rate per transaction.

Professional and other revenue: Revenue from professional and other services consists of consulting and implementation services; training; and other ancillary services. We complement our solutions with professional and other services for our clients willing to invest in enhancing the value or decreasing the implementation time of our solutions. Our professional and other services are typically priced as time and materials engagements. Professional and other revenue also includes revenues generated from sub-meter installation services under our resident utility management solutions, and our on premise solutions.

Cost of Revenue

Cost of revenue consists primarily of personnel costs related to our operations; support services; training and implementation services; expenses related to the operation of our data centers; and fees paid to third-party service providers. Personnel costs include salaries, bonuses, stock-based expense, and employee benefits. Cost of revenue also includes an allocation of facilities costs; overhead costs and depreciation; as well as amortization of acquired technology related to strategic acquisitions and amortization of capitalized development costs. We allocate facilities costs, overhead costs, and depreciation based on headcount.

Operating Expenses

We classify our operating expenses into three categories: product development, sales and marketing, and general and administrative. Our operating expenses primarily consist of personnel costs; costs for third-party contracted development; marketing; legal; accounting and consulting services; and other professional service fees. Personnel costs for each category of operating expenses include salaries, bonuses, stock-based expense, and employee benefits for employees in that category. In addition, our operating expenses include an allocation of our facilities costs; overhead costs and depreciation based on headcount for that category; as well as amortization of purchased intangible assets resulting from our acquisitions.

Product development: Product development expense consists primarily of personnel costs for our product development employees and executives, information technology and facilities, and fees to contract development vendors. Our product development efforts are focused primarily on increasing the functionality and enhancing the ease of use of our platform of solutions and expanding our suite of data analytics and on demand software solutions. In addition to our locations in the United States, we maintain product development and service centers in Hyderabad, India; Manila, Philippines; and Cebu City, Philippines.

Sales and marketing: Sales and marketing expense consists primarily of personnel costs for our sales, marketing, and business development employees and executives; information technology; travel and entertainment; and marketing programs. Marketing programs consist of amounts paid for product marketing, renter's insurance; other advertising; trade shows; user

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conferences; public relations; and industry sponsorships and affiliations. In addition, sales and marketing expense includes amortization of certain purchased intangible assets, including client relationships; key vendor and supplier relationships; and finite-lived trade names, obtained in connection with our acquisitions.

General and administrative: General and administrative expense consists of personnel costs for our executives, finance and accounting, human resources, management information systems, and legal personnel. In addition, general and administrative expense includes fees for professional services, including legal, accounting, and other consulting services; information technology and facilities costs; and acquisition-related costs, including direct costs incurred to complete our acquisitions and changes in the fair value of our acquisition-related contingent consideration obligations.

Critical Accounting Policies and Estimates

The preparation of our Condensed Consolidated Financial Statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and related disclosures. We base these estimates and assumptions on historical experience, projected future operating or financial results, or on various other factors that we believe to be reasonable and appropriate under the circumstances. We reconsider and evaluate our estimates and assumptions on an on-going basis. Accordingly, actual results may differ significantly from these estimates.

We believe that the following critical accounting policies involve our more significant judgments, assumptions and estimates, and therefore, could have the greatest potential impact on our Condensed Consolidated Financial Statements:

- Revenue recognition;
- Business combinations;
- Stock-based expense;
- Income taxes, including deferred tax assets and liabilities; and
- Capitalized product development costs.

Please refer to our Annual Report on Form 10-K filed with the SEC on March 1, 2018 for a discussion of such policies.

Recently Adopted Accounting Standards

We adopted ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*, on January 1, 2018 using the modified retrospective method. We recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings at the beginning of 2018. Comparative information from prior year periods has not been restated and continues to be reported under the accounting standards in effect for those periods. The cumulative effects of the changes made to our condensed consolidated January 1, 2018 balance sheet for the adoption of the new revenue standard were as follows:

| | <u>Balance at December 31, 2017</u> | <u>Adjustments due to ASU 2014-09</u> | <u>Balance at January 1, 2018</u> |
|---|---|---|---------------------------------------|
| | (in thousands) | | |
| Assets | | | |
| Accounts receivable, less allowance for doubtful accounts | \$ 124,505 | \$ (7,925) | \$ 116,580 |
| Other current assets | 6,622 | 2,771 | 9,393 |
| Deferred tax assets, net | 44,887 | (780) | 44,107 |
| Other assets | 11,010 | 4,459 | 15,469 |
| Liabilities | | | |
| Current portion of deferred revenue | 116,622 | (3,696) | 112,926 |
| Stockholders' Equity | | | |
| Accumulated deficit | (75,046) | 2,221 | (72,825) |

Adoption of the new revenue standard resulted in changes to our accounting policies for revenue recognition, certain variable considerations, and commissions expense. The adoption of the new revenue standard did not have a significant effect on our revenue; however, it did have an impact on the timing of when we expense commission costs incurred to obtain a contract and the reserves we establish for variable consideration from credits or other pricing accommodations we provide our clients. We expect the effect of the new revenue standard to be immaterial to our revenue on an ongoing basis. The primary effect to our net income on an ongoing basis relates to the reserve for credit accommodations and deferral of incremental commission costs incurred to obtain new contracts. Under the new revenue standard, we accrue for credit accommodations in our reserve during the month of billing and credits reduce this reserve when issued. Further, we now initially defer commission costs and amortize these costs to expense over a period of benefit that we have determined to be three years.

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See Note 4 for additional required disclosures related to the impact of adopting the new revenue standard and our accounting for costs to obtain a contract.

Results of Operations

The following tables set forth our unaudited results of operations for the specified periods and the components of such results as a percentage of total revenue for the respective periods. The period-to-period comparison of financial results is not necessarily indicative of future results.

Condensed Consolidated Statements of Operations

| | Three Months Ended March 31, | | | |
|---|------------------------------|--------|------------|--------|
| | 2018 | 2018 | 2017 | 2017 |
| (in thousands, except per share and ratio amounts) | | | | |
| Revenue: | | | | |
| On demand | \$ 193,300 | 96.0 % | \$ 146,213 | 95.6 % |
| Professional and other | 8,001 | 4.0 | 6,706 | 4.4 |
| Total revenue | 201,301 | 100.0 | 152,919 | 100.0 |
| Cost of revenue ⁽¹⁾ | 76,660 | 38.1 | 63,042 | 41.2 |
| Gross profit | 124,641 | 61.9 | 89,877 | 58.8 |
| Operating expenses: | | | | |
| Product development ⁽¹⁾ | 29,040 | 14.4 | 20,387 | 13.3 |
| Sales and marketing ⁽¹⁾ | 50,241 | 25.0 | 35,147 | 23.0 |
| General and administrative ⁽¹⁾ | 27,090 | 13.5 | 24,251 | 15.9 |
| Total operating expenses | 106,371 | 52.9 | 79,785 | 52.2 |
| Operating income | 18,270 | 9.0 | 10,092 | 6.6 |
| Interest expense and other, net | (7,670) | (3.8) | (1,086) | (0.7) |
| Income before income taxes | 10,600 | 5.2 | 9,006 | 5.9 |
| Income tax (benefit) expense | (301) | (0.1) | 811 | 0.5 |
| Net income | \$ 10,901 | 5.3 % | \$ 8,195 | 5.4 % |
| Net income per share attributable to common stockholders: | | | | |
| Basic | \$ 0.13 | | \$ 0.10 | |
| Diluted | \$ 0.13 | | \$ 0.10 | |
| Weighted average shares used in computing net income per share attributable to common stockholders: | | | | |
| Basic | 81,166 | | 78,263 | |
| Diluted | 84,817 | | 81,386 | |

⁽¹⁾ Includes stock-based expense as follows:

| | | |
|----------------------------|--------|--------|
| Cost of revenue | \$ 835 | \$ 853 |
| Product development | 2,163 | 1,879 |
| Sales and marketing | 3,541 | 3,128 |
| General and administrative | 3,779 | 4,232 |

Comparison of the Three Months Ended March 31, 2018 and 2017.

Revenue

| | Three Months Ended March 31, | | | |
|--|-------------------------------------|-------------------|------------------|-----------------|
| | 2018 | 2017 | Change | % Change |
| (in thousands, except per unit data and percentages) | | | | |
| Revenue: | | | | |
| On demand | \$ 193,300 | \$ 146,213 | \$ 47,087 | 32.2% |
| Professional and other | 8,001 | 6,706 | 1,295 | 19.3 |
| Total revenue | <u>\$ 201,301</u> | <u>\$ 152,919</u> | <u>\$ 48,382</u> | 31.6 |
| Non-GAAP on demand revenue | | | | |
| Non-GAAP on demand revenue | \$ 193,613 | \$ 146,918 | \$ 46,695 | 31.8 |
| Ending on demand units | | | | |
| Ending on demand units | 13,173 | 11,112 | 2,061 | 18.5 |
| Average on demand units | | | | |
| Average on demand units | 13,088 | 11,050 | 2,038 | 18.4 |
| On demand annual client value | | | | |
| On demand annual client value | \$ 779,446 | \$ 596,159 | \$ 183,287 | 30.7 |
| Annualized on demand revenue per average on demand unit | | | | |
| Annualized on demand revenue per average on demand unit | \$ 59.17 | \$ 53.65 | \$ 5.52 | 10.3% |

The change in total revenue for the three months ended March 31, 2018, as compared to the same period in 2017, was due to the following:

On demand revenue: During the three months ended March 31, 2018, on demand revenue increased \$47.1 million, or 32.2%, as compared to the same period in 2017. This increase was attributable to incremental revenue from our 2017 acquisitions and growth across our platform of solutions, most significantly in resident services. Annualized on demand revenue per average on demand unit as of March 31, 2018, increased year-over-year by 10.3%, driven by revenue from our 2017 acquisitions and the consistent organic growth of our resident services, property management, and asset optimization solutions.

On demand revenue generated by our property management solutions increased year-over-year by \$5.0 million, or 12.3%, during the three months ended March 31, 2018. This increase was primarily driven by the growth of our spend management solutions, as well as adoption of our OneSite property management solutions.

On demand revenue from our resident services solutions continued to experience significant growth, increasing by \$16.2 million, or 26.6%, during the three months ended March 31, 2018, as compared to the same period in 2017. Resident services benefited from strong growth in our resident utility management solutions, primarily attributable to incremental revenue from our acquisition of AUM in the second quarter of 2017, and the continued growth of our payments solutions.

On demand revenue from our leasing and marketing solutions for the three months ended March 31, 2018, increased by \$11.6 million, or 41.7%, as compared to the same period in 2017. This increase was largely attributable to incremental revenue from our acquisition of On-Site in the third quarter of 2017.

On demand revenue derived from our asset optimization solutions grew \$14.3 million, or 83.7%, during the three months ended March 31, 2018, as compared to the same period in 2017. This growth was attributable to incremental revenue from our acquisition of LRO in the fourth quarter of 2017 and, to a lesser extent, our acquisition of Axiometrics in the first quarter of 2017, as well as growth of our business intelligence solutions.

Professional and other revenue: Professional and other revenue increased year-over-year by \$1.3 million during the three months ended March 31, 2018, driven by growth from our sub-meter services, including our 2017 acquisition of AUM, and the effect of our adoption of ASC 606.

On demand unit metrics: As of March 31, 2018, one or more of our on demand solutions was utilized in the management of 13.2 million rental property units, representing a year-over-year net increase of 2.1 million units, or 18.5%. This increase was primarily due to our acquisitions completed in 2017, which accounted for approximately 11.8% of total ending on demand units, as well as solid organic unit growth. On demand units managed by our clients renewed at an average rate of 96.6% over a trailing twelve-month period ended March 31, 2018.

Cost of Revenue

| | Three Months Ended March 31, | | | |
|-------------------------------|------------------------------------|------------------|------------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Cost of revenue | \$ 69,068 | \$ 55,617 | \$ 13,451 | 24.2 % |
| Stock-based expense | 835 | 853 | (18) | (2.1) |
| Depreciation and amortization | 6,757 | 6,572 | 185 | 2.8 |
| Total cost of revenue | <u>\$ 76,660</u> | <u>\$ 63,042</u> | <u>\$ 13,618</u> | 21.6 % |

Cost of revenue: During the three months ended March 31, 2018, cost of revenue, excluding stock-based expense, depreciation, and amortization, increased \$13.5 million, as compared to the same period in 2017. Personnel expense increased year-over-year during the three month period ending March 31, 2018, by \$6.2 million, primarily attributable to employees gained in our 2017 acquisitions and investments to support our ongoing organic growth. Year-over-year increases in direct costs of \$4.5 million during the three-month period ended March 31, 2018, were driven by incremental costs from our recent acquisitions and higher transaction volume from our payment processing solutions.

During the three months ended March 31, 2018, our gross margin increased over the prior year quarter from 58.8% to 61.9%. This margin expansion was primarily driven by synergies achieved related to our 2017 acquisitions, more efficiently leveraging our fixed costs such as IT, and also the result of revenue mix where client adoption has shifted to higher margin product solutions.

Operating Expenses

| | Three Months Ended March 31, | | | |
|-----------------------------------|------------------------------------|------------------|-----------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Product development | \$ 25,539 | \$ 16,978 | \$ 8,561 | 50.4 % |
| Stock-based expense | 2,163 | 1,879 | 284 | 15.1 |
| Depreciation | 1,338 | 1,530 | (192) | (12.5) |
| Total product development expense | <u>\$ 29,040</u> | <u>\$ 20,387</u> | <u>\$ 8,653</u> | 42.4 % |

Product development: Product development expense, excluding stock-based expense and depreciation, increased \$8.6 million for the three months ended March 31, 2018, as compared to the same period in 2017. Incremental headcount from our recent acquisitions and investments to support our product and innovation initiatives contributed to a year-over-year increase in personnel expense of \$6.4 million. Platform and technology infrastructure investments, as well as incremental costs from recent acquisitions, drove a year-over-year increase of \$1.9 million during the three-month period.

Total product development expense as a percent of total revenues for the first quarter increased from 13.3% in 2017 to 14.4% in 2018, exhibiting margin compression primarily driven by our platform and infrastructure investments, and incremental costs from our recent acquisitions.

| | Three Months Ended March 31, | | | |
|-----------------------------------|------------------------------------|------------------|------------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Sales and marketing | \$ 32,911 | \$ 27,331 | \$ 5,580 | 20.4% |
| Stock-based expense | 3,541 | 3,128 | 413 | 13.2 |
| Depreciation and amortization | 13,789 | 4,688 | 9,101 | 194.1 |
| Total sales and marketing expense | <u>\$ 50,241</u> | <u>\$ 35,147</u> | <u>\$ 15,094</u> | 42.9% |

Sales and marketing: Sales and marketing expense, excluding stock-based expense, depreciation, and amortization, increased year-over-year by \$5.6 million during the three months ended March 31, 2018, as compared to the same period in 2017. Personnel expense increased \$3.5 million between the respective periods, reflecting incremental headcount from our 2017 acquisitions and investment in our sales force and product marketing to further increase productivity. This increase was partially offset by lower commission expenses due to the adoption of ASC 606. Marketing program costs increased year-over-year during the three-month period ended March 31, 2018, by \$1.0 million, reflecting investments to accelerate client demand across our portfolio of solutions.

Total sales and marketing expense as a percentage of total revenue for the first quarter increased from 23.0% in 2017 to 25.0% in 2018, driven by higher amortization expense from our 2017 acquisitions during the current period. Excluding the impact of this incremental amortization expense, sales and marketing expense declined as a percentage of revenue due to scale built in our sales and marketing engine and lower sales commissions from the adoption of ASC 606.

| | Three Months Ended March 31, | | | |
|--|------------------------------------|------------------|-----------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| General and administrative | \$ 21,935 | \$ 18,369 | \$ 3,566 | 19.4 % |
| Stock-based expense | 3,779 | 4,232 | (453) | (10.7) |
| Depreciation | 1,376 | 1,650 | (274) | (16.6) |
| Total general and administrative expense | <u>\$ 27,090</u> | <u>\$ 24,251</u> | <u>\$ 2,839</u> | 11.7 % |

General and administrative: General and administrative expense for the three months ended March 31, 2018, excluding stock-based expense and depreciation, increased \$3.6 million, as compared to the same period of 2017. This increase was primarily driven by personnel expense for the three-month period increasing \$2.5 million year-over-year, reflecting incremental headcount from our recent acquisitions and investments to support our continued growth. Professional fees increased year-over-year by \$1.9 million due to costs of ongoing legal matters.

Total general and administrative expense as a percentage of total revenue decreased from 15.9% to 13.5% for the three months ended March 31, 2017 and 2018, respectively, primarily driven by scale across our administrative functions, partially offset by incremental costs from acquisitions and legal fees.

Stock-based Expense

| | Three Months Ended March 31, | | | |
|---------------------|------------------------------------|-----------|--------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Stock-based expense | \$ 10,318 | \$ 10,092 | \$ 226 | 2.2% |

Stock-based expense for the three months ended March 31, 2018 remained consistent as compared to the same period of 2017.

Depreciation and Amortization Expense

| | Three Months Ended March 31, | | | |
|---|------------------------------------|------------------|-----------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Depreciation expense | \$ 6,876 | \$ 6,651 | \$ 225 | 3.4% |
| Amortization expense | 16,384 | 7,789 | 8,595 | 110.3 |
| Total depreciation and amortization expense | <u>\$ 23,260</u> | <u>\$ 14,440</u> | <u>\$ 8,820</u> | 61.1% |

Depreciation and amortization expense increased \$8.8 million during the three months ended March 31, 2018, as compared to the same period of 2017. Higher amortization expense was driven by the addition of finite-lived intangible assets in connection with our 2017 acquisitions.

Interest Expense and Other, Net

| | Three Months Ended March 31, | | | |
|---------------------------------------|------------------------------------|-------------------|-------------------|----------|
| | 2018 | 2017 | Change | % Change |
| | (in thousands, except percentages) | | | |
| Interest expense | \$ (7,756) | \$ (1,120) | \$ (6,636) | 592.5% |
| Interest income | 35 | — | 35 | 100.0 |
| Other income | 51 | 34 | 17 | 50.0 |
| Total interest expense and other, net | <u>\$ (7,670)</u> | <u>\$ (1,086)</u> | <u>\$ (6,584)</u> | 606.3% |

Interest expense and other, net for the three months ended March 31, 2018, increased year-over-year by \$6.6 million. This increase was primarily due to \$4.1 million of interest and amortization expense related to our Convertible Notes. Interest expense related to our Credit Facility also increased \$2.2 million year-over-year, as a result of additional borrowings under the Term Loans and Revolving Facility in support of our 2017 acquisitions.

Provision for Taxes

We compute our provision for income taxes on a quarterly basis by applying an estimated annual effective tax rate to income from recurring operations and by calculating the tax effect of discrete items recognized during the quarter. Our effective income tax rate was (2.8)% and 9.0% for the three months ended March 31, 2018 and 2017, respectively. Our effective rate was lower than the statutory rate for the three months ended March 31, 2018, primarily because of excess tax benefits from stock compensation of \$4.2 million recognized as a discrete item, as required by ASU 2016-09. The effective rate was lower than the statutory rate for the three months ended March 31, 2017, primarily because of excess tax benefits from stock-based compensation of \$2.7 million recognized as a discrete item.

Liquidity and Capital Resources

Our primary sources of liquidity as of March 31, 2018, consisted of \$101.6 million of cash and cash equivalents, \$300.0 million available under the Revolving Facility, amounts available under the Credit Facility's Accordion Feature, and \$5.0 million of working capital (excluding \$101.6 million of cash and cash equivalents and \$110.0 million of deferred revenue).

Our principal uses of liquidity have been to fund our operations, working capital requirements, capital expenditures and acquisitions, and to service our debt obligations. We expect that working capital requirements, capital expenditures, acquisitions, and debt service will continue to be our principal needs for liquidity over the near term. We made capital expenditures of \$12.7 million during the three months ended March 31, 2018. Due to anticipated expenditures related to our international growth, our recent acquisitions, investments related to those acquisitions, and data content and analytics investments, we expect capital expenditures to be approximately 6% of total revenue during the year ending December 31, 2018. We expect our capital expenditure rate to decrease to 5% of total revenue over the next few years. In addition, we have made several acquisitions in which a portion of the cash purchase price is payable at various times through 2021, with a majority of the deferred cash obligations payable during 2018. We expect to fund these obligations from cash provided by operating activities or funds available under our Credit Facility.

In April 2018, we entered into an acquisition agreement, by which we acquired substantially all of the outstanding membership units of NovelPay, LLC ("NovelPay"), other than those owned by ClickPay Services, Inc. On the same day, we also entered into an agreement and plan of merger, by which we acquired all of the outstanding stock of ClickPay Services, Inc. (collectively with NovelPay, "ClickPay"). Under the acquisition agreement, certain holders retained a portion of their units representing approximately 12% of the membership units of NovelPay, subject to put rights that may be exercised by the holders after September 1, 2018 and call rights that may be exercised by RealPage after October 1, 2018. The exercise price of

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the put rights and call rights is the same as the per unit price of the membership units purchased at the closing. The combined purchase price, assuming exercise of the put or call rights, is approximately \$218.5 million consisting of a cash payment of \$142.2 million and \$76.3 million in shares of our common stock, subject to a working capital adjustment and a holdback of a portion of the purchase price to serve as security in respect of the indemnification and post-closing purchase price adjustments. The holdback will be payable on or shortly after the first and second anniversary dates of the acquisition date. This acquisition was financed using cash on hand and funds available under our Credit Facility.

We believe that our existing cash and cash equivalents, working capital (excluding deferred revenue and cash and cash equivalents), and our cash flows from operations are sufficient to fund our operations, working capital requirements, and planned capital expenditures; and to service our debt obligations for at least the next twelve months. Our future working capital requirements will depend on many factors, including our rate of revenue growth, the timing and size of future acquisitions, the expansion of our sales and marketing activities, the timing and extent of spending to support product development efforts, the timing of introductions of new solutions and enhancements to existing solutions, and the continuing market acceptance of our solutions. We may enter into acquisitions of complementary businesses, applications, or technologies in the future that could require us to seek additional equity or debt financing. Additional funds may not be available on terms favorable to us, or at all.

As of December 31, 2017, we had gross federal and state NOL carryforwards of \$172.5 million and \$60.2 million, respectively. Our federal and state NOL carryforwards may be available to offset potential payments of future income tax liabilities. If unused, the gross federal NOLs will begin to expire in 2024 and the state NOLs will begin to expire in 2018. Total gross state NOLs expiring in the next five years is approximately \$19.1 million.

The following table sets forth cash flow data for the periods indicated therein:

| | Three Months Ended March 31, | |
|---|------------------------------|-----------|
| | 2018 | 2017 |
| | (in thousands) | |
| Net cash provided by operating activities | \$ 70,771 | \$ 46,983 |
| Net cash used in investing activities | (14,460) | (76,028) |
| Net cash used in financing activities | (7,405) | (3,499) |

Net Cash Provided by Operating Activities

During the three months ended March 31, 2018, net cash provided by operating activities consisted of net income of \$10.9 million, net non-cash adjustments to net income of \$36.8 million, and a net inflow of cash from changes in working capital of \$23.1 million. Non-cash adjustments to net income primarily consisted of depreciation and amortization expense of \$23.3 million, stock-based expense of \$10.3 million, and amortization of debt discount and issuance costs of \$3.0 million. These items were partially offset by income tax-related items of \$1.2 million.

Changes in working capital during the three months ended March 31, 2018, included net cash inflows from customer deposits of \$16.3 million, primarily attributable to the timing of cash settlements for previously initiated resident transactions related to our payments solutions, and accounts receivable of \$15.6 million, which is primarily due to timing of client billing and collections. These items were partially offset by net cash outflows from changes in other current assets of \$4.8 million and deferred revenue of \$3.0 million.

Net Cash Used in Investing Activities

During the three months ended March 31, 2018, we used \$14.5 million of net cash in investing activities, consisting of \$12.7 million for capital expenditures and \$1.8 million for the purchase of our investment in WayBlazer. Capital expenditures during the period primarily included capitalized software development costs and expenditures to support our information technology infrastructure.

Net Cash Used in Financing Activities

During the three months ended March 31, 2018, the net cash used in our financing activities primarily consisted of activity under our stock-based expense plans of \$3.5 million, primarily attributable to shares repurchased from employees to cover their cost of taxes upon vesting of restricted stock, payments on our Term Loans and Revolving Facility of \$2.0 million, and \$1.1 million of costs incurred in connection with the amendment to the Credit Facility.

Contractual Obligations, Commitments, and Contingencies

The following table summarizes, as of March 31, 2018, our minimum payments, including interest when applicable, for long-term debt and other obligations for the next five years and thereafter:

| | Payments Due by Period | | | | |
|--|-------------------------------|-----------------------------|-------------------|-------------------|------------------------------|
| | Total | Less Than 1 year | 1-3 years | 3-5 years | More Than 5 years |
| | (in thousands) | | | | |
| Convertible Notes ⁽¹⁾ | \$ 368,934 | \$ 3,881 | \$ 10,350 | \$ 354,703 | \$ — |
| Term Loans ⁽²⁾ | 363,577 | 20,810 | 69,201 | 273,566 | — |
| Revolving Facility ⁽³⁾ | 58,599 | 1,509 | 4,456 | 52,634 | — |
| Operating lease obligations | 103,270 | 11,529 | 25,374 | 20,246 | 46,121 |
| Acquisition-related liabilities ⁽⁴⁾ | 50,862 | 36,758 | 13,104 | 1,000 | — |
| | <u>\$ 945,242</u> | <u>\$ 74,487</u> | <u>\$ 122,485</u> | <u>\$ 702,149</u> | <u>\$ 46,121</u> |

- ⁽¹⁾ Represents the aggregate principal amount of \$345.0 million and anticipated coupon interest payments related to our Convertible Notes and excludes the unamortized discount and debt issuance costs reflected in our Condensed Consolidated Balance Sheets.
- ⁽²⁾ Represents the contractually required principal payments for our Term Loan and Delayed Draw Term Loan and excludes unamortized debt issuance costs reflected in our Condensed Consolidated Balance Sheets. These amounts also include the future interest obligations of our Term Loans, which were estimated using a LIBOR forward rate curve and include the related effects of our interest rate swap agreements.
- ⁽³⁾ Represents the \$50.0 million of principal amount outstanding and excludes unamortized debt issuance costs reflected in our Consolidated Balance Sheets. These amounts also include the anticipated interest obligations of our Revolving Facility, which were estimated using a LIBOR forward rate curve.
- ⁽⁴⁾ Represents undiscounted amounts payable for our deferred cash obligations, excluding potential reductions related to the seller's indemnification obligations, and the estimated fair value for our contingent consideration obligations.

Credit Facility

On September 30, 2014, we entered into an agreement for a secured credit facility to refinance our outstanding revolving loans. The credit facility agreement was subsequently amended during 2016, 2017 and the first quarter of 2018 (inclusive of these amendments, the "Credit Facility"). For more information regarding these amendments, refer to our 2017 Form 10-K and Note 7 of the accompanying Condensed Consolidated Financial Statements. The Credit Facility matures on February 27, 2022, and includes the following:

Revolving Facility: The Credit Facility provides \$350.0 million in aggregate commitments for revolving loans, with sublimits of \$10.0 million for the issuance of letters of credit and \$20.0 million for swingline loans ("Revolving Facility").

Term Loan: In February 2016, we originated a term loan in the original principal amount of \$125.0 million under the Credit Facility ("Term Loan"). We make quarterly principal payments of \$0.8 million, which will increase to \$1.5 million beginning on June 30, 2018, and to \$3.1 million beginning on June 30, 2020.

Delayed Draw Term Loan: In December 2017, we drew funds of \$200.0 million available under the delayed draw term loan ("Delayed Draw Term Loan"). Subsequent to disbursement of the Delayed Draw Term Loan funds, we began making quarterly principal payments on the Delayed Draw Term Loan equal to an initial amount of \$1.3 million. The quarterly principal payments increase to \$2.5 million beginning on June 30, 2018, and to \$5.0 million beginning on June 30, 2020.

Revolving loans under the Credit Facility may be voluntarily prepaid and re-borrowed. Principal payments on the Term Loan and Delayed Draw Term Loan (collectively, the "Term Loans") are due in quarterly installments, as described above, and may not be re-borrowed. All outstanding principal and accrued but unpaid interest is due on the maturity date. The Term Loans are subject to mandatory repayment requirements in the event of certain asset sales or if certain insurance or condemnation events occur, subject to customary reinvestment provisions. The Company may prepay the Term Loans in whole or in part at any time, without premium or penalty, with prepayment amounts to be applied to remaining scheduled principal amortization payments as specified by the Company.

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Accordion Feature: The Credit Facility also allows us, subject to certain conditions, to request additional term loans or revolving commitments up to an aggregate principal amount of \$150.0 million, plus an amount that would not cause our Senior Leverage Ratio to exceed 3.50 to 1.00.

The Credit Facility contains customary events of default, subject to customary cure periods for certain defaults, that include, among others, non-payment defaults, covenant defaults, material judgment defaults, bankruptcy and insolvency defaults, cross-defaults to certain other material indebtedness, defaults for non-compliance with the Employee Retirement Income Security Act (“ERISA”), inaccuracy of representations and warranties and a change in control default. In the event of a default, the obligations under the Credit Facility could be accelerated, the applicable interest rate under the Credit Facility could be increased, the loan commitments could be terminated, our subsidiaries that have guaranteed the Credit Facility could be required to pay the obligations in full and our lenders would be permitted to exercise remedies with respect to all of the collateral that is securing the Credit Facility, including substantially all of our and our subsidiary guarantors’ assets. Any such default that is not cured or waived could have a material adverse effect on our liquidity and financial condition.

Refer to Note 7 of the accompanying Condensed Consolidated Financial Statements for a complete discussion of the Credit Facility, including its terms and conditions.

Convertible Notes

In May 2017, we completed a private offering of Convertible Notes with an aggregate principal amount of \$345.0 million. The net proceeds from this offering were \$304.2 million, after adjusting for debt issue costs, including the underwriting discount and the net cash used to purchase the Note Hedges and sell the Warrants. The Convertible Notes accrue interest at an annual rate of 1.50%, which is payable semi-annually on May 15 and November 15 of each year beginning in November 2017. The Convertible Notes mature on November 15, 2022, and may not be redeemed by us prior to their maturity. The Convertible Notes were issued under an indenture dated May 23, 2017 (“Indenture”), by and between us and Wells Fargo Bank, N.A., as Trustee.

The holders may convert their notes to shares of our common stock, at their option, on or after May 15, 2022, and through the second scheduled trading day preceding the maturity date. Prior to May 15, 2022, holders may only convert their notes under certain circumstances specified in the Indenture. The Convertible Notes are convertible at an initial rate of 23.84 shares per \$1,000 of principal (equivalent to an initial conversion price of approximately \$41.95 per share of our common stock), subject to customary adjustments described in the Indenture. Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock, or a combination of cash and shares of our common stock, at our election. It is our stated intention to settle the principal balance of the Convertible Notes in cash and any conversion obligation in excess of the principal portion in shares of our common stock.

In conjunction with the Convertible Notes offering, we purchased Note Hedges and issued Warrants for approximately 8.2 million shares of our common stock. We paid \$62.5 million to purchase the Note Hedges and received proceeds of \$31.5 million from the issuance of the Warrants. The Note Hedges have an exercise price of \$41.95 per share, consistent with the conversion price of the Convertible Notes, and expire in November 2022. The Note Hedges are generally expected to reduce the potential dilution to our common stock (or, in the event the conversion is settled in cash, to reduce our cash payment obligation) in the event that at the time of conversion our stock price exceeds the conversion price under the Convertible Notes. The Warrants have a strike price of \$57.58 per share and expire in ratable portions on a series of expiration dates commencing on February 15, 2023.

Refer to Note 7 of the accompanying Condensed Consolidated Financial Statements for a complete discussion of these transactions and their accounting implications.

Share Repurchase Program

In May 2014, our board of directors approved a share repurchase program authorizing the repurchase of up to \$50.0 million of our outstanding common stock for a period of up to one year after the approval date. Shares repurchased under the plan are retired. Our board of directors approved a one year extension of this program in both 2015 and 2016. On April 28, 2017, our board of directors again approved a one year extension of the share repurchase program. The terms of this extension permit the repurchase of up to \$50.0 million of our common stock during the period commencing on the extension day and ending on May 4, 2018.

There was no repurchase activity during the three months ended March 31, 2018 and 2017.

Other Contractual Obligations

In addition to the contractual obligations discussed above, certain of our business acquisitions include provisions for the payment of deferred and contingent cash obligations. Deferred cash obligations are generally subject to adjustments specified in the underlying acquisition agreement related to the seller’s indemnification obligations, and payment of contingent cash obligations is dependent upon the acquired business achieving agreed-upon operational or financial targets in the post-

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acquisition period. We had deferred cash obligations, net of unamortized discounts and sellers' indemnification obligations, of \$46.6 million and \$47.0 million and contingent cash obligations of \$0.1 million and \$0.4 million at March 31, 2018 and December 31, 2017, respectively. Deferred and contingent cash obligations related to our acquisitions have payment dates extending through 2021.

Other than the matters discussed above, there have been no other material changes outside normal operations in our contractual obligations from our disclosures within our Form 10-K for the year ended December 31, 2017.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet financing arrangements, and we do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily a result of fluctuations in interest rates. We do not hold or issue financial instruments for trading purposes.

We had cash and cash equivalents of \$101.6 million and \$69.3 million at March 31, 2018 and December 31, 2017, respectively. We hold cash and cash equivalents for working capital purposes. We do not have material exposure to market risk with respect to investments, as our investments consist primarily of highly liquid investments purchased with original maturities of three months or less.

We had \$317.1 million and \$319.1 million outstanding under our Term Loans at March 31, 2018 and December 31, 2017, respectively. The Term Loans are reflected net of unamortized debt issuance costs of \$1.6 million and \$1.7 million at March 31, 2018 and December 31, 2017, respectively, in the accompanying Condensed Consolidated Balance Sheets. At our option, amounts borrowed under the Credit Facility accrue interest at a per annum rate equal to either LIBOR, plus a margin ranging from 1.25% to 2.25%, or the Base Rate, plus a margin ranging from 0.25% to 1.25%. The base LIBOR rate is, at our discretion, equal to either one, two, three, or six month LIBOR. The Base Rate is defined as the greater of Wells Fargo's prime rate, the Federal Funds Rate plus 0.50%, or one month LIBOR plus 1.00%. If the applicable variable interest rates changed by 50 basis points, our annual interest expense as of March 31, 2018 would change by approximately \$1.5 million.

In March 2016, we entered into two interest rate swap agreements to eliminate variability in interest payments on a portion of the Term Loan. For that portion, the swap agreements replace the Term Loan's variable rate with a blended fixed rate of 0.89%. We do not use derivative financial instruments for speculative or trading purposes; however, we may adopt additional specific hedging strategies in the future.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Pursuant to Rule 13a-15(b) and Rule 15d-15(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we carried out an evaluation, with the participation of our management, and under the supervision of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures (as defined under Rule 13a-15(e) and 15d-15(e) under the Exchange Act) as of March 31, 2018. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that the Company's controls required for preventing and timely detecting improper fund transfers with respect to an external third party system used by a subsidiary acquired by the Company in 2017 were not effective as of such date, resulting in a material weakness in the Company's internal control over financial reporting. For additional information, see Note 1 to the Condensed Consolidated Financial Statements.

Management has determined that the material weakness did not result in a misstatement in the Condensed Consolidated Financial Statements as of March 31, 2018, and has determined that the financial statements and other information included in the Condensed Consolidated Financial Statements as of March 31, 2018 present fairly in all material respects the Company's financial condition, results of operations and cash flows at and for the periods presented in accordance with accounting principles generally accepted in the United States ("GAAP").

Changes in Internal Controls

In connection with the identified material weakness, we have begun the implementation of the remedial measures described below. However, there were no significant changes in our internal control over financial reporting that occurred during the quarter ended March 31, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Remediation Plans and Other Information

Management has taken immediate action to begin remediating the material weakness identified. While certain remedial actions have been completed, the Company continues to actively plan for and implement additional control procedures. These remediation efforts, outlined below, are intended to further address the identified material weakness.

Since identifying the material weakness in internal control over financial reporting, the Company has engaged a leading forensics firm to investigate the incident that the material weakness in internal control over financial reporting failed to prevent or detect. To remediate the material weakness, management has implemented or intends to implement the following measures:

- continue adoption and rollout of multifactor authentication;
- ensure compensating controls are adequate and effective for third party systems; and
- increase internal communications to enhance security awareness regarding, among other things, phishing identification, business email use, password protection and storage.

Remediation of the material weakness in internal controls is among management's highest priorities. Management will periodically assess the progress and sufficiency of the ongoing initiatives and make adjustments as and when necessary. Management understands that improvement and maintenance of internal controls is a continuing responsibility.

Inherent Limitations of Internal Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

On February 23, 2015, we received from the Federal Trade Commission ("FTC") a Civil Investigative Demand consisting of interrogatories and a request to produce documents relating to our compliance with the FCRA. We responded to the request and requests for additional information by the FTC. On November 2, 2017, the FTC staff informed us of its belief that there is a basis for claims that could include monetary and injunctive relief against us for failing to follow reasonable procedures to assure maximum possible accuracy of our tenant screening reports. We believe that our business practices did not, and do not, violate the FCRA or any other laws, and we intend to vigorously defend our position. We have had ongoing discussions with the FTC to attempt to resolve the matter. However, we cannot be certain that the matter will be resolved as a result of these discussions.

In addition, we are subject to legal proceedings and claims arising in the ordinary course of business. We are involved in litigation and other legal proceedings and claims that have not been fully resolved. At this time, we believe that any reasonably possible adverse outcome of such matters would not be material either individually or in the aggregate. Our view of these matters may change in the future as litigation and events related thereto unfold.

Item 1A. Risk Factors.

Financial Risks Related to Our Business

Our quarterly operating results have fluctuated in the past and may fluctuate in the future, which could cause our stock price to decline.

Our quarterly operating results may fluctuate as a result of a variety of factors, many of which are outside of our control. Fluctuations in our quarterly operating results may be due to a number of factors, including the risks and uncertainties discussed elsewhere in this filing. Some of the important factors that could cause our revenues and operating results to fluctuate from quarter to quarter include:

- the extent to which on demand software solutions maintain market acceptance;

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- fluctuations in leasing activity by our clients;
- our ability to timely introduce enhancements to our existing solutions and new solutions;
- our ability to renew the use of our on demand solutions for units managed by our existing clients and to increase the use of our on demand solutions for the management of units by our existing and new clients;
- changes in our pricing policies or those of our competitors or new competitors;
- the variable nature of our sales and implementation cycles;
- our ability to anticipate and adapt to external forces and the emergence of new technologies and products;
- our ability to enter into new markets and capture additional market share;
- our ability to integrate acquisitions in a cost-effective and timely manner;
- the timing of revenue and expenses related to recent and potential acquisitions or dispositions of businesses or technologies;
- changes in local economic, political and regulatory environments of our international operations;
- general economic, industry and market conditions in the rental housing industry that impact our current and potential clients;
- the amount and timing of our investment in research and development activities;
- technical difficulties, service interruptions, data or document losses or security breaches;
- our ability to hire and retain qualified key personnel, including particular key positions in our sales force and IT department;
- changes in the legal, regulatory or compliance environment related to the rental housing industry or the markets in which we operate, including without limitation changes related to fair credit reporting, payment processing, data protection and privacy, utility billing, insurance, the Internet and e-commerce, licensing, telemarketing, electronic communications, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology Economic and Clinical Health Act (“HITECH”);
- the amount and timing of operating expenses and capital expenditures related to the expansion of our operations and infrastructure;
- increase in the number or severity of insurance claims on policies sold by us;
- litigation and settlement costs, including unforeseen costs;
- new accounting pronouncements and changes in accounting standards or practices, particularly any affecting the recognition of subscription revenue or accounting for mergers and acquisitions; and
- changes in tax policy in the United States and globally that affect the deductibility of certain expenses and how our profits are taxed, including the “Tax Reform Act,” as defined below.

Fluctuations in our quarterly operating results or guidance that we provide may lead analysts to change their long-term models for valuing our common stock, cause us to face short-term liquidity issues, impact our ability to retain or attract key personnel or cause other unanticipated issues, all of which could cause our stock price to decline. As a result of the potential variations in our quarterly revenue and operating results, we believe that quarter-to-quarter and year-to-date period comparisons of our revenues and operating results may not be meaningful and the results of any one quarter should not be relied upon as an indication of future performance.

If we are unable to continue to manage the growth of our diverse and complex operations, our financial performance may suffer.

The growth in the size, dispersed geographic locations, complexity and diversity of our business and the expansion of our product lines and client base has placed, and our anticipated growth may continue to place, a significant strain on our managerial, administrative, operational, financial and other resources. We continue to experience growth in the number of employees and on demand clients. We had approximately 5,700 employees and over 12,400 on demand clients as of March 31, 2018. In addition, we have grown and expect to continue to grow through acquisitions. Our ability to effectively manage our anticipated future growth will depend on, among other things, the following:

- successfully supporting and maintaining a broad range of current and emerging solutions;
- identifying suitable acquisition targets and efficiently managing the closing of acquisitions and the integration of targets into our operations;

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- maintaining continuity in our senior management and key personnel;
- attracting, retaining, training and motivating our employees, particularly technical, client service and sales personnel;
- enhancing our financial and accounting systems and controls;
- enhancing our information technology infrastructure, processes and controls;
- successfully completing system upgrades and enhancements; and
- managing expanded operations in geographically dispersed locations.

If we do not manage the size, complexity and diverse nature of our business effectively, we could experience product performance issues, delayed software releases and longer response times for assisting our clients with implementation of our solutions and could lack adequate resources to support our clients on an ongoing basis, any of which could adversely affect our reputation in the market and our ability to generate revenue from new or existing clients.

Because we recognize subscription revenue over the term of the applicable client agreement, a decline in subscription renewals or new service agreements may not be reflected immediately in our operating results.

We generally recognize revenue from clients ratably over the terms of their client agreements, which are typically for a period of one or more years. As a result, much of the revenue we report in each quarter is deferred revenue from client agreements entered into during previous quarters. Consequently, a decline in new or renewed client agreements in any one quarter will not be fully reflected in our revenue or our results of operations until future periods. Accordingly, this revenue recognition model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from new clients must be recognized over the applicable subscription term.

The conditional conversion feature of our Convertible Notes, if triggered, may adversely affect our financial condition and operating results.

In the event the conditional conversion feature of the Convertible Notes is triggered, holders of the Convertible Notes will be entitled to convert the Convertible Notes at any time during specified periods at their option. If one or more holders elect to convert their Convertible Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Convertible Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Convertible Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

The accounting method for convertible debt securities that may be settled in cash, such as the Convertible Notes, could have a material effect on our reported financial results.

In May 2008, the Financial Accounting Standards Board (“FASB”) issued FASB Staff Position No. APB 14-1, Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (Including Partial Cash Settlement), which has subsequently been codified as Accounting Standards Codification 470-20, Debt with Conversion and Other Options, which we refer to as ASC 470-20. Under ASC 470-20, an entity must separately account for the liability and equity components of the convertible debt instruments, such as the Convertible Notes, that may be settled entirely or partially in cash upon conversion in a manner that reflects the issuer’s economic interest cost. The effect of ASC 470-20 on the accounting for the Convertible Notes is that the equity component is required to be included in the additional paid-in capital section of stockholders’ equity on our Condensed Consolidated Balance Sheet, and the value of the equity component would be treated as original issue discount for purposes of accounting for the debt component of the Convertible Notes. As a result, we will be required to record a greater amount of non-cash interest expense in current periods presented as a result of the amortization of the discounted carrying value of the Convertible Notes to their face amount over the term of the Convertible Notes. We will report lower net income in our financial results because ASC 470-20 will require interest to include both the current period’s amortization of the debt discount and the instrument’s coupon interest, which could adversely affect our reported or future financial results, and the trading price of our common stock.

In addition, under certain circumstances, convertible debt instruments, such as the Convertible Notes, that may be settled entirely or partly in cash are currently accounted for utilizing the treasury stock method, the effect of which is that the shares issuable upon conversion of the Convertible Notes are not included in the calculation of diluted earnings per share except to the extent that the conversion value of the Convertible Notes exceeds their principal amount. Under the treasury stock method, for diluted earnings per share purposes, the transaction is accounted for as if the number of shares of common stock that would be necessary to settle such excess, if we elected to settle such excess in shares, are issued. We cannot be sure that the accounting standards in the future will continue to permit the use of the treasury stock method. If we are unable to use the treasury stock

method in accounting for the shares issuable upon conversion of the Convertible Notes, then our diluted earnings per share would be adversely affected.

If we are not able to integrate past or future acquisitions successfully, our operating results and prospects could be harmed.

We have acquired new technology and domain expertise through multiple acquisitions, including our most recent acquisitions of ClickPay, LRO, On-Site, PEX, AUM, Axiometrics, eSupply, AssetEye and NWP. We expect to continue making acquisitions in the future. The success of our future acquisition strategy will depend on our ability to identify, negotiate, complete and integrate acquisitions. Acquisitions are inherently risky, and any acquisitions we complete may not be successful. Any acquisitions we pursue involve numerous risks, including the following:

- difficulties in integrating and managing the operations and technologies of the companies we acquire;
- diversion of our management's attention from normal daily operations of our business;
- our inability to maintain the clients, the key employees, the key business relationships and the reputations of the businesses we acquire;
- our inability to generate sufficient revenue from acquisitions to offset our increased expenses associated with acquisitions;
- difficulties in predicting or achieving the synergies between acquired businesses and our own businesses;
- our responsibility for the liabilities of the businesses we acquire, including, without limitation, liabilities arising out of their failure to maintain effective data security, data integrity, disaster recovery and privacy controls prior to the acquisition, or their infringement or alleged infringement of third-party intellectual property, contract or data access rights prior to the acquisition;
- difficulties in complying with new markets or regulatory standards to which we were not previously subject;
- delays in our ability to implement internal standards, controls, procedures and policies in the businesses we acquire; and
- adverse effects of acquisition activity on the key performance indicators we use to monitor our performance.

Our current acquisition strategy includes the acquisition of complementary businesses, products, and solutions. In order to integrate and fully realize the benefits of such acquisitions, we expect to build application interfaces that enable such clients to use a wide range of our solutions while they continue to use their legacy management systems. In addition, over time we expect to migrate each acquired company's clients to our on demand property management solutions to retain them as clients and to be in a position to offer them our solutions on a cost-effective basis. These efforts may be unsuccessful or entail costs that result in losses or reduced profitability.

Unanticipated events and circumstances occurring in future periods may affect the realizability of our intangible assets obtained through acquisitions. The events and circumstances that we consider include significant under-performance relative to projected future operating results and significant changes in our overall business or product strategies. These events and circumstances may cause us to revise our estimates and assumptions used in analyzing the value of our other intangible assets with indefinite lives, and any such revision could result in a non-cash impairment charge that could have a material impact on our financial results.

We may be unable to secure the equity or debt funding necessary to finance future acquisitions on terms that are acceptable to us, or at all. If we finance acquisitions by issuing equity or convertible debt securities, our existing stockholders will likely experience ownership dilution, and if we finance future acquisitions with debt funding, we will incur interest expense and may have to comply with additional financing covenants or secure that debt obligation with our assets.

Variability in our sales and activation cycles could result in fluctuations in our quarterly results of operations and cause our stock price to decline.

The sales and activation cycles for our solutions, from initial contact with a prospective client to contract execution and activation, vary widely by client and solution. We do not recognize revenue until the solution is activated. While most of our activations follow a set of standard procedures, a client's priorities may delay activation and our ability to recognize revenue, which could result in fluctuations in our quarterly operating results. Additionally, certain of our products are offered in suites containing multiple solutions, resulting in additional fluctuation in activations depending on each client's priorities with respect to solutions included in the suite.

Many of our clients are price sensitive, and if market dynamics require us to change our pricing model or reduce prices, our operating results will be harmed.

Many of our existing and potential clients are price sensitive, and uncertain global economic conditions, as well as decreased leasing velocity, have contributed to increased price sensitivity in the multifamily housing market and the other markets that we serve. As market dynamics change, or as new and existing competitors introduce more competitive pricing or pricing models, we may be unable to renew our agreements with existing clients or clients of the businesses we acquire or attract new clients at the same price or based on the same pricing model as previously used. As a result, it is possible that we may be required to change our pricing model, offer price incentives or reduce our prices, which could harm our revenue, profitability and operating results.

Economic trends that affect the rental housing market may have a negative effect on our business.

Our clients include a range of organizations whose success is closely linked to the rental housing market. Economic trends that negatively or positively affect the rental housing market may adversely affect our business. Instability or downturns affecting the rental housing market may have a material adverse effect on our business, prospects, financial condition and results of operations by:

- decreasing demand for leasing and marketing solutions;
- reducing the number of occupied sites and units on which we earn revenue;
- preventing our clients from expanding their businesses and managing new properties;
- causing our clients to reduce spending on our solutions;
- subjecting us to increased pricing pressure in order to add new clients and retain existing clients;
- causing our clients to switch to lower-priced solutions provided by our competitors or internally developed solutions;
- delaying or preventing our collection of outstanding accounts receivable; and
- causing payment processing losses related to an increase in client insolvency.

In addition, economic trends that reduce the frequency of renter turnover or the quantity of new renters may reduce the number of rental transactions completed by our clients and may, as a result, reduce demand for our rental, leasing or marketing transaction specific services.

We may require additional capital to support business growth or acquisitions, and this capital might not be available on terms acceptable to us or at all.

We intend to continue to make investments to support our business growth and may require additional funds to respond to business challenges or opportunities, including the need to develop new solutions or enhance our existing solutions, enhance our operating infrastructure or acquire businesses and technologies. Accordingly, we may need to engage in equity or debt financings to secure additional funds. If we raise additional funds through further issuances of equity or convertible debt securities, our existing stockholders could suffer significant ownership dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. In 2017 and the first quarter of 2018, we amended our Credit Facility to increase our borrowing capacity, and in 2017 we completed a convertible debt offering in which we sold \$345.0 million of Convertible Notes. Future debt financing could increase our interest expense and could involve additional restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. In addition, we may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges or opportunities could be significantly limited.

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Our Credit Facility contains restrictions that impact our business and expose us to risks that could adversely affect our liquidity and financial condition.

All of our obligations under the Credit Facility are secured by substantially all of our assets. All of our existing and future domestic subsidiaries are required to guarantee our obligations under the Credit Facility, other than certain immaterial subsidiaries, foreign subsidiary holding companies and our payment processing subsidiaries. Such guarantees by existing and future domestic subsidiaries are and will be secured by substantially all of the assets of such subsidiaries.

Our Credit Facility contains customary covenants, subject in each case to customary exceptions and qualifications, which limit our and certain of our subsidiaries' ability to, among other things:

- incur additional indebtedness or guarantee indebtedness of others;
- create liens on our assets;
- enter into mergers or consolidations;
- dispose of assets;
- prepay certain indebtedness;
- make changes to our governing documents and certain of our agreements;
- pay dividends and make other distributions on our capital stock, and redeem and repurchase our capital stock;
- make investments, including acquisitions; and
- enter into transactions with affiliates.

Our Credit Facility also contains, subject in each case to customary exceptions and qualifications, customary affirmative covenants. We are also required to comply with a maximum Consolidated Net Leverage Ratio, a maximum Consolidated Senior Secured Net Leverage Ratio, and a minimum Consolidated Interest Coverage Ratio. See additional discussion of these requirements in Note 7 to the Condensed Consolidated Financial Statements under Item 1 of this Quarterly Report on Form 10-Q. As of March 31, 2018, we were in compliance with all of the covenants under our Credit Facility.

The Credit Facility contains customary events of default, subject to customary cure periods for certain defaults, that include, among others, non-payment defaults, covenant defaults, material judgment defaults, bankruptcy and insolvency defaults, cross-defaults to certain other material indebtedness, ERISA defaults, inaccuracy of representations and warranties and a change in control default.

Even if we comply with all of the applicable covenants, the restrictions on the conduct of our business could adversely affect our business by, among other things, limiting our ability to take advantage of financings, mergers, acquisitions and other corporate opportunities that may be beneficial to the business. Even if the Credit Facility was terminated, additional debt we could incur in the future may subject us to similar or additional covenants.

A significant decline in our cash flow could impair our ability to make payments under our debt obligations.

If we experience a decline in cash flow due to any of the factors described in this "Risk Factors" section or otherwise, we could have difficulty paying interest and principal amounts due on our indebtedness and meeting the financial covenants set forth in our Credit Facility. If we are unable to generate sufficient cash flow or otherwise obtain the funds necessary to make required payments under our Credit Facility or Convertible Notes Indenture, or if we fail to comply with the requirements of our indebtedness, we could default under our Credit Facility or Convertible Notes Indenture. Any default that is not cured or waived could result in the termination of the revolving commitments, the acceleration of the obligations under the Credit Facility or Convertible Notes Indenture, an increase in the applicable interest rate under the Credit Facility and a requirement that our subsidiaries that have guaranteed the Credit Facility pay the obligations in full, and would permit our lenders to exercise remedies with respect to all of the collateral that is securing the Credit Facility, including substantially all of our and our subsidiary guarantors' assets. Any such default could have a material adverse effect on our liquidity and financial condition.

If we fail to remediate our recently identified material weakness or to maintain proper and effective internal controls, our ability to produce accurate and timely financial statements could be impaired, which could harm our operating results, our ability to operate our business and investors' views of us.

Ensuring that we have adequate internal financial and accounting controls and procedures so that we can produce accurate financial statements on a timely basis is a costly and time-consuming effort that needs to be re-evaluated frequently. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with United States generally accepted accounting principles. We are required to comply with Section 404 of the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, which requires annual management assessment of the effectiveness of our internal control over financial reporting and a report by our independent auditors. During May 2018, we learned that we were the subject of a targeted email phishing campaign that led to

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a business email compromise pursuant to which an unauthorized party gained access to an external third party system used by a subsidiary that was acquired by us in 2017. As a result, our management determined that we did not maintain an effective control environment because we ineffectively designed and maintained controls required for preventing and timely detecting improper fund transfers from the external third party system used by the subsidiary, and our management determined that these control deficiencies constitute a material weakness. See Note 1 to our Condensed Consolidated Financial Statements herein for additional information regarding this matter. If we fail to remediate this recently identified material weakness or to maintain proper and effective internal controls in the future, our ability to produce accurate and timely financial statements could be impaired, which could harm our operating results, harm our ability to operate our business and reduce the trading price of our stock.

Changes in, or errors in our interpretations and applications of, financial accounting standards or practices may cause adverse, unexpected financial reporting fluctuations and affect our reported results of operations.

A change in accounting standards or practices can have a significant effect on our reported results and may even affect our reporting of transactions completed before the change is effective. New accounting pronouncements and varying interpretations of accounting pronouncements have occurred and may occur in the future. Changes to existing rules or the questioning of current practices or errors in our interpretations and applications of financial accounting standards or practices may adversely affect our reported financial results or the way in which we conduct our business.

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2014-09, *Revenue from Contracts with Customers (Topic 606)*. ASU 2014-09, as amended by certain supplementary ASU’s released in 2016, replaces all current GAAP guidance on this topic and eliminates all industry-specific guidance. The new revenue recognition standard requires the recognition of revenue when promised goods or services are transferred to clients in an amount that reflects the consideration for which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also includes Subtopic 340-40, *Other Assets and Deferred Costs - Contracts with Customers*, which requires the deferral of incremental costs of obtaining a contract with a client.

Our adoption of this ASU was effective on January 1, 2018 and required changes in our revenue recognition timing related to commissions paid to our direct sales force, certain client accommodations and our allocation of contract transaction prices. The new standard also requires new revenue disclosures in our consolidated financial statements relating to, among other items, the disaggregation of revenue and contract backlog. We have developed expanded disclosures to meet the new requirements. We have also identified and designed additional controls and updated our accounting policies to support our implementation and ongoing compliance with the new standard. See additional discussion of the adoption of ASU 2014-09 in Note 2 and Note 4 to the Condensed Consolidated Financial Statements under Item 1 of this Quarterly Report on Form 10-Q.

We generate commission revenue from the insurance policies we sell as a registered insurance agent, and if insurance premiums decline or if the insureds experience greater than expected losses, our revenues could decline and our operating results could be harmed.

Through our wholly owned subsidiary, Multifamily Internet Ventures LLC, a managing general insurance agency, we generate commission revenue from offering liability and renter’s insurance. Through Multifamily Internet Ventures LLC we also sell additional insurance products, including auto and other personal lines insurance, to renters that buy renter’s insurance from us. These policies are ultimately underwritten by various insurance carriers. Some of the property owners and managers that participate in our programs opt to require renters to purchase rental insurance policies and agree to grant to Multifamily Internet Ventures LLC exclusive marketing rights at their properties. If demand for residential rental housing declines, property owners and managers may be forced to reduce their rental rates and to stop requiring the purchase of rental insurance in order to reduce the overall cost of renting. If property owners or managers cease to require renter’s insurance, elect to offer policies from competing providers or insurance premiums decline, our revenues from selling insurance policies will be adversely affected.

Additionally, one type of commission paid by insurance carriers to Multifamily Internet Ventures LLC is contingent commission, which is affected by claims experienced at the properties for which the renters purchase insurance. In the event that the severity or frequency of claims by the insureds increase unexpectedly, the contingent commission we typically earn will be adversely affected. As a result, our quarterly, or annual, operating results could fall below the expectations of analysts or investors, in which event our stock price may decline.

Our ability to use net operating losses to offset future taxable income may be subject to certain limitations.

In general, under Section 382 of the Internal Revenue Code of 1986, as amended, or the Internal Revenue Code, a corporation that undergoes an “ownership change” is subject to limitations on its ability to utilize its pre-change net operating losses, or NOLs, to offset future taxable income. Our ability to utilize NOLs of companies that we have acquired or may acquire in the future may be subject to limitations. Future changes in our stock ownership, some of which are outside of our control, could result in an ownership change under Section 382 of the Internal Revenue Code. For these reasons, we may not be able to utilize a material portion of the NOLs reflected on our balance sheet, even if we maintain profitability.

If we are required to collect sales and use taxes on the solutions we sell in additional taxing jurisdictions, we may be subject to liability for past sales and our future sales may decrease.

States and some local taxing jurisdictions have differing rules and regulations governing sales and use taxes, and these rules and regulations are subject to varying interpretations that may change over time. We review these rules and regulations periodically and currently collect and remit sales taxes in taxing jurisdictions where we believe we are required to do so. However, additional state and/or local taxing jurisdictions may seek to impose sales or other tax collection obligations on us, including for past sales. A successful assertion that we should be collecting additional sales or other taxes on our solutions could result in substantial tax liabilities for past sales, discourage clients from purchasing our solutions or otherwise harm our business and operating results. This risk may be greater with regard to solutions acquired through acquisitions because the acquired entities may not have had the same practices and procedures that we have in place.

We may also become subject to tax audits or similar procedures in jurisdictions where we already collect and remit sales taxes. A successful assertion that we have not collected and remitted taxes at the appropriate levels may also result in substantial tax liabilities for past sales. Liability for past taxes may also include very substantial interest and penalty charges. Our client contracts provide that our clients must pay all applicable sales and similar taxes. Nevertheless, clients may be reluctant to pay back taxes and may refuse responsibility for interest or penalties associated with those taxes. If we are required to collect and pay back taxes and the associated interest and penalties, and if our clients fail or refuse to reimburse us for all or a portion of these amounts, we will incur unplanned expenses that may be substantial. Moreover, imposition of such taxes on our solutions going forward will effectively increase the cost of such solutions to our clients and may adversely affect our ability to continue to sell those solutions to existing clients or to gain new clients in the areas in which such taxes are imposed.

Changes to applicable U.S. or foreign tax laws and regulations may have a material adverse effect on our business, financial condition and results of operations.

We are subject to federal and state income taxes in the United States and various foreign jurisdictions, and our domestic and international tax liabilities are subject to the allocation of expenses in differing jurisdictions. Our tax rate is affected by changes in the mix of earnings and losses in jurisdictions with differing statutory tax rates, including jurisdictions in which we have completed or may complete acquisitions and the valuation of deferred tax assets and liabilities, including our ability to utilize our net operating losses. Increases in our effective tax rate could harm our operating results.

The Tax Cuts and Jobs Act (“Tax Reform Act”), which was signed into law on December 22, 2017, contains significant changes to the U.S. federal income tax laws, the full consequences of which have not yet been determined. As a result of the enacted reduction in the federal corporate income tax rate, we recorded a non-cash adjustment to revalue our net deferred tax assets, with a corresponding charge to earnings in the fourth quarter of 2017. This one-time revaluation was based on our current knowledge, interpretation, and understanding of the Tax Reform Act and its impact to our business. If we are required to further adjust the value of our deferred tax assets and/or recognize a deferred tax liability for non-U.S. earnings, we may be required to record additional charges to earnings, which could have a material adverse effect on our business, financial condition, and results of operations.

The ultimate impact of the Tax Reform Act may differ materially from our estimates, due to changes in the interpretations and assumptions made by us as well as additional regulatory and accounting guidance that may be issued and actions we may take as a result of the Tax Reform Act.

Operational Risks Related to Our Business

The nature of our platform is complex and highly integrated, and if we fail to successfully manage releases or integrate new solutions, it could harm our revenues, operating income and reputation.

We manage a complex platform of solutions that consists of our property management solutions, integrated software-enabled value-added services and advertising and lease generation services. Many of our solutions include a large number of product centers that are highly integrated and require interoperability with other RealPage, Inc. products, as well as products and services of third-party service providers. Additionally, we typically deploy new releases of the software underlying our on demand software solutions on a bi-weekly, monthly or quarterly schedule, depending on the solution. Due to this complexity and the condensed development cycles under which we operate, we may experience errors in our software, corruption or loss of our data or unexpected performance issues from time to time. For example, our solutions may face interoperability difficulties with software operating systems or programs being used by our clients, or new releases, upgrades, fixes or the integration of acquired technologies may have unanticipated consequences on the operation and performance of our other solutions. If we encounter integration challenges or discover errors in our solutions late in our development cycle, it may cause us to delay our launch dates. Any major integration or interoperability issues or launch delays could have a material adverse effect on our revenues, operating income and reputation.

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Our business depends substantially on the renewal of our products and services for on demand units managed by our clients and the increase in the use of our on demand products and services for on demand units.

We generally license our solutions pursuant to client agreements with a term of one year or longer. The pricing of the agreements is typically based on a price per unit basis. Our clients have no obligation to renew these agreements after their term expires, or to renew these agreements at the same or higher annual contract value. In addition, under specific circumstances, our clients have the right to cancel their client agreements before they expire, for example, in the event of an uncured breach by us, or in some circumstances, upon the sale or transfer of a client property, by giving 30 days' notice or paying a cancellation fee. In addition, clients often purchase a higher level of professional services in the initial term than they do in renewal terms to ensure successful activation. As a result, our ability to grow is dependent in part on clients purchasing additional solutions or increasing the number of units they own or manage after the initial term of their client agreement. Though we maintain and analyze historical data with respect to rates of client renewals, upgrades and expansions, those rates may not accurately predict future trends in renewal of on demand units. Our clients' on demand unit renewal rates may decline or fluctuate for a number of reasons, including, but not limited to, their level of satisfaction with our solutions, our pricing, our competitors' pricing, reductions in our clients' spending levels or reductions in the number of on demand units managed by our clients. If our clients cancel or amend their agreements with us during their term, do not renew their agreements, renew on less favorable terms or do not purchase additional solutions or professional services in renewal periods, our revenue may grow more slowly than expected or decline and our profitability may be harmed.

Additionally, we have experienced, and expect to continue to experience, some level of on demand unit attrition as properties are sold and the new owners and managers of properties previously owned or managed by our clients do not continue to use our solutions. We cannot predict the amount of on demand unit turnover we will experience in the future. However, we have experienced higher rates of on demand unit attrition with our Propertyware property management system, primarily because it serves smaller properties than our OneSite property management system, and we may experience higher levels of on demand unit attrition to the extent Propertyware grows as a percentage of our revenues. If we experience increased on demand unit turnover, our financial performance and operating results could be adversely affected.

On demand revenue that is derived from products that help owners and managers lease and market apartments, such as certain products in LeaseStar and LeasingDesk, may decrease as occupancy rates rise. We have also experienced, and expect to continue to experience, some number of consolidations of our clients with other parties. In addition, if one of our clients is consolidated with another client, the acquiring client may have negotiated lower prices for our solutions or may use fewer of our solutions than the acquired client. In each case, the consolidated entity may attempt to negotiate lower prices for using our solutions as a result of the entity's increased size. These consolidations may cause us to lose on demand units or require us to reduce prices as a result of enhanced client leverage, which could cause our financial performance and operating results to be adversely affected.

We may not be able to continue to add new clients and retain and increase sales to our existing clients, which could adversely affect our operating results.

Our revenue growth is dependent on our ability to continually attract new clients while retaining and expanding our service offerings to existing clients. Growth in the demand for our solutions may be inhibited and we may be unable to sustain growth in our sales for a number of reasons, including, but not limited to:

- our failure to develop new or additional solutions;
- our inability to market our solutions in a cost-effective manner to new clients or in new vertical or geographic markets;
- our inability to expand our sales to existing clients;
- our inability to build and promote our brand; and
- perceived or actual security, integrity, reliability, quality or compatibility problems with our solutions.

A substantial amount of our past revenue growth was derived from purchases of upgrades and additional solutions by existing clients. Our costs associated with increasing revenue from existing clients are generally lower than costs associated with generating revenue from new clients. Therefore, a reduction in the rate of revenue increase from our existing clients, even if offset by an increase in revenue from new clients, could reduce our profitability and have a material adverse effect on our operating results.

If we are unable to successfully develop or acquire and sell enhancements and new solutions, our revenue growth will be harmed and we may not be able to meet profitability expectations.

The industry in which we operate is characterized by rapidly changing client requirements, technological developments and evolving industry standards. Our ability to attract new clients and increase revenue from existing clients will depend in large part on our ability to successfully develop, bring to market and sell enhancements to our existing solutions and new

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solutions that effectively respond to the rapid changes in our industry. Any enhancements or new solutions that we develop or acquire may not be introduced to the market in a timely or cost-effective manner and may not achieve the broad market acceptance necessary to generate the revenue required to offset the operating expenses and capital expenditures related to development or acquisition. If we are unable to timely develop or acquire and sell enhancements and new solutions that keep pace with the rapid changes in our industry, our revenue will not grow as expected and we may not be able to maintain or meet profitability expectations.

Any disruption of service at our data centers or other facilities could interrupt or delay our clients' access to our solutions, which could harm our operating results.

The ability of our clients to access our service is critical to our business. We host our products and services, support our operations and service our clients primarily from data centers in the Dallas, Texas area, but also from data centers located elsewhere in the United States and in Europe.

We may fail to provide such service as a result of numerous factors, many of which are beyond our control, including, without limitation: mechanical failure, power outage, human error, physical or electronic security breaches, war, terrorism and related conflicts or similar events worldwide, fire, earthquake, hurricane, flood and other natural disasters, sabotage and vandalism. We attempt to mitigate these risks at our Texas-based data centers and other facilities through various business continuity efforts, including: redundant infrastructure, 24 x 7 x 365 system activity monitoring, backup and recovery procedures, use of a secure off-site storage facility for backup media, separate test systems and rotation of management and system security measures, but our precautions may not protect against all potential problems. Disaster recovery procedures are in place to facilitate the recovery of our operations, products and services within the stated service level goals. Our secondary data center is equipped with physical space, power, storage and networking infrastructure and Internet connectivity to support the solutions we provide in the event of the interruption of services at our primary data center. Even with this secondary data center, however, our operations would be interrupted during the transition process should our primary data center experience a failure. Moreover, both our primary and secondary data centers are located in the greater metropolitan Dallas area. As a result, any regional disaster could affect both data centers and result in a material disruption of our services.

Problems at one or more of our data centers, whether or not within our control, could result in service disruptions or delays or loss or corruption of data or documents. This could damage our reputation, cause us to issue credits to clients, subject us to potential liability or costs related to defending against claims, or cause clients to terminate or elect not to renew their agreements, any of which could negatively impact our revenues and harm our operating results.

Interruptions or delays in service from our third-party data center providers could impair our ability to deliver certain of our products to our clients, resulting in client dissatisfaction, damage to our reputation, loss of clients, limited growth and reduction in revenue.

Our products and services are hosted and supported from data centers in various geographic locations within the continental United States and Europe, and are operated by third-party providers. Our operations depend on our third-party data center providers' abilities to protect these facilities against damage or interruption from natural disasters, power or telecommunications failures, criminal acts and similar events. In the event that any of our third-party hosting or facilities arrangements is terminated, or if there is a lapse of service or damage to a facility, we could experience interruptions in the availability of our on demand software as well as delays and additional expenses in arranging new facilities and services.

Despite precautions taken at these third party data centers, the occurrence of spikes in usage volume, a natural disaster, an act of terrorism, adverse changes in United States or foreign laws and regulations, vandalism or sabotage, a decision to close a third-party facility without adequate notice, or other unanticipated problems at a facility could result in lengthy interruptions in the availability of our on demand software. Even with current and planned disaster recovery arrangements, our business could be harmed. Also, in the event of damage or interruption, our insurance policies may not adequately compensate us for any losses that we may incur. These factors in turn could further reduce our revenue, subject us to liability and cause us to issue credits or cause clients to fail to renew their subscriptions, any of which could materially adversely affect our business.

We provide service level commitments to our clients, and our failure to meet the stated service levels could significantly harm our revenue and our reputation.

Our client agreements provide that we maintain certain service level commitments to our clients relating primarily to product functionality, network uptime, critical infrastructure availability and hardware replacement. For example, our service level agreements generally require that our solutions are available 98% of the time during coverage hours (normally 6:00 a.m. through 10:00 p.m. Central time daily) 365 days per year (other than certain permitted exceptions such as maintenance). If we are unable to meet the stated service level commitments, we may be contractually obligated to provide clients with refunds or credits. Additionally, if we fail to meet our service level commitments a specified number of times within a given time frame or for a specified duration, our clients may terminate their agreements with us or extend the term of their agreements at no additional fee. As a result, a failure to deliver services for a relatively short duration could cause us to issue credits or refunds to a large number of affected clients or result in the loss of clients. In addition, we cannot assure you that our clients will accept these credits, refunds, termination or extension rights in lieu of other legal remedies that may be available to them. Our failure to meet our commitments could also result in substantial client dissatisfaction or loss. Because of the loss of future revenues through the issuance of credits or the loss of clients or other potential liabilities, our revenue could be significantly impacted if we cannot meet our service level commitments to our clients.

We face intense competitive pressures and our failure to compete successfully could harm our business and operating results.

We compete in a number of markets including accounting software, property management software for multifamily, single family and commercial solutions, vertically-integrated cloud computing services, software-enabled value-added services including applicant screening, insurance, relationship management (“CRM”), marketing and web portals, Internet listing services, utility billing and energy management, revenue management, multifamily housing and commercial real estate market research, spend management, payment processing, affordable housing compliance and audit services and vacation rentals. The markets for many of our solutions are intensely competitive, fragmented and rapidly changing. Some of these markets have relatively low barriers to entry. With the introduction of new technologies and market entrants, we expect competition to intensify in the future. Increased competition could result in pricing pressures, reduced sales and reduced margins. Often we compete to sell our solutions against existing systems that our potential clients have already made significant expenditures to install.

Our competitors vary depending on our product and service. Certain competitors compete with us in a number of areas, including Yardi, Inc., Entrata, Inc., MRI Software LLC, AppFolio, Inc., and CoStar Group, Inc. Other competitors compete with us with respect to a single product or category of products. We compete in various markets, with different competitive considerations in these various markets. In many of our markets we compete with a number of providers, including those who market specifically to multifamily, single family, and commercial real estate owners and property managers as well as other providers. In addition, many of our existing or potential clients have developed or may develop their own solutions that may be competitive with our solutions. We also may face competition for potential acquisition targets from our competitors who are seeking to expand their offerings.

With respect to all of our competitors, we compete based on a number of factors, including total cost of ownership, level of integration with property management systems, ease of implementation, product functionality and scope, performance, security, scalability and reliability of service, brand and reputation, sales and marketing capabilities and financial resources. Some of our existing competitors and new market entrants may enjoy substantial competitive advantages, such as greater name recognition, longer operating histories, larger installed client bases and larger sales and marketing budgets, as well as greater financial, technical and other resources. In addition, any number of our existing competitors or new market entrants could combine or consolidate, or obtain new financing through public or private sources, to become a more formidable competitor with greater resources. As a result of such competitive advantages, our existing and future competitors may be able to:

- develop superior products or services, gain greater market acceptance and expand their offerings more efficiently or more rapidly;
- adapt to new or emerging technologies and changes in client requirements more quickly;
- take advantage of acquisition and other opportunities more readily;
- adopt more aggressive pricing policies, such as offering discounted pricing for purchasing multiple bundled products;
- devote greater resources to the promotion of their brand and marketing and sales of their products and services; and
- devote greater resources to the research and development of their products and services.

If we are not able to compete effectively, our operating results will be harmed.

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We integrate our software-enabled value-added services with competitive property management software for some of our clients. Our application infrastructure, marketed to our clients as the RealPage Cloud, is based on an open architecture that enables third-party applications to access and interface with applications hosted in the RealPage Cloud through our RealPage Exchange platform. Likewise, through this platform our RealPage Cloud services are able to access and interface with other third-party applications, including third-party property management systems. We also provide services to assist in the implementation, training, support and hosting with respect to the integration of some of our competitors' applications with our solutions. We sometimes rely on the cooperation of our competitors to implement solutions for our clients. However, frequently our reliance on the cooperation of our competitors can result in delays in integration. There is no assurance that our competitors, even if contractually obligated to do so, will continue to cooperate with us or will not prospectively alter their obligations to do so. We also occasionally develop interfaces between our software-enabled value-added services and competitor property management software without their cooperation or consent. There is no assurance that our competitors will not alter their applications in ways that inhibit or prevent integration or assert that their intellectual property rights restrict our ability to integrate our solutions with their applications. Moreover, regardless of merit, such interface-related activity may result in costly litigation.

Material defects or errors in the software we use to deliver our solutions could harm our reputation, result in significant costs to us and impair our ability to sell our solutions.

The software applications underlying our solutions are inherently complex and may contain material defects or errors, particularly when first introduced or when new versions or enhancements are released. We have, from time to time, found defects in the software applications underlying our solutions, and new errors in our existing solutions may be detected in the future. Any errors or defects that cause performance problems or service interruptions could result in:

- a reduction in new sales or subscription renewal rates;
- unexpected sales credits or refunds to our clients, loss of clients and other potential liabilities;
- delays in client payments, increasing our collection reserve and collection cycle;
- diversion of development resources and associated costs;
- harm to our reputation and brand; and
- unanticipated litigation costs.

Additionally, the costs incurred in correcting defects or errors could be substantial and could adversely affect our operating results.

Failure to effectively manage the development, sale and support of our solutions and data processing efforts outside the United States could harm our business.

Our success depends on our ability to process high volumes of client data, enhance existing solutions and develop new solutions rapidly and cost effectively. We currently maintain offices in Hyderabad, India; Cebu, Philippines and Manila, Philippines where we employ development and data processing personnel or conduct other business functions important to our operations. We believe that performing these activities in Hyderabad, Cebu and Manila increases the efficiency and decreases the costs of our related operations. We maintain an office in Barcelona, Spain where certain of our vacation rental product development, sales and support operations are based. We also maintain offices in London, England and Sydney, Australia, where we provide property management, online leasing and resident software solutions. We believe our access to a multilingual employee base enhances our ability to serve vacation and other rental property managers outside the United States and in non-English speaking countries. Managing and staffing international operations requires management's attention and financial resources. The level of cost savings achieved by our international operations may not exceed the amount of investment and additional resources required to manage and operate these international operations. Our product offerings outside the United States may not be profitable or otherwise successful. Additionally, if we experience difficulties as a result of political, social, economic or environmental instability, change in applicable law, limitations of local infrastructure or problems with our workforce or facilities at our or third parties' international operations, our business could be harmed due to delays in product release schedules or data processing services.

We rely on third-party technologies and services that may be difficult to replace or that could cause errors, failures or disruptions of our service, any of which could harm our business.

We rely on third-party providers in connection with the delivery of our solutions. Such providers include, but are not limited to, computer hardware and software vendors, database and data providers and cloud hosting providers. We utilize equipment, software and services from Amazon Web Services, a division of Amazon, Inc., Microsoft Corporation, salesforce.com, Avaya, Inc., Twilio, Inc., Palo Alto Networks, Inc., F5 Networks, Inc., EMC Corporation and various other third party providers. Our OneSite Accounting service relies on a software-as-a-service, or SaaS, accounting system developed and maintained by a third-party service provider. We host this application in our data centers and provide supplemental

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development resources to extend this accounting system to meet the unique requirements of the rental housing industry. Our shared cloud portfolio reporting service utilizes software licensed from IBM. We expect to utilize additional service providers as we expand our platform. Although the third-party technologies and services that we currently require are commercially available, such technologies and services may not continue to be available on commercially reasonable terms, or at all. Any loss of the right to use any of these technologies or services could result in delays in the provisioning of our solutions until alternative technology is either developed by us, or, if available, is identified, obtained and integrated, and such delays could harm our business. It also may be time consuming and costly to enter into new relationships. Additionally, any errors or defects in the third-party technologies we utilize or delays or interruptions in the third-party services we rely on could result in errors, failures or disruptions of our services, which also could harm our business.

We depend upon third-party service providers for important payment processing functions. If these third-party service providers do not fulfill their contractual obligations or choose to discontinue their services, our business and operations could be disrupted and our operating results would be harmed.

We rely on several large payment processing organizations to enable us to provide payment processing services to our clients, including electronic funds transfers, or EFT, check services, bank card authorization, data capture, settlement and merchant accounting services and access to various reporting tools. We also rely on third-party hardware manufacturers to manufacture the check scanning hardware our clients utilize to process transactions. Some of these organizations and service providers are competitors who also directly or indirectly sell payment processing services to clients in competition with us. With respect to these organizations and service providers, we have significantly less control over the systems and processes than if we were to maintain and operate them ourselves. In some cases, functions necessary to our business are performed on proprietary third-party systems and software to which we have no access. We also generally do not have long-term contracts with these organizations and service providers. Accordingly, the failure of these organizations and service providers to renew their contracts with us or fulfill their contractual obligations and perform satisfactorily could result in significant disruptions to our operations and adversely affect operating results. In addition, businesses that we have acquired, or may acquire in the future, typically rely on other payment processing service providers. We may encounter difficulty converting payment processing services from these service providers to our payment processing platform. If we are required to find an alternative source for performing these functions, we may have to expend significant money, time and other resources to develop or obtain an alternative, and if developing or obtaining an alternative is not accomplished in a timely manner and without significant disruption to our business, we may be unable to fulfill our responsibilities to clients or meet their expectations, with the attendant potential for liability claims, damage to our reputation, loss of ability to attract or maintain clients.

If our security measures are breached and unauthorized access is obtained to our software platform, service infrastructure, or our clients' or their renters' or prospects' data, we may incur significant liabilities, third parties may misappropriate our intellectual property or financial assets, our solutions may be perceived as not being secure and clients may curtail or stop using our solutions.

Maintaining the security of our software platform and service infrastructure is of paramount importance to us and our clients, and we devote significant resources to this effort. Breaches of the security measures we take to protect our software platform and service infrastructure and our and our clients' confidential or proprietary information that is stored on and transmitted through those systems could disrupt and compromise the security of our internal systems and on demand applications, impair our ability to provide products and services to our clients and protect the privacy of their data, compromise our confidential or technical business information harming our competitive position, result in theft or misuse of our intellectual property or financial assets or otherwise adversely affect our business.

The solutions we provide involve the collection, storage and transmission of confidential personal and proprietary information regarding our clients and our clients' current and prospective renters and business partners. Specifically, we collect, store and transmit a variety of client data such as demographic information and payment histories of our clients' prospective and current renters and business partners. Additionally, we collect and transmit sensitive financial data such as credit card and bank account information. Treatment of certain types of data, such as personally identifiable information, protected health information and sensitive financial data may be subject to federal or state regulations requiring heightened privacy and security. If our data security or data integrity measures are breached or otherwise fail or prove to be inadequate for any reason, as a result of third-party actions or our employees' or contractors' errors or malfeasance or otherwise, and unauthorized persons obtain access to this information, or the data is otherwise compromised, we could incur significant liability to our clients and to their prospective or current renters or business partners, significant costs associated with internal regulatory investigations and litigation, or significant fines and sanctions by payment processing networks or governmental authorities. Any of these events or circumstances could result in damage to our reputation and material harm to our business.

We also rely upon our clients as users of our system to promote security of the system and the data within it, such as administration of client-side access credentialing and control of client-side display of data. On occasion, our clients have failed to perform these activities in such a manner as to prevent unauthorized access to data. To date, these breaches have not resulted in claims against us or in material harm to our business, but we cannot be certain that the failure of our clients in future periods

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to perform these activities will not result in claims against us, which could expose us to potential litigation, damage to our reputation and material harm to our business.

There can be no certainty that the measures we have taken to protect our software platform and service infrastructure, our confidential and proprietary information and the privacy and integrity of our clients', their current or prospective renters' and business partners' data are adequate to prevent or remedy unauthorized access to our system. Because techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventive measures. Experienced computer programmers seeking to intrude or cause harm, or hackers, have penetrated our service infrastructure in the past and are likely to attempt to do so in the future. Hackers may consist of sophisticated organizations, competitors, governments or individuals who launch targeted attacks to gain unauthorized access to our systems and financial assets. A hacker who is able to penetrate our service infrastructure could misappropriate proprietary or confidential information or financial assets or cause interruptions in our services. For example, during May 2018, we learned we were the subject of a targeted email phishing campaign that led to a business email compromise, pursuant to which an unauthorized party gained access to an external third party system used by a subsidiary that was acquired by us in 2017. The incident resulted in the successful diversion of approximately \$8 million of funds intended for disbursement to three clients. RealPage immediately notified its relevant financial institutions and certain government agencies of the incident and restored all funds to the client accounts. Although we believe recovery can be achieved through the continued efforts by relevant financial institutions and government agencies coupled with applicable insurance coverage, there can be no assurance of recovery or the timing of any such recovery.

We might be required to expend significant capital and resources to protect against, or to remedy, problems caused by hackers (including the May 2018 incident described above), and we may not have a timely remedy against a hacker who is able to penetrate our service infrastructure. In addition to purposeful breaches, inadvertent actions or the transmission of computer viruses could expose us to security risks. If an actual or perceived breach of our security occurs or if our clients and potential clients perceive vulnerabilities, the market perception of the effectiveness of our security measures could be harmed, we could lose sales and clients and our business could be materially harmed.

Our business is subject to the risks of international operations.

Compliance with complex foreign and U.S. laws and regulations that apply to our international operations increases our cost of doing business. These numerous and sometimes conflicting laws and regulations include internal control and disclosure rules, data privacy and filtering requirements, anti-corruption laws, such as the Foreign Corrupt Practices Act, and other local laws prohibiting corrupt payments to governmental officials, and antitrust and competition regulations, among others.

Violations of these laws and regulations could result in fines and penalties, criminal sanctions against us, our officers, or our employees, prohibitions on the conduct of our business and on our ability to carry on operations in one or more countries, and could also materially affect our brand, our international expansion efforts, our ability to attract and retain employees, our business and our operating results. Although we have implemented policies and procedures designed to ensure compliance with these laws and regulations, there can be no assurance that our employees, contractors, or agents will not violate our policies.

In addition, we are subject to a variety of risks inherent in doing business internationally, including:

- political, social, economic or environmental instability, terrorist attacks and security concerns in general;
- limitations of local infrastructure;
- fluctuations in currency exchange rates;
- higher levels of credit risk and payment fraud;
- reduced protection for intellectual property rights in some countries;
- difficulties in staffing and managing global operations and the increased travel, infrastructure and legal compliance costs associated with multiple international locations;
- compliance with statutory equity requirements and management of tax consequences; and
- outbreaks of highly contagious diseases.

If we are unable to manage the complexity of our international operations successfully, our financial results could be adversely affected.

We rely on our management team and need additional personnel to grow our business, and the loss of one or more key employees or our inability to attract and retain qualified personnel could harm our business.

Our success and future growth depend on the skills, working relationships and continued services of our management team. The loss of our Chief Executive Officer or other senior executives, or our inability to successfully integrate certain new members of our management, could adversely affect our business. Our future success also will depend on our ability to attract, retain and motivate highly skilled software developers, marketing and sales personnel, technical support and product development personnel in the United States and internationally. All of our employees work for us on an at-will basis. Competition for these types of personnel is intense, particularly in the software industry. As a result, we may be unable to attract or retain qualified personnel. Our inability to attract and retain the necessary personnel could adversely affect our business.

Legal and Regulatory Risks Related to Our Business

We face a number of risks in our payment processing business that could result in a reduction in our revenues and profits.

In connection with our electronic payment processing services, we process renter payments and subsequently submit these renter payments to our clients after varying clearing times established by RealPage. These payments are settled through our sponsor banks, and in the case of EFT, our Originating Depository Financial Institutions, or ODFIs. The renter payments that we process for our clients at our sponsor banks are identified in our Consolidated Balance Sheets as restricted cash and the corresponding liability for these renter payments is identified as client deposits. Our electronic payment processing business and related maintenance of custodial accounts subjects us to a number of risks, including, but not limited to:

- liability for client costs related to disputed or fraudulent transactions if those costs exceed the amount of the client reserves we have during the clearing period or after renter payments have been settled to our clients;
- electronic processing limits on the amount of custodial balances that any single ODFI, or collectively all of our ODFIs, will underwrite;
- reliance on sponsor banks, card payment processors and other payment service provider partners to process electronic transactions;
- failure by us or our sponsor banks to adhere to applicable laws and regulatory requirements or the standards of the electronic payments rules and regulations and other rules and regulations that may impact the provision of electronic payment services;
- continually evolving and developing laws and regulations governing payment processing and money transmission, the application or interpretation of which is not clear in some jurisdictions;
- incidences of fraud, a security breach or our failure to comply with required external audit standards;
- our inability to increase or modify our fees at times when sponsor banks, electronic payment partners or associations increase their transaction processing fees or impose restrictions on the type, structure or amount of fees we can charge;
- repricing actions taken by card associations or payment networks or imposed as a result of governmental regulation or due to competitive pressures, which could negatively impact the prices we can charge customers for our services; and
- inconsistent and conflicting laws, regulations and card association or payment network rules that may result in fee structures that cause consumer confusion, complaints or litigation.

If any of these risks related to our electronic payment processing business were to materialize, our business or financial results could be negatively affected. Although we attempt to structure and adapt our payment processing operations to comply with these complex and evolving laws and regulations, our efforts may not guarantee compliance. In the event that we are found to be in violation of these legal requirements, we may be subject to monetary fines, cease and desist orders, mandatory product changes, or other penalties that could have an adverse effect on our results of operations. Additionally, with respect to the processing of EFTs, we are exposed to financial risk and EFTs between a renter and our client may be returned for various reasons such as insufficient funds or stop payment orders. These returns are charged back to the client by us. However, if we or our sponsor banks are unable to collect such amounts from the client's account or if the client refuses or is unable to reimburse us for the chargeback, we bear the risk of loss for the amount of the transfer. While we have not experienced material losses resulting from chargebacks in the past, there can be no assurance that we will not experience significant losses from chargebacks in the future. Any increase in chargebacks not paid by our clients may adversely affect our financial condition and results of operations.

We entered into a service provider agreement with a financial institution merchant service provider under which we are a registered independent sales organization, or ISO, of the merchant service providers. The merchant service provider acts as a

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merchant acquiring bank for processing our client credit card and debit card payments (“Card Payments”), and we serve as an ISO. As an ISO, we assume the underwriting risk for processing Card Payments on behalf of our clients. If we experience excessive chargebacks, either we or the merchant service provider has the authority to cease client card processing services, and such events could result in a material adverse effect on our revenues, operating income, and reputation.

Evolution and expansion of our payment processing business may subject us to additional regulatory requirements and other risks, for which failure to comply or adapt could harm our operating results.

The evolution and expansion of our payment processing business may subject us to additional risks and regulatory requirements, including laws governing money transmission and payment processing/settlement services. These requirements vary throughout the markets in which we operate, and have increased over time as the geographic scope and complexity of our product services have expanded. While we maintain a compliance program focused on applicable laws and regulations throughout the payments industry, there is no guarantee that we will not be subject to fines, criminal and civil lawsuits or other regulatory enforcement actions in one or more jurisdictions, or be required to adjust business practices to accommodate future regulatory requirements.

In order to maintain flexibility in the growth and expansion of our payments operations, we have obtained money transmitter licenses (or their equivalents) in several states, the District of Columbia and Puerto Rico and expect to continue the license application process in additional jurisdictions throughout the United States as needed to accommodate new product development. Our efforts to acquire and maintain these licenses could result in significant management time, effort, and cost, and may still not guarantee compliance given the constant state of change in these regulatory frameworks. Accordingly, costs associated with changes in compliance requirements, regulatory audits, enforcement actions, reputational harm, or other regulatory limits on our ability to grow our payment processing business could adversely affect our financial results.

Because certain solutions we provide depend on access to client data, decreased access to this data or the failure to comply with the evolving laws and regulations governing privacy of data, cloud computing and cross-border data transfers, or the failure to address privacy concerns applicable to such data, could harm our business.

Certain of our solutions depend on our continued access to our clients’ data regarding their prospective and current renters, including data compiled by other third-party service providers who collect and store data on behalf of our clients. Federal, state and foreign governments have adopted and continue to adopt new laws and regulations addressing data privacy and the collection, processing, storage, transmission, use and disclosure of personal information. Such laws and regulations are subject to differing interpretations and may be inconsistent among jurisdictions. These and other requirements could reduce demand for our solutions or restrict our ability to store and process data or, in some cases, impact our ability to offer our services and solutions in certain locations.

In addition to government activity, privacy advocacy and other industry groups have established or may establish new self-regulatory standards that may place additional burdens on us. Our clients may expect us to meet voluntary certification or other standards established by third parties. If we are unable to maintain these certifications or meet these standards, it could adversely affect our ability to provide our solutions to certain clients and could harm our business.

Any restrictions on the use of or decrease in the availability of data from our clients, or other third parties that collect and store such data on behalf of our clients, and the costs of compliance with, and other burdens imposed by, applicable legislative and regulatory initiatives may limit our ability to collect, aggregate or use this data. Any limitations on our ability to collect, aggregate or use such data could reduce demand for certain of our solutions. Additionally, any inability to adequately address privacy concerns, even if unfounded, or comply with applicable privacy laws, regulations and policies, could result in liability to us or damage to our reputation and could inhibit sales and market acceptance of our solutions and harm our business.

Assertions by a third party that we infringe its intellectual property, whether successful or not, could subject us to costly and time-consuming litigation or expensive licenses.

The software and technology industries are characterized by the existence of a large number of patents, copyrights, trademarks and trade secrets and by frequent litigation based on allegations of infringement, misappropriation, misuse and other violations of intellectual property rights. We have received in the past, and may receive in the future, communications from third parties claiming that we have infringed or otherwise misappropriated the intellectual property rights or terms of use of others. Our technologies may not be able to withstand any third-party claims against their use. Since we currently have a limited number of patents, we may not be able to use patent infringement as a defensive strategy in such litigation. Additionally, although we have licensed from other parties proprietary technology covered by patents, we cannot be certain that any such patents will not be challenged, invalidated or circumvented. If such patents are invalidated or circumvented, this may allow existing and potential competitors to develop products and services that are competitive with, or superior to, our solutions.

Many of our client agreements require us to indemnify our clients for certain third-party claims, such as intellectual property infringement claims, which could increase our costs of defending such claims and may require that we pay damages if

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there were an adverse ruling or settlement related to any such claims. These types of claims could harm our relationships with our clients, may deter future clients from purchasing our solutions or could expose us to litigation for these claims. Even if we are not a party to any litigation between a client and a third party, an adverse outcome in any such litigation could make it more difficult for us to defend our intellectual property in any subsequent litigation in which we are a named party.

Litigation could force us to stop selling, incorporating or using our solutions that include the challenged intellectual property or redesign those solutions that use the technology. In addition, we may have to pay damages if we are found to be in violation of a third party's rights. We may have to procure a license for the technology, which may not be available on reasonable terms, if at all, may significantly increase our operating expenses or may require us to restrict our business activities in one or more respects. As a result, we may also be required to develop alternative non-infringing technology, which could require significant effort and expense. There is no assurance that we would be able to develop alternative solutions or, if alternative solutions were developed, that they would perform as required or be accepted in the relevant markets. In some instances, if we are unable to offer non-infringing technology, or obtain a license for such technology, we may be required to refund some or the entire license fee paid for the infringing technology by our clients.

Our exposure to risks associated with the use of intellectual property may be increased as a result of acquisitions, as we have a lower level of visibility into the development process with respect to acquired technology or the care taken to safeguard against infringement risks. Such risks include, without limitation, patent infringement risks, copyright infringement risks, risks arising from the inclusion of open source software that is subject to onerous license provisions that could even require disclosure of our proprietary source code, or violations of terms of use for third party solutions that our acquisition targets use. Third parties may make infringement and similar or related claims after we have acquired technology that had not been asserted prior to our acquisition.

Any failure to protect and successfully enforce our intellectual property rights could compromise our proprietary technology and impair our brands.

Our success depends on our ability to protect our proprietary rights to the technologies we use in our solutions. If we are unable to protect our proprietary rights adequately, our competitors could use the intellectual property we have developed to enhance their own products and services, which could harm our business. We rely on a combination of copyright, service mark, trademark and trade secret laws, as well as confidentiality procedures and contractual restrictions, to establish and protect our proprietary rights, all of which provide only limited protection. We currently have a limited number of issued patents and pending patent applications, and we may be unable to obtain patent protection in the future. In addition, if any patents are issued in the future, they may not provide us with any competitive advantages, may not be issued in a manner that gives us the protection that we seek and may be successfully challenged by third parties. Unauthorized parties may attempt to copy or otherwise obtain and use the technologies underlying our solutions. Monitoring unauthorized use of our technologies is difficult, and we do not know whether the steps we have taken will prevent unauthorized use of our technology. If we are unable to protect our proprietary rights, we may find ourselves at a competitive disadvantage to others who have not incurred the substantial expense, time and effort required to create similar innovative products.

We cannot assure you that any future service mark or trademark registrations will be issued for pending or future applications or that any registered service marks or trademarks will be enforceable or provide adequate protection of our proprietary rights. If we are unable to secure new marks, maintain already existing marks and enforce the rights to use such marks against unauthorized third-party use, our ability to brand, identify and promote our solutions in the marketplace could be impaired, which could harm our business.

We customarily enter into agreements with our employees, contractors and certain parties with whom we do business to limit access to, use of, and disclosure of our confidential and proprietary information. The legal and technical steps we have taken, however, may not prevent unauthorized use or the reverse engineering of our technology. Moreover, we may be required to release the source code of our software to third parties under certain circumstances. For example, some of our client agreements provide that if we cease to maintain or support a certain solution without replacing it with a successor solution, then we may be required to release the source code of the software underlying such solution. In addition, others may independently develop technologies that are competitive to ours or infringe our intellectual property. Moreover, it may be difficult or practically impossible to detect copyright infringement or theft of our software code. Enforcement of our intellectual property rights also depends on our legal actions being successful against these infringers, but these actions may not be successful, even when our rights have been infringed. Furthermore, the legal standards relating to the validity, enforceability and scope of protection of intellectual property rights in Internet-related industries are uncertain and still evolving.

Additionally, as we sell our solutions internationally, effective patent, trademark, service mark, copyright and trade secret protection may not be available or as robust in every country in which our solutions are available. As a result, we may not be able to effectively prevent competitors outside the United States from infringing or otherwise misappropriating our intellectual property rights, which could reduce our competitive position and ability to compete or otherwise harm our business.

We may be unable to halt the operations of websites that aggregate or misappropriate data from our websites.

From time to time, third parties have misappropriated data from our websites through website scraping, software robots or other means and aggregated this data on their websites with data from other companies. In addition, copycat websites have misappropriated data on our network and attempted to imitate our brand or the functionality of our website. When we have become aware of such websites, we have employed technological or legal measures in an attempt to halt their operations. However, we may be unable to detect all such websites in a timely manner and, even if we could, technological and legal measures may be insufficient to halt their operations. In some cases, particularly in the case of websites operating outside of the United States, our available remedies may not be adequate to protect us against the impact of the operation of such websites. Regardless of whether we can successfully enforce our rights against the operators of these websites, any measures that we may take could require us to expend significant financial or other resources, which could harm our business, results of operations or financial condition. In addition, to the extent that such activity creates confusion among consumers or advertisers, our brand and business could be harmed.

Legal proceedings against us could be costly and time consuming to defend.

We are from time to time subject to legal proceedings and claims that arise in the ordinary course of business, including claims brought by our clients or vendors in connection with commercial disputes, claims brought by our clients' current or prospective renters, including class action lawsuits based on asserted statutory or regulatory violations, employment-based claims made by our current or former employees, and other claims brought by administrative agencies, government regulators, or insurers.

On February 23, 2015, we received from the Federal Trade Commission ("FTC") a Civil Investigative Demand consisting of interrogatories and a request to produce documents relating to our compliance with the FCRA. We responded to the request and requests for additional information by the FTC. On November 2, 2017, the FTC staff informed us of its belief that there is a basis for claims that could include monetary and injunctive relief against us for failing to follow reasonable procedures to assure maximum possible accuracy of our tenant screening reports. We believe that our business practices did not, and do not, violate the FCRA or any other laws, and we intend to vigorously defend our position. We have had ongoing discussions with the FTC to attempt to resolve the matter. However, we cannot be certain that the matter will be resolved as a result of these discussions.

Litigation, enforcement actions and other legal proceedings, regardless of their outcome, may result in substantial costs and may divert management's attention and our resources, which may harm our business, overall financial condition and operating results. In addition, legal claims that have not yet been asserted against us may be asserted in the future. Although we maintain insurance, there is no guarantee that such insurance will be available or sufficient to cover any such legal proceedings or claims. For example, insurance may not cover such legal proceedings or claims or the insurer may withhold or dispute coverage of such legal proceedings or claims on various grounds, including by alleging such coverage is beyond the scope of such policies, that we are not in compliance with the terms of such insurance policies or that such policies are not in effect, even after proceeds under such insurance policies have been received by us. In addition, insurance may not be sufficient for one or more such legal proceedings or claims and may not continue to be available on terms acceptable to us, or at all. A legal proceeding or claim brought against us that is uninsured or under-insured could result in unanticipated costs, thereby harming our operating results.

We could be sued for contract, warranty or product liability claims, and such lawsuits may disrupt our business, divert management's attention and our financial resources or have an adverse effect on our financial results.

We provide warranties to clients of certain of our solutions and services relating primarily to product functionality, network uptime, critical infrastructure availability and hardware replacement. General errors, defects, inaccuracies or other performance problems in the software applications underlying our solutions or inaccuracies in or loss of the data we provide to our clients could result in financial or other damages to our clients. Additionally, errors associated with any delivery of our services, including utility billing, could result in financial or other damages to our clients. There can be no assurance that any warranty disclaimers, general disclaimers, waivers or limitations of liability set forth in our contracts would be enforceable or would otherwise protect us from liability for damages. We maintain general liability insurance coverage, including coverage for errors and omissions, in amounts and under terms that we believe are appropriate. There can be no assurance that this coverage will continue to be available on terms acceptable to us, or at all, or in sufficient amounts to cover one or more large product liability claims, or that the insurer will not deny coverage for any future claim or dispute coverage of such legal proceedings or claims even after proceeds under such insurance policies have been received by us. The successful assertion of one or more large product liability claims against us that exceeds available insurance coverage, could have a material adverse effect on our business, prospects, financial condition and results of operations.

The rental housing industry, electronic commerce and many of the products and services that we offer, including background screening services, utility billing, affordable housing compliance and audit services, insurance and payments are subject to extensive and evolving governmental regulation. Changes in regulations or our failure to comply with regulations could harm our operating results.

The rental housing industry is subject to extensive and complex federal, state and local laws and regulations. Our services and solutions must work within the extensive and evolving legal and regulatory requirements applicable to our clients and third-party service providers, including, but not limited to, those under the Fair Credit Reporting Act, the Fair Housing Act, the Deceptive Trade Practices Act, the Drivers Privacy Protection Act, the Gramm-Leach-Bliley Act, the Fair and Accurate Credit Transactions Act, the United States Tax Reform Act of 1986 (TRA86), which is an IRS law governing tax credits, the Privacy Rules, Safeguards Rule and Consumer Report Information Disposal Rule promulgated by the Federal Trade Commission, or FTC, the FTC's Telemarketing Sales Rule, the Telephone Consumer Protection Act (TCPA), the CAN-SPAM Act, the Electronic Communications Privacy Act, the regulations of the United States Department of Housing and Urban Development, or HUD, HIPAA/HITECH, rules and regulations of the Consumer Financial Protection Bureau (CFPB) and complex and divergent state and local laws and regulations related to data privacy and security, credit and consumer reporting, deceptive trade practices, discrimination in housing, telemarketing, electronic communications, call recording, utility billing and energy and gas consumption. These regulations are complex, change frequently and may become more stringent over time. Although we attempt to structure and adapt our solutions and service offerings to comply with these complex and evolving laws and regulations, we may be found to be in violation. If we are found to be in violation of any applicable laws or regulations, we could be subject to administrative and other enforcement actions as well as class action lawsuits or demands for client reimbursement. Additionally, many applicable laws and regulations provide for penalties or assessments on a per occurrence basis. Due to the nature of our business, the type of services we provide and the large number of transactions processed by our solutions, our potential liability in an enforcement action or class action lawsuit could be significant. In addition, entities such as HUD, the FTC and the CFPB have the authority to promulgate rules and regulations that may impact our clients and our business.

On February 23, 2015, we received from the Federal Trade Commission ("FTC") a Civil Investigative Demand consisting of interrogatories and a request to produce documents relating to our compliance with the FCRA. We responded to the request and requests for additional information by the FTC. On November 2, 2017, the FTC staff informed us of its belief that there is a basis for claims that could include monetary and injunctive relief against us for failing to follow reasonable procedures to assure maximum possible accuracy of our tenant screening reports. We believe that our business practices did not, and do not, violate the FCRA or any other laws, and we intend to vigorously defend our position. We have had ongoing discussions with the FTC to attempt to resolve the matter. However, we cannot be certain that the matter will be resolved as a result of these discussions.

We believe increased regulation is likely in the area of data privacy, and laws and regulations applying to the solicitation, collection, processing or use of personally identifiable information or consumer information could affect our clients' ability to use and share data, potentially reducing demand for our on demand software solutions. In October 2015, the European Court of Justice invalidated the U.S.-EU Safe Harbor framework, which had been the primary compliance mechanism for establishing data transfers outside of the European Economic Area in accordance with the European Union's Data Protection Directive 95-46 EC. In July 2016, the U.S. and European Union entered into a new compliance framework, (the "Privacy Shield"), which was intended to replace the U.S.-EU Safe Harbor framework. The Privacy Shield is subject to review by European courts, and this creates some uncertainty regarding compliance with applicable privacy laws and regulations. While alternative compliance options exist, the long-term viability of the overall compliance framework remains in question, which could result in increased regulation, cost of compliance and limitations on data transfers for both our clients and us. Beginning in May 2018, the General Data Protection Regulation ("GDPR") will become effective in the European Union. The GDPR imposes new requirements upon companies in the EU or operating in the EU regarding the handling of personal data. If we are unable to meet the requirements of applicable privacy laws and regulations, the Privacy Shield or GDPR with respect to our services subject to these provisions, we may incur monetary or other penalties which could harm our business or financial condition.

Some of our LeaseStar products operate under the real estate brokerage laws of numerous states and require maintaining licenses in many of these states. Brokerage laws in these states could change, affecting our ability to provide some LeaseStar or, if applicable, other products in these states.

We deliver our on demand software solutions over the Internet and sell and market certain of our solutions over the Internet. As Internet commerce continues to evolve, increasing regulation by federal, state or foreign agencies becomes more likely. Taxation of products or services provided over the Internet or other charges imposed by government agencies or by private organizations for accessing the Internet may also be imposed. Any regulation imposing greater fees for Internet use or restricting information exchange over the Internet could result in a decline in the use of the Internet and the viability of on demand software solutions, which could harm our business and operating results.

Our LeasingDesk insurance business is subject to governmental regulation which could reduce our profitability or limit our growth.

Through our wholly owned subsidiary, Multifamily Internet Ventures LLC, we hold insurance agent licenses from a number of individual state departments of insurance and are subject to state governmental regulation and supervision in connection with the operation of our LeasingDesk insurance business. In addition, Multifamily Internet Ventures LLC has appointed numerous sub-producing agents to generate insurance business for its eRenterPlan product. These sub-producing agents primarily consist of property owners and managers who market the eRenterPlan to residents. The sub-producing agents are subject to the same state regulation and supervision, and Multifamily Internet Ventures LLC cannot ensure that these sub-producing agents will not violate these regulations, and thus expose the LeasingDesk business to sanctions by these state departments of insurance for any such violations. Furthermore, state insurance departments conduct periodic examinations, audits and investigations of the affairs of insurance agents. This state governmental supervision could reduce our profitability or limit the growth of our LeasingDesk insurance business by increasing the costs of regulatory compliance, limiting or restricting the solutions we provide or the methods by which we provide them or subjecting us to the possibility of regulatory actions or proceedings. Our continued ability to maintain these insurance agent licenses in the jurisdictions in which we are licensed depends on our compliance with the rules and regulations promulgated from time to time by the regulatory authorities in each of these jurisdictions.

In all jurisdictions, the applicable laws and regulations are subject to amendment or interpretation by regulatory authorities. Generally, such authorities are vested with relatively broad discretion to grant, renew and revoke licenses and approvals and to implement regulations, as well as regulate rates that may be charged for premiums on policies. Accordingly, we may be precluded or temporarily suspended from carrying on some or all of the activities of our LeasingDesk insurance business or fined or penalized in a given jurisdiction. No assurances can be given that our LeasingDesk insurance business can continue to be conducted in any given jurisdiction as it has been conducted in the past.

Multifamily Internet Ventures LLC is required to maintain a 50-state general agency insurance license as well as individual insurance licenses for each sales agent involved in the solicitation of insurance products. Both the agency and individual licenses require compliance with state insurance regulations, payment of licensure fees, and continuing education programs. In the event that regulatory compliance requirements are not met, Multifamily Internet Ventures LLC could be subject to license suspension or revocation, state Department of Insurance audits and regulatory fines. As a result, our ability to engage in the business of insurance could be restricted, and our revenue and financial results will be adversely affected.

Risks Related to Ownership of our Common Stock

The concentration of our capital stock owned by insiders may limit your ability to influence corporate matters.

Our executive officers, directors, and entities affiliated with them together beneficially owned approximately 24.9% of our common stock as of March 31, 2018. Of such amount, Stephen T. Winn, our President, Chief Executive Officer and Chairman of the Board, and entities beneficially owned by Mr. Winn held an aggregate of approximately 22.7% of our common stock as of March 31, 2018. This significant concentration of ownership may adversely affect the trading price of our common stock because investors often perceive disadvantages in owning stock in companies with controlling stockholders. Mr. Winn and entities beneficially owned by Mr. Winn may exert significant influence over our management and affairs and matters requiring stockholder approval, including the election of directors and the approval of significant corporate transactions, such as mergers, consolidations or the sale of substantially all of our assets. Consequently, this concentration of ownership may have the effect of delaying or preventing a change of control, including a merger, consolidation or other business combination involving us, or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control, even if that change of control would benefit our other stockholders.

The trading price of our common stock price may be volatile.

The trading price of our common stock could be subject to wide fluctuations in response to various factors, including, but not limited to, those described in this “Risk Factors” section, some of which are beyond our control. Factors affecting the trading price of our common stock include:

- variations in our operating results or in expectations regarding our operating results;
- variations in operating results of similar companies;
- changes in our financial guidance and how our actual results compare to such guidance;
- changes in the estimates of our operating results or changes in recommendations by any research analysts that elect to follow our common stock;
- announcements of technological innovations, new solutions or enhancements, acquisitions, strategic alliances or agreements by us or by our competitors;

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- announcements by competitors regarding their entry into new markets, and new product, service and pricing strategies;
- marketing, advertising or other initiatives by us or our competitors;
- increases or decreases in our sales of products and services for use in the management of units by clients and increases or decreases in the number of units managed by our clients;
- threatened or actual litigation;
- major changes in our board of directors or management;
- recruitment or departure of key personnel;
- market conditions in our industry and the economy as a whole;
- the overall performance of the equity markets;
- sales of our shares of common stock by existing stockholders;
- volatility in our stock price, which may lead to higher stock-based expense under applicable accounting standards; and
- adoption or modification of regulations, policies, procedures or programs applicable to our business.

In addition, the stock market in general, and the market for technology and specifically Internet-related companies, has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. Broad market and industry factors may harm the market price of our common stock regardless of our actual operating performance. In addition, in the past, following periods of volatility in the overall market and the market price of a particular company's securities, securities class action litigation has often been instituted against these companies. This litigation, if instituted against us, could result in substantial costs and a diversion of our management's attention and our resources, whether or not we are successful in such litigation.

Future sales of our common stock in the public market could lower the market price for our common stock.

In the future, we may sell additional shares of our common stock to raise capital. In addition, a substantial number of shares of our common stock is reserved for issuance upon the exercise of stock options and upon conversion of the Convertible Notes. We cannot predict the size of future issuances or the effect, if any, that they may have on the market price for our common stock. The issuance and sale of substantial amounts of common stock, or the perception that such issuances and sales may occur, could adversely affect the market price of our common stock and impair our ability to raise capital through the sale of additional equity.

The Note Hedges and Warrant transactions may affect the value of our common stock.

In connection with the pricing of the Convertible Notes, we entered into Note Hedges transactions with the option counterparties. We also entered into Warrant transactions with the option counterparties. The Note Hedges transactions are expected generally to reduce the potential dilution upon conversion of the Convertible Notes and/or offset any cash payments we are required to make in excess of the principal amount of Convertible Notes once converted, as the case may be. However, the Warrants could separately have a dilutive effect on our common stock to the extent that the market price per share of our common stock exceeds the strike price of the Warrants.

In connection with establishing their initial hedges of the Note Hedges and Warrants, the option counterparties or their respective affiliates expected to enter into various derivative transactions with respect to our common stock concurrently with or shortly after the pricing of the Convertible Notes. The option counterparties or their respective affiliates may modify any such hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions prior to the maturity of the Convertible Notes (and are likely to do so during any observation period related to a conversion of the Convertible Notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock.

Our charter documents and Delaware law could prevent a takeover that stockholders consider favorable and could also reduce the market price of our stock.

Our amended and restated certificate of incorporation and our amended and restated bylaws contain provisions that could delay or prevent a change in control of our company. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions. These provisions include:

- a classified board of directors whose members serve staggered three-year terms;
- not providing for cumulative voting in the election of directors;
- authorizing our board of directors to issue, without stockholder approval, preferred stock with rights senior to those of our common stock;
- prohibiting stockholder action by written consent; and
- requiring advance notification of stockholder nominations and proposals.

These and other provisions of our amended and restated certificate of incorporation and our amended and restated bylaws and under Delaware law could discourage potential takeover attempts, reduce the price that investors might be willing to pay in the future for shares of our common stock and result in the market price of our common stock being lower than it would be without these provisions.

If securities analysts do not continue to publish research or reports about our business or if they publish negative evaluations of our stock, the price of our stock could decline.

We expect that the trading price for our common stock may be affected by research or reports that industry or financial analysts publish about us or our business. If one or more of the analysts who cover us downgrade their evaluations of our stock, the price of our stock could decline. If one or more of these analysts cease coverage of our company, we could lose visibility in the market for our stock, which in turn could cause our stock price to decline.

We do not anticipate paying any cash dividends on our common stock.

We do not anticipate paying any cash dividends on our common stock in the foreseeable future. If we do not pay cash dividends, you would receive a return on your investment in our common stock only if the market price of our common stock has increased when you sell your shares. In addition, the terms of our credit facilities currently restrict our ability to pay dividends. See additional discussion under the Dividend Policy heading of Part II, Item 5 of our Annual Report on Form 10-K filed with the SEC on March 1, 2018.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

(c) Purchases of Equity Securities

The following table provides information with respect to repurchases of our common stock made during the three months ended March 31, 2018, by RealPage, Inc. or any “affiliated purchaser” of RealPage, Inc. as defined in Rule 10b-18(a)(3) under the Exchange Act:

| Period | Total Number of Shares Purchased | Average Price Paid per Share | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs ⁽¹⁾ | Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs ⁽¹⁾ |
|--|----------------------------------|------------------------------|---|---|
| January 1, 2018 through January 31, 2018 | — | \$ — | — | \$ 44,894,113 |
| February 1, 2018 through February 28, 2018 | — | — | — | 44,894,113 |
| March 1, 2018 through March 31, 2018 | — | — | — | 44,894,113 |
| | — | \$ — | — | \$ 44,894,113 |

⁽¹⁾ Our board of directors approved an extension of our May 2014 share repurchase program in 2015, 2016, and again in April 2017. Each renewal permitted the repurchase of up to \$50.0 million of our common stock during the period commencing on the extension start date and ending one year thereafter. The current extension of the share repurchase program will expire on May 4, 2018.

Item 6. Exhibits.

The exhibits required to be furnished pursuant to Item 6 are listed in the Exhibit Index filed herewith, which Exhibit Index is incorporated herein by reference.

EXHIBIT INDEX

| Exhibit Number | Exhibit Description | Incorporated by Reference | | | Included |
|----------------------|---|---------------------------|-----------|--------|----------|
| | | Form | Date | Number | Herewith |
| 2.1 | Acquisition Agreement dated April 19, 2018 by and among Registrant and each of the holders of outstanding membership units of NovelPay LLC, a Delaware limited liability company, other than those owned by ClickPay Services, Inc., a Delaware corporation, and NP Representative, LLC, a Delaware limited liability company, solely in its capacity as the Sellers' Representative* | | | | X |
| 2.2 | Agreement and Plan of Merger by and among Registrant, RP Newco XXIII Inc., a Delaware corporation and wholly-owned subsidiary of Registrant, RP Newco XXIV Inc., a Delaware corporation and wholly-owned subsidiary of Registrant, ClickPay Services, Inc., a Delaware corporation and NP Representative, LLC, a Delaware limited liability company, solely in its capacity as the Sellers' Representative* | | | | X |
| 3.1 | Amended and Restated Certificate of Incorporation of the Registrant | S-1/A | 7/26/2010 | 3.2 | |
| 3.2 | Amended and Restated Bylaws of the Registrant | S-1/A | 7/26/2010 | 3.4 | |
| 4.1 | Form of Common Stock certificate of the Registrant | S-1/A | 7/26/2010 | 4.1 | |
| 4.2 | Shareholders' Agreement among the Registrant and certain stockholders, dated December 1, 1998, as amended July 16, 1999 and November 3, 2000 | S-1 | 4/29/2010 | 4.2 | |
| 4.3 | Second Amended and Restated Registration Rights Agreement among the Registrant and certain stockholders, dated February 22, 2008 | S-1 | 4/29/2010 | 4.3 | |
| 4.4 | Indenture between the Registrant and Wells Fargo Bank, National Association, dated May 23, 2017 | 10-Q | 8/4/2017 | 4.4 | |
| 4.5 | Form of Global Note to represent the 1.50% Convertible Senior Notes due 2022, of the Registrant | 10-Q | 8/4/2017 | 4.5 | |
| 4.6 | Form of Warrant Confirmation in connection with 1.50% Convertible Senior Notes due 2022, of the Registrant | 10-Q | 8/4/2017 | 4.6 | |
| 4.7 | Form of Call Option Confirmation in connection with 1.50% Convertible Senior Notes due 2022, of the Registrant | 10-Q | 8/4/2017 | 4.7 | |
| 10.1 | Seventh Amendment to Credit Agreement, Incremental Amendment and Amendment to Collateral Agreement among the Registrant, certain subsidiaries of the Registrant party thereto, the lenders party thereto, and Wells Fargo Bank, National Association, as administrative agent, dated March 12, 2018 | | | | X |
| 31.1 | Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 | | | | X |
| 31.2 | Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 | | | | X |
| 32.1 | Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002** | | | | X |
| 32.2 | Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002** | | | | X |
| 101.INS | Instance | | | | X |
| 101.SCH | Taxonomy Extension Schema | | | | X |
| 101.CAL | Taxonomy Extension Calculation | | | | X |
| 101.LAB | Taxonomy Extension Labels | | | | X |
| 101.PRE | Taxonomy Extension Presentation | | | | X |
| 101.DEF | Taxonomy Extension Definition | | | | X |

* Exhibits, schedules and annexes have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be furnished to the Securities and Exchange Commission upon request.

** Furnished herewith.

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Section 2: EX-2.1 (EXHIBIT 2.1)

Exhibit 2.1

Execution Version

ACQUISITION AGREEMENT

by and among

REALPAGE, INC.,

NOVELPAY LLC,

THE COMPANY SELLERS NAMED HEREIN

AND

THE SELLERS' REPRESENTATIVE NAMED HEREIN

Dated as of April 19, 2018

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EXHIBITS

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- Exhibit B - Form of Fifth A&R Operating Agreement
- Exhibit C - Form of IP Assignment and Transfer Agreement
- Exhibit D - Form of IP License Agreement
- Exhibit E - Form of Software Development Agreement
- Exhibit F - Form of Restricted Stock Agreement
- Exhibit G - Form of Significant Owner Agreement

SCHEDULES

- Schedule I - Form of Payment Spreadsheet and Estimated Closing Statement
- Schedule 2.4(b)(iii) - Required Consents
- Schedule 2.4(b)(v) - Terminated Contracts
- Schedule 2.4(b)(x) - Offer Letter Employees
- Schedule 3.29 - Buyer Competitors
- Schedule 6.2(b) - Equity Plan Participants
- Schedule 6.3 - Surviving Related-Party Contracts
- Schedule 6.6(b)(ii) - Buyer Prepared Tax Returns
- Schedule 6.6(e) - Amended Returns; Tax Elections

ACQUISITION AGREEMENT

This ACQUISITION AGREEMENT (as amended, modified or supplemented from time to time in accordance with the terms hereof, this "Agreement") is made and entered into as of April 19, 2018 by and among REALPAGE, INC., a Delaware corporation publicly listed on Nasdaq ("Buyer"), NovelPay LLC, a Delaware limited liability company (the "Company"), each of the holders of outstanding membership units of the Company except for ClickPay Services, Inc., a Delaware corporation ("TopCo") (as set forth on Schedule I hereto, each, a "Company Seller" and, collectively, the "Company Sellers"), and NP Representative, LLC, a Delaware limited liability company (solely in its capacity as the "Sellers' Representative"). Buyer, the Company, the Company Sellers, and the Sellers' Representative are sometimes referred to individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the Company Sellers and TopCo own, in the aggregate, all of the issued and outstanding limited liability company units of the Company (the "Company Units");

WHEREAS, Buyer desires to purchase from the Company Sellers, and the Company Sellers desire to sell to Buyer, at the Closing (as defined below) the Company Units set forth on Schedule I, which Company Units are owned by the Company Sellers and along with the Retained Units (as defined on Exhibit A) represent all of the Company Units owned by the Company Sellers upon the terms and subject to the conditions set forth in this Agreement (such purchase, the "Company Purchase");

WHEREAS, simultaneous herewith, Buyer and two subsidiaries of Buyer, RP Newco XXIII Inc., a Delaware corporation, and RP Newco XXIV Inc., a Delaware corporation, are entering into an Agreement and Plan of Merger with TopCo (the "TopCo Merger Agreement"), pursuant to which Buyer will acquire all of the shares of capital stock of TopCo;

WHEREAS, TSL1, Agabs and Horowitz (collectively, the "Retained Unitholders") will sell certain of their Company Units at Closing, but will also retain the number and type of Company Units that are designated as "Retained Units" herein and such Retained Units are subject to put rights and call rights, as set forth in Section 8.15 hereof; and

WHEREAS, the board of managers of the Company has approved this Agreement, which contemplates, among other things, the Company Purchase, in accordance the Delaware LLC Act and in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the premises and mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, the Parties hereby agree as follows:

Article I DEFINED TERMS

- 1.1 **Definitions.** Unless otherwise specified, all capitalized terms used in this Agreement have the meanings set forth on Exhibit A.

ARTICLE II THE COMPANY PURCHASE; THE CLOSING

2.1 **The Company Purchase.** At the Closing, subject to the terms and conditions of this Agreement and in accordance with the Delaware LLC Act, the Parties hereby agree, for the consideration specified in Section 2.3 and Section 2.5 hereof, that each of the Company Sellers shall sell, transfer and deliver to Buyer, free and clear of all Liens, and Buyer shall purchase from such Company Seller, the number and type of the Company Units set forth

opposite such Company Seller's name on Schedule I (collectively, the "Closing Units"). For the avoidance of doubt, the Company Units held by TopCo and the Retained Units shall not be transferred hereunder at Closing and shall remain issued and outstanding subject to the terms of that certain Fourth Amended and Restated Operating Agreement, dated as of November 17, 2016, by and among the Company, TopCo, and other parties thereto, (the "A&R Operating Agreement"). The A&R Operating Agreement shall be amended and restated immediately following the Closing as set forth in Exhibit B hereto (the "Fifth A&R Operating Agreement").

2.2 The Closing. The closing of the sale of the Closing Units (the "Closing") will take place remotely via the exchange of documents and signatures at 10:00 a.m. Central Time on the date hereof (the "Closing Date"), unless the Parties otherwise agree in writing. For tax and accounting purposes, the Closing shall be deemed to be effective as of 12:01 a.m. Dallas time on the Closing Date (the "Effective Time").

2.3 Purchase Price. The purchase price for the Closing Units (the "Closing Unit Purchase Price") shall be calculated and equal the amount set forth below (the "Adjusted Equity Value"):

- (a) an amount equal to (i) the First Component of Baseline Enterprise Value, multiplied by (ii) 49.416%, plus
- (b) an amount equal to (i) the Final Component of Baseline Enterprise Value, multiplied by (ii) the Applicable Closing Percentage, plus
- (c) an amount equal to (i) all Company Cash as of immediately prior to the Closing (the "Closing Company Cash"), multiplied by (ii) the Applicable Closing Percentage, minus
- (d) an amount equal to (i) any Net Working Capital Adjustment as of immediately prior to the Closing, multiplied by (ii) the Applicable Closing Percentage, minus
- (e) an amount equal to (i) the Closing Net Debt Amount as of immediately prior to the Closing, multiplied by (ii) the Applicable Closing Percentage, minus
- (f) an amount equal to (i) the Transaction Expenses not satisfied prior to Closing, multiplied by (ii) the Applicable Closing Percentage.

2.4 Closing Deliveries and Payments. The obligations of the Parties to consummate the Closing shall be subject to:

- (a) Buyer Closing Deliveries. At or prior to the Closing, Buyer shall deliver or cause to be delivered to the Sellers' Representative:
 - (i) a fully executed copy of each Transaction Document to which Buyer or any of its Affiliates is to be party, which Transaction Documents shall be or remain in effect as of the Closing; and
 - (ii) the resolutions of the board of directors of Buyer, authorizing and approving the execution and delivery of this Agreement and each of the other Transaction Documents by Buyer, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby, certified by an officer of Buyer.
- (b) Company and Company Sellers' Closing Deliveries. At or prior to the Closing, the Company and the Company Sellers, as applicable, shall deliver or cause to be delivered to Buyer:
 - (i) with respect to all the Closing Units to be purchased by Buyer, where applicable, certificates representing all of such Closing Units, duly endorsed (or accompanied by duly executed transfer powers);

(ii) a fully executed copy of each Transaction Document to which the Company, the Company Sellers or any of their respective Affiliates (including the Significant Owners) is to be party, which Transaction Documents shall be or remain in effect as of the Closing;

(iii) each Consent required to be obtained in connection with the execution, delivery or performance of this Agreement or any other Transaction Document by the Company or the consummation of the transactions contemplated herein or therein, as set forth on Schedule 2.4(b)(iii), in form and substance satisfactory to Buyer;

(iv) written resignations from each manager and officer of the Company, which resignations will be effective on or before the Closing and will be in form and substance reasonably satisfactory to Buyer;

(v) evidence of termination of each of the Contracts listed on Schedule 2.4(b)(v), in form and substance reasonably satisfactory to Buyer;

(vi) certificate of good standing from the State of Delaware which is dated within five (5) days of the Closing with respect to the Company;

(vii) a duly executed letter of transmittal and an IRS Form W-9 with respect to each of the Company Sellers;

(viii) an affidavit from each Company Seller dated as of the Closing Date and meeting the requirements of Section 1446(f)(2) of the Code and Treasury Regulations Section 1.1445-2(b)(2);

(ix) fully executed copies of each of the IP Assignment and Transfer Agreement between the Company and Commercial Enterprises LLC in the form attached hereto as Exhibit C (the “IP Assignment Agreement”), the IP License Agreement between the Company and Commercial Enterprises LLC in the form attached hereto as Exhibit D (the “CE License”), and the Software Development Agreement between the Company and DistantLite LLC in the form attached hereto as Exhibit E (the “Software Development Agreement”); and

(x) Employment Offer Letters, executed by the individuals set forth on Schedule 2.4(b)(x).

(c) Payments of Closing Cash Consideration and Issuances of Buyer Common Stock. At the Closing (or as otherwise provided below), Buyer shall on behalf of itself and/or any designee(s) thereof, deliver or cause to be delivered the following:

(i) to the Company Sellers, the Closing Cash Consideration, with each Closing Seller receiving, by wire transfer of immediately available funds to an account of such Company Seller designated in writing by the Sellers’ Representative to Buyer not less than five (5) Business Days prior to the Closing Date, the cash portion of such Company Seller’s Individual Closing Payment Amount;

(ii) to the Company Sellers, an aggregate amount of shares of Buyer Common Stock equal to the 1st Anniversary Holdback Shares, with Buyer issuing a stock certificate in such Company Seller’s name evidencing shares of Buyer Common Stock representing such Company Seller’s Holdback Pro Rata Portion of the 1st Anniversary Holdback Shares, which shares shall be retained by Buyer pursuant to Section 2.6 hereof;

(iii) at the direction of the Company, by wire transfer of immediately available funds to the applicable vendor or the Company, as the case may be, such amounts in cash as are necessary to pay in full the Transaction Expenses that remain unpaid as of immediately prior to the Closing; and

(iv) to the Sellers' Representative, by wire transfer of immediately available funds to an account designated in writing by the Sellers' Representative at least two (2) Business Days prior to the Closing, the Sellers' Representative Expense Fund Amount.

2.5 Purchase Price Adjustment.

(a) Estimated Closing Balance Sheet and Estimated Closing Statement. The Company has prepared in good faith and provided to Buyer no later than five (5) Business Days prior to the Closing Date a written certificate signed by the Chief Financial Officer of the Company setting forth the estimated balance sheet of the Company as of the close of business on the Closing Date (the "Estimated Closing Balance Sheet"), which Estimated Closing Balance Sheet shall identify the amounts of restricted cash appearing as customer deposits on the Estimated Closing Balance Sheet (the "Restricted Cash Customer Deposits"), together with a written statement (the "Estimated Closing Statement") setting forth in reasonable detail its good faith estimates of the Company's Net Working Capital, Closing Net Debt Amount, Closing Company Cash and any Transaction Expenses not satisfied prior to the Closing (the "Adjustable Financial Amounts"), each as derived from the Estimated Closing Balance Sheet. The Estimated Closing Balance Sheet and such good faith estimate of each Adjustable Financial Amount contained in the Estimated Closing Statement shall be prepared in accordance with GAAP. The Estimated Closing Statement, which shall be in substantially the form of Schedule I attached hereto, shall also include the identity of each Person that is to be paid any Transaction Expenses; the amount owed or to be owed to each such Person; and the bank account and wire transfer information for each such Person.

(b) Closing Payment. The Adjusted Equity Value used for the purposes of determining the amounts payable at Closing under Section 2.4 (c) shall be calculated using the same estimates of the Adjustable Financial Amounts set forth in the final Estimated Closing Statement.

(c) Proposed Final Closing Balance Sheet and Proposed Final Closing Statement. As promptly as possible and in any event within one hundred eighty (180) calendar days after the Closing Date, Buyer shall prepare or cause to be prepared, and will provide to the Sellers' Representative, a balance sheet of the Company as of the close of business on the Closing Date (the "Proposed Final Closing Balance Sheet"), including Buyer's calculation of the Restricted Cash Customer Deposits as of the Closing, together with a written statement (the "Proposed Final Closing Statement") setting forth in reasonable detail its proposed final determination of the Adjustable Financial Amounts. The Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement shall be prepared in accordance with GAAP.

(d) Dispute Notice. The Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement (and the proposed final determinations of the Adjustable Financial Amounts reflected thereon) will be final, conclusive and binding on the parties unless Sellers' Representative provides a written notice (a "Dispute Notice") to Buyer no later than the thirtieth (30th) day after the delivery to the Sellers' Representative of the Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement (the "Proposed Final Closing Statement Response Period"). Any Dispute Notice must set forth in reasonable detail (i) any item on the Proposed Final Closing Balance Sheet or the Proposed Final Closing Statement which Sellers' Representative believes is incorrect and the correct amount of such item and (ii) Sellers' Representative's alternative calculation of any Adjustable Financial Amount, as applicable. Any item or amount to which no dispute is raised in the Dispute Notice will be final, conclusive and binding on the parties on such thirtieth (30th) day of the Proposed Final Closing Statement Response Period. During the Proposed Final Closing Statement Response Period, Sellers' Representative and its duly authorized advisors and representatives shall be permitted to review any working papers, trial balances and similar materials to the extent reasonably necessary for Sellers' Representative and its duly authorized advisors and representatives to review the Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement.

(e) Resolution of Disputes. Buyer and Sellers' Representative will attempt to promptly resolve the matters raised in any Dispute Notice in good faith. Beginning thirty (30) days after delivery of any Dispute Notice pursuant to Section 2.5(d), either Buyer or Sellers' Representative may provide written notice to the other (the "Dispute Submission Notice") that it elects to submit the disputed items to KPMG US LLP or another firm of regional standing

mutually acceptable to Buyer and the Sellers' Representative (the "Accounting Firm"). The Accounting Firm will promptly and in accordance with such procedures as it deems fair and equitable (subject to the terms of this Agreement), provided that each party shall be afforded an opportunity to submit a written statement in favor of its position and to advocate for its position orally before the Accounting Firm, review only those unresolved items and amounts specifically set forth and objected to in the Dispute Notice, which resolution shall be made in accordance with the terms of this Agreement. The Accounting Firm will promptly resolve the items in dispute, provided that no calculation of any Adjustable Financial Amount in dispute shall be either greater than the greater of, or lesser than the lesser of, (i) the calculation of such Adjustable Financial Amount set forth on the Dispute Notice (as may be adjusted and as submitted by Sellers' Representative to the Accounting Firm at the outset of the dispute resolution process with a copy to Buyer) and (ii) Buyer's calculation of such Adjustable Financial Amount as set forth on the Proposed Final Closing Statement (as may be adjusted and as submitted by Buyer to the Accounting Firm at the outset of the dispute resolution process with a copy to the Sellers' Representative). In any such case, the Accounting Firm shall render a written decision with respect to such disputed matter, including a statement in reasonable detail of the basis for its decision. The party whose position with respect to the matter in dispute is furthest from the Accounting Firm's final determination shall pay all of the fees and expenses of the Accounting Firm. The decision of the Accounting Firm with respect to the disputed items of the Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement submitted to it will be final, conclusive and binding on the parties. As used herein, the Proposed Final Closing Balance Sheet and the Proposed Final Closing Statement, as adjusted to reflect any changes agreed to by the parties and the decision of the Accounting Firm, in each case, pursuant to this Section 2.5(e), are referred to herein as the "Final Closing Balance Sheet" and the "Final Closing Statement", respectively. Each of the parties to this Agreement agrees to reasonably cooperate with the Accounting Firm (including by executing a customary engagement letter reasonably acceptable to it) and to cause the Accounting Firm to resolve any such dispute as soon as practicable after the commencement of the Accounting Firm's engagement.

(f) Closing Payment Adjustment. If any Adjustable Financial Amount as set forth in the Final Closing Statement differs from the estimated amounts thereof set forth in the Estimated Closing Statements, the Adjusted Equity Value shall be recalculated and using such final figures in lieu of such estimated figures:

(i) If the Adjusted Equity Value calculated as set forth in Section 2.3 using the Adjustable Financial Amounts as set forth in the Final Closing Statement is greater than or equal to the Adjusted Equity Value calculated pursuant to Section 2.5(b) (such difference a "Purchase Price Underpayment"), then Buyer shall be required to pay the Company Sellers, within five (5) Business Days following the final determination of the Adjusted Equity Value, an amount in cash equal to such Purchase Price Underpayment. Such amount shall be allocated among the Company Sellers based on their respective Adjustment Pro Rata Portion and paid by wire transfer of immediately available funds to an account of such Company Seller designated in writing by the Sellers' Representative to Buyer; and

(ii) If the Adjusted Equity Value calculated as set forth in Section 2.3 using the Adjustable Financial Amounts as set forth in the Final Closing Statement is less than the Adjusted Equity Value calculated pursuant to Section 2.5(b) (such difference, a "Purchase Price Overpayment"), then Buyer shall be paid such Purchase Price Overpayment, which shall be satisfied (A) first, from the Holdback Consideration (initially from the 1st Anniversary Holdback Shares and then, to the extent such Purchase Price Overpayment is greater than the 1st Anniversary Holdback Shares Amount available, from the 2nd Anniversary Holdback Shares), and (B) second, if and to the extent the Purchase Price Overpayment is greater than the Holdback Consideration available, from each Company Seller, severally, in accordance with each such Company Seller's respective Adjustment Pro Rata Portion; provided, however, that if the Purchase Price Overpayment is any amount greater than \$1,000,000, then Buyer may recover the Purchase Price Overpayment directly from each Company Seller, severally, in accordance with each such Company Seller's respective Adjustment Pro Rata Portion, without any requirement to first recover any amounts of the Purchase Price Overpayment from the Holdback Consideration. Any amounts directly paid to Buyer by a Company Seller pursuant to this Section 2.5(f)(ii) shall be made by wire transfer of immediately available funds to Buyer.

2.6 Holdback. At the Closing, Buyer shall retain the 1st Anniversary Holdback Shares and 2nd Anniversary Holdback Shares from the Purchase Price that is payable to the Company Sellers which shall be allocated

to those Closing Units of the Company Sellers that are set forth on the Payment Spreadsheet (as defined in Section 6.5(a)), which Holdback Consideration will constitute security for the satisfaction of the Company Sellers' indemnity and Purchase Price Overpayment obligations under this Agreement (the "Company Seller Obligations"). Buyer shall retain and shall have the right to subtract from the Holdback Consideration (initially from the 1st Anniversary Holdback Shares until such shares are exhausted and then from the 2nd Anniversary Holdback Shares) any Buyer Indemnified Losses for which a Buyer Indemnified Party is entitled to indemnification pursuant to Article VII. Buyer shall pay the balance of the Holdback Consideration to the Company Sellers (or their respective written designee(s)) as follows:

(a) Initial Release Date. Within fifteen (15) days after the date that is one day following the 12-month anniversary of the Closing Date (such date, the "Initial Release Date"), Buyer shall release to the Company Sellers a number of shares of fully paid, nonassessable Buyer Common Stock in an amount equal to the (A) the 1st Anniversary Holdback Shares minus (B) the amount of shares of Buyer Common Stock representing any Purchase Price Overpayments satisfied from the 1st Anniversary Holdback Shares (as determined by dividing such Purchase Price Overpayments by the Issue Price as of the Closing Date), minus (C) the amount of shares, if any, of Buyer Common Stock, representing aggregate outstanding Buyer Indemnified Losses as finally determined as of the Initial Release Date, with such amount of shares being determined in accordance with Section 7.6(a), minus (D) any amounts described in the following sentence. To the extent that as of the Initial Release Date there are properly asserted claims by the Buyer Indemnified Parties for indemnification against the Company Sellers pursuant to Section 7.1(a) pending, Buyer shall deduct from the 1st Anniversary Holdback Shares a number of shares of Buyer Common Stock, determined by dividing such cash amount by the Issue Price as of the Closing Date, to cover a reasonable estimate of Buyer Indemnified Losses to be incurred by the Buyer Indemnified Parties, as determined by Buyer in the reasonable exercise of its discretion. The Company Sellers hereby irrevocably authorize Buyer to submit to its transfer agent for cancellation the stock certificates representing the 1st Anniversary Holdback Shares retained by Buyer in order to permit the reductions to the 1st Anniversary Holdback Shares contemplated by this Section 2.6(a) and issue new stock certificates representing the 1st Anniversary Holdback Shares, if any, to be issued or released to the Company Sellers following such reductions.

(b) On the Initial Release Date, Buyer shall issue to the Company Sellers a number of shares of fully paid, nonassessable Buyer Common Stock in an amount equal to (A) the 2nd Anniversary Holdback Shares, minus (B) the amount of shares of Buyer Common Stock representing any Purchase Price Overpayments satisfied from the 2nd Anniversary Holdback Shares (as determined by dividing such Purchase Price Overpayments by the Issue Price as of the Initial Release Date), minus (C) the amount of shares, if any, of Buyer Common Stock, representing aggregate outstanding Buyer Indemnified Losses as finally determined as of the Initial Release Date that have not been satisfied by 1st Anniversary Holdback Shares, with such amount of shares being determined in accordance with Section 7.6(a); with Buyer issuing a stock certificate in such Company Seller's name evidencing shares of Buyer Common Stock representing such Company Seller's Holdback Pro Rata Portion of the 2nd Anniversary Holdback Shares and which 2nd Anniversary Holdback Shares shall be retained by Buyer pursuant to this Section 2.6(b). Within fifteen (15) days after the date that is one day following the 24-month anniversary of the Closing Date (such date, the "Second Release Date"), Buyer shall issue to the Company Sellers a number of shares of fully paid, nonassessable Buyer Common Stock in an amount equal to (A) the 2nd Anniversary Holdback Shares, minus (B) the amount of shares of Buyer Common Stock representing any Purchase Price Overpayments satisfied from the 2nd Anniversary Holdback Shares (as determined by dividing such Purchase Price Overpayments by the Issue Price as of the Closing Date), minus (C) the amount of shares, if any, of Buyer Common Stock, representing the aggregate outstanding Buyer Indemnified Losses as finally determined as of the Second Release Date that have not been satisfied by 1st Anniversary Holdback Shares, with such amount of shares being determined in accordance with Section 7.6(a), minus (D) any amounts described in the following sentence. To the extent that as of the Second Release Date there are properly asserted claims by the Buyer Indemnified Parties for indemnification against the Indemnifying Parties pursuant to Section 7.1(a) pending, Buyer shall deduct from the 2nd Anniversary Holdback Shares Amount a number of shares of Buyer Common Stock, determined by dividing such cash amount by the Issue Price as of the Initial Release Date, to cover a reasonable estimate of Buyer Indemnified Losses to be incurred by the Buyer Indemnified Parties, as determined by Buyer in the reasonable exercise of its discretion. The Company Sellers hereby irrevocably authorize Buyer to submit to its transfer agent for cancellation the stock certificates representing the 2nd Anniversary Holdback Shares retained by Buyer in order to permit the reductions to the 2nd Anniversary Holdback Shares contemplated by this Section 2.6(b) and issue new stock certificates representing the 2nd Anniversary Holdback Shares, if any, following such reductions.

(c) Resolution of Existing Claims. If after the Initial Release Date or Second Release Date, any claims for indemnity are resolved in favor of the Sellers' Representative (on behalf of the Company Sellers) by mutual agreement or otherwise, or if upon resolution of a claim for indemnity in accordance with the provisions hereof, the amount withheld exceeds the amount ultimately payable to a Buyer Indemnified Party in respect of such claim, Buyer shall release to the Company Sellers a number of fully paid, nonassessable shares of Buyer Common Stock in an amount equal to the excess amount withheld, with such amount of shares being determined by dividing such excess amount withheld by the Issue Price as of the Closing Date, with respect to the 1st Anniversary Holdback Shares, or of the Initial Release Date, with respect to the 2nd Anniversary Holdback Shares.

(d) Allocation of Holdback Consideration Among Company Sellers. All shares of Buyer Common Stock that are released to the Company Sellers on the Initial Release Date, the Second Release Date or upon resolution of existing claims shall constitute Purchase Price and shall be distributed to the Company Sellers based on their respective Holdback Pro Rata Portion.

(e) Interest in Holdback Consideration. For avoidance of doubt, the Holdback Consideration and any right, title and interest therein may not be encumbered, transferred or otherwise hypothecated by a Company Seller until such portion of the Holdback Consideration is released to the Company Seller in accordance with this Section 2.6. For the avoidance of doubt, the Company Sellers shall not have any rights of ownership with respect to the Holdback Consideration, including any rights to vote or receive distributions with respect thereto, until such time as such Holdback Consideration is released to the Company Sellers on the Initial Release Date or the Second Release Date, as applicable.

2.7 Withholding. Buyer, and any other applicable withholding agent, will be entitled to deduct and withhold from any amounts payable pursuant to or as contemplated by this Agreement any Taxes or other amounts required under the Code or any Applicable Laws to be deducted and withheld, and, to the extent that any such amounts are so deducted or withheld and properly paid to the appropriate Governmental Entity, such amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made. To the extent that such amounts are not so deducted and withheld, such Person shall indemnify Buyer and its Affiliates and any other applicable withholding agent for any such amounts imposed by a Governmental Entity, together with any related costs, expenses or damages. Notwithstanding anything to the contrary in this Agreement, any compensatory amounts subject to payroll reporting and withholding that are payable pursuant to or as contemplated by this Agreement, including any such amounts payable pursuant to Section 2.4, and including any payments of transaction or similar bonuses, shall be payable through the Company (or other applicable entity) in accordance with the applicable payroll procedures.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the disclosure schedule which has been delivered by the Company to Buyer concurrently with the execution hereof (the "Disclosure Schedule") (which Disclosure Schedule shall be arranged according to specific sections in this Article III and shall provide exceptions to, or otherwise qualify in reasonable detail, only the corresponding section in this Article III and any other section in such Article where it is reasonably apparent, upon a reading of such disclosure without any independent knowledge on the part of the reader regarding the matter disclosed, that the disclosure is intended to apply to such other section), the Company represents and warrants to Buyer and to and for the benefit of the Buyer Indemnified Parties, as of the date hereof, as follows (with the understanding and acknowledgement that Buyer would not have entered into this Agreement without being provided with the representations and warranties set forth herein, and that these representations and warranties constitute an essential and determining element of this Agreement):

3.1 Organizational Matters

(a) Organization and Standing. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite power and authority to own, lease and operate its properties and to carry on its business in all material respects as now being conducted.

(b) Power to Conduct Business. The Company is duly qualified and in good standing to do business (with respect to jurisdictions that recognize that concept) in each of the jurisdictions set forth in Section 3.1(b) of the Disclosure Schedule, and such jurisdictions represent each jurisdiction in which the nature of the Company's business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to be so qualified would not have a material adverse effect on the Company. Except as set forth in Section 3.1(b) of the Disclosure Schedule, the Company has no operations outside of the United States and Canada.

(c) Charter Documents. The Company has delivered to Buyer true and complete copies of the certificate of formation and limited liability company agreement of the Company, in each case as amended to date and currently in effect (such instruments and documents, the "Company Charter Documents"). The Company is not in violation of any of the provisions of the Company Charter Documents.

(d) Subsidiaries. The Company does not have and has never had any Subsidiaries and does not own, hold or have any interest in or right to acquire capital stock or other equity interests or ownership interests in any entity.

(e) Powers of Attorney. There are no outstanding powers of attorney executed by or on behalf of the Company.

3.2 Capital Structure

(a) Membership Interests.

(i) The authorized membership interests of the Company consist of (i) 65,934 Series B-1 Preferred Units, (ii) 109,890 Series B-2 Preferred Units, (iii) 1,000,000 Class A Common Units and (iv) 74,217 Class B Common Units.

(ii) At the date hereof, there are 65,934 Series B-1 Preferred Units, 109,890 Series B-2 Preferred Units, 1,000,000 Class A Common Units and 74,217 Class B Common Units issued and outstanding and the Company has no other issued or outstanding limited liability company interests of any kind. All of the issued and outstanding Company Units have been duly authorized and validly issued and are fully paid, non-assessable and not subject to any preemptive rights.

(iii) No securities of the Company are held as treasury units or are owned by the Company.

(iv) Section 3.2(a)(iv) of the Disclosure Schedule sets forth a true and complete list of the holders of all the issued and outstanding Company Units, showing the number of Company Units held by each such holder.

(b) Other Securities. Except as set forth in Section 3.2(b) of the Disclosure Schedule or in the Company Charter Documents, there are no securities, options, warrants, calls, rights, commitments, agreements, arrangements or undertakings of any kind to which the Company is a party or by which it is bound obligating the Company to (A) issue, convert, deliver or sell, or cause to be issued, delivered or sold, securities of the Company, (B) issue, grant, extend or enter into any such security, option, warrant, call, right, commitment, agreement, arrangement or undertaking contemplated under clause (A), or (C) issue or distribute to holders of any Company Units any evidences of indebtedness or assets of the Company. Except as set forth in Section 3.2(b) of the Disclosure Schedule or in the Company Charter Documents, the Company is not under any obligation to purchase, redeem or otherwise acquire any Company Units or any interest therein or to pay any dividend or make any other distribution with respect thereto.

(c) No Agreements. Other than as listed in Section 3.2(c) of the Disclosure Schedule or as set forth in the Company Charter Documents or this Agreement, there are no agreements, written or oral, to which the Company or, to the Knowledge of the Company, any Company Seller is a party, relating to the issuance, acquisition (including rights of first refusal or preemptive rights), disposition, registration under the Securities Act of 1933, as amended (the “Securities Act”), or voting of the Company Units or other securities of the Company.

(d) Compliance with Laws. All Company Units, and other rights to acquire membership units or other securities of the Company, have been issued in compliance with all applicable securities laws and all other Applicable Laws.

(e) Closing Consideration. No Person will be entitled to receive from the Company, or have any claim against the Company to a portion of, the Closing Consideration Amount or any other payments to be made pursuant to this Agreement or the other Transaction Documents, other than the Company Sellers or as otherwise set forth in this Agreement or the other Transaction Documents.

3.3 Authority and Due Execution.

(a) Authority. The Company has all requisite limited liability company power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated herein or therein. The execution, delivery and performance of this Agreement and the other Transaction Documents by the Company, and the consummation of the transactions contemplated herein or therein, have been duly and validly authorized by all necessary company action on the part of the Company, and no other company proceedings on the part of the Company are necessary to authorize the execution, delivery and performance of this Agreement and the other Transaction Documents by the Company or to consummate the transactions contemplated herein or therein.

(b) Due Execution. This Agreement and each other Transaction Document to which the Company is a party has been duly executed and delivered by the Company and, assuming due authorization, execution and delivery by Buyer and other parties hereto and thereto, constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general application relating to or affecting creditors’ rights and to general equity principles (the “Remedies Exceptions”).

3.4 Non-Contravention and Consents. Except as set forth in Section 3.4 of the Disclosure Schedule:

(a) Non-Contravention. The execution and delivery of this Agreement and each other Transaction Document and the consummation of the transactions contemplated herein and thereby by the Company do not, and the performance of this Agreement and each other Transaction Document by the Company will not (i) conflict with or violate any provision of the Company Charter Documents, (ii) conflict with or violate any Applicable Laws, or (iii) subject to obtaining the Consents listed in Section 3.4(b) of the Disclosure Schedule, conflict with, result in any breach or acceleration of, or constitute a default (or an event that, with notice or lapse of time or both, would reasonably be expected to become a default) under, or impair the rights of the Company, require redemption or repurchase or otherwise require the purchase or sale of any securities, or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation pursuant to any Material Contract to which the Company is a party or otherwise bound, or result in the creation of a Lien (other than a Permitted Encumbrance) on any of the properties or assets of the Company (including the Company Units).

(b) Contractual Consents. No Consent under any Material Contract to which the Company is a party or otherwise bound is required to be obtained in connection with the execution, delivery or performance of this Agreement or any other Transaction Document by the Company or the consummation of the transactions contemplated herein or therein.

(c) Governmental Consents. No Consent of any national, state, municipal, provincial, county, local or foreign government, any instrumentality, subdivision, department, ministry, board, legislative body, court, administrative or regulatory agency, bureau or commission, or other governmental entity or instrumentality or political subdivision thereof, or any quasi-governmental or private body exercising any executive, legislative, judicial, administrative, regulatory, taxing, importing or other functions of or pertaining to a government (a “Governmental Entity”) is required to be obtained or made by the Company in connection with the execution, delivery and performance of this Agreement or any other Transaction Document by the Company or the consummation of the transactions contemplated herein or therein.

3.5 **Financial Statements.**

(a) Financial Statements. Section 3.5(a) of the Disclosure Schedule sets forth the financial statements (consisting of a balance sheet, statement of operations and statement of cash flows) of the Company for the years ended December 31, 2016 and 2017 and the financial statements (consisting of a balance sheet, statement of operations and statement of cash flows) for the two-month period ended February 28, 2018 (the “Most Recent Financial Statements”) (collectively, the “Financial Statements”). The Most Recent Financial Statements constitute the most recent regularly prepared financial statements of the Company; provided it is understood that, as set forth on Section 3.5(a) to the Disclosure Schedules, the Company’s financial statements for the three-month period ended March 31, 2018 have been internally prepared but remain in draft form. The financial statements of the Company for the year ended December 31, 2017 have been reviewed by the independent public accountants of the Company. The Financial Statements were prepared in accordance with GAAP, are true and correct in all material respects, and fairly and accurately present in all material respects the financial position, results of operations and cash flows of the Company as of the dates, and for the periods, indicated therein.

(b) Absence of Liabilities. Except as set forth in the Financial Statements, the Company has no Liabilities other than (i) Liabilities disclosed, reflected or reserved against on the Most Recent Financial Statements, (ii) Liabilities incurred in the ordinary course of the bona fide performance of the business subsequent to the date of the Most Recent Financial Statements, (iii) Liabilities incurred under Contracts and commitments entered into in the ordinary course of the bona fide performance of the business, in each case of the type required to be disclosed on the Disclosure Schedule that are so disclosed or which because of the dollar amount or other qualifications are not required to be listed on the Disclosure Schedule, (iv) Liabilities not required under GAAP to be reflected in the Financial Statements and (v) Liabilities, individually or in the aggregate, that are not material to the financial condition or operating results of the Company.

3.6 **Indebtedness**. The Company does not have any Indebtedness of any type (whether accrued, absolute, contingent, matured or unmatured), except for: (i) Indebtedness set forth on the Most Recent Financial Statements, or (ii) Indebtedness set forth in Section 3.6(a) of the Disclosure Schedule. The Company has made available to Buyer a true, correct and complete copy of each of the instruments and documents evidencing the items of Indebtedness required to be listed in Section 3.6(a) of the Disclosure Schedule. With respect to each such item of Indebtedness, (a) the Company is not in material default and no payments are past due, (b) to the Knowledge of the Company, no circumstance exists that, with notice, the passage of time or both, could constitute a material default by the Company under such item of Indebtedness and (c) the Company has not received any written notice of a default, alleged failure to perform or any offset or counterclaim with respect to such item of Indebtedness that has not been fully remedied and withdrawn. Other than as set forth on Section 3.6(b) of the Disclosure Schedule, the consummation of the transactions contemplated in this Agreement and each other Transaction Document by the Company will not conflict with, result in any breach or acceleration of, or constitute a default under any such items of Indebtedness. The Company is not a guarantor or otherwise liable for any Liability (including Indebtedness) of any other Person.

3.7 **Litigation**. Except as disclosed on Section 3.7 of the Disclosure Schedule, there have not been in the last five (5) years, and there currently are no written demand letters, complaints, actions, suits, settlements, hearings, investigations or proceedings, or governmental or regulatory inquiries by or before a Governmental Entity (each, a “Legal Proceeding”), pending or, to the Knowledge of the Company, threatened against the Company or its

business. To the Knowledge of the Company, there currently are no Legal Proceedings pending, or any material Legal Proceedings threatened, against the Company Sellers relating to the Company or its business. There currently are no Legal Proceedings initiated by the Company pending, or that the Company intends to initiate, against any other Person related to the Company, its business or any Company Intellectual Property. There is no injunction, judgment, decree or order entered, issued, made, or rendered by any Governmental Entity currently binding upon or against the Company.

3.8 Taxes.

(a) Except as set forth on Section 3.8(a) of the Disclosure Schedule, (i) all income and other material Tax Returns required to be filed by or with respect to the Company have been duly and timely filed (taking into account valid extensions); (ii) all items of income, gain, loss, deduction and credit or other items (“Tax Items”) required to be included in each such Tax Return have been so included and all such Tax Items and any other information provided in each such Tax Return are true, correct and complete; (iii) all Taxes owed by the Company or for which the Company may be liable that are or have become due have been timely paid in full; (iv) no penalty, interest or other charge is or will become due with respect to the late filing of any such Tax Return or late payment of any such Tax; (v) all Tax withholding and deposit requirements imposed on or with respect to the Company have been satisfied in full in all respects; (vi) there are no Liens for Taxes (other than Permitted Encumbrances) on any of the assets of the Company; and (vii) the Company is not liable for any Tax as a transferee or successor.

(b) Section 3.8(b) of the Disclosure Schedule lists all federal, state, local and foreign income Tax Returns filed with respect to the Company for the three (3) taxable years ending prior to the Closing Date, indicates those Tax Returns that have been audited, indicates those Tax Returns that are currently the subject of audit and indicates those Tax Returns whose audits have been closed. The Company has made available to Buyer true and complete copies of all Tax Returns filed by the Company during the past five (5) years and all material correspondence to the Company from, or from the Company to, a Taxing Authority relating thereto.

(c) There is no written claim against the Company for any Taxes, and no assessment, deficiency or adjustment has been asserted, proposed or threatened in writing with respect to any Tax Return, and no written notice has been received from a Governmental Entity with respect to Taxes, in either case, of or with respect to the Company, and, to the Knowledge of the Company, there is no reasonable factual or legal basis for the assessment of any deficiency or adjustment with respect to any Tax Return of or with respect to the Company, other than those disclosed (and to which are attached true and complete copies of all audit or similar reports) on Section 3.8(c) of the Disclosure Schedule. To the Knowledge of the Company there are no Tax audits or administrative or judicial proceedings that are being conducted, pending or threatened with respect to the Company, other than those disclosed (and to which are attached true and complete copies of all correspondence to or from the relevant Taxing Authority pertaining thereto) on Section 3.8(c) of the Disclosure Schedule. No written claim has ever been made by an authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation in that jurisdiction. The Company is not subject to Tax in any country other than its country of formation by virtue of having a permanent establishment or other place of business in such other country.

(d) Except as set forth in Section 3.8(d) of the Disclosure Schedule, there is not in force any extension of time with respect to the due date for the filing of any Tax Return of or with respect to the Company or any waiver or agreement for any extension of time for the assessment or payment of any Tax of or with respect to the Company.

(e) The Company is not a party to or bound by any Tax allocation, sharing or indemnity agreements or arrangements, and has no obligation or Liability under any such agreement or arrangement, other than agreements, or obligations pursuant to agreements, in each case with customary terms and for which the principal purpose is not Taxes.

(f) The Company does not own any interest in any controlled foreign corporation (as defined in Section 957 of the Code), passive foreign investment company (as defined in Section 1297 of the Code) or other entity the income of which is or could be required to be included in the income of the Company.

(g) No property of the Company is “tax-exempt use property” (within the meaning of Section 168(h) of the Code) or “tax exempt bond financed property” (within the meaning of Section 168(g)(5) of the Code).

(h) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) beginning after the Closing Date as a result of any: (i) use of an improper method of accounting or any change in method of accounting for a taxable period ending on or prior to the Closing Date; (ii) “closing agreement” as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date; (iii) installment sale or open transaction disposition made on or prior to the Closing Date; (iv) prepaid amount received on or prior to the Closing Date; (v) election made under Section 108(i) of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) on or prior to the Closing Date; or (vi) application of Section 965 of the Code. The Company has not made an election under Section 965(h) of the Code.

(i) The Company is and has at all times since formation been classified as a partnership or disregarded entity for U.S. federal (and applicable state and local) income Tax purposes. The Company has not made an election described in Section 1101(g)(4) of the Bipartisan Budget Act of 2015.

(j) The Company does not have any Liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any corresponding or similar provisions of state, local or foreign Tax law), or as a transferee or successor, under any Contract to which the Company is a party or otherwise (other than agreements, or obligations pursuant to agreements, in each case with customary terms and for which the principal purpose is not Taxes). The Company is not and has never been a member of an affiliated, consolidated, combined or unitary group filing for federal or state income tax purposes.

(k) The Company has not participated, within the meaning of Treasury Regulations Section 1.6011-4(c), in any “reportable transaction” within the meaning of Section 6011 of the Code and the Treasury Regulations thereunder (or any similar provision of state, local or foreign law). The Company has disclosed on its Tax Returns all positions taken therein that could give rise to a substantial understatement of Tax within the meaning of Section 6662 of the Code (or any similar provision of state, local or foreign law).

(l) There is no material property or obligation of the Company, including uncashed checks to vendors, customers, or employees, non-refunded overpayments or unclaimed subscription balances or unapplied cash balances, that is escheatable to any state or municipality under any applicable escheatment laws as of the date hereof.

(m) The Company uses and has used since inception the accrual method of accounting for income Tax purposes.

(n) All payments by or to the Company comply with all applicable transfer pricing requirements imposed by any Governmental Entity, and the Company has made available to Buyer accurate and complete copies of all transfer pricing documentation prepared pursuant to Treasury Regulation Section 1.6662-6 (or any similar foreign statutory, regulatory, or administrative provision) by or with respect to the Company during the past five years.

(o) Section 3.8(o) of the Disclosure Schedule sets forth a description of the material terms of any Tax exemption, Tax holiday or other Tax reduction agreement or order of a Taxing Authority (each, a “Tax Incentive”) with respect to the Company, and the Company is in full compliance with all terms and conditions of each such Tax Incentive.

(p) The provision for Taxes set forth on the balance sheets included in the Financial Statements are sufficient for all accrued and unpaid Taxes, whether asserted or unasserted, contingent or otherwise, as of the dates thereof. The Company has not incurred any liabilities for Taxes since those dates (i) arising from extraordinary gains or losses, as that term is used in GAAP, (ii) outside the ordinary course of business, or (iii) inconsistent with past custom or practice.

(q) No power of attorney that is currently in force has been granted with respect to any matter relating to Taxes that could affect the Company.

(r) The Company is not a party to a gain recognition agreement under Section 367 of the Code and the Treasury Regulations thereunder.

3.9 Property and Assets.

(a) Personal Property. The Company has good and marketable title to, or valid leasehold interests in, all of the Personal Property used or held for use in its business or reflected in the Financial Statements. Such Personal Property constitutes all Personal Property used and is sufficient to conduct the business of the Company as it is presently conducted. The Personal Property (i) is in reasonably good operating condition and repair (ordinary wear and tear excepted); (ii) and is available for immediate use in the business and operation of the Company as currently conducted.

(b) Liens. Except as set forth in Section 3.9(b) of the Disclosure Schedule, none of the Personal Property or other assets of the business of the Company is subject to any Lien of any nature whatsoever, other than Permitted Encumbrances. There are no breaches or defaults under, and no events or circumstances have occurred which, with or without notice or lapse of time or both, would reasonably be expected to constitute or would have constituted a breach of or a default under, any instrument, agreement or other document to which the Company is a party that creates, evidences or constitutes any Lien other than Permitted Encumbrances (any such instrument, agreement or other document is referred to herein as a "Lien Instrument"). The transaction contemplated herein will not result in any breach or acceleration of, or constitute a default (or an event that, with notice or lapse of time or both, would reasonably be expected to become a default) under, or impair the rights of the Company, or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation pursuant to, any Lien Instrument.

(c) Customer Information. The Company has ownership, free and clear of any Liens, or the valid right to use for the Company's business purposes as currently conducted, all customer lists, customer contact information, customer correspondence and customer licensing and purchasing histories relating to current and former customers of the Company.

(d) Leased Real Property.

(i) The Company does not own any real property, nor has the Company ever owned any real property. Section 3.9(d)(i) of the Disclosure Schedule sets forth a list of all real property and interests in real property currently leased, subleased, licensed or otherwise used or occupied by the Company pursuant to an agreement for the operation of its business (the "Leased Real Property"), including for each Leased Real Property, any deposit, base rent, and any allocated but unused tenant finish allowance for such piece of real property. To the Knowledge of the Company, the Leased Real Property (A) is in good operating condition and repair, to the Knowledge of the Company, free from material structural, physical and mechanical defects which would prevent the Company from using such space for its intended use; (B) is sufficient for the intended purposes of the Company therein; (C) is supplied with utilities and other services necessary for the operation of the business of the Company as currently conducted; and (D) is structurally sufficient and otherwise suitable for the conduct of the business of the Company therein as currently conducted.

(ii) Except as set forth in Section 3.9(d)(ii) of the Disclosure Schedule, to the Knowledge of the Company, no consent is required from the lessor, sublessor, licensor or, to the Knowledge of the Company, any other Person under any lease, sublease, license or other agreement (or, in each instance, any amendment, modification, renewal, exhibit and/or schedule thereto) related to the Leased Real Property (including all amendments, modifications, renewals, exhibits and schedules thereto, collectively, the “Real Property Leases”) to consummate the transactions contemplated in this Agreement and the Transaction Documents. The Company has not sublet, or granted to any other person any right of use, operation or occupancy of, any of the Leased Real Property. The Company has not sold, transferred or assigned, or granted any Lien on or otherwise encumbered, all or any portion of its interest under any Real Property Lease or in any Leased Real Property. The Company has made available to Buyer a true, correct and complete copy of all of the Real Property Leases. Each of the Real Property Leases is valid, binding and enforceable in accordance with its terms and is in full force and effect, and, to the Knowledge of the Company, there are no offsets or defenses by either landlord or tenant thereunder. To the Knowledge of the Company, there are no existing breaches of or defaults under, and no events or circumstances have occurred which, with or without notice or lapse of time or both, would constitute a breach of or a default under, any of the Real Property Leases by the Company or, to the Knowledge of the Company, any other Person, beyond any applicable notice or cure period. No party to the Real Property Leases has repudiated any provision thereof. To the Knowledge of the Company, there are no disputes, oral agreements or forbearance programs in effect, as to any of the Real Property Leases. To the Knowledge of the Company, the plants, fixtures, furnishings, and equipment located in and exclusively serving on the Leased Real Property are in reasonably good operating condition and in a state of reasonably good maintenance and repair, ordinary wear and tear excepted, and are reasonably adequate and suitable for the purposes for which they are currently being used by the Company. There are neither any actual, nor, to the Knowledge of the Company, any threatened or contemplated, condemnation or eminent domain proceedings that affect the Leased Real Property or any part thereof, and the Company has not received any notice from any Governmental Entity with respect thereto. To the Knowledge of the Company, the use or occupancy of the Leased Real Property by the Company for the conduct of the business of the Company as currently conducted do not violate: (x) any law, regulation, or ordinance applicable to the Leased Real Property; or (y) any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded agreement affecting such Leased Real Property. No security deposit or portion thereof deposited with respect to the Real Property Leases for the Leased Real Property has been applied in respect of a breach or default under such Real Property Leases which has not been re-deposited in full.

3.10 Intellectual Property and Related Matters.

(a) The Disclosure Schedule sets forth a true and correct list of: (%4) in Section 3.10(a)(i) of the Disclosure Schedule, each Company Product (by name, version number, and other appropriate identifiers); (%4) in Section 3.10(a)(ii) of the Disclosure Schedule, (A) each item of Registered IP in which the Company has or purports to have an ownership interest, (B) the record owner, and, if different, the legal owner and beneficial owner, of such item of such item of Registered IP, (C) the jurisdiction in which such item of Registered IP has been registered or filed and the applicable application, registration or serial number and (D) for each domain name registration, the applicable domain name registrar, the expiration date for the registration, and name of the registrant; (%4) in Section 3.10(a)(iii) of the Disclosure Schedule, (A) all Licensed IP (other than Open Source Software and software licensed under a Non-Negotiated Vendor Contract); (B) the Licensed IP Contract related to such Licensed IP; and (C) the Company Product (if any) in which such Licensed IP is incorporated or for which it is used to develop, deliver, host, provide or distribute such Company Product; and (%3) in Section 3.10(a)(iv) of the Disclosure Schedule, each of the Company IP Contracts, other than (A) nonexclusive licenses pursuant to Standard Form IP Contracts that have been entered into in the ordinary course of business without material changes thereto, and (B) rights granted to contractors or vendors to use the Company Intellectual Property for the sole benefit of the Company.

(a) The Company solely and exclusively owns all right, title and interest to and in the Company Intellectual Property free and clear of any Liens (other than the Permitted Encumbrances), including all Technology and Intellectual Property Rights embodied in or relating to the Company Products. Without limiting the generality of the foregoing:

(i) each Employee who is or was involved in the authorship, invention, creation, conception or development of any Technology or Intellectual Property Rights for or on behalf of the Company has entered into a valid and enforceable written agreement sufficient to irrevocably assign all Technology and Intellectual Property Rights authored, invented, created, conceived or developed by such Employee in the scope of his or her employment or engagement with the Company, with each such agreement with an employee of the Company substantially in the form of the Company's standard form of employee proprietary information and invention assignment agreement (the "Standard Offer Letter", which form is attached to Section 3.10(b)(i) of the Disclosure Schedule) (unless as otherwise set forth in Section 3.10(b)(i) of the Disclosure Schedule), or all such Technology and Intellectual Property Rights are owned by the Company by operation of law;

(ii) no Employee or, to the Knowledge of the Company, former or concurrent employer of any Employee has any claim, right or interest (including the right to obtain any claim, right or interest) to or in any Company Intellectual Property, and to the Knowledge of the Company no Intellectual Property Rights or Technology authored, invented, created, conceived, or developed by an Employee for the Company is subject to any Contract with any former or concurrent employer or other Person;

(iii) to the Knowledge of the Company, no Employee is in breach of any Contract with any former or concurrent employer or other Person concerning Intellectual Property Rights, confidentiality or noncompetition;

(iv) no funding, facilities, resources or personnel of any Governmental Entity or any research or educational institution were used to develop or create any Company Intellectual Property; and

(v) the Company has taken reasonable steps to maintain the confidentiality of all Intellectual Property Rights held by the Company, or purported to be held by the Company, as a trade secret, including any confidential information or trade secrets provided to the Company by any Person under an obligation of confidentiality, and no such proprietary information has been authorized to be disclosed or has actually been disclosed to any Person other than pursuant to a written confidentiality Contract restricting the disclosure and use of such proprietary information or to its advisors who are otherwise bound by professional obligations of confidentiality.

(b) Each item of the Company Intellectual Property that is Registered IP is in compliance with all Applicable Law, and all filings, payments and other actions required to be made or taken to maintain such item of the Company Intellectual Property in full force and effect have been made by the applicable deadline (except where the Company has in its reasonable business judgment decided to cancel, abandon, allow to lapse or not renew a Registered IP issuance, registration, or application). To the Knowledge of the Company, there is no basis for a claim that any Company Intellectual Property is invalid or, except for pending applications, unenforceable. Except as set forth in Section 3.10(c) of the Disclosure Schedule, there are no actions that must be taken by the Company within six (6) months of the date hereof, including the payment of any registration, maintenance or renewal fees or the filing of any documents, applications or certificates for the purposes of perfecting, maintaining or renewing any Registered IP. No issuance or registration obtained and no application filed by the Company in connection with the Company Intellectual Property has been cancelled, abandoned, allowed to lapse or not renewed within the past three (3) years, except where the Company has in its reasonable business judgment decided to cancel, abandon, allow to lapse or not renew such issuance, registration, or application.

(c) Neither the execution, delivery or performance of this Agreement or any other Transaction Document nor the consummation of the transactions contemplated by this Agreement will, with or without notice or the lapse of time, result in or give any other Person the right or option to cause or declare: (i) a loss of, or Lien on, any of the Company Intellectual Property; (ii) a material breach of any Licensed IP Contract or any of the Company IP Contracts; (iii) the release, disclosure or delivery of any Company Intellectual Property by or to any escrow agent or other Person; (iv) the grant, assignment or transfer to any other Person of any license or other right or interest under, to or in any of the Company Intellectual Property or any Intellectual Property Rights owned by, or licensed to, Buyer; or (v) payment by the Company of any royalties or other license fees with respect to Intellectual Property Rights of

any other Person in excess of those payable by the Company in the absence of this Agreement or the transactions contemplated hereby.

(d) To the Knowledge of the Company, (i) no Person has infringed, misappropriated, or otherwise violated, and (ii) no Person is currently infringing, misappropriating or otherwise violating, any of the Company Intellectual Property material to the Company's business. The Company has made available to Buyer copies that are true, correct and complete in all material respects of each letter or other written or electronic communication or correspondence that has been sent or otherwise delivered by or to the Company or any of its representatives regarding any actual, alleged or suspected infringement or misappropriation of any of the Company Intellectual Property.

(e) Except as set forth on Section 3.10(f)(i) of the Disclosure Schedule, the Company, and the operation of its business, is not infringing, misappropriating or otherwise violating, and has not, in the past six (6) years, infringed, misappropriated or otherwise violated, any Intellectual Property Right (or the rights of publicity or personality) of any other Person. Without limiting the generality of the foregoing: (i) no infringement, misappropriation or similar claim or legal proceeding pertaining to Intellectual Property Rights is pending or has been threatened against the Company or, to the Knowledge of the Company, against any other Person who may be entitled to be indemnified, defended, held harmless or reimbursed by the Company with respect to such claim or legal proceeding; (ii) the Company has not received any written notice or other written communication (or, to the Knowledge of the Company, any verbal notice or other communication) (A) relating to the Company's actual, alleged or suspected infringement, misappropriation or violation of any Intellectual Property Right of another Person, (B) inviting the Company to license the Intellectual Property Rights of another Person in lieu of a potential infringement claim; or (C) claiming that any Company Product or the operation of the business of the Company constitutes unfair competition or trade practices under any Applicable Law; and (iii) except as set forth on Section 3.10(f)(ii) of the Disclosure Schedule, the Company is not bound by any Contract to indemnify, defend, hold harmless, or reimburse any other Person with respect to any infringement, misappropriation or violation of any Intellectual Property Rights (other than pursuant to a Standard Form IP Contract, any commitment made by the Company in the ordinary course of entering into agreements with its customers to indemnify such customers with respect to their use of the Company Products or a Licensed IP Contract containing standard indemnification obligations for breach of the license).

(f) To the Knowledge of the Company, none of the Company Software contains any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or other similar code (collectively, "Harmful Code").

(g) The Company has taken reasonable steps and implemented reasonable procedures designed to ensure that the information technology systems controlled by the Company and used in connection with the business and operations of the Company, including the provision and operation of the Company Products, are free from any Harmful Code. The Company has reasonable disaster recovery and security plans, procedures and facilities for the business and operations of the Company, and has taken reasonable steps consistent with (or exceeding) industry standards to safeguard the information technology systems controlled by the Company and utilized in the business and operations of the Company as currently conducted. To the Knowledge of the Company, there have been no material unauthorized intrusions or breaches of the security of the information technology systems controlled by the Company and used in connection with the business or operations of the Company, including the provision and operation of the Company Products.

(h) None of the Company Software included in the Company Intellectual Property performs any functions that, without the knowledge and consent of the owner or authorized user of the computer or device, collects Personal Information in violation of the applicable privacy policy, interferes with the computer or device, or installs any computer programs that may be activated by a Person other than the owner or an authorized user of the computer or device.

(i) Use of Open Source Software.

(i) Section 3.10(j)(i) of the Disclosure Schedule accurately identifies and describes each item of Open Source Software that is or has been included, incorporated or embedded in, linked to, combined, distributed or made available with any of the Company Intellectual Property or in any Company Product. The Company has complied with all of the terms and conditions of each applicable license for Open Source Software, including all requirements pertaining to attribution and copyright notices.

(ii) Except as set forth in Section 3.10(j)(ii) of the Disclosure Schedule, no Open Source Software is or has been included, incorporated or embedded in, linked to, combined, distributed or made available with, any of the Company Intellectual Property or in any Company Product, in each case, in a manner that (A) subjects any of the Company Intellectual Property to any Copyleft License, (B) creates obligations for the Company with respect to the Company Intellectual Property or grants to any Person any rights or immunities under the Company Intellectual Property or (C) otherwise imposes any limitation, restriction or condition on the right or ability of the Company to use or distribute any of the Company Intellectual Property.

(j) Except as set forth in Section 3.10(a) of the Disclosure Schedule, (i) no source code for any Company Intellectual Property has been delivered, licensed or made available to any escrow agent or other Person who is not, as of the date of this Agreement, an employee or independent contractor of the Company, including under any license for Open Source Software, (ii) the Company has no duty or obligation (whether present, contingent or otherwise) to deliver, license or make available the source code for any Company Software to any escrow agent or other Person who is not, as of the date of this Agreement, an employee or independent contractor of the Company and (iii) no event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) could reasonably be expected to result in the improper delivery, license or disclosure of any source code for any of the Company Software included in the Company Intellectual Property to any other Person who is not, as of the date of this Agreement, an employee or independent contractor of the Company.

3.11 Accounts Receivable and Payable. All of the accounts receivable and trade accounts of the Company (the “Receivables”) are bona fide, valid and binding obligations, arose in the ordinary course of business, are carried on the records of the Company at values consistently determined in accordance with GAAP, and may be subject to the reserve for bad debts set forth in the Most Recent Financial Statements. No person has any Lien on any of such accounts receivable other than Permitted Encumbrances, and no request or agreement for any deduction or discount has been made with respect to any of such accounts receivable except as fully and adequately reflected in reserves for doubtful accounts or similar adjustment set forth in the Most Recent Financial Statements. Except as set forth in Section 3.11 of the Disclosure Schedule, all Receivables and accounts payable of the Company arose in the conduct of the business of the Company in the ordinary course of business.

3.12 Compliance.

(a) In all material respects, the Company has complied with, and is not in conflict with, or in default or in violation of, any Applicable Law. Except as set forth on Section 3.12 of the Disclosure Schedules, no Legal Proceedings are pending or, to the Knowledge of the Company, threatened against the Company alleging any failure by the Company to so comply, whether or not corrected. The Company has not made a voluntary disclosure with respect to any violation of U.S. Export and Import Laws. The Company has at all times been in compliance with all Applicable Laws relating to trade embargoes and sanctions, and no product, service or financing provided by the Company has been, directly or, to the Knowledge of the Company, indirectly, provided to, sold to or performed for or on behalf of Cuba, Iran, Libya, North Korea, Sudan, Syria, or any other country or Person against whom the U.S. maintains economic sanctions or an arms embargo.

(b) The Company is not in violation of or default under any Order currently binding upon or against the Company.

(c) The Company has been and is in compliance with all of its written privacy policies and guidelines relating to Personal Information. True and complete copies of all applicable privacy and security policies and guidelines of the Company have been made available to Buyer. The Company has made all notices and disclosures

to customers required by Applicable Law. The Company has taken steps reasonably necessary (including implementing and monitoring compliance with respect to technical, administrative and physical safeguards) to protect Personal Information and systems from which Personal Information can be created, viewed, displayed, accessed, retrieved, stored or transmitted, against loss or destruction, and against unauthorized access, use, transfer, modification, or disclosure or other misuse and to otherwise comply with Applicable Law. To the Knowledge of the Company, there has been no unauthorized disclosure, access to or transfer of or other misuse of Personal Information required to be reported to any customer of the Company, affected individual or Governmental Entity, and the Company has not been required to provide any breach notification or report any security incidents to any customer of the Company, affected individual or Governmental Entity as required under any Applicable Law.

(d) The Company has established and implemented such policies, programs, procedures, contracts and systems as are reasonably necessary and legally required of the Company to be in material compliance with all Applicable Law, including privacy, electronic transactions and security standards for Personal Information.

(e) The Company has not been notified in writing of any material failure (or any investigation with respect thereto) by the Company or any licensor, licensee, partner or distributor of the Company to comply with, or maintain systems and programs to ensure compliance with, any Applicable Law enforced by the United States Health and Human Services and any comparable Governmental Entity with respect to any Technology, products or services of the business of the Company.

3.13 Permits; No Foreign Operations.

(a) Permits. The Company holds, to the extent required by Applicable Law, all material franchises, permits, certificates, licenses, consents, filings, sanctions, registrations, variances, exemptions, orders, authorizations and approvals from, and has made all material declarations and filings with, all Governmental Entities ("Material Permits") for the operation of the business of the Company as presently conducted including the sale, transport, export, import or shipment of any items or materials (whether in tangible form or otherwise) to any jurisdiction. No suspension or cancellation of any such Material Permit is pending or, to the Knowledge of the Company, threatened. Each such Material Permit is valid and in full force and effect, and the Company is in compliance in all material respects with the terms of such Material Permits. Section 3.13(a) of the Disclosure Schedule provides a complete list of all Material Permits held by the Company.

(b) No Foreign Operations. Except as set forth in Section 3.13(b) of the Disclosure Schedule, the Company (i) does not conduct any operations of any kind outside of the United States or Canada, (ii) has any revenue from any source outside of the United States or Canada, or (iii) has not executed or performed any Contract outside of the United States or Canada to any material extent.

3.14 Brokers' and Finders' Fees. Except as set forth in Section 3.14 of the Disclosure Schedule, the Company has not incurred, nor will it incur, directly or indirectly, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Agreement or any other Transaction Document to which the Company is a party or any transaction contemplated herein or therein. Except as set forth in Section 3.14 of the Disclosure Schedule, no finder, broker, investment banker, agent or other intermediary has acted for or on behalf of the Company in connection with the transactions contemplated in this Agreement and the Transaction Documents.

3.15 Restrictions on Business Activities. Except as listed in Section 3.15 of the Disclosure Schedule, no Contract to which the Company is a party or by which the Company is bound imposes any non-solicitation obligation on the Company. Other than as listed in Section 3.15 of the Disclosure Schedule, the Company is not a party to or bound by any Contract under which the Company is restricted from (a) selling, licensing or otherwise distributing any Company Products, (b) engaging in any business practices, (c) competing with any other Person or engaging in any line of business, (d) providing services to customers or potential customers or any class of customers, in any geographic area, during any period of time or in any segment of any market, or (e) acquiring any product, property or other asset (tangible or intangible), or any services, from any other Person, selling any product or other asset to, or performing any services for any other Person or transacting business or dealing in any other manner with

any other Person or (f) developing any Company Intellectual Property. No Contract to which the Company is a party or by which the Company is bound contains any “most favored nations” or similar obligation to offer terms included in or based on another Contract to which the Company is a party.

3.16 Employment Matters.

(a) No Termination. To the actual knowledge of the individuals listed in clause (ii) of the definition of “Knowledge”, no employee intends to terminate his, her or their employment with the Company as a result of the transactions contemplated herein.

(b) Employees. (i) Except as set forth on Section 3.16(b) of the Disclosure Schedule, no present or former employee of the Company or applicant for employment has claimed that the Company is in violation of any term of any employment Contract or compensation agreement or is in violation of any Applicable Law relating to such individual’s employment relationship; (ii) no third party has claimed in a writing received by the Company that any present or former employee of the Company has breached his or her duties under any patent disclosure agreement, confidentiality agreement, non-solicitation agreement or noncompetition agreement running in favor of such third party; (iii) no third party has claimed in a writing received by the Company that any present or former employee of the Company disclosed or utilized any Trade Secret or proprietary information or documentation of such third party in violation of Applicable Law or contract; (iv) no third party has claimed in a writing received by the Company that any present or former employee of the Company interfered in the relationship between such third party and any of its present or former employees in violation of any Applicable Laws or contract; and (v) to the Knowledge of the Company, no present or former employee of the Company has disclosed any Trade Secret, information or documentation proprietary to any current or former employer or other third party, or violated any confidential relationship with any such third party, in connection with the development, manufacture or sale of any product, or the development or sale of any service, of the Company. Section 3.16(b) of the Disclosure Schedule sets forth (i) a complete list of the Company’s present employees, with each employee’s legal first and last name, (ii) current job titles and first date of employment with the Company, (iii) the current base salary or hourly rate, a description of the Company’s existing bonus, commission and severance policies that are used for purposes of determining bonuses, commissions, or other non-discretionary incentive compensation awards, and severance arrangements, (iv) wage and hour classification for each employee, (v) any payments or benefits required or anticipated to be made or provided by the Company to any such employee in connection with the transactions contemplated in this Agreement or any other change of control transaction, including cash payments, forgiveness of indebtedness, assumption of tax liability, severance benefits or vesting acceleration, and any agreement or understanding between the Company and any such employee relating to any such payment or benefit, (vi) each employee’s visa status, or confirmation that such employee is a U.S. citizen, and (vii) whether such individual is currently employed, on leave relating to work-related injuries and/or receiving disability benefits under any Employee Benefit Plan, to the extent the Company is not prohibited by Applicable Laws from providing the information described in this clause (vii). Except as set forth in Section 3.16(b) of the Disclosure Schedule, the Company has not made any agreements to pay any employee wages, incentive compensation in the form of cash, equity or any other property or other benefits and there are no severance payments or other payments that are or could become payable to any employee under the terms of any written agreement or commitment or any Applicable Law, custom, trade or practice as a result of the transactions contemplated in this Agreement or the other Transaction Documents. The Company has no employees located outside of the United States.

(c) Labor Unions. To the Knowledge of the Company, none of the employees of the Company is represented by a labor union. The Company is not subject to, or negotiating, any collective bargaining or similar agreement with respect to any of its employees. There is no labor dispute, strike, work slowdown, work stoppage or, to the Knowledge of the Company, organizational drive against the Company pending or, to the Knowledge of the Company, threatened. The Company has not agreed to recognize any labor union or other collective bargaining representative with respect to any group of employees of the Company, nor has any labor union or other collective bargaining representative been certified as the exclusive bargaining representative of any employees of the Company with respect to their employment with the Company. To the Knowledge of the Company, no union or organizational campaign or representation petition is currently pending, or threatened or reasonably anticipated, with respect to any

employees of the Company. There is no unfair labor practice charge or proceeding pending against the Company before the National Labor Relations Board.

(d) Legal Compliance. Neither the Company, nor to the Knowledge of the Company, any employee of the Company, has committed or engaged in any unfair labor or illegal employment practice in connection with the conduct of the business of the Company that could reasonably be expected to have a material adverse effect on the Company. There is no action, suit, claim, charge or complaint against the Company pending or, to the Knowledge of the Company, threatened against the Company relating to any employment, labor, safety, whistleblower, or discrimination matters, including charges or complaints of unfair labor practices, discrimination, retaliation, or wrongful discharge. The Company is in material compliance with all Applicable Laws relating to employment, including laws relating to employment discrimination, retaliation, wrongful discharge, labor relations, fair employment practices, payment of wages and overtime, leaves of absence, disability accommodation, immigration, employee benefits and affirmative action. All employees of the Company are legally authorized to work in the United States and the Company has complied with the obligations to complete and retain I-9 forms. To the Knowledge of the Company, no federal, state, or local agency responsible for the enforcement of labor and employment laws is conducting or has announced to the Company in writing its intent to conduct an investigation of the Company.

(e) WARN Act. The Company has not had any plant closings, mass layoffs or other terminations of employees of the Company that did, or would reasonably be expected to, create any obligations upon the Company under the federal Worker Adjustment and Retraining Notification Act or any equivalent state or local laws.

(f) Employment Agreements. Except as set forth in Section 3.16(f) of the Disclosure Schedule, the Company is not bound by any written employment agreements with any of its employees, other than on an at-will basis.

3.17 Employee Benefit Plans.

(a) Section 3.17(a) of the Disclosure Schedule lists each Employee Benefit Plan that the Company or any ERISA Affiliate maintains or to which the Company or any ERISA Affiliate contributes or is a participating employer and in or under which any employee of the Company, former employee of the Company, service provider to the Company or former service provider to the Company participates or is owed benefits (collectively, the "Company Benefit Plans") other than any Standard Offer Letters executed by an Employee. With respect to each Company Benefit Plan, the Company has made available to Buyer true and complete copies of all plan documents and, if available, summary plan descriptions, the most recent determination letter (or opinion letter) received from the Internal Revenue Service, the most recent Form 5500 Annual Reports (if applicable), and all related trust agreements associated with such Company Benefit Plan.

(b) Each Company Benefit Plan (and each related trust, insurance contract or fund) has been administered and operated in all material respects in accordance with the terms of the applicable controlling documents and with the applicable provisions of ERISA, the Code and all other Applicable Laws. Each Company Benefit Plan (including any amendments thereto) that requires by Applicable Law approval by, or registration for or qualification for special tax status with, the appropriate taxation, social security or supervisory authorities in the relevant jurisdiction, has received such approval, registration or qualification or there remains a period of time in which to obtain such approval, registration or qualification retroactive to the date of any amendment that has not previously received such approval, registration or qualification.

(c) All reports, descriptions and disclosures required by law with respect to each Company Benefit Plan have been filed or distributed appropriately and in accordance with Applicable Law, in all material respects. Where required by Applicable Law, the requirements of Part 6 of Subtitle B of Title I of ERISA and of Section 4980B of the Code have been met with respect to each Company Benefit Plan that is a group health plan.

(d) All contributions (including all employer contributions and employee salary reduction contributions) that are due and owing have been timely paid to each Company Benefit Plan (or related trust or held in

the general assets of the Company and accrued, as appropriate), and all required contributions for any period ending on or before the Closing Date that are not yet due have been paid to each Company Benefit Plan (or related trust) or accurately accrued in the Financial Statements. All premiums or other payments for all periods ending on or before the Closing Date have been timely paid with respect to each Company Benefit Plan that is an Employee Welfare Benefit Plan.

(e) Each Company Benefit Plan that is an Employee Pension Benefit Plan and that is intended to meet the requirements of a “qualified plan” under Section 401(a) of the Code meets such requirements and, if available, has either received or applied for (or has time remaining to apply for) a favorable determination letter (or, in the case of a prototype plan, an opinion letter) from the Internal Revenue Service within the applicable remedial amendment periods, and no such determination letter or advisory letter has been revoked nor has revocation been threatened.

(f) No Employee Benefit Plan maintained or contributed to during the six year period preceding the Closing Date by the Company or any ERISA Affiliate is subject to the minimum funding requirements of Section 412 of the Code or subject to Title IV of ERISA.

(g) The Company does not maintain or contribute to, nor has the Company in the past six years maintained or contributed to, any Employee Welfare Benefit Plan providing medical, health or life insurance or other welfare type benefits for current or future retired or terminated employees, their spouses or their dependents (other than in accordance with Section 4980B of the Code) that cannot be unilaterally terminated by the Company or an ERISA Affiliate.

(h) Neither the Company nor any ERISA Affiliate, nor to the Knowledge of the Company, any employee or representative of the Company or any ERISA Affiliate, has made written representation or commitment with respect to any aspect of any Company Benefit Plan that is not in accordance with the written or otherwise preexisting terms and provisions of such Company Benefit Plan. Neither the Company nor any ERISA Affiliate has entered into any Contract with any trade union, works council or other employee representative body or any number or category of its employees that would prevent, restrict or impede the implementation of any lay off, redundancy, severance or similar program within its or their respective workforces (or any part of them).

(i) There are no unresolved claims or disputes under the terms of, or in connection with, any Company Benefit Plan (other than routine claims for benefits), and no legal action is currently pending with respect to any such claim or dispute.

(i) Neither the Company nor any ERISA Affiliate has engaged in any Prohibited Transactions with respect to any such Company Benefit Plan that would subject the Company to a tax or penalty imposed pursuant to Section 4975 of the Code or Section 502(c)(i) or (l) of ERISA.

(ii) The Company (by way of indemnification, directly or otherwise) does not have and, to the Knowledge of the Company, no Company fiduciary has any, liability for breach of fiduciary duty or any failure to act or comply in connection with the administration or investment of the assets of any Company Benefit Plan.

(iii) The Company has not received notice that any action, suit, proceeding, hearing or investigation with respect to the administration or the investment of the assets of any Company Benefit Plan (other than routine claims for benefits) is pending nor to the Knowledge of the Company, threatened, and to the Knowledge of the Company, there are no existing facts that would reasonably be expected to be a basis for any such action, suit, proceeding, hearing or investigation.

(j) Under the Company Benefit Plans, other than as described in this Agreement or any other Transaction Document, neither the execution and delivery of this Agreement or any other Transaction Document to which the Company is a party nor the consummation of the transactions contemplated herein or therein by the Company will (i) result in any payment (including severance, unemployment compensation, golden parachute, bonus or otherwise)

becoming due to any officer, director or employee of the Company; (ii) increase any benefits otherwise payable by the Company; or (iii) result in the acceleration of the time of payment or vesting of any such benefits.

(k) Neither the Company nor any ERISA Affiliate contributes to, or has any obligation to contribute to, or has any liability (including withdrawal liability as defined in Section 4201 of ERISA) under or with respect to any (i) Employee Benefit Plan that is a “defined benefit plan” as defined in Section 3(35) of ERISA or (ii) any Multiemployer Plan.

(l) Each Company Benefit Plan that is a “nonqualified deferred compensation plan” within the meaning of Code Section 409A has been timely amended (if applicable) to comply and has been operated in material compliance with all applicable requirements of Code Section 409A.

3.18 **Environmental Matters.**

(a) All properties and equipment used in the business of the Company are free of Hazardous Materials except for any Hazardous Materials in small quantities found in products used by the Company for office or janitorial purposes stored, used and disposed of in compliance with Environmental Law.

(b) The Company has provided to Buyer copies of all internal and external environmental audits and studies pertaining to the Company’s compliance with Environmental Laws in its possession or control and all correspondence on substantial environmental matters pertaining to the Company’s compliance with Environmental Laws, and all such copies are true and complete in all material respects.

3.19 Material Contracts. Section 3.19 of the Disclosure Schedule sets forth a list of all Material Contracts including the name of the parties thereto, the date of each such Material Contract and each amendment thereto. All Material Contracts are in full force and effect. Other than as described on Section 3.19 of the Disclosure Schedule, all Material Contracts are valid and enforceable, and the Company is not in default of any Material Contract nor, to the Company’s Knowledge, is any other party to any Material Contract in default under such Material Contract, no payments or other obligations of the Company are past due, and, to the Knowledge of the Company, no circumstance exists that, with notice, the passage of time or both, could reasonably be expected to constitute a default under any Material Contract by the Company or, to the Knowledge of the Company, any party thereto. The Company has not received any written notice from its counterparty of a default, alleged failure to perform or any offset or counterclaim with respect to any Material Contract that has not been fully remedied and/or withdrawn. The consummation of the transactions contemplated in this Agreement and each other Transaction Document, subject to obtaining the Consents listed in Section 3.4(b) of the Disclosure Schedule, will not constitute a default under, or impair the rights of the Company or any third party under, any such Material Contract. The Company has provided Buyer with true and complete copies of all Material Contracts, including all amendments, terminations and modifications thereof.

3.20 Insurance. Section 3.20 of the Disclosure Schedule sets forth the following information with respect to each insurance policy (including policies providing property, casualty, directors and officers liability, professional liability insurance, errors and omissions insurance, or workers’ compensation coverage and bond and surety arrangements) to which the Company is currently a party, a named insured or otherwise the beneficiary of coverage: (i) the name of the insurer, the name of the policyholder and the name of each covered insured; (ii) the policy number and the period of coverage; and (iii) the amount of coverage. The Company has provided Buyer with copies of each such policy that are true and complete. There have been no losses and there are no claims pending or, to the Knowledge of the Company, threatened under any of such policies and there are no disputes between the Company and any of the underwriters of said policies. Each of such insurance policies is a legal, valid, binding, and enforceable, and is in full force and effect, and will continue to be a legal, valid, binding, and enforceable obligation of the Company and in full force and effect on identical terms immediately following consummation of the transactions contemplated in this Agreement and any other Transaction Document. Neither the Company nor, to the Knowledge of the Company, any other Person is in material breach or default under any such insurance policy (including with respect to the payment of premiums or the giving of notices), and to the Knowledge of the Company, no event has occurred that, with notice or the lapse of time or both, would reasonably be expected to constitute such a material

breach or default or permit termination, modification or acceleration, under any such insurance policy. To the Knowledge of the Company, no party to any such insurance policy has repudiated any provision thereof. Except for amounts deductible under policies of insurance, the Company has not been and is not subject to liability as a self-insurer.

3.21 Transactions with Related Parties. Except as set forth in Section 3.21 of the Disclosure Schedule and for employment relationships and compensation, benefits, and travel advances, no employee, senior executive officer, member or manager of the Company, nor any member of his or her immediate family, (i) is indebted to the Company, nor is the Company indebted (or committed to make loans or extend or guarantee credit) to any of them, (ii) to the Knowledge of the Company, has any direct or indirect ownership interest in any property or asset used or developed by or for the Company in the conduct of the business except through such Person's ownership of membership interests of the Company, (iii) to the Knowledge of the Company, has any direct ownership interest in (a) any Person with which the Company has a material business relationship or (b) any Person that competes with the Company (other than the non-affiliated holdings in publicly traded companies that may compete with the Company) or (iv) to the Knowledge of the Company, is directly or indirectly a party to or a beneficiary of any Contract with the Company.

3.22 Books and Records. The minute books of the Company contain complete and accurate records of all meetings and other corporate actions of the Company Sellers and board of managers of the Company recorded. The membership interest ledger of the Company is complete and reflects all issuances, transfers, repurchases and cancellations of shares of membership interests, options, and any other securities of the Company. True and complete copies of the minute books and the membership interest ledger of the Company have been made available to Buyer and the original minute books and membership interests ledger, if any, will be delivered to Buyer at the Closing.

3.23 Absence of Changes. Since the date of the Most Recent Financial Statements, there has not occurred, and the Company does not have any Knowledge of, any Material Adverse Effect. Except as set forth in Section 3.23 of the Disclosure Schedule, from the date of the Most Recent Financial Statement, the Company has conducted its business only in the ordinary course of business consistent with past practices, and the Company has not:

(a) failed to use commercially reasonable efforts to maintain its assets in their current condition, except for ordinary wear and tear, or failed to repair, maintain, or replace any of its equipment in accordance with the normal standards of maintenance applicable in the industry;

(b) accelerated, amended or terminated any Material Contract, or received any written notice from any counterparty to a Material Contract that such counterparty has or intends to take any such actions, other than pursuant to the expiration of a Material Contract pursuant to its terms;

(c) entered into any Contract (i) that is a Material Contract and (ii) outside the ordinary course of business;

(d) entered into or amended any standstill or non-compete Contracts under which the Company is the obligor, or amended or waived any of its rights under any existing standstill or non-compete Contracts under which the Company is the beneficiary;

(e) transferred or granted any license or sublicense of any rights under or with respect to any Company Intellectual Property, other than in the ordinary course of business consistent with past practice;

(f) other than in connection with the provisions of the Company Products to customers in the ordinary course of business consistent with past practice, entered into any agreement, contract or commitment for the (i) sale, lease, license or transfer of any Company Intellectual Property or any agreement, contract or commitment or modification or amendment to any agreement with respect to Company Intellectual Property with any Person, (ii) purchase or license of any Technology or Intellectual Property Rights in an amount in excess of \$5,000 or execution,

modification or amendment in any material respect of any agreement with respect to the Technology or Intellectual Property Rights of any person, or (iii) material change in pricing or royalties set or charged by the Company to its customers or licensees or in pricing or royalties set or charged by Persons who have licensed Intellectual Property Rights to the Company;

(g) made or pledged to make any charitable contribution in excess of \$5,000 in the aggregate;

(h) adopted, amended, modified or terminated any Employee Benefit Plan, made any contribution to any Employee Benefit Plan (other than regularly scheduled contributions) or, other than in the ordinary course of business consistent with past practice, materially increased in any manner the compensation or benefits of any officer, manager, or employee or other personnel (whether employees or independent contractors) or granted any equity or equity based awards to any such individuals;

(i) terminated any employee other than in the ordinary course of business consistent with past practice;

(j) entered into any new intercompany transaction, agreement, arrangement, or understanding with, directly or indirectly, any officer or manager or Affiliate of the Company, or made any payment or distribution to any officer or manager of the Company other than advances in the ordinary course of business and consistent with past practices of the Company not to exceed, in the aggregate, \$25,000;

(k) acquired (including by merger, consolidation, or the acquisition of any equity interest or assets) or sold (whether by merger, consolidation, or the sale of an equity interest or assets), leased, assigned, licensed, loaned, pledged, transferred, or disposed of any Person or any material assets or rights except in the ordinary course of business and consistent with past practice, whether in one or more transactions;

(l) mortgaged, pledged, or subjected to any Lien (other than Permitted Encumbrances) any of its assets;

(m) made any loans, advances or capital contributions to, or investment in, any other Person other than its employees, officers and managers in respect of their compensation, benefits and travel advances in the ordinary course of business;

(n) entered into any joint ventures, strategic partnerships or alliances;

(o) (i) hired or changed its independent public accountants, if any, (ii) changed its depreciation or amortization policies or rates, (iii) changed its standard invoicing or billing practices and procedures or, (iv) except as required by Applicable Law or circumstances which did not exist as of such date, changed any of the accounting principles or practices used by it;

(p) materially changed its existing practices and procedures with respect to the collection of accounts receivable or offered to discount the amount of any account receivable or extended any other incentive (whether to the account debtor or any employee or third party responsible for the collection of receivables) with respect thereto;

(q) made, declared, paid or set aside assets for any dividend or otherwise declared or made any other distribution with respect to its membership interests, or directly or indirectly purchased, redeemed or otherwise acquired any membership interests or other securities of the Company;

(r) incurred or guaranteed any Indebtedness in excess of \$50,000 annually (other than such Indebtedness incurred in the ordinary course of business), issued any debt securities or rights to acquire debt securities, or entered into any arrangement having the economic effect of any of the foregoing;

(s) failed to pay any Indebtedness or any other accounts payable as it became due, or materially changed its existing practices and procedures with respect to the payment of Indebtedness or other accounts payable;

(t) (i) paid, discharged or satisfied any Liability of the Company, other than pursuant to the terms of such Liability or immaterial Liabilities of the Company arising in the ordinary course of business, (ii) prepaid or cancelled any amount of indebtedness for borrowed money in excess of \$50,000 individually or \$100,000 in the aggregate, or (iii) paid or agreed to pay any amount in settlement, or cancelled, compromised, waived or released any right or claim, including rights under or pursuant to, any matter involving actual or threatened claims against the Company, other than immaterial rights or claims;

(u) incurred or committed to incur any capital expenditures, capital additions or capital improvements in excess of \$50,000 for any individual commitment or \$100,000 in the aggregate, other than sales of services and deliverables to clients or in the ordinary course of business;

(v) made any payment or agreement relating to the surrender, cancellation, amendment or agreement not to exercise any option, warrant, or other right to acquire equity or equity linked securities issued by the Company;

(w) experienced any material damage, destruction or loss to or of any of the material assets or properties owned or leased by the Company;

(x) made or changed any Tax election, changed any annual accounting period, adopted or changed any accounting method with respect to Taxes, filed any amended Tax Return, entered into any closing agreement, settle or compromise any proceeding with respect to any Tax claim or assessment, surrendered any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company, or taken any other similar action relating to the filing of any Tax Return or the payment of any Tax; or

(y) authorized, approved, agreed to or made any commitment, orally or in writing, to take any of the foregoing actions.

3.24 Product and Service Warranties; Standard Customer Contract. Each Company Product is in conformity with all applicable contractual commitments and all express warranties, in each case in all material respects, and the Company has no liability (and, to the Knowledge of the Company, there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against the Company giving rise to any liability) for violations thereof or other damages in connection therewith, subject only to the reserve set forth in the Financial Statements. No Company Product is subject to any guaranty, warranty, or other indemnity beyond the applicable standard terms and conditions of sale or lease, except for such guarantees, warranties and indemnities that are implied under Applicable Law and not disclaimable. The Company has provided Buyer with true and complete copies of all Material Contracts that the Company has used in selling goods and services in the operation of the business.

3.25 Major Customers and Suppliers. Section 3.25 of the Disclosure Schedule sets forth a list of the top twenty-five (25) customers of the Company by gross revenue for the year ended December 31, 2017, and for the two-month period ended February 28, 2018 (the “Major Customers”), together with, in each case, the gross revenue for such Major Customers during such periods. Each Major Customer has executed a written Contract with the Company governing its relationship with the Company. No Major Customer has canceled, terminated or otherwise materially modified in any negative manner, or threatened or requested in writing to the Company to cancel, terminate or otherwise materially modify in any negative manner, its relationship with the Company, or decreased or threatened in writing to the Company to decrease or limit its business with the Company, in each case during the six (6) months immediately preceding the Closing Date. The Company is not engaged in any material dispute with any Major Customer. Section 3.25 of the Disclosure Schedule sets forth a list of the 25 largest suppliers, vendors or other service providers of the Company (each a “Major Supplier”) for the two-month period ended February 28, 2018, based on

and listing the gross purchases from such Major Suppliers. The Company is not engaged in any material dispute with any Major Supplier and, except as set forth in Section 3.25 of the Disclosure Schedule, no Major Supplier has canceled, terminated or otherwise materially modified in any negative manner, or threatened or requested in writing to the Company to cancel, terminate or otherwise materially modify in any negative manner, its relationship with the Company, or decreased or threatened in writing to the Company to materially decrease or limit its business with the Company, in each case during the six (6) months immediately preceding the Closing Date.

3.26 Absence of Certain Business Practices. Neither the Company nor any employee, officer or manager of the Company, or any other Person acting on behalf of the Company, has, on behalf of or to otherwise further the interests of the Company, (a) used funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (b) made any direct or indirect unlawful payments to foreign or domestic government officials or employees, (c) established or maintained any unlawful or unrecorded funds or other assets or to foreign or domestic political parties or campaigns or violated any provision of the Foreign Corrupt Practices Act of 1977, as amended, or the OECD Convention on Combating Bribery of Foreign Public Officials in Business Transactions; (d) made any bribe, kickback or other unlawful payment or (e) made any material favor or gift which is not, in good faith, believed by the Company to be fully deductible for any income tax purposes and which was, in fact, so deducted by the Company.

3.27 Bank Accounts, Powers of Attorney.

(a) Section 3.27(a) of the Disclosure Schedule sets forth the names and locations of all banks, trust companies, savings and loan associations, mutual fund or stock brokerage firm and other financial institutions at which the Company maintains safe deposit boxes or accounts of any nature, the account numbers of all such accounts and the names of all persons authorized to draw thereon or make withdrawals therefrom.

(b) The Company has no obligation to act under any outstanding power of attorney.

(c) There are no credit cards issued to any present or past officer, employee or agent of the Company under which the Company has any current or potential future liability except as listed in Section 3.27(c) of the Disclosure Schedule.

3.28 Exclusive Representations. The representations and warranties made by the Company in this Article III are the exclusive representations and warranties made by the Company. The Company hereby disclaims any other express or implied representations or warranties, whether written or oral.

3.29 No Competitor Technology; No Violation of Agreements with Buyer Competitors.

(a) Without limiting the generality of any other representations or warranties contained in this Agreement, except as set forth in Section 3.29 of the Disclosure Schedule, the Company's software platform does not contain, and the Company is not in possession of, in any electronic or hard copy form, any Technology or other confidential or proprietary information or property owned by any Person set forth on Schedule 3.29 (each a "Buyer Competitor") or any subsidiaries of any Buyer Competitor (collectively, the "Buyer Competitor Parties"; any such Technology or other confidential or proprietary information or property originating from a Buyer Competitor Party is referred to as "Buyer Competitor Technology"). The Company has not breached any contract between the Company, on the one hand, and any Buyer Competitor Party, on the other hand.

(b) No Buyer Competitor Technology is required to operate the business as currently conducted by the Company except as set forth in Section 3.29 of the Disclosure Schedule.

(c) Except as set forth in Section 3.29 of the Disclosure Schedule, in the operation of the Company's business as currently conducted by the Company, the Company's products and services interface with Buyer Competitor Party software applications and databases only through standard interfaces generally made available by a Buyer Competitor Party to its customers, and not through a custom built interface.

(d) Except as set forth in Section 3.29 of the Disclosure Schedule, since January 1, 2011, the Company has not directly or, to the Knowledge of the Company, indirectly, provided any consulting or similar services regarding Buyer Competitor Technology, or otherwise operated as a member of any consultant network of any Buyer Competitor Party.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE COMPANY SELLERS

Each of the Company Sellers, severally and not jointly, represents and warrants to Buyer, as of the date hereof, as follows (with the understanding and acknowledgement that Buyer would not have entered into this Agreement without being provided with the representations and warranties set forth herein, and that these representations and warranties constitute an essential and determining element of this Agreement):

4.1 **Organization.** In the case of each Company Seller that is not an individual, such Company Seller is a duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and has all requisite power and authority to own and hold the Company Units owned and held by it.

4.2 **Power and Authorization.** In the case of each Company Seller that is not an individual, such Company Seller has all requisite power and authority necessary for the execution, delivery and performance by it of this Agreement and each other Transaction Document to which such Company Seller is a party and has duly authorized by all necessary action the execution, delivery and performance of this Agreement and each other Transaction Document to which such Company Seller is a party. This Agreement and each other Transaction Document to which such Company Seller is a party (a) has been duly executed and delivered by such Company Seller and (b) assuming due authorization, execution and delivery by Buyer and other parties hereto and thereto, will be a legal, valid and binding obligation of such Company Seller, enforceable against such Company Seller in accordance with its terms, subject to the Remedies Exceptions.

4.3 **Authorization of Governmental Entities.** No action by (including any authorization, consent or approval), or in respect of, or filing with, any Governmental Entity is required of such Company Seller for, or in connection with, the valid and lawful (a) authorization, execution, delivery and performance by such Company Seller of this Agreement or (b) consummation of the transactions contemplated to be conducted by such Company Seller pursuant to this Agreement, in each case.

4.4 **Noncontravention.** Neither the authorization, execution, delivery or performance by such Company Seller of this Agreement, nor the consummation of the transactions contemplated to be conducted by such Company Seller pursuant to this Agreement, will:

(a) conflict with or violate (i) any law applicable to such Company Seller, or (ii) any provision of the organizational documents of such Company Seller (if such Company Seller is not an individual);

(b) result in a breach or violation of, or constitute a default (or an event that would, with notice or lapse of time or both, would constitute a default) under, or result in termination of, or accelerate the performance required by, or require any action by (including any authorization, consent or approval) or notice to any Person under, any of the terms, conditions or provisions of any Contract to which such Company Seller is a party;

(c) result in the creation or imposition of any Lien on any Company Units of such Company Seller, other than Permitted Encumbrances; or

(d) result in the imposition or give rise to any Order applicable to such Company Seller or such Company Seller's Company Units.

4.5 **Title.** Such Company Seller is the record and beneficial owner of the outstanding Company Units set forth opposite such Company Seller's name on Schedule I hereto, and such Company Seller has good and

marketable title to such Company Units, free and clear of all Liens. Such Company Seller has full right, power and authority to transfer and deliver to Buyer valid title to the Company Units held by such Company Seller, free and clear of all Liens. Immediately following the Closing, assuming Buyer has the requisite power and authority to be the lawful owner of such Company Seller's Company Units and the valid execution of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, Buyer will be the record and beneficial owner of such Company Seller's Company Units, and have good and marketable title thereto, free and clear of all Liens except for such Liens as are imposed by Buyer. Except pursuant to this Agreement, there is no contractual obligation pursuant to which such Company Seller has, directly or indirectly, granted any option, warrant or other right to any Person other than the Company to acquire any membership interest in the Company. Except as disclosed on Section 3.2(c) of the Disclosure Schedule, such Company Seller is not a party to, and the Company Units set forth opposite such Company Seller's name on Section 3.2(c) of the Disclosure Schedule, are not subject to, any stockholder agreement, voting agreement, voting trust, proxy or other contractual obligation relating to the transfer or voting of such Company Units.

4.6 No Brokers. Such Company Seller has no any liability of any kind to, and is not subject to any claim of, any broker, finder or agent with respect to the transactions contemplated by this Agreement.

4.7 No Other Payments. The payments contemplated by this Agreement to be made to such Company Seller in respect of the Company Units held thereby as of immediately prior to the Closing are the sole amounts owed and payable to such Company Seller with respect to such Company Units, and no such Company Seller has any rights or claims with respect to any payments with respect thereto other than the payments contemplated by this Agreement, in the amounts and subject to the terms set forth herein.

4.8 No Other Agreements to Sell Equity Interests. Neither such Company Seller nor any of its officers, directors, members, representatives or Affiliates have any commitment or legal obligation, absolute or contingent, to any other Person or firm other than Buyer to sell, assign, transfer or effect a sale of any of such Company Seller's Company Units, or to enter into any agreement with respect to any of the foregoing. Such Company Seller is not currently engaged in discussions or negotiations with any party other than Buyer with respect to any of the foregoing.

4.9 No Registration. Such Company Seller understands that the shares of Buyer Common Stock issuable pursuant to the terms of this Agreement have not been, and will not be, registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of such Company Seller's representations as expressed herein or otherwise made pursuant hereto.

4.10 Investment Intent. Such Company Seller is acquiring the shares of Buyer Common Stock issuable pursuant to the terms of this Agreement for investment for its own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof, and that such Company Seller has no present intention of selling, granting any participation in, or otherwise distributing the same. Such Company Seller further represents that it does not have any Contract with any Person to sell, transfer or grant participation to such Person or to any other Person with respect to any of the shares of Buyer Common Stock issuable pursuant to the terms of this Agreement.

4.11 Investment Experience. Such Company Seller has substantial experience in evaluating and investing in private placement transactions of securities and acknowledges that such Company Seller can protect its own interests. Such Company Seller has such knowledge and experience in financial and business matters so that such Company Seller is capable of evaluating the merits and risks of its investment in Buyer.

4.12 Speculative Nature of Investment. Such Company Seller understands and acknowledges that an investment in Buyer involves risk. The Company Seller can bear the economic risk of such Company Seller's investment in Buyer Common Stock.

4.13 **Accredited Investor.** Such Company Seller is an “accredited investor” within the meaning of Regulation D, Rule 501(a), promulgated by the SEC under the Securities Act and shall submit to Buyer such further assurances of such status as may be reasonably requested by Buyer. Such Company Seller has furnished or made available to Buyer any and all information requested by Buyer to satisfy any applicable verification requirements as to “accredited investor” status. Any such information is true, correct, timely and complete.

4.14 **Residency; Principal Place of Business.** The residency of such Company Seller (or, in the case of a partnership or corporation, such entity’s principal place of business) is correctly set forth on Schedule I hereto.

4.15 **Rule 144.** Such Company Seller acknowledges that the shares of Buyer Common Stock issuable pursuant to this Agreement must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. Such Company Seller is aware of the provisions of Rule 144 promulgated under the Securities Act which permit resale of shares purchased in a private placement subject to the satisfaction of certain conditions, which may include, among other things, the availability of certain current public information about Buyer; the resale occurring not less than a specified period after a party has purchased and paid for the security to be sold; the number of shares being sold during any three-month period not exceeding specified limitations; the sale being effected through a “brokers’ transaction,” a transaction directly with a “market maker” or a “riskless principal transaction” (as those terms are defined in the Securities Act or the Exchange Act and the rules and regulations promulgated thereunder); and the filing of a Form 144 notice, if applicable. Such Company Seller acknowledges and understands that Buyer may not be satisfying the current public information requirement of Rule 144 at the time such Company Seller wishes to sell the shares of Buyer Common Stock, and that, in such event, such Company Seller may be precluded from selling such securities under Rule 144, even if the other applicable requirements of Rule 144 have been satisfied. Such Company Seller acknowledges that, in the event the applicable requirements of Rule 144 are not met, registration under the Securities Act or an exemption from registration will be required for any disposition of the shares of Buyer Common Stock. Such Company Seller understands that, although Rule 144 is not exclusive, the SEC has expressed its opinion that persons proposing to sell restricted securities received in a private offering other than in a registered offering or pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales and that such persons and the brokers who participate in the transactions do so at their own risk.

4.16 **Tax Advisors.** Such Company Seller has reviewed with its own tax advisors the U.S. federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. With respect to such matters, such Company Seller has relied solely on such advisors and not on any statements or representations of Buyer or any of its agents, written or oral. Such Company Seller acknowledges and agrees that it (and not Buyer) shall be responsible for its own Tax liability that may arise as a result of the transactions contemplated by this Agreement and the other Transaction Documents.

4.17 **Legends.** Such Company Seller understands and agrees that the stock certificates evidencing the shares of Buyer Common Stock or the shares of capital stock of Buyer issued upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event with respect to such shares of Buyer Common Stock, shall bear the following legend:

“THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, TRANSFERRED, OR ASSIGNED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT AND/OR APPLICABLE STATE SECURITIES LAWS, OR UNLESS THE ISSUER HAS RECEIVED AN OPINION OF COUNSEL OR OTHER EVIDENCE, REASONABLY SATISFACTORY TO THE ISSUER AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED.”

Upon the request of a Company Seller, such legend shall be removed and Buyer shall issue a certificate without such legend to the holder thereof at such time as the shares of Buyer Common Stock evidenced thereby cease to be restricted securities upon the earliest to occur of (i) a registration statement with respect to the sale of such shares of Buyer Common Stock shall have become effective under the Securities Act and such shares of Buyer Common Stock shall

have been disposed of in accordance with such registration statement, (ii) such shares of Buyer Common Stock shall have been sold to the public pursuant to Rule 144 (or any successor provision) under the Securities Act, or (iii) such shares of Buyer Common Stock may be sold by the holder without restriction, volume limitation or registration under Rule 144 under the Securities Act (or any successor provision); provided that in the case of (ii) and (iii), such Company Seller completes any standard Rule 144 representation letter that is required by Buyer's transfer agent or legal counsel.

In addition, the shares of Buyer Common Stock evidencing the Holdback Consideration shall also contain the legend set forth below until such shares are released to the Company Sellers in accordance with Section 2.6 hereof.

THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND INDEMNIFICATION OBLIGATIONS SET FORTH IN AN ACQUISITION AGREEMENT BETWEEN THE ISSUER AND CERTAIN PERSONS AND ENTITIES.”

4.18 No “Bad Actor” Disqualification Events. None of (i) such Company Seller, (ii) any of such Company Seller's managers, executive officers, other officers that may serve as a manager or officer of any company in which it invests, general partners or managing members, or (iii) any beneficial owner of Buyer's voting equity securities (in accordance with Rule 506(d) of the Securities Act) held by the Company Seller is subject to any disqualifications described in Rule 506(d)(1)(i) through (viii) under the Securities Act, except for disqualifications covered by Rule 506(d)(2)(ii) or (iii) or (d)(3) under the Securities Act.

4.19 Exclusive Representations. The representations and warranties made by each Company Seller in this Article IV (and, with respect to Retained Unitholders only, together with any representations made by a Retained Unitholder pursuant to Section 8.15 below) are the exclusive representations and warranties made by such Company Seller. Each Company Seller hereby disclaims any other express or implied representations or warranties, whether written or oral.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to the Company Sellers and the Company, as of the date hereof, as follows (with the understanding and acknowledgement that the Company Sellers and the Company would not have entered into this Agreement without being provided with the representations and warranties set forth herein, and that these representations and warranties constitute an essential and determining element of this Agreement):

5.1 Organizational Matters.

(a) Organization, Standing and Power to Conduct Business. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted; and is duly qualified and in good standing (with respect to jurisdictions that recognize that concept) to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to do so would not materially and adversely affect Buyer's ability to consummate the transactions contemplated by this Agreement.

(b) Charter Documents. Buyer has delivered or made available to the Company copies of the certificate of incorporation and bylaws of Buyer, as amended to date and currently in effect (such instruments and documents, the “Buyer Charter Documents”), and such copies are true, correct and complete. Buyer is not in violation of any of the provisions of the Buyer Charter Documents.

5.2 Authority and Due Execution.

(a) Authority. Buyer has all requisite corporate power and authority to enter into this Agreement and any other Transaction Documents to which it is a party and to consummate the transactions contemplated herein

or therein. The execution and delivery of this Agreement and the other Transaction Documents to which Buyer is a party and the consummation by Buyer of the transactions contemplated herein or therein have been duly authorized by all necessary corporate action on the part of Buyer and no other corporate proceedings on the part of Buyer are necessary to authorize the execution, delivery and performance of this Agreement and the other Transaction Documents by Buyer or to consummate the transactions contemplated herein or therein.

(b) Due Execution. This Agreement and each other Transaction Document to which Buyer is a party has been duly executed and delivered by Buyer and constitutes (assuming the due authorization, execution and delivery by the other parties hereto and thereto) the valid and binding obligations of Buyer enforceable against them in accordance with their respective terms, subject to the Remedies Exceptions.

5.3 Non-Contravention and Consents.

(a) Non-Contravention. The execution and delivery of this Agreement and each other Transaction Document and the consummation of the transactions contemplated herein and thereby by Buyer do not, and the performance of this Agreement and each other Transaction Document by Buyer will not (i) conflict with or violate any provision of the Buyer Charter Documents; (ii) conflict with or violate any Applicable Laws; or (iii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or impair the rights of Buyer or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, pursuant to any Contract, or result in the creation of a Lien on any of Buyer's assets or properties pursuant to, any obligation to which Buyer is a party or by which Buyer may be bound.

(b) Contractual Consents. No Consent under any Contract to which Buyer is a party is required to be obtained in connection with the execution, delivery or performance of this Agreement or any other Transaction Document by Buyer or the consummation of the transactions contemplated herein or therein.

(c) Governmental Consents. Assuming the accuracy of the representations and warranties set forth in Section 3.5(a) hereof, no Consent of any Governmental Entity is required to be obtained or made by Buyer in connection with the execution, delivery and performance of this Agreement or any other Transaction Document by Buyer or the consummation of the transactions contemplated herein or therein.

5.4 Brokers' and Finders' Fees. Buyer has not incurred, nor will it incur, directly or indirectly, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Agreement or any other Transaction Document to which Buyer is a party or any transaction contemplated herein or therein.

5.5 Valid Issuance of Buyer Common Stock. The Buyer Common Stock being issued to the Company Sellers as a portion of the Adjusted Equity Value, when issued and delivered in accordance with the terms of this Agreement, (a) will be duly and validly issued, fully paid and nonassessable and (b) upon the date of issuance will be free of restrictions on transfer other than restrictions on transfer that are (i) imposed by or under (x) this Agreement, (y) Applicable Laws or (z) a Person other than Buyer, or (ii) otherwise outside of Buyer's control.

5.6 Solvency. Buyer has sufficient capital to deliver the aggregate cash consideration contemplated by this Agreement to be delivered to the Company Sellers.

5.7 SEC Reports. Since January 1, 2017, Buyer has filed or furnished, as applicable, on a timely basis all required forms, reports and documents required to be filed by Buyer with the SEC (such required forms, reports and documents since such date, the "SEC Reports"), and all such SEC Reports, including the footnotes thereto, have been prepared in accordance with GAAP consistently applied through the periods indicated. The consolidated balance sheets of Buyer contained in the SEC Reports fairly present, in all material respects, the financial condition of Buyer and its Subsidiaries as of the respective dates thereof, and the related statements of income and cash flows fairly present, in all material respects, the results of operations of Buyer and its Subsidiaries for the respective periods indicated. Each SEC Report filed by Buyer was, at the time of its filing, in compliance in all material respects with the applicable

requirements of the Exchange Act and any rules and regulations promulgated thereunder applicable to such SEC Report. As of their respective dates (or, if amended, as of the date of such amendment), the SEC Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

5.8 Exclusive Representations. Buyer acknowledges and agrees that, except as set forth in Article III and Article IV hereof (and, with respect to the Retained Unitholders only, Section 8.15 herein), no other representations or warranties have been made to Buyer or any of its officers, directors, managers or stockholders, or any agent, employee, representative or any affiliate thereof relating to the business, operations or financial condition of the Company or the Company Units, and that in entering into the transactions contemplated by this Agreement and the other Transaction Documents, Buyer is not relying upon information other than that contained in this Agreement and the results of such parties' own independent investigation.

ARTICLE VI

ADDITIONAL AGREEMENTS AND COVENANTS

6.1 Transaction Expenses. No later than two Business Days prior to the Closing Date, the Company shall provide Buyer a schedule of all Transaction Expenses incurred to date and shall provide Buyer with a certificate setting forth (a) the identity of each Person that is to be paid any Transaction Expenses; (b) the amount owed or to be owed to each such Person; and (c) the bank account and wire transfer information for each such Person.

6.2 Employment Matters.

(a) From the Closing Date and continuing until December 31, 2018, Buyer shall provide, or shall cause the Company to provide, to each employee of the Company who continues to be employed by the Buyer and/or the Company following the Closing (each, a "Continuing Employee") with, to the extent employed by the Buyer and/or the Company, (i) base pay, commission opportunities, and cash bonus opportunities, as applicable, that are no less favorable in the aggregate than provided to the Continuing Employees immediately prior to the Closing Date (as determined in good faith by Buyer in its sole discretion) and (ii) employee benefits that are no less favorable in the aggregate than provided to the Continuing Employees immediately prior to the Closing Date; provided, that, for purposes of determining whether such pay, opportunities, and benefits are no less favorable in the aggregate, defined benefit pension plan benefits and retention, sale, stay, or change in control payments or awards shall not be taken into account.

(b) Those Continuing Employees set forth on Schedule 6.2(b) (collectively, the "Equity Plan Participants") shall be presented with Restricted Stock Agreements promptly following the first regularly scheduled quarterly meeting of the Buyer's Compensation Committee following the Closing, pursuant to which such Continuing Employees will be granted the right to receive the applicable amounts of Buyer Common Stock set forth on Schedule 6.2(b) under Buyer's 2010 Equity Incentive Plan, as amended (the "Buyer Equity Incentive Plan"), in accordance with current practices for the grant by Buyer of stock incentives; provided that under the terms of the Restricted Stock Agreements the quarterly vesting schedule shall commence no later than the earlier of (i) the actual grant date of the Buyer Common Stock to an Equity Plan Participant, or (ii) July 1, 2018; provided further that if the Compensation Committee does not grant the equity awards to eligible Continuing Employees in the amounts set forth on Schedule 6.2(b), the Equity Participants will receive incentive award of cash vesting on the terms set forth in the Restricted Stock Agreement, attached hereto as Exhibit F. The terms and conditions pursuant to which equity based compensation are granted are determined by the provisions of the Restricted Stock Agreements and Buyer Equity Incentive Plan.

(c) To the extent that Continuing Employees become eligible to participate in any "employee benefit plan," as defined in Section 3(3) of ERISA, maintained by Buyer or any of its affiliates, excluding the Buyer Equity Incentive Plan, (collectively the "Buyer Plans") then, for purposes of determining (i) eligibility to participate and vesting and (ii) solely with respect to any Buyer Plan that provides for severance, vacation, or paid-time-off benefits, for purposes of benefit accrual, service with the Company or any of its Affiliates prior to the Closing Date shall be treated as service with Buyer or any of its Affiliates to the extent recognized by the Company and its Affiliates prior to the Closing Date; provided, however, that such service shall not be recognized to the extent that such recognition

would result in any duplication of benefits, and Buyer shall not be required credit for such service for eligibility, vesting or benefit accrual purposes under any Buyer Plan that is a defined benefit pension plan or postretirement medical plan. In addition, subject to the terms of the applicable Buyer Plan and applicable law, Buyer shall provide each Continuing Employee with credit for any co-payments and deductibles paid during the plan year in which the Closing Date occurs in satisfying any applicable deductible or out-of-pocket requirements under any Buyer Plans that are welfare plans in which such Continuing Employee is eligible to participate on or after the Closing Date.

(d) Without limiting the generality of Section 8.2, nothing contained in this Section 6.2, express or implied, shall (i) be treated as the establishment, amendment or modification of any Company Benefit Plan or Buyer Plan or, subject to compliance with the requirements of Section 6.2 (a) and Section 6.2(c), constitute a limitation on rights to amend, modify, merge, or terminate after the Closing Date any Company Benefit Plan or Buyer Plan, (ii) give any current or former employee, director, or other independent contractor of the Company and its Affiliates (including any beneficiary or dependent thereof) any third-party beneficiary or other rights or (iii) obligate Buyer or any of its Affiliates to (A) maintain any particular Company Benefit Plan or Buyer Plan or (B) retain the employment or services of any current or former employee, director, or other independent contractor.

6.3 Related-Party Transactions. In consideration of the Purchase Price payments and other good and valuable consideration the sufficiency of which is hereby acknowledged, the Company and each of the Company Sellers hereby acknowledges and agrees that all of the Contracts between the Company, on the one hand, and such Company Seller or their respective Affiliates, on the other (other than this Agreement, the Transaction Documents, Contracts set forth on Schedule 6.3 and Contracts contemplated in Section 6.8), shall, on the Closing Date and without further action by any of the Parties hereto, terminate and be of no further force or effect and each of the Company Sellers hereby acknowledges and agrees that no further payments are due, or may become due, under or in respect of any such terminated Contracts. In addition, on or prior to the Closing Date, the Company shall pay or otherwise satisfy all obligations of the Company to any Company Seller or any of their respective Affiliates (other than obligations of the Company to its employees for accrued salary for the current payroll period). The Company hereby confirms that, effective as of the Closing, the NovelPay, LLC 2015 Profit Interest Equity Plan, as amended, shall, without further action by any of the Parties hereto, terminate and be of no further force or effect.

6.4 General Release. Effective at the Closing, each Company Seller, on his or her own behalf and on behalf of his or her respective heirs, family members, executors, agents, and assigns (“Releasors”), hereby and forever releases Buyer and the Company and their past, present and future officers, agents, managers, employees, investors, stockholders, administrators, affiliates, parents, predecessor and successor corporations and assigns (collectively, the “Releasees”) from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that such Releasors may possess against any of the Releasees arising from any omissions, acts, facts, or damages relating to any matter involving such Company Seller’s relationship with the Company occurring prior to the Closing, including the right to any payments in respect of any Company Units held thereby as of immediately prior to the Closing, other than the payments, in the amounts and subject to the terms, explicitly set forth in this Agreement or, to the extent applicable, the TopCo Merger Agreement (collectively, but excluding the Excluded Matters described below, the “Released Matters”). Such Releasors agree that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. The foregoing notwithstanding, this release does not extend to any rights of such Releasor (a) under the explicit terms of this Agreement or any other Transaction Document, (b) for any accrued and unpaid salary and other unpaid employee benefits and reimbursements that have vested or accrued prior to the Closing, including any vacation pay or paid time off, (c) to any transaction bonuses payable pursuant to a written employment agreement (which for the avoidance of doubt constitute Transaction Expenses hereunder), in each case owed by the Company or, to the extent applicable, TopCo, (d) to any Releasor’s rights to indemnification or advancement of expenses (whether under the Company Charter Documents, insurance policy or other Contract of the Company), (e) with respect any claims that cannot be released as a matter of law or (f) that arise after the Effective Time (collectively, the “Excluded Matters”). Each of such Releasors, having consulted with counsel, hereby agrees and acknowledges that he, she or it is aware that applicable laws in such Releasor’s state of domicile may provide that such Releasor has the right not to release existing claims of which such Releasor is not aware unless such Releasor voluntarily chooses to waive this right and

that such Releasor nevertheless hereby voluntarily waives such right and elects to assume all risks for all Released Matters that now exist in his, her or its favor, known or unknown. Each Company Seller represents that he or she has no lawsuits, claims, or actions pending in his or her name, or on behalf of any other Person, against Buyer or the Company or any of the other Releasees with respect to the Released Matters, and that he or she does not intend to bring any claims on his or her own behalf or on behalf of any other Person against the Company or any of the other Releasees with respect to the Released Matters.

6.5 Spreadsheet.

(a) At least two (2) Business Days prior to the Closing, the Company shall deliver to Buyer a draft spreadsheet in substantially the form of Schedule I attached hereto (the "Payment Spreadsheet") setting forth the following information, in a form reasonably satisfactory to Buyer:

(i) a calculation of the Adjusted Equity Value, the Purchase Price, and each component of all of the foregoing; and

(ii) with respect to each Company Seller: (A) the name and address of such Company Seller, (B) the number and class of all Company Units held by such Company Seller, (C) the cash portion of such Company Seller's Individual Closing Payment Amount, (D) the Buyer Common Stock portion of such Company Seller's Individual Closing Payment Amount, (E) each Retained Unitholder's Put/Call Amount, (F) the number of 1st Anniversary Holdback Shares to be issued to such Company Seller upon release of such shares in accordance with and subject to Section 2.6, (G) such Company Seller's Holdback Pro Rata Portion, (H) such Company Seller's Pro Rata Portion, (I) the amount of any required withholding on account of Taxes with respect to such Company Seller's Individual Purchase Price Amount, and (J) the wire transfer instructions of such Company Seller with respect to the payments to be made by Buyer pursuant to Section 2.4. No consent or approval of Buyer in respect of the Payment Spreadsheet shall be required in and of itself as a condition to Closing.

(b) Buyer, any paying agent engaged by Buyer, and, following the Closing, the Company, may rely on the instructions of the Sellers' Representative for distributions of cash and issuances of Buyer Common Stock and shall have no responsibility or liability with respect thereto; provided, that the distribution and issuance instructions of the Sellers' Representative are followed. Buyer shall, or shall cause a paying agent engaged by Buyer to, make distributions of cash and issuances of Buyer Common Stock after the Closing to the Company Seller in the same form and in accordance with the same wiring instructions or delivery addresses, as applicable, as such distributions were made to each such Company Seller in connection with the Closing, except as otherwise indicated in any update delivered to Buyer by the Sellers' Representative to reflect any assignments or other changes in factual information. Upon Buyer making each aggregate payment or issuance of Buyer Common Stock, required of it under this Agreement to the Company Seller in accordance with the final Payment Spreadsheet delivered by the Sellers' Representative prior to the Closing as provided herein, Buyer shall have fulfilled its obligations with respect to such payments and issuances, as applicable. Buyer shall have, neither directly nor indirectly through the Company following the Closing, no liability whatsoever with respect to the allocation of the distribution of the payments of the Adjusted Equity Value among the Company Sellers.

(c) No party to this Agreement shall take any tax or other position that is contrary to the allocations set forth in the Payment Spreadsheet unless otherwise required by Applicable Law.

6.6 Certain Tax Matters.

(a) Buyer, on the one hand, and the Company Sellers, on the other (severally based on their respective Pro Rata Portion), shall be equally responsible for and shall each pay one half of all stock transfer Taxes, real property transfer or mortgage Taxes, sales Taxes, documentary stamp Taxes, recording charges and other similar Taxes, if any, arising from the transactions contemplated by this Agreement ("Transfer Taxes"). The Party primarily responsible under Applicable Laws shall prepare and file, and each Party shall fully cooperate with each other Party

with respect to the preparation and filing of, any Tax Returns and other filings relating to any Transfer Taxes as may be required.

(b) Preparation of Tax Returns.

(i) The Sellers' Representative shall timely prepare, or shall cause to be prepared, all income Tax Returns of the Company (including, for the avoidance of doubt, any IRS Forms 1065 or Schedules K-1) with respect to any Pre-Closing Tax Period that are filed after the Closing Date (the "Seller Prepared Tax Returns"). All such Seller Prepared Tax Returns shall be prepared at the cost and expense of the Sellers' Representative (for the benefit of the Company Sellers and the TopCo Sellers) and in a manner consistent with past practice and this Agreement, except as otherwise required by Applicable Laws. The Sellers' Representative shall deliver a draft of such Seller Prepared Tax Returns (together with any related workpapers, formulary apportionment calculations and supporting materials) to Buyer for its review and comment not less than thirty (30) days prior to the date on which such Seller Prepared Tax Returns are due to be filed (taking into account any applicable extensions). Within fifteen (15) days following Buyer's receipt of any Seller Prepared Tax Return, Buyer shall notify the Sellers' Representative in writing with any comments to such Seller Prepared Tax Return. The Sellers' Representative shall consider any such reasonable comments of Buyer with respect to such Seller Prepared Tax Returns in good faith and Buyer shall file or cause to be filed such Seller Prepared Tax Return.

(ii) Buyer shall timely prepare and file, or shall cause to be prepared and filed, all Tax Returns of the Company for the Pre-Closing Tax Periods and Straddle Periods due after the Closing Date that are not Seller Prepared Tax Returns (the "Buyer Prepared Tax Returns"). The cost and expense of such preparation and filing with respect to Buyer Prepared Tax Returns for Pre-Closing Tax Periods shall be borne by the Sellers' Representative (for the benefit of the Company Sellers and the TopCo Sellers) and the cost and expense of such preparation and filing with respect to Buyer Prepared Tax Returns for Straddle Periods shall be equitably apportioned between Buyer, on the one hand, and the Sellers' Representative (for the benefit of the Company Sellers and the TopCo Sellers), on the other hand, based on the number of days in such Straddle Period occurring prior to or on the Closing Date and the number of days in such Straddle Period occurring after the Closing Date. Schedule 6.6(b)(ii) sets forth a complete and correct list of the Buyer Prepared Tax Returns. All Buyer Prepared Tax Returns shall be prepared in a manner consistent with past practice and this Agreement, unless otherwise required by Applicable Laws. Buyer shall deliver a draft of any income or other material Buyer Prepared Tax Returns to the Sellers' Representative for its review and comment as soon as reasonably practicable (which, in the case of income Tax Returns, shall be not less than thirty (30) days) prior to the date on which such Buyer Prepared Tax Returns are due to be filed (taking into account any applicable extensions). As soon as reasonably practicable (which, in the case of income Tax Returns, shall be within fifteen (15) days) following the Sellers' Representative's receipt of any such Buyer Prepared Tax Return, the Sellers' Representative shall notify Buyer in writing with any comments to such Buyer Prepared Tax Return. To the extent such comments relate to any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Period, Buyer shall consider such reasonable comments of the Sellers' Representative with respect to such Buyer Prepared Tax Returns in good faith. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, Buyer shall not be required to provide any U.S. federal consolidated income Tax Return (or any combined, consolidated, unified or similar income Tax Return) required to be filed by Buyer or any of its Affiliates as the "common parent" of an "affiliated group" (within the meaning of Section 1504 of the Code or any similar or analogous provision of applicable income Tax law), or any portion thereof, in any form or manner whatsoever to any other Person pursuant to this Agreement, and in no event shall the Sellers' Representative have any right to review or comment on any such Tax Return or any position taken therein.

(iii) The Parties will cause a valid election under Section 754 of the Code to be made and maintained with respect to the Company for its taxable year that includes the Closing Date. The Tax Items of the Company shall be allocated for Tax Return reporting purposes, to the maximum extent permitted by Applicable Laws, between the pre-Closing and post-Closing portions of Straddle Periods by using the "closing of the books method" as of the end of the Closing Date.

(c) Allocation. The Sellers' Representative and Buyer shall allocate the purchase price (as determined for U.S. federal income Tax purposes) of the Company Units sold in the Company Purchase among the

assets of the Company in accordance with Section 751 and Section 755 of the Code and the Treasury Regulations thereunder. Within thirty (30) Business Days after all items of the Final Closing Statement have become final, conclusive and binding pursuant to Section 2.5 or as soon thereafter as reasonably practicable, Buyer shall prepare and deliver to the Sellers' Representative an allocation of such purchase price (such allocation, the "Allocation Schedule") for the Sellers' Representative's review. The Sellers' Representative and Buyer shall cooperate in good faith to resolve any disputed items with respect to the Allocation Schedule and, if the Sellers' Representative and Buyer cannot resolve such disputed items following such cooperation, Sellers' Representative and Buyer shall engage the Accounting Firm to determine the final resolution with respect to such disputed items. For this purpose, the procedures set forth in Section 2.5(e) shall apply, *mutatis mutandis*, and all fees and expenses of the Accounting Firm shall be borne by the parties in the manner set forth in Section 2.5(e). Any determinations made by the Accounting Firm in connection with the foregoing shall be conclusive and binding on the Parties. Any adjustment to purchase price (as determined for U.S. federal income Tax purposes) of the Company Units sold in the Company Purchase shall be allocated among the assets of the Company in a manner consistent with this Section 6.6(c). All Tax Returns filed by Buyer (and any Buyer's designee(s), as applicable), the Company Sellers, the Company, and their Affiliates shall be prepared consistently with the allocation as set forth on the Allocation Schedule (and, to the extent applicable, any updates or any determinations by the Accounting Firm with respect thereto), except upon a final determination by a Taxing Authority.

(d) Straddle Period. In the case of any Straddle Period, the amount of any Taxes of the Company not based upon or measured by income, activities, events, gain, receipts, proceeds, profits or similar items for the portion of such Straddle Period ending on and including the Closing Date will be deemed to be the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of the Straddle Period ending on and including the Closing Date and the denominator of which is the total number of days in such Straddle Period. The amount of any other Taxes for a Straddle Period that relate to the portion of such Straddle Period ending on and including the Closing Date will be determined based on an interim closing of the books as of the end of the day on the Closing Date (and for such purpose the taxable period of any partnership will be deemed to end at such time); provided, however, that any item determined on an annual or periodic basis (such as deductions for depreciation or real estate Taxes), other than with respect to property placed in service after the Closing, shall be apportioned on a daily basis; provided, further, that any deductions allowed to be claimed by the Company in respect of any Transaction Expenses shall be claimed as a deduction by the Company for the portion of the Straddle Period ending on and including the Closing Date to the extent permitted by Applicable Laws.

(e) Amended Returns; Tax Elections. Except as required by Applicable Laws or as set forth on Schedule 6.6(e), Buyer will not, and will cause the Company not to, without the prior written consent of the Sellers' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), (i) make any amendment of any Tax Return of the Company to the extent such Tax Return relates to or includes any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Period or (ii) make any election that has retroactive effect to any Pre-Closing Tax Period or the portion of any Straddle Period ending on and including the Closing Date.

(f) Certain Tax Proceedings. In the event Buyer or any Affiliate of Buyer (including after the Closing the Company) receives written notice of any Tax Proceeding with respect to any Pre-Closing Tax Period of the Company that would reasonably be expected to result in an Indemnified Tax Loss for which Buyer is entitled to indemnification under Section 7.1(a) or an adjustment to the taxable income, gain, loss, deduction or credit of any Company Seller, Buyer shall inform the Sellers' Representative of such Tax Proceeding as soon as possible but in any event within ten (10) Business Days after such receipt. Buyer shall afford the Sellers' Representative the opportunity to control the conduct of such Tax Proceeding relating to income Taxes (a "Seller-Controlled Tax Proceeding"), with counsel of its own choosing (and at the Sellers' Representative's sole cost and expense (for the benefit of the Company Sellers and the TopCo Sellers)), and to settle or otherwise resolve such Seller-Controlled Tax Proceeding in such manner as the Sellers' Representative may deem appropriate; provided, that the Sellers' Representative may not settle such Seller-Controlled Tax Proceeding without Buyer's written consent (which consent shall not be unreasonably withheld, delayed or conditioned). The Sellers' Representative shall keep Buyer reasonably informed of any material developments and events in such Seller-Controlled Tax Proceeding (including by promptly forwarding copies to Buyer of any related correspondence) and shall permit Buyer to participate in such Seller-Controlled Tax Proceeding and shall consult in good faith with Buyer in connection with the defense or prosecution of any such Seller-Controlled Tax

Proceeding. Buyer shall control the contest or resolution of any Tax Proceeding relating to any Pre-Closing Tax Period of the Company (if such Tax Proceeding is not a Seller-Controlled Tax Proceeding) and any Straddle Periods of the Company (any such Tax Proceeding, a “Buyer-Controlled Tax Proceeding”); provided, that Buyer shall obtain the prior written consent of the Sellers’ Representative (which consent shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of a Buyer-Controlled Tax Proceeding or ceasing to defend such Buyer-Controlled Tax Proceeding if such settlement or cessation would reasonably be expected to give rise to Indemnified Tax Loss for which Buyer is entitled to indemnification under Section 7.1(a) or to result in an adjustment to the taxable income, gain, loss, deduction or credit of any Company Seller (including as a result of any election by the Company under Section 6226 of the Code or any corresponding election under the Treasury Regulations or any state or local law with respect to such Buyer-Controlled Tax Proceeding (a “Push-Out Election”)); and, provided further, that the Sellers’ Representative shall be entitled to participate in the defense of such Buyer-Controlled Tax Proceeding and to employ counsel of its choice for such purpose (the fees and expenses of which separate counsel shall be borne solely by the Sellers’ Representative (for the benefit of the Company Sellers and the TopCo Sellers)) if such Buyer-Controlled Tax Proceeding would reasonably be expected to give rise to an Indemnified Tax Loss for which Buyer is entitled to indemnification under Section 7.1(a) or to result in an adjustment to the taxable income, gain, loss, deduction or credit of any Company Seller (including as a result of any Push-Out Election). Buyer shall keep the Sellers’ Representative informed of all material developments and events relating to any Buyer-Controlled Tax Proceeding (including promptly forwarding copies to the Sellers’ Representative of any related correspondence), and shall consult in good faith with the Sellers’ Representative or the Sellers’ Representative’s counsel in connection with the defense or prosecution of any such Buyer-Controlled Tax Proceeding, in each case, if such Buyer-Controlled Tax Proceeding would reasonably be expected to give rise to an Indemnified Tax Loss for which Buyer is entitled to indemnification under Section 7.1(a) or result in an adjustment to the taxable income, gain, loss, deduction or credit of any Company Seller (including as a result of any Push-Out Election). For the avoidance of doubt, this Section 6.6(f) shall apply, rather than Section 7.2 to any Seller-Controlled Tax Proceeding or Buyer-Controlled Tax Proceeding to the extent of any conflict between such Sections.

(g) Cooperation and Tax Record Retention. Buyer and any designee(s) of Buyer, as applicable shall use commercially reasonable efforts to promptly furnish to any of the Company Sellers (at such Company Seller’s sole cost and expense for reasonable out-of-pocket third party expenses) or the Sellers’ Representative (at the Sellers’ Representative sole cost and expense for reasonable out-of-pocket third party expenses for the benefit of the Company Sellers and the TopCo Sellers) such information as may be reasonably requested with respect to Tax matters relating to the Company for any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Periods, including by providing access to relevant books and records and making employees available to provide additional information and explanation of any materials provided hereunder. Notwithstanding anything else contained herein to the contrary, Buyer and any designee(s) of Buyer, as applicable, shall retain all books and records with respect to Tax matters pertinent to the Company relating to any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Periods until at least thirty (30) days after the expiration of the statute of limitations (taking into account any extensions thereof) applicable to such Taxable periods, and shall abide by all record retention agreements entered into with any Taxing Authority.

(h) Tax Attributes. Notwithstanding anything to the contrary herein, Buyer acknowledges and agrees that neither the Company nor any Company Seller is making any representation or warranty and is not providing any other assurance, with respect to the amount of any Tax Attributes of the Company, or with respect to the availability after the Closing of any Tax Attributes of the Company.

(i) Tax Treatment. The Parties agree that for U.S. federal income (and applicable state and local income) tax purposes, the Company Purchase shall be treated as a purchase of partnership interests.

6.7 E&O Tail Policy. Prior to the Closing, the Company shall purchase a 3-year errors and omissions tail policy with respect to Company’s current errors and omissions liability insurance coverage maintained by the Company with respect to claims arising from facts or events that occurred at or before the Closing (collectively, the “E&O Tail Policy”). The Company shall be responsible for the cost of the E&O Tail Policy and such amount shall be deemed a Transaction Expense for purposes of this Agreement. The E&O Tail Policy shall contain terms and

coverage amounts at least as favorable as the terms and coverage amounts of the policies of the Company as currently in effect.

6.8 Indemnification of Officers and Managers of the Company; Insurance.

(a) Buyer shall, or shall cause the Company to, continue to provide, fulfill and honor all rights to indemnification or exculpation existing in favor of a manager, officer, employee or other Affiliate of the Company (including rights relating to advancement of expenses and indemnification rights to which such persons are entitled), as provided in the Company Charter Documents, in each case, as in effect on the date of this Agreement (and as permitted by Applicable Law), and relating to actions or events through the Closing Date, and such rights to indemnification shall survive the Company Purchase and other transactions contemplated herein, and shall continue in full force and effect, without any amendment thereto for a period of six years following the Closing.

(b) Prior to the Closing, Buyer shall have purchased a three (3) year tail or extension of coverage policy with respect to Company's current managers' and officers' liability insurance coverage maintained by Company with respect to claims arising from facts or events that occurred at or before the Closing (including consummation of the Company Purchase) (the "D&O Tail Policy"). The Company shall be responsible for the cost of the D&O Tail Policy and such amount shall be deemed a Transaction Expense for purposes of this Agreement.

(c) The provisions of this Section 6.8 are intended to be for the benefit of, and shall be enforceable by, each Affiliate of the Company, his or her heirs and his or her personal representatives and shall survive the Company Purchase and other transactions contemplated herein, and be binding upon the successors and assigns of Buyer and the Company.

6.9 Further Assurances. Upon the request of Buyer, each of the other Parties hereto will do, execute, acknowledge and deliver, all such further acts, assurances, deeds, assignments, transfers, conveyances and other instruments and papers as may be reasonably requested by any other Party to carry out the transactions contemplated by this Agreement (including the consummation of a Put/Call Closing).

6.10 Public Announcements. The Company and Buyer have agreed upon the form of a joint press release announcing the execution of this Agreement to be released immediately following the Closing. Following the Closing, except as required to comply with Applicable Law, (i) no Company Seller or the Sellers' Representative shall issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby without the express prior written approval of Buyer, and (ii) Buyer will not issue any press release or otherwise make any public statement or filing that contains specific information naming any Company Seller or any TopCo Seller or disclosing the specific ownership or proceeds received by such Company Seller or TopCo Seller without the express prior written approval of the Company Seller or the TopCo Seller so impacted.

6.11 Fees and Expenses. Except as otherwise provided herein, each Party will pay its own respective financial advisory, legal, accounting and other expenses incurred by it or for its benefit in connection with the preparation and execution of this Agreement, the compliance herewith and the transactions contemplated by this Agreement.

6.12 Attorney Communications; Waiver of Conflicts Regarding Representation.

(a) Buyer acknowledges and agrees that Davis & Gilbert LLP has been providing legal advice to the Company and TopCo in connection with this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby and that such advice constitutes attorney/client privileged communications or attorney work product (collectively, the "Attorney Work Product"). Buyer shall not knowingly review any such Attorney Work Product. Buyer hereby waives the right to present any Attorney Work Product as evidence in any lawsuit or proceeding in which any Company Seller, TopCo Seller or the Sellers' Representative (on their behalf) is adverse to Buyer (or any Buyer Indemnified Party) in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby and thereby.

(b) Recognizing that Davis & Gilbert LLP has been providing legal advice to the Company and TopCo, and that Davis & Gilbert LLP may act as legal counsel to certain of the Company Sellers and TopCo Sellers after the Closing, (i) the Company hereby waives, on their own behalf and agree to cause their Affiliates to waive, any conflicts that may arise in connection with Davis & Gilbert LLP representing the Company Sellers and/or TopCo Sellers after the Closing and (ii) the Company hereby agrees that, in the event that a dispute arises between or among any of Buyer or any of its Affiliates (including, the Company) and any Company Seller and/or TopCo Seller, each of the Parties agree that Davis & Gilbert LLP may represent such Company Seller and/or TopCo Seller in such dispute even though the interests of such Company Seller and/or TopCo Seller may be directly adverse to Buyer or any of its Affiliates (including the Company), and even though Davis & Gilbert LLP may have represented the Company and/or TopCo in a matter substantially related to such dispute, Buyer and the Company waive, on behalf of themselves, TopCo and each of their respective Affiliates, any conflict of interest in connection with such representation by Davis & Gilbert LLP. Buyer acknowledges, on behalf of itself, TopCo and the Company, that each has had the opportunity to discuss and obtain adequate information concerning the significance and material risks of, and reasonable available alternatives to, the waivers, permissions and other provisions of this Agreement, including the opportunity to consult with counsel other than Davis & Gilbert LLP. This Section 6.12 is for the benefit of Davis & Gilbert LLP (including their respective partners and employees), which are intended third-party beneficiaries of this Section 6.12.

ARTICLE VII INDEMNIFICATION

7.1 Indemnification.

(a) Indemnification of the Buyer Indemnified Parties for Buyer Indemnified Losses. Subject to the provisions of this Article VII, from and after the Closing, each of the Company Sellers, severally agrees, based on their respective Indemnity Pro Rata Portion, to indemnify and hold harmless, the Buyer Indemnified Parties from and against the Applicable Percentage of any and all Buyer Indemnified Losses incurred by any Buyer Indemnified Party. The Sellers' Representative shall act on behalf of the Company Sellers, and the Buyer is hereby authorized to rely on determinations or communications by the Sellers' Representative on behalf of the Company Sellers, in connection with the indemnification provided under Section 7.1(a).

(b) Special Indemnification of the Buyer Indemnified Parties. Subject to the provisions of this Article VII, from and after the Closing, each of the Company Sellers hereby severally, and not jointly, agrees to indemnify and hold harmless the Buyer Indemnified Parties from and against all Losses incurred by any Buyer Indemnified Party in connection with, based upon, resulting from, attributable to, related to, or arising out of (i) any breach or inaccuracy by such Company Seller of any of its representations or warranties under Article IV of this Agreement or Section 8.14 (with respect to the Retained Unitholders only) or (ii) any violation, breach or default by such Company Seller of any covenants or agreements of such Company Seller under this Agreement.

(c) Materiality Scrape. For purposes of determining the indemnification obligations under this Section 7.1, except for the Specified Instances (defined below), all references in this Agreement to the word "material," "material respects," "material adverse effect" and "Material Adverse Effect" (and similar materiality qualifications), shall be disregarded for purposes of determining (i) whether there has been a breach or failure of a representation or warranty for which a Buyer Indemnified Party is entitled to indemnification under this Agreement and (ii) the amount of any Loss that is the subject of indemnification hereunder. "Specified Instances" means the use of the words "material" and "all material respects" as such terms are used in Section 3.5. It is agreed that the provisions of this Section 7.1(c) shall not change the titles of or change what otherwise constitutes a "Material Customer", "Material Supplier" and "Material Contract".

7.2 Defense of Third Party Claims.

(a) If any third party notifies any Buyer Indemnified Party with respect to any matter (a "Third-Party Action") that may give rise to a claim for indemnification against an Indemnifying Party under this Article VII, then such Buyer Indemnified Party shall promptly notify, with respect to a claim for indemnification under Section

7.1(a), the Sellers' Representative on behalf of the Company Sellers or, with respect to a claim for indemnification under Section 7.1(b), the applicable Company Seller in writing (the "Third-Party Claim Notice"); provided, that no failure or delay on the part of the Buyer Indemnified Party to so notify the Sellers' Representative or such Company Seller, as the case may be, shall limit any of the obligations of the applicable Indemnifying Party under Article VII, except to the extent that such Indemnifying Party has been materially prejudiced thereby. The Third-Party Claim Notice shall include a statement setting forth in reasonable detail the nature of the claim and, if ascertainable, the amount of the claim. The Sellers' Representative or the applicable Company Seller, as the case may be, shall be entitled to control the defense of such Third-Party Action if it notifies the Buyer Indemnified Party of its election within 30 days after it receives a Third Party Claim Notice from the Buyer Indemnified Party.

(b) The Buyer Indemnified Party and the Sellers' Representative (on behalf of the Company Sellers) or the applicable Company Seller, as the case may be, shall cooperate in the defense or prosecution of the Third-Party Action and shall furnish such records, information and testimony and shall attend such conferences, discovery proceedings and trials as may be reasonably requested in connection with such Third-Party Action; provided, that it shall not be required to grant access or furnish information to the extent that such information is subject to an attorney/client or attorney work product privilege; and provided further, that the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, and/or their counsel shall use their commercially reasonable efforts to enter into such joint defense agreements or other arrangements, as appropriate, so as to allow for such disclosure in a manner that does not result in the loss of attorney/client or attorney work product privilege. Each Party shall act in good faith and in a commercially reasonable manner in addressing any adverse consequences that may result in the basis for an indemnifiable claim.

(c) In the event that the Sellers' Representative (on behalf of the Company Sellers) or the applicable Company Seller, as the case may be, elects not to defend the Third-Party Action, fails to timely respond to a Third-Party Claim Notice or otherwise fails to defend the Third-Party Action in good faith, then the Buyer Indemnified Party shall have the right to defend such Third-Party Action in such manner as the Buyer Indemnified Party deems appropriate. In addition, in the event the Third-Party Action involves a Special Claim, then Buyer shall have the right to control such claim at its sole election and, if Buyer so elects, the Sellers' Representative or the applicable Company Seller, as the case may be, shall not be entitled to control, but may participate in the defense or settlement of, such Special Claim.

(d) If within 30 days after a Third-Party Claim Notice is delivered to the Sellers' Representative or the applicable Company Seller, as the case may be, such Person does not notify the Buyer Indemnified Party that it disputes such claim, the amount of such claim shall be conclusively deemed a liability of the applicable Indemnifying Party hereunder.

(e) In the event that, within 30 days after a Third-Party Claim Notice is delivered to the Sellers' Representative or the applicable Company Seller, as the case may be, such Person disputes the claim for indemnification against the applicable Indemnifying Party with respect to such Third-Party Action, the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, shall attempt in good faith for 30 days to agree upon the rights of the respective parties with respect to such claim. If the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, should so agree, a memorandum setting forth such agreement and the agreed upon dollar amount of liability for such claim of the Indemnifying Party against whom the claim is made shall be prepared and signed by (or on behalf of) the parties. If the parties do not agree, each of the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, may take such actions and assert such rights, remedies and defenses as may then be available to it under the terms of this Agreement.

(f) In the event a Buyer Indemnified Party has the right to defend and control a Third-Party Action in accordance with Section 7.2(c) and the Buyer Indemnified Party proposes to settle or compromise such Third-Party Action, the Buyer Indemnified Party shall provide notice to that effect (together with a statement describing in reasonable detail the terms and conditions of such settlement or compromise and including a copy of the proposed settlement agreement) to the Sellers' Representative or the applicable Company Seller, as the case may be, which notice

shall be provided a reasonable time prior to the proposed time for effecting such settlement or compromise. Prior to settling or compromising any such Third-Party Action, the Buyer Indemnified Party shall obtain the written consent of the Sellers' Representative (on behalf of the Company Sellers) or the applicable Company Seller, as the case may be, which consent shall not be unreasonably withheld, conditioned or delayed. If the Buyer Indemnified Party effects any such settlement or compromise of such Third-Party Action with the written consent of the Sellers' Representative or the applicable Company Seller, as the case may be, the amount payable pursuant to such settlement or compromise plus any additional related indemnifiable Losses, if any, specified in such consent shall, be payable by or on behalf of the Indemnifying Party, subject to the limitations and other provisions set forth in this Article VII. If a Buyer Indemnified Party effects any such settlement or compromise without the consent of the Sellers' Representative or the applicable Company Seller, as the case may be, and such consent has not been unreasonably withheld, conditioned or delayed, then the dollar amount of the settlement or compromise shall not be dispositive of the dollar amount of the Indemnifying Parties' obligations with respect to such Third-Party Action.

7.3 Direct Claims. In any case in which a Buyer Indemnified Party seeks indemnification hereunder which is not subject to Section 7.2, the Buyer Indemnified Party will notify the Sellers' Representative or the applicable Company Seller, as the case may be, in writing of any Losses which such Buyer Indemnified Party claims are subject to indemnification under the terms hereof. Such notification must state in reasonable detail, to the extent such information is reasonably available, the nature, amount and circumstances of such claim, and be accompanied by any other documentation or information reasonably required by the Sellers' Representative or the applicable Company Seller, as the case may be, to evaluate the claim. Subject to the limitations set forth in this Article VII, if the Sellers' Representative or the applicable Company Seller, as the case may be, does not notify the Buyer Indemnified Party in writing within thirty (30) days after receipt of the written notification that the Sellers' Representative or the applicable Company Seller, as the case may be, disputes all or any portion of such claim, the amount of such undisputed claim shall be conclusively deemed a liability of the Indemnifying Party hereunder (subject to the limitations on liability set forth in Section 7.5 hereof). In case an objection is made in writing by the Sellers' Representative or the applicable Company Seller, as the case may be, within such thirty (30)-day period, the Buyer Indemnified Party shall have thirty (30) days to respond in a written statement to the objection. If the Buyer Indemnified Party so responds, or the time to respond has expired, and there remains a dispute as to any claim, the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, shall attempt in good faith for thirty (30) days to agree upon the rights of the respective parties with respect to each such claim. If the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, do not agree within such thirty (30)-day period, each of the Buyer Indemnified Party and the Sellers' Representative or the applicable Company Seller, as the case may be, may take such actions and assert such rights, remedies and defenses as may then be available to it under the terms of this Agreement.

7.4 No Circular Recovery. The Sellers' Representative hereby agrees that it will not, and no Company Seller shall, make any claim for indemnification or advancement of expenses against Buyer by reason of the fact that such Company Seller was a controlling person, officer, manager, member, unit holder employee, agent or representative of the Company (whether such claim is pursuant to any statute, Company Charter Document, Contract or otherwise) with respect to any claim brought by a Buyer Indemnified Party in accordance with this Agreement.

7.5 Limits on Liability.

(a) Termination of Indemnification Obligations of the Company Sellers. The obligation of the Company Sellers to indemnify under Section 7.1(a) for Indemnified Company Representation Losses shall terminate on the second anniversary of the Closing Date, except (x) as to matters as to which the Buyer Indemnified Party has made a good faith claim for indemnification under Sections 7.2 or 7.3 hereof on or prior to such date and (y) with respect to any claim for Indemnified Company Representation Losses pertaining to a misrepresentation or a breach of a Fundamental Company Representation. The obligation to indemnify referred to in:

- (i) the preceding clause (x) shall survive the expiration of such period until such claim for indemnification is finally resolved and any obligations with respect thereto are fully satisfied; and

(ii) the preceding clause (y) shall terminate sixty (60) days after the expiration of the relevant statute of limitations (taking into account any extensions or waivers thereof), except as to matters as to which any Buyer Indemnified Party has made a claim for indemnification on or prior to such date, in which case the right to indemnification with respect thereto shall survive the expiration of any such period until such claim for indemnification is finally resolved and any obligations with respect thereto are fully satisfied.

For avoidance of doubt, all covenants and agreements of the Parties set forth in this Agreement shall survive until fully performed in accordance with their respective terms.

(b) Minimum Claim Amount; Indemnity Threshold. The Buyer Indemnified Parties shall not be entitled to be indemnified for any Indemnified Company Representation Losses as to any individual indemnification claim with respect to such Losses if the aggregate amount of all Losses incurred by the Buyer Indemnified Parties with respect to any such claim does not exceed \$10,000 (the "Minimum Claim Amount"). For purposes of illustration and not limitation, in determining whether the Minimum Claim Amount has been met, an individual Loss occurring or arising out of a fact pattern shall be aggregated with all other individual Losses arising out of identical or substantially similar fact patterns. The Buyer Indemnified Parties shall not be entitled to be indemnified for any Indemnified Company Representation Losses unless and until the sum of all Indemnified Company Representation Losses exceed \$187,500 (the "Threshold"); provided, however, that after the Threshold has been met, the Buyer Indemnified Parties shall be entitled to be indemnified for all such Indemnified Company Representation Losses including the amount of the Threshold. The Parties agree that the limitations set forth in this Section 7.5(b) shall not apply to any breach of a Fundamental Company Representation or Indemnified Company Representation Losses that arise as a result of Fraud.

(c) Maximum Liability. Except in the case of Fraud, (i) the maximum aggregate liability of the Company Sellers under this Agreement shall be an amount equal to 100% of the total Purchase Price paid or payable by the Buyer to the Company Sellers pursuant to Section 2.4 and Section 8.14 hereof, and (ii) each Company Seller's individual liability for such claims shall not exceed such Company Seller's Individual Purchase Price Amount.

(d) Exclusive Remedy for Indemnified Company Representation Losses is the Holdback Consideration. Buyer agrees that the Holdback Consideration has been withheld and held back by the Buyer to support the payment of indemnification claims by the Buyer Indemnified Parties following the Closing. Buyer, on behalf of itself and the other Buyer Indemnified Parties, acknowledges and agrees that except with respect to Fraud and breaches by the Company of the Fundamental Company Representations, recovery from the Holdback Consideration shall be the sole and exclusive remedy for Indemnified Company Representation Losses. Except with respect to Fraud and breaches by the Company of the Fundamental Company Representations, any deduction made from the Holdback Consideration in respect of an Indemnified Company Representation Loss incurred by a Buyer Indemnified Party pursuant to this Article VII shall constitute full satisfaction of any obligation of each applicable Company Seller to make such payment to the Buyer Indemnified Party.

(e) Clarification of Term "Losses". Except in the case of Fraud, the Parties acknowledge and agree that in no event shall any Indemnifying Party hereunder be liable to a Buyer Indemnified Party for any punitive, exemplary or special damages unless such damages were actually assessed against the Buyer Indemnified Party in connection with a Third-Party Action. In addition, the term "Losses" as used in this Agreement shall only include consequential damages, damages for lost profits or any similar measure of damages if (i) the Buyer Indemnified Party seeking such damages is able to prove all elements necessary for recovery of such damages under Delaware law, or (ii) if such damages were actually assessed against the Buyer Indemnified Party in connection with a Third-Party Action.

(f) Insurance Proceeds. The amount of any Loss for which indemnification is provided under this Article VII shall be net of any amounts actually recovered by a Buyer Indemnified Party under insurance policies with respect to such Loss, less such Buyer Indemnified Party's out-of-pocket costs of obtaining or receiving such recovery, including any deductible paid in obtaining such proceeds and increased costs of insurance related to the making of such claim, including retrospective premium adjustments and experienced based premium adjustments. In the event that an insurance recovery is made by any Buyer Indemnified Party with respect to any Losses for which such Person has been indemnified hereunder and has received funds in the amount of the Losses or portion thereof,

then a refund equal to the aggregate amount of the insurance recovery (less such Buyer Indemnified Party's reasonable out-of-pocket costs of receiving such recovery, including any deductible paid in obtaining such proceeds and increased costs of insurance related to the making of such claim), but in no event in excess of the amount of such indemnification payment, shall be made promptly to the Indemnifying Party.

In addition, in the event Buyer obtains actual knowledge that a Buyer Indemnified Party is entitled to recovery under the E&O Tail Policy and/or the D&O Tail Policy, Buyer shall use commercially reasonable efforts to submit to the relevant insurance provider a corresponding claim for recovery.

(g) Duplication of Recovery. No Buyer Indemnified Party shall have the right to indemnification hereunder for any amount that was already included in the Net Working Capital Adjustment, the Closing Net Debt Amount or the Purchase Price Overpayment amounts in accordance with this Agreement.

7.6 Procedures for Claims; Payment of Holdback Consideration.

(a) Claims. Buyer shall be entitled to reduce the Holdback Consideration by the amount necessary to satisfy and pay the amount of any Buyer Indemnified Losses with respect to which a Buyer Indemnified Party is entitled to indemnification pursuant to this Article VII by deducting from the Holdback Consideration a number of shares of Buyer Common Stock equal to the quotient obtained by dividing (i) the amount of such Buyer Indemnified Losses by (ii) the Issue Price as of the Closing Date, if such reduction is with respect to the 1st Anniversary Holdback Shares, or the Initial Release Date, if such reduction is with respect to the 2nd Anniversary Holdback Shares.

(b) Distributions. The Holdback Consideration shall be distributed in accordance with the provisions of Section 2.6 herein.

7.7 Exclusive Remedy. Each Party acknowledges and agrees that the indemnification provisions of this Article VII and the adjustments set forth in Section 2.5 shall be the sole and exclusive remedies of the Buyer Indemnified Parties under this Agreement, except for (i) claims arising out of Fraud and (ii) injunctive relief or specific performance and other equitable remedies.

7.8 Acknowledgement of Sellers' Representative. The Parties acknowledge and agree that any Buyer Indemnified Party shall only deal with the Sellers' Representative with respect to an indemnification claim made pursuant to Section 7.1(a) and the Company Sellers will be bound by any action or agreement of the Sellers' Representative made on their behalf with respect to an indemnification claim made pursuant to Section 7.1(a).

7.9 Tax Treatment of Indemnification Payments. Any indemnity payments by an Indemnifying Party to a Buyer Indemnified Party under this Article VII shall be treated by the Parties for Tax purposes as an adjustment to the Adjusted Equity Value.

7.10 Notices. Any notice, request, demand, claim or other communication required or permitted to be delivered, given or otherwise provided under this Agreement must be in writing and must be delivered personally, delivered by nationally recognized overnight courier service, or sent by electronic mail (subject to electronic confirmation of receipt, if requested). Any such notice, request, demand, claim or other communication shall be deemed to have been delivered and given (a) when delivered, if delivered personally, (b) the Business Day after it is deposited with such nationally recognized overnight courier service, if sent for overnight delivery by a nationally recognized overnight courier service, or (c) the day of sending, if sent by facsimile or electronic mail prior to 5:00 p.m. Pacific Time on any Business Day or the next succeeding Business Day if sent by electronic mail after 5:00 p.m. Pacific Time on any Business Day or on any day other than a Business Day, in each case, to the following address, or to such other address or addresses or facsimile number or numbers as such Party may subsequently designate to the other Parties by notice given hereunder:

If to the Sellers' Representative, to such Person at:

NP Representative, LLC
25 Robert Pitt Drive, Suite 204
Monsey, NY 10952

with a copy (which shall not constitute notice) to:

Davis & Gilbert LLP
1740 Broadway
New York, New York 10019
Attention: Jason Abramson, Esq.
Fax: (212) 468-4888
Email: XXXXXXXXXXXX

If to Buyer or the Company, to such Person at:

RealPage, Inc.
2201 Lakeside Blvd.
Richardson, Texas 75082
Facsimile:(972) 820-3052
Attention:Chief Executive Officer
Email: XXXXXXXXXXXX

with a copy (which shall not constitute notice) to:

RealPage, Inc.
2201 Lakeside Blvd.
Richardson, Texas 75082
Facsimile:(972) 820-3052
Attention:Chief Legal Officer
Email: XXXXXXXXXXXX

and

Wilson Sonsini Goodrich & Rosati, P.C.
900 South Capital of Texas Highway
Las Cimas IV, Fifth Floor
Austin, Texas 78746-5546
Attention:Robert Suffoletta, Esq.
Facsimile:(512) 338-5499
Email: XXXXXXXXXXXX

Each of the Parties may specify a different address or addresses by giving notice in accordance with this [Section 8.1](#) to each of the other Parties.

7.11 Succession and Assignment; No Third-Party Beneficiaries. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, each of which such successors and permitted assigns will be deemed to be a Party for all purposes hereof. No Party may assign, delegate or otherwise transfer either this Agreement or any of its rights, interests or obligations hereunder, without the prior written approval of Buyer and the Sellers' Representative, and any attempt to do so will be null and void *ab initio*.

Except as expressly provided herein, this Agreement is for the sole benefit of the Parties and their successors and permitted assignees, and nothing herein expressed or implied will give or be construed to give any Person, other than the Parties and such successors and permitted assignees, any other right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

7.12 Amendments and Waivers. No amendment or waiver of any provision of this Agreement will be valid and binding unless it is in writing and signed, in the case of an amendment, by Buyer and the Sellers' Representative (and in the case of any amendment to [Section 8.14](#), the prior written consent of each of the Retained Unitholders as well), or in the case of a waiver, by the Party against whom the waiver is to be effective (with the Buyer acting, after the Closing, on behalf of the Company). No waiver by any Party of any breach or violation of, default under or inaccuracy in any representation, warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent breach or violation of, default under, or inaccuracy in, any such representation, warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No delay or omission on the part of any Party in exercising any right, power or remedy under this Agreement will operate as a waiver thereof.

7.13 Entire Agreement. This Agreement, together with and any other documents, instruments and certificates explicitly referred to herein, constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, proposals, undertakings, understandings and agreements, whether written or oral, with respect thereto. There are no restrictions, promises, warranties, covenants, or undertakings, other than those expressly provided for herein and therein.

7.14 Counterparts; Facsimile Signature. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute but one and the same instrument. This Agreement will become effective when duly executed and delivered by each Party. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (*i.e.*, by email of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes.

7.15 Provisions Concerning the Sellers' Representative.

(a) **Appointment.** At the Closing, and without further act of the Company or any of the Company Sellers, the Sellers' Representative is hereby appointed as agent and attorney-in-fact for each of the Company Sellers, for and on behalf of the Company Sellers, to give and receive notices and communications and to take any and all action on behalf of the Company Sellers pursuant to this Agreement and in connection with the transactions contemplated by this Agreement, as specified herein, except for matters involving a Company Seller's individual indemnification obligations to a Buyer Indemnified Party set forth in [Section 7.1\(b\)](#) hereof. Any vacancy in the position of the Sellers' Representative may be filled by approval of the Company Sellers entitled to receive at least a majority of the Purchase Price to be issued and paid pursuant to [Section 2.4](#). No bond will be required of the Sellers' Representative, and the Sellers' Representative will not receive compensation for its, his or her services; provided, that the Sellers' Representative will be entitled to reimbursement of expenses pursuant to [Section 8.6\(c\)](#). Notices or communications to or from the Sellers' Representative will constitute notice to or from each of the Company Sellers. Each Company Seller, by virtue of the execution and delivery of this Agreement, has (i) agreed that all actions taken by the Sellers' Representative under this Agreement shall be binding upon such Company Seller and such Company Seller's successors, heirs and permitted assigns as if expressly confirmed and ratified in writing by such Company Seller, (ii) waived any and all defenses which may be available to contest, negate or disaffirm the action of the Sellers' Representative taken in good faith under this Agreement, and (iii) granted the Sellers' Representative full power and authority to interpret all the terms and provisions of this Agreement, to consent to any amendment hereof or thereof, and to take all actions otherwise contemplated by this Agreement, in each case on behalf of such Company Seller and his or her successors, heirs and permitted assigns. The Sellers' Representative acknowledges that it has carefully read and understands this Agreement and hereby accepts the appointment and designation made hereunder.

(b) **Actions of the Sellers' Representative.** A decision, act, consent or instruction of the Sellers' Representative (acting in its capacity as the Sellers' Representative as authorized under [Section 8.6\(a\)](#)) will constitute

a decision of all of the Company Sellers and will be final, conclusive and binding upon each of the Company Sellers, and Buyer may rely upon any such decision, act, consent or instruction of the Sellers' Representative as being the decision, act, consent or instruction of each of the Company Sellers; provided, however, that any decision, act, consent or instruction of the Sellers' Representative in respect of an individual Company Seller's breach (or asserted breach) of any representation, warranty or covenant of such Company Seller herein shall not be effective against such Company Seller without the prior written consent of such Company Seller. Buyer is hereby relieved from any Liability to any Person for any acts done by Buyer in accordance with such decision, act, consent or instruction of the Sellers' Representative. Sellers' Representative will be entitled to rely on the advice of counsel, public accountants or other independent experts that it reasonably determines to be experienced in the matter at issue, and will not be liable to any Company Seller for any action taken or omitted to be taken in good faith based on such advice or that it otherwise reasonably believes are necessary or appropriate under the Agreement. The Sellers' Representative is serving in its capacity as such solely for purposes of administrative convenience, and is not personally liable in such capacity for any of the obligations of any Company Seller hereunder, and Buyer agrees that it will not look to the personal assets of Sellers' Representative, acting in such capacity, for the satisfaction of any obligations to be performed by any of the Company Sellers hereunder.

(c) Sellers' Representative Expense Fund. The Sellers' Representative Expense Fund Amount will be used solely to pay costs, fees and expenses incurred by the Sellers' Representative for the benefit of the Company Sellers pursuant to this Agreement on or after the Closing Date, and will be paid or distributed at the direction of the Sellers' Representative (the "Sellers' Representative Expense Fund"). The Sellers' Representative Expense Fund will be held by the Sellers' Representative as agent and for the benefit of the Company Sellers in a segregated client account. The Sellers' Representative (on behalf of the Company Sellers) will hold these funds in trust. Promptly following the Second Release Date, the Sellers' Representative will distribute the then-remaining balance of the Sellers' Representative Expense Fund (if any) by wire transfer of immediately available funds to the Company Sellers, based on their respective Pro Rata Portion. For Tax purposes, the Sellers' Representative Expense Fund shall be treated as having been received and voluntarily set aside by the Company Sellers at the time of Closing. Promptly following the appointment of a successor Representative pursuant to Section 8.6(a), the Sellers' Representative will transfer the then-remaining balance of the Sellers' Representative Expense Fund, if any, to the successor Sellers' Representative.

(d) In the event that any amount is owed by the Sellers' Representative in respect of any actions it has taken hereunder, whether for fees, expense reimbursement or otherwise, that is in excess of the Sellers' Representative Expense Fund (or after any or all of the Sellers' Representative Expense Fund has been disbursed to the Company Sellers), the Sellers' Representative will be entitled to be reimbursed by the Company Sellers, severally and not jointly, for the shortfall in accordance with their respective Pro Rata Portion. Each Company Seller hereby severally and not jointly, indemnifies the Sellers' Representative for such Company Seller's Pro Rata Portion of any costs, fees and expenses incurred by Sellers' Representative in excess of the Sellers' Representative Expense Fund Amount arising out of its serving as the Sellers' Representative hereunder.

(e) For the avoidance of doubt, the Sellers' Representative shall not have any authority to take any action with respect to Section 8.14 hereunder, or to act on behalf of any Retained Unitholder with respect to Section 8.14 or the transactions contemplated therein.

7.16 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. In the event that any provision hereof would, under applicable law, be invalid or unenforceable in any respect, each Party intends that such provision will be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable laws.

7.17 Governing Law. THIS AGREEMENT, AND ANY MATTER OR DISPUTE ARISING HEREUNDER OR IN CONNECTION WITH THIS AGREEMENT, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE LAWS OR RULES OF THE STATE OF DELAWARE RELATING TO CONFLICT OF LAWS.

7.18 Resolution of Disputes.

(a) No Party to this Agreement shall institute a proceeding in any court or administrative agency to resolve a dispute between the parties arising out of or related to this Agreement before that party has sought to resolve the dispute through direct negotiation in good faith with the other party.

(b) If the dispute is not resolved within three (3) weeks after a demand for direct negotiation, the Parties shall attempt to resolve the dispute through nonbinding mediation in New Castle County, Delaware, administered by the American Arbitration Association under its commercial mediation rules and procedures then in effect. If the mediator is unable to facilitate a settlement of the dispute within a reasonable period of time (but no more than three (3) weeks), any Party may then seek relief as provided in Section 8.9(c).

(c) Subject to Section 8.9(b), any legal action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby may only be instituted in any state or federal court in New Castle County, Delaware, and each Party waives any objection which such Party may now or hereafter have to the laying of the venue of any such action, suit or proceeding, and irrevocably submits to the jurisdiction of any such court in any such action, suit or proceeding.

(d) Notwithstanding any other provision of this Agreement, including this Section 8.9, each Party shall have the right to at any time apply to any court of competent jurisdiction for preliminary injunctive relief.

7.19 Certain Matters of Construction.

(a) The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

(b) Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, are not intended to be full or accurate descriptions of the content of the Sections or subsections of this Agreement and shall not affect the construction hereof.

(c) Except as otherwise explicitly specified to the contrary herein, (i) the words “hereof,” “herein,” “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement and reference to a particular Section of this Agreement shall include all subsections thereof, (ii) references to a Section, Exhibit, Annex or Schedule means a Section of, or Exhibit, Annex or Schedule to this Agreement, unless another agreement is specified, (iii) definitions shall be equally applicable to both the singular and plural forms of the terms defined, and references to the masculine, feminine or neuter gender shall include each other gender, (iv) the word “including” means including without limitation, (v) any reference to “\$” or “dollars” means United States dollars and (vi) references to a particular statute or regulation include all rules and regulations thereunder and any successor statute, rule or regulation, in each case as amended or otherwise modified from time to time.

(d) Unless the context clearly requires otherwise, when used herein “or” shall not be exclusive (*i.e.*, “or” shall mean “and/or”).

(e) Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

7.20 Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, THE PARTIES HEREBY WAIVE, AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OF IN CONNECTION WITH THIS AGREEMENT OR

ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION WHATSOEVER BETWEEN OR AMONG THEM RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THAT SUCH ACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

7.21 Specific Enforcement. Each of the Parties agrees that irreparable harm for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that it does not fully and timely perform its obligations under or in connection with this Agreement (including failing to take such actions as are required of it hereunder to consummate this Agreement and the Closing) in accordance with its terms. Each of the Parties acknowledges and agrees that (a) the other Parties shall be entitled to an injunction, specific performance, or other equitable relief, to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, without proof of damages and without posting a bond, this being in addition to any other remedy to which such other Parties are entitled under this Agreement and (b) the right to obtain an injunction, specific performance, or other equitable relief is an integral part of the transactions contemplated by this Agreement and without that right, none of the Parties would have entered into this Agreement. Each Party agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Parties have an adequate remedy at law.

7.22 Limitation on Recourse. Notwithstanding anything to the contrary in this Agreement or otherwise, no claim arising in whole or in part out of or related to this Agreement or the negotiation, interpretation, construction, validity or enforcement of this Agreement (whether sounding in contract, tort, statute or otherwise) shall be brought or maintained by or on behalf of any Party or any of its Affiliates or their respective successors or permitted assigns against any Person not a Party. Without limitation of the foregoing, no claim described in the immediately preceding sentence shall be brought or maintained against any past, present or future officer, director, employee, agent, direct or indirect general or limited partner, manager, management company, direct or indirect member, stockholder, equityholder, or controlling Person, representative or Affiliate, or any heir, executor, administrator, successor or assign of any of the foregoing, of Buyer, the Company, the Company Sellers or the Sellers' Representative, as applicable (each, a "Non-Recourse Party"), and no recourse shall be had against any of them in respect of any such claim, including in connection with any alleged misrepresentation or inaccuracy in or breach of or omission in any of the representations, warranties, covenants or agreements of any Party set forth or contained in this Agreement or any exhibit or schedule hereto or any certificate delivered hereunder.

7.23 Attorney's Fees. If any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees from the non-prevailing party, which fees may be set by the court in the trial of such action, or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

7.24 Put/Call Rights on Retained Units.

(a) Put Trigger Date. At any time on or after September 1, 2018, each Retained Unitholder may provide written notice (the "Put Notice") to Buyer that such Retained Unitholder is electing to sell to Buyer, and Buyer is required to purchase from such Retained Unitholder, on a date no less than five (5) days following the Put Notice (such date, the "Put Date"), all of such Retained Unitholder's Retained Units for an aggregate amount equal to the Put/Call Amount (as defined below) (the "Put Right").

(b) Call Trigger Date. At any time on or after October 1, 2018, Buyer may provide written notice (the "Call Notice") to any Retained Unitholder that Buyer is electing to purchase from such Retained Unitholder and such Retained Unitholder is required to sell to Buyer, on a date no less than five (5) days following the Call Notice

(such date, the “Call Date”), all of such Retained Unitholder’s Retained Units for an aggregate amount equal to the Put/Call Amount (the “Call Right”).

(c) Put/Call Consideration. In connection with the exercise of the Put/Call Right, the Buyer shall pay the applicable Put/Call Amount to each Retained Unitholder (the “Put/Call Consideration”) as follows:

(i) TSL1. TSLI shall receive shares of Buyer Common Stock equal to the quotient obtained by dividing (a) the TSL1’s Put/Call Amount by (b) the Issue Price measured as of the Closing Date, rounded down to the nearest whole share.

(ii) Agabs/Horowitz. Agabs and Horowitz shall receive cash equal to their applicable Put/Call Amount by wire transfer of immediately available funds to an account designated by such Company Seller.

(d) Closing Deliveries/Representations. The obligations of Buyer and a Retained Unitholder to consummate the Put/Call Closing shall be subject to the following:

(i) Buyer Closing Deliveries. At the Put/Call Closing, Buyer shall deliver or cause to be delivered the Put/Call Consideration in the form described in Section 8.15(c), with TSL1 receiving a stock certificate in the name of TSL1 evidencing shares of Buyer Common Stock representing TSL1’s Put/Call Consideration.

(ii) Seller Closing Deliveries; Surrender of Certificates. At the Put/Call Closing, the applicable Retained Unitholder shall deliver or cause to be delivered to Buyer (i) any certificate or certificates representing the Retained Units duly endorsed (or accompanied by duly executed transfer powers) against receipt of the Put/Call Consideration and (ii) all other documents reasonably required to consummate the transactions contemplated hereby or reasonably requested by Buyer.

(iii) Representations. The following representations and warranties shall be true and correct as of the Put/Call Closing:

(1) The applicable Retained Unitholder represents and warrants to Buyer that the representations and warranties set forth in Article IV herein are true and correct as of, the Put/Call Closing with respect to such Retained Unitholder’s Retained Units.

(e) Rights Before Put/Call Closing. For the avoidance of doubt, the Retained Units shall remain the sole property of the Retained Unitholders, and Buyer shall not have any rights with respect thereto (whether voting, the right to receive distributions and dividends, or otherwise), at all times prior to the Put/Call Closing (if any).

(f) Sellers’ Representative Expense Fund Reimbursement. Each of Agabs and Horowitz agree that they will reimburse Novel Partners, LLC upon receipt of their applicable Put/Call Amount in an amount of \$2,325.82 and \$1,938.18, respectively, to reimburse Novel Partners, LLC for pre-funding their applicable portion of the Sellers’ Representative Expense Fund Amount.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the undersigned has executed this Acquisition Agreement as of the date first written above.

REALPAGE, INC.

By: /s/ W. Bryan Hill

Name: W. Bryan Hill

Title: Executive Vice President, Chief Financial Officer & Treasurer

IN WITNESS WHEREOF, each of the undersigned has executed this Acquisition Agreement as of the date first written above.

[Signature Page to Acquisition Agreement]

NOVELPAY, LLC

By: /s/ Thomas Kiernan
Name: Thomas Kiernan
Title: Chief Executive Officer

CLICKPAYSERVICES, INC.

By: /s/ Thomas Kiernan
Name: Thomas Kiernan
Title: President

TS LANDLORD OP, LLC

By: /s/ Joshua S. Koplewicz
Name: Joshua S. Koplewicz
Title: Authorized Signatory

TS LANDLORD I, LLC

By: /s/ Joshua S. Koplewicz
Name: Joshua S. Koplewicz
Title: Authorized Signatory

TS LANDLORD II, LLC

By: /s/ Joshua S. Koplewicz
Name: Joshua S. Koplewicz
Title: Authorized Signatory

[Signature Page to Acquisition Agreement]

IN WITNESS WHEREOF, each of the undersigned has executed this Acquisition Agreement as of the date first written above.

THAYER STREET PARTNERS EQUITY OPPORTUNITY FUND, L.P.

By: Thayer Street Partners Managements, LLC, its managing member

By: /s/ Joshua S. Koplewicz

Name: Joshua S. Koplewicz

Title: Authorized Signatory

NOVEL PARTNERS, LLC

By: /s/ Ernest Muller

Name: Ernest Muller

Title: President

GCPCHICAGO 1, LP

By: /s/ Eric Arnson

Name: Eric Arnson

Title: Manager

/s/ Thomas J. Kiernan

Thomas J. Kiernan

/s/ Aaron Sheklin

Aaron Sheklin

/s/ Edward Agabs

Edward Agabs

/s/ Edward Horowitz

Edward Horowitz

[Signature Page to Acquisition Agreement]

EXHIBIT A

DEFINED TERMS

“**1st Anniversary Holdback Shares**” means a number of shares of Buyer Common Stock equal to the quotient obtained by dividing (i) the 1st Anniversary Holdback Shares Amount by (ii) the Issue Price measured as of the Closing Date, rounded down to the nearest whole share.

“**1st Anniversary Holdback Shares Amount**” means (i) \$10,000,000 multiplied by the Applicable Percentage, plus (ii) the Special Holdback Amount.

“**2nd Anniversary Holdback Shares**” means a number of shares of Buyer Common Stock equal to the quotient obtained by dividing (i) the 2nd Anniversary Holdback Shares Amount by (ii) the Issue Price measured as of the Initial Release Date, rounded down to the nearest whole share.

“**2nd Anniversary Holdback Shares Amount**” means (i) \$10,000,000 multiplied by the Applicable Percentage, plus (ii) the Special Holdback Amount.

“**A&R Operating Agreement**” has the meaning set forth in Section 2.1.

“**Accounting Firm**” has the meaning set forth in Section 2.5(e).

“**Adjusted Equity Value**” has the meaning set forth in Section 2.3.

“**Adjustable Financial Amounts**” has the meaning set forth in Section 2.5(a).

“**Adjustment Pro Rata Portion**” means, with respect to any Company Seller, the percentage set forth opposite such Company Seller’s name on Schedule I, which has been determined by dividing (i) the portion of the Closing Consideration Amount paid or payable to such Company Seller, by (ii) the aggregate Closing Consideration Amount.

“**Affiliate**” or “**Affiliated**” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition and this Agreement, the term “control” (and correlative terms) means the unilateral power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person.

“**Agreement**” has the meaning set forth in the Preamble.

“**Allocation Schedule**” has the meaning set forth in Section 6.6(c).

“**Applicable Closing Percentage**” shall mean 49.004%.

“**Applicable Laws**” means all domestic or foreign, federal, state or local statutes, laws (including common laws), constitutions, treaties, directives, rules, regulations, codes, ordinances, requirements, judgments, orders, administrative interpretations, decrees, injunctions, and writs of any Governmental Entity which has jurisdiction over the Company or the businesses, operations or assets of the Company.

“**Applicable Percentage**” means 60.801%.

“**Attorney Work Product**” has the meaning set forth in Section 6.9.

“**Baseline Enterprise Value**” shall mean \$220,000,000.

“**BEV Percentage**” shall mean, with respect to any Retained Unitholder, the percentage set forth below:

- TSLI – 9.221%;

- Agabs – 0.671%; and
- Horowitz – 0.559%.

“**Business Day**” means any day other than (a) a Saturday, Sunday or federal holiday or (b) a day on which commercial banks in Dallas, Texas or New York, New York are authorized or required to be closed.

“**Buyer**” has the meaning set forth in Preamble.

“**Buyer Charter Documents**” has the meaning set forth in Section 5.1(b).

“**Buyer Common Stock**” means the common stock of Buyer, par value \$0.001 per share.

“**Buyer Competitor**” has the meaning set forth in Section 3.29.

“**Buyer Competitor Parties**” has the meaning set forth in Section 3.29.

“**Buyer Competitor Technology**” has the meaning set forth in Section 3.29.

“**Buyer-Controlled Tax Proceeding**” has the meaning set forth in Section 6.6(f).

“**Buyer Equity Incentive Plan**” has the meaning set forth in Section 6.2(b).

“**Buyer Indemnified Losses**” means (a) all Indemnified Company Representation Losses; (b) all Indemnified Tax Losses; and (c) all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of (i) any violation, breach or default by the Company under this Agreement if such violation, breach or default occurs prior to the Closing; (ii) any Transaction Expenses or Closing Net Debt Amount that are not paid or satisfied as of the Closing Date; or (iii) any lawsuit, legal action or other claims that have been filed or, to the Knowledge of the Company, threatened to be filed or pending in a court or arbitration proceeding as of the Closing Date.

“**Buyer Indemnified Party**” and “**Buyer Indemnified Parties**” means each of Buyer and any of its Subsidiaries, each officer, director, employee, stockholder, of Buyer and its Subsidiaries, and all of the foregoing collectively.

“**Buyer Plans**” has the meaning set forth in Section 6.2(c).

“**Buyer Prepared Tax Returns**” has the meaning set forth in Section 6.6(b)(ii).

“**Call Date**” has the meaning set forth in Section 8.14(b).

“**Call Notice**” has the meaning set forth in Section 8.14(b).

“**Call Right**” has the meaning set forth in Section 8.14(b).

“**CE License**” has the meaning set forth in Section 2.4(b)(ix).

“**Closing**” has the meaning set forth in Section 2.2.

“**Closing Cash Consideration**” means an amount in cash equal to the Closing Consideration Amount, minus the amount of the Sellers’ Representative Expense Fund Amount.

“**Closing Company Cash**” has the meaning set forth in Section 2.3(c).

“**Closing Consideration Amount**” means an amount equal to the Adjusted Equity Value, minus the 1st Anniversary Holdback Shares Amount, minus the 2nd Anniversary Holdback Shares Amount, minus the Put/Call Amount.

“**Closing Net Debt Amount**” means the Indebtedness of the Company as of the Effective Time.

“**Closing Sellers**” shall mean all of the Company Sellers other than the Retained Unitholders.

“**Closing Unit Purchase Price**” has the meaning set forth in Section 2.3.

“**Closing Units**” has the meaning set forth in Section 2.1.

“**Code**” means the United States Internal Revenue Code of 1986, as amended. All references to the Code, U.S. Treasury regulations or other governmental pronouncements shall be deemed to include references to any applicable successor regulations or amending pronouncement.

“**Company**” has the meaning set forth in the Preamble.

“**Company Cash**” means the amount of the Company’s unrestricted cash and cash equivalents (including all certificates of deposits and money market accounts, in each case that are unrestricted) as of the Effective Time and any checks and drafts for the benefit of the Company which have been received by the Company but not yet cleared as of the Effective Time, net of any outstanding uncleared checks, wire transfers and bank overdrafts made by the Company to any Person, calculated in accordance with GAAP and in a manner consistent with the calculation of the Company’s unrestricted cash and cash equivalents in the most recent balance sheet of the Company. For avoidance of doubt, Company Cash shall exclude any Restricted Cash Customer Deposits.

“**Company Benefit Plans**” has the meaning set forth in Section 3.17(a).

“**Company Charter Documents**” has the meaning set forth in Section 3.1(c).

“**Company Intellectual Property**” means any and all Technology and any and all Intellectual Property Rights, including any Registered IP, that is or are owned (in whole or in part) or purported to be owned (in whole or in part) by, the Company.

“**Company IP Contract**” means any Contract to which the Company is or was a party or by which the Company is or was bound, that contains any assignment or license of, or any covenant not to assert or enforce, any of the Company Intellectual Property.

“**Company Product**” means the Payments Automation Platform and all other products of the Company.

“**Company Purchase**” has the meaning set forth in the Recitals

“**Company Seller Obligations**” has the meaning set forth in Section 2.6.

“**Company Software**” shall mean any software (included in the Company Intellectual Property and Licensed IP), that is embedded in, or used in the development, delivery, hosting or distribution of, the Company Product.

“**Company Units**” has the meaning set forth in the Recitals.

“**Consents**” means all consents, approvals, orders or authorizations of, or registration, qualification, designation, declaration or filing with, any Governmental Entity, and all consents, waivers and approvals of third Persons.

“**Continuing Employee**” has the meaning set forth in Section 6.2(a).

“**Contract**” means any legally binding written or oral agreement, contract, subcontract, settlement agreement, lease, understanding, instrument, note, option, warranty, purchase order, guaranty, indenture, license, sublicense, insurance policy, benefit plan sales or purchase order or other legally binding commitment or undertaking of any nature.

“**Copyright License**” means any license of Technology that provides that, as a condition to the use, modification, distribution or hosting of such licensed Technology, that such licensed Technology, or any other Technology that is incorporated into, derived from, based on, linked to, or used or distributed with such licensed Technology, be licensed, distributed, or otherwise made available: (i) in a form other than binary or object code (e.g., in source code form); (ii) under terms that permit redistribution, reverse engineering, or creation of derivative works or other modification; or (iii) without a license fee. “*Copyright Licenses*” include the GNU General Public License, the GNU Library General Public License, the GNU Lesser General Public License, the Affero General Public License, the Mozilla Public License, the Common Development and Distribution License, the Eclipse Public License, and all Creative Commons “sharealike” licenses.

“**Delaware LLC Act**” means the limited liability company law of the State of Delaware.

“**D&O Tail Policy**” has the meaning set forth in Section 6.8.

“**Disclosure Schedule**” has the meaning set forth in Article III.

“**Dispute Notice**” shall have the meaning set forth in Section 2.5(d).

“**Dispute Submission Notice**” shall have the meaning set forth in Section 2.5(e).

“**E&O Tail Policy**” has the meaning set forth in Section 6.7.

“**Employee**” means any current or former employee, consultant, independent contractor or manager of the Company.

“**Employee Benefit Plan**” means the following, whether written or oral and regardless of whether voluntarily sponsored or mandatorily sponsored pursuant to the Applicable Laws of any Governmental Entity: (a) any nonqualified deferred compensation or retirement plan or arrangement that is an Employee Pension Benefit Plan; (b) any qualified defined contribution retirement plan or arrangement that is an Employee Pension Benefit Plan; (c) any qualified defined benefit retirement plan or arrangement that is an Employee Pension Benefit Plan; (d) any Employee Welfare Benefit Plan or fringe benefit plan or program; (e) any profit sharing, bonus, stock option, stock purchase, consulting, employment, severance or incentive plan, agreement or arrangement; (f) any plan, agreement or arrangement providing benefits related to clubs, vacation, childcare, parenting, sabbatical or sick leave; and (g) each other employee benefit plan, agreement, arrangement, program, practice or understanding that is not described previously in this definition.

“**Employee Pension Benefit Plan**” has the meaning set forth in Section 3(2) of ERISA and specifically includes, but is not limited to, any plan operated pursuant to the laws of any Governmental Entity other than the United States.

“**Employee Welfare Benefit Plan**” has the meaning set forth in Section 3(1) of ERISA and specifically includes, but is not limited to, any plan operated pursuant to the laws of any Governmental Entity other than the United States.

“**Employment Offer Letters**” shall mean the employment offer letters, by and between the Company and the applicable individuals listed on Schedule 2.4(b)(x) and the related non-competition agreements and nondisclosure and work assignment agreements.

“**Environmental Law**” means any Applicable Law relating or pertaining to the environment or otherwise governing the generation, use, handling, collection, treatment, storage, transportation, recovery, recycling, removal, discharge or disposal of Hazardous Materials, including, (a) the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*,

as amended; (b) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, as amended; (c) the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, as amended; (d) the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, as amended; (e) the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, as amended; and (f) the Emergency Planning and Community Right To Know Act, 42 U.S.C. § 11001 *et seq.*, as amended.

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

“**ERISA Affiliate**” means any subsidiary or other entity that would be considered a single employer with the Company or a subsidiary within the meaning of Section 414 of the Code.

“**Estimated Closing Balance Sheet**” shall have the meaning set forth in Section 2.5(a).

“**Estimated Closing Statement**” shall have the meaning set forth in Section 2.5(a).

“**Excess Cash**” shall have the meaning set forth in Section 2.5(f)(i).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Excluded Matters**” shall have the meaning set forth in Section 6.4.

“**Final Closing Balance Sheet**” shall have the meaning set forth in Section 2.5(e).

“**Final Closing Statement**” shall have the meaning set forth in Section 2.5(e).

“**Final Component of Baseline Enterprise Value**” shall mean \$90,000,000.

“**Financial Statements**” has the meaning set forth in Section 3.5(a).

“**First Component of Baseline Enterprise Value**” shall mean \$130,000,000.

“**Fifth A&R Operating Agreement**” has the meaning set forth in Section 2.1.

“**Foreign Export and Import Laws**” means the laws and regulations of a foreign Governmental Entity regulating exports, imports or re-exports to or from the foreign country, including the export or re-export of any goods, services or technical data.

“**Fraud**” means, with respect to any Party, an intentional fraud of such Party with respect to the making of any representation or warranty in this Agreement.

“**Fundamental Company Representation**” means the representations and warranties in clauses (a), (c), (d) and (e) of Section 3.1 (Organizational Matters), Section 3.2 (Capital Structure), Section 3.3 (Authority and Due Execution), clause (i) of Section 3.4(a) (Non-Contravention and Consents), Section 3.8 (Taxes) and Section 3.14 (Brokers’ and Finders’ Fees).

“**GAAP**” means generally accepted accounting principles in the United States, consistently applied.

“**Governmental Entity**” has the meaning set forth in Section 3.4(c).

“**Harmful Code**” has the meaning set forth in Section 3.10(g).

“**Hazardous Material**” means (a) any hazardous waste, hazardous substance, toxic pollutant, hazardous air pollutant or hazardous chemical (as any of such terms may be defined under, or for the purpose of, any Environmental Law); (b) asbestos; (c) polychlorinated biphenyls; (d) petroleum or petroleum products; (e) any substance the presence of which on the property in question is prohibited under any Environmental Law; (f) any material regulated, listed,

referred to, limited or prohibited as a danger to health or the environment or under any Environmental Law; or (h) any other substance that under any Environmental Law requires special handling or notification of or reporting to any federal, state or local governmental entity in its generation, use, handling, collection, treatment, storage, recycling, treatment, transportation, recovery, removal, discharge or disposal.

“**Holdback Consideration**” shall mean the 1st Anniversary Holdback Shares and the 2nd Anniversary Holdback Shares.

“**Holdback Consideration Amount**” means an amount equal to the 1st Anniversary Holdback Amount plus the 2nd Anniversary Holdback Amount.

“**Holdback Pro Rata Portion**” means, with respect to any Company Seller, the percentage set forth opposite such Company Seller’s name on Schedule I, which has been determined by dividing (i) the portion of the Holdback Consideration Amount represented by the value of the Holdback Consideration paid or payable to such Company Seller, by (ii) the aggregate Holdback Consideration Amount paid or payable to all of the Company Sellers.

“**Indebtedness**” means, with respect to the Company, without duplication, (a) all indebtedness (including the principal amount thereof or, if applicable, the accreted amount thereof and the amount of accrued and unpaid interest thereon) of the Company, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed, whether owing to banks, financial institutions, on equipment leases or otherwise; (b) all deferred indebtedness of the Company for the payment of the purchase price of property or assets purchased; (c) all obligations of the Company to pay rent or other payment amounts under a lease of Personal Property which is required to be classified as a capitalized lease obligation on the face of a balance sheet prepared in accordance with GAAP; (d) any outstanding reimbursement obligation of the Company with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of the Company; (e) any outstanding payment obligation of the Company under any interest rate swap agreement, forward rate agreement, interest rate cap or collar agreement or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks; (f) all indebtedness for borrowed money secured by any Lien existing on property owned by the Company, whether or not indebtedness secured thereby will have been assumed; and (g) all guarantees, endorsements, assumptions and other contingent obligations of the Company in respect of, or to purchase or to otherwise acquire, indebtedness for borrowed money of others.

“**Indemnified Company Representation Losses**” means all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of any breach or inaccuracy by the Company of its representations or warranties under Article III of this Agreement.

“**Indemnified Tax Losses**” means any and all Taxes (other than to the extent such Taxes were accrued on the Final Closing Statement), together with any costs, expenses or damages (including court and administrative costs and reasonable legal fees and expenses incurred in investigating and preparing for or participating in any Tax Proceeding) resulting from the determination, assessment or collection of such Taxes and any expenses incurred in connection with the preparation and filing of any Tax Return with respect to such Taxes, (a) imposed on or with respect to the Company, or for which the Company may otherwise be liable, for any Pre-Closing Tax Period and for the portion of any Straddle Period ending on the Closing Date (determined in accordance with Section 6.6(d)) and, in each case, treating any advance payments, deferred revenues or other prepaid amounts received or arising in any Pre-Closing Tax Period as subject to Tax in such period, regardless of when actually recognized for income Tax purposes), including Taxes that are not yet due and payable and Taxes resulting from Section 965 of the Code, (b) resulting from the breach of any of the representations and warranties set forth in Section 3.8 (determined without regard to any materiality or Knowledge qualifiers or any scheduled items) or the breach by any Company Sellers, the Sellers’ Representative or (before the Closing) the Company of any of their obligations under Section 6.6, (c) of any member of an affiliated, consolidated, combined or unitary group of which the Company (or any predecessor of the Company) was a member on or prior to the Closing Date by reason of Treasury Regulation Section 1.1502-6(a) or any analogous or similar foreign, state or local law, (d) of any other Person for which the Company is liable as a transferee or successor, under any Contract to which the Company is a party (other than agreements or obligations pursuant to agreements in each case with customary terms and for which the principal purpose is not Taxes), (e) that are social security, Medicare, unemployment or other employment or withholding Taxes owed as a result of any compensatory payments made in connection with this

Agreement, including the cancellation and payment for any options or warrants, or (f) that are the portion of Transfer Taxes for which the Company Sellers are liable as provided in Section 6.6(a).

“Indemnifying Party” means any Party from which a Buyer Indemnified Party is seeking indemnification pursuant to the provisions of this Agreement.

“Indemnity Pro Rata Portion” means, with respect to any Company Seller, such Company Seller’s Holdback Pro Rata Portion to the extent such Company Seller’s indemnification obligations are required to be funded exclusively through the Holdback Consideration, in accordance with Section 7.5(d) hereof, and in all other cases, such Company Seller’s Pro Rata Portion.

“Individual Closing Payment Amount” means, with respect to each Company Seller, the amounts of cash consideration and Buyer Common Stock set forth opposite such Company Seller’s name on Schedule I.

“Individual Purchase Price Amount” means, with respect to each Company Seller, as of any date of determination, the aggregate amount of Purchase Price that is paid to a Company Seller under the terms of this Agreement.

“Initial Release Date” shall have the meaning set forth in Section 2.6(a).

“Intellectual Property Rights” means all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights and moral rights; (ii) trade-mark, business name, domain name and trade name rights and similar rights in identifiers of source or origin; (iii) trade secret rights; (iv) patent and industrial design property rights; (v) other proprietary rights in Technology; and (vi) rights in or relating to applications, registrations, renewals, extensions, combinations, divisions, continuations and reissues of, and applications for, any of the rights referred to in clauses (i) through (v) above.

“IP Assignment Agreement” has the meaning set forth in Section 2.4(b)(ix).

“Issue Price” measured as of a particular date means the volume-weighted average closing price per share of Buyer Common Stock, as reported on the NASDAQ Stock Market, as reported by the Wall Street Journal or Bloomberg L.P., for the ten consecutive trading days ending two trading days prior to the date of measurement.

“Knowledge” means, with respect to (i) a specified Person, the actual knowledge of such specified Person and such knowledge that such Person should reasonably be expected to discover after due inquiry, and (ii) the Company, the actual knowledge of any of Ernest Muller, Isaac Muller, Tom Kiernan, Gennady Griezman, Aaron Shecklin, Steven Van Praagh, Rachael Methal or Edward Horowitz, together with such knowledge that such individuals should reasonably be expected to discover after due inquiry. Notwithstanding the foregoing, with respect to matters related to patents, “Knowledge” means the actual knowledge of any of the foregoing Persons.

“Leased Real Property” has the meaning set forth in Section 3.9(d)(i).

“Legal Proceeding” has the meaning set forth in Section 3.7.

“Licensed IP Contract” means any Contract to which the Company is or was a party or by which the Company is or was bound, pursuant to which the Company is granted a license, covenant not to sue, or other rights with respect to Licensed IP.

“Licensed IP” means (a) all Intellectual Property Rights and Technology incorporated into, or used in the development of, the Company Products, in each case that are not owned by, or purported to be owned by, the Company.

“Liability” means, with respect to any Person, any liability or obligation of such Person, whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether absolute or

contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether directly incurred or consequential, whether due or to become due.

“**Lien Instrument**” has the meaning set forth in Section 3.9(b).

“**Liens**” means liens, pledges, voting agreements, voting trusts, proxy agreements, security interests, mortgages and other possessory interests, conditional sale or other title retention agreements, assessments, easements, rights-of-way covenants, restrictions, rights of first refusal, encroachments, and other burdens, options or encumbrances of any kind.

“**Loan Agreements**” means, collectively, the instruments and documents related to the items of Indebtedness required to be listed in Section 3.6 of the Disclosure Schedule.

“**Losses**” means damages, losses, Taxes (excluding Taxes imposed on any recovery received by a party to be indemnified as a result of any Losses), claims, liabilities, charges, judgments, penalties, fines, fees, costs, settlement payments and expenses (including court costs, reasonable attorneys’ fees and costs and other out-of-pocket expenses incurred by a Party).

“**Major Customers**” has the meaning set forth in Section 3.25.

“**Major Supplier**” has the meaning set forth in Section 3.25.

“**Material Adverse Effect**” when used with respect to the Company means any effect, event, change, occurrence, fact, circumstance or development (whether or not covered by insurance) (an “**Effect**”) that, individually or in the aggregate with any such other Effects, is or could reasonably be expected to be, materially adverse to (a) the business, operations, assets, financial condition, results of operations or capitalization of the Company or TopCo or (b) the ability of the Company, any Company Seller or TopCo to consummate any transaction contemplated in this Agreement or any other Transaction Documents.

“**Material Contract**” means the Contracts listed in Sections 3.10(a)(iii), 3.10(a)(iv) and 3.15 of the Disclosure Schedule and any of the following Contracts to which the Company is a party:

any Contract with a Material Customer or Material Supplier;

any Contract that requires future expenditures by the Company in excess of \$50,000 (or that would likely result in payments to the Company in excess of \$50,000) in the next 12-month period;

any Contract to which the Company is a party or by which the Company or any of its properties or assets is bound that cannot be terminated by the Company without penalty on notice of 90 days or less;

each lease, lease guaranty, sublease or other Contract for the leasing, use or occupancy of the Leased Real Property and each Contract or other right pursuant to which the Company uses or possesses any Personal Property which personal property leases involve annual lease payments in excess of \$50,000;

with or otherwise for the benefit of any member, manager, officer or employee of the Company, or any member of his or her immediate family or, to the Knowledge of the Company, any Affiliate of any of such Persons, including any Contract providing for the furnishing of services by, rental of real or Personal Property from or otherwise requiring payments to or for the benefit of any such Person, in each case, which is not terminable without penalty on notice of 90 days or less;

any Contract required to be disclosed in Section 3.15 of the Disclosure Schedule;

constituting or relating to any (A) prime contract, subcontract, letter contract, purchase order or delivery order executed or submitted to or on behalf of any Governmental Entity or any prime contractor or higher-tier subcontractor

of any Governmental Entity, or under which any Governmental Entity or any such prime contractor or subcontractor otherwise has or may acquire any right or interest, or (B) quotation, bid or proposal submitted to any Governmental Entity or any proposed prime contractor or higher-tier subcontractor of any Governmental Entity;

with any current or former employee, consultant or manager of the Company pursuant to which benefits would vest or amounts would become payable or the terms of which would otherwise be altered by virtue of the consummation of the transactions contemplated in this Agreement or any other Transaction Document to which the Company is a party (whether alone or upon the occurrence of any additional or subsequent events); or

any other Contract, the termination or breach of which would have, or would be reasonably expected to have, a Material Adverse Effect.

“**Material Permits**” has the meaning set forth in [Section 3.13\(a\)](#).

“**Most Recent Financial Statements**” has the meaning set forth in [Section 3.5\(a\)](#).

“**Multiemployer Plan**” has the meaning set forth in Section 4001(a)(3) of ERISA.

“**Net Working Capital**” means the current assets of the Company (excluding any Restricted Cash Customer Deposits and Company Cash) minus all current liabilities of the Company (excluding any Restricted Cash Customer Deposits), in each case as of immediately prior to the Closing and calculated in accordance with GAAP. For the avoidance of doubt, amounts included in the Closing Net Debt Amount and the Transaction Expenses will be excluded from Net Working Capital.

“**Net Working Capital Adjustment**” means the amount, if any, by which the Net Working Capital Target exceeds the Net Working Capital.

“**Net Working Capital Target**” means \$1,650,000.

“**Non-Negotiated Vendor Contract**” means a Contract that meets all of the following conditions: (i) such Contract grants to the Company a non-exclusive license to download or use generally commercially available, non-customized software, in object code form only, or a non-exclusive right to access and use the functionality of such software on a hosted or “software-as-a-service” basis (and does not include any other licenses to Technology or Intellectual Property Rights except licenses to (a) the Company’s feedback and suggestions or (b) either party’s trademark for inclusion on customer lists or use in the provision of services or for publicity or marketing purposes; (ii) such Contract is a non-negotiable “shrink-wrap” or “click-through” Contract; (iii) the software licensed or made available under such Contract is not included, incorporated or embedded in, linked to, combined or distributed with, or used in the development, design, delivery, distribution or provision of any Company Product; and (iv) the Contract does not require the Company to pay any license fee, subscription fee, service fee or other amount except for a one-time license fee of no more than \$25,000 or ongoing subscription or service fees of no more than \$25,000 per year.

“**Non-Recourse Party**” has the meaning set forth in [Section 8.13](#).

“**Open Source Software**” means any Technology that is licensed, provided or distributed under any open source license (including any Copyleft License), including any license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation), or any substantially similar license.

“**Order**” means any award, writ, injunction, judgment, order or decree entered, issued, made, or rendered by, or settlement under the jurisdiction of, any Governmental Entity.

“**Party**” or “**Parties**” has the meaning set forth in the Preamble.

“**Payment Spreadsheet**” has the meaning set forth in [Section 6.5\(a\)](#).

“Permitted Encumbrances” means (a) Liens for Taxes, assessments or other governmental charges not yet due and payable as of the Effective Time or the amount or validity of which is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, (b) mechanics’, carriers’, workers’, repairers’ and similar liens that do not result from a breach, default or violation by the Person whose asset is encumbered by the Lien with respect to any Contract or legal requirement, (c) the rights of the lessors of any real or personal property leased to the Person whose property is encumbered by such lien, (d) charges, restrictions and encumbrances that do not detract from the value of or interfere with the present use of any property subject thereto or affected thereby and (e) those Liens that are specifically listed on Section 3.9(b) of the Disclosure Schedule.

“Person” means an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other entity.

“Personal Information” means (i) any information that alone or in combination with other information held by the Company in proximity to such information can be used to specifically identify a Person; (ii) information (other than name separated from any other information) from credit or debit cards of any Person; (iii) any protected health information as that term is defined under HIPPA or (iv) any protected health information as that term is defined under the HITECH Act.

“Personal Property” means all of the machinery, equipment, equipment structures, machinery, fixtures, hardware, systems, infrastructure, computer programs, computer software, tools, motor vehicles, furniture, furnishings, leasehold improvements, office equipment, inventory, supplies, plant, spare parts, and other tangible or intangible personal property which are owned or leased by the Company and which are used or held for use in its business or operations.

“Pre-Closing Tax Period” means any Tax period ending on or before the Closing Date.

“Prohibited Transaction” has the meaning set forth in Section 406 of ERISA and Section 4975 of the Code.

“Proposed Final Closing Balance Sheet” has the meaning set forth in Section 2.5(c).

“Proposed Final Closing Statement” has the meaning set forth in Section 2.5(c).

“Proposed Final Closing Statement Response Period” has the meaning set forth in Section 2.5(d).

“Pro Rata Portion” means, with respect to any Company Seller, the percentage set forth opposite such Company Seller’s name on Schedule I, which has been determined by dividing (i) the aggregate Individual Purchase Price Amount paid or payable to such Company Seller, by (ii) the aggregate Purchase Price paid or payable to all of the Company Sellers.

“Purchase Price” shall mean the Closing Unit Purchase Price, as adjusted in accordance with Section 2.5, plus the Put/Call Consideration that is paid to a Retained Unitholder in accordance with Section 8.14.

“Purchase Price Overpayment” has the meaning set forth in Section 2.5(f)(ii).

“Purchase Price Underpayment” has the meaning set forth in Section 2.5(f)(i).

“Push-Out Election” has the meaning set forth in Section 6.6(f).

“Put/Call Amount” means with respect to any Retained Unitholder, an amount equal to the sum of (a) the product of such Retained Unitholder’s BEV Percentage of the Baseline Enterprise Value, plus (b) the product of such Retained Unitholder’s Retained Percentage, multiplied by an amount equal to (i) the Closing Company Cash, as finally determined in accordance with Section 2.5, minus (iii) the Net Working Capital Adjustment, as finally determined in accordance with Section 2.5, minus (iv) the Closing Net Debt Amount, as finally determined in accordance with Section

2.5, minus the Transaction Expenses, all as reflected in the Estimated Closing Statement, as finally determined in accordance with Section 2.5, and as adjusted in accordance with Section 2.5(f).

“**Put/Call Closing**” means the consummation of the sale of the Retained Units to Buyer pursuant to the exercise of the Put/Call Right as contemplated in Section 8.14.

“**Put/Call Consideration**” has the meaning set forth in Section 8.14(c).

“**Put/Call Right**” shall mean, collectively, the Put Right and the Call Right.

“**Put Date**” has the meaning set forth in Section 8.14(a).

“**Put Notice**” has the meaning set forth in Section 8.14(a).

“**Put Right**” has the meaning set forth in Section 8.14(a).

“**Real Property Leases**” has the meaning set forth in Section 3.9(d).

“**Receivables**” has the meaning set forth in Section 3.11.

“**Registered IP**” means all Intellectual Property Rights that are registered, filed, or issued under the authority of, with or by any Governmental Entity, including all patents, registered copyrights, and registered trade-marks, business names and domain names and all applications for any of the foregoing.

“**Released Matters**” has the meaning set forth in Section 6.4.

“**Releasees**” has the meaning set forth in Section 6.4.

“**Releasers**” has the meaning set forth in Section 6.4.

“**Remedies Exceptions**” has the meaning set forth in Section 3.3(b).

“**Restricted Cash Customer Deposits**” has the meaning set forth in Section 2.5(a).

“**Restricted Stock Agreements**” shall mean the restricted stock agreements by and between Buyer and the Equity Plan Participants, the form of which is attached hereto as Exhibit F.

“**Retained Percentage**” shall mean, with respect to any Retained Unitholder, the percentage set forth below:

- TSLI – 8.791%;
- Agabs – 1.640%; and
- Horowitz – 1.366%.

“**Retained Unitholder**” has the meaning set forth in the Recitals.

“**Retained Units**” shall mean the following Company Units:

- (a) 109,890 Series B-2 Preferred Units that are held by TSLI (the “**TSLI Retained Units**”);

20,500 Class B Common Units that are held by Edward Agabs, the Head of New Product Development of the Company (the “**Agabs Retained Units**”); and

17,083 Class B Common Units that are held by Edward Horowitz, the Chief Operating Officer of the Company (the “**Horowitz Retained Units**”).

“SEC” means the U.S. Securities and Exchange Commission.

“SEC Reports” has the meaning set forth in Section 5.7.

“Second Release Date” has the meaning set forth in Section 2.6(b).

“Securities Act” has the meaning set forth in Section 3.2(c).

“Seller-Controlled Tax Proceeding” has the meaning set forth in Section 6.6(f).

“Seller Prepared Tax Returns” has the meaning set forth in Section 6.6(b)(i).

“Sellers’ Representative” has the meaning set forth in the Preamble.

“Sellers’ Representative Expense Fund” has the meaning set forth in Section 8.6(c).

“Sellers’ Representative Expense Fund Amount” means an amount in cash equal to \$300,000 multiplied by the Applicable Percentage.

“Significant Owner” means each of Ernest Muller, Isaac Muller, Tom Kiernan, Gennady Griezmann, Steven Van Praagh, David Yaniv, Edward Agabs, Edward Horowitz and Aaron Shecklin.

“Significant Owner Agreement” means the intellectual property assignment and restrictive covenant agreement substantially in the form set forth in Exhibit G hereof, or as otherwise agreed to by Buyer and the Significant Owner in the case of Edward Agabs, Edward Horowitz and Aaron Shecklin.

“Software Development Agreement” has the meaning set forth in Section 2.4(b)(ix).

“Special Claim” means any Third-Party Action that (i) involves any possibility of criminal liability or any action by any Governmental Entity against the Buyer Indemnified Party, (ii) seeks injunctive relief, specific performance or other equitable relief against the Buyer Indemnified Party, (iii) involves any matter that could have a material precedential effect on the Buyer Indemnified Party, the Company or TopCo, (iv) that seeks an unspecified amount of money damages or an amount of money damages in excess of \$1,000,000 or that is otherwise not payable by any Indemnifying Party, (v) involves a dispute with a Person with which any of Buyer, the Company or TopCo has a pre-existing commercial relationship (including any customer of any of the foregoing), (vi) involves Taxes (except as set forth in Section 6.6(f) above) or (vii) involves Intellectual Property.

“Special Holdback Amount” means \$592,477.

“Specified Instances” has the meaning set forth in Section 7.1(c).

“Standard Form IP Contract” means each standard form of the Company IP Contract used by the Company at any time, including each standard form of: (i) license, “software-as-a-service” and/or service agreement; (ii) development agreement; (iii) distributor, reseller or affiliate agreement; (iv) employee agreement containing any assignment or license of Technology or Intellectual Property Rights or any confidentiality provision; (v) professional services, outsourced development, consulting, or independent contractor agreement containing any assignment or license of Technology or Intellectual Property Rights or any confidentiality provision; and (vi) confidentiality or nondisclosure agreement; in each case, solely to the extent the form was made available to Buyer prior to the date hereof.

“Standard Offer Letter” has the meaning set forth in Section 3.10(b)(i).

“Straddle Period” means any Tax period beginning on or before and ending after the Closing Date. Notwithstanding anything to the contrary herein, any franchise Tax shall be allocated to the period during which the

income, operations, assets or capital comprising the base of such Tax is measured, regardless of whether the right to do business for another period is obtained by the payment of such franchise Tax.

“**Subsidiary**” means, with respect to any party, any corporation or other organization, whether incorporated or unincorporated, of which (a) such party or any other subsidiary of such party is a general partner (excluding such partnerships where such party or any subsidiary of such party does not have a majority of the voting interest in such partnership) or (b) at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors, board of managers or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such party or by any one or more of its subsidiaries.

“**Tax**” or “**Taxes**” means (a) any taxes, assessments, fees and other governmental charges imposed by any Governmental Entity, including income, profits, gross receipts, net proceeds, alternative or add on minimum, ad valorem, value added, turnover, sales, use, property, personal property (tangible and intangible), escheat, environmental, stamp, leasing, lease, user, excise, duty, franchise, capital stock, transfer, registration, license, withholding, social security (or similar), unemployment, disability, payroll, employment, social contributions, fuel, excess profits, occupational, premium, windfall profit, severance, estimated, or other charge in the nature of or in lieu of a tax, including any interest, penalty, or addition thereto, whether disputed or not; (b) any liability for the payment of any amounts of the type described in clause (a) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (c) any liability for the payment of any amounts of the type described in clause (a) or (b) as a result of the operation of law (including by successor or transferee liability) or any express or implied obligation to indemnify any other Person for any amounts described in clauses (a) or (b) (other than as part of agreements, or obligations pursuant to agreements, in each case for which the principal purpose is not Taxes).

“**Tax Attributes**” means, with respect to any Tax, any tax basis, net operating loss carryovers, net capital loss carryovers, credits and similar Tax items of any Person.

“**Tax Incentive**” has the meaning set forth in [Section 3.8\(o\)](#).

“**Tax Items**” has the meaning set forth in [Section 3.8\(a\)](#).

“**Tax Proceeding**” means any audit, assessment, examination, action, claim or other controversy or proceeding relating to Taxes or Tax Returns.

“**Tax Return**” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof that is filed or required to be filed with any Taxing Authority.

“**Taxing Authority**” means, with respect to any Tax, the Governmental Entity or political subdivision thereof that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision, including any governmental or quasi-Governmental Entity or agency that imposes, or is charged with collecting, social security or similar charges or premiums.

“**Technology**” mean algorithms, APIs, data, databases, data collections, diagrams, formulae, inventions (whether or not patentable), know-how, methods, network configurations and architectures, processes, proprietary information, protocols, schematics, specifications, software, software code (in any form, including source code and executable or object code), subroutines, techniques, user interfaces, URLs, web sites, works of authorship (including written, audio and visual materials) and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing).

“**Third-Party Action**” has the meaning set forth in [Section 7.2\(a\)](#).

“**Third-Party Claim Notice**” has the meaning set forth in [Section 7.2\(a\)](#).

“**Threshold**” has the meaning set forth in Section 7.5(b).

“**TopCo Merger Agreement**” has the meaning set forth in the Recitals.

“**TopCo Seller**” shall have the meaning set forth in the TopCo Merger Agreement.

“**Transaction Documents**” means, collectively, this Agreement, the Disclosure Schedule, the Significant Owner Agreement(s) with each of the Company Sellers, the TopCo Merger Agreement, Restricted Stock Agreements, the Employment Offer Letters, the IP Assignment Agreement, the CE License, the Software Development Agreement and the Fifth A&R Operating Agreement.

“**Transaction Expenses**” means (i) all fees, costs and expenses of any brokers, financial advisors, third-party accountants, consultants, attorneys or other outside professionals, and all other third-party out-of-pocket cost or expenses (including filing fees, termination or breakage fees, costs of obtaining Consents, cost of obtaining the E&O Tail Policy and the D&O Tail Policy, transaction bonuses, change of control payments (including the payment of \$300,000 to Rachael Methal pursuant to her employment agreement with the Company) or similar items), in each case payable by the Company in connection with the structuring, negotiation or consummation of the transactions contemplated in this Agreement and the other Transaction Documents, and (ii) the employer portion of any social security, Medicare, unemployment or other employment or withholding Taxes owed as a result of any compensatory payments made in connection with this Agreement.

“**Transfer Taxes**” has the meaning set forth in Section 6.6(a).

“**TSLI**” shall mean TS Landlord I, LLC.

“**U.S. Export and Import Laws**” means the Arms Export Control Act (22 U.S.C. 2778), the International Traffic in Arms Regulations (ITAR) (22 CFR 120-130), the Export Administration Act of 1979, as amended (50 U.S.C. 2401-2420), the Export Administration Regulations (EAR) (15 CFR 730-774), the Foreign Assets Control Regulations (31 CFR Parts 500-598), the laws and regulations administered by Customs and Border Protection (19 CFR Parts 1-199) and all other U.S. laws and regulations regulating exports, imports or re-exports to or from the United States, including the export or re-export of goods, services or technical data from the United States of America.

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Section 3: EX-2.2 (EXHIBIT 2.2)

Exhibit 2.2

Execution Version

AGREEMENT AND PLAN OF MERGER AGREEMENT

by and among

REALPAGE, INC.,

CLICKPAYSERVICES, INC.,

RP NEWCO XXIII INC.,

RP NEWCO XXIV INC.,

AND

THE SELLERS' REPRESENTATIVE NAMED HEREIN

Dated as of April 19, 2018

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EXHIBITS

- Exhibit A - Form of Stockholder Support Agreement
- Exhibit B - Form of Option Cancellation Agreement
- Exhibit C - Form of Company Purchase Agreement
- Exhibit D - Form of TopCo Stock Power
- Exhibit E - Form of Post-Closing Stock Power
- Exhibit F - Form of Letter of Transmittal
- Exhibit G - Form of Information Statement
- Exhibit H - Form of Optionholder Acknowledgement
- Exhibit I - Certificate of Incorporation of Temporary Surviving Corporation
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- Exhibit K - Bylaws of Temporary Surviving Corporation

SCHEDULES

- Schedule 2.12(b) - Directors of Surviving Corporation
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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this “**Agreement**”), dated April 19, 2018 by and among **REALPAGE, INC.**, a Delaware corporation and a public company, the common stock of which is traded on the NASDAQ Global Select Market (“**Buyer**”), **RP NEWCO XXIII INC.**, a Delaware corporation and direct wholly-owned subsidiary of Buyer (“**MergerSub #1**”), **RP NEWCO XXIV INC.**, a Delaware corporation and direct wholly-owned subsidiary of Buyer (“**MergerSub #2**” and together with MergerSub, the “**MergerSubs**”), **CLICKPAYSERVICES, INC.**, a Delaware corporation (“**TopCo**”), and **NP REPRESENTATIVE, LLC**, a Delaware limited liability company (solely in its capacity as the representative of the TopCo Sellers (as defined in the Recitals)) (the “**Sellers’ Representative**”). Buyer, TopCo, the Sellers’ Representative and the MergerSubs are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**”. As set forth in Section 1.1, capitalized terms used in the Agreement without definition shall have the meaning set forth in Annex I.

RECITALS

WHEREAS, TopCo owns 490,000 Class A Common Units of NovelPay, LLC, a Delaware limited liability company (the “**Company**”), which represents an approximate 40% ownership interest in the Company;

WHEREAS, under the terms of the Company’s Fourth Amended and Restated Limited Liability Company Agreement, dated as of November 17, 2016 (the “**Company Operating Agreement**”), TopCo is one of two “Principal Voting Members” (as defined therein) of the Company and is actively involved in managing the business and operations of the Company through its significant representation on the Company’s Board of Managers (i.e., two out of five representatives are selected by TopCo) and its right to approve significant business transactions such as sales, licensing, dispositions or acquisitions of assets, authorization or issuance of equity and the liquidation or dissolution of the Company;

WHEREAS, the authorized capital stock of MergerSub #1 consists of 1,000 shares of common stock, par value \$0.001 per share (“**MergerSub #1 Common Stock**”), of which 1,000 shares are issued and outstanding;

WHEREAS, the authorized capital stock of MergerSub #2 consists of 1,000 shares of common stock, par value \$0.001 per share (“**MergerSub #2 Common Stock**”), of which 1,000 shares are issued and outstanding;

WHEREAS, the Boards of Directors of Buyer, MergerSub #1, MergerSub #2 and TopCo have each determined that it is advisable and in the best interests of their respective corporations and their respective stockholders to consummate, and have approved, the business combination transaction provided for herein, in which MergerSub #1 would merge with and into TopCo with TopCo surviving the merger (the “**Merger #1**”) and, immediately thereafter, as part of the same plan, TopCo would merge with and into MergerSub #2 (the “**Merger #2**” and together with Merger #1, the “**Mergers**”) with MergerSub #2 surviving the merger, in each case, upon the terms and subject to the provisions of this Agreement and in accordance with the DGCL;

WHEREAS, the Parties intend that the Mergers, taken together, shall qualify as a “reorganization” within the meaning of Sections 368(a)(1) (A) and 368(a)(2)(D) of the Code, and that this Agreement shall be adopted as a “plan of reorganization” (within the meaning of Treasury Regulation § 1.368-2(g)) for purposes of Section 368(a) of the Code;

WHEREAS, the stockholders listed on Annex II hereto (the “**Stockholders**”) collectively own 100% of the issued and outstanding shares of capital stock of TopCo (collectively, the “**TopCo Stock**”);

WHEREAS, Buyer, acting as the sole stockholder of each of MergerSub #1 and MergerSub #2, has approved the Mergers, and TopCo has obtained the Stockholder Approval (as defined in Annex I) by written consent in lieu of a special meeting of the stockholders entitled to vote on this Agreement and the Mergers, in each case, in accordance with the DGCL;

WHEREAS, in order to induce Buyer and MergerSubs to enter into this Agreement, concurrently with the execution of this Agreement, (x) each of the Stockholders named on Annex III hereto (collectively, the “**Significant Stockholders**”) have executed and delivered to TopCo an agreement, attached hereto as Exhibit A (the “**Stockholder Support Agreement**”), pursuant to which each Significant Stockholder has agreed to, among other things, (i) comply with its indemnification obligations in Article IX, (ii) support the transactions contemplated by this Agreement and (iii) the release of claims set forth in Section 8.7, and (y) those holders of vested options to purchase TopCo Stock listed on Annex III hereto (the “**Significant Optionholders**”) have entered into a Stock Option Cancellation Agreement, in substantially the form attached hereto as Exhibit B (collectively, the “**Option Cancellation Agreement**”), pursuant to which each Significant Optionholder has agreed to, among other things, (i) acknowledge the cancellation of his or her vested options in return for the consideration set forth herein, (ii) comply with its indemnification obligations in Article IX, and (iii) the release of claims set forth in Section 8.7;

WHEREAS, simultaneously herewith, Buyer is entering into an Acquisition Agreement with each of the members of the Company, excluding TopCo (collectively, the “**Company Sellers**”), in the form of Exhibit C (the “**Company Purchase Agreement**”), pursuant to which Buyer will acquire all of the membership units of the Company that are not held by TopCo from each of the Company Sellers; and

WHEREAS, subject to the terms set forth herein, the Sellers’ Representative will serve as representative and act on behalf of each of the Stockholders and the Optionholders (as defined in Annex I) (the Stockholders and the Optionholders are collectively referred to here as the “**TopCo Sellers**”).

AGREEMENT

NOW THEREFORE, in consideration of the premises and mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, the Parties hereby agree as follows:

Article I DEFINED TERMS

1.1 **Definitions.** Unless otherwise specified, all capitalized terms used in this Agreement have the meanings set forth on Annex I.

ARTICLE II THE MERGER

2.1 **The Merger.** Subject to the terms and conditions of this Agreement, at the Effective Time (as defined in Section 2.2), MergerSub #1 shall be merged with and into TopCo and the separate corporate existence of MergerSub #1 shall thereupon cease. TopCo (i) shall be the successor or surviving corporation in Merger #1 (sometimes herein referred to as the “**Temporary Surviving Corporation**”), (ii) shall be governed by the laws of the State of Delaware, and (iii) the separate corporate existence of TopCo with all its rights, privileges, immunities, powers and franchises shall continue unaffected by Merger #1. Merger #1 shall have the effects of Section 259 of the DGCL.

2.1 **Effective Time.** Buyer, MergerSub #1, and TopCo will cause an executed original of an appropriate Certificate of Merger (the “**Certificate of Merger #1**”) to be filed concurrently with the Closing (as defined in Section 4.1) with the Secretary of State of the State of Delaware. Merger #1 shall become effective on the date on which the Certificate of Merger #1 has been duly filed with the Secretary of State of Delaware and such time is hereinafter referred to as the “**Effective Time**”. From and after the Effective Time, the Temporary Surviving Corporation shall succeed to all the assets, rights, privileges, powers and franchises and be subject to all of the liabilities, restrictions, disabilities and duties of TopCo and MergerSub #1, all as provided under the DGCL.

2.2 **Effect on Capital Stock and Options in Merger #1.** By virtue of Merger #1 and without any action on the part of any party hereto or the holders of any of the following securities:

(a) **Treasury Stock.** Each share of capital stock held in the treasury of TopCo (the “**TopCo Treasury Stock**”) shall automatically be cancelled and shall cease to exist without payment of any consideration therefor. All such shares of TopCo Treasury Stock, when so extinguished, shall no longer be outstanding and shall automatically be cancelled and retired and shall cease to exist.

(b) **Class A Common Stock.** Each share of the Class A Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Ordinary Per Share Base Consideration plus (ii) the Ordinary Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Class A Common Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**Class A Per Share Merger Consideration**”). All such shares of Class A Common Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Class A Common Stockholder shall cease to have any rights with respect thereto, except the right to receive the Class A Per Share Merger Consideration for each share of Class A Common Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Class A Common Stock held by such Class A Common Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below.

(c) Class B Common Stock. Each share of the Class B Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Ordinary Per Share Base Consideration plus (ii) the Ordinary Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Class B Common Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**Class B Per Share Merger Consideration**”). All such shares of Class B Common Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Class B Common Stockholder shall cease to have any rights with respect thereto, except the right to receive the Class B Per Share Merger Consideration for each share of Class B Common Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Class B Common Stock held by such Class B Common Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below.

(d) Class C Common Stock. Each share of the Class C Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Ordinary Per Share Base Consideration plus (ii) the Ordinary Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Class C Common Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**Class C Per Share Merger Consideration**”). All such shares of Class C Common Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Class C Common Stockholder shall cease to have any rights with respect thereto, except the right to receive the Class C Per Share Merger Consideration for each share of Class C Common Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Class C Common Stock held by such Class C Common Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below

(e) Series A Preferred Stock. Each share of the Series A Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Series A Preferred Per Share Base Consideration plus (ii) the Series A Preferred Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Series A Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**Series A Per Share Merger Consideration**”). All such shares of Series A Preferred Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Series A Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the Series A Per Share Merger Consideration for each share of Series A Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Series A Preferred Stock held by such Series A Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below

(f) August Series A-1 Preferred Stock. Each share of the August Series A-1 Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the August Series A-1 Preferred Per Share Base Consideration plus (ii) the August Series A-1 Preferred Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the August Series A-1 Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**August Series A-1 Per Share Merger Consideration**”). All such shares of August Series A-1 Preferred Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each August Series A-1 Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the August Series A-1 Per Share Merger Consideration for each share of August Series A-1 Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the August Series A-1 Preferred Stock held by such August Series A-1 Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below

(g) May Series A-1 Preferred Stock. Each share of the May Series A-1 Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the May Series A-1 Preferred Per Share Base Consideration plus (ii) the May Series A-1 Preferred Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the May Series A-1 Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**May Series A-1 Per Share Merger Consideration**”). All such shares of May Series A-1 Preferred Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each May Series A-1 Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the May Series A-1 Per Share Merger Consideration for each share of May Series A-1 Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the May Series A-1 Preferred Stock held by such May Series A-1 Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below.

(h) November Series A-1 Preferred Stock. Each share of the November Series A-1 Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Ordinary Per Share Base Consideration plus (ii) the Ordinary Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the November Series A-1 Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**November Series A-1 Per Share Merger Consideration**”). All such shares of November Series A-1 Preferred Stock, when so converted, shall no

longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each November Series A-1 Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the November Series A-1 Per Share Merger Consideration for each share of November Series A-1 Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the November Series A-1 Preferred Stock held by such November Series A-1 Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below.

(i) Series B Preferred Stock. Each share of the Series B Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive (i) the Ordinary Per Share Base Consideration plus (ii) the Ordinary Per Share Sharing Percentage of the Excess Consideration, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Series B Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in clauses (i) and (ii) is referred to herein as the “**Series B Per Share Merger Consideration**”). All such shares of Series B Preferred Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Series B Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the Series B Per Share Merger Consideration for each share of Series B Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Series B Preferred Stock held by such Series B Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below

(j) Series WC Preferred Stock. Each share of the Series WC Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger #1 and without any action on the part of the holder thereof, be automatically canceled and extinguished and converted into the right to receive an amount equal to the Series WC Preferred Liquidation Preference (as defined in the TopCo Charter) of such share of Series WC Preferred Stock as of the Effective Time, which amount shall be paid in the form of cash and Buyer Common Stock as allocated to the Series WC Preferred Stockholders in accordance with Section 3.2 (the total per share consideration described in the preceding sentence is referred to herein as the “**Series WC Per Share Merger Consideration**”). All such shares of Series WC Preferred Stock, when so converted, shall no longer be issued or outstanding and shall automatically be cancelled and retired and shall cease to exist. Each Series WC Preferred Stockholder shall cease to have any rights with respect thereto, except the right to receive the Series WC Per Share Merger Consideration for each share of Series WC Preferred Stock to be paid in consideration therefor upon and following the surrender of all of the stock certificate(s) representing the Series WC Preferred Stock held by such Series WC Preferred Stockholder (or lost stock affidavit in lieu thereof) in accordance with Section 2.8 below.

(k) Class A Options. Each Class A Option that is outstanding and unexercised immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically cancelled and extinguished pursuant to the terms of the TopCo 2011 Stock Option Plan and converted into the right to receive, for each share of Class A Common Stock underlying such Class A Option, an amount equal to (i) the Class A Per Share Merger Consideration less (ii) the applicable exercise price for such Class A Option, which amounts shall be paid in the form of cash as allocated to the Class A Optionholders in accordance with Section 3.2 (the total per Option consideration described in clauses (i) and (ii) above is referred to herein as the “**Class A Option Merger Consideration**”). To the extent that applicable withholding Taxes are withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Class A Optionholder in respect of which such withholding was made. Buyer shall cause the Surviving Corporation to make timely payment to the appropriate Taxing Authority or Taxing Authorities of any amounts withheld from payment to such Class A Optionholder. Following the Effective Time, each Class A Optionholder shall cease to have any rights with respect to his or her Class A Options, except the right to receive the applicable Class A Option Merger Consideration for each Class A Option to be paid hereunder. At the Effective Time, the TopCo 2011 Stock Option Plan and each option agreement associated therewith and all Class A Options shall, pursuant to actions taken by the TopCo Board under the TopCo 2011 Stock Option Plan, be terminated in all respects and shall be of no further force or effect.

(l) Class B Options. Each Class B Option that is outstanding and unexercised immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically cancelled and extinguished pursuant to the terms of the TopCo 2013 Stock Option Plan and converted into the right to receive, for each share of Class B Common Stock underlying such Class B Option, an amount equal to (i) the Class B Per Share Merger Consideration less (ii) the applicable exercise price for such Class B Option, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Class B Optionholders in accordance with Section 3.2 (the total per Option consideration described in clauses (i) and (ii) above is referred to herein as the “**Class B Option Merger Consideration**”). To the extent that applicable withholding Taxes are withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Class B Optionholder in respect of which such withholding was made. Buyer shall cause the Surviving Corporation to make timely payment to the appropriate Taxing Authority or Taxing Authorities of any amounts withheld from payment to such Class B Optionholder. Following the Effective Time, each Class B Optionholder shall cease to have any rights with respect to his or her Class B Options, except the right to receive the applicable Class B Option Merger Consideration for each Class B Option to be paid hereunder. At the Effective Time, the TopCo 2013 Stock Option Plan and each option agreement associated therewith and all Class B Options shall, pursuant to actions taken by the TopCo Board under the TopCo 2013 Stock Option Plan, be terminated in all respects and shall be of no further force or effect.

(m) Class C Options. Each Class C Option that is outstanding and unexercised immediately prior to the Effective Time shall, by virtue of Merger #1 and without any action on the part of the holder thereof, be automatically cancelled and extinguished pursuant to the terms of the TopCo 2013 Stock Option Plan and converted into the right to receive, for each share of Class C Common Stock underlying such Class C Options, an amount equal to (i) the Class C Per Share Merger Consideration less (ii) the applicable exercise price for such Class C Option, which amounts shall be paid in the form of cash and Buyer Common Stock as allocated to the Class C Optionholders in accordance with Section 3.2 (the total per Option consideration described in clauses (i) and (ii) above is referred to herein as the “**Class C Option Merger Consideration**”). To the extent that applicable withholding Taxes are withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the

Class C Optionholder in respect of which such withholding was made. Buyer shall cause the Surviving Corporation to make timely payment to the appropriate Taxing Authority or Taxing Authorities of any amounts withheld from payment to such Class C Optionholder. Following the Effective Time, each Class C Optionholder shall cease to have any rights with respect to his or her Class C Options, except the right to receive the applicable Class C Option Merger Consideration for each Class C Option to be paid hereunder. At the Effective Time, the TopCo 2013 Stock Option Plan and each option agreement associated therewith and all Class C Options shall, pursuant to actions taken by the TopCo Board under the TopCo 2013 Stock Option Plan, be terminated in all respects and shall be of no further force or effect.

(n) Effect of the Merger #1 on MergerSub #1 Common Stock. Each issued and outstanding share of MergerSub #1 Common Stock shall be unchanged and remain as one fully paid and non-assessable share of common stock of the Temporary Surviving Corporation (“**Temporary Surviving Corporation Common Stock**”). Each certificate representing outstanding shares of MergerSub #1 Common Stock shall, at the Effective Time, represent an equal number of shares of Temporary Surviving Corporation Common Stock.

(o) New Jersey Reduction Amount. Notwithstanding anything to the contrary set forth in this Section 2.3, the Individual Merger Consideration (as defined in Section 3.1) that the TopCo Sellers listed on Annex IV would otherwise be entitled to receive shall be reduced by the amount set forth across from each TopCo Seller’s name on Annex IV.

2.3 Merger #2. Subject to the terms and conditions of this Agreement, immediately following the Effective Time, the Temporary Surviving Corporation shall be merged with and into MergerSub #2 with MergerSub #2 surviving the merger and the separate corporate existence of Temporary Surviving Corporation shall thereupon cease. MergerSub #2 (i) shall be the successor or surviving corporation in Merger #2 (sometimes herein referred to as the “**Surviving Corporation**”), (ii) shall be governed by the laws of the State of Delaware, and (iii) the separate corporate existence of MergerSub #2 with all its rights, privileges, immunities, powers and franchises shall continue unaffected by Merger #2. Merger #2 shall have the effects of Section 259 of the Delaware General Corporation Law.

2.4 Merger #2 Effective Time. Immediately following the Effective Time, Buyer, MergerSub #2, and the Temporary Surviving Corporation will cause an executed original of an appropriate Certificate of Merger (the “**Certificate of Merger #2**”) to be filed with the Secretary of State of the State of Delaware. Merger #2 shall become effective on the date on which the Certificate of Merger #2 has been duly filed with the Secretary of State of Delaware and such time is hereinafter referred to as the “**Merger #2 Effective Time**”. From and after the Merger #2 Effective Time, the Surviving Corporation shall succeed to all the assets, rights, privileges, powers and franchises and be subject to all of the liabilities, restrictions, disabilities and duties of the Surviving Corporation and MergerSub #2, all as provided under the Delaware law.

2.5 Effect on Capital Stock in Merger #2. Each issued and outstanding share of MergerSub #2 Common Stock shall be unchanged and remain as one fully paid and non-assessable share of common stock of the Surviving Corporation (“**Surviving Corporation Common Stock**”). Each certificate representing outstanding shares of MergerSub #2 Common Stock shall, at the Effective Time, represent an equal number of shares of Surviving Corporation Common Stock. Each share of Temporary Surviving Corporation Common Stock shall be cancelled and retired and shall cease to exist and no consideration shall be delivered in exchange therefore.

2.6 Spreadsheet.

(a) TopCo has delivered to Buyer a spreadsheet in substantially the form of Annex V attached hereto (the “**Payment Spreadsheet**”) setting forth the following information, in a form reasonably satisfactory to Buyer:

(i) a calculation of the Initial Merger Consideration and each component thereof; and

(ii) with respect to each TopCo Seller: (A) the name and address of such TopCo Seller, (B) the number and class of all shares of TopCo Stock held by such TopCo Seller, (C) the portion of the Cash Consideration (as defined in Section 3.2(a)(iii)) to be paid to such TopCo Seller, which shall be allocated among the TopCo Stock and the Options held by such TopCo Seller as set forth on the Payment Spreadsheet, (D) the portion of the Stock Consideration (as defined in Section 3.2(b)) to be issued to such TopCo Seller, which shall be allocated among the TopCo Stock and the Options held by such TopCo Seller as set forth on the Payment Spreadsheet, (E) the number of 1st Anniversary Holdback Shares to be issued to such TopCo Seller upon release of such shares in accordance with and subject to Section 4.5, which shall be allocated among the TopCo Stock and the Options held by such TopCo Seller as set forth on the Payment Spreadsheet, (F) such TopCo Seller’s Holdback Shares Pro Rata Portion or portion of the Holdback Consideration Cash Amount, (G) such TopCo Seller’s Pro Rata Portion, (H) the amount of any required withholding on account of Taxes with respect to such TopCo Seller’s share of the Merger Consideration, and (I) the wire transfer instructions of such TopCo Seller with respect to the payments to be made by Buyer pursuant to Section 2.3. No consent or approval of Buyer in respect of the Payment Spreadsheet shall be required in and of itself as a condition to Closing.

(b) Buyer, any paying agent engaged by Buyer, and, following the Closing, the Surviving Corporation, may rely on the instructions of the Sellers’ Representative for distributions of cash and issuances of Buyer Common Stock and shall have no responsibility or liability with respect thereto; provided, that the distribution and issuance instructions of the Sellers’ Representative are followed. Buyer shall, or shall cause a paying agent engaged by Buyer to, make distributions of cash and issuances of Buyer Common Stock after the Closing to the TopCo Seller in the same form and in accordance with the same wiring instructions or delivery addresses, as applicable, as such distributions were made to each such TopCo Seller in connection with the Closing, except as otherwise indicated in any update delivered to Buyer by the Sellers’ Representative to reflect any assignments or other changes in factual information. Upon Buyer making each aggregate payment or issuance of Buyer Common Stock, required of it under this Agreement to the TopCo Seller in accordance with the final Payment Spreadsheet delivered by the Sellers’ Representative prior to the

Closing as provided herein, Buyer shall have fulfilled its obligations with respect to such payments and issuances, as applicable. Buyer shall have, neither directly nor indirectly through the Surviving Corporation following the Closing, no liability whatsoever with respect to the allocation of the distribution of the payments of the Merger Consideration among the TopCo Sellers.

(c) No party to this Agreement shall take any tax or other position that is contrary to the allocations set forth in the Payment Spreadsheet unless otherwise required by Applicable Law

2.7 Exchange of Certificates; Lost Certificates; Cancellation of Options. Buyer shall act or shall engage a third party to act as paying agent for the Mergers. On the Closing Date, Buyer shall or shall cause the paying agent to undertake the following:

(a) **TopCo Stock.** Buyer shall pay each holder of certificates representing TopCo Stock (collectively, the “**TopCo Certificates**”) who has surrendered his, her or its certificates representing the number of shares held by such holder, endorsed or accompanied by a stock power, in the form of **Exhibit D** (“**TopCo Stock Power**”), a post-closing stock power for use with the certificates representing such holder’s portion of the Holdback Consideration Shares in the form of **Exhibit E** (the “**Post-Closing Stock Power**”), a Letter of Transmittal in the form of **Exhibit F** (the “**Letter of Transmittal**”), together with a duly executed and completed Stockholder Support Agreement, the amount of Merger Consideration to which such Stockholder is entitled under Section 2.3 with respect to such TopCo Stock, and in accordance with the allocations set forth in Section 3.2. Any surrendered TopCo Certificates shall forthwith be canceled. Until so surrendered and exchanged, each such TopCo Certificate shall represent solely the right to receive the Merger Consideration into which the shares it theretofore represented shall have been converted pursuant to Section 2.3 (and in accordance with the allocations set forth in Section 3.2). Notwithstanding the foregoing, if any such TopCo Certificate shall have been lost, stolen or destroyed, then, upon the making of an affidavit of such fact by the Person claiming such certificate to be lost, stolen or destroyed, Buyer shall issue, in exchange for such lost, stolen or destroyed certificate, the applicable Merger Consideration to be paid in respect of the shares represented by such TopCo Certificate, as contemplated by this Agreement.

(b) **TopCo Options.** Buyer shall pay each Optionholder who has executed and delivered an Option Cancellation Agreement or Optionholder Acknowledgement (as defined in Section 2.10(b)), the amount of Merger Consideration to which such Optionholder is entitled under Section 2.3 with respect to its Options, and in accordance with the allocations set forth in Section 3.2. Until an Option Cancellation Agreement or Optionholder Acknowledgement is executed and delivered, each Option shall represent solely the right to receive the Merger Consideration into which the Option it theretofore represented shall have been converted pursuant to Section 2.3 (and in accordance with the allocations set forth in Section 3.2).

2.8 Appraisal Rights.

(a) **General.** Notwithstanding anything to the contrary contained in this Agreement (but, for the avoidance of doubt, subject to Section 2.9(b)), any shares of TopCo Stock that are outstanding immediately prior to the Effective Time, the holders of which (i) demand appraisal of such shares in accordance with Section 262 of the DGCL and (ii) do not otherwise fail to perfect or effectively withdraw or lose their rights to appraisal and payment under the DGCL (such shares, the “**Appraisal Shares**” and the holders of such shares, the “**Appraisal Stockholders**”), will not be converted into, or represent the right to receive any portion of the Merger Consideration, but, instead, will be converted into the right to receive such consideration as may be determined to be due with respect to such shares pursuant to Section 262 of the DGCL. Each Appraisal Stockholder automatically will cease to have any rights with respect to the Appraisal Shares other than the rights granted pursuant to Section 262 of the DGCL.

(b) **Withdrawal or Loss of Appraisal Rights.** Notwithstanding the provisions of Section 2.9(a), if any Appraisal Stockholder withdraws or loses (through failure to perfect or otherwise) such Appraisal Stockholder’s appraisal rights under Section 262 of the DGCL, then, as of the later of the Effective Time and the occurrence of such event, such Appraisal Stockholder’s Appraisal Shares automatically will be converted into and represent only the right to receive the consideration for such TopCo Stock in accordance with Section 2.3, without any interest thereon, upon surrender of the certificate or certificates that formerly evidenced such shares (together with a duly completed and validly executed TopCo Stock Power, Post-Closing Stock Power, Letter of Transmittal and Stockholder Support Agreement).

2.9 Mailings to Stockholders and Optionholders.

(a) **Information Statement.** Prior to the date hereof, TopCo confirms that TopCo has mailed or caused to be mailed to the Stockholders an information statement substantially in the form attached hereto as **Exhibit G** (the “**Information Statement**”) that, among other disclosures set forth therein, (i) notified the Stockholders of action to be taken by written consent of the Voting Stockholders with respect to this Agreement and the Mergers and pursuant to which the Stockholder Approval was obtained, (ii) constitutes a notice in compliance with all requirements of Section 262 of the DGCL with respect to appraisal rights available pursuant to Section 262 of the DGCL to those Stockholders who are entitled to appraisal rights with respect to the Mergers, and (iii) provided the Stockholder Support Agreement, TopCo Stock Power, Post-Closing Stock Power, Letter of Transmittal and instructions for the execution and delivery thereof to surrender such Stockholder’s certificates representing its shares of TopCo Stock (or, in lieu thereof, an indemnity agreement in form and substance reasonably satisfactory to Buyer), in exchange for the applicable portion of the Merger Consideration in accordance with the terms of this Agreement.

(b) **Optionholder Acknowledgement.** Promptly following the Closing, but in no event later than two (2) Business Days following the Closing Date, the Sellers’ Representative shall mail or cause to be mailed to each Optionholder that has not previously terminated or exercised such Optionholder’s Options, an Optionholder Notice (the “**Optionholder Notice**”) that, among other disclosures set forth therein, notifies such Optionholders (i) of the consummation of the Mergers, (ii) that they will receive their respective portion of the Merger Consideration, subject to, and

in accordance with, the terms of this Agreement, upon their execution and delivery of the Optionholder Acknowledgement, in the form of **Exhibit H** (“**Optionholder Acknowledgment**”) and (iii) provides such other instructions as may be necessary for the execution and delivery of the Optionholder Acknowledgement in exchange for the applicable portion of the Merger Consideration in accordance with the terms of this Agreement.

2.10 **Certificates of Incorporation and Bylaws.**

(a) **Certificate of Incorporation Following the Merger.** The certificate of incorporation of the Temporary Surviving Corporation shall be as set forth on **Exhibit I** until amended in accordance with applicable law.

(b) **Bylaws Following the Merger.** The bylaws of MergerSub #1 in effect at the Effective Time shall be the bylaws of the Temporary Surviving Corporation until amended in accordance with the provisions thereof and the provisions of the certificate of incorporation of the Temporary Surviving Corporation and in accordance with applicable law.

(c) **Certificate of Incorporation Following Merger #2.** The certificate of incorporation of the Surviving Corporation in the form of **Exhibit J** hereto shall be, at and as of the Effective Time #2, the Certificate of Incorporation of MergerSub #2 (except that the name of the Surviving Corporation shall be changed to “ClickPay Services, Inc.”).

(d) **Bylaws Following Merger #2.** The bylaws of the Temporary Surviving Corporation in the form of **Exhibit K** hereto shall be, at and as of the Effective Time #2, the bylaws of the Surviving Corporation.

2.11 **Directors and Officers of the Surviving Corporation.**

(a) **Directors and Officers Following the Merger.** From and after the Effective Time, until successors are duly elected or appointed in accordance with applicable law, the directors of MergerSub #1 at the Effective Time shall be the directors of the Temporary Surviving Corporation and the officers of MergerSub #1 at the Effective Time shall be the officers of the Temporary Surviving Corporation.

(b) **Directors of the Surviving Corporation.** The directors of the Surviving Corporation shall, from and after the Closing Date, be the persons listed on **Schedule 2.12(b)** until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation’s Certificate of Incorporation and Bylaws.

(c) **Officers of the Surviving Corporation.** The officers of the Surviving Corporation shall, from and after the Closing Date, be the persons listed on **Schedule 2.12(c)** until their successors have been duly elected or appointed and qualified or until their death, resignation or removal in accordance with the Surviving Corporation’s Certificate of Incorporation and Bylaws.

2.12 **Tax Treatment of the Merger.** Buyer, MergerSub #1, MergerSub #2 and TopCo intend that the Mergers which are to be consummated pursuant to a pre-arranged integrated plan together qualify as a reorganization under Sections 368(a)(1)(A) and 368(a)(2)(D) of the Code, and neither Buyer nor MergerSub #1 will take any position for Tax, accounting or other purposes inconsistent with the intention that the Mergers qualify as a reorganization under Sections 368(a)(1)(A) and 368(a)(2)(D), unless otherwise required by a final “determination” within the meaning of Section 1313(a) of the Code. This Agreement shall constitute a “plan of reorganization” within the meaning of Treasury Regulation §1.368-2(g) for purposes of Section 368(a) of the Code.

ARTICLE III

MERGER CONSIDERATION; ALLOCATION

3.1 **Merger Consideration.** In consideration of the cancellation and surrender of the TopCo Stock and the Options as a result of Merger #1, Buyer shall pay and issue the Merger Consideration to the TopCo Sellers in accordance with **Section 2.3**. The Merger Consideration will be comprised of cash and Buyer Common Stock in accordance with the allocations provisions set forth in **Section 3.2** below. The portion of the Merger Consideration to which any TopCo Seller is entitled to receive in respect of its, his or her TopCo Stock or Options pursuant to this Agreement is referred to herein as the “**Individual Merger Consideration.**”

3.2 **Allocation of Merger Consideration.**

(a) **General.** The aggregate Merger Consideration (excluding Merger Consideration paid on account of a Merger Consideration Underpayment (as defined in **Section 4.4(b)(i)**), if any) shall be allocated and paid among the TopCo Sellers as follows:

(i) **Holdback Consideration Shares Amount.** Buyer shall pay the Holdback Consideration Shares Amount by the issuance of shares of Buyer Common Stock, which shall be issued on the dates and on the terms set forth in **Section 4.5**. The Holdback Consideration Shares Amount shall be allocated to the TopCo Sellers as set forth on the Payment Spreadsheet.

(ii) **Holdback Consideration Cash Amount.** Buyer shall pay the Holdback Consideration Cash Amount to the Class A Optionholders in cash on the dates and terms set forth in **Section 4.5**. The Holdback Consideration Cash Amount shall be allocated to the Class A Optionholders as set forth on the Payment Spreadsheet.

(iii) Cash Consideration. Subject to Section 3.2(b), the remaining balance of each TopCo Seller's Individual Merger Consideration (excluding Merger Consideration paid on account of a Merger Consideration Underpayment, if any) will be paid by Buyer in cash (the "**Cash Consideration**").

(b) Additional Stock Consideration Election. Notwithstanding Section 3.2(a)(iii) above, each TopCo Seller (other than the Class A Optionholders) had the right to elect to forego the Cash Consideration and receive up to 100% of the remaining balance of their Individual Merger Consideration in the form of shares of Buyer Common Stock ("**Stock Consideration**"). Any such election (an "**Additional Stock Consideration Election**") shall have been made by a TopCo Seller (other than the Class A Optionholders) by executing and delivering to TopCo, prior to the date hereof, a Closing Consideration Election Form, which has been provided to each TopCo Seller (other than the Class A Optionholders) in connection with the distribution of the Information Statement. If such form was not completed and returned to TopCo, the election will be deemed waived for all purposes of this Agreement.

ARTICLE IV CLOSING

4.1 Closing. The closing under this Agreement (the "**Closing**") will take place remotely via the exchange of documents and signatures at 10:00 a.m. Central Time simultaneously with the execution of this Agreement (the "**Closing Date**"), or at such other time to which the Parties mutually agree.

4.2 Closing Deliveries. The obligations of the Parties to consummate the Closing shall be subject to:

(a) Closing Deliveries of the Parties. At or prior to the Closing, upon the terms and subject to the conditions set forth in this Agreement, the Parties shall cause the following to occur:

(i) Merger Certificate #1. TopCo and MergerSub #1 shall cause the Certificate of Merger #1 to be executed, acknowledged and filed with the Secretary of State of the State of Delaware.

(ii) Merger Certificate #2. The Temporary Surviving Corporation and MergerSub #2 shall cause the Certificate of Merger #2 to be executed, acknowledged and filed with the Secretary of State of the State of Delaware.

(b) Buyer Closing Deliveries. At or prior to the Closing, Buyer shall deliver or cause to be delivered to the Sellers' Representative, the following:

(i) Transaction Documents. Buyer shall deliver a fully executed copy of each Transaction Document to which Buyer, the MergerSubs or any of their Affiliates is to be party, which Transaction Documents shall be or remain in effect as of the Closing.

(ii) Board Approvals. Buyer shall deliver the resolutions of the board of directors of Buyer and of each MergerSub, authorizing and approving the execution and delivery of this Agreement and each of the other Transaction Documents by Buyer or such MergerSub, as the case may be, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby, certified by an officer of Buyer.

(c) TopCo Closing Deliveries. At or prior to the Closing, TopCo shall deliver, or cause to be delivered, to Buyer the following:

(i) Transaction Documents. TopCo shall deliver a fully executed copy of each Transaction Document to which TopCo is to be party, which Transaction Documents shall be or remain in effect as of the Closing.

(ii) Good Standing Certificates. TopCo shall deliver a certificate of good standing from the State of Delaware which is dated within five (5) days of the Closing with respect to TopCo.

(iii) Tax Certificates. TopCo shall deliver (i) a certification from TopCo pursuant to Treasury Regulations Section 1.1445-2(c)(3), dated as of the Closing Date and reasonably acceptable to Buyer, stating that TopCo has not been a "United States real property holding corporation" (as defined in Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code and that interests in TopCo do not constitute "United States real property interests" (as defined in Section 897(c)(1) of the Code), together with the related IRS notice as required under Treasury Regulations Section 1.897-2(h) and (ii) a duly executed IRS Form W-9 or Form W-8, as applicable, with respect to each of the TopCo Sellers.

(iv) TopCo Closing Statement. TopCo shall deliver a statement (the "**TopCo Closing Statement**") setting forth the total outstanding TopCo Transaction Expenses (including the TopCo Change of Control Payments) as of the Closing Date, including each payee thereof and payment instructions with respect to each such payee.

(v) Stockholder Support Agreements. TopCo shall deliver (x) fully-executed copies of the Stockholder Support Agreements from each of the Significant Stockholders and (y) copies of the original certificates, or duly executed affidavits of lost certificate,

representing the number of shares held by each such Significant Stockholder, in accordance with Section 2.8 above.

(vi) Option Cancellation Agreements. TopCo shall deliver fully-executed copies of the Option Cancellation Agreements from each of the Significant Optionholders.

(vii) Certified Charter Documents, Board and Stockholder Approvals. TopCo shall deliver a certificate of the secretary of TopCo, dated as of the Closing Date, certifying as true, correct and complete and in full force and effect as of immediately prior to the Effective Time the following with respect to TopCo: (A) the TopCo Charter and the Bylaws of TopCo (together with the TopCo Charter, the “**TopCo Charter Documents**”), (B) copies of the written Consent evidencing the Stockholder Approval, (C) copies of the resolutions of the TopCo Board authorizing the execution and delivery of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby (including the Mergers), and (D) the incumbency and signatures of the officers of TopCo executing this Agreement or any Transaction Document on behalf of TopCo.

(viii) Resignations. TopCo shall deliver resignations from each of the directors and officers of TopCo, which resignations will be effective on or before the Closing and will be in form and substance reasonably satisfactory to Buyer.

4.3 Closing Date Payments.

(a) Payment and Issuance of Initial Merger Consideration by Buyer. At the Effective Time and subject to Buyer’s receipt of the TopCo Certificates and Option Cancellation Agreements or Optionholder Acknowledgment in accordance with Section 2.8, Buyer shall (A) issue to the TopCo Sellers an aggregate amount of Buyer Common Stock equal to the Stock Consideration, and (B) pay the TopCo Sellers an aggregate amount in cash equal to the Cash Consideration, in each case, to each TopCo Seller in the amounts specifically as set forth in the Payment Spreadsheet. Each TopCo Seller entitled to receive Stock Consideration shall receive a stock certificate, as soon as practical after the Closing, in such TopCo Seller’s name evidencing shares of Buyer Common Stock representing the Stock Consideration issuable to such TopCo Seller. The Cash Consideration shall be paid by Buyer by wire transfer of immediately available funds to an account of each TopCo Seller entitled to receive Cash Consideration designated in writing by the Sellers’ Representative to Buyer prior to the Closing Date.

(b) 1st Anniversary Holdback Shares. At the Effective Time, Buyer shall cause to be issued to the TopCo Sellers indicated in the Payment Spreadsheet, the 1st Anniversary Holdback Shares, with Buyer issuing a stock certificate in each such TopCo Seller’s name evidencing shares of Buyer Common Stock representing such TopCo Seller’s Holdback Shares Pro Rata Portion of the 1st Anniversary Holdback Shares, which shares shall be retained by Buyer pursuant to Section 4.5 hereof.

(c) Payment of TopCo Sellers Representative Fund Amount to Sellers’ Representative. At the Effective Time, Buyer shall pay the TopCo Sellers Representative Expense Fund Amount to the Sellers’ Representative, by wire transfer of immediately available funds to an account designated in writing by the Sellers’ Representative prior to the Closing.

(d) Payment of TopCo Transaction Expenses. At the Effective Time, Buyer shall pay on behalf of TopCo all of the TopCo Transaction Expenses in accordance with the TopCo Closing Statement by wire transfer of immediately available funds to the applicable Person set forth on the TopCo Closing Statement.

4.4 Merger Consideration Adjustment.

(a) Determination of Certain Amounts; Incorporation by Reference. The calculation of Company Cash, Company Net Working Capital, Company Closing Net Debt Amount and Company Transaction Expenses (collectively, the “**Company Adjustable Financial Amounts**”) at Closing, and any adjustments to such amounts following the Closing, shall be determined in accordance with Sections 2.5(a) through (e) of the Company Purchase Agreement. Sections 2.5(a) through (e) of the Company Purchase Agreement are incorporated herein by reference, and made a part of this Agreement.

(b) Closing Payment Adjustment. If the Company Adjustable Financial Amounts, as finally determined pursuant to the procedures set forth in Section 2.5(e) of the Company Purchase Agreement, differ from the estimated Company Adjustable Financial Amounts determined in accordance with Section 2.5(a) of the Company Purchase Agreement, then the Initial Merger Consideration shall be recalculated using such final figures in lieu of such estimated figures at Closing and the resulting amount calculated after such adjustments is referred to herein as the “**Adjusted Initial Merger Consideration**”.

(i) Merger Consideration Underpayment. If the Adjusted Initial Merger Consideration exceeds the Initial Merger Consideration (such difference, a “**Merger Consideration Underpayment**”), then Buyer shall be required to pay the TopCo Sellers, within five (5) Business Days following the final determination of the Adjusted Initial Merger Consideration, an amount equal to such Merger Consideration Underpayment. Such amount shall be allocated among the TopCo Sellers in accordance with the provisions of Section 2.3 and allocated between Cash Consideration and Stock Consideration as follows: (x) 40% of such Merger Consideration Underpayment shall be paid by Buyer by the issuance of additional shares of Buyer Common Stock (which shall be valued based on the Issue Price on the Closing Date) and allocated among the TopCo Sellers in accordance with their respective Pro Rata Portion, and (y) the remaining portion of the Merger Consideration Underpayment payable to each TopCo Seller shall be paid by the Buyer in cash. Each TopCo Seller shall receive a stock certificate in such TopCo Seller’s name

evidencing shares of such Buyer Common Stock issuable to such TopCo Seller pursuant to this [Section 4.4\(b\)\(i\)](#).

(ii) **Merger Consideration Overpayment.** If the Initial Merger Consideration exceeds the Adjusted Initial Merger Consideration, as a result of the adjustments to the Company Adjustable Financial Amounts (as finally determined pursuant to Section 2.5(e) of the Company Purchase Agreement) (such difference, a “**Merger Consideration Overpayment**”), then Buyer shall be paid such Merger Consideration Overpayment, which shall be satisfied (x) first, from the Holdback Consideration (initially from the 1st Anniversary Holdback Consideration until such consideration is exhausted and then from the 2nd Anniversary Holdback Consideration), and (y) second, if any to the extent the Merger Consideration Overpayment is greater than the Holdback Consideration available, from each TopCo Seller, severally, in accordance with each TopCo Seller’s Pro Rata Portion; provided, however, that if the Merger Consideration Overpayment (when aggregated with the amount of the Purchase Price Overpayment (as defined in the Company Purchase Agreement)) is any amount greater than \$1,000,000, then Buyer may recover the Merger Consideration Overpayment directly from each TopCo Seller, severally, in accordance with each such TopCo Seller’s respective Pro Rata Portion, without any requirement to first recover any amounts of the Merger Consideration Overpayment from the Holdback Consideration. Any amounts directly paid to Buyer by a TopCo Seller pursuant to this [Section 4.4\(b\)\(ii\)](#) shall be made by wire transfer of immediately available funds to Buyer.

4.5 Holdback. At the Closing, Buyer shall retain the Holdback Consideration from the Merger Consideration that is payable to the TopCo Sellers, which Holdback Consideration will constitute security for the satisfaction of the TopCo Sellers’ indemnity and Merger Consideration Overpayment obligations under this Agreement (the “**TopCo Seller Obligations**”). Buyer shall retain and shall have the right to subtract from the Holdback Consideration (initially from the 1st Anniversary Holdback Consideration until such consideration is exhausted and then from the 2nd Anniversary Holdback Consideration) any Buyer Indemnified Losses (as defined in [Section 9.1](#) below) for which a Buyer Indemnified Party is entitled to indemnification pursuant to [Article IX](#). Buyer shall pay the balance of the Holdback Consideration to the TopCo Sellers (or their respective written designee(s)) as follows:

(a) **Initial Release Date.** Within fifteen (15) days after the date that is one day following the 12-month anniversary of the Closing Date (such date, the “**Initial Release Date**”), Buyer shall release to the TopCo Sellers, in accordance with the allocations set forth in [Section 3.2](#), the 1st Anniversary Holdback Consideration minus (A) the amount of shares of Buyer Common Stock and cash representing any Merger Consideration Overpayments satisfied from the 1st Anniversary Holdback Consideration (as determined by dividing the applicable amount by the Issue Price as of the Closing Date with respect to the Buyer Common Stock portion of such amount), minus (B) the amount of shares, if any, of Buyer Common Stock and cash, representing the aggregate outstanding Buyer Indemnified Losses as finally determined as of the Initial Release Date, with such amount of shares being determined in accordance with [Section 9.6](#) (with respect to the Buyer Common Stock portion of such amount), minus (C) any amounts described in the following sentence. To the extent that as of the Initial Release Date there are properly asserted claims by the Buyer Indemnified Parties for indemnification against the TopCo Sellers pursuant to [Section 9.1\(a\)](#) pending, Buyer shall deduct from the 1st Anniversary Holdback Consideration cash and a number of shares of Buyer Common Stock (determined by dividing the applicable amount by the Issue Price as of the Closing Date with respect to the Buyer Common Stock portion of such amount), to cover a reasonable estimate of Buyer Indemnified Losses to be incurred by the Buyer Indemnified Parties, as determined by Buyer in the reasonable exercise of its discretion. The TopCo Sellers hereby irrevocably authorize Buyer to submit to its transfer agent for cancellation the stock certificates representing the 1st Anniversary Holdback Shares retained by Buyer in order to permit the reductions to the 1st Anniversary Holdback Shares contemplated by this [Section 4.5\(a\)](#) and issue new stock certificates representing the 1st Anniversary Holdback Shares, if any, to be issued or released to the TopCo Sellers following such reductions.

(b) **Issuance of Holdback Shares.** On the Initial Release Date, Buyer shall cause to be issued to the TopCo Sellers indicated in the Payment Spreadsheet a number of shares of fully paid, nonassessable Buyer Common Stock in an amount equal to (A) the 2nd Anniversary Holdback Shares, minus (B) the amount of shares of Buyer Common Stock representing any Merger Consideration Overpayments satisfied from the 2nd Anniversary Holdback Shares (as determined by dividing the applicable amount by the Issue Price as of the Initial Release Date, with respect to the Buyer Common Stock portion of such amount), minus (C) the amount of shares, if any, of Buyer Common Stock, representing aggregate outstanding Buyer Indemnified Losses as finally determined as of the Initial Release Date that have not been satisfied by 1st Anniversary Holdback Shares (with such amount of shares being determined in accordance with [Section 9.6\(a\)](#), with respect to the Buyer Common Stock portion of such amount); with each applicable TopCo Seller receiving a stock certificate in such TopCo Seller’s name evidencing shares of Buyer Common Stock representing such TopCo Seller’s Holdback Shares Pro Rata Portion of the 2nd Anniversary Holdback Shares and which 2nd Anniversary Holdback Shares shall be retained by Buyer pursuant to this [Section 4.5\(b\)](#).

(c) **Second Release Date.** Within fifteen (15) days after the date that is one day following the 24-month anniversary of the Closing Date (such date, the “**Second Release Date**”), Buyer shall release to the TopCo Sellers, in accordance with the allocations set forth in [Section 3.2](#), the 2nd Anniversary Holdback Consideration, minus (A) the amount of shares of Buyer Common Stock and cash representing any Merger Consideration Overpayments satisfied from the 2nd Anniversary Holdback Consideration (as determined by dividing the applicable amount by the Issue Price as of the Closing Date with respect to the Buyer Common Stock portion of such amount), minus (B) the amount of shares, if any, of Buyer Common Stock and cash, representing the aggregate outstanding Buyer Indemnified Losses as finally determined as of the Second Release Date that have not been satisfied by 1st Anniversary Holdback Consideration (with such amount of shares being determined in accordance with [Section 9.6\(a\)](#) with respect to the Buyer Common Stock portion of such amount), minus (C) any amounts described in the following sentence. To the extent that as of the Second Release Date there are properly asserted claims by the Buyer Indemnified Parties for indemnification against the TopCo Sellers pursuant to [Section 9.1\(a\)](#) pending, Buyer shall deduct from the 2nd Anniversary Holdback Consideration cash and a number of shares of Buyer Common Stock (as determined by dividing the applicable amount by the Issue Price as of the Initial Release Date with respect to the Buyer Common Stock portion of such amount), to cover a reasonable estimate of Buyer Indemnified Losses to be incurred by the Buyer Indemnified Parties, as determined by Buyer in the reasonable exercise of its discretion. The TopCo Sellers hereby irrevocably authorize Buyer to instruct its transfer agent to cancel stock certificates representing the 2nd Anniversary Holdback Shares retained by Buyer in order to permit the reductions to the 2nd

Anniversary Holdback Shares contemplated by this Section 4.5(b) and issue new stock certificates representing the 2nd Anniversary Holdback Shares, if any, following such reductions.

(d) Resolution of Existing Claims. If after the Initial Release Date or Second Release Date, any claims for indemnity are resolved in favor of the Sellers' Representative (on behalf of the TopCo Sellers) by mutual agreement or otherwise, or if upon resolution of a claim in accordance with the provisions hereof, the amount withheld exceeds the amount ultimately determined to be properly payable to a Buyer Indemnified Party in respect of such claim, Buyer shall release to the TopCo Sellers cash and a number of fully paid, nonassessable shares of Buyer Common Stock in an amount equal to the excess amount withheld, with such amount of shares being determined by dividing such excess amount withheld by the Issue Price as of the Closing Date, with respect to the 1st Anniversary Holdback Shares, or the Initial Release Date, with respect to the 2nd Anniversary Holdback Shares.

(e) Allocation of Holdback Consideration Among TopCo Sellers. All shares of Buyer Common Stock that are released to the TopCo Sellers on the Initial Release Date, the Second Release Date or upon resolution of existing claims shall constitute additional Merger Consideration and shall be distributed to the TopCo Sellers based on their respective Holdback Shares Pro Rata Portion. Reductions to the Holdback Consideration shall be effected in accordance with each TopCo Seller's respective Holdback Consideration Pro Rata Portion of such TopCo Seller's contribution to the Holdback Consideration (in cash or Buyer Common Stock, as applicable).

(f) Interest in Holdback Consideration; Voting Rights, Etc. For avoidance of doubt, the Holdback Consideration and any right, title and interest therein may not be encumbered, transferred or otherwise hypothecated by a TopCo Seller until such portion of the Holdback Consideration is released to the TopCo Seller in accordance with this Section 4.5. Except as otherwise specifically set forth in this Agreement, during any period in which the 1st Anniversary Holdback Shares and, following the Second Release Date, the 2nd Anniversary Holdback Shares are subject to retention by Buyer pursuant to this Section 4.5, the TopCo Sellers shall be entitled to all rights with respect to the 1st Anniversary Holdback Shares and the 2nd Anniversary Holdback Shares, including all rights to dividends, distributions and all voting rights; provided, however, that notwithstanding the foregoing, the Optionholders shall not have any rights to dividends, distributions or voting rights with respect to the 1st Anniversary Holdback Shares or the 2nd Anniversary Holdback Shares until they are released from the holdback to the applicable Optionholder.

4.6 Withholding. Buyer, and any other applicable withholding agent will be entitled to deduct and withhold from any amounts payable pursuant to or as contemplated by this Agreement any Taxes or other amounts required under the Code or any Applicable Laws to be deducted and withheld, and, to the extent that any such amounts are so deducted or withheld and properly paid to the appropriate Governmental Entity, such amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made. To the extent that such amounts are not so deducted and withheld, such Person shall indemnify Buyer and its Affiliates and any other applicable withholding agent for any such amounts imposed by a Governmental Entity, together with any related costs, expenses or damages. Notwithstanding anything to the contrary in this Agreement, any compensatory amounts subject to payroll reporting and withholding that are payable pursuant to or as contemplated by this Agreement, including any such amounts payable pursuant to Section 4.3, and including any payments of transaction or similar bonuses, shall be payable through the Surviving Corporation (or other applicable entity) in accordance with the applicable payroll procedures.

ARTICLE V [INTENTIONALLY OMITTED.]

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF TOPCO

Except as set forth in the disclosure schedule which has been delivered by TopCo to Buyer and the MergerSubs concurrently with the execution hereof (the "**Disclosure Schedule**") (which Disclosure Schedule shall be arranged according to specific sections in this Article VI and shall provide exceptions to, or otherwise qualify in reasonable detail, only the corresponding section in this Article VI and any other section in such Article where it is reasonably apparent, upon a reading of such disclosure without any independent knowledge on the part of the reader regarding the matter disclosed, that the disclosure is intended to apply to such other section), TopCo represents and warrants to Buyer and the MergerSubs and to and for the benefit of the Buyer Indemnified Parties, as of the date hereof, as follows (with the understanding and acknowledgement that Buyer and the MergerSubs would not have entered into this Agreement without being provided with the representations and warranties set forth herein, and that these representations and warranties constitute an essential and determining element of this Agreement).

6.1 Organizational Matters.

(a) Organization, Standing and Power to Conduct Business. TopCo is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite power and authority to own, lease and operate its properties and to carry on its business in all material respects as now being conducted.

(b) Good Standing. TopCo is duly qualified and in good standing to do business (with respect to jurisdictions that recognize that concept) in each of the jurisdictions set forth in Section 6.1 of the Disclosure Schedule, and such jurisdictions represent each jurisdiction in which the nature of TopCo's business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to be so qualified would not have a material adverse effect on TopCo.

(c) TopCo Charter Documents. TopCo has delivered to Buyer and the MergerSubs true and complete copies of the TopCo

Charter Documents, which, in each case are currently in effect. TopCo is not in violation of any of the provisions of the TopCo Charter Documents.

(d) Subsidiaries. TopCo does not have and has never had any Subsidiaries and does not own, hold or have any interest in or right to acquire capital stock or other equity interests or ownership interests in any entity, other than TopCo's membership interest in the Company as set forth in Section 6.1 of the Disclosure Schedule.

(e) Powers of Attorney. There are no outstanding powers of attorney executed by or on behalf of TopCo.

6.2 Capital Structure.

(a) Capital Stock.

(i) The authorized capital stock of TopCo consist of (i) 7,565,197 shares of Class A Common Stock, (ii) 412,500 shares of Class B Common Stock, (iii) 412,500 shares of Class C Common Stock, (iv) 1,100,000 shares of Series A Preferred Stock, (v) 2,117,646 shares of Series A-1 Preferred Stock, (vi) 392,157 shares of Series B Preferred Stock and (vii) 1,000,000 shares of Series WC Preferred Stock.

(ii) At the date hereof, there are (i) 1,650,000 shares of Class A Common Stock, (ii) 1,100,000 shares of Series A Preferred Stock, (iii) 2,117,646 shares of Series A-1 Preferred Stock, (iv) 392,157 shares of Series B Preferred Stock and (vii) 650,000 shares of Series WC Preferred Stock issued and outstanding and TopCo has no other issued or outstanding shares of capital stock. All of the issued and outstanding shares of capital stock of TopCo ("**TopCo Capital Stock**") have been duly authorized and validly issued and are fully paid, non-assessable and not subject to any preemptive rights.

(iii) No shares of TopCo Capital Stock are held as treasury stock or are owned by TopCo.

(iv) Section 6.2(a)(iv) of the Disclosure Schedule sets forth a true and complete list of the holders of all the issued and outstanding shares of TopCo Capital Stock, showing the number of shares of each class and series of stock held by each such holder.

(b) Other Securities. Except as set forth in Section 6.2(b) of the Disclosure Schedule or in the TopCo Charter Documents, there are no securities, options, warrants, calls, rights, commitments, agreements, arrangements or undertakings of any kind to which TopCo is a party or by which it is bound obligating TopCo to (A) issue, convert, deliver or sell, or cause to be issued, delivered or sold, securities of TopCo, (B) issue, grant, extend or enter into any such security, option, warrant, call, right, commitment, agreement, arrangement or undertaking contemplated under clause (A), or (C) issue or distribute to holders of any TopCo Capital Stock any evidences of indebtedness or assets of TopCo. Except as set forth in Section 6.2(b) of the Disclosure Schedule or in the TopCo Charter Documents, TopCo is not under any obligation to purchase, redeem or otherwise acquire any TopCo Capital Stock or any interest therein or to pay any dividend or make any other distribution with respect thereto.

(c) No Agreements. Other than as listed in Section 6.2(c) of the Disclosure Schedule or as set forth in the TopCo Charter Documents or this Agreement, there are no agreements, written or oral, to which TopCo or, to the Knowledge of TopCo, any TopCo Seller is a party, relating to the Mergers or the issuance, acquisition (including rights of first refusal or preemptive rights), disposition, registration under the Securities Act of 1933, as amended (the "**Securities Act**"), or voting of the TopCo Capital Stock or other securities of TopCo.

(d) Compliance with Laws. All TopCo Capital Stock, and other rights to acquire capital stock or other securities of TopCo, have been issued in compliance with all applicable securities laws and all other Applicable Laws.

(e) Merger Consideration. No Person will be entitled to receive from TopCo, or have any claim against TopCo to a portion of, the Merger Consideration or any other payments to be made pursuant to this Agreement or the other Transaction Documents, other than the TopCo Sellers or as otherwise set forth in this Agreement or the other Transaction Documents.

6.3 Authority and Due Execution.

(a) TopCo has all requisite corporate power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated herein or therein. The execution, delivery and performance of this Agreement and the other Transaction Documents by TopCo, and the consummation of the transactions contemplated herein or therein, have been duly and validly authorized by all necessary corporate action on the part of TopCo, and no other corporate proceedings on the part of TopCo are necessary to authorize the execution, delivery and performance of this Agreement and the other Transaction Documents by TopCo or to consummate the transactions contemplated herein or therein.

(b) Due Execution. This Agreement and each other Transaction Document to which TopCo is a party has been duly executed and delivered by TopCo and, assuming due authorization, execution and delivery by Buyer and the MergerSubs and other parties hereto and thereto, constitutes the valid and binding obligation of TopCo, enforceable against TopCo in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general application relating to or affecting creditors' rights and to general equity principles (the "**Remedies Exceptions**").

6.4 Non-Contravention and Consents. Except as set forth in Section 6.4 of the Disclosure Schedule:

(a) Non-Contravention. The execution and delivery of this Agreement and each other Transaction Document and the consummation of the transactions contemplated herein and thereby by TopCo do not, and the performance of this Agreement and each other Transaction Document by TopCo will not (i) conflict with or violate any provision of the TopCo Charter Documents, (ii) conflict with or violate any Applicable Laws, or (iii) conflict with, result in any breach or acceleration of, or constitute a default (or an event that, with notice or lapse of time or both, would reasonably be expected to become a default) under, or impair the rights of TopCo, require redemption or repurchase or otherwise require the purchase or sale of any securities, or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation pursuant to any Contract to which TopCo is a party or otherwise bound, or result in the creation of a Lien (other than a Permitted Encumbrance) on any of the properties or assets of TopCo (including the TopCo Capital Stock).

(b) Contractual Consents. No Consent under any Contract to which TopCo is a party or otherwise bound is required to be obtained in connection with the execution, delivery or performance of this Agreement or any other Transaction Document by TopCo or the consummation of the transactions contemplated herein or therein.

(c) Governmental Consents. No Consent of any national, state, municipal, provincial, county, local or foreign government, any instrumentality, subdivision, department, ministry, board, legislative body, court, administrative or regulatory agency, bureau or commission, or other governmental entity or instrumentality or political subdivision thereof, or any quasi-governmental or private body exercising any executive, legislative, judicial, administrative, regulatory, taxing, importing or other functions of or pertaining to a government (a “**Governmental Entity**”) is required to be obtained or made by TopCo in connection with the execution, delivery and performance of this Agreement or any other Transaction Document by TopCo or the consummation of the transactions contemplated herein or therein.

6.5 Financial Statements; Absence of Operations; No Liabilities.

(a) TopCo has no assets or Liabilities of any kind other than (i) its membership interest in the Company, (ii) cash as necessary for the maintenance of its corporate existence (including for the payment of any Taxes and/or other fees and the preparation and filing of any Tax Returns), (iii) the TopCo Transaction Expenses and (iv) resulting from ministerial acts necessary to conducting the operations listed in the foregoing clauses (i) and (ii). Excluding the cash amount described in (ii) above, TopCo has no net working capital. Since November 21, 2013, except as set forth in the Disclosure Schedule, TopCo has not engaged in any business activities other than those relating directly to its holding of membership interests in the Company. TopCo does not employ or engage any individuals as employees or independent contractors of TopCo. Without limiting the generality of the foregoing representations in this Section 6.5, TopCo does not have any Intellectual Property Rights.

(b) Section 6.5 of the Disclosure Schedule sets forth the financial statements (consisting of a balance sheet, statement of operations and statement of cash flows) of TopCo for the years ended December 31, 2016 and 2017 (collectively, the “**Financial Statements**”). The financial statements of TopCo for the year ended December 31, 2017 have been reviewed by the independent public accountants of TopCo and are the most recent regularly-prepared financial statements for TopCo (the “**Most Recent Financial Statements**”). The Financial Statements were prepared in accordance with GAAP, are true and correct in all material respects, and fairly and accurately present in all material respects the financial position, results of operation and cash flows of TopCo as of the dates, and for the periods, indicated therein.

6.6 Litigation. Except as disclosed on Section 6.6 of the Disclosure Schedule, there have not been in the last five (5) years, and there currently are no written demand letters, complaints, actions, suits, hearings, investigations or proceedings, or governmental or regulatory inquiries by or before a Governmental Entity (each, a “**Legal Proceeding**”), pending or, to the Knowledge of TopCo, threatened against TopCo or its business. To the Knowledge of TopCo, there currently are no Legal Proceedings pending, or any material Legal Proceedings threatened, against the TopCo Sellers relating to TopCo or its business. There currently are no Legal Proceedings initiated by TopCo pending, or that TopCo intends to initiate, against any other Person related to TopCo or its business. There is no injunction, judgment, decree or order entered, issued, made, or rendered by any Governmental Entity currently binding upon or against TopCo.

6.7 Taxes.

(a) (i) All income and other material Tax Returns required to be filed by or with respect to TopCo have been duly and timely filed (taking into account valid extensions) and such Tax Returns are true, correct and complete; (ii) all Taxes owed by TopCo or for which TopCo may be liable that are or have become due have been timely paid in full; (iii) no penalty, interest or other charge is or will become due with respect to the late filing of any such Tax Return or late payment of any such Tax; (iv) all Tax withholding and deposit requirements imposed on or with respect to TopCo have been satisfied in full in all respects; (v) there are no Liens for Taxes (other than Permitted Encumbrances) on any of the assets of TopCo; and (vi) TopCo is not liable for any Tax as a transferee or successor.

(b) Section 6.7(b) of the Disclosure Schedule lists all federal, state, local and foreign income Tax Returns filed with respect to TopCo for the three (3) taxable years ending prior to the Closing Date, indicates those Tax Returns that have been audited, indicates those Tax Returns that are currently the subject of audit and indicates those Tax Returns whose audits have been closed. TopCo has made available to Buyer true and complete copies of all Tax Returns filed by TopCo during the past five (5) years and all material correspondence to TopCo from, or from TopCo to, a Taxing Authority relating thereto.

(c) There is no written claim against TopCo for any Taxes, and no assessment, deficiency or adjustment has been asserted, proposed or threatened in writing with respect to any Tax Return, and no written notice has been received from a Governmental Entity with respect to Taxes, in either case, of or with respect to TopCo, and, to the Knowledge of TopCo, there is no reasonable factual or legal basis for the assessment of any

deficiency or adjustment with respect to any Tax Return of or with respect to TopCo, other than those disclosed (and to which are attached true and complete copies of all audit or similar reports) on Section 6.7(c) of the Disclosure Schedule. To the Knowledge of TopCo there are no Tax audits or administrative or judicial proceedings that are being conducted, pending or threatened with respect to TopCo, other than those disclosed (and to which are attached true and complete copies of all correspondence to or from the relevant Taxing Authority pertaining thereto) on Section 6.7(c) of the Disclosure Schedule. No written claim has ever been made by an authority in a jurisdiction where TopCo does not file Tax Returns that it is or may be subject to taxation in that jurisdiction. TopCo is not subject to Tax in any country other than its country of incorporation by virtue of having a permanent establishment or other place of business in such other country.

(d) Except as set forth in Section 6.7(d) of the Disclosure Schedule, there is not in force any extension of time with respect to the due date for the filing of any Tax Return of or with respect to TopCo or any waiver or agreement for any extension of time for the assessment or payment of any Tax of or with respect to TopCo.

(e) TopCo is not a party to or bound by any Tax allocation, sharing or indemnity agreements or arrangements, and has no obligation or Liability under any such agreement or arrangement, other than agreements or obligations pursuant to agreements in each case with customary terms and for which the principal purpose is not Taxes.

(f) TopCo has not constituted either a "distributing corporation" or a "controlled corporation" in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code (i) in the two years prior to the date of this Agreement or (ii) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the transactions contemplated in this Agreement.

(g) TopCo is not and has not been a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

(h) TopCo will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) beginning after the Closing Date as a result of any: (i) use of an improper method of accounting or any change in method of accounting for a taxable period ending on or prior to the Closing Date; (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date; (iii) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law); (iv) installment sale or open transaction disposition made on or prior to the Closing Date; (v) prepaid amount received on or prior to the Closing Date; (vi) election made under Section 108(i) of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) on or prior to the Closing Date; or (vii) application of Section 965 of the Code. TopCo has not made an election under Section 965(h) of the Code.

(i) TopCo is and has at all times since incorporation been classified as a C corporation (within the meaning of Section 1361(a)(2) of the Code) for U.S. federal (and applicable state and local) income Tax purposes.

(j) TopCo does not have any Liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any corresponding or similar provisions of state, local or foreign Tax law), or as a transferee or successor, under any Contract to which TopCo is a party or otherwise (other than agreements or obligations pursuant to agreements in each case with customary terms and for which the principal purpose is not Taxes). TopCo is not and has never been a member of an affiliated, consolidated, combined or unitary group filing for federal or state income tax purposes.

(k) TopCo has not participated, within the meaning of Treasury Regulations Section 1.6011-4(c), in any "reportable transaction" within the meaning of Section 6011 of the Code and the Treasury Regulations thereunder (or any similar provision of state, local or foreign law). TopCo has disclosed on its Tax Returns all positions taken therein that could give rise to a substantial understatement of Tax within the meaning of Section 6662 of the Code (or any similar provision of state, local or foreign law).

(l) TopCo uses and has used since inception the accrual method of accounting for income Tax purposes.

(m) All payments by or to TopCo comply with all applicable transfer pricing requirements imposed by any Governmental Entity, and TopCo has made available to Buyer accurate and complete copies of all transfer pricing documentation prepared pursuant to Treasury Regulation Section 1.6662-6 (or any similar foreign statutory, regulatory, or administrative provision) by or with respect to TopCo during the past five years.

(n) TopCo has not incurred any liabilities for Taxes since the date of the Most Recent Financial Statements (i) arising from extraordinary gains or losses, as that term is used in GAAP, (ii) outside the ordinary course of business, or (iii) inconsistent with past custom or practice.

(o) No power of attorney that is currently in force has been granted with respect to any matter relating to Taxes that could affect TopCo.

(p) Section 6.7(p) of the Disclosure Schedule sets forth, for each TopCo Seller that acquired on or after January 1, 2011 TopCo Capital Stock or any other security in TopCo that would be deemed a "covered security" under Treasury Regulations §1.6045-1(a)(15), the name of such Person and, with respect to such shares or securities, the certificate numbers (if any), the adjusted basis and the original acquisition date.

6.8 **Absence of Changes**. Since December 31, 2017, there has not occurred, and TopCo does not have any Knowledge of, any Material

Adverse Effect. Except as set forth in Section 6.8 of the Disclosure Schedule, from December 31, 2017, TopCo has conducted its business only in the ordinary course of business consistent with past practices, and TopCo has not:

- (a) failed to use commercially reasonable efforts to maintain its assets in their current condition, except for ordinary wear and tear, or failed to repair, maintain, or replace any of its equipment in accordance with the normal standards of maintenance applicable in the industry;
- (b) accelerated, amended or terminated any material Contract, or received any written notice from any counterparty to a material Contract that such counterparty has or intends to take any such actions, other than pursuant to the expiration of a material Contract pursuant to its terms;
- (c) entered into any Contract (i) that is a material Contract and (ii) outside the ordinary course of business;
- (d) made or pledged to make any charitable contribution in excess of \$5,000 in the aggregate;
- (e) entered into any new intercompany transaction, agreement, arrangement, or understanding with, directly or indirectly, any officer or manager or Affiliate of TopCo, or made any payment or distribution to any officer or manager of TopCo other than advances in the ordinary course of business and consistent with past practices of TopCo not to exceed, in the aggregate, \$25,000;
- (f) acquired (including by merger, consolidation, or the acquisition of any equity interest or assets) or sold (whether by merger, consolidation, or the sale of an equity interest or assets), leased, assigned, licensed, loaned, pledged, transferred, or disposed of any Person or any material assets or rights except in the ordinary course of business and consistent with past practice, whether in one or more transactions;
- (g) mortgaged, pledged, or subjected to any Lien (other than Permitted Encumbrances) any of its assets;
- (h) made any loans, advances or capital contributions to, or investment in, any other Person;
- (i) entered into any joint ventures, strategic partnerships or alliances;
- (j) (i) hired or changed its independent public accountants, if any, (ii) changed its depreciation or amortization policies or rates, (iii) changed its standard invoicing or billing practices and procedures or, (iv) except as required by Applicable Law or circumstances which did not exist as of such date, changed any of the accounting principles or practices used by it, including with respect to its accounts receivable and accounts payable;
- (k) made, declared, paid or set aside assets for any dividend or otherwise declared or made any other distribution with respect to its capital stock, or directly or indirectly purchased, redeemed or otherwise acquired any capital stock or other securities of TopCo;
- (l) incurred or guaranteed any Indebtedness in excess of \$5,000 annually (other than such Indebtedness incurred in the ordinary course of business), issued any debt securities or rights to acquire debt securities, or entered into any arrangement having the economic effect of any of the foregoing;
- (m) failed to pay any Indebtedness or any other accounts payable as it became due, or materially changed its existing practices and procedures with respect to the payment of Indebtedness or other accounts payable;
- (n) (i) paid, discharged or satisfied any Liability of TopCo, other than pursuant to the terms of such Liability or immaterial Liabilities of TopCo arising in the ordinary course of business, (ii) prepaid or cancelled any amount of indebtedness for borrowed money in excess of \$5,000 individually or \$10,000 in the aggregate, or (iii) paid or agreed to pay any amount in settlement, or cancelled, compromised, waived or released any right or claim, including rights under or pursuant to, any matter involving actual or threatened claims against TopCo, other than immaterial rights or claims;
- (o) incurred or committed to incur any capital expenditures, capital additions or capital improvements in excess of \$5,000 for any individual commitment or \$10,000 in the aggregate, other than sales of services and deliverables to clients or in the ordinary course of business;
- (p) made any payment or agreement relating to the surrender, cancellation, amendment or agreement not to exercise any option, warrant, or other right to acquire equity or equity linked securities issued by TopCo;
- (q) experienced any material damage, destruction or loss to or of any of the material assets or properties owned or leased by TopCo;
- (r) made or changed any Tax election, changed any annual accounting period, adopted or changed any accounting method with respect to Taxes, filed any amended Tax Return, entered into any closing agreement, settle or compromise any proceeding with respect to any Tax claim or assessment, surrendered any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to TopCo, or taken any other similar action relating to the filing of any Tax Return or the payment of any Tax; or
- (s) authorized, approved, agreed to or made any commitment, orally or in writing, to take any of the foregoing actions.

6.9 **Brokers' and Finders' Fees.** Except as set forth in Section 6.9 of the Disclosure Schedule, TopCo has not incurred, nor will it incur, directly or indirectly, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Agreement or any other Transaction Document to which TopCo is a party or any transaction contemplated herein or therein. Except as set forth in Section 6.9 of the Disclosure Schedule, no finder, broker, investment banker, agent or other intermediary has acted for or on behalf of TopCo in connection with the transactions contemplated in this Agreement and the Transaction Documents.

ARTICLE VII REPRESENTATIONS AND WARRANTIES OF BUYER AND MERGERSUB

Buyer and each MergerSub jointly and severally represent and warrant to TopCo and to the Sellers' Representative (on behalf of the TopCo Sellers as follows (with the understanding and acknowledgement that TopCo would not have entered into this Agreement without being provided with the representations and warranties set forth herein, and that these representations and warranties constitute an essential and determining element of this Agreement):

7.1 Organizational Matters.

(a) **Organization, Standing and Power to Conduct Business.** Each of Buyer and each MergerSub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; each has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted; and is duly qualified and in good standing (with respect to jurisdictions that recognize that concept) to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to do so would not materially and adversely affect Buyer's or such MergerSub's ability to consummate the transactions contemplated by this Agreement.

(b) Charter Documents.

(i) **Buyer Charter Documents.** Buyer has delivered or made available to TopCo copies of the certificate of incorporation and bylaws of Buyer, as amended to date and currently in effect (such instruments and documents, the "**Buyer Charter Documents**") and such copies are true, correct and complete. Buyer is not in violation of any of the provisions of the Buyer Charter Documents.

(ii) **MergerSub Charter Documents.** Each MergerSub has delivered or made available to TopCo copies of the certificate of incorporation and bylaws of such MergerSub, as amended to date and currently in effect (such instruments and documents, the "**MergerSubs Charter Documents**") and such copies are true, correct and complete. None of the MergerSubs is in violation of any of the provisions of its respective MergerSubs Charter Documents.

7.2 Authority and Due Execution.

(a) **Authority.** Each of Buyer and each MergerSub has all requisite corporate power and authority to enter into this Agreement and any other Transaction Documents to which each is a party and to consummate the transactions contemplated herein or therein. The execution and delivery of this Agreement and the other Transaction Documents to which each of Buyer and each MergerSub is a party and the consummation by Buyer and each MergerSub of the transactions contemplated herein or therein have been duly authorized by all necessary corporate action on the part of Buyer and each MergerSub, respectively, and no other corporate proceedings on the part of Buyer or any MergerSub are necessary to authorize the execution, delivery and performance of this Agreement and the other Transaction Documents by Buyer or any MergerSub, respectively, to consummate the transactions contemplated herein or therein.

(b) **Due Execution.** This Agreement and each other Transaction Document to which Buyer and each MergerSub is a party has been duly executed and delivered by Buyer and such MergerSub, respectively, and constitutes (assuming the due authorization, execution and delivery by the other parties hereto and thereto), the valid and binding obligations of Buyer and the MergerSubs, respectively, enforceable against each of them in accordance with their respective terms, subject to the Remedies Exceptions.

7.3 Non-Contravention and Consents

(a) Non-Contravention.

(i) **Buyer Non-Contravention.** The execution and delivery of this Agreement and each other Transaction Document and the consummation of the transactions contemplated herein and thereby by Buyer does not, and the performance of this Agreement and each other Transaction Document by Buyer will not, (x) conflict with or violate any provision of the Buyer Charter Documents; (y) conflict with or violate any Applicable Laws; or (z) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or impair the rights of Buyer or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, pursuant to any Contract, or result in the creation of a Lien on any of Buyer's assets or properties pursuant to, any obligation to which Buyer is a party or by which Buyer may be bound.

(ii) **MergerSubs Non-Contravention.** The execution and delivery of this Agreement and each other Transaction

Document and the consummation of the transactions contemplated herein and thereby by each MergerSub does not, and the performance of this Agreement and each other Transaction Document by each MergerSub will not, (x) conflict with or violate any provision of such MergerSubs Charter Documents; (y) conflict with or violate any Applicable Laws; or (z) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or impair the rights of such MergerSub or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, pursuant to any Contract, or result in the creation of a Lien on any of such MergerSub's assets or properties pursuant to, any obligation to which such MergerSub is a party or by which such MergerSub may be bound.

(b) **Contractual Consents.** No Consent under any Contract to which Buyer or any MergerSub is a party is required to be obtained in connection with the execution, delivery or performance of this Agreement or any other Transaction Document by Buyer or the MergerSubs, respectively, or the consummation of the transactions contemplated herein or therein.

(c) **Governmental Consents.** Assuming the accuracy of the representations and warranties set forth in Section 6.5(b), no Consent of any Governmental Entity is required to be obtained or made by Buyer or any MergerSub in connection with the execution, delivery and performance of this Agreement or any other Transaction Document by Buyer or the MergerSubs or the consummation of the transactions contemplated herein or therein.

7.4 **Brokers' and Finders' Fees.** Neither Buyer nor any MergerSub has incurred, nor will either Buyer or any MergerSub incur, directly or indirectly, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Agreement or any other Transaction Document to which Buyer or any MergerSub is a party or any transaction contemplated herein or therein.

7.5 **Valid Issuance of Buyer Common Stock.** The Buyer Common Stock being issued to the TopCo Sellers as a portion of the Merger Consideration, when issued and delivered in accordance with the terms of this Agreement, (a) will be duly and validly issued, fully paid and nonassessable and (b) upon the date of issuance will be free of restrictions on transfer other than restrictions on transfer that are (i) imposed by or under (x) this Agreement, (y) Applicable Laws or (z) a Person other than Buyer, or (ii) otherwise outside of Buyer's control.

7.6 **No Prior Operation of MergerSub.** Each of the MergerSubs was formed solely for the purpose of effecting the Merger and, as of immediately prior to the Effective Time, has no assets or liabilities other than as contemplated by or accrued in connection with this Agreement. None of the MergerSubs has engaged in any business activities or conducted any operations other than in connection with the transactions contemplated by this Agreement.

7.7 **Solvency.** Buyer has sufficient capital to deliver the aggregate cash consideration contemplated by this Agreement to be delivered to the TopCo Sellers.

7.8 **SEC Reports.** Since January 1, 2017, Buyer has filed or furnished, as applicable, on a timely basis all required forms, reports and documents required to be filed by Buyer with the SEC (such required forms, reports and documents since such date, the "**SEC Reports**"), and all such SEC Reports, including the footnotes thereto, have been prepared in accordance with GAAP consistently applied through the periods indicated. The consolidated balance sheets of Buyer contained in the SEC Reports fairly present, in all material respects, the financial condition of Buyer and its Subsidiaries as of the respective dates thereof, and the related statements of income and cash flows fairly present, in all material respects, the results of operations of Buyer and its Subsidiaries for the respective periods indicated. Each SEC Report filed by Buyer was, at the time of its filing, in compliance in all material respects with the applicable requirements of the Exchange Act and any rules and regulations promulgated thereunder applicable to such SEC Report. As of their respective dates (or, if amended, as of the date of such amendment), the SEC Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

7.9 **Exclusive Representations.** Each of Buyer and each MergerSub acknowledges and agrees that, except as set forth in Article VI hereof, no other representations or warranties have been made to Buyer, any MergerSub or any of their respective officers, directors, managers or stockholders, or any agent, employee, representative or any affiliate thereof relating to the business, operations or financial condition of TopCo or the TopCo Capital Stock, and that in entering into the transactions contemplated by this Agreement and the other Transaction Documents, none of Buyer nor any MergerSub is relying upon information other than that contained in this Agreement and the results of such parties' own independent investigation.

ARTICLE VIII

ADDITIONAL AGREEMENTS AND COVENANTS OF TOPCO

8.1 Certain Tax Matters.

(a) **Transfer Taxes.** Buyer, on the one hand, and the TopCo Sellers, on the other (severally based on their respective Pro Rata Portion), shall be equally responsible for and shall each pay one half of all stock transfer Taxes, real property transfer or mortgage Taxes, sales Taxes, documentary stamp Taxes, recording charges and other similar Taxes, if any, arising from the transactions contemplated by this Agreement (collectively, "**Transfer Taxes**"). The Party primarily responsible under Applicable Laws shall prepare and file, and each Party shall fully cooperate with each other Party with respect to the preparation and filing of, any Tax Returns and other filings relating to any Transfer Taxes as may be

required.

(b) Preparation of Tax Returns.

(i) The Sellers' Representative shall timely prepare, or shall cause to be prepared, all income Tax Returns of TopCo with respect to any Pre-Closing Tax Period that are filed after the Closing Date (the "**Seller Prepared Tax Returns**"). All such Seller Prepared Tax Returns shall be prepared at the cost and expense of the Sellers' Representative (for the benefit of the TopCo Sellers) and in a manner consistent with past practice and this Agreement, except as otherwise required by Applicable Laws. The Sellers' Representative shall deliver a draft of such Seller Prepared Tax Returns (together with any related workpapers, formulary apportionment calculations and supporting materials) to Buyer for its review and comment not less than thirty (30) days prior to the date on which such Seller Prepared Tax Returns are due to be filed (taking into account any applicable extensions). Within fifteen (15) days following Buyer's receipt of any Seller Prepared Tax Return, Buyer shall notify the Sellers' Representative in writing with any comments to such Seller Prepared Tax Return. The Sellers' Representative shall consider any such reasonable comments of Buyer with respect to such Seller Prepared Tax Returns in good faith and Buyer shall file or cause to be filed such Seller Prepared Tax Return.

(ii) Buyer shall timely prepare and file, or shall cause to be prepared and filed, all Tax Returns of TopCo for the Pre-Closing Tax Periods and Straddle Periods due after the Closing Date that are not Seller Prepared Tax Returns (the "**Buyer Prepared Tax Returns**"). The cost and expense of such preparation and filing with respect to Buyer Prepared Tax Returns for Pre-Closing Tax Periods shall be borne by the Sellers' Representative (for the benefit of the TopCo Sellers) and the cost and expense of such preparation and filing with respect to Buyer Prepared Tax Returns for Straddle Periods shall be equitably apportioned between Buyer, on the one hand, and the Sellers' Representative (for the benefit of the TopCo Sellers), on the other hand, based on the number of days in such Straddle Period occurring prior to or on the Closing Date and the number of days in such Straddle Period occurring after the Closing Date. Schedule 8.1(b) sets forth a complete and correct list of the Buyer Prepared Tax Returns. All Buyer Prepared Tax Returns shall be prepared in a manner consistent with past practice and this Agreement, unless otherwise required by Applicable Laws. Buyer shall deliver a draft of any income or other material Buyer Prepared Tax Returns to the Sellers' Representative for its review and comment as soon as reasonably practicable (which, in the case of income Tax Returns, shall be not less than thirty (30) days) prior to the date on which such Buyer Prepared Tax Returns are due to be filed (taking into account any applicable extensions). As soon as reasonably practicable (which, in the case of income Tax Returns, shall be within fifteen (15) days) following the Sellers' Representative's receipt of any such Buyer Prepared Tax Return, the Sellers' Representative shall notify Buyer in writing with any comments to such Buyer Prepared Tax Return. To the extent such comments relate to any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Period, Buyer shall consider such reasonable comments of the Sellers' Representative with respect to such Buyer Prepared Tax Returns in good faith. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, Buyer shall not be required to provide any U.S. federal consolidated income Tax Return (or any combined, consolidated, unified or similar income Tax Return) required to be filed by Buyer or any of its Affiliates as the "common parent" of an "affiliated group" (within the meaning of Section 1504 of the Code or any similar or analogous provision of applicable income Tax law), or any portion thereof, in any form or manner whatsoever to any other Person pursuant to this Agreement, and in no event shall the Sellers' Representative have any right to review or comment on any such Tax Return or any position taken therein.

(c) Straddle Period. In the case of any Straddle Period, the amount of any Taxes of TopCo not based upon or measured by income, activities, events, gain, receipts, proceeds, profits or similar items for the portion of such Straddle Period ending on and including the Closing Date will be deemed to be the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of the Straddle Period ending on and including the Closing Date and the denominator of which is the total number of days in such Straddle Period. The amount of any other Taxes for a Straddle Period that relate to the portion of such Straddle Period ending on and including the Closing Date will be determined based on an interim closing of the books as of the end of the day on the Closing Date (and for such purpose the taxable period of any partnership will be deemed to end at such time); provided, however, that any item determined on an annual or periodic basis (such as deductions for depreciation or real estate Taxes), other than with respect to property placed in service after the Closing, shall be apportioned on a daily basis; provided, further, that any deductions allowed to be claimed by TopCo in respect of any TopCo Transaction Expenses shall be claimed as a deduction by TopCo for the portion of the Straddle Period ending on and including the Closing Date to the extent permitted by Applicable Laws.

(d) Amended Returns; Tax Elections. Except as required by Applicable Laws or as set forth on Schedule 8.1(d), Buyer will not, and will cause the Surviving Corporation not to, without the prior written consent of the Sellers' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), (i) make any amendment of any Tax Return of TopCo to the extent such Tax Return relates to or includes any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Period or (ii) make any election that has retroactive effect to any Pre-Closing Tax Period or the portion of any Straddle Period ending on and including the Closing Date.

(e) Certain Tax Proceedings. In the event Buyer or any Affiliate of Buyer (including after the Closing the Surviving Corporation) receives written notice of any Tax Proceeding with respect to any Pre-Closing Tax Period of TopCo that would reasonably be expected to result in an Indemnified TopCo Tax Loss for which Buyer is entitled to indemnification under Section 9.1(a), Buyer shall inform the Sellers' Representative of such Tax Proceeding as soon as possible but in any event within ten (10) Business Days after such receipt. Buyer shall afford the Sellers' Representative the opportunity to control the conduct of such Tax Proceeding relating to income Taxes (a "**Seller-Controlled Tax Proceeding**"), with counsel of its own choosing (and at the Sellers' Representative's sole cost and expense (for the benefit of the TopCo Sellers)), and to settle or otherwise resolve such Seller-Controlled Tax Proceeding in such manner as the Sellers' Representative may deem appropriate; provided, that the Sellers' Representative may not settle such Seller-Controlled Tax Proceeding without Buyer's written consent (which consent shall not be unreasonably withheld, delayed or conditioned). The Sellers' Representative shall keep Buyer reasonably informed of any material developments and

events in such Seller-Controlled Tax Proceeding (including by promptly forwarding copies to Buyer of any related correspondence) and shall permit Buyer to participate in such Seller-Controlled Tax Proceeding and shall consult in good faith with Buyer in connection with the defense or prosecution of any such Seller-Controlled Tax Proceeding. Buyer shall control the contest or resolution of any Tax Proceeding relating to any Pre-Closing Tax Period of TopCo (if such Tax Proceeding is not a Seller-Controlled Tax Proceeding) and any Straddle Periods of TopCo (any such Tax Proceeding, a “**Buyer-Controlled Tax Proceeding**”); provided, that Buyer shall obtain the prior written consent of the Sellers’ Representative (which consent shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of a Buyer-Controlled Tax Proceeding or ceasing to defend such Buyer-Controlled Tax Proceeding if such settlement or cessation would reasonably be expected to give rise to Indemnified TopCo Tax Loss for which Buyer is entitled to indemnification under Section 9.1(a); and, provided further, that the Sellers’ Representative shall be entitled to participate in the defense of such Buyer-Controlled Tax Proceeding and to employ counsel of its choice for such purpose (the fees and expenses of which separate counsel shall be borne solely by the Sellers’ Representative (for the benefit of the TopCo Sellers)) if such Buyer-Controlled Tax Proceeding would reasonably be expected to give rise to an Indemnified TopCo Tax Loss for which Buyer is entitled to indemnification under Section 9.1(a). Buyer shall keep the Sellers’ Representative informed of all material developments and events relating to any Buyer-Controlled Tax Proceeding (including promptly forwarding copies to the Sellers’ Representative of any related correspondence), and shall consult in good faith with the Sellers’ Representative or the Sellers’ Representative’s counsel in connection with the defense or prosecution of any such Buyer-Controlled Tax Proceeding, in each case, if such Buyer-Controlled Tax Proceeding would reasonably be expected to give rise to an Indemnified TopCo Tax Loss for which Buyer is entitled to indemnification under Section 9.1(a). For the avoidance of doubt, this Section 8.1(e) shall apply, rather than Section 9.2 to any Seller-Controlled Tax Proceeding or Buyer-Controlled Tax Proceeding to the extent of any conflict between such Sections.

(f) No Code Section 338 or Section 336(e) Election. Buyer shall not make, or permit to be made (including by any designee(s) of Buyer), any election under Section 338 or Section 336(e) of the Code or any similar provision of state, local, or non-U.S. Tax law with respect to the transactions contemplated by this Agreement.

(g) Cooperation and Tax Record Retention. Buyer and any designee(s) of Buyer, as applicable shall use commercially reasonable efforts to promptly furnish to the Sellers’ Representative (at the Sellers’ Representative’s sole cost and expense for reasonable out-of-pocket third party expenses for the benefit of the Sellers’ Representative) such information as may be reasonably requested with respect to Tax matters relating to TopCo for any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Periods, including by providing access to relevant books and records and making employees available to provide additional information and explanation of any materials provided hereunder. Notwithstanding anything else contained herein to the contrary, Buyer and any designee(s) of Buyer, as applicable, shall retain all books and records with respect to Tax matters pertinent to TopCo relating to any Pre-Closing Tax Period or the pre-Closing portion of any Straddle Periods until at least thirty (30) days after the expiration of the statute of limitations (taking into account any extensions thereof) applicable to such Taxable periods, and shall abide by all record retention agreements entered into with any Taxing Authority.

(h) Acknowledgement. Notwithstanding anything to the contrary herein, Buyer acknowledges and agrees that neither TopCo nor any TopCo Seller is making any representation or warranty, and is not providing any other assurance, with respect to the amount of any Tax Attributes of the TopCo or the Company, or with respect to the availability after the Closing of any Tax Attributes of TopCo or the Company.

(i) Designees. Buyer shall cause any designee(s) of Buyer to meet its obligations under this Section 8.1.

8.2 Indemnification of Officers and Directors of TopCo; Insurance

(a) General. Buyer shall, or shall cause the Surviving Corporation to, continue to provide, fulfill and honor all rights to indemnification or exculpation existing in favor of a manager, officer, employee or other Affiliate of TopCo (including rights relating to advancement of expenses and indemnification rights to which such persons are entitled), as provided in the TopCo Charter Documents, in each case, as in effect prior to the Mergers (and as permitted by Applicable Law), and relating to actions or events through the Effective Time, and such rights to indemnification shall survive the Mergers and other transactions contemplated herein and shall continue in full force and effect, without any amendment thereto for a period of six years following the Closing.

(b) Rights of Enforcement. The provisions of this Section 8.2 are intended to be for the benefit of, and shall be enforceable by, each Affiliate of TopCo, his or her heirs and his or her personal representatives and shall survive the Mergers and be binding upon the successors and assigns of Buyer and TopCo.

8.3 Further Assurances. Upon the request of Buyer, each of the other Parties hereto will do, execute, acknowledge and deliver, without additional consideration (other than reimbursement of any out-of-pocket expenses) all such further acts, assurances, deeds, assignments, transfers, conveyances and other instruments and papers as may be reasonably requested by any other Party to carry out the transactions contemplated by this Agreement and any applicable Transaction Document.

8.4 Public Announcements. TopCo and Buyer have agreed upon the form of a joint press release announcing the execution of this Agreement to be released immediately following the Closing. Following the Closing, except as required to comply with Applicable Law, (i) no TopCo Seller or the Sellers’ Representative shall issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby without the express prior written approval of Buyer, and (ii) none of Buyer, the MergerSubs or the Surviving Corporation will issue any press release or otherwise make any public statement or filing that contains specific information naming any TopCo Seller

or disclosing the specific ownership or proceeds received by such TopCo Seller without the express prior written approval of the TopCo Seller so impacted.

8.5 **Fees and Expenses.** Except as otherwise provided herein, each Party will pay its own respective financial advisory, legal, accounting and other expenses incurred by it or for its benefit in connection with the preparation and execution of this Agreement, the compliance herewith and the transactions contemplated by this Agreement.

8.6 **Attorney Communications; Waiver of Conflicts Regarding Representation.**

(a) **Acknowledgement; Attorney Work Product.** Buyer acknowledges and agrees that Davis & Gilbert LLP has been providing legal advice to the Company and TopCo in connection with this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby and that such advice constitutes attorney/client privileged communications or attorney work product (collectively, the “**Attorney Work Product**”). Buyer shall not knowingly review any such Attorney Work Product. Buyer hereby waives the right to present any Attorney Work Product as evidence in any lawsuit or proceeding in which any Company Seller, TopCo Seller or the Sellers’ Representative (on their behalf) is adverse to Buyer (or any Buyer Indemnified Party) in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby and thereby.

(b) **Conflicts Waiver.** Recognizing that Davis & Gilbert LLP has been providing legal advice to the Company and TopCo, and that Davis & Gilbert LLP may act as legal counsel to certain of the Company Sellers and TopCo Sellers after the Closing, (i) TopCo hereby waives, on their own behalf and agree to cause their Affiliates to waive, any conflicts that may arise in connection with Davis & Gilbert LLP representing the Company Sellers and/or TopCo Sellers after the Closing and (ii) TopCo hereby agrees that, in the event that a dispute arises between or among any of Buyer or any of its Affiliates (including TopCo and, following the Closing, the Surviving Corporation) and any Company Seller and/or TopCo Seller, each of the Parties agree that Davis & Gilbert LLP may represent such Company Seller and/or TopCo Seller in such dispute even though the interests of such Company Seller and/or TopCo Seller may be directly adverse to Buyer or any of its Affiliates (including TopCo and, following the Closing, the Surviving Corporation), and even though Davis & Gilbert LLP may have represented the Company and/or TopCo in a matter substantially related to such dispute, Buyer and TopCo waive, on behalf of themselves, the Company and each of their respective Affiliates, any conflict of interest in connection with such representation by Davis & Gilbert LLP. Buyer acknowledges, on behalf of itself, TopCo and the Company, that each has had the opportunity to discuss and obtain adequate information concerning the significance and material risks of, and reasonable available alternatives to, the waivers, permissions and other provisions of this Agreement, including the opportunity to consult with counsel other than Davis & Gilbert LLP. This Section 8.6 is for the benefit of Davis & Gilbert LLP (including their respective partners and employees), which are intended third-party beneficiaries of this Section 8.6.

8.7 **General Release.** Effective at the Closing, each TopCo Seller, on his or her own behalf and on behalf of his or her respective heirs, family members, executors, agents, and assigns (“**Releasors**”), hereby and forever releases Buyer, the Company and TopCo and their past, present and future officers, agents, managers, employees, investors, stockholders, administrators, affiliates, parents, predecessor and successor corporations and assigns (collectively, the “**Releasees**”) from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that such Releasors may possess against any of the Releasees arising from any omissions, acts, facts, or damages relating to any matter involving such TopCo Seller’s relationship with TopCo occurring prior to the Closing, including the right to any payments in respect of any TopCo Capital Stock held thereby as of immediately prior to the Closing, other than the payments, in the amounts and subject to the terms, explicitly set forth in this Agreement or, to the extent applicable, the Company Purchase Agreement (collectively, but excluding the Excluded Matters described below, the “**Released Matters**”). Such Releasors agree that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. The foregoing notwithstanding, this release does not extend to any rights of such Releasor (a) under the explicit terms of this Agreement or any other Transaction Document, (b) for any accrued and unpaid salary and other unpaid employee benefits and reimbursements that have vested or accrued prior to the Closing, including any vacation pay or paid time off, (c) to any transaction bonuses payable pursuant to a written agreement (which for the avoidance of doubt constitute TopCo Transaction Expenses or Company Transaction Expenses, as the case may be, hereunder), in each case owed by the Company or TopCo, (d) to any Releasor’s rights to indemnification or advancement of expenses (whether under the TopCo Charter Documents, insurance policy or other Contract of TopCo), (e) with respect any claims that cannot be released as a matter of law or (f) that arise after the Effective Time (collectively, the “**Excluded Matters**”). Each of such Releasors, having consulted with counsel, hereby agrees and acknowledges that he, she or it is aware that applicable laws in such Releasor’s state of domicile may provide that such Releasor has the right not to release existing claims of which such Releasor is not aware unless such Releasor voluntarily chooses to waive this right and that such Releasor nevertheless hereby voluntarily waives such right and elects to assume all risks for all Released Matters that now exist in his, her or its favor, known or unknown. Each TopCo Seller represents that he or she has no lawsuits, claims, or actions pending in his or her name, or on behalf of any other Person, against Buyer, the Company or TopCo or any of the other Releasees with respect to the Released Matters, and that he or she does not intend to bring any claims on his or her own behalf or on behalf of any other Person against TopCo or any of the other Releasees with respect to the Released Matters.

**ARTICLE IX
INDEMNIFICATION**

9.1 **Indemnification.**

(a) **Indemnification of the Buyer Indemnified Parties for Buyer Indemnified Losses.** Subject to the provisions of this Article IX, from and

after the Closing, each of the TopCo Sellers, severally agrees, based on their respective Indemnity Pro Rata Portion, to indemnify and hold harmless, the Buyer Indemnified Parties from and against (x) the Applicable Percentage of any and all Buyer Indemnified Company Losses incurred by any Buyer Indemnified Party and (y) 100% of any and all Buyer Indemnified TopCo Losses incurred by any Buyer Indemnified Party (clauses (x) and (y) the “**Buyer Indemnified Losses**”). The Sellers’ Representative shall act on behalf of the TopCo Sellers, and the Buyer is hereby authorized to rely on determinations or communications by the Sellers’ Representative on behalf of the TopCo Sellers, in connection with the indemnification provided under this Section 9.1(a).

(b) Materiality Scrape. For purposes of determining the indemnification obligations under this Section 9.1, except for the Specified Instances (defined below), all references in this Agreement and the Company Purchase Agreement to the word “material,” “material respects,” “material adverse effect” and “Material Adverse Effect” (and similar materiality qualifications) shall be disregarded for purposes of determining (i) whether there has been a breach or failure of a representation or warranty for which a Buyer Indemnified Party is entitled to indemnification under this Agreement and (ii) the amount of any Loss that is the subject of indemnification hereunder. “**Specified Instances**” means the use of the words “material” and “all material respects” as such terms are used in Section 3.5 of the Company Purchase Agreement and Section 6.5(b) of this Agreement. It is agreed that the provisions of this Section 9.1(b) shall not change the titles of or change what otherwise constitutes a “Material Customer,” “Material Supplier” and “Material Contract”.

9.2 Defense of Third Party Claims.

(a) Indemnified Company Loss. In the event a Buyer Indemnified Party incurs a Buyer Indemnified Company Loss for which such Buyer Indemnified Party seeks indemnification pursuant to this Article IX, such Buyer Indemnified Party shall simultaneously seek indemnification under the Company Purchase Agreement. The provisions of Section 7.2 of the Company Purchase Agreement are incorporated herein by reference, and made a part of this Agreement.

(b) Indemnified TopCo Loss.

(i) If any third party notifies any Buyer Indemnified Party with respect to any matter (a “**Third-Party Action**”) that may give rise to a claim for indemnification against the TopCo Sellers under this Article IX with respect to a Buyer Indemnified TopCo Loss, then such Buyer Indemnified Party shall promptly notify the Sellers’ Representative on behalf of the TopCo Sellers thereof in writing (the “**Third-Party Claim Notice**”); provided, that no failure or delay on the part of the Buyer Indemnified Party to so notify the Sellers’ Representative shall limit any of the obligations of the TopCo Sellers under Article IX, except to the extent that the TopCo Sellers have been materially prejudiced thereby. The Third-Party Claim Notice shall include a statement setting forth in reasonable detail the nature of the claim and, if ascertainable, the amount of the claim. The Sellers’ Representative shall be entitled to control the defense of such Third-Party Action if it notifies the Buyer Indemnified Party of its election within 30 days after it receives a Third Party Claim Notice from the Buyer Indemnified Party.

(ii) The Buyer Indemnified Party and the Sellers’ Representative (on behalf of the TopCo Sellers) shall cooperate in the defense or prosecution of the Third-Party Action and shall furnish such records, information and testimony and shall attend such conferences, discovery proceedings and trials as may be reasonably requested in connection with such Third-Party Action; provided, that it shall not be required to grant access or furnish information to the extent that such information is subject to an attorney/client or attorney work product privilege; and provided further, that the Buyer Indemnified Party and the Sellers’ Representative and/or their counsel shall use their commercially reasonable efforts to enter into such joint defense agreements or other arrangements, as appropriate, so as to allow for such disclosure in a manner that does not result in the loss of attorney/client or attorney work product privilege. Each Party shall act in good faith and in a commercially reasonable manner in addressing any adverse consequences that may result in the basis for an indemnifiable claim.

(iii) In the event that the Sellers’ Representative (on behalf of the TopCo Sellers) elects not to defend the Third-Party Action, fails to timely respond to a Third-Party Claim Notice or otherwise fails to defend the Third-Party Action in good faith, then the Buyer Indemnified Party shall have the right to defend such Third-Party Action in such manner as the Buyer Indemnified Party deems appropriate. In addition, in the event the Third-Party Action involves a Special Claim, then Buyer shall have the right to control such claim at its sole election and, if Buyer so elects, the Sellers’ Representative shall not be entitled to control, but may participate in the defense or settlement of, such Special Claim.

(iv) If within 30 days after a Third-Party Claim Notice is delivered to the Sellers’ Representative, the Sellers’ Representative does not notify the Buyer Indemnified Party that it disputes such claim, the amount of such claim shall be conclusively deemed a liability of the TopCo Sellers hereunder.

(v) In the event that, within 30 days after a Third-Party Claim Notice is delivered to the Sellers’ Representative, the Sellers’ Representative disputes the claim for indemnification against the TopCo Sellers with respect to such Third-Party Action, the Buyer Indemnified Party and the Sellers’ Representative shall attempt in good faith for 30 days to agree upon the rights of the respective parties with respect to such claim. If the Buyer Indemnified Party and the Sellers’ Representative should so agree, a memorandum setting forth such agreement and the agreed upon dollar amount of liability for such claim of the TopCo Sellers shall be prepared and signed by (or on behalf of) the parties. If the parties do not agree, each of the Buyer Indemnified Party and the Sellers’ Representative may take such actions and assert such rights, remedies and defenses as may then be available to it under the terms of this Agreement.

(vi) In the event a Buyer Indemnified Party has the right to defend and control a Third-Party Action in accordance with Section 9.2(b)(iii) and the Buyer Indemnified Party proposes to settle or compromise such Third-Party Action, the Buyer Indemnified Party shall

provide notice to that effect (together with a statement describing in reasonable detail the terms and conditions of such settlement or compromise and including a copy of the proposed settlement agreement) to the Sellers' Representative, which notice shall be provided a reasonable time prior to the proposed time for effecting such settlement or compromise. Prior to settling or compromising any such Third-Party Action, the Buyer Indemnified Party shall obtain the written consent of the Sellers' Representative (on behalf of the TopCo Sellers), which consent shall not be unreasonably withheld, conditioned or delayed. If the Buyer Indemnified Party effects any such settlement or compromise of such Third-Party Action with the written consent of the Sellers' Representative, the amount payable pursuant to such settlement or compromise plus any additional related indemnifiable Losses, if any, specified in such consent shall, be payable by or on behalf of the TopCo Sellers, subject to the limitations and other provisions set forth in this Article IX. If a Buyer Indemnified Party effects any such settlement or compromise without the consent of the Sellers' Representative, and such consent has not been unreasonably withheld, conditioned or delayed, then the dollar amount of the settlement or compromise shall not be dispositive of the dollar amount of the TopCo Sellers' obligations with respect to such Third-Party Action.

9.3 Direct Claims.

(a) Indemnified Company Loss. The provisions of Section 7.3 of the Company Purchase Agreement are incorporated herein by reference, and made a part of this Agreement.

(b) Indemnified TopCo Loss. In any case in which a Buyer Indemnified Party seeks indemnification hereunder with respect to a Buyer Indemnified TopCo Loss which is not subject to Section 9.2, the Buyer Indemnified Party will notify the Sellers' Representative in writing of any Losses which such Buyer Indemnified Party claims are subject to indemnification under the terms hereof. Such notification must state in reasonable detail, to the extent such information is reasonably available, the nature, amount and circumstances of such claim, and be accompanied by any other documentation or information reasonably required by the Sellers' Representative to evaluate the claim. Subject to the limitations set forth in this Article IX, if the Sellers' Representative does not notify the Buyer Indemnified Party in writing within thirty (30) days after receipt of the written notification that the Sellers' Representative disputes all or any portion of such claim, the amount of such undisputed claim shall be conclusively deemed a liability of the TopCo Sellers hereunder (subject to the limitations on liability set forth in Section 9.5 hereof). In case an objection is made in writing by the Sellers' Representative within such thirty (30)-day period, the Buyer Indemnified Party shall have thirty (30) days to respond in a written statement to the objection. If the Buyer Indemnified Party so responds, or the time to respond has expired, and there remains a dispute as to any claim, the Buyer Indemnified Party and the Sellers' Representative shall attempt in good faith for thirty (30) days to agree upon the rights of the respective parties with respect to each such claim. If the Buyer Indemnified Party and the Sellers' Representative do not agree within such thirty (30)-day period, each of the Buyer Indemnified Party and the Sellers' Representative may take such actions and assert such rights, remedies and defenses as may then be available to it under the terms of this Agreement.

9.4 No Circular Recovery. The Sellers' Representative hereby agrees that it will not, and no TopCo Seller shall, make any claim for indemnification or advancement of expenses against Buyer by reason of the fact that such TopCo Seller was a controlling person, director, officer, member, stockholder, unit holder employee, agent or representative of TopCo (whether such claim is pursuant to any statute, TopCo Charter Document, Contract or otherwise) with respect to any claim brought by a Buyer Indemnified Party in accordance with this Agreement.

9.5 Limits on Liability.

(a) Termination of Indemnification Obligations of the TopCo Sellers. The obligation of the TopCo Sellers to indemnify under Section 9.1 (a) for Indemnified Company Representation Losses and Indemnified TopCo Representation Losses shall terminate on the second anniversary of the Closing Date, except (x) as to matters as to which the Buyer Indemnified Party has made a good faith claim for indemnification under Section 9.2 or 9.3 hereof on or prior to such date and (y) with respect to any claim for (i) Indemnified Company Representation Losses pertaining to a misrepresentation or a breach of a Company Fundamental Representation and (ii) Indemnified TopCo Representation Losses pertaining to a misrepresentation or a breach of a TopCo Fundamental Representation. The obligation to indemnify referred to in:

(i) the preceding clause (x) shall survive the expiration of such period until such claim for indemnification is finally resolved and any obligations with respect thereto are fully satisfied; and

(ii) the preceding clause (y) shall terminate sixty (60) days after the expiration of the relevant statute of limitations (taking into account any extensions or waivers thereof), except as to matters as to which any Buyer Indemnified Party has made a claim for indemnification on or prior to such date, in which case the right to indemnification with respect thereto shall survive the expiration of any such period until such claim for indemnification is finally resolved and any obligations with respect thereto are fully satisfied.

For avoidance of doubt, all covenants and agreements of the Parties set forth in this Agreement shall survive until fully performed in accordance with their respective terms.

(b) Minimum Claim Amount; Indemnity Threshold. The Buyer Indemnified Parties shall not be entitled to be indemnified for any Indemnified Company Representation Losses or Indemnified TopCo Representation Losses as to any individual indemnification claim with respect to such Losses if the aggregate amount of all Losses incurred by the Buyer Indemnified Parties with respect to any such claim does not exceed \$10,000 (the "**Minimum Claim Amount**"). For purposes of illustration and not limitation, in determining whether the Minimum Claim Amount has been met, an individual Loss occurring or arising out of a fact pattern shall be aggregated with all other individual Losses arising out of identical or substantially similar fact patterns. The Buyer Indemnified Parties shall not be entitled to be indemnified for any Indemnified Company Representation Losses or Indemnified TopCo Representation Losses unless and until the aggregate amount of all Indemnified Company Representation Losses and Indemnified TopCo Representation Losses exceed \$187,500 (the "**Threshold**"); provided, however, that after the Threshold has been met, the Buyer

Indemnified Parties shall be entitled to be indemnified for all Indemnified Company Representation Losses and Indemnified TopCo Representation Losses including the amount of the Threshold. The Parties agree that the limitations set forth in this Section 9.5(b) shall not apply to any breach of a Company Fundamental Representation or TopCo Fundamental Representation or Indemnified Company Representation Losses or Indemnified TopCo Representation Losses that arise as a result of Fraud.

(c) Maximum Liability. Except in the case of Fraud, the maximum aggregate liability of the TopCo Sellers under this Agreement shall be an amount equal to 100% of the total Merger Consideration paid or payable by Buyer to the TopCo Sellers pursuant to Section 4.3 and each TopCo Seller's individual liability for such claims shall not exceed such TopCo Seller's Individual Merger Consideration.

(d) Exclusive Remedy for Representation Losses is the Holdback Consideration. Buyer agrees that the Holdback Consideration has been withheld and held back by Buyer to support the payment of indemnification claims by the Buyer Indemnified Parties hereunder following the Closing. Buyer, on behalf of itself and the other Buyer Indemnified Parties, acknowledges and agrees that except with respect to Fraud and breaches by the Company of the Company Fundamental Representations or breaches by TopCo of the TopCo Fundamental Representations, recovery from the Holdback Consideration shall be the sole and exclusive remedy for Indemnified Company Representation Losses and Indemnified TopCo Representation Losses hereunder. Except with respect to Fraud and breaches by the Company of the Company Fundamental Representations or breaches by TopCo of the TopCo Fundamental Representations, any deduction made from the Holdback Consideration in respect of an Indemnified Company Representation Loss or an Indemnified TopCo Representation Loss incurred by a Buyer Indemnified Party pursuant to this Article IX shall constitute full satisfaction of any obligation of each applicable TopCo Seller to make such payment to the Buyer Indemnified Party.

(e) Clarification of Term "Losses". Except in the case of Fraud, the Parties acknowledge and agree that in no event shall the TopCo Sellers be liable to a Buyer Indemnified Party for any punitive, exemplary or special damages unless such damages were actually assessed against the Buyer Indemnified Party in connection with a Third-Party Action. In addition, the term "**Losses**" as used in this Agreement shall only include consequential damages, damages for lost profits or any similar measure of damages if (i) the Buyer Indemnified Party seeking such damages is able to prove all elements necessary for recovery of such damages under Delaware law, or (ii) if such damages were actually assessed against the Buyer Indemnified Party in connection with a Third-Party Action.

(f) Insurance Proceeds. The amount of any Loss for which indemnification is provided under this Article IX shall be net of any amounts actually recovered by a Buyer Indemnified Party under insurance policies with respect to such Loss, less such Buyer Indemnified Party's out-of-pocket costs of obtaining or receiving such recovery, including any deductible paid in obtaining such proceeds and increased costs of insurance related to the making of such claim, including retrospective premium adjustments and experience based premium adjustments. In the event that an insurance recovery is made by any Buyer Indemnified Party with respect to any Losses for which such Person has been indemnified hereunder and has received funds in the amount of the Losses or portion thereof, then a refund equal to the aggregate amount of the insurance recovery (less such Buyer Indemnified Party's reasonable out-of-pocket costs of receiving such recovery, including any deductible paid in obtaining such proceeds and increased costs of insurance related to the making of such claim), but in no event in excess of the amount of such indemnification payment, shall be made promptly to the TopCo Sellers (in accordance with their respective Indemnity Pro Rata Portion). In addition, in the event Buyer obtains actual knowledge that a Buyer Indemnified Party is entitled to recovery under the E&O Tail Policy and/or the D&O Tail Policy (in each case, as defined under the Company Purchase Agreement), Buyer shall use commercially reasonable efforts to submit to the relevant insurance provider a corresponding claim for recovery.

(g) Duplication of Recovery. No Buyer Indemnified Party shall have the right to indemnification hereunder for any amount that was already included in the Company Net Working Capital Adjustment, the Company Closing Net Debt Amount, the Purchase Price Overpayment (each as defined in the Company Purchase Agreement) amounts paid in accordance with the Company Purchase Agreement or the Merger Consideration Overpayment amounts paid in accordance with this Agreement.

9.6 Procedures for Claims; Payment of Holdback Consideration

(a) Claims. Buyer shall be entitled to reduce the Holdback Consideration by the amount necessary to satisfy and pay the amount of any Buyer Indemnified Losses with respect to which a Buyer Indemnified Party is entitled to indemnification pursuant to this Article IX by deducting from the Holdback Consideration cash and shares of Buyer Common Stock, in accordance with each TopCo Seller's Indemnity Pro Rata Portion of such Buyer Indemnified Losses. The number of shares of Buyer Common Stock so reduced shall equal the quotient obtained by dividing (i) the amount of such Buyer Indemnified Losses (with respect to the Buyer Common Stock portion of the Holdback Consideration to be reduced) by (ii) the Issue Price as of the Closing Date, if such reduction is with respect to the 1st Anniversary Holdback Shares, or the Initial Release Date, if such reduction is with respect to the 2nd Anniversary Holdback Shares.

(b) Distributions. The Holdback Consideration shall be distributed in accordance with the provisions of Section 4.5 herein.

9.7 Exclusive Remedy Each Party acknowledges and agrees that the indemnification provisions of this Article IX and the adjustments set forth in Section 4.4 shall be the sole and exclusive remedies of the Buyer Indemnified Parties under this Agreement, except for (i) claims arising out of Fraud and (ii) injunctive relief or specific performance and other equitable remedies.

9.8 Acknowledgement of Sellers' Representative. The Parties acknowledge and agree that any Buyer Indemnified Party shall only deal with the Sellers' Representative with respect to an indemnification claim made pursuant to Section 9.1(a) and the TopCo Sellers will be bound by any

action or agreement of the Sellers' Representative made on their behalf with respect to an indemnification claim made pursuant to Section 9.1(a).

9.9 **Tax Treatment of Indemnification Payments.** Any indemnity payments by the TopCo Sellers to a Buyer Indemnified Party under this Article IX shall be treated by the Parties for Tax purposes as an adjustment to the Merger Consideration.

**ARTICLE X
MISCELLANEOUS**

10.1 **Notices.** Any notice, request, demand, claim or other communication required or permitted to be delivered, given or otherwise provided under this Agreement must be in writing and must be delivered personally, delivered by nationally recognized overnight courier service, or sent by electronic mail (subject to electronic confirmation of receipt, if requested). Any such notice, request, demand, claim or other communication shall be deemed to have been delivered and given (a) when delivered, if delivered personally, (b) the Business Day after it is deposited with such nationally recognized overnight courier service, if sent for overnight delivery by a nationally recognized overnight courier service, or (c) the day of sending, if sent by facsimile or electronic mail prior to 5:00 p.m. Pacific Time on any Business Day or the next succeeding Business Day if sent by electronic mail after 5:00 p.m. Pacific Time on any Business Day or on any day other than a Business Day, in each case, to the following address, or to such other address or addresses or facsimile number or numbers as such Party may subsequently designate to the other Parties by notice given hereunder:

If to the Sellers' Representative to such Person at:

NP Representative, LLC
25 Robert Pitt Drive, Suite 204
Monsey, NY 10952

with a copy (which shall not constitute notice) to:

Davis & Gilbert LLP
1740 Broadway
New York, New York 10019
Attention: Jason M. Abramson, Esq.

If to Buyer or to the Surviving Corporation, to such Person at:

RealPage, Inc.
2201 Lakeside Blvd.
Richardson, Texas 75082
Facsimile:(972) 820-3052
Attention:Chief Executive Officer

Email: XXXXXXXXXXXX

with a copy (which shall not constitute notice) to:

RealPage, Inc.
2201 Lakeside Blvd.
Richardson, Texas 75082
Facsimile:(972) 820-3052
Attention:Chief Legal Officer
Email: XXXXXXXXXXXX

and

Wilson Sonsini Goodrich & Rosati, P.C.
900 South Capital of Texas Highway
Las Cimas IV, Fifth Floor
Austin, Texas 78746-5546
Attention:Robert Suffoletta, Esq.
Facsimile:512.338.5499
Email:XXXXXXXXXX

Each of the Parties may specify a different address or addresses by giving notice in accordance with this Section 10.1 to each of the other Parties.

10.2 Succession and Assignment; No Third-Party Beneficiaries. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, each of which such successors and permitted assigns will be deemed to be a Party for all purposes hereof. No Party may assign, delegate or otherwise transfer either this Agreement or any of its rights, interests or obligations hereunder, without the prior written approval of Buyer and the Sellers' Representative, and any attempt to do so will be null and void *ab initio*. Except as expressly provided herein, this Agreement is for the sole benefit of the Parties and their successors and permitted assignees, and nothing herein expressed or implied will give or be construed to give any Person, other than the Parties and such successors and permitted assignees, any other right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.3 Amendments and Waivers. No amendment or waiver of any provision of this Agreement will be valid and binding unless it is in writing and signed, in the case of an amendment, by Buyer and the Sellers' Representative, or in the case of a waiver, by the Party against whom the waiver is to be effective (with Buyer acting, after the Closing, on behalf of Surviving Corporation). No waiver by any Party of any breach or violation of, default under or inaccuracy in any representation, warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent breach or violation of, default under, or inaccuracy in, any such representation, warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No delay or omission on the part of any Party in exercising any right, power or remedy under this Agreement will operate as a waiver thereof.

10.4 Entire Agreement. This Agreement, together with and any other documents, instruments and certificates explicitly referred to herein, constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, proposals, undertakings, understandings and agreements, whether written or oral, with respect thereto. There are no restrictions, promises, warranties, covenants, or undertakings, other than those expressly provided for herein and therein.

10.5 Counterparts; Facsimile Signature. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute but one and the same instrument. This Agreement will become effective when duly executed and delivered by each Party. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (*i.e.*, by email of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes.

10.6 Provisions Concerning the Sellers' Representative.

(a) Appointment. At the Closing, and without further act of TopCo or any of the TopCo Sellers, the Sellers' Representative is hereby appointed as agent and attorney-in-fact for each of the TopCo Sellers, for and on behalf of the TopCo Sellers, to give and receive notices and communications and to take any and all action on behalf of the TopCo Sellers pursuant to this Agreement, the Stockholder Support Agreements, the Option Cancellation Agreements, Section 6.6 of the Company Purchase Agreement and in connection with the transactions contemplated by this Agreement, as specified herein, except for matters involving a TopCo Seller's individual indemnification obligations to a Buyer Indemnified Party set forth in the Stockholder Support Agreements and the Option Cancellation Agreements. Any vacancy in the position of the Sellers' Representative may be filled by approval of the TopCo Sellers entitled to receive at least a majority of the Merger Consideration Amount to be issued and paid pursuant to the TopCo Sellers at the Closing. No bond will be required of the Sellers' Representative, and the Sellers' Representative will not receive compensation for its, his or her services; provided, that the Sellers' Representative will be entitled to reimbursement of expenses pursuant to Section 10.6(b). Notices or communications to or from the Sellers' Representative will constitute notice to or from each of the TopCo Sellers. Each TopCo Seller, by virtue of the execution and delivery of this Agreement, has (i) agreed that all actions taken by the Sellers' Representative under this Agreement shall be binding upon such TopCo Seller and such TopCo Seller's successors, heirs and permitted assigns as if expressly confirmed and ratified in writing by such TopCo Seller, (ii) waived any and all defenses which may be available to contest, negate or disaffirm the action of the Sellers' Representative taken in good faith under this Agreement, and (iii) granted the Sellers' Representative full power and authority to interpret all the terms and provisions of this Agreement, to consent to any amendment hereof or thereof, and to take all actions otherwise contemplated by this Agreement, in each case on behalf of such TopCo Seller and his or her successors, heirs and permitted assigns. The Sellers' Representative acknowledges that it has carefully read and understands this Agreement and hereby accepts the appointment and designation made hereunder.

(b) Actions of the Sellers' Representative. A decision, act, consent or instruction of the Sellers' Representative (acting in its capacity as the Sellers' Representative as authorized under Section 10.6(a)) will constitute a decision of all of the TopCo Sellers and will be final, conclusive and binding upon each of the TopCo Sellers, and Buyer may rely upon any such decision, act, consent or instruction of the Sellers' Representative as being the decision, act, consent or instruction of each of the TopCo Sellers; provided, however, that any decision, act, consent or instruction of the Sellers' Representative in respect of an individual TopCo Seller's breach (or asserted breach) of any representation, warranty or covenant of such TopCo Seller herein shall not be effective against such TopCo Seller without the prior written consent of such TopCo Seller. Buyer is hereby relieved from any Liability to any Person for any acts done by Buyer in accordance with such decision, act, consent or instruction of the Sellers' Representative. The Sellers' Representative will be entitled to rely on the advice of counsel, public accountants or other independent experts that it reasonably determines to be experienced in the matter at issue, and will not be liable to any TopCo Seller for any action taken or omitted to be taken in good faith based on such advice or that it otherwise reasonably believes are necessary or appropriate under the Agreement. The Sellers' Representative is serving in its capacity as such solely for purposes of administrative convenience, and is not personally liable in such capacity for any of the obligations of any TopCo Seller hereunder, and Buyer agrees that it will not look to the personal assets of Sellers' Representative, acting

in such capacity, for the satisfaction of any obligations to be performed by any of the TopCo Sellers hereunder.

(c) **Sellers' Representative Expense Fund.** The TopCo Sellers Representative Expense Fund Amount will be used solely to pay costs, fees and expenses incurred by the Sellers' Representative for the benefit of the TopCo Sellers pursuant to this Agreement and the Company Purchase Agreement on or after the Closing Date, and will be paid or distributed at the direction of the Sellers' Representative (the "**Sellers' Representative Expense Fund**"). The Sellers' Representative Expense Fund will be held by the Sellers' Representative as agent and for the benefit of the TopCo Sellers in a segregated client account. The Sellers' Representative (on behalf of the TopCo Sellers) will hold these funds in trust. Promptly following the Second Release Date, the Sellers' Representative will distribute the then-remaining balance of the Sellers' Representative Expense Fund (if any) by wire transfer of immediately available funds to the TopCo Sellers, based on their respective Pro Rata Portion. For Tax purposes, the Sellers' Representative Expense Fund shall be treated as having been received and voluntarily set aside by the TopCo Sellers at the time of Closing. Promptly following the appointment of a successor Representative pursuant to Section 10.6(a), the Sellers' Representative will transfer the then-remaining balance of the Sellers' Representative Expense Fund, if any, to the successor Sellers' Representative.

(d) **Reimbursement of Certain Expenses.** In the event that any amount is owed by the Sellers' Representative in respect of any actions it has taken hereunder, whether for fees, expense reimbursement or otherwise, that is in excess of the Sellers' Representative Expense Fund (or after any or all of the Sellers' Representative Expense Fund has been disbursed to the TopCo Sellers), the Sellers' Representative will be entitled to be reimbursed by the TopCo Sellers, severally and not jointly, for the shortfall in accordance with their respective Pro Rata Portion. Each TopCo Seller hereby severally and not jointly, indemnifies the Sellers' Representative for such TopCo Seller's Pro Rata Portion of any costs, fees and expenses incurred by Sellers' Representative in excess of the TopCo Sellers Representative Expense Fund Amount arising out of its serving as the Sellers' Representative hereunder.

10.7 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. In the event that any provision hereof would, under applicable law, be invalid or unenforceable in any respect, each Party intends that such provision will be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable laws.

10.8 Governing Law. THIS AGREEMENT, AND ANY MATTER OR DISPUTE ARISING HEREUNDER OR IN CONNECTION WITH THIS AGREEMENT, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE LAWS OR RULES OF THE STATE OF DELAWARE RELATING TO CONFLICT OF LAWS.

10.9 Resolution of Disputes.

(a) No Party to this Agreement shall institute a proceeding in any court or administrative agency to resolve a dispute between the parties arising out of or related to this Agreement before that party has sought to resolve the dispute through direct negotiation in good faith with the other party.

(b) If the dispute is not resolved within three (3) weeks after a demand for direct negotiation, the Parties shall attempt to resolve the dispute through nonbinding mediation in New Castle County, Delaware, administered by the American Arbitration Association under its commercial mediation rules and procedures then in effect. If the mediator is unable to facilitate a settlement of the dispute within a reasonable period of time (but no more than three (3) weeks), any Party may then seek relief as provided in Section 10.9(c).

(c) Subject to Section 10.9(b), any legal action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby may only be instituted in any state or federal court in New Castle County, Delaware, and each Party waives any objection which such Party may now or hereafter have to the laying of the venue of any such action, suit or proceeding, and irrevocably submits to the jurisdiction of any such court in any such action, suit or proceeding.

(d) Notwithstanding any other provision of this Agreement, including this Section 10.9, each Party shall have the right to at any time apply to any court of competent jurisdiction for preliminary injunctive relief.

10.10 Certain Matters of Construction.

(a) The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

(b) Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, are not intended to be full or accurate descriptions of the content of the Sections or subsections of this Agreement and shall not affect the construction hereof.

(c) Except as otherwise explicitly specified to the contrary herein, (i) the words "hereof," "herein," "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement and reference to a particular

Section of this Agreement shall include all subsections thereof, (ii) references to a Section, Exhibit, Annex or Schedule means a Section of, or Exhibit, Annex or Schedule to this Agreement, unless another agreement is specified, (iii) definitions shall be equally applicable to both the singular and plural forms of the terms defined, and references to the masculine, feminine or neuter gender shall include each other gender, (iv) the word "including" means including without limitation, (v) any reference to "\$" or "dollars" means United States dollars and (vi) references to a particular statute or regulation include all rules and regulations thereunder and any successor statute, rule or regulation, in each case as amended or otherwise modified from time to time.

(d) Unless the context clearly requires otherwise, when used herein "or" shall not be exclusive (*i.e.*, "or" shall mean "and/or").

(e) Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

10.11 Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, THE PARTIES HEREBY WAIVE, AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OF IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION WHATSOEVER BETWEEN OR AMONG THEM RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THAT SUCH ACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

10.12 Specific Enforcement. Each of the Parties agrees that irreparable harm for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that it does not fully and timely perform its obligations under or in connection with this Agreement (including failing to take such actions as are required of it hereunder to consummate this Agreement and the Closing) in accordance with its terms. Each of the Parties acknowledges and agrees that (a) the other Parties shall be entitled to an injunction, specific performance, or other equitable relief, to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, without proof of damages and without posting a bond, this being in addition to any other remedy to which such other Parties are entitled under this Agreement and (b) the right to obtain an injunction, specific performance, or other equitable relief is an integral part of the transactions contemplated by this Agreement and without that right, none of the Parties would have entered into this Agreement. Each Party agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Parties have an adequate remedy at law.

10.13 Limitation on Recourse. Notwithstanding anything to the contrary in this Agreement or otherwise, no claim arising in whole or in part out of or related to this Agreement or the negotiation, interpretation, construction, validity or enforcement of this Agreement (whether sounding in contract, tort, statute or otherwise) shall be brought or maintained by or on behalf of any Party or any of its Affiliates or their respective successors or permitted assigns against any Person not a Party. Without limitation of the foregoing, no claim described in the immediately preceding sentence shall be brought or maintained against any past, present or future officer, director, employee, agent, direct or indirect general or limited partner, manager, management company, direct or indirect member, stockholder, equityholder, or controlling Person, representative or Affiliate, or any heir, executor, administrator, successor or assign of any of the foregoing, of Buyer, TopCo, the Surviving Corporation, the TopCo Sellers or the Sellers' Representative, as applicable (each, a "**Non-Recourse Party**"), and no recourse shall be had against any of them in respect of any such claim, including in connection with any alleged misrepresentation or inaccuracy in or breach of or omission in any of the representations, warranties, covenants or agreements of any Party set forth or contained in this Agreement or any exhibit or schedule hereto or any certificate delivered hereunder.

10.14 Attorney's Fees. If any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees from the non-prevailing party, which fees may be set by the court in the trial of such action, or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement and Plan of Merger as of the date first written above.

REALPAGE, INC.

By: /s/ W. Bryan Hill

Name: W. Bryan Hill

Title: Executive Vice President,
Chief Financial Officer & Treasurer

RP NEWCO XXIII INC.

By: /s/ W. Bryan Hill

Name: W. Bryan Hill

Title: Executive Vice President,
Chief Financial Officer & Treasurer

RP NEWCO XXIV INC.

By: /s/ W. Bryan Hill

Name: W. Bryan Hill

Title: Executive Vice President,
Chief Financial Officer & Treasurer

CLICKPAYSERVICES, INC.

By: /s/ Thomas Kiernan

Name: Thomas Kiernan

Title: CEO

NP REPRESENTATIVE, LLC

By: /s/ Thomas Kiernan

Name: Thomas Kiernan

Title: CEO

ANNEX I

DEFINED TERMS

“**1st Anniversary Holdback Cash Amount**” means \$153,107.

“**1st Anniversary Holdback Consideration**” means the 1st Anniversary Holdback Shares and the 1st Anniversary Holdback Cash Amount.

“**1st Anniversary Holdback Shares**” means a number of shares of Buyer Common Stock equal to the quotient obtained by dividing (i) the 1st Anniversary Holdback Shares Amount by (ii) the Issue Price measured as of the Closing Date, rounded down to the nearest whole share.

“**1st Anniversary Holdback Shares Amount**” means (i) \$10,000,000 multiplied by the Applicable Percentage, less (ii) the Special Holdback Amount, less (iii) the 1st Anniversary Cash Amount.

“**2nd Anniversary Holdback Shares**” means a number of shares of Buyer Common Stock equal to the quotient obtained by dividing (i) the 2nd Anniversary Holdback Shares Amount by (ii) the Issue Price measured as of the Initial Release Date, rounded down to the nearest whole share.

“**2nd Anniversary Cash Amount**” means \$153,107.

“**2nd Anniversary Holdback Consideration**” means the 2nd Anniversary Holdback Shares and the 2nd Anniversary Holdback Cash Amount.

“**2nd Anniversary Holdback Shares Amount**” means (i) \$10,000,000 multiplied by the Applicable Percentage, less (ii) the Special Holdback

Amount, less (iii) the 2nd Anniversary Cash Amount.

“**Affiliate**” or “**Affiliated**” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition and this Agreement, the term “control” (and correlative terms) means the unilateral power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person.

“**Aggregate Exercise Price Proceeds**” means \$1,407,342.90, which is the aggregate amount of the exercise prices of all outstanding Options as of the Effective Time.

“**Applicable Laws**” means all domestic or foreign, federal, state or local statutes, laws (including common laws), constitutions, treaties, directives, rules, regulations, codes, ordinances, requirements, judgments, orders, administrative interpretations, decrees, injunctions, and writs of any Governmental Entity which has jurisdiction over TopCo or the businesses, operations or assets of TopCo.

“**Applicable Percentage**” shall mean 39.199%, which is TopCo’s Unit Percentage (as defined in the Company Operating Agreement) of the Company as of the Effective Date.

“**August Series A-1 Preferred Per Share Base Consideration**” shall mean \$10.73, which has been calculated by dividing the August Series A-1 Preferred Stock Base Consideration, by the total number of shares of August Series A-1 Preferred Stock outstanding immediately prior to the Effective Time (i.e., 862,744).

“**August Series A-1 Preferred Per Share Sharing Percentage**” shall mean 0.00001606%, which has been calculated by dividing the August Series A-1 Preferred Sharing Percentage, by the total number of shares of August Series A-1 Preferred Stock outstanding immediately prior to the Effective Time (i.e., 862,744).

“**August Series A-1 Preferred Sharing Percentage**” shall mean 13.85%.

“**August Series A-1 Preferred Stock Base Consideration**” shall mean \$9,259,630.

“**August Series A-1 Preferred Stock**” shall mean the shares of Series A-1 Preferred Stock that were originally issued by TopCo in August 2012.

“**August Series A-1 Preferred Stockholder**” shall mean a holder of August Series A-1 Preferred Stock.

“**Base Consideration**” shall mean \$68,666,820.

“**Business Day**” means any day other than (a) a Saturday, Sunday or federal holiday or (b) a day on which commercial banks in Dallas, Texas or New York, New York are authorized or required to be closed.

“**Buyer Common Stock**” means the common stock of Buyer, par value \$0.001 per share.

“**Buyer Indemnified Company Losses**” means (a) all Indemnified Company Representation Losses; (b) all Indemnified Company Tax Losses; and (c) all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of (i) any violation, breach or default by the Company under the Company Purchase Agreement, if such violation, breach or default occurs prior to the Closing; or (ii) any Company Transaction Expenses or Company Closing Net Debt Amount that are not paid or satisfied as of the Closing Date pursuant to the Company Purchase Agreement.

“**Buyer Indemnified TopCo Losses**” means (a) all Indemnified TopCo Representation Losses; (b) all Indemnified TopCo Tax Losses; and (c) all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of (i) any violation, breach or default by TopCo under this Agreement, if such violation, breach or default occurs prior to the Closing; (ii) any TopCo Transaction Expenses that are not paid or satisfied as of the Closing Date or (iii) any claims by Stockholders related to the Mergers, including any claims by such individuals asserting appraisal rights.

“**Buyer Indemnified Party**” and “**Buyer Indemnified Parties**” means each of Buyer and any of its Subsidiaries, each officer, director, employee, stockholder, of Buyer and its Subsidiaries, and all of the foregoing collectively.

“**Capital Stock**” shall mean each share of capital stock of TopCo.

“**Class A Common Stock**” shall mean the class A common stock, par value \$0.001 per share, of TopCo.

“**Class A Common Stockholder**” shall mean a holder of Class A Common Stock.

“**Class A Option**” shall mean an option to acquire Class A Common Stock that is outstanding and unexercised immediately prior to the Effective Time.

“**Class A Optionholder**” shall mean a holder of a Class A Option.

“**Class B Common Stock**” shall mean the class B common stock, par value \$0.001 per share, of TopCo.

“**Class B Common Stockholder**” shall mean a holder of Class B Common Stock.

“**Class B Option**” shall mean an option to acquire Class B Common Stock that is outstanding and unexercised immediately prior to the Effective Time.

“**Class B Optionholder**” shall mean a holder of a Class B Option.

“**Class C Common Stock**” shall mean the class C common stock, par value \$0.001 per share, of TopCo.

“**Class C Common Stockholder**” shall mean a holder of Class C Common Stock.

“**Class C Option**” shall mean an option to acquire Class C Common Stock that are outstanding and unexercised immediately prior to the Effective Time.

“**Class C Optionholder**” shall mean a holder of a Class C Option.

“**Code**” means the United States Internal Revenue Code of 1986, as amended. All references to the Code, U.S. Treasury regulations or other governmental pronouncements shall be deemed to include references to any applicable successor regulations or amending pronouncement.

“**Company Cash**” shall have the meaning of “Closing Company Cash” set forth in the Company Purchase Agreement.

“**Company Closing Net Debt Amount**” shall have the meaning of “Closing Net Debt Amount” set forth in the Company Purchase Agreement.

“**Company Fundamental Representations**” means the representations and warranties in clauses (a), (c), (d) and (e) of Section 3.1 of the Company Purchase Agreement (Organizational Matters), Section 3.2 of the Company Purchase agreement (Capital Structure), Section 3.3 of the Company Purchase Agreement (Authority and Due Execution), clause (i) of Section 3.4(a) of the Company Purchase Agreement (Non-Contravention and Consents), Section 3.8 of the Company Purchase Agreement (Taxes) and Section 3.14 of the Company Purchase Agreement (Brokers’ and Finders’ Fees).

“**Company Net Working Capital**” shall have the meaning of “Net Working Capital” set forth in the Company Purchase Agreement.

“**Company Net Working Capital Adjustment**” shall have the meaning of “Net Working Capital Adjustment” set forth in the Company Purchase Agreement.

“**Company Transaction Expenses**” shall have the meaning of “Transaction Expenses” set forth in the Company Purchase Agreement.

“**Consents**” means all consents, approvals, orders or authorizations of, or registration, qualification, designation, declaration or filing with, any Governmental Entity, and all consents, waivers and approvals of third Persons.

“**Contract**” means any legally binding written or oral agreement, contract, subcontract, settlement agreement, lease, understanding, instrument, note, option, warranty, purchase order, guaranty, indenture, license, sublicense, insurance policy, benefit plan sales or purchase order or other legally binding commitment or undertaking of any nature.

“**Convertible Preferred Stock**” shall mean the Series A Preferred Stock, the Series A-1 Preferred Stock and the Series B Preferred Stock.

“**DGCL**” means the General Corporation Law of the State of Delaware.

“**Excess Consideration**” shall mean an amount equal to the difference between (i) the sum of the Merger Consideration plus the New Jersey Reduction Amount, less (ii) the Base Consideration.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Fraud**” means, with respect to any Party, an intentional fraud of such Party with respect to the making of any representation or warranty in this Agreement or in the Company Purchase Agreement.

“GAAP” means generally accepted accounting principles in the United States, consistently applied.

“**Holdback Consideration**” shall mean the 1st Anniversary Holdback Consideration and the 2nd Anniversary Holdback Consideration.

“**Holdback Consideration Amount**” means an amount equal to the Holdback Consideration Cash Amount and the Holdback Consideration Shares Amount.

“**Holdback Consideration Cash Amount**” means the sum of the 1st Anniversary Holdback Cash Amount and the 2nd Anniversary Holdback Cash Amount.

“**Holdback Consideration Shares Amount**” means an amount equal to 1st Anniversary Holdback Shares Amount and the 2nd Anniversary Holdback Shares Amount.

“**Holdback Consideration Pro Rata Portion**” means, with respect to any TopCo Seller who is allocated Holdback Consideration, the percentage set forth opposite such TopCo Seller’s name on the Payment Spreadsheet, which has been determined by dividing (i) the portion of the Holdback Consideration Amount paid or payable to such TopCo Seller, by (ii) the aggregate Holdback Consideration Amount paid or payable to all of the TopCo Sellers.

“**Holdback Shares Pro Rata Portion**” means, with respect to any TopCo Seller to whom any Holdback Consideration Shares Amount is allocated, the percentage set forth opposite such TopCo Seller’s name on the Payment Spreadsheet, which has been determined by dividing (i) the portion of the Holdback Consideration Shares Amount paid or payable to such TopCo Seller, by (ii) the aggregate Holdback Consideration Shares Amount paid or payable to all of the TopCo Sellers.

“**Indebtedness**” means, with respect to TopCo, without duplication, (a) all indebtedness (including the principal amount thereof or, if applicable, the accreted amount thereof and the amount of accrued and unpaid interest thereon) of TopCo, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed, whether owing to banks, financial institutions, on equipment leases or otherwise; (b) all deferred indebtedness of TopCo for the payment of the purchase price of property or assets purchased; (c) any outstanding reimbursement obligation of TopCo with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of TopCo; (d) any outstanding payment obligation of TopCo under any interest rate swap agreement, forward rate agreement, interest rate cap or collar agreement or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks; (e) all indebtedness for borrowed money secured by any Lien existing on property owned by TopCo, whether or not indebtedness secured thereby will have been assumed; and (f) all guarantees, endorsements, assumptions and other contingent obligations of TopCo in respect of, or to purchase or to otherwise acquire, indebtedness for borrowed money of others. For the avoidance of doubt, Indebtedness shall not include the TopCo Transaction Expenses.

“**Indemnified Company Representation Losses**” means any and all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of any breach or inaccuracy by the Company of its representations or warranties under Article III of the Company Purchase Agreement.

“**Indemnified Company Tax Losses**” means any and all Indemnified Tax Losses (as defined in the Company Purchase Agreement) that may result pursuant to the terms and conditions of the Company Purchase Agreement.

“**Indemnified TopCo Representation Losses**” any and all Losses in connection with, based upon, resulting from, attributable to, related to, or arising out of any breach or inaccuracy by TopCo of its representations or warranties under Article VI of this Agreement.

“**Indemnified TopCo Tax Losses**” means any and all Taxes (other than to the extent such Taxes were taken into account as a reduction in the calculation of the Initial Merger Consideration), together with any costs, expenses or damages (including court and administrative costs and reasonable legal fees and expenses incurred in investigating and preparing for or participating in any Tax Proceeding) resulting from the determination, assessment or collection of such

Taxes and any expenses incurred in connection with the preparation and filing of any Tax Return with respect to such Taxes, (a) imposed on or with respect to TopCo, or for which TopCo may otherwise be liable, for any Pre-Closing Tax Period and for the portion of any Straddle Period ending on the Closing Date (determined in accordance with Section 8.1(c)) and, in each case, treating any advance payments, deferred revenues or other prepaid amounts received or arising in any Pre-Closing Tax Period as subject to Tax in such period, regardless of when actually recognized for income Tax purposes), including Taxes that are not yet due and payable and Taxes resulting from Section 965 of the Code, (b) resulting from the breach of any of the representations and warranties set forth in Section 6.7 (determined without regard to any materiality or Knowledge qualifiers or any scheduled items) or the breach by any TopCo Sellers or the Sellers' Representative of any of their obligations under Section 8.1, (c) of any member of an affiliated, consolidated, combined or unitary group of which TopCo (or any predecessor of TopCo) was a member on or prior to the Closing Date by reason of Treasury Regulation Section 1.1502-6(a) or any analogous or similar foreign, state or local law, (d) of any other Person for which TopCo is liable as a transferee or successor, under any Contract to which TopCo is a party (other than agreements or obligations pursuant to agreements in each case with customary terms and for which the principal purpose is not Taxes), (e) that are social security, Medicare, unemployment or other employment or withholding Taxes owed as a result of any compensatory payments made in connection with this Agreement, including the cancellation and payment for any options or warrants, or (f) that are the portion of Transfer Taxes for which the TopCo Sellers are liable as provided in Section 8.1(a).

"Indemnity Pro Rata Portion" means, with respect to any TopCo Seller, such TopCo Seller's Holdback Consideration Pro Rata Portion to the extent such TopCo Seller's indemnification obligations are required to be funded exclusively through the Holdback Consideration, in accordance with Section 9.6 hereof, and in all other cases, such TopCo Seller's Pro Rata Portion.

"Initial Merger Consideration" shall mean an amount, determined as of Closing, equal to (a) the TopCo Baseline Enterprise Value, plus (b) the Aggregate Exercise Price Proceeds, plus (c) the Applicable Percentage of Company Cash as of immediately prior to the Effective Time, minus (d) the TopCo Transaction Expenses, minus (e) the Holdback Consideration Amount, minus (f) the TopCo Sellers Representative Expense Fund Amount, minus (g) the Applicable Percentage of the Company Net Working Capital Adjustment, minus (h) the Applicable Percentage of the Company Closing Net Debt Amount, minus (i) the Applicable Percentage of the Company Transaction Expenses, minus (j) the New Jersey Reduction Amount.

"Intellectual Property Rights" means all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights and moral rights; (ii) trade-mark, business name, domain name and trade name rights and similar rights in identifiers of source or origin; (iii) trade secret rights; (iv) patent and industrial design property rights; (v) other proprietary rights in Technology; and (vi) rights in or relating to applications, registrations, renewals, extensions, combinations, divisions, continuations and reissues of, and applications for, any of the rights referred to in clauses (i) through (v) above.

"Issue Price" measured as of a particular date means the volume-weighted average closing price per share of Buyer Common Stock, as reported on the NASDAQ Stock Market, as reported by Bloomberg L.P. or The Wall Street Journal, for the ten consecutive trading days ending two trading days prior to the date of measurement.

"Knowledge" means, with respect to a specified Person, the actual knowledge of such specified Person; and as to TopCo, will also include the actual knowledge of TopCo's officers and directors, together with such knowledge that such Persons could reasonably be expected to discover after due inquiry.

"Liability" means, with respect to any Person, any liability or obligation of such Person, whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether directly incurred or consequential and whether due or to become due.

"Liens" means liens, pledges, voting agreements, voting trusts, proxy agreements, security interests, mortgages, and other possessory interests, conditional sale or other title retention agreements, assessments, easements,

rights-of-way, covenants, restrictions, rights of first refusal, encroachments, and other burdens, options or encumbrances of any kind.

“**Losses**” means damages, losses, Taxes (excluding Taxes imposed on any recovery received by a party to be indemnified as a result of any Losses), claims, liabilities, charges, judgments, penalties, fines, fees, costs, settlement payments and expenses (including court costs, reasonable attorneys’ fees and costs and other out-of-pocket expenses incurred by a Party).

“**May Series A-1 Preferred Per Share Base Consideration**” shall mean \$10.42, which has been calculated by dividing the May Series A-1 Preferred Stock Base Consideration, by the total number of shares of May Series A-1 Preferred Stock outstanding immediately prior to the Effective Time (i.e., 470,588).

“**May Series A-1 Preferred Per Share Sharing Percentage**” shall mean 0.00001553%, which has been calculated by dividing the May Series A-1 Preferred Sharing Percentage, by the total number of shares of May Series A-1 Preferred Stock outstanding immediately prior to the Effective Time (i.e., 470,588).

“**May Series A-1 Preferred Sharing Percentage**” shall mean 7.31%.

“**May Series A-1 Preferred Stock Base Consideration**” shall mean \$4,903,965.

“**May Series A-1 Preferred Stock**” shall mean the shares of Series A-1 Preferred Stock that were originally issued by TopCo in May 2013.

“**May Series A-1 Preferred Stockholder**” shall mean a holder of May Series A-1 Preferred Stock.

“**Merger Consideration**” means an amount equal to (a) the Initial Merger Consideration, plus (b) the amount, if any, of the Holdback Consideration Amount and the TopCo Sellers Representative Expense Fund Amount payable to the TopCo Sellers in accordance with this Agreement plus (c) the amount, if any, of any Merger Consideration Underpayment payable to the TopCo Sellers in accordance with this Agreement.

“**Material Adverse Effect**” when used with respect to TopCo means any effect, event, change, occurrence, fact, circumstance or development (whether or not covered by insurance) (an “**Effect**”) that, individually or in the aggregate with any such other Effects, is or could reasonably be expected to be, materially adverse to (a) the business, operations, assets, financial condition, results of operations or capitalization of TopCo, or (b) the ability of TopCo or any TopCo Seller to consummate any transaction contemplated in this Agreement or any other Transaction Documents.

“**New Jersey Reduction Amount**” shall mean \$300,000.

“**November Series A-1 Preferred Stockholder**” shall mean a holder of November Series A-1 Preferred Stock.

“**November Series A-1 Preferred Stock**” shall mean the shares of Series A-1 Preferred Stock that were originally issued by TopCo in November 2013.

“**Optionholder**” shall mean a holder of an Option.

“**Options**” shall mean each Class A Option, Class B Option and Class C Option.

“**Ordinary Base Consideration**” shall mean \$40,112,387, which has been calculated by reducing the Base Consideration (i.e., \$68,666,820), by an amount equal to the sum of (i) Series WC Preferred Stock Consideration (i.e., \$1,951,490), (ii) Series A Preferred Stock Base Consideration (i.e., \$12,439,347), (ii) May Series A-1 Preferred Stock Base Consideration (i.e., \$4,903,965) and (iii) the August Series A-1 Preferred Stock Base Consideration (\$9,259,630).

“**Ordinary Per Share Base Consideration**” shall mean \$10.20, which has been calculated by dividing the Ordinary Base Consideration, by the sum of (i) the number of outstanding shares of Class A Common Stock (i.e.,

1,650,000), (ii) the number of November Series A-1 Preferred Stock (i.e., 784,314), (iii) the number of Series B Preferred Stock (i.e., 392,157), and (iv) the total number of Class A Options (i.e., 281,116), Class B Options (i.e., 412,500) and Class C Options (i.e., 412,500), in each case, outstanding immediately prior to the Effective Time.

“**Ordinary Per Share Sharing Percentage**” shall mean 0.00001515%, which has been calculated by dividing the Ordinary Sharing Percentage, by the sum of (i) the number of outstanding shares of Class A Common Stock (i.e., 1,650,000), (ii) the number of outstanding November Series A-1 Preferred Stock (i.e., 784,314), (iii) the number of outstanding Series B Preferred Stock (i.e., 392,157), and (iv) the total number of Class A Options (i.e., 281,116), Class B Options (i.e., 412,500) and Class C Options (i.e., 412,500), in each case, outstanding immediately prior to the Effective Time.

“**Ordinary Sharing Percentage**” shall mean 59.59%.

“**Order**” means any award, writ, injunction, judgment, order or decree entered, issued, made, or rendered by, or settlement under the jurisdiction of, any Governmental Entity.

“**Permitted Encumbrances**” means (a) Liens for Taxes, assessments or other governmental charges not yet due and payable as of the Effective Time or the amount or validity of which is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, (b) mechanics’, carriers’, workers’, repairers’ and similar liens that do not result from a breach, default or violation by the Person whose asset is encumbered by the Lien with respect to any Contract or legal requirement, (c) the rights of the lessors of any real or personal property leased to the Person whose property is encumbered by such lien and (d) charges, restrictions and encumbrances that do not detract from the value of or interfere with the present use of any property subject thereto or affected thereby.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other entity.

“**Pre-Closing Tax Period**” means any Tax period ending on or before the Closing Date.

“**Preferred Stock**” means the Series A Preferred Stock, the Series A-1 Preferred Stock, Series B Preferred Stock and Series WC Preferred Stock.

“**Pro Rata Portion**” means, with respect to any TopCo Seller, the percentage set forth opposite such TopCo’s Seller’s name on the Payment Spreadsheet, which shall equal the quotient obtained by dividing (i) the aggregate Individual Merger Consideration paid or payable to a TopCo Seller, by (ii) the aggregate Individual Merger Consideration paid or payable to all of the TopCo Sellers.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Series A Preferred Per Share Base Consideration**” shall mean \$11.31, which has been calculated by dividing the Series A Preferred Stock Base Consideration, by the total number of shares of Series A Preferred Stock outstanding immediately prior to the Effective Time (i.e., 1,100,000).

“**Series A Preferred Per Share Sharing Percentage**” shall mean 0.00001750%, which has been calculated by dividing the Series A Preferred Sharing Percentage, by the total number of shares of Series A Preferred Stock outstanding immediately prior to the Effective Time (i.e., 1,100,000).

“**Series A Preferred Sharing Percentage**” shall mean 19.25%.

“**Series A Preferred Stock Base Consideration**” shall mean \$12,439,347.

“**Series A Preferred Stock**” shall mean the Series A Preferred Stock, par value \$0.001 per share, of TopCo.

“**Series A Preferred Stockholder**” shall mean a holder of Series A Preferred Stock.

“**Series A-1 Preferred Stock**” shall mean the Series A-1 Preferred Stock, par value \$0.001 per share, of TopCo.

“**Series A-1 Preferred Stockholder**” shall mean a holder of Series A-1 Preferred Stock.

“**Series B Preferred Stock**” shall mean the Series B Preferred Stock, par value \$0.001 per share, of TopCo.

“**Series B Preferred Stockholder**” shall mean a holder of Series B Preferred Stock.

“**Series WC Preferred Stock**” shall mean the Series WC Preferred Stock, par value \$0.001 per share, of TopCo.

“**Series WC Preferred Stock Consideration**” shall mean an amount equal to \$1,951,490.

“**Special Claim**” means any Third-Party Action that (i) involves any possibility of criminal liability or any action by any Governmental Entity against the Buyer Indemnified Party, (ii) seeks injunctive relief, specific performance or other equitable relief against the Buyer Indemnified Party, (iii) involves any matter that could have a material precedential effect on the Buyer Indemnified Party, the Company or TopCo, (iv) that seeks an unspecified amount of money damages or an amount of money damages in excess of \$1,000,000 or that is otherwise not payable by the TopCo Sellers, (v) involves a dispute with a Person with which any of Buyer, the Company or TopCo has a pre-existing commercial relationship (including any customer of any of the foregoing), (vi) involves Taxes (except as set forth in Section 8.1(e) above) or (vii) involves Intellectual Property (as defined in the Company Purchase Agreement).

“**Special Holdback Amount**” shall mean \$592,477.

“**Stockholder Approval**” means the affirmative vote or written consent of Stockholders whose votes collectively constitute at least 97.5% of the votes of the outstanding Voting Stock.

“**Straddle Period**” means any Tax period beginning on or before and ending after the Closing Date. Notwithstanding anything to the contrary herein, any franchise Tax shall be allocated to the period during which the income, operations, assets or capital comprising the base of such Tax is measured, regardless of whether the right to do business for another period is obtained by the payment of such franchise Tax.

“**Subsidiary**” means, with respect to any party, any corporation or other organization, whether incorporated or unincorporated, of which (a) such party or any other subsidiary of such party is a general partner (excluding such partnerships where such party or any subsidiary of such party does not have a majority of the voting interest in such partnership) or (b) at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors, board of managers or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such party or by any one or more of its subsidiaries.

“**Tax**” or “**Taxes**” means (a) any taxes, assessments, fees and other governmental charges imposed by any Governmental Entity, including income, profits, gross receipts, net proceeds, alternative or add on minimum, ad valorem, value added, turnover, sales, use, property, personal property (tangible and intangible), escheat, environmental, stamp, leasing, lease, user, excise, duty, franchise, capital stock, transfer, registration, license, withholding, social security (or similar), unemployment, disability, payroll, employment, social contributions, fuel, excess profits, occupational, premium, windfall profit, severance, estimated, or other charge in the nature of or in lieu of a tax, including any interest, penalty, or addition thereto, whether disputed or not; (b) any liability for the payment of any amounts of the type described in clause (a) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (c) any liability for the payment of any amounts of the type described in clause (a) or (b) as a result of the operation of law (including by successor or transferee liability) or any express or implied obligation to indemnify any

other Person for any amounts described in clauses (a) or (b) (other than as part of agreements, or obligations pursuant to agreements, in each case for which the principal purpose is not Taxes).

“**Tax Attribute**” means, with respect to any Tax, any tax basis, net operating loss carryovers, net capital loss carryovers, credits and similar Tax items of any Person.

“**Tax Proceeding**” means any audit, assessment, examination, action, claim or other controversy or proceeding relating to Taxes or Tax Returns.

“**Tax Return**” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof that is filed or required to be filed with any Taxing Authority.

“**Taxing Authority**” means, with respect to any Tax, the Governmental Entity or political subdivision thereof that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision, including any governmental or quasi-Governmental Entity or agency that imposes, or is charged with collecting, social security or similar charges or premiums.

“**Technology**” mean algorithms, APIs, data, databases, data collections, diagrams, formulae, inventions (whether or not patentable), methods, network configurations and architectures, processes, proprietary information, protocols, schematics, specifications, software, software code (in any form, including source code and executable or object code), subroutines, techniques, user interfaces, URLs, web sites, works of authorship (including written, audio and visual materials) and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing).

“**TopCo 2011 Stock Option Plan**” shall mean the ClickPayServices, Inc. Amended and Restated 2011 Stock Option Plan, as amended.

“**TopCo 2013 Stock Option Plan**” shall mean the ClickPayServices, Inc. Amended and Restated 2013 Stock Option Plan.

“**TopCo Board**” shall mean the Board of Directors of TopCo.

“**TopCo Baseline Enterprise Value**” shall mean \$88,663,419.

“**TopCo Change of Control Payments**” shall be an amount equal to an aggregate of \$1,362,653 for the change of control bonuses that TopCo will be required to pay to Tom Kiernan, Steven Van Praagh, Tim Kyse, Gabriel Valentino and Ian Murphy.

“**TopCo Charter**” means the Fourth Amended and Restated Certificate of Incorporation of TopCo, as filed with the Secretary of State of the State of Delaware on November 18, 2016.

“**TopCo Fundamental Representations**” means the representations and warranties in clauses (a), (c), (d) and (e) of Section 6.1 (Organizational Matters), Section 6.2 (Capital Structure), Section 6.3 (Authority and Due Execution), clause (i) of Section 6.4(a) (Non-Contravention and Consents), Section 6.7 (Taxes) and Section 6.9 (Brokers’ and Finders’ Fees).

“**TopCo Sellers Representative Expense Fund Amount**” shall mean an amount in cash equal to \$300,000, multiplied by the Applicable Percentage.

“**TopCo Transaction Expenses**” means (i) all fees, costs and expenses of any brokers, financial advisors, third-party accountants, consultants, attorneys or other outside professionals, and all other third-party out-of-pocket cost or expenses (including filing fees, termination or breakage fees, costs of obtaining Consents, transaction bonuses, change of control payments or similar items), in each case payable by TopCo in connection with the structuring,

negotiation or consummation of the transactions contemplated in this Agreement and the other Transaction Documents, (ii) the TopCo Change of Control Payments and (iii) the employer portion of any social security, Medicare, unemployment or other employment or withholding Taxes owed as a result of any compensatory payments made by TopCo in connection with this Agreement.

“**Transaction Documents**” means, collectively, this Agreement, the Disclosure Schedule, the Significant Owner Agreements (as defined in the Company Purchase Agreement), the Stockholder Support Agreements, the Option Cancellation Agreements, the Optionholder Acknowledgements, the Post-Closing Stock Powers, the Letters of Transmittal, the Restricted Stock Agreements (as defined in the Company Purchase Agreement), the Company Purchase Agreement and the Employment Offer Letters (as defined in the Company Purchase Agreement).

“**Voting Stock**” means the Class A Common Stock and the Convertible Preferred Stock.

“**Voting Stockholders**” shall mean Stockholders holding Voting Stock.

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Section 4: EX-10.1 (EXHIBIT 10.1)

Exhibit 10.1

EXECUTION VERSION

SEVENTH AMENDMENT TO CREDIT AGREEMENT, INCREMENTAL AMENDMENT AND AMENDMENT TO COLLATERAL AGREEMENT

This SEVENTH AMENDMENT TO CREDIT AGREEMENT, INCREMENTAL AMENDMENT AND AMENDMENT TO COLLATERAL AGREEMENT (this “Amendment”) is dated as of March 12, 2018, and effective in accordance with Section 6 below, by and among REALPAGE, INC., a Delaware corporation (the “Borrower”), certain subsidiaries of the Borrower party hereto, each of the Lenders referred to below, and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as administrative agent for the Lenders party to the Credit Agreement (“Administrative Agent”).

STATEMENT OF PURPOSE:

WHEREAS, the Borrower, certain financial institutions party thereto (the “Lenders”) and the Administrative Agent have entered into that certain Credit Agreement dated as of September 30, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”);

WHEREAS, the Borrower has requested (i) an increase in the Revolving Credit Commitments in a principal amount of \$150,000,000 in accordance with Section 2.7 of the Credit Agreement (the “2018 Revolving Commitment Increase”), (ii) certain amendments to the Credit Agreement and (iii) certain amendments and waivers to the Collateral Agreement, in each case, as set forth more fully herein;

WHEREAS, subject to the terms of this Amendment, each Lender has (i) severally committed to provide a portion of the Revolving Commitment Increase and (ii) agreed to certain amendments to the Credit Agreement and the Collateral Agreement as set forth more fully herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Capitalized Terms. All capitalized undefined terms used in this Amendment (including, without limitation, in the introductory paragraph and the statement of purpose hereto) shall have the meanings assigned thereto in the Credit Agreement (as amended by this Amendment).

Section 2. Amendments to Credit Agreement. Effective as of the Seventh Amendment Effective Date (as defined below) and subject to the terms and conditions set forth herein and in reliance upon the representations and warranties set forth herein, the parties hereto agree that the Credit Agreement is amended as follows:

(a) The following new definitions are hereby added to Section 1.1 of the Credit Agreement in correct alphabetical order:

““PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.”

““Replacement Rate” has the meaning assigned thereto in Section 5.8(c).”

““Seventh Amendment Effective Date” means March 12, 2018.”

(b) The definition of “Applicable Margin” set forth in Section 1.1 of the Credit Agreement is hereby amended by (i) replacing each reference therein to “Delayed Draw Funding Date” with “Seventh Amendment Effective Date”, and (ii) replacing the pricing grid therein in its entirety with the following:

(c)

| | | | Revolving Credit Loans and Incremental Term Loan-1 | |
|---------------|---|----------------|--|-------------|
| Pricing Level | Consolidated Net Leverage Ratio | Commitment Fee | LIBOR + | Base Rate + |
| I | Less than 1.50 to 1.00 | 0.20% | 1.25% | 0.25% |
| II | Greater than or equal to 1.50 to 1.00, but less than 3.00 to 1.00 | 0.25% | 1.50% | 0.50% |
| III | Greater than or equal to 3.00 to 1.00, but less than 4.00 to 1.00 | 0.30% | 1.75% | 0.75% |
| IV | Greater than or equal to 4.00 to 1.00, but less than 4.50 to 1.00 | 0.35% | 2.00% | 1.00% |
| V | Greater than or equal to 4.50 to 1.00 | 0.40% | 2.25% | 1.25% |

(c) The definition of “Consolidated EBITDA” set forth in Section 1.1 of the Credit Agreement is hereby amended by (i) replacing the reference to “\$5,000,000” in clause (b)(v) thereof with “\$10,000,000” and (ii) amending and restating clause (b)(ix) thereof in its entirety as follows:

“(ix) fees, costs and expenses in connection with litigation proceedings, administrative matters or other regulatory compliance matters (but exclusive of any payments that are funded with proceeds of Borrower’s liability insurance) incurred by Borrower and its Subsidiaries during the preceding twelve (12) month period, not to exceed \$20,000,000 in the aggregate for any such period,”

(d) The definition of “LIBOR” set forth in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety as follows:

““LIBOR” means, subject to the implementation of a Replacement Rate in accordance with Section 5.8(c),

(a) for any interest rate calculation with respect to a LIBOR Rate Loan, the rate of interest per annum determined on the basis of the rate for deposits in Dollars for a period equal to the applicable Interest Period as published by the ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by the Administrative Agent, at approximately 11:00 a.m. (London time) two (2) London Banking Days prior to the first day of the applicable Interest Period. If, for any reason, such rate is not so published then “LIBOR” shall be determined by the Administrative Agent to be the arithmetic average of the rate per annum at which deposits in Dollars would be offered by first class banks in the London interbank market to the Administrative Agent at approximately 11:00 a.m. (London time) two (2) London Banking Days prior to the first day of the applicable Interest Period for a period equal to such Interest Period, and

(b) for any interest rate calculation with respect to a Base Rate Loan, the rate of interest per annum determined on the basis of the rate for deposits in Dollars for an Interest Period equal to one month (commencing on the date of determination of such interest rate) as published by the ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by the Administrative Agent, at approximately 11:00 a.m. (London time) on such date of determination, or, if such date is not a Business Day, then the immediately preceding

Business Day. If, for any reason, such rate is not so published then “LIBOR” for such Base Rate Loan shall be determined by the Administrative Agent to be the arithmetic average of the rate per annum at which deposits in Dollars would be offered by first class banks in the London interbank market to the Administrative Agent at approximately 11:00 a.m. (London time) on such date of determination for a period equal to one month commencing on such date of determination.

Each calculation by the Administrative Agent of LIBOR shall be conclusive and binding for all purposes, absent manifest error.”

(e) The definition of “LIBOR Rate” set forth in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety as follows:

““LIBOR Rate” means a rate per annum determined by the Administrative Agent pursuant to the following formula:

$$\text{LIBOR Rate} = \frac{\text{LIBOR}}{1.00\text{-Eurodollar Reserve Percentage}}$$

Notwithstanding the foregoing, (x) if the LIBOR Rate (including, without limitation, any Replacement Rate with respect thereto) shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement and (y) unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 5.8(c), in the event that a Replacement Rate with respect to LIBOR is implemented then all references herein to LIBOR shall be deemed references to such Replacement Rate.”

(f) Clause (f) of the definition of “Permitted Acquisition” set forth in Section 1.1 of the Credit Agreement is hereby amended by adding the following phrase to the end of such clause:

“(after giving effect to any increase in the Consolidated Net Leverage Ratio and/or Consolidated Senior Secured Net Leverage Ratio pursuant to Section 9.13(a) and (b))”

(g) Clause (i) of the definition of “Permitted Acquisition” set forth in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(i) the consideration for all Acquisitions of Non-Guarantor Subsidiaries consummated during the term of this Agreement shall not exceed, when taken together with the aggregate outstanding amount of Investments made pursuant to Section 9.3(a)(vi), \$200,000,000 in the aggregate;”

(h) The definition of “Revolving Credit Commitment” set forth in Section 1.1 of the Credit Agreement is hereby amended by (i) replacing each reference therein to “Third Amendment Effective Date” with “Seventh Amendment Effective Date” and (ii) replacing the reference therein to “\$200,000,000” with “\$350,000,000”.

(i) The definition of “Revolving Credit Commitment Percentage” set forth in Section 1.1 of the Credit Agreement is hereby amended by replacing the reference therein to “Third Amendment Effective Date” with “Seventh Amendment Effective Date”.

(j) Article I of the Credit Agreement is hereby amended to add the following new Section 1.11:

“SECTION 1.11 Rates. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “LIBOR Rate”.”

(k) Section 2.7(a) of the Credit Agreement is hereby amended by (i) replacing the reference therein to “Second Amendment Effective Date” with “Seventh Amendment Effective Date” and (ii) replacing the reference to “3.25 to 1.00” with “3.50 to 1.00”.

(l) Clause (ii) of Section 2.7(d) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(ii) the Borrower is in compliance on a Pro Forma Basis with the financial covenants set forth in Section 9.13 (after giving effect to any increase in the Consolidated Net Leverage Ratio and/or Consolidated Senior Net Leverage Ratio pursuant to Section 9.13(a) and (b)) based on the financial statements most recently delivered pursuant to Section 8.1 after giving effect to such Incremental Commitment (assuming that the entire applicable Incremental Term Loan and/or Revolving Commitment Increase is fully funded on the effective date thereof and giving effect to the use of proceeds thereof, but without netting the proceeds thereof);”

(m) Section 4.3(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(a) Incremental Term Loan-1. The Borrower shall repay the aggregate outstanding principal amount of the Incremental Term Loan-1 (including the Delayed Draw Term Loan) in consecutive quarterly installments on the last Business Day of each March, June, September and December commencing with June 30, 2017 as set forth below (in each case, as such installments may be adjusted pursuant to Section 4.4):

| <u>Payment Date</u> | <u>Principal Repayment Installment</u> |
|-------------------------|--|
| June 30, 2017 | \$766,601.56 |
| September 30, 2017 | \$766,601.56 |
| December 31, 2017 | \$2,016,601.56 |
| March 31, 2018 | \$2,016,601.56 |
| June 30, 2018 | \$4,033,203.13 |
| September 30, 2018 | \$4,033,203.13 |
| December 31, 2018 | \$4,033,203.13 |
| March 31, 2019 | \$4,033,203.13 |
| June 30, 2019 | \$4,033,203.13 |
| September 30, 2019 | \$4,033,203.13 |
| December 31, 2019 | \$4,033,203.13 |
| March 31, 2020 | \$4,033,203.13 |
| June 30, 2020 | \$8,066,406.25 |
| September 30, 2020 | \$8,066,406.25 |
| December 31, 2020 | \$8,066,406.25 |
| March 31, 2021 | \$8,066,406.25 |
| June 30, 2021 | \$8,066,406.25 |
| September 30, 2021 | \$8,066,406.25 |
| December 31, 2021 | \$8,066,406.25 |
| Term Loan Maturity Date | Remaining Outstanding Balance |

If not sooner paid, the Incremental Term Loan-1 (including the Delayed Draw Term Loan) shall be paid in full, together with accrued interest thereon, on the Term Loan Maturity Date with respect thereto.”

(n) Section 5.8 of the Credit Agreement is hereby amended by (i) adding the following phrase at the beginning of clause (a) of such section: “Unless and until a Replacement Rate is implemented in accordance with clause (c) below,”; (ii) replacing the phrase “such Interest Period” in clause (a)(ii) of such section with the phrase “the Interest Period” and (iii) adding a new clause (c) to such section as follows:

“(c) Alternative Rate of Interest. Notwithstanding anything to the contrary in Section 5.8(a) above, if the Administrative Agent has made the determination (such determination to be conclusive absent manifest error) that (i) the circumstances described in Section 5.8(a)(i) or (a)(ii) have arisen and that such circumstances are unlikely to be temporary, (ii) any applicable interest rate specified herein is no longer a widely recognized benchmark rate for newly originated loans in the U.S. syndicated loan market in the applicable currency or (iii) the applicable supervisor or administrator (if any) of any applicable interest rate specified herein or any Governmental Authority having, or purporting to have, jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which any applicable interest rate specified herein shall no longer be used for determining interest rates for loans in the U.S. syndicated loan market in the applicable currency, then the Administrative Agent may, to the extent practicable (with the Borrower’s consent, and as determined by the Administrative Agent to be generally in accordance with similar situations in other transactions in which it is serving as administrative agent or otherwise consistent with market practice generally), establish a replacement interest rate (the “Replacement Rate”), in which case, the Replacement Rate shall, subject to the next two sentences, replace such applicable interest rate for all purposes under the Loan Documents unless and until (A) an event described in Section 5.8(a)(i), (a)(ii), (c)(i), (c)(ii) or (c)(iii) occurs with respect to the Replacement Rate or (B) the Administrative Agent (or the Required Lenders through the Administrative Agent) notifies the Borrower that the Replacement Rate does not adequately and fairly reflect the cost to the Lenders of funding the Loans bearing interest at the Replacement Rate. In connection with the establishment and application of the Replacement Rate, this Agreement and the other Loan Documents shall be amended solely with the consent of the Administrative Agent and the Borrower, as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 5.8(c). Notwithstanding anything to the contrary in this Agreement or the other Loan Documents (including, without limitation, Section 12.2), such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the delivery of such amendment to the Lenders, written notices from such Lenders that in the aggregate constitute Required Lenders, with each such notice stating that such Lender objects to such amendment (which such notice shall note with specificity the particular provisions of the amendment to which such Lender objects). To the extent the Replacement Rate is approved by the Administrative Agent as provided by this clause (c), the Replacement Rate shall be applied in a manner consistent with market practice; provided that, in each case, to the extent such market practice is not administratively feasible for the Administrative Agent, such Replacement Rate shall be applied as otherwise reasonably determined by the Administrative Agent (it being understood that any such modification by the Administrative Agent shall not require the consent of, or consultation with, any of the Lenders).”

(o) Section 7.9 of the Credit Agreement is hereby amended to (i) replace the period at the end of clause (e) thereof with “; and” and (ii) add a new clause (f) to such section as follows:

“(f) The Borrower is not nor will be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3 (42) of ERISA) of one or more benefit plans in connection with the Loans, the Letters of Credit or the Commitments.”

(p) Section 9.1 of the Credit Agreement is hereby amended by replacing the reference to “\$5,000,000” in clause (s) thereof with “\$40,000,000”.

(q) Section 9.2 of the Credit Agreement is hereby amended by replacing the reference to “\$5,000,000” in clause (v) thereof with “\$40,000,000”.

(r) Clause (vi) of Section 9.3(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(vi) Investments (including the creation and capitalization of new Subsidiaries) made after the Closing Date by any Credit Party in any Non-Guarantor Subsidiary in an aggregate amount at any time outstanding not to exceed, when taken together with the amount of consideration for all Acquisitions made pursuant to clause (i) of the definition of Permitted Acquisition, \$200,000,000; provided that (A) no Default or Event of Default shall have occurred and be continuing, (B) the Borrower shall have Liquidity of not less than \$35,000,000 after giving effect thereto and (C) any Investments in the form of loans or advances made by any Credit Party to any Non-Guarantor Subsidiary pursuant to this clause (vi) shall be evidenced by a demand note in form and substance reasonably satisfactory to the Administrative Agent and shall be pledged and delivered to the Administrative Agent pursuant to the Security Documents;”

(s) Section 9.3 of the Credit Agreement is hereby amended by (i) replacing the reference to “\$5,000,000” in clause (t) thereof with “\$25,000,000”, (ii) replacing the reference to “3.25” in clause (u) thereof with “3.50” and (iii) replacing the reference to “4.00” in clause (u) thereof with “4.25”.

(t) Section 9.6 of the Credit Agreement is hereby amended by (i) replacing the reference to “\$20,000,000” in clause (g) thereof with “\$35,000,000”, (ii) replacing the reference to “3.25” in clause (h) thereof with “3.50” and (iii) replacing the reference to “4.00” in clause (h) thereof with “4.25”.

(u) Section 9.9(b) of the Credit Agreement is hereby amended by (i) replacing the reference to “\$20,000,000” in clause (v) thereof with “\$35,000,000”, (ii) replacing the reference to “3.25” in clause (vi) thereof with “3.50” and (ii) replacing the reference to “4.00” in clause (vi) thereof with “4.25”.

(v) Section 9.13(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(a) Consolidated Net Leverage Ratio. As of the last day of any fiscal quarter, permit the Consolidated Net Leverage Ratio to be greater than 5.00 to 1.00.

Notwithstanding the foregoing, upon the consummation of any Permitted Acquisition or series of Permitted Acquisitions occurring during any nine (9) month period following the Seventh Amendment Effective Date having aggregate consideration (including cash, Cash Equivalents, Equity Interests, Earn-outs, Holdbacks and other deferred payment obligations) in excess of \$150,000,000, the Borrower may, at its election (in connection with such Permitted Acquisition or series of Permitted Acquisitions and by not less than five (5) Business Days’ written notice to the Administrative Agent prior to delivery of financial statements pursuant to Section 8.1(a) or (b) for the fiscal quarter in which such Permitted Acquisition or the last of such series of Permitted Acquisitions is consummated), increase the required Consolidated Net Leverage Ratio pursuant to this Section to 5.50 to 1.00, which increase shall be applicable for the fiscal quarter in which such Permitted Acquisition or the last of such series of Permitted Acquisitions is consummated (applied retroactively, as of the end of such fiscal quarter, and which will prevent the occurrence of a Default or Event of Default under this Section as of the end of such fiscal quarter so long as the maximum Consolidated Net Leverage Ratio in effect following the exercise of such increase option is not exceeded) and the three (3) consecutive fiscal quarters thereafter; provided, that the Borrower shall be permitted to exercise such increase option under this sentence no more than one time during any consecutive twenty-four (24) month period.”

(w) Section 9.13(b) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(b) Consolidated Senior Secured Net Leverage Ratio. As of the last day of any fiscal quarter, permit the Consolidated Senior Secured Net Leverage Ratio to be greater than 3.75 to 1.00.

Notwithstanding the foregoing, upon the consummation of any Permitted Acquisition or series of Permitted Acquisitions occurring during any nine (9) month period following the Seventh Amendment Effective Date having aggregate consideration (including cash, Cash Equivalents, Equity Interests, Earn-outs, Holdbacks and other deferred payment obligations) in excess of \$150,000,000, the Borrower may, at its election (in connection with such Permitted Acquisition or series of Permitted Acquisitions and by not less than five (5) Business Days’ written notice to the Administrative Agent prior to delivery of financial statements pursuant to Section 8.1(a) or (b) for the fiscal quarter in which such Permitted Acquisition or the last of such series of Permitted Acquisitions is consummated), increase the required Consolidated Senior Secured Net Leverage Ratio pursuant to this Section to 4.25 to 1.00, which increase shall be applicable for the fiscal quarter in which such Permitted Acquisition or the last of such series of Permitted Acquisitions is consummated (applied retroactively, as of the end of such fiscal quarter, and which will prevent the occurrence of a Default or Event of Default under this Section as of the end of such fiscal quarter so long as the maximum Consolidated Senior Secured Net Leverage Ratio in effect following the exercise of such increase option is not exceeded) and the three (3) consecutive fiscal quarters thereafter; provided that the Borrower shall be permitted to exercise such increase option under this sentence no more than one time during any consecutive twenty-four (24) month period.”

(x) Section 12.2 of the Credit Agreement is hereby amended by (i) deleting the word “and” immediately preceding clause (vi) of the “provided, further” paragraph of such section and (ii) adding a new clause (vii) to end of the “provided, further” paragraph of such section as follows:

“and (vii) the Administrative Agent may, without the consent of any Lender, enter into amendments or modifications to this Agreement or any of the other Loan Documents or enter into additional Loan Documents as the Administrative Agent reasonably deems appropriate in order to implement any Replacement Rate or otherwise effectuate the terms of Section 5.8(c) in accordance with the terms of Section 5.8(c)”

(y) Article XII of the Credit Agreement is hereby amended by adding a new Section 12.23 to such article as follows:

“SECTION 12.23 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3 (42) of ERISA) of one or more benefit plans in connection with the Loans, the Letters of Credit or the Revolving Credit Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is

applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that:

(i) none of the Administrative Agent, the Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto);

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E);

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Secured Obligations);

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder; and

(v) no fee or other compensation is being paid directly to the Administrative Agent, the Arranger or their respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Letters of Credit, the Revolving Credit Commitments or this Agreement.

(c) The Administrative Agent and the Arranger hereby inform the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Revolving Credit Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Revolving Credit Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Revolving Credit Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing."

(z) Schedule 1.1 to the Credit Agreement is hereby amended by replacing the Revolving Credit Commitment and Revolving Credit Commitment Percentage columns set forth on such schedule with the Revolving Credit Commitment and Revolving Credit Commitment Percentage columns, respectively, set forth opposite each Lender's name on Annex A hereto.

Section 3. Amendments to Collateral Agreement. Effective as of the Seventh Amendment Effective Date and subject to the terms and conditions set forth herein and in reliance upon the representations and warranties set forth herein, the parties hereto agree that the Collateral Agreement is amended as follows:

(a) Section 1.2 of the Collateral Agreement is hereby amended by deleting the defined terms "Controlled Depository", "Controlled Intermediary", "Deposit Account Control Agreement" and "Securities Account Control Agreement" in their entirety.

(b) The definition of "Excluded Assets" set forth in Section 1.2 of the Collateral Agreement is hereby amended by deleting the phrase "(other than such Deposit Accounts described in clause (d) of the definition of "Specified Deposit Accounts")" from clause (e) thereof.

(c) The definition of "Specified Deposit Account" set forth in Section 1.2 of the Collateral Agreement is hereby amended and restated in its entirety as follows:

""Specified Deposit Account" means, collectively, (a) Deposit Accounts established solely for the purpose of funding payroll, payroll taxes and other compensation and benefits to employees, and zero-balance disbursement accounts (that are not collection accounts), (b) Deposit Accounts utilized solely to hold amounts on deposit of any party other than a Grantor or any Subsidiary thereof and (c) Deposit Accounts established solely for the purpose of holding amounts on deposit for use as cash collateral for credit card and automated clearing house processing services arrangements and reimbursement obligations under letters of credit (other than the Letters of Credit)."

(d) Section 3.4 of the Collateral Agreement is hereby amended to delete the following language in its entirety:

"When the applicable Controlled Depository, the Administrative Agent and the applicable Grantor have Authenticated a record providing that the applicable Controlled Depository will comply with instructions originated by the Administrative Agent directing disposition of funds in the Deposit

Account subject to such record without any further consent by the applicable Grantor (such a record, a “Deposit Account Control Agreement”), the Security Interest will constitute a perfected security interest in all right, title and interest of the applicable Grantor in such Deposit Account, and the power to transfer rights in such Deposit Account, in each case prior to all other Liens and rights of others therein and subject to no adverse claims, except for Permitted Liens. When the applicable Controlled Intermediary, the Administrative Agent and the applicable Grantor have Authenticated a record providing that the applicable Controlled Intermediary will comply with instructions originated by the Administrative Agent directing disposition of funds in the Securities Account subject to such record without any further consent by the applicable Grantor (such a record, a “Securities Account Control Agreement”), the Security Interest will constitute a perfected security interest in all right, title and interest of the applicable Grantor in such Securities Account, and the power to transfer rights in such Securities Account, in each case prior to all other Liens and rights of others therein and subject to no adverse claims, except for Permitted Liens.”

(e) Section 3.5 of the Collateral Agreement is hereby amended to delete the phrase “; provided that, in the case of a Deposit Account that is not a Specified Deposit Account, such Deposit Account is subject to a Deposit Account Control Agreement” in its entirety.

(f) Section 3.10 of the Collateral Agreement is hereby amended to delete the phrase “(as such schedule shall be updated from time to time pursuant to Section 4.3 or Section 4.4)” in its entirety.

(g) Section 4.1 of the Collateral Agreement is hereby amended to add a new clause (c) as follows:

“(c) Notwithstanding anything to the contrary contained in this Agreement, no Grantor shall be required to obtain or provide control agreements with respect to any Deposit Accounts or Securities Accounts.”

(h) Section 4.6 of the Collateral Agreement is hereby amended to delete clause (a) in its entirety and replace such clause with “[Reserved]”.

(i) Section 5.2(b)(iii) of the Collateral Agreement is hereby amended and restated in its entirety as follows:

“upon the request of the Administrative Agent, whenever any Grantor shall receive any cash, money, checks or any other similar items of payment relating to any Collateral (including any Proceeds of any Collateral), subject to the terms of any Permitted Liens, such Grantor agrees that it will, within one (1) Business Day of such receipt, deposit all such items of payment into a cash collateral account at the Administrative Agent (the “Collateral Account”) or in a Deposit Account (other than a Specified Deposit Account) at a depository bank that has executed and delivered a control agreement in favor of Administrative Agent with respect to such Deposit Account (a “Controlled Depository”), and until such Grantor shall deposit such cash, money, checks or any other similar items of payment in the Collateral Account or in a Deposit Account (other than a Specified Deposit Account) at a Controlled Depository, such Grantor shall hold such cash, money, checks or any other similar items of payment in trust for the Administrative Agent and the other Secured Parties and as property of the Secured Parties, separate from the other funds of such Grantor, and the Administrative Agent shall have the right to transfer or direct the transfer of the balance of each Deposit Account (other than a Specified Deposit Account) to the Collateral Account. All such Collateral and Proceeds of Collateral received by the Administrative Agent hereunder shall be held by the Administrative Agent in the Collateral Account as collateral security for all the Secured Obligations and shall not constitute payment thereof until applied as provided in Section 5.4.”

Section 4. Waiver. The Lenders hereby waive any noncompliance by the Credit Parties (including any Default or Event of Default that may have resulted therefrom) with (a) the terms of the Collateral Agreement requiring

(i) the delivery of deposit account control agreements with respect to certain deposit accounts held by the Credit Parties and (ii) the delivery of prior notice and certain other deliverables set forth more fully in Section 4.3 of the Collateral Agreement relating to the name change of “NWP Services Corporation” to “RealPage Utility Management Inc.” effective December 31, 2017, and (b) Section 8.3(a) of the Credit Agreement requiring prompt notice of the occurrence of any Default or Event of Default that may have resulted from the noncompliance described in clause (a) of this Section 4.

Section 5. 2018 Revolving Commitment Increase.

(a) Each of the Lenders hereby agrees, effective as of the Seventh Amendment Effective Date and after giving effect to this Amendment, that their respective Revolving Credit Commitments and Revolving Credit Commitment Percentages are as set forth on Annex A hereto.

(b) The parties hereto agree that the Administrative Agent may reallocate the outstanding Revolving Credit Loans and Revolving Credit Commitment Percentages of Swingline Loans and L/C Obligations among the Lenders in accordance with the Revolving Credit Commitment Percentages set forth on Annex A hereto and the Lenders agree to make all payments and adjustments necessary to effect such reallocation. The Lenders party hereto agree to waive any costs required to be paid by the Borrower pursuant to Section 5.9 of the Credit Agreement in connection with such reallocation.

(c) The 2018 Revolving Commitment Increase shall be deemed to have been incurred under clause (A)(2) of the proviso in Section 2.7(a) of the Credit Agreement.

(d) This Amendment shall (i) be deemed to be an “Incremental Amendment” in accordance with Section 2.7(d)(iii) of the Credit Agreement and (ii) constitute a “Loan Document” for all purposes of the Credit Agreement and the other Loan Documents.

Section 6. Conditions to Effectiveness. This Amendment shall be deemed to be effective upon the satisfaction or waiver of each of the following conditions to the reasonable satisfaction of the Administrative Agent (such date, the “Seventh Amendment Effective Date”):

(a) The Administrative Agent’s receipt of the following, each properly executed by a Responsible Officer of the signing Credit Party, each in form and substance reasonably satisfactory to the Administrative Agent:

(i) this Amendment, duly executed by each of the Credit Parties, the Administrative Agent and each of the Lenders;

(ii) a Revolving Credit Note executed by the Borrower in favor of each Lender that has requested a Revolving Credit Note at least two (2) Business Days in advance of the Seventh Amendment Effective Date;

(iii) an Officer’s Compliance Certificate demonstrating that the Borrower is in compliance (calculated on a Pro Forma Basis based on the financial statements for the most recent fiscal quarter end for which financial statements have been provided after giving effect to the 2018 Revolving Commitment Increase (assuming that the entire 2018 Revolving Commitment Increase is fully funded) and the use of proceeds thereof, but without netting the proceeds thereof), with (A) a Consolidated Senior Secured Net Leverage Ratio not to exceed 3.50 to 1.00 and (B) the financial covenants set forth in Section 9.13 of the Credit Agreement;

(iv) a certificate of a Responsible Officer of each Credit Party certifying that (A) the articles or certificate of incorporation or formation (or equivalent), as applicable, of such Credit Party have not been amended since the date of the last delivered certificate, or if they have been amended, attached thereto are true, correct and complete copies of the same, certified as of a recent date by the

appropriate Governmental Authority in its jurisdiction of incorporation, organization or formation (or equivalent), as applicable, (B) the bylaws or other governing document of such Credit Party have not been amended since the date of the last delivered certificate, or if they have been amended, attached thereto are true, correct and complete copies of the same, (C) attached thereto is a true, correct and complete copy of resolutions duly adopted by the board of directors (or other governing body) of such Credit Party authorizing and approving the transactions contemplated hereunder and the execution, delivery and performance of this Amendment and the Credit Agreement as amended by this Amendment and (D) attached thereto is a true, correct and complete copy of such certificates of good standing from the applicable secretary of state of the state of incorporation, organization or formation (or equivalent), as applicable, of each Credit Party; and

(v) an opinion from counsel to the Credit Parties, substantially in form and substance reasonably satisfactory to the Administrative Agent.

(b) Payment of (i) all fees and expenses of the Administrative Agent and Wells Fargo Securities, LLC, and in the case of expenses, to the extent invoiced at least two (2) Business Days prior to the Seventh Amendment Effective Date (except as otherwise reasonably agreed to by the Borrower), required to be paid on the Seventh Amendment Effective Date and (ii) all fees to the Lenders required to be paid on the Seventh Amendment Effective Date.

(c) The representations and warranties in Section 7 of this Amendment shall be true and correct as of the Seventh Amendment Effective Date.

For purposes of determining compliance with the conditions specified in this Section 6, each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Seventh Amendment Effective Date specifying its objection thereto.

Section 7. Representations and Warranties. By its execution hereof, each Credit Party hereby represents and warrants to the Administrative Agent and the Lenders that, as of the date hereof after giving effect to this Amendment:

(a) each of the representations and warranties made by the Credit Parties in or pursuant to the Loan Documents is true and correct in all material respects (except to the extent that such representation and warranty is subject to a materiality or Material Adverse Effect qualifier, in which case it shall be true and correct in all respects), in each case, on and as of the date hereof as if made on and as of the date hereof, except to the extent that such representations and warranties relate to an earlier date, in which case such representations and warranties are true and correct in all material respects as of such earlier date;

(b) no Default or Event of Default has occurred and is continuing as of the date hereof or after giving effect hereto;

(c) it has the right and power and is duly authorized and empowered to enter into, execute and deliver this Amendment and to perform and observe the provisions of this Amendment;

(d) this Amendment has been duly authorized and approved by such Credit Party's board of directors or other governing body, as applicable, and constitutes a legal, valid and binding obligation of such Credit Party, enforceable against such Credit Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law; and

(e) the execution, delivery and performance of this Amendment do not conflict with, result in a breach in any of the provisions of, constitute a default under, or result in the creation of a Lien (other than Permitted Liens) upon any assets or property of any of the Credit Parties, or any of their respective Subsidiaries, under the provisions of, such Credit Party's or such Subsidiary's organizational documents or any material agreement to which such Credit Party or Subsidiary is a party.

Section 8. Effect of this Amendment. On and after the Seventh Amendment Effective Date, references in the Credit Agreement to "this Agreement" (and indirect references such as "hereunder", "hereby", "herein", and "hereof") and in any Loan Document to the "Credit Agreement" shall be deemed to be references to the Credit Agreement as modified hereby. Except as expressly provided herein, the Credit Agreement and the other Loan Documents shall remain unmodified and in full force and effect. Except as expressly set forth herein, this Amendment shall not be deemed (a) to be a waiver of, or consent to, a modification or amendment of, any other term or condition of the Credit Agreement or any other Loan Document, (b) to prejudice any other right or rights which the Administrative Agent or the Lenders may now have or may have in the future under or in connection with the Credit Agreement or the other Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or otherwise modified from time to time, (c) to be a commitment or any other undertaking or expression of any willingness to engage in any further discussion with the Borrower or any other Person with respect to any waiver, amendment, modification or any other change to the Credit Agreement or the Loan Documents or any rights or remedies arising in favor of the Lenders or the Administrative Agent, or any of them, under or with respect to any such documents or (d) to be a waiver of, or consent to or a modification or amendment of, any other term or condition of any other agreement by and among the Credit Parties, on the one hand, and the Administrative Agent or any other Lender, on the other hand.

Section 9. Costs and Expenses. The Borrower hereby reconfirms its obligations pursuant to Section 12.3 of the Credit Agreement to pay and reimburse the Administrative Agent and its Affiliates in accordance with the terms thereof.

Section 10. Acknowledgments and Reaffirmations. Each Credit Party (a) consents to this Amendment and agrees that the transactions contemplated by this Amendment shall not limit or diminish the obligations of such Person under, or release such Person from any obligations under, any of the Loan Documents to which it is a party, (b) confirms and reaffirms its obligations under each of the Loan Documents to which it is a party and (c) agrees that each of the Loan Documents to which it is a party remains in full force and effect and is hereby ratified and confirmed.

Section 11. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

Section 12. Counterparts. This Amendment may be executed in any number of counterparts, and by different parties hereto in separate counterparts and by facsimile signature, each of which counterparts when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

Section 13. Electronic Transmission. Delivery of this Amendment by facsimile, telecopy or pdf shall be effective as delivery of a manually executed counterpart hereof; provided that, upon the request of any party hereto, such facsimile transmission or electronic mail transmission shall be promptly followed by the original thereof.

Section 14. Nature of Agreement. For purposes of determining withholding Taxes imposed under FATCA from and after the Seventh Amendment Effective Date, the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) the Credit Agreement (as amended by this Amendment) as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date and year first above written.

BORROWER:

REALPAGE, INC.

By: /s/ W. Bryan Hill
Name: W. Bryan Hill
Title: Executive Vice President, Chief Financial Officer
and Treasurer

SUBSIDIARY GUARANTORS:

MULTIFAMILY INTERNET VENTURES, LLC
PROPERTYWARE LLC
LEVEL ONE LLC
RP ABC LLC
REALPAGE VENDOR COMPLIANCE LLC
LEASESTAR LLC
RP NEWCO XV LLC
RP AXIOMETRICS LLC
RP ON-SITE LLC
RP RAINMAKER MULTIFAMILY LLC

By: RealPage, Inc., as sole member

By: /s/ W. Bryan Hill
Name: W. Bryan Hill
Title: Executive Vice President, Chief Financial Officer
and Treasurer

KIGO, INC.

By: /s/ W. Bryan Hill
Name: W. Bryan Hill
Title: Vice President, Chief Financial Officer and Treasurer

REALPAGE UTILITY MANAGEMENT INC.

By: /s/ W. Bryan Hill
Name: W. Bryan Hill
Title: Vice President, Chief Financial Officer and Treasurer

ADMINISTRATIVE AGENT AND LENDERS:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent, Swingline Lender,
Issuing Lender and Lender

By: /s/ Reid R. Landers
Name: Reid R. Landers
Title: Vice President

FIFTH THIRD BANK, as Lender

By: /s/ Glen Mastey
Name: Glen Mastey
Title: Managing Director
COMERICA BANK, as Lender

By: /s/ Charles Fell
Name: Charles Fell
Title: Vice President

BANK OF AMERICA, N.A., as Lender

By: /s/ Jennifer Yan
Name: Jennifer Yan
Title: Senior Vice President

JPMORGAN CHASE BANK, N.A., as Lender

By: /s/ Justin Burton
Name: Justin Burton
Title: Vice President
REGIONS BANK, as Lender

By: /s/ Jason Douglas
Name: Jason Douglas
Title: Director

CAPITAL ONE, NATIONAL ASSOCIATION, as Lender

By: /s/ Nirmal Bivek
Name: Nirmal Bivek
Title: Duly Authorized Signatory

PNC BANK, NATIONAL ASSOCIATION,

as Lender

By: /s/ Divyang Shah
Name: Divyang Shah
Title: Senior Vice President

ANNEX A

Schedule 1.1

(as of the Seventh Amendment Effective Date)

| Lender | Revolving Credit Commitment | Revolving Credit Commitment Percentage |
|--|------------------------------------|---|
| Wells Fargo Bank, National Association | \$54,439,461.88 | 15.554131970% |
| Bank of America, N.A. | \$50,612,855.01 | 14.460815720% |
| Fifth Third Bank | \$50,612,855.01 | 14.460815720% |
| JPMorgan Chase Bank, N.A. | \$40,612,855.01 | 11.603672860% |
| Regions Bank | \$40,872,944.69 | 11.677984200% |
| Capital One, National Association | \$32,959,641.26 | 9.417040360% |
| Comerica Bank | \$23,219,730.94 | 6.634208840% |
| PNC Bank, National Association | \$56,669,656.20 | 16.191330340% |
| Total | \$350,000,000.00 | 100.000000000% |

Section 5: EX-31.1 (EXHIBIT 31.1)

Exhibit 31.1

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF
THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Stephen T. Winn, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ending March 31, 2018 of RealPage, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our

supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

- (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2018

/s/ Stephen T. Winn

Stephen T. Winn

Chairman of the Board of Directors, Chief Executive Officer, President and Director

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Section 6: EX-31.2 (EXHIBIT 31.2)

Exhibit 31.2

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF
THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, W. Bryan Hill, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ending March 31, 2018 of RealPage, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

- (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2018

/s/ W. Bryan Hill

W. Bryan Hill

Executive Vice President, Chief Financial Officer and Treasurer

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Section 7: EX-32.1 (EXHIBIT 32.1)

Exhibit 32.1

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of RealPage, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2018 (the "Report"), I, Stephen T. Winn, Chairman of the Board of Directors, Chief Executive Officer, President and Director of RealPage, Inc., certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of RealPage, Inc.

Date: May 10, 2018

/s/ Stephen T. Winn

Stephen T. Winn

Chairman of the Board of Directors, Chief Executive Officer, President and Director

A signed original of this written statement required by Section 906 has been provided to RealPage, Inc. and will be retained by RealPage, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

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Section 8: EX-32.2 (EXHIBIT 32.2)

Exhibit 32.2

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of RealPage, Inc. (the “Company”) on Form 10-Q for the period ending March 31, 2018 (the “Report”), I, W. Bryan Hill, Executive Vice President, Chief Financial Officer and Treasurer of RealPage, Inc., certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of RealPage, Inc.

Date: May 10, 2018

/s/ W. Bryan Hill

W. Bryan Hill

Executive Vice President, Chief Financial Officer and Treasurer

A signed original of this written statement required by Section 906 has been provided to RealPage, Inc. and will be retained by RealPage, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

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