FORM 10-Q

RealPage, Inc.

(Exact name of registrant as specified in its charter)

Delaware 75-2788861
(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

2201 Lakeside Boulevard
Richardson, Texas 75082-4305
(Address of principal executive offices) (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 ☑ Accelerated filer ☐
Non-accelerated filer ☐ (Do not check if a smaller reporting company) Smaller reporting company ☐
Emerging growth company ☐

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

October 20, 2017
82,879,456
<table>
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<tr>
<th>Table of Contents</th>
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### RealPage, Inc.

**Condensed Consolidated Balance Sheets**

(in thousands, except share data)

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<tr>
<th></th>
<th>September 30, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current assets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$109,334</td>
<td>$104,886</td>
</tr>
<tr>
<td>Restricted cash</td>
<td>92,560</td>
<td>83,654</td>
</tr>
<tr>
<td>Accounts receivable, less allowance for doubtful accounts</td>
<td>$101,164</td>
<td>$92,367</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>14,554</td>
<td>10,836</td>
</tr>
<tr>
<td>Other current assets</td>
<td>6,043</td>
<td>5,712</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>$323,655</td>
<td>297,455</td>
</tr>
<tr>
<td>Property, equipment, and software, net</td>
<td>147,069</td>
<td>130,428</td>
</tr>
<tr>
<td>Goodwill</td>
<td>565,425</td>
<td>259,938</td>
</tr>
<tr>
<td>Identified intangible assets, net</td>
<td>143,447</td>
<td>74,976</td>
</tr>
<tr>
<td>Deferred tax assets, net</td>
<td>69,589</td>
<td>15,665</td>
</tr>
<tr>
<td>Other assets</td>
<td>9,643</td>
<td>9,636</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$1,258,828</td>
<td>$788,098</td>
</tr>
<tr>
<td><strong>Liabilities and stockholders’ equity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$27,388</td>
<td>$21,421</td>
</tr>
<tr>
<td>Accrued expenses and other current liabilities</td>
<td>77,451</td>
<td>50,464</td>
</tr>
<tr>
<td>Current portion of deferred revenue</td>
<td>103,243</td>
<td>89,583</td>
</tr>
<tr>
<td>Current portion of term loan</td>
<td>4,600</td>
<td>5,469</td>
</tr>
<tr>
<td>Customer deposits held in restricted accounts</td>
<td>92,571</td>
<td>83,590</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>$305,253</td>
<td>$250,527</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>5,640</td>
<td>6,308</td>
</tr>
<tr>
<td>Term loan, net</td>
<td>114,719</td>
<td>116,657</td>
</tr>
<tr>
<td>Convertible notes, net</td>
<td>278,392</td>
<td>—</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>38,134</td>
<td>29,843</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td>$742,138</td>
<td>$403,335</td>
</tr>
<tr>
<td>Commitments and contingencies (Note 8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stockholders’ equity:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred stock, $0.001 par value:</td>
<td>10,000,000 shares authorized and zero shares issued and outstanding at September 30, 2017 and December 31, 2016, respectively</td>
<td>—</td>
</tr>
<tr>
<td>Common stock, $0.001 par value:</td>
<td>125,000,000 shares authorized, 87,143,835 and 86,062,191 shares issued and 83,130,124 and 81,087,353 shares outstanding at September 30, 2017 and December 31, 2016, respectively</td>
<td>87</td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>622,224</td>
<td>534,348</td>
</tr>
<tr>
<td>Treasury stock, at cost:</td>
<td>4,013,711 and 4,974,838 shares at September 30, 2017 and December 31, 2016, respectively</td>
<td>(51,545)</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(54,181)</td>
<td>(119,260)</td>
</tr>
<tr>
<td>Accumulated other comprehensive income (loss)</td>
<td>105</td>
<td>(53)</td>
</tr>
<tr>
<td><strong>Total stockholders’ equity</strong></td>
<td>$516,690</td>
<td>384,763</td>
</tr>
<tr>
<td><strong>Total liabilities and stockholders’ equity</strong></td>
<td>$1,258,828</td>
<td>$788,098</td>
</tr>
</tbody>
</table>

See accompanying notes.

1
RealPage, Inc.

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

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand</td>
<td>$161,578</td>
<td>$140,883</td>
</tr>
<tr>
<td>On premise</td>
<td>648</td>
<td>682</td>
</tr>
<tr>
<td>Professional and other</td>
<td>6,832</td>
<td>6,390</td>
</tr>
<tr>
<td>Total revenue</td>
<td>169,058</td>
<td>147,955</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>83,844</td>
<td>199,934</td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>21,885</td>
<td>18,743</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>42,583</td>
<td>33,860</td>
</tr>
<tr>
<td>General and administrative</td>
<td>31,004</td>
<td>21,677</td>
</tr>
<tr>
<td>Impairment of identified intangible assets</td>
<td>—</td>
<td>750</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>95,472</td>
<td>75,030</td>
</tr>
<tr>
<td><strong>Operating income</strong></td>
<td>4,238</td>
<td>8,814</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(4,677)</td>
<td>(1,064)</td>
</tr>
<tr>
<td>(Loss) income before income taxes</td>
<td>(439)</td>
<td>7,750</td>
</tr>
<tr>
<td>Income tax (benefit) expense</td>
<td>(7,273)</td>
<td>3,540</td>
</tr>
<tr>
<td><strong>Net income</strong></td>
<td>$6,834</td>
<td>$4,210</td>
</tr>
<tr>
<td><strong>Net income per share attributable to common stockholders:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$0.09</td>
<td>$0.05</td>
</tr>
<tr>
<td>Diluted</td>
<td>$0.08</td>
<td>$0.05</td>
</tr>
<tr>
<td><strong>Weighted average shares used in computing net income per share attributable to common stockholders:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>79,838</td>
<td>76,823</td>
</tr>
<tr>
<td>Diluted</td>
<td>82,760</td>
<td>78,124</td>
</tr>
</tbody>
</table>

See accompanying notes.
RealPage, Inc.

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

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income</td>
<td>$6,834</td>
<td>$4,210</td>
</tr>
<tr>
<td>(Loss) gain on interest rate swaps, net</td>
<td>(10)</td>
<td>274</td>
</tr>
<tr>
<td>Foreign currency translation adjustment</td>
<td>88</td>
<td>(70)</td>
</tr>
<tr>
<td>Comprehensive income</td>
<td>$6,912</td>
<td>$4,414</td>
</tr>
</tbody>
</table>

See accompanying notes.

3
RealPage, Inc.

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

<table>
<thead>
<tr>
<th>Common Stock</th>
<th>Additional Paid-in Capital</th>
<th>Accumulated Other Comprehensive Income (Loss)</th>
<th>Accumulated Deficit</th>
<th>Treasury Shares</th>
<th>Total Stockholders’ Equity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shares</td>
<td>Amount</td>
<td></td>
<td></td>
<td>Shares</td>
<td>Amount</td>
</tr>
<tr>
<td>Balance as of December 31, 2016</td>
<td>86,062</td>
<td>$ 86</td>
<td>$ 534,348</td>
<td>$ (53)</td>
<td>$ (119,260)</td>
</tr>
<tr>
<td>Cumulative effect of adoption of ASU 2016-09</td>
<td>—</td>
<td>—</td>
<td>6</td>
<td>—</td>
<td>43,837</td>
</tr>
<tr>
<td>Issuance of common stock</td>
<td>982</td>
<td>1</td>
<td>21,613</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Issuance of restricted stock</td>
<td>100</td>
<td>—</td>
<td>(2)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Treasury stock purchases, at cost</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Stock-based expense</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Interest rate swap agreements</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Foreign currency translation</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>86</td>
<td>—</td>
</tr>
<tr>
<td>Reclassification of realized gain on cash flow hedge to earnings, net of tax</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(30)</td>
<td>—</td>
</tr>
<tr>
<td>Equity component of convertible notes, net of issuance costs and deferred tax</td>
<td>—</td>
<td>—</td>
<td>61,390</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Purchases of convertible note hedges</td>
<td>—</td>
<td>—</td>
<td>(62,549)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Issuance of warrants</td>
<td>—</td>
<td>—</td>
<td>31,499</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Net income</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Balance as of September 30, 2017</td>
<td>87,144</td>
<td>$ 87</td>
<td>$ 622,224</td>
<td>$ 105</td>
<td>$ (54,181)</td>
</tr>
</tbody>
</table>

See accompanying notes.
RealPage, Inc.

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

<table>
<thead>
<tr>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
</tr>
</tbody>
</table>

**Cash flows from operating activities:**

- **Net income**: $21,242 $9,289
- **Depreciation and amortization**: 45,814 40,874
- **Amortization of debt discount and issuance costs**: 4,340 325
- **Deferred taxes**: (10,811) 5,424
- **Stock-based expense**: 35,732 27,383
- **Impairment of identified intangible assets**: — 750
- **Loss on disposal and impairment of other long-lived assets**: 472 249
- **Acquisition-related consideration**: 382 (499)
- **Changes in assets and liabilities, net of assets acquired and liabilities assumed in business combinations:**
  - **Accounts receivable**: 468 (2,007)
  - **Prepaid expenses and other current assets**: (1,950) 18,179
  - **Other assets**: (106) (74)
  - **Accounts payable**: 3,702 356
  - **Accrued compensation, taxes, and benefits**: 1,173 2,608
  - **Deferred revenue**: 4,783 (3,005)
  - **Other current and long-term liabilities**: 1,047 5,272
- **Net cash provided by operating activities**: 106,288 105,124

**Cash flows from investing activities:**

- **Purchases of property, equipment, and software**: (38,576) (61,005)
- **Acquisition of businesses, net of cash acquired**: (356,861) (71,400)
- **Purchase of cost method investment**: — (3,000)
- **Net cash used in investing activities**: (395,437) (135,405)

**Cash flows from financing activities:**

- **Proceeds from term loan**: — 124,688
- **Payments on term loan**: (1,533) (1,563)
- **Payments on revolving line of credit**: — (40,000)
- **Proceeds from borrowings on convertible notes**: 345,000 —
- **Purchase of convertible note hedges**: (62,549) —
- **Proceeds from issuance of warrants**: 31,499 —
- **Deferred financing costs**: (11,026) (392)
- **Payments on capital lease obligations**: (232) (549)
- **Payments of acquisition-related consideration**: (8,073) (4,876)
- **Issuance of common stock**: 21,614 16,139
- **Purchase of treasury stock related to stock-based compensation**: (21,189) (3,779)
- **Purchase of treasury stock under share repurchase program**: — (21,244)
- **Net cash provided by financing activities**: 293,511 68,424
- **Net increase in cash and cash equivalents**: 4,362 38,143
- **Effect of exchange rate on cash**: 86 36

**Cash and cash equivalents:**

- **Beginning of period**: 104,886 30,911
- **End of period**: $109,334 $69,090

See accompanying notes.
RealPage, Inc.

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

<table>
<thead>
<tr>
<th>Supplemental cash flow information:</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for interest</td>
<td>$2,757</td>
<td>$1,946</td>
</tr>
<tr>
<td>Cash paid for income taxes, net of refunds</td>
<td>$1,705</td>
<td>$1,520</td>
</tr>
<tr>
<td>Non-cash investing activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accrued property, equipment, and software</td>
<td>$3,242</td>
<td>$1,700</td>
</tr>
</tbody>
</table>

See accompanying notes.

6
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.

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, 2017 (“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 and nine months ended September 30, 2017 and 2016 was earned in the United States. Net property, equipment, and software held consisted of $139.5 million and $125.3 million located in the United States, and $7.6 million and $5.1 million in our international subsidiaries at September 30, 2017 and December 31, 2016, 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 September 30, 2017 and December 31, 2016.

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 based upon the expected collectability of accounts receivable.

No single client accounted for 10% or more of our revenue or accounts receivable for the three or nine months ended September 30, 2017 or 2016.

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.

**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 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.

**Revenue Recognition**

We derive our revenue from three primary sources: on demand software solutions, on premise software solutions, and professional services. We commence revenue recognition when all of the following conditions are met:

- there is persuasive evidence of an arrangement;
- the solution and/or service has been provided to the client;
The collection of the fees is probable; and
the amount of fees to be paid by the client is fixed or determinable.

If the fees are not fixed or determinable, we recognize revenues as payments become due from clients or when amounts owed are collected, provided all other conditions for revenue recognition have been met. Accordingly, this may materially affect the timing of our revenue recognition and results of operations.

When arrangements with clients include multiple software solutions and/or services, we allocate arrangement consideration to each deliverable based on its relative selling price. In such circumstances, we determine the relative selling price for each deliverable based on vendor specific objective evidence of selling price (“VSOE”), if available, or our best estimate of selling price (“BESP”). We have determined that third-party evidence of selling price is not available as our solutions and services are not largely interchangeable with those of other vendors. Our process for determining BESP considers multiple factors, including prices charged by us for similar offerings when sold separately, pricing and discount strategies, and other business objectives.

Taxes collected from clients and remitted to governmental authorities are presented on a net basis.

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 selling certain risk mitigation services.

License and subscription fees are composed of a charge billed at the initial order date and monthly or annual subscription fees for accessing our on demand software solutions. The license fee billed at the initial order date is recognized as revenue on a straight-line basis over the longer of the contractual term or the period in which the client is expected to benefit, which we consider to be three years. Recognition starts once the product has been activated. Revenue from monthly and annual subscription fees is recognized on a straight-line basis over the access period.

We recognize revenue from transaction fees derived from certain of our software-enabled value-added services as the related services are performed.

As part of our risk mitigation services to the rental housing industry, we act as an insurance agent and derive commission revenue from the sale of insurance products to individuals. The commissions are based upon a percentage of the premium that the insurance company charges to the policyholder and are subject to forfeiture in instances where a policyholder cancels prior to the end of the policy. Our contract with our underwriting partner provides for contingent commissions to be paid to us in accordance with the agreement. This agreement provides for 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.

On Premise Revenue
Sales of our on premise software solutions consist of an annual term license, which includes maintenance and support. Clients can renew their annual term license for additional one-year terms at renewal price levels. We recognize revenue for the annual term license and support services on a straight-line basis over the contract term.

We also derive on premise revenue from multiple element arrangements that include perpetual licenses with maintenance and other services to be provided over a fixed term. Revenue is recognized for delivered items using the residual method when we have VSOE of fair value for the undelivered items and all other criteria for revenue recognition have been met.

When VSOE has not been asserted for the undelivered items, we recognize the arrangement fees ratably over the longer of the client support period or the period during which professional services are rendered.

Professional and Other Revenue
Professional services and other revenue are recognized as the services are rendered for time and materials contracts. Training revenues are recognized after the services are performed.

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 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

We adopted Accounting Standards Update (“ASU”) 2016-09, Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting, in the first quarter of 2017. As a result of our adoption of this ASU, we recorded a deferred tax asset of $43.8 million, net of a $0.3 million valuation allowance, related to excess stock-based compensation deductions that arose but were not recognized in prior years. Additionally, we elected to account for forfeitures as they occur using a modified retrospective transition method that required us to record an immaterial cumulative-effect adjustment to accumulated deficit. We elected to account for the change in presentation of excess tax benefits in the statements of cash flows prospectively, and as a result, no prior periods were adjusted. We began to account for all excess tax benefits and deficits arising from current period stock transactions as income tax benefit or expense effective January 1, 2017. The remaining amendments to this standard did not have a material impact on our Condensed Consolidated Financial Statements.

Recently Issued Accounting Standards

In August 2017, the Financial Accounting Standards Board (“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. This ASU eliminates the need to separately measure and report hedge ineffectiveness and generally requires the entire change in fair value of a hedging instrument to be presented in the same income statement line as the hedged item. 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 will 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.

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. The changes in ASU 2017-09 are required to be implemented on a prospective basis and are applicable for annual reporting periods beginning after December 15, 2017, including interim periods therein. Early application is permitted. We will adopt ASU 2017-09 effective January 1, 2018, and do not expect the adoption will have a significant impact on our consolidated financial statements.

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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 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 ASU requires the changes to be implemented on a prospective basis and is applicable for annual reporting periods beginning after December 15, 2017, including interim periods therein. Early application is permitted. We plan to adopt the changes contained in ASU 2017-01 effective January 1, 2018 and, as required by the ASU, will apply the new guidance on a prospective basis. We do not expect this ASU will have a significant impact on our classification of businesses and complementary technologies acquired.

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 standard is effective for fiscal years beginning after December 15, 2017, including interim periods within, and must be applied retrospectively. Early adoption of this ASU is permitted, including adoption in an interim period, but any adjustments must be reflected as of the beginning of the fiscal year that includes that interim period.

We will adopt ASU 2016-18 effective January 1, 2018. After adoption, changes in customer deposits held in restricted accounts will result in an increase or reduction in our cash flows from operating activities. Under current rules, such changes are largely offset by the corresponding change in restricted cash and have a minimal impact on our statement of cash flows.

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). Current GAAP requires lessees to classify their leases as either capital leases, for which the lessee recognizes a lease liability and a related leased asset, or operating leases, which are not reflected in the lessee’s balance sheet. Under the new guidance, a lessee will be required to recognize assets and liabilities for leases with a term of more than twelve months. Consistent with current GAAP, the recognition, measurement, and presentation of expenses and cash flows arising from a lease will depend primarily on its classification as a finance or an operating lease. However, unlike current GAAP, which requires only capital leases to be recognized on the balance sheet, ASU 2016-02 will require both operating and finance leases to be recognized on the balance sheet. Additionally, the ASU will require disclosures to help investors and other financial statement users better understand the amount, timing, and uncertainty of cash flows arising from leases, including qualitative and quantitative requirements.

ASU 2016-02 is effective for interim and annual periods beginning after December 15, 2018, early adoption is permitted. We have not yet selected a transition date. The new standard must be adopted using a modified retrospective transition, and provides for certain practical expedients. Transition will require application of the new guidance to the beginning of the earliest comparative period presented. We have formed a team to identify and analyze our existing lease agreements in order to assess the effect of the adoption of this ASU on our Condensed Consolidated Financial Statements, disclosures, and internal controls.

In May 2014, the FASB issued ASU 2014-09, Revenue from Contracts with Customers (Topic 606). ASU 2014-09, as amended by certain supplementary ASU’s released in 2016, will replace all current GAAP guidance on this topic and eliminate all industry-specific guidance. The new revenue recognition standard provides a unified model to determine when and how revenue is recognized. The core principle is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In doing so, companies will need to use more judgment and make more estimates than under current guidance. These may include identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price, and allocating the transaction price to each separate performance obligation. In August 2015, the FASB issued ASU 2015-14, Topic 606 - Deferral of Effective Date. ASU 2015-14 permitted public business entities to defer the adoption of ASU 2014-09 until interim and annual reporting periods beginning after December 15, 2017. We will adopt ASU 2014-09 in the first quarter of 2018 on a modified retrospective basis. Under this method of adoption, we would recognize the cumulative effect of initially applying the standard as an adjustment to the opening balance of retained earnings in the period of initial adoption. Comparative prior year periods would not be adjusted.

Based on our preliminary analysis, we anticipate that commissions paid to our direct sales force will qualify as incremental costs of obtaining a contract and will be capitalized and subsequently amortized. We also expect that certain client accommodations currently recognized in the period granted instead will be estimated and will reduce the amount of revenue.
recognized as related performance obligations are satisfied. Finally, we expect our allocation of contract transaction prices to result in
slightly more contract value allocated to implementation and consulting services. We continue to believe that the changes noted above will
not result in material changes to our annual revenues.

The standard will require new revenue disclosures in our consolidated financial statements relating to, among other items, the
disaggregation of revenue and contract backlog. We are currently developing expanded disclosures to meet the new requirements. We are
also identifying and designing additional controls and updating our accounting policies to support our implementation and ongoing
compliance with the new standard.

3. Acquisitions

Pending Acquisition Activity

Lease Rent Options

In February 2017, we entered into an agreement (“LRO Purchase Agreement”) to acquire the assets that comprise the multifamily
business (“Lease Rent Options” or “LRO”) of The Rainmaker Group Holdings, Inc. (“Rainmaker”). The closing of the proposed
acquisition is subject to standard closing conditions, including the completion of the Hart-Scott-Rodino Antitrust Improvements Act review
process. The acquisition of LRO will extend our revenue management footprint, augment our repository of real-time lease transaction data,
and increase our data science talent and capabilities. We 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.

Pursuant to the LRO Purchase Agreement, consideration will consist of a cash payment at closing of approximately $298.5 million,
subject to reduction for outstanding indebtedness, unpaid transaction expenses, and a working capital adjustment; and a deferred cash
obligation of up to $1.5 million. The deferred cash obligation serves as security for our benefit against the sellers’ indemnification
obligations. Subject to any indemnification claims made, the deferred cash obligation will be released approximately twelve months
following the acquisition date. We expect to finance this transaction with cash on hand and funds available under our Credit Facility, as
defined in Note 6.

In May 2017, the LRO Purchase Agreement was amended to extend the Termination Date, as defined in the LRO Purchase
Agreement, to December 31, 2017. In August 2017, a second amendment to the LRO Purchase Agreement was executed (“Second LRO
Amendment”) under which RealPage will have the unilateral right to extend the Termination Date beyond December 31, 2017, in the event
that the U.S. Department of Justice files a complaint under applicable antitrust laws with respect to the transaction on or before December
31, 2017. Any such extension by RealPage will effectively extend the Termination Date by six months or the earlier of (i) such time as a
federal court issues a final non-appealable order or takes any other action permanently restraining, enjoining, or otherwise prohibiting the
closing, or otherwise rules that the transaction violates applicable antitrust laws, or (ii) such date as RealPage notifies Rainmaker that it
elects to terminate the extension. The Second LRO Amendment further provides that if RealPage does not elect to extend the Termination
Date, either party has the right to terminate the LRO Purchase Agreement within 20 days after the U.S. Department of Justice files a
complaint under applicable antitrust laws. In the event RealPage elects to extend the Termination Date, RealPage will pay one-half of
Rainmaker’s legal and related fees and expenses reasonably incurred, from the date such extension is exercised to the Termination Date, in
defending the transaction from any complaint filed pursuant to antitrust laws. If the closing has not occurred by the Termination Date,
either RealPage or Rainmaker may, subject to certain limitations, terminate the LRO Purchase Agreement.

Current Acquisition Activity

On-Site

In September 2017, we acquired certain discrete assets of On-Site Manager, Inc. (“On-Site Manager”), 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 $226.0 million at closing, net of cash acquired of $3.7 million, and a deferred cash obligation of up to $29.0
million. The fair value of the deferred cash obligation was $27.4 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 in May 2017.
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 $206.3 million primarily arises from anticipated synergies from leveraging our existing cost structure and integrated sales force. Goodwill and the acquired identifiable intangible assets arising from the acquisition of On-Site Manager are deductible for tax purposes; those arising from the acquisition of DIQ are not. Acquisition costs associated with this transaction, including those incurred as a result of the Hart-Scott-Rodino Antitrust Improvements Act review process, totaled $1.4 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. Goodwill recognized of $44.9 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. Acquisition costs associated with this transaction totaled $0.3 million and were expensed as incurred.

Subsequent to the acquisition date, management continued to review information relating to events and circumstances that existed at the acquisition date. This review resulted in certain adjustments to the provisional amounts previously recognized. The net effect of these measurement period adjustments resulted in a decrease in goodwill of $0.4 million during the quarter ended September 30, 2017.

**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.

We have adjusted our initial purchase price allocation based on management’s ongoing review of information available at the acquisition date. These measurement period adjustments resulted in an increase in goodwill, deferred revenue, and other liabilities of $1.3 million, $0.4 million, and $0.9 million, respectively.
Purchase Price Allocation

The estimated fair values of assets acquired and liabilities assumed presented below are provisional and are based primarily on the information available as of the acquisition dates. We believe that 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 preliminary allocation of each purchase price, including the effects of measurement period adjustments recorded as of September 30, 2017, was as follows:

<table>
<thead>
<tr>
<th>Axiometrics</th>
<th>AUM</th>
<th>On-Site</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Restricted cash</strong></td>
<td>$ —</td>
<td>$ 5,954</td>
</tr>
<tr>
<td><strong>Accounts receivable</strong></td>
<td>1,620</td>
<td>2,409</td>
</tr>
<tr>
<td><strong>Property, equipment, and software</strong></td>
<td>416</td>
<td>319</td>
</tr>
<tr>
<td><strong>Intangible assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Developed product technologies</td>
<td>15,500</td>
<td>10,800</td>
</tr>
<tr>
<td>Client relationships</td>
<td>6,830</td>
<td>7,470</td>
</tr>
<tr>
<td>Trade names</td>
<td>3,200</td>
<td>208</td>
</tr>
<tr>
<td>Non-compete agreements</td>
<td>—</td>
<td>3,920</td>
</tr>
<tr>
<td>Goodwill</td>
<td>54,174</td>
<td>44,935</td>
</tr>
<tr>
<td>Other assets</td>
<td>273</td>
<td>1,208</td>
</tr>
<tr>
<td>Accounts payable and accrued liabilities</td>
<td>(367)</td>
<td>(1,156)</td>
</tr>
<tr>
<td>Client deposits held in restricted accounts</td>
<td>—</td>
<td>(6,334)</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>(7,115)</td>
<td>(321)</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>(774)</td>
<td>—</td>
</tr>
<tr>
<td>Deferred tax liability</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total purchase price</strong></td>
<td>$ 73,757</td>
<td>$ 69,412</td>
</tr>
</tbody>
</table>

At September 30, 2017, deferred cash obligations related to acquisitions completed in 2017 totaled $41.5 million and were carried net of a discount and indemnified obligations of $2.8 million. The aggregate fair value of contingent cash obligations related to these acquisitions was $0.3 million at September 30, 2017. During the three and nine months ended September 30, 2017, we recognized a gain of $0.3 million and $0.5 million, respectively, due to changes in the fair value of contingent cash obligations related to acquisitions completed in 2017.

**2016 Acquisitions**

**eSupply Systems, LLC**

In June 2016, we acquired substantially all of the assets of eSupply Systems, LLC (“eSupply”) and those of certain entities related to eSupply. We have used the acquired assets, which include an e-procurement software and group purchasing service, to augment our Spend Management solutions.

We acquired eSupply for a purchase price of $7.0 million, consisting of a cash payment of $5.5 million at closing and a deferred cash obligation of up to $1.6 million, payable over 18 months after the acquisition date. The fair value of the deferred cash obligation on the date of acquisition was $1.5 million. This acquisition was financed using proceeds from the Term Loan issued in February 2016.

The acquired identified intangible assets primarily consisted of developed technology and client relationships. These intangible assets were assigned estimated useful lives of three and ten years, respectively. We recognized goodwill in the amount of $3.2 million related to this acquisition, which is primarily comprised of anticipated synergies with our existing Spend Management solutions. Goodwill and the acquired identified intangible assets are deductible for tax purposes.

**AssetEye, Inc.**

In May 2016, we acquired all of the issued and outstanding stock of AssetEye, Inc. (“AssetEye”). AssetEye is a data aggregation, reporting, and collaboration platform for institutions holding multiple real estate asset classes. This solution provides asset and portfolio managers with a solution to evaluate performance, trends, and operations across a portfolio with
transparency into property-level data. The acquisition of AssetEye expanded our on demand solutions to serve all asset classes, including: commercial, hospitality, multifamily, single family, senior living, and student housing.

We acquired AssetEye’s issued and outstanding stock for a purchase price of $4.9 million. The purchase price consisted of a cash payment of $3.6 million at closing, net of cash acquired of $0.8 million; deferred cash obligations of $1.0 million, payable over a period of two years following the date of acquisition; contingent cash payments of up to $1.0 million if certain revenue targets are achieved during the three-month period ending September 30, 2017; and additional cash payments of $0.2 million due to former shareholders of AssetEye. The fair value of the deferred and contingent cash obligations was $0.9 million and $0.2 million, respectively, at the date of acquisition. This acquisition was financed with proceeds from the Term Loan issued in February 2016.

The acquired identified intangible assets primarily included developed technology and client relationships having useful lives of five and ten years, respectively. We recognized goodwill in the amount of $3.2 million related to this acquisition, which is primarily comprised of anticipated synergies between the AssetEye solution and our existing complementary solutions as well as our sales and marketing infrastructure. Goodwill and identified intangible assets recognized in connection with this transaction are not deductible for tax purposes.

**NWP Services Corporation**

In March 2016, we acquired all of the issued and outstanding stock of NWP Services Corporation (“NWP”). NWP provides a full range of utility management services, including: resident billing; payment processing; utility expense management; analytics and reporting; sub-metering and maintenance; and regulatory compliance. The primary products offered by NWP include Utility Logic, Utility Smart, Utility Genius, SmartSource, and NWP Sub-meter. We are primarily integrating NWP into our resident services product family. The integrated platform will enable property owners and managers to increase the collection of rent utilities and energy recovery. Goodwill arising from this acquisition consists of anticipated synergies from the integration of NWP into our existing structure.

We acquired NWP’s issued and outstanding stock for a purchase price of $68.2 million. The purchase price consisted of a cash payment of $59.0 million at closing, net of cash acquired of $0.1 million; deferred cash obligations of $7.2 million, payable over a period of three years following the date of acquisition; and other amounts totaling $3.2 million, consisting of payments to certain employees and former shareholders of NWP. The acquisition-date fair value of the deferred cash obligation was $6.0 million. This acquisition was financed with proceeds from the Term Loan issued in February 2016. Acquisition costs associated with this transaction totaled $0.3 million and were expensed as incurred.

The acquired identified intangible assets were comprised of developed technologies, trade name, and client relationships having useful lives of five, three, and ten years, respectively. Goodwill and identified intangible assets acquired in this business combination, valued at $35.3 million and $16.3 million in our initial purchase price allocation, had carryover tax bases of $0.7 million and $11.0 million, respectively, which are deductible for tax purposes. Goodwill and identified intangible assets recognized in excess of those carryover tax basis amounts are not deductible for tax purposes. Accounts receivable acquired had a gross contractual value of $11.3 million at acquisition, of which $3.4 million was estimated to be uncollectible.

We assigned approximately $10.2 million of value to deferred tax assets in our initial purchase price allocation, consisting primarily of $9.9 million of federal and state net operating losses (“NOL”). This NOL amount reflects the tax benefit from approximately $27.3 million of NOLs we expect to realize after considering various limitations and restrictions on NWP’s pre-acquisition NOLs.

In connection with the acquisition of NWP, we recorded an indemnification asset of $1.2 million, which represents the selling security holders’ obligation under the purchase agreement to indemnify the Company for the outcome of certain accrued obligations. The indemnification asset was recognized on the same basis as the corresponding liability, which is based on its estimated fair value as of the date of acquisition.

Subsequent to the acquisition date, management continued to review information relating to events and circumstances that existed at the acquisition date. This review resulted in measurement period adjustments to the provisional amounts recorded at the acquisition date related to deferred cash obligations paid to the sellers and deferred tax assets associated with the transaction. These measurement period adjustments resulted in a change in goodwill, deferred tax assets, and the deferred cash obligation of $(1.8) million, $1.0 million, and $(0.8) million, respectively, during the fourth quarter of 2016.

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Purchase Price Allocation

The allocation of each purchase price was as follows:

<table>
<thead>
<tr>
<th></th>
<th>NWP (in thousands)</th>
<th>AssetEye (in thousands)</th>
<th>eSupply (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restricted cash</td>
<td>$ 4,960</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>7,902</td>
<td>90</td>
<td>287</td>
</tr>
<tr>
<td>Property, equipment, and software</td>
<td>3,194</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intangible assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Developed product technologies</td>
<td>2,740</td>
<td>1,638</td>
<td>2,160</td>
</tr>
<tr>
<td>Client relationships</td>
<td>12,900</td>
<td>1,041</td>
<td>1,390</td>
</tr>
<tr>
<td>Trade names</td>
<td>709</td>
<td>6</td>
<td>35</td>
</tr>
<tr>
<td>Goodwill</td>
<td>33,520</td>
<td>3,154</td>
<td>3,194</td>
</tr>
<tr>
<td>Deferred tax assets, net</td>
<td>11,173</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other assets, net of other liabilities</td>
<td>3,065</td>
<td>8</td>
<td>53</td>
</tr>
<tr>
<td>Accounts payable and accrued liabilities</td>
<td>(6,962)</td>
<td></td>
<td>(44)</td>
</tr>
<tr>
<td>Client deposits held in restricted accounts</td>
<td>(5,018)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>—</td>
<td>(16)</td>
<td>(29)</td>
</tr>
<tr>
<td>Deferred tax liabilities, net</td>
<td>—</td>
<td>(1,010)</td>
<td></td>
</tr>
<tr>
<td>Total purchase price</td>
<td>$ 68,183</td>
<td>$ 4,911</td>
<td>$ 7,046</td>
</tr>
</tbody>
</table>

At September 30, 2017 and December 31, 2016, deferred cash obligations related to acquisitions completed in 2016 totaled $7.3 million and $8.7 million, and were carried net of a discount and indemnified obligations of $2.2 million and $1.2 million, respectively. The aggregate fair value of contingent cash obligations related to these acquisitions was $0.3 million and $0.5 million at September 30, 2017 and December 31, 2016, respectively. During the three and nine months ended September 30, 2017, we recognized a gain of $0.5 million and $0.3 million, respectively, due to changes in the fair value of contingent cash obligations related to these acquisitions. During the same periods in 2016, a loss of $0.1 million was recognized related to these obligations.

We made deferred cash payments of $1.3 million during the nine months ended September 30, 2017, related to these acquisitions. There were no deferred cash payments made during the same period in 2016. During the nine months ended September 30, 2017 and 2016, we made payments totaling $0.1 million and $3.3 million, respectively, related to amounts due to certain employees and former shareholders of the acquired businesses described above.

Acquisition Activity Prior to 2016

At September 30, 2017 and December 31, 2016, the aggregate carrying value of deferred cash obligations related to acquisitions completed prior to 2016 totaled $0.1 million and $6.6 million, respectively. We paid deferred cash obligations related to these acquisitions in the amount of $6.4 million and $5.1 million during the nine months ended September 30, 2017 and 2016, respectively.

No contingent cash obligations remained outstanding at September 30, 2017 related to acquisitions completed prior to 2016. The aggregate carrying value of contingent cash obligations related to these acquisitions was estimated to be zero at December 31, 2016. During the nine months ended September 30, 2017, we paid contingent cash obligations in the amount of $0.7 million related to acquisitions completed prior to 2016. A gain of $0.4 million and $0.8 million was recognized during the three and nine months ended September 30, 2016, respectively, due to changes in the fair value of contingent cash obligations related to these acquisitions. During the nine months ended September 30, 2017, a loss of $0.7 million was recognized related to acquisitions completed prior to 2016.
**Pro Forma Results of Acquisitions**

The following table presents unaudited pro forma results of operations for the three and nine months ended September 30, 2017 and 2016, as if the aforementioned acquisitions, excluding the proposed LRO acquisition, had occurred at the beginning of each period presented. 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.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017 Pro Forma</td>
<td>2016 Pro Forma</td>
</tr>
<tr>
<td>Total revenue</td>
<td>$181,463</td>
<td>$170,455</td>
</tr>
<tr>
<td>Net income</td>
<td>6,650</td>
<td>1,753</td>
</tr>
<tr>
<td>Net income per share:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$0.08</td>
<td>$0.02</td>
</tr>
<tr>
<td>Diluted</td>
<td>$0.08</td>
<td>$0.02</td>
</tr>
</tbody>
</table>

### 4. Property, Equipment, and Software

Property, equipment, and software consisted of the following at September 30, 2017 and December 31, 2016:

<table>
<thead>
<tr>
<th></th>
<th>September 30, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leasehold improvements</td>
<td>$56,529</td>
<td>$51,242</td>
</tr>
<tr>
<td>Data processing and communications equipment</td>
<td>82,866</td>
<td>76,773</td>
</tr>
<tr>
<td>Furniture, fixtures, and other equipment</td>
<td>32,239</td>
<td>26,513</td>
</tr>
<tr>
<td>Software</td>
<td>104,191</td>
<td>86,983</td>
</tr>
<tr>
<td>Property, equipment, and software, gross</td>
<td>275,825</td>
<td>241,511</td>
</tr>
<tr>
<td>Less: Accumulated depreciation and amortization</td>
<td>(128,756)</td>
<td>(111,083)</td>
</tr>
<tr>
<td>Property, equipment, and software, net</td>
<td>$147,069</td>
<td>$130,428</td>
</tr>
</tbody>
</table>

Depreciation and amortization expense for property, equipment, and purchased software was $6.9 million and $6.2 million for the three months ended, and $20.4 million and $18.2 million for the nine months ended September 30, 2017 and 2016, respectively.

The carrying amount of capitalized software development costs was $68.8 million and $55.4 million at September 30, 2017 and December 31, 2016, respectively. Total accumulated amortization related to these assets was $25.4 million and $19.8 million at September 30, 2017 and December 31, 2016, respectively. Amortization expense related to capitalized software development costs totaled $2.2 million and $1.6 million for the three months ended, and $5.7 million and $4.2 million for the nine months ended September 30, 2017 and 2016, respectively.

### 5. Goodwill and Identified Intangible Assets

Changes in the carrying amount of goodwill during the nine months ended September 30, 2017 were as follows, in thousands:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance as of December 31, 2016</td>
<td>$ 259,938</td>
</tr>
<tr>
<td>Goodwill acquired</td>
<td>305,451</td>
</tr>
<tr>
<td>Other</td>
<td>36</td>
</tr>
<tr>
<td>Balance as of September 30, 2017</td>
<td>$ 565,425</td>
</tr>
</tbody>
</table>
Leverage Ratio

Consolidated Net Leverage Ratio, a minimum Consolidated Interest Coverage Ratio, and a maximum Consolidated Senior Secured Net to customary exceptions and qualifications. Our covenants include, among other limitations, a requirement that we comply with a maximum

are required to guarantee our obligations under the Credit Facility. The Credit Facility contains customary covenants, subject in each case

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

1.25%

Facility accrued interest, prior to the amendments described below, at a per annum rate equal to either LIBOR, plus a margin ranging from

$20.0 million

for the issuance of letters of credit and

$200.0 million

for

Deadline Draw Term Loan.

At

our option, amounts outstanding under the Credit Facility accrued interest, prior to the amendments described below, at a per annum rate equal to either LIBOR, plus a margin ranging from 1.25% to 1.75%, or the Base Rate, plus a margin ranging from 0.25% to 0.75% (“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 Lever age Ratio, as defined below. As amended, the Credit Facility matures on February 27, 2022.

The Credit Facility is secured by substantially all of our assets, and certain of our existing and future material domestic subsidiaries are required to guarantee our obligations under the Credit Facility. 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. The Net Leverage Ratio

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Identified intangible assets consisted of the following at September 30, 2017 and December 31, 2016:

<table>
<thead>
<tr>
<th></th>
<th>September 30, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Carrying Amount</td>
<td>Accumulated Amortization</td>
</tr>
<tr>
<td>Finite-lived intangible assets:</td>
<td>(in thousands)</td>
<td>(in thousands)</td>
</tr>
<tr>
<td>Developed technologies</td>
<td>$116,823</td>
<td>$(71,356)</td>
</tr>
<tr>
<td>Client relationships</td>
<td>143,998</td>
<td>(72,965)</td>
</tr>
<tr>
<td>Vendor relationships</td>
<td>5,650</td>
<td>(5,650)</td>
</tr>
<tr>
<td>Trade names</td>
<td>13,840</td>
<td>(2,798)</td>
</tr>
<tr>
<td>Non-compete agreements</td>
<td>4,173</td>
<td>(407)</td>
</tr>
<tr>
<td>Total finite-lived intangible assets</td>
<td>$284,484</td>
<td>$(153,176)</td>
</tr>
<tr>
<td>Indefinite-lived intangible assets:</td>
<td></td>
<td>(in thousands)</td>
</tr>
<tr>
<td>Trade names</td>
<td>12,139</td>
<td>—</td>
</tr>
<tr>
<td>Total identified intangible assets</td>
<td>$296,623</td>
<td>$(153,176)</td>
</tr>
</tbody>
</table>

Amortization expense related to finite-lived intangible assets was $7.1 million and $6.3 million for the three months ended September 30, 2017 and 2016, respectively. For the nine months ended September 30, 2017 and 2016, amortization expense related to finite-lived intangible assets was $19.7 million and $18.5 million, respectively.

In October 2016, we entered into an agreement with A Place for Mom, Inc. (“A Place for Mom”), whereby we sold certain assets associated with our senior living referral services, including certain indefinite-lived trade names, and agreed with A Place for Mom to collaborate to improve lead transparency utilizing A Place for Mom’s and the Company’s senior living customer relationship management platforms. Based on the status of the sale negotiations, we concluded there was a possibility that the negotiated assets could be impaired and performed an impairment analysis as of September 30, 2016. As a result of this analysis, we recorded an impairment of the associated trade names of $0.8 million, the amount by which the carrying value of the trade names exceeded their estimated fair value on the date of analysis, in the third quarter of 2016. See Note 11 for discussion of the methodology and inputs utilized by the Company to estimate the fair value of these indefinite-lived trade names.

6. Debt

Credit Facility

On September 30, 2014, we entered into an agreement for a secured revolving credit facility (as amended by the amendments discussed below, the “Credit Facility”) to refinance our outstanding revolving loans. The Credit Facility provides for an aggregate principal amount of up to $200.0 million of revolving loans, with sublimits of $10.0 million for the issuance of letters of credit and $20.0 million for swingline loans (“Revolving Facility”). Additionally, the Credit Facility 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 3.25 to 1.00 (“Accordion Feature”). Under the First Amendment, discussed below, we used borrowing capacity under the Accordion Feature to add a term loan in an original principal amount of $125.0 million (“Term Loan”) to the Credit Facility. In February 2017, we used borrowing capacity under the Accordion Feature to add a delayed draw term loan with an original principal amount of up to $200.0 million (“Delayed Draw Term Loan”). At our option, amounts outstanding under the Credit Facility accrued interest, prior to the amendments described below, at a per annum rate equal to either LIBOR, plus a margin ranging from 1.25% to 1.75%, or the Base Rate, plus a margin ranging from 0.25% to 0.75% (“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. As amended, the Credit Facility matures on February 27, 2022.

The Credit Facility is secured by substantially all of our assets, and certain of our existing and future material domestic subsidiaries are required to guarantee our obligations under the Credit Facility. 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. The Net Leverage Ratio

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provisions. The Company may prepay the Term requirements in the event of certain asset sales or if certain insurance or condemnation events occur, subject to customary reinvestment
unpaid interest is due on the maturity date. The Term Loan and Delayed Draw Term Loan are subject to mandatory repayment
end of the applicable interest period in the case of loans bearing interest at the adjusted LIBOR. All outstanding principal and accrued but
amounts outstanding under the Credit Facility is due and payable quarterly, in arrears, for loans bearing interest at the Base Rate and at the
Delayed Draw Term Loan are due in quarterly installments, as described above, and may not be re-borrowed. Accumulated interest on
exceeds
Senior Leverage Ratio, and provide for an additional pricing tier for interest rates and fees if the Company's Net Leverage Ratio equals or
modified certain terms of the Credit Facility to, among other things, increase the maximum Net Leverage Ratio, provide for the maximum
amendment to the Credit Facility. At
August 2017
Loan was extended through
$1.3 million
remaining principal balance on the Delayed Draw Term Loan is due on the maturity date. We incurred debt issuance costs in the amount of
quarterly principal payment percentage increases to
quarterly principal payments equal to an initial amount of
quarterly payments will increase to $1.5 million on June 30, 2018, and to $3.1 million on June 30, 2020. Any remaining principal
balance of the Delayed Draw Term Loan is due on the maturity date. We incurred debt issuance costs in the amount of $0.7 million in conjunction with the execution of the First Amendment.
In February 2016, we entered into an amendment to the Credit Facility ("First Amendment"). The First Amendment provided for the Term Loan, which is coterminal with the existing Credit Facility. The Term Loan reduced the amount available for additional term loans and revolving commitments available under the Accordion Feature. Under the terms of the First Amendment, an additional pricing tier was added to the Applicable Margin which modified the range to 1.25% to 2.00% for LIBOR loans, and 0.25% to 1.00% for Base Rate loans. The Term Loan’s amortization schedule was subsequently amended by the Third Amendment, defined below. Under the amended amortization schedule, we began making quarterly principal payments with respect to the Term Loan of $0.8 million on June 30, 2017. The quarterly principal payments will increase to $1.5 million on June 30, 2018, and to $3.1 million on June 30, 2020. Any remaining principal balance of the Term Loan is due on the maturity date.
In February 2017, we entered into the second ("Second Amendment") and third amendments ("Third Amendment") to the Credit Facility. Among other changes, the Second Amendment replenished the amount available under the Accordion Feature, previously reduced through the issuance of the Term Loan, to $150.0 million, plus an amount that would not cause our Senior Leverage Ratio to exceed 3.25 to 1.00. The Third Amendment provided for a delayed draw term loan, which was initially available to be drawn until May 31, 2017 ("Delayed Draw Term Loan"). The Delayed Draw Term Loan reduced the amount available for additional term loans and revolving commitments available under the Accordion Feature. Subsequent to disbursal of the Delayed Draw Term Loan funds, we will make quarterly principal payments equal to an initial amount of 0.625% of the original Delayed Draw Term Loan principal amount. The quarterly principal payment percentage increases to 1.250% beginning on June 30, 2018, and to 2.50% beginning on June 30, 2020. Any remaining principal balance on the Delayed Draw Term Loan is due on the maturity date. We incurred debt issuance costs in the amount of $1.3 million in conjunction with the execution of the Second and Third amendments. The availability period of the Delayed Draw Term Loan was extended through August 31, 2017, under the fifth amendment to the Credit Facility, which was executed in May 2017. In August 2017, the availability period of the Delayed Draw Term Loan was further extended through December 31, 2017, under the sixth amendment to the Credit Facility. At September 30, 2017, we had not drawn funds under the Delayed Draw Term Loan.
On April 3, 2017, we entered into the fourth amendment to the Credit Facility ("Fourth Amendment"). The Fourth Amendment modified certain terms of the Credit Facility to, among other things, increase the maximum Net Leverage Ratio, provide for the maximum Senior Leverage Ratio, and provide for an additional pricing tier for interest rates and fees if the Company’s Net Leverage Ratio equals or exceeds 4.00 to 1.00, resulting in a new Applicable Margin range of 1.25% to 2.25% for LIBOR loans and 0.25% to 1.25% for Base Rate loans.
Revolving loans under the Credit Facility may be voluntarily prepaid and re-borrowed. Principal payments on the Term Loan and Delayed Draw Term Loan are due in quarterly installments, as described above, and may not be re-borrowed. Accumulated 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. All outstanding principal and accrued but unpaid interest is due on the maturity date. The Term Loan and Delayed Draw Term Loan 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
Loan and Delayed Draw Term Loan 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.

We had $121.1 million and $122.6 million of principal outstanding under our Term Loan at September 30, 2017 and December 31, 2016, respectively. There were no outstanding borrowings under the Revolving Facility at September 30, 2017 and December 31, 2016. As of September 30, 2017, we had $400.0 million of available credit under our Credit Facility plus additional amounts under the Accordion Feature. This availability consisted of $200.0 million available under our Revolving Facility, $200.0 million available under our Delayed Draw Term Loan, and amounts available under the Accordion Feature (reduced by the Delayed Draw Term Loan). We had unamortized debt issuance costs of $0.6 million and $0.8 million related to the Revolving Facility, and $1.8 million and $0.5 million related to the Term and Delayed Draw Term Loans at September 30, 2017 and December 31, 2016, respectively. As of September 30, 2017, we were in compliance with the covenants under our Amended Credit Facility.

At September 30, 2017, future maturities of principal under the Term Loan were as follows for the years ending December 31, in thousands:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$767</td>
</tr>
<tr>
<td>2018</td>
<td>5,366</td>
</tr>
<tr>
<td>2019</td>
<td>6,133</td>
</tr>
<tr>
<td>2020</td>
<td>10,732</td>
</tr>
<tr>
<td>2021</td>
<td>12,266</td>
</tr>
<tr>
<td>Thereafter</td>
<td>85,859</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$121,123</strong></td>
</tr>
</tbody>
</table>

**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 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 of indebtedness 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. Upon such a declaration of acceleration, any principal and accrued and unpaid interest will be due and payable immediately.

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 using the effective interest method. The equity component is included along with the equity component in stockholders' equity.

The net carrying amount of the Convertible Notes at September 30, 2017, was as follows, in thousands:

<table>
<thead>
<tr>
<th>Liability component:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal amount</td>
<td>$345,000</td>
</tr>
<tr>
<td>Unamortized discount</td>
<td>(59,046)</td>
</tr>
<tr>
<td>Unamortized debt issuance costs</td>
<td>(7,562)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$278,392</strong></td>
</tr>
</tbody>
</table>

| Equity component, net of issuance costs and deferred tax | $61,390 |

The following table sets forth total interest expense related to the Convertible Notes for the three and nine months ended September 30, 2017:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractual interest expense</td>
<td>$1,265</td>
<td>$1,826</td>
</tr>
<tr>
<td>Amortization of debt discount</td>
<td>2,451</td>
<td>3,503</td>
</tr>
<tr>
<td>Amortization of debt issuance costs</td>
<td>313</td>
<td>447</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,029</td>
<td>$5,776</td>
</tr>
</tbody>
</table>

Effective interest rate of the liability component 5.87%

Convertable 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 September 30, 2017, no Note Hedges or Warrants had been exercised.

7. Stock-based Expense

During the three and nine months ended September 30, 2017, the Company made the following grants of time-based restricted stock:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>95,601</td>
<td>1,215,940</td>
<td>Shares vest ratably over a period of twelve quarters beginning on the first day of the second calendar quarter immediately following the grant date.</td>
</tr>
<tr>
<td>—</td>
<td>49,563</td>
<td>Shares vest ratably over a period of four quarters beginning on the first day of the calendar quarter immediately following the grant date.</td>
</tr>
</tbody>
</table>

During the nine months ended September 30, 2017, we granted 535,441 shares of restricted stock which require the achievement of certain market-based conditions to become eligible to vest. The shares become eligible to vest based on the achievement of the following conditions:

<table>
<thead>
<tr>
<th>Three Months Ended September 30, 2017</th>
<th>Nine Months Ended September 30, 2017</th>
<th>Condition to Become Eligible to Vest</th>
</tr>
</thead>
<tbody>
<tr>
<td>—</td>
<td>178,480</td>
<td>After the grant date and prior to July 1, 2020, the average closing price per share of our common stock equals or exceeds $38.05 for twenty consecutive trading days.</td>
</tr>
<tr>
<td>—</td>
<td>178,480</td>
<td>After the grant date and prior to July 1, 2020, the average closing price per share of our common stock equals or exceeds $41.09 for twenty consecutive trading days.</td>
</tr>
<tr>
<td>—</td>
<td>178,481</td>
<td>After the grant date and prior to July 1, 2020, the average closing price per share of our common stock equals or exceeds $45.66 for twenty consecutive trading days.</td>
</tr>
</tbody>
</table>

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, as amended.

The Company capitalized $0.2 million of stock-based expense for software development costs during each of the three and nine month periods ended September 30, 2017.
8. 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 September 30, 2017, minimum annual rental commitments under non-cancellable operating leases were as follows for the years ending December 31, in thousands:

<table>
<thead>
<tr>
<th>Year</th>
<th>Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$3,939</td>
</tr>
<tr>
<td>2018</td>
<td>14,304</td>
</tr>
<tr>
<td>2019</td>
<td>12,845</td>
</tr>
<tr>
<td>2020</td>
<td>10,648</td>
</tr>
<tr>
<td>2021</td>
<td>10,056</td>
</tr>
<tr>
<td>Thereafter</td>
<td>54,428</td>
</tr>
<tr>
<td></td>
<td><strong>$106,220</strong></td>
</tr>
</tbody>
</table>

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 September 30, 2017 or December 31, 2016.

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 September 30, 2017 or December 31, 2016.

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.

In March 2015, we were named in a purported class action lawsuit in the United States District Court for the Eastern District of Pennsylvania, styled Stokes v. RealPage, Inc., Case No. 2:15-cv-01520. The claims in this purported class action relate to alleged violations of the Fair Credit Reporting Act (“FCRA”) in connection with background screens of prospective tenants of our clients. On January 25, 2016, the court entered an order placing the case on hold until the United States Supreme Court issued its decision in Spokeo, Inc. v. Robins, which case addressed issues related to standing to bring claims related to the FCRA. On May 16, 2016, the U.S. Supreme Court issued its opinion in the Spokeo litigation, vacating the decision of the United States Court of Appeals for the Ninth Circuit, and remanding the case for further consideration by the U.S. Court of Appeals. Following the Supreme Court’s decision in Spokeo, the judge in the Stokes case lifted the stay. On June 24, 2016, we filed a motion to dismiss certain claims made in the case based upon the Spokeo decision. On October 19, 2016, the U.S. District Court denied the motion to dismiss.

In November 2014, we were named in a purported class action lawsuit in the United States District Court for the Eastern District of Virginia, styled Jenkins v. RealPage, Inc., Case No. 3:14cv758. The claims in this purported class action relate to alleged violations of the FCRA in connection with background screens of prospective tenants of our clients. This case has since...
been transferred to the United States District Court for the Eastern District of Pennsylvania. On January 25, 2016, the court entered an order placing the case on hold until the United States Supreme Court issued its decision in the Speakeo case. Following the Supreme Court’s decision in Speakeo, the judge in the Jenkins case lifted the stay. On June 24, 2016, we filed a motion to dismiss certain claims made in the case based upon the Speakeo decision. On October 19, 2016, the U.S. District Court denied the motion to dismiss.

On June 19, 2017, the court in both the Stokes case and Jenkins case consolidated the cases for purposes of settlement. On June 30, 2017, the parties signed a Settlement Agreement and Release covering both cases and the plaintiffs in the consolidated cases filed an uncontested motion for preliminary approval of the class action settlement and the notice to the class. On August 3, 2017, the court issued a written order preliminarily approving the proposed class settlement. The final approval hearing is set for February 6, 2018.

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.

9. 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 36,028 and 51,156 for the three months ended and 245,009 and 358,992 for the nine months ended September 30, 2017 and 2016, 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. No conversion premium existed as of September 30, 2017, and as such, there was no dilutive impact from the Convertible Notes for the three and nine month periods ended September 30, 2017. 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 6. 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 6 for further discussion regarding the Convertible Notes.

As required by ASU 2016-09, the weighted average effect of dilutive securities for the three and nine month periods ended September 30, 2017, was calculated without including consideration of windfall tax benefits, resulting in the repurchase of fewer hypothetical shares and a greater dilutive effect. This change was applied on a prospective basis, and dilutive securities for the same period in 2016 have not been adjusted.
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The following table presents the calculation of basic and diluted net income per share:

<table>
<thead>
<tr>
<th>Numerator:</th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income</td>
<td>$6,834</td>
<td>$4,210</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Denominator:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted average common shares used in computing basic net income per share</td>
<td>79,838</td>
<td>76,823</td>
<td>79,045</td>
<td>76,615</td>
</tr>
<tr>
<td>Diluted:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Add weighted average effect of dilutive securities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stock options and restricted stock</td>
<td>2,922</td>
<td>1,301</td>
<td>3,006</td>
<td>910</td>
</tr>
<tr>
<td>Weighted average common shares used in computing diluted net income per share</td>
<td>82,760</td>
<td>78,124</td>
<td>82,051</td>
<td>77,525</td>
</tr>
<tr>
<td>Net income per share:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$0.09</td>
<td>$0.05</td>
<td>$0.27</td>
<td>$0.12</td>
</tr>
<tr>
<td>Diluted</td>
<td>$0.08</td>
<td>$0.05</td>
<td>$0.26</td>
<td>$0.12</td>
</tr>
</tbody>
</table>

10. 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.

Our effective income tax rate was (82.4)% and 43.7% for the nine months ended September 30, 2017 and 2016, respectively. Our effective rate is lower than the statutory rate for the nine months ended September 30, 2017, primarily because of excess tax benefits from stock-based compensation of $2.7 million, $4.5 million and $7.2 million recognized as discrete items during, respectively, the first, second and third quarters of 2017, as required by ASU 2016-09. The effective rate is higher than the statutory rate for the nine months ended September 30, 2016, primarily because of state income taxes and non-deductible expenses.

As a result of our adoption of ASU 2016-09, on January 1, 2017 we recorded a deferred tax asset of $43.8 million, net of a $0.3 million valuation allowance, with a corresponding increase to retained earnings. The deferred tax asset consisted of excess stock-based compensation deductions that arose but were not recognized in prior years. See additional discussion of our adoption of ASU 2016-09 in Note 2. In the second quarter of 2017, we recorded a deferred tax asset of $0.6 million as a result of differences in the treatment of convertible debt issuance costs for financial reporting and tax purposes.

11. 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 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 September 30, 2017 and December 31, 2016:

<table>
<thead>
<tr>
<th></th>
<th>September 30, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rates</td>
<td>16.5%</td>
<td>14.8 - 27.8%</td>
</tr>
<tr>
<td>Volatility rates</td>
<td>24.0%</td>
<td>29.9%</td>
</tr>
<tr>
<td>Risk free rate of return</td>
<td>1.3%</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

The following tables disclose the assets and liabilities measured at fair value on a recurring basis as of September 30, 2017 and December 31, 2016, by the fair value hierarchy levels as described above:

<table>
<thead>
<tr>
<th>Fair value at September 30, 2017</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Level 1</td>
<td>Level 2</td>
</tr>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest rate swap agreements</td>
<td>$1,073</td>
<td>—</td>
<td>$1,073</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingent consideration related to the acquisition of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AssetEye</td>
<td>$255</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Axiometrics</td>
<td>343</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total liabilities measured at fair value</td>
<td>$598</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

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### Table of Contents

#### Fair value at December 31, 2016

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest rate swap agreements</td>
<td>$1,098</td>
<td>$—</td>
<td>$1,098</td>
<td>$—</td>
</tr>
<tr>
<td><strong>Liabilities:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingent consideration related to the acquisition of:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indatus</td>
<td>$2</td>
<td>$2</td>
<td>$—</td>
<td>$2</td>
</tr>
<tr>
<td>AssetEye</td>
<td>539</td>
<td>$—</td>
<td>$—</td>
<td>539</td>
</tr>
<tr>
<td>Total liabilities measured at fair value</td>
<td>$541</td>
<td>$—</td>
<td>$—</td>
<td>$541</td>
</tr>
</tbody>
</table>

There were no transfers between Level 1 and Level 2, or between Level 2 and Level 3 measurements during the nine months ended September 30, 2017.

Changes in the fair value of Level 3 measurements were as follows for the nine months ended September 30, 2017 and 2016:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands)</td>
<td></td>
</tr>
<tr>
<td>Balance at beginning of period</td>
<td>$541</td>
<td>$841</td>
</tr>
<tr>
<td>Initial contingent consideration</td>
<td>812</td>
<td>245</td>
</tr>
<tr>
<td>Net gain on change in fair value</td>
<td>(755)</td>
<td>(692)</td>
</tr>
<tr>
<td>Balance at end of period</td>
<td>$598</td>
<td>$394</td>
</tr>
</tbody>
</table>

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.

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

In October 2016, the Company entered into an agreement with A Place for Mom whereby we sold certain assets associated with our senior living referral services, including certain indefinite-lived trade names. Based on the status of the negotiations, we concluded there was a possibility that the negotiated assets could be impaired and performed an impairment analysis as of September 30, 2016. We estimated the aggregate fair value of the negotiated assets to be $5.0 million at September 30, 2016, based on the price at which they were sold in October 2016 in an arms-length transaction with an unrelated party. The method utilized incorporated significant unobservable inputs and the Company concluded that the measurement should be classified within Level 3. The Company believes that the method used to determine the fair value of the assets was reasonable. See Note 5 for further discussion of these impairments.

#### 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 Loan, and 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.

The carrying value of the Term Loan approximates fair value since it is subject to a short-term floating interest rate that approximates borrowing rates currently available to the Company for debt of similar terms and maturities.

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We estimated the fair value of the Convertible Notes based on quoted market prices as of the last trading day for the nine months ended September 30, 2017; 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. The Company concluded that this fair value measurement should be categorized within Level 2. The carrying value of the Convertible Notes is net of unamortized discount and issuance costs. The fair value and carrying value of the Convertible Notes were as follows at September 30, 2017:

<table>
<thead>
<tr>
<th></th>
<th>Fair Value (in thousands)</th>
<th>Carrying Value (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convertible Notes</td>
<td>$401,235</td>
<td>$278,392</td>
</tr>
</tbody>
</table>

12. 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. 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 date and ending on May 4, 2018.

Repurchase activity during the nine months ended September 30, 2017 and 2016 was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
</tr>
<tr>
<td>Number of shares repurchased</td>
<td>—</td>
</tr>
<tr>
<td>Weighted-average cost per share</td>
<td>$—</td>
</tr>
<tr>
<td>Total cost of shares repurchased, in thousands</td>
<td>$—</td>
</tr>
</tbody>
</table>

There was no repurchase activity during the three months ended September 30, 2017 and 2016.

13. 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 $0.4 million will be reclassified as a decrease of interest expense during the twelve-month period ending September 30, 2018.

As of September 30, 2017, the Swap Agreements were still outstanding. The table below presents the notional and fair value of the Swap Agreements as well as their classification on the Condensed Consolidated Balance Sheets as of September 30, 2017 and December 31, 2016:

<table>
<thead>
<tr>
<th></th>
<th>Balance Sheet Location</th>
<th>Notional (in thousands)</th>
<th>Fair Value (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Derivatives designated as cash flow hedging instruments:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Swap agreements as of September 30, 2017</td>
<td>Other assets</td>
<td>$75,000</td>
<td>$1,073</td>
</tr>
<tr>
<td>Swap agreements as of December 31, 2016</td>
<td>Other assets</td>
<td>$75,000</td>
<td>$1,098</td>
</tr>
</tbody>
</table>

As of September 30, 2017, 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 September 30, 2017, it could have been required to settle its obligations under the Swap Agreements at their termination value of $1.1 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 on the Condensed Consolidated Statements of Operations and the Condensed Consolidated Statements of Comprehensive Income for the three and nine months ended September 30, 2017 and 2016, in thousands:

<table>
<thead>
<tr>
<th>Derivatives Designated as Cash Flow Hedges</th>
<th>Effective Portion</th>
<th>Ineffective Portion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gain (Loss)</td>
<td>Location of Gain (Loss)</td>
</tr>
<tr>
<td></td>
<td>Recognized in OCI</td>
<td>Recognized in Income</td>
</tr>
<tr>
<td>Swap agreements, net of tax</td>
<td>$ 29</td>
<td>Interest expense and other</td>
</tr>
</tbody>
</table>

| Swap agreements, net of tax | $ 456 | Interest expense and other | $ 76 | Interest expense and other | $ — |

| Nine months ended September 30, 2017: |
| Swap agreements, net of tax | $ 102 | Interest expense and other | $ 30 | Interest expense and other | $ (41) |

| Swap agreements, net of tax | $ (86) | Interest expense and other | $ 163 | Interest expense and other | $ — |

14. Subsequent Events

PEX Software

On October 23, 2017, we 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 which 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 ease our expansion into the European Union and other international markets. The purchase price consisted of a cash payment of $5.2 million and a deferred cash obligation of $1.0 million, payable over a period of 24 months following the acquisition date.

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-K.


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 2016 previously filed with the SEC on March 1, 2017, and our Quarterly Report on Form 10-Q for the second quarter of 2017 filed on August 4, 2017. 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 apartment 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. We also derive revenue from our professional and other services, and a small percentage of our revenue is derived from sales of our on premise software solutions. Our on demand software solutions are sold pursuant to subscription license agreements and our on premise software solutions are sold pursuant to term or perpetual licenses and associated maintenance agreements. We price our solutions based primarily on the number of units the client manages with our solutions. 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 base. 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. In addition, since July 2002, we have completed 38 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 September 30, 2017, we had approximately 5,200 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 enterprise resource planning, or ERP, systems. These solutions manage core property management business processes, including leasing, accounting, budgeting, purchasing, facilities management, document management, and support and advisory services. It includes 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 seven primary solutions including OneSite, Propertyware, 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 Center, Websites & Syndication, MyNewPlace, Lead2Lease, and Resident Screening.

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. Our resident services solution category consists of five primary solutions: Resident & Utility Billing, 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 four primary solutions: YieldStar Revenue Management, Business Intelligence, Data Analytics, 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 on-site 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

Convertible Notes

In May 2017, we raised approximately $304.2 million in net proceeds (after adjusting for debt issue costs, including the underwriting discount, and the net cash used to purchase the Note Hedges and sell the Warrants, discussed below) upon completion of a private offering of convertible senior notes (“Convertible Notes”).

The Convertible Notes pay semi-annual interest at a rate of 1.50% per annum on the $345.0 million aggregate principal balance and mature in November 2022. 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 to shares of our common stock at their option. Prior to May 15, 2022, holders may, at their option, convert their Convertible Notes only subsequent to the occurrence of certain specified circumstances. 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.

We entered into hedging transactions designed to offset dilution to our common stock in the event of a conversion under the Convertible Notes. The note hedge instruments (“Note Hedges”) have a strike price of $41.95 per share, which corresponds to the conversion price under the Convertible Notes, and expire in November 2022. To help offset the cost of the Note Hedges, we also issued warrants (“Warrants”) for shares of our common stock. 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. The Note Hedges and Warrants each cover approximately 8.2 million shares of our common stock, subject to customary anti-dilutive provisions.

We used the net offering proceeds for general corporate purposes, including our acquisitions of AUM, On-Site, and PEX, discussed below. Refer to Note 6 of the accompanying Condensed Consolidated Financial Statements for further discussion of these transactions and their accounting implications.

**Pending Acquisition Activity**

**Lease Rent Options**

In February 2017, we entered into an agreement (“LRO Purchase Agreement”) to acquire the assets that comprise the multifamily business (“Lease Rent Options” or “LRO”) of The Rainmaker Group Holdings, Inc. (“Rainmaker”). The closing of the proposed acquisition is subject to standard closing conditions, including the completion of the Hart-Scott-Rodino Antitrust Improvements Act review process. The acquisition of LRO will extend our revenue management footprint, augment our repository of real-time lease transaction data, and increase our data science talent and capabilities. We 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.

In May 2017, the LRO Purchase Agreement was amended to extend the Termination Date, as defined in the LRO Purchase Agreement, to December 31, 2017. In August 2017, a second amendment (“Second LRO Amendment”) was executed in which the parties agreed that RealPage will have the unilateral right to extend the Termination Date beyond December 31, 2017, in the event that the U.S. Department of Justice files a complaint under applicable antitrust laws with respect to the transaction on or before December 31, 2017. In the event we elect to extend the Termination Date, we will pay one-half of Rainmaker’s legal and related fees and expenses reasonably incurred, from the date such extension is exercised to the Termination Date, in defending the transaction from any complaint filed pursuant to antitrust laws. If the closing has not occurred by the Termination Date, either RealPage or Rainmaker may, subject to certain limitations, terminate the LRO Purchase Agreement. Further discussion of the Second LRO Amendment can be found in Note 3 to the Condensed Consolidated Financial Statements.

Pursuant to the LRO Purchase Agreement, consideration will consist of a cash payment at closing of approximately $298.5 million, subject to reduction for outstanding indebtedness, unpaid transaction expenses, and a working capital adjustment; and a deferred cash obligation of up to $1.5 million. The deferred cash obligation serves as security for our benefit against the sellers' indemnification obligations. Subject to any indemnification claims made, the deferred cash obligation will be released approximately twelve months following the acquisition date. We expect to finance this transaction with cash on hand and funds available under our Credit Facility.

**Current Acquisition Activity**

**PEX Software**

On October 23, 2017, we 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 which 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 ease our expansion into the European Union and other international markets. The purchase price consisted of a cash payment of $5.2 million and a deferred cash obligation of $1.0 million, payable over a period of 24 months following the acquisition date.

In September 2017, we acquired certain discrete assets of On-Site Manager, Inc. (“On-Site Manager”), 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. On-Site's platform offers solutions similar to our screening and document management business, and also includes prospect and resident portals, online and on premise leasing, payment processing, and eSignature lease execution solutions. The acquisition of On-Site increased the footprint of our screening services and added incremental consumer oriented data that benefits our data analytic solutions. Additionally, we anticipate On-Site will improve the integration of our leasing
solutions into other major property management systems. The acquired assets will be integrated with our existing screening and online leasing solutions over time.

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 $226.0 million, net of cash acquired of $3.7 million, and a deferred cash obligation of up to $29.0 million. The deferred cash obligation, subject to any adjustments related to working capital and the seller’s indemnification obligations, will be paid over a period of 36 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.

**American Utility Management**

In June 2016, 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 properties 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 deferred cash obligation, subject to any adjustments related to working capital and the seller’s indemnification obligations, will be paid 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.

**Axiometrics LLC**

In January 2017, RealPage acquired substantially all of the assets of Axiometrics LLC (“Axiometrics”), a leading provider of multifamily market data. This acquisition augmented our existing lease transaction data pool, further enhancing the accuracy and value of the analysis and forecasts provided to our clients through our data analytics solutions. The acquisition of Axiometrics expanded our multifamily data analytics platform and was integrated with MPF Research, our market research database, to form Data Analytics.

Purchase consideration was comprised of a cash payment at closing of $66.1 million, a deferred cash obligation of up to $7.5 million, and contingent cash payments of up to $5.0 million. The deferred cash obligation serves as security for our benefit against the sellers’ indemnification obligations and, subject to any indemnification claims made, will be released over a period of two years following the acquisition date. Payment of the contingent cash obligation is dependent upon the achievement of certain revenue targets during the twelve-month period ending December 31, 2018.

**2016 Acquisitions**

**eSupply Systems, LLC**

In June 2016, we acquired substantially all of the assets of eSupply Systems, LLC (“eSupply”) and those of certain entities related to eSupply. We have used the acquired assets, which included an e-procurement software and group purchasing service, to augment our Spend Management solutions. The addition of this group purchasing organization provided increased purchasing power and highly competitive pricing structures for our clients, enhancing our already robust e-procurement platform.

We acquired eSupply for a purchase price of $7.0 million, consisting of a cash payment of $5.5 million at closing and deferred cash obligations of up to $1.6 million, payable over 18 months after the acquisition date. The deferred cash obligation is subject to adjustments specified in the purchase agreement related to the sellers’ indemnification obligations.

**AssetEye, Inc.**

In May 2016, we acquired all of the issued and outstanding stock of AssetEye, Inc. (“AssetEye”). AssetEye is a data aggregation, reporting, and collaboration platform for institutions holding multiple real estate asset classes. This acquisition expanded our on demand offerings to serve all asset classes, including commercial, hospitality, multifamily, single family, senior living, and student housing. The AssetEye software provides asset and portfolio managers with a solution to evaluate performance, trends, and operations across a portfolio with transparency into property-level data. On demand analytics allow stakeholders to quickly combine financial results and operating metrics based upon portfolio attributes that help evaluate asset management strategies.

We acquired AssetEye’s issued and outstanding stock for a purchase price of $4.9 million. The purchase price consisted of a cash payment of $3.6 million at closing, net of cash acquired of $0.8 million; deferred cash obligations of up to $1.0 million, payable over a period of two years following the date of acquisition; contingent cash payments of up to $1.0 million if certain
revenue targets are achieved during the three-month period ending September 30, 2017; and additional cash payments of $0.2 million due to former shareholders of AssetEye.

**NWP Services Corporation**

In March 2016, we acquired all of the issued and outstanding stock of NWP Services Corporation (“NWP”). NWP provides a full range of utility management services, including resident billing; payment processing; utility expense management; analytics and reporting; sub-metering and maintenance; and regulatory compliance. The primary products offered by NWP include Utility Logic, Utility Smart, Utility Genius, SmartSource, and NWP Sub-meter. We are integrating NWP into our resident services product family. The integrated platform will enable property owners and managers to increase the collection of rent utilities and energy recovery. We acquired NWP’s issued and outstanding stock for a purchase price of $68.2 million. The purchase price consisted of a cash payment of $59.0 million at closing, net of cash acquired of $0.1 million; deferred cash obligations of $7.2 million, payable over a period of three years following the date of acquisition; and other amounts totaling $3.2 million, consisting of payments to certain employees and shareholders of NWP. Through the NWP acquisition, we obtained a significantly larger share of the utility metering services market.

**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:

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total revenue</td>
<td>$169,058</td>
<td>$147,955</td>
</tr>
<tr>
<td>On demand revenue</td>
<td>$161,578</td>
<td>$140,883</td>
</tr>
<tr>
<td>On demand revenue as a percentage of total revenue</td>
<td>95.6%</td>
<td>95.2%</td>
</tr>
<tr>
<td>Non-GAAP total revenue</td>
<td>$169,756</td>
<td>$147,794</td>
</tr>
<tr>
<td>Non-GAAP on demand revenue</td>
<td>$162,276</td>
<td>$140,722</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$39,980</td>
<td>$32,976</td>
</tr>
<tr>
<td>Ending on demand units</td>
<td>12,253</td>
<td>11,251</td>
</tr>
<tr>
<td>Average on demand units</td>
<td>11,869</td>
<td>11,196</td>
</tr>
<tr>
<td>On demand annual client value</td>
<td>$708,836</td>
<td>$565,700</td>
</tr>
<tr>
<td>Annualized on demand revenue per average on demand unit</td>
<td>$57.85</td>
<td>$50.28</td>
</tr>
</tbody>
</table>

**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 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:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total revenue</td>
<td>$169,058</td>
<td>$147,955</td>
<td>$483,283</td>
<td>$419,057</td>
</tr>
<tr>
<td>Acquisition-related and other deferred revenue adjustments</td>
<td>698</td>
<td>(161)</td>
<td>2,348</td>
<td>(762)</td>
</tr>
<tr>
<td>Non-GAAP total revenue</td>
<td>$169,756</td>
<td>$147,794</td>
<td>$485,631</td>
<td>$418,295</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand revenue</td>
<td>$161,578</td>
<td>$140,883</td>
<td>$462,518</td>
<td>$400,904</td>
</tr>
<tr>
<td>Acquisition-related and other deferred revenue adjustments</td>
<td>698</td>
<td>(161)</td>
<td>2,348</td>
<td>(762)</td>
</tr>
<tr>
<td>Non-GAAP on demand revenue</td>
<td>$162,276</td>
<td>$140,722</td>
<td>$464,866</td>
<td>$400,142</td>
</tr>
</tbody>
</table>

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 (income), (5) costs arising from the Hart-Scott-Rodino review process, (6) interest expense, net, (7) income tax (benefit) expense, (8) headquarters relocation costs, and (9) 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:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td>$6,834</td>
<td>$4,210</td>
<td>$21,242</td>
<td>$9,289</td>
</tr>
<tr>
<td>Acquisition-related and other deferred revenue adjustments</td>
<td>698</td>
<td>(161)</td>
<td>2,348</td>
<td>(762)</td>
</tr>
<tr>
<td>Depreciation, asset impairment, and loss on disposal of assets</td>
<td>7,331</td>
<td>7,119</td>
<td>20,935</td>
<td>19,178</td>
</tr>
<tr>
<td>Amortization of intangible assets</td>
<td>9,335</td>
<td>7,847</td>
<td>25,351</td>
<td>22,695</td>
</tr>
<tr>
<td>Acquisition-related expense (income)</td>
<td>485</td>
<td>(266)</td>
<td>3,049</td>
<td>(332)</td>
</tr>
<tr>
<td>Costs arising from Hart-Scott-Rodino review process</td>
<td>5,993</td>
<td>—</td>
<td>8,702</td>
<td>—</td>
</tr>
<tr>
<td>Interest expense, net</td>
<td>4,813</td>
<td>1,079</td>
<td>8,737</td>
<td>2,888</td>
</tr>
<tr>
<td>Income tax (benefit) expense</td>
<td>(7,273)</td>
<td>3,540</td>
<td>(9,594)</td>
<td>7,199</td>
</tr>
<tr>
<td>Headquarters relocation costs</td>
<td>—</td>
<td>1,353</td>
<td>—</td>
<td>3,552</td>
</tr>
<tr>
<td>Stock-based expense</td>
<td>11,764</td>
<td>8,255</td>
<td>35,732</td>
<td>27,383</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$39,980</td>
<td>$32,976</td>
<td>$116,502</td>
<td>$91,090</td>
</tr>
</tbody>
</table>

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

Revenue

We derive our revenue from three primary sources: our on demand software solutions, our on premise 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. Typically, we price our on demand software solutions based primarily on the number of units the client manages with our solutions. 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.

On premise revenue: Our on premise software solutions are distributed to our clients and maintained locally on the client’s hardware. Revenue from our on premise software solutions is comprised of license fees under term and perpetual license agreements. Typically, we have licensed our on premise software solutions pursuant to term license agreements with an initial term of one year that include maintenance and support. Clients can renew their term license agreement for additional one-year terms at renewal price levels. We currently only market and support our acquired on premise solutions. While we intend to continue supporting these solutions, we expect that many of the clients who license them will transition to our on demand software solutions over time.

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.

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 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;
- Fair value measurements;
- Business combinations;
- Goodwill and other intangible assets with indefinite lives;
- Impairment of long-lived assets;
- 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, 2017 for a discussion of such policies.

Recently Adopted Accounting Standards
We adopted ASU 2016-09, Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting, in the first quarter of 2017. As a result of our adoption of this ASU, we recorded a deferred tax asset of $43.8 million, net of a $0.3 million valuation allowance, related to excess stock-based compensation deductions that arose but were not recognized in prior years. Additionally, we elected to account for forfeitures as they occur using a modified retrospective transition method that required us to record an immaterial cumulative-effect adjustment to accumulated deficit. We elected to account for the change in presentation of excess tax benefits in the statements of cash flows prospectively, and as a result, no prior periods were adjusted. We began to account for all excess tax benefits and deficits arising from current period stock transactions as income tax benefit or expense effective January 1, 2017. The remaining amendments to this standard did not have a material impact on our Condensed Consolidated Financial Statements.

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

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand</td>
<td>$161,578</td>
<td>$140,883</td>
</tr>
<tr>
<td>On premise</td>
<td>648</td>
<td>682</td>
</tr>
<tr>
<td>Professional and other</td>
<td>6,832</td>
<td>6,390</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>$169,058</td>
<td>$147,955</td>
</tr>
<tr>
<td><strong>Cost of revenue</strong></td>
<td>69,348</td>
<td>64,111</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>99,710</td>
<td>83,844</td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>21,885</td>
<td>18,743</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>42,583</td>
<td>33,860</td>
</tr>
<tr>
<td>General and administrative</td>
<td>31,004</td>
<td>21,677</td>
</tr>
<tr>
<td>Impairment of identified intangible assets</td>
<td>—</td>
<td>750</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>95,472</td>
<td>75,030</td>
</tr>
<tr>
<td><strong>Interest expense and other, net</strong></td>
<td>(4,677)</td>
<td>(1,064)</td>
</tr>
<tr>
<td><strong>(Loss) income before income taxes</strong></td>
<td>(7,273)</td>
<td>3,540</td>
</tr>
<tr>
<td><strong>Net income</strong></td>
<td>$6,834</td>
<td>$4,210</td>
</tr>
</tbody>
</table>

**Net income per share attributable to common stockholders:**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic</td>
<td>$0.09</td>
<td>$0.05</td>
</tr>
<tr>
<td>Diluted</td>
<td>$0.08</td>
<td>$0.05</td>
</tr>
</tbody>
</table>

**Weighted average shares used in computing net income per share attributable to common stockholders:**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic</td>
<td>79,838</td>
<td>76,823</td>
</tr>
<tr>
<td>Diluted</td>
<td>82,760</td>
<td>78,124</td>
</tr>
</tbody>
</table>

(1) Includes stock-based expense as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of revenue</td>
<td>$1,040</td>
<td>$929</td>
</tr>
<tr>
<td>Product development</td>
<td>2,098</td>
<td>1,900</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>3,847</td>
<td>1,406</td>
</tr>
<tr>
<td>General and administrative</td>
<td>4,779</td>
<td>4,020</td>
</tr>
</tbody>
</table>

39
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand</td>
<td>$462,518</td>
<td>95.7 %</td>
<td>$400,904</td>
<td>95.7 %</td>
</tr>
<tr>
<td>On premise</td>
<td>1,982</td>
<td>0.4</td>
<td>2,141</td>
<td>0.5</td>
</tr>
<tr>
<td>Professional and other</td>
<td>18,783</td>
<td>3.9</td>
<td>16,012</td>
<td>3.8</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>483,283</td>
<td>100.0</td>
<td>419,057</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Cost of revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>199,934</td>
<td>41.4</td>
<td>180,937</td>
<td>43.2</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>283,349</td>
<td>58.6</td>
<td>238,120</td>
<td>56.8</td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development(1)</td>
<td>63,562</td>
<td>13.2</td>
<td>54,893</td>
<td>13.1</td>
</tr>
<tr>
<td>Sales and marketing(1)</td>
<td>116,965</td>
<td>24.2</td>
<td>101,188</td>
<td>24.1</td>
</tr>
<tr>
<td>General and administrative(1)</td>
<td>82,625</td>
<td>17.1</td>
<td>61,955</td>
<td>14.8</td>
</tr>
<tr>
<td>Impairment of identified intangible assets</td>
<td>—</td>
<td>—</td>
<td>750</td>
<td>0.2</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>263,152</td>
<td>54.5</td>
<td>218,786</td>
<td>52.2</td>
</tr>
<tr>
<td><strong>Operating income</strong></td>
<td>20,197</td>
<td>4.1</td>
<td>19,334</td>
<td>4.6</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(8,549)</td>
<td>(1.7)</td>
<td>(2,846)</td>
<td>(0.7)</td>
</tr>
<tr>
<td><strong>(Loss) income before income taxes</strong></td>
<td>11,648</td>
<td>2.4</td>
<td>16,488</td>
<td>3.9</td>
</tr>
<tr>
<td><strong>Income tax (benefit) expense</strong></td>
<td>(9,594)</td>
<td>(2.0)</td>
<td>7,199</td>
<td>1.7</td>
</tr>
<tr>
<td><strong>Net income</strong></td>
<td>$21,242</td>
<td>4.4 %</td>
<td>$9,289</td>
<td>2.2 %</td>
</tr>
</tbody>
</table>

**Net income per share attributable to common stockholders:**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic</td>
<td>$0.27</td>
<td>$0.12</td>
</tr>
<tr>
<td>Diluted</td>
<td>$0.26</td>
<td>$0.12</td>
</tr>
</tbody>
</table>

**Weighted average shares used in computing net income per share attributable to common stockholders:**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic</td>
<td>79,045</td>
<td>76,615</td>
</tr>
<tr>
<td>Diluted</td>
<td>82,051</td>
<td>77,525</td>
</tr>
</tbody>
</table>

(1) Includes stock-based expense as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of revenue</td>
<td>$2,943</td>
<td>$2,506</td>
</tr>
<tr>
<td>Product development</td>
<td>6,431</td>
<td>5,246</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>11,241</td>
<td>8,179</td>
</tr>
<tr>
<td>General and administrative</td>
<td>15,117</td>
<td>11,452</td>
</tr>
</tbody>
</table>

Revenue

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>(in thousands, except per unit data and percentages)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand</td>
<td>$161,578</td>
<td>$140,883</td>
<td>$20,695</td>
<td>14.7%</td>
</tr>
<tr>
<td>On premise</td>
<td>648</td>
<td>682</td>
<td>(34)</td>
<td>(5.0%)</td>
</tr>
<tr>
<td>Professional and other</td>
<td>6,832</td>
<td>6,390</td>
<td>442</td>
<td>6.9%</td>
</tr>
<tr>
<td>Total revenue</td>
<td>$169,058</td>
<td>$147,955</td>
<td>$21,103</td>
<td>14.3%</td>
</tr>
<tr>
<td>Non-GAAP on demand revenue</td>
<td>$162,276</td>
<td>$140,722</td>
<td>$21,554</td>
<td>15.3%</td>
</tr>
<tr>
<td>Ending on demand units</td>
<td>12,253</td>
<td>11,251</td>
<td>1,002</td>
<td>8.9%</td>
</tr>
<tr>
<td>Average on demand units</td>
<td>11,869</td>
<td>11,196</td>
<td>673</td>
<td>6.0%</td>
</tr>
<tr>
<td>On demand annual client value</td>
<td>$708,836</td>
<td>$565,700</td>
<td>$143,136</td>
<td>25.3%</td>
</tr>
<tr>
<td>Annualized on demand revenue per average on demand unit</td>
<td>$57.85</td>
<td>$50.28</td>
<td>$7.57</td>
<td>15.1%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Nine Months Ended September 30,</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>(in thousands, except per unit data and percentages)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On demand</td>
<td>$462,518</td>
<td>$400,904</td>
<td>$61,614</td>
<td>15.4%</td>
</tr>
<tr>
<td>On premise</td>
<td>1,982</td>
<td>2,141</td>
<td>(159)</td>
<td>(7.4%)</td>
</tr>
<tr>
<td>Professional and other</td>
<td>18,783</td>
<td>16,012</td>
<td>2,771</td>
<td>17.3%</td>
</tr>
<tr>
<td>Total revenue</td>
<td>$483,283</td>
<td>$419,057</td>
<td>$64,226</td>
<td>15.3%</td>
</tr>
<tr>
<td>Non-GAAP on demand revenue</td>
<td>$464,866</td>
<td>$400,142</td>
<td>$64,724</td>
<td>16.2%</td>
</tr>
</tbody>
</table>

The change in total revenue for the three and nine months ended September 30, 2017, as compared to the same periods in 2016, was due to the following:

On demand revenue: During the three and nine months ended September 30, 2017, on demand revenue increased $20.7 million and $61.6 million, or 14.7% and 15.4%, respectively, as compared to the same periods in 2016. These increases were attributable to incremental revenue from our recent acquisitions and the growth of our resident services and asset optimization solutions. RPU as of September 30, 2017, increased year-over-year by 15.1%, driven by revenue from our 2017 acquisitions and the continued consistent growth of our asset optimization, resident services, and property management solutions.

On demand revenue generated by our property management solutions increased year-over-year by $3.0 million, or 7.6%, and $9.5 million, or 8.4%, during the three and nine months ended September 30, 2017, respectively. These increases were primarily driven by the growth of our spend management solutions, as well as our property management and accounting solutions.

On demand revenue from our leasing and marketing solutions for the three and nine months ended September 30, 2017, decreased by $0.5 million and $2.6 million, or 1.3% and 3.0%, respectively, as compared to the same periods in 2016. These decreases were mainly due to lower revenues from our contact center, reflecting the effect of continued unfavorable macro-economic conditions and increased competition, and the sale of our senior living referral services in the fourth quarter of 2016. These decreases were partially offset by growth in our screening and online leasing solutions.

On demand revenue from our resident services solutions continued to experience significant growth, increasing by $11.9 million and $37.3 million, or 20.3% and 23.6%, during the three and nine months ended September 30, 2017, respectively, as compared to the same periods in 2016. Resident services benefited from strong growth in our resident utility management solutions, primarily attributable to incremental revenue from our acquisitions of NWP and AUM, and the continued growth of
our payments solutions. Renter’s insurance revenue decreased year-over-year for the three-month period ending September 30, 2017, reflecting the adverse effect of hurricanes Harvey and Irma, but continued to grow year-over-year for the nine-month period ending September 30, 2017.

On demand revenue derived from our asset optimization solutions grew $6.3 million, or 45.0%, during the three months ended September 30, 2017, and $17.4 million, or 43.2%, during the nine months ended September 30, 2017, as compared to the same periods in 2016. This growth was attributable to incremental revenue from our acquisition of Axiometrics and growth of our data analytics, revenue management, and business intelligence solutions.

**Professional and other revenue:** Professional and other revenue increased year-over-year by $2.8 million during the nine months ended September 30, 2017, driven by our acquisition of AUM in the second quarter of 2017, as well as growth from our portfolio asset management and delivery management solutions. This growth was partially offset by lower year-over-year implementation and consulting revenue during the nine-month period.

**On demand unit metrics:** As of September 30, 2017, one or more of our on demand solutions was utilized in the management of 12.3 million rental property units, representing a year-over-year net increase of 1.0 million units, or 8.9%. Excluding the impact of the sale of certain assets associated with our senior living referral services in the fourth quarter of 2016, on demand units increased year-over-year by 14.3% as of September 30, 2017. This increase was primarily due to our acquisitions completed in 2017, which accounted for approximately 7.8% of total ending on demand units. On demand units managed by our clients renewed at an average rate of 95.4% over a trailing twelve-month period ended September 30, 2017.

**Cost of Revenue**

<table>
<thead>
<tr>
<th>Cost of Revenue</th>
<th>Three Months Ended September 30</th>
<th>Nine Months Ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
</tr>
<tr>
<td>(in thousands, except percentages)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>$61,845</td>
<td>$56,052</td>
</tr>
<tr>
<td>Stock-based expense</td>
<td>1,040</td>
<td>929</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>6,463</td>
<td>7,130</td>
</tr>
<tr>
<td>Total cost of revenue</td>
<td>$69,348</td>
<td>$64,111</td>
</tr>
</tbody>
</table>

**Cost of revenue:** During the three and nine months ended September 30, 2017, cost of revenue, excluding stock-based expense, depreciation, and amortization, increased $5.8 million and $20.0 million, respectively, as compared to the same periods in 2016. Personnel expense increased year-over-year during the three and nine month periods ending September 30, 2017, by $3.3 million and $10.5 million, respectively, primarily attributable to employees gained in our 2016 and 2017 acquisitions and investments to support our ongoing organic growth. Year-over-year increases in direct costs of $2.7 million and $9.0 million during the three and nine-month periods ended September 30, 2017, respectively, were driven by higher transaction volume from our payment processing solutions and incremental costs from our recent acquisitions.

During the three and nine months ended September 30, 2017, our gross margin increased year-over-year from 56.7% to 59.0%, and from 56.8% to 58.6%, respectively. These increases in margin were attributable to revenue growth from our higher margin solutions, such as resident services and asset optimization, and our focus on operating efficiencies and cost containment strategies. Lower margins from our recent acquisitions partially diluted our margin growth in the three and nine-month periods. We expect the margins from these acquisitions to expand as we integrate them into our existing cost structure.

**Operating Expenses**

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th>Three Months Ended September 30</th>
<th>Nine Months Ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
</tr>
<tr>
<td>(in thousands, except percentages)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$18,089</td>
<td>$15,341</td>
</tr>
<tr>
<td>Stock-based expense</td>
<td>2,098</td>
<td>1,900</td>
</tr>
<tr>
<td>Depreciation</td>
<td>1,698</td>
<td>1,502</td>
</tr>
<tr>
<td>Total product development expense</td>
<td>$21,885</td>
<td>$18,743</td>
</tr>
</tbody>
</table>

**Product development:** Product development expense, excluding stock-based expense and depreciation, increased $2.7 million and $6.9 million for the three and nine months ended September 30, 2017, respectively, as compared to the same periods in 2016. Investments to support our product initiatives and incremental headcount from our recent acquisitions.
contributed to a year-over-year increase in personnel expense of $2.1 million and $4.6 million in the respective periods. Product initiatives also drove a year-over-year increase in consulting fees of $0.4 million and $1.3 million during the three and nine-month periods, respectively. Facilities and information technology expense also increased during the three and nine-month periods by $0.2 million and $0.9 million, respectively, to support our growth.

Total product development expense as a percent of total revenues was consistent with that of the prior year at 12.9% and 12.7% during the three months ended, and 13.2% and 13.1% during the nine months ended September 30, 2017 and 2016, respectively.

<table>
<thead>
<tr>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td></td>
</tr>
<tr>
<td>Stock-based expense</td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td></td>
</tr>
<tr>
<td>Total sales and marketing expense</td>
<td></td>
</tr>
</tbody>
</table>

Sales and marketing: Sales and marketing expense, excluding stock-based expense, depreciation, and amortization, increased year-over-year by $4.0 million and $8.4 million during the three and nine months ended September 30, 2017, respectively, as compared to the same periods in 2016. Personnel expense increased $2.8 million and $6.0 million between the respective periods, reflecting investment in our sales force to further increase productivity and incremental headcount from our 2017 acquisitions. The increase in the nine-month period was partially offset by cost savings, primarily from the integration of NWP. Marketing program costs increased year-over-year during the three and nine month periods ending September 30, 2017, by $1.2 million and $1.9 million, respectively, reflecting investments to accelerate client demand across our portfolio of solutions and costs related to our annual user conference.

Total sales and marketing expense as a percentage of total revenue for the third quarter increased from 22.9% in 2016 to 25.2% in 2017, primarily driven by higher stock-based expense and amortization expense during the current period. Total sales and marketing expense as a percentage of total revenue for the nine months ended September 30, 2017, was generally consistent with that of the prior year at 24.2% in 2017 and 24.1% in 2016.

General and administrative: General and administrative expense for the three and nine months ended September 30, 2017, excluding stock-based expense and depreciation, increased $8.1 million and $15.7 million, respectively, as compared to the same periods in the prior year. Professional fees for the three and nine month periods ending September 30, 2017, increased year-over-year by $8.2 million and $13.2 million, respectively. This increase was primarily driven by costs related to the Hart-Scott-Rodino review process for our proposed acquisition of LRO and our recently completed acquisition of On-Site, and higher levels of other legal activity. Personnel expense for the nine-month period increased $2.2 million year-over-year, reflecting investments to support our continued growth and incremental headcount from our recent acquisitions. Additionally, changes in the fair value of our acquisition-related obligations contributed $1.0 million to the year-over-year increase during the nine-month period. These increases were partially offset by a decrease of $1.3 million during the nine-month period, as compared to the same period in 2016, related to sales tax matters.

Total general and administrative expense as a percentage of total revenue increased from 14.7% to 18.3% for the three months ended, and from 14.8% to 17.1% for the nine months ended September 30, 2016 and 2017, respectively, primarily as a result of the higher professional fees, as described above. Excluding the impact of costs related to the Hart-Scott-Rodino review processes, general and administrative expense as a percentage of total revenue was 14.8% and 15.3% for the three and nine months ended September 30, 2017, respectively.
Impairment of Identified Intangible Assets: In October 2016, we entered into an agreement with A Place for Mom, Inc. (“A Place for Mom”) whereby we agreed to sell certain assets associated with our senior living referral services, including certain indefinite-lived trade names, (“Referral Assets”). Based on the sale negotiations, we concluded there was a possibility that the Referral Assets could be impaired and performed an impairment analysis as of September 30, 2016. Based on the results of this analysis, we recorded an impairment of the associated trade names of $0.8 million, the amount by which the carrying value of the trade names exceeded their estimated fair value on the date of analysis. The sale of the Referral Assets to A Place for Mom was subsequently completed in October 2016. In connection with the sale of assets, we also agreed with A Place for Mom to collaborate to improve lead transparency utilizing A Place for Mom’s referral services and the Company’s senior living customer relationship management platform.

**Stock-based Expense**

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
</tr>
<tr>
<td>Stock-based expense</td>
<td>$11,764</td>
<td>$8,255</td>
</tr>
</tbody>
</table>

Stock-based expense as a percent of total revenue was 7.0% and 5.6% for the three months ended, and 7.4% and 6.5% for the nine months ended September 30, 2017 and 2016, respectively. This increase is principally attributable to incremental expense from awards granted subsequent to the third quarter of 2016, and lower expense in the three and nine-month periods in 2016 related to forfeitures.

**Depreciation and Amortization Expense**

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30,</th>
<th>Nine Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
</tr>
<tr>
<td>Depreciation expense</td>
<td>$6,946</td>
<td>$6,205</td>
</tr>
<tr>
<td>Amortization expense</td>
<td>9,335</td>
<td>7,847</td>
</tr>
<tr>
<td>Total depreciation and amortization expense</td>
<td>$16,281</td>
<td>$14,052</td>
</tr>
</tbody>
</table>

Depreciation and amortization expense increased $2.2 million and $4.9 million during the three and nine months ended September 30, 2017, respectively, as compared to the same periods in 2016. Depreciation expense increased year-over-year primarily due to elevated capital expenditures in 2016 related to the relocation of our corporate headquarters and data center. Higher amortization expense was driven by the addition of finite-lived intangible assets in connection with our recent acquisitions.

**Interest Expense and Other, Net**

Interest expense and other for the three and nine months ended September 30, 2017, increased year-over-year by $3.6 million and $5.7 million, respectively. These increases were primarily due to interest and amortization related to our Convertible Notes issued in May 2017.

**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 other taxable income and by calculating the tax effect of discrete items recognized during the quarter. Our effective income tax rate was (82.4)% and 43.7% for the nine months ended September 30, 2017 and 2016, respectively. Our effective rate was lower than the statutory rate for the nine months ended September 30, 2017, primarily because of excess tax benefits from stock compensation of $2.7 million, $4.5 million and $7.2 million recognized as discrete items during, respectively, the first, second and third quarters of 2017, as required by ASU 2016-09. The effective rate was higher than the statutory rate for the nine months ended September 30, 2016, primarily because of state income taxes and non-deductible expenses.
Liquidity and Capital Resources

Our primary sources of liquidity as of September 30, 2017, consisted of $109.3 million of cash and cash equivalents, $200.0 million available under the Revolving Facility, $200.0 million available under the Delayed Draw Term Loan, amounts available under the Credit Facility’s Accordion Feature (reduced by the Delayed Draw Term Loan), and $12.3 million of working capital (excluding $109.3 million of cash and cash equivalents and $103.2 million of deferred revenue).

In May 2017, we completed a private offering of $345.0 million of 1.50% Convertible Notes due November 15, 2022. In connection with the Convertible Notes we also purchased Note Hedges at a cost of $62.5 million, and received proceeds of $31.5 million from the issuance of Warrants. Conversion of the notes may be settled at our option by payment or delivery of cash, shares of our common stock, or a combination of cash and shares of our common stock. 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. Issuance of the Convertible Notes resulted in the receipt of net proceeds, after adjusting for debt issue costs, including the underwriting discount, and the net cash used to purchase the Note Hedges and sell the Warrants, of $304.2 million. See additional discussion of the Convertible Notes below and in Note 6 to the Condensed Consolidated Financial Statements.

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 $38.6 million during the nine months ended September 30, 2017. Due to anticipated expenditures related to our headquarters, our recent acquisitions, investments related to those acquisitions, and data content and analytics investments, we expect capital expenditures to be approximately 8% of total revenue during the year ending December 31, 2017. 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. We expect to fund these obligations from cash provided by operating activities or funds available under our Credit Facility.

In February 2017, we entered into an agreement to acquire LRO. The closing of the proposed acquisition is subject to standard closing conditions, including the completion of the Hart-Scott-Rodino Antitrust Improvements Act review process. Pursuant to the purchase agreement, purchase consideration will consist of a cash payment at closing of approximately $298.5 million, subject to reduction for outstanding indebtedness, unpaid transaction expenses, and a working capital adjustment; and a deferred cash obligation of up to $1.5 million, which will be released approximately twelve months following the acquisition date. We expect to finance this transaction with cash on hand and funds available under our Credit Facility. Further discussion of the LRO acquisition can be found in Note 3 to the Condensed Consolidated Financial Statements.

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 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. In addition to the transactions discussed above, 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, 2016, we had gross federal and state NOL carryforwards of $158.9 million and $60.6 million, respectively. During the nine months ended September 30, 2017, we generated an additional $28.0 million in gross federal and state net operating losses, primarily as a result of excess tax benefits from stock-based compensation recognized during the period. NOLs that we generated are not currently subject to the Section 382 limitation; however, approximately $37.6 million of NOLs generated by our subsidiaries prior to our acquisition of them are subject to the Section 382 limitation. Our federal and state NOL carryforwards may be available to offset potential payments of future income tax liabilities. If unused, these NOL carryforwards expire at various dates beginning in 2024 for federal NOLs and in 2017 for state NOLs. Total gross state NOLs expiring in the next five years total approximately $4.9 million.

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

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net cash provided by operating activities</td>
<td>$106,288</td>
<td>$105,124</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(395,437)</td>
<td>(135,405)</td>
</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>293,511</td>
<td>68,424</td>
</tr>
</tbody>
</table>
Net Cash Provided by Operating Activities

During the nine months ended September 30, 2017, net cash provided by operating activities consisted of net income of $21.2 million and net non-cash adjustments to net income of $76.0 million. Non-cash adjustments primarily consisted of depreciation and amortization expense of $45.8 million, stock-based expense of $35.7 million, and amortization of debt discount and issuance costs of $4.3 million. These items were partially offset by income tax-related items of $10.8 million.

Changes in working capital contributed $9.1 million and $21.6 million to operating cash flows during the nine-month periods ended September 30, 2017 and 2016, respectively. Cash flows from working capital in 2016 benefited from the receipt of payments of $19.0 million from the tenant improvement allowance related to our new corporate headquarters. Amounts due under this allowance were all received in 2016. Changes in working capital during the nine-month period in 2017 included net cash inflows from accounts payable and accrued liabilities of $4.9 million, primarily attributable to the accrual of professional fees related to the Hart-Scott-Rodino review process for our proposed acquisition of LRO, and deferred revenue of $4.8 million. These items were partially offset by net cash outflows from changes in other current assets of $2.1 million, due primarily to expenditures for annual software licenses.

Net Cash Used in Investing Activities

During the nine months ended September 30, 2017, we used $395.4 million of net cash in investing activities, consisting of $66.1 million to acquire Axiometrics, $64.8 million to acquire AUM, $226.0 million to acquire On-Site, and $38.6 million for capital expenditures. Capital expenditures during the period primarily included capitalized software development costs and expenditures to support our information technology infrastructure.

Net Cash Provided by Financing Activities

During the nine months ended September 30, 2017, the net cash provided by our financing activities primarily consisted of proceeds from the issuance of the Convertible Notes of $314.0 million, net of the purchase of the Note Hedges and proceeds from the issuance of the Warrants. These items were partially offset by payments of acquisition-related consideration of $8.1 million and $11.0 million of costs incurred in connection with the issuance of the Convertible Notes and amendments to the Credit Facility.

Contractual Obligations, Commitments, and Contingencies

The following table summarizes, as of September 30, 2017, our minimum payments, including interest when applicable, for long-term debt and other obligations for the next five years and thereafter:

<table>
<thead>
<tr>
<th>Payments Due by Period</th>
<th>Total</th>
<th>Less Than 1 year</th>
<th>1-3 years</th>
<th>3-5 years</th>
<th>More Than 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convertible Notes (1)</td>
<td>$373,376</td>
<td>$3,148</td>
<td>$10,350</td>
<td>$10,350</td>
<td>$349,528</td>
</tr>
<tr>
<td>Credit Facility (2)</td>
<td>135,363</td>
<td>1,492</td>
<td>17,577</td>
<td>29,942</td>
<td>86,352</td>
</tr>
<tr>
<td>Operating lease obligations</td>
<td>106,220</td>
<td>3,939</td>
<td>27,149</td>
<td>20,704</td>
<td>54,428</td>
</tr>
<tr>
<td>Acquisition-related liabilities (3)</td>
<td>44,833</td>
<td>5,890</td>
<td>33,943</td>
<td>5,000</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$659,792</td>
<td>$14,469</td>
<td>$89,019</td>
<td>$65,996</td>
<td>$490,308</td>
</tr>
</tbody>
</table>

(1) Represents the aggregate principal amount of $345.0 million and anticipated 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 excludes unamortized debt issuance costs reflected in our Condensed Consolidated Balance Sheets. These amounts also include the future interest obligations of our Term Loan, which were estimated using a LIBOR forward rate curve and include the related effects of our interest rate swap agreements.

(3) Represents undiscounted amounts payable for our deferred cash 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 in February 2016 and in February, April, May, and August of 2017 (inclusive of these amendments, the “Credit Facility”). The Credit Facility matures on February 27, 2022, and includes the following:

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Revolving Facility
The Credit Facility provides an aggregate principal amount of up to $200.0 million of revolving loans, with sublimits of $10.0 million for the issuance of letters of credit and $20.0 million for swingline loans (“Revolving Facility”). Advances under the Revolving Facility may be voluntarily prepaid and re-borrowed. All outstanding principal and accrued but unpaid interest under the Revolving Facility is due at maturity.

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. The Company may prepay the Term Loan in whole or in part at any time, without premium or penalty. Any remaining principal and accrued but unpaid interest under the Term Loan is due on the Credit Facility’s maturity date.

Delayed Draw Term Loan
The Credit Facility provides for an incremental $200.0 million delayed draw term loan (“Delayed Draw Term Loan”) that is available to be drawn until December 31, 2017. Subsequent to disbursal of the Delayed Draw Term Loan funds, we will make quarterly principal payments equal to an initial amount of 0.625% of the original Delayed Draw Term Loan principal amount. The quarterly principal payment percentage increases to 1.250% beginning on June 30, 2018, and to 2.50% beginning on June 30, 2020. The Company may prepay the Delayed Draw Term Loan in whole or in part at any time, without premium or penalty. Any remaining principal and accrued but unpaid interest under the Delayed Draw Term Loan is due on the Credit Facility’s maturity date. At September 30, 2017, we had not drawn funds under the Delayed Draw Term Loan.

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 3.25 to 1.00. The addition of the Delayed Draw Term Loan to the Credit Facility reduced the amount available under this increase option.

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. Accumulated 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.

The Credit Facility is secured by substantially all of our assets, and certain of our existing and future material domestic subsidiaries are required to guarantee our obligations under the Credit Facility. The 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 or 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 covenants also include a requirement that we comply with certain financial ratios, as described below.

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, and generally may not exceed 4.00 to 1.00. Under the terms of the Credit Facility, the Net Leverage Ratio was automatically increased to 5.00 to 1.00 upon our acquisition of On-Site in September 2017. The Net Leverage Ratio will stay at this level through December 31, 2017, after which it will be incrementally stepped down until it returns to 4.00 to 1.00 on September 30, 2019. This automatic increase may not occur again during the term of the Credit Facility.

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

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 four previous consecutive fiscal quarters’ consolidated EBITDA and may not be greater than 3.00 to 1.00.
3.50 to 1.00. At our option, this ratio may be increased to 3.75 to 1.00 for a period of one year following the completion of an acquisition having aggregate consideration greater than $50.0 million. This option may not be exercised more than one time during any consecutive eight quarter period. At September 30, 2017, we had not exercised our option to increase the permissible Senior Leverage Ratio.

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.

Convertible Notes

As noted above, 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 the Company 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 6 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. 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.

Repurchase activity during the nine months ended September 30, 2017 and 2016 was as follows:

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Number of shares repurchased</td>
<td>—</td>
<td>1,012,823</td>
</tr>
<tr>
<td>Weighted-average cost per share</td>
<td>$ —</td>
<td>$ 20.98</td>
</tr>
<tr>
<td>Total cost of shares repurchased, in thousands</td>
<td>$ —</td>
<td>$ 21,244</td>
</tr>
</tbody>
</table>
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-acquisition period. We had deferred cash obligations of $40.7 million and $14.1 million and contingent cash obligations of $0.6 million and $0.5 million at September 30, 2017 and December 31, 2016, 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, 2016.

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 $109.3 million and $104.9 million at September 30, 2017 and December 31, 2016, 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 $121.1 million outstanding under our Term Loan at September 30, 2017. The Term Loan is reflected net of unamortized debt issuance costs of $1.8 million in the accompanying Condensed Consolidated Balance Sheet at September 30, 2017. At our option, amounts borrowed under the Amended Credit Facility accrue interest at a per annum rate equal to either LIBOR or the Base Rate plus the Applicable Margin. 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 rates change by 10% of the closing market rates as of September 30, 2017, our annual interest expense would change by less than $0.1 million.

On March 31, 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. Any declines in interest rates, however, will reduce future interest income.

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 the end of the period covered by this report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of September 30, 2017, in ensuring that information required to be disclosed in the reports that we file or submit under the Exchange Act, is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management’s assessment of the effectiveness of our disclosure controls and procedures is expressed at the level of reasonable assurance because management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives.

Changes in Internal Controls

There were no changes in the Company’s internal control over financial reporting during the three and nine months ended September 30, 2017 that have materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.
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 Fair Credit Reporting Act ("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 are continuing to assess the matter and plan to have further discussions with the FTC. 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. However, we are unable to predict the outcome of this matter at this time.

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.

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 current and achieve broader market acceptance;
- fluctuations in leasing activity by our clients;
- increase in the number or severity of insurance claims on policies sold by us;
- 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;
- changes in local economic, political and regulatory environments of our international operations;
- the variable nature of our sales and implementation cycles;
- 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;
Internet usage trends among consumers and the methodologies Internet search engines utilize to direct those consumers to websites such as our LeaseStar product family;

our ability to hire and retain qualified key personnel, including particular key positions in our sales force and IT department;

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;

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, social media, 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;

the timing of revenue and expenses related to recent and potential acquisitions or dispositions of businesses or technologies;

our ability to integrate acquisition operations in a cost-effective and timely manner;

litigation and settlement costs, including unforeseen costs; and

new accounting pronouncements and changes in accounting standards or practices, particularly any affecting the recognition of subscription revenue or accounting for mergers and acquisitions.

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 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 increased our number of employees from approximately 900 as of December 31, 2008 to approximately 5,200 as of September 30, 2017. We increased our number of on demand clients from approximately 2,700 as of December 31, 2008 to nearly 12,500 as of September 30, 2017. 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;

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.
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 web-based 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.

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.

With the exception of some of our LeaseStar and Propertyware solutions, which are typically month-to-month, 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 professional services for their on demand units 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. If one of our clients consolidates with a party who is not a client, our client may decide not to continue to use our solutions for its on demand units. 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.

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, with the exception of our month-to-month advertising, lease generation and Propertyware agreements, are typically one year. 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.

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;
- the inability of our LeaseStar product family to grow traffic to its websites, resulting in lower levels of lead and lease/move-in traffic to 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.

The completion of the LRO acquisition is subject to the receipt of consents and approvals from governmental entities, which may impose conditions that cause us, LRO, as applicable, to abandon the acquisition.

The Asset Purchase Agreement that we entered into in connection with the LRO acquisition contains various conditions precedent to consummation of that acquisition, including obtaining approval of the United States Federal Trade Commission and Department of Justice under the Hart-Scott-Rodino Antitrust Improvements Act. These governmental entities may decline to approve the acquisition or may impose conditions on the completion of, or require changes to the terms of, the acquisition that could cause us or LRO to abandon the acquisition. On August 1, 2017, following our receipt of a second request from the Department of Justice in May 2017, the parties amended the Asset Purchase Agreement to provide that we will have the right to unilaterally extend the termination date of the acquisition in the event that the Department of Justice files a complaint under applicable antitrust laws with respect to the transaction on or before December 31, 2017. Any such extension by RealPage would effectively extend the agreement termination date by six months, or earlier if a federal court issues a final non-appealable order or takes any other action permanently restraining, enjoining or otherwise prohibiting the closing, or otherwise rules that the transaction violates applicable antitrust laws, or if RealPage notifies LRO that it elects to terminate the extension.

Even if we are able to obtain governmental approval, doing so may continue to take longer, and could continue to cost more, than we expect. In addition, other conditions to the completion of the LRO acquisition may not be satisfied.

Any further delay in completing the LRO acquisition and any conditions imposed in completing this acquisition, may materially adversely affect the benefits that we expect to achieve from the acquisition and the integration of the acquired assets and liabilities to be assumed into our business.

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
operating results and significant changes in our overall business or product strategies. These events and solutions on a cost-effective basis. These efforts may be unsuccessful or entail costs that result in losses or reduced profitability.

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 while they continue to use their legacy management systems. In addition, over time we expect to migrate each acquired 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.

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 On-Site, PEX Software, AUM, Axiometrics, eSupply, AssetEye and NWP. We expect to obtain similar benefits from our pending acquisition of LRO, and 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 as a business.

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 recognized 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.

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 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.

We derive a substantial portion of our revenue from a limited number of our solutions and failure to maintain demand for these solutions and increase demand for our other solutions could negatively affect our operating results.

Historically, a majority of our revenue was derived from sales of our OneSite property management system and our LeasingDesk software-enabled value-added service. If we suffer performance issues with these solutions or if we are unable to develop enhancements necessary to maintain demand for these solutions or to diversify our revenue base by increasing demand for our other solutions, our operating results could be negatively impacted.

We use a small number of owned data centers to deliver our solutions. 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 our data centers in the Dallas, Texas area.

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.

Some of our products and services derived from recent acquisitions are hosted and supported from data centers in other geographic locations within the continental United States and Europe, many of which are operated by third-party providers. Our operations depend, in part, 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. though 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 operating results.

The market for many of our solutions is 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 generally 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. In the market for accounting software we compete with Yardi Systems, Inc. (“Yardi”), MRI Software LLC (“MRI”), Entrata, Inc., formerly Property Solutions International, Inc. (“Entrata”), AMSI Property Management (owned by Infor Global Solutions, Inc.), Intacct Corp, NetSuite Inc., Intuit Inc., Oracle Corporation, PeopleSoft and JD Edwards (each owned by Oracle Corporation), SAP AG, Microsoft Corporation, AppFolio Inc. and various smaller providers of accounting software. High costs are typically associated with switching an organization’s accounting software. In the market for property management software, we face competitive pressure from Yardi and its Voyager products, AMSI Property Management (owned by Infor Global Solutions, Inc.), Bostonpost (owned by MRI), Jenark (owned by CoreLogic), Entrata, ResMan and MRI. In the single family market, our accounting and property management systems primarily compete with Yardi, AppFolio Inc., Intuit Inc., DIY Real Estate Solutions (acquired by Yardi), Buildium, LLC, Rent Manager (owned by London Computer Systems, Inc.), and Property Boss Solutions, LLC.

In the market for vertically-integrated cloud computing for multifamily real estate owners and property managers, our only substantial competition is from Yardi. We also compete with cloud computing service providers such as Amazon.com Inc., Rackspace Hosting Inc., International Business Machines Corp. and many others.

We offer a number of software-enabled value-added services that compete with a disparate and large group of competitors. In the applicant screening market, our principal competitors are LexisNexis (a subsidiary of Reed Elsevier Group plc), CoreLogic, Inc. (formerly First Advantage Corporation, an affiliate of The First American Corporation), Entrata,
TransUnion Rental Screening Solutions, Inc. (a subsidiary of TransUnion LLC), Resident Check Inc., Yardi, and many other smaller regional and local screening companies.

In the insurance market, our principal competitors are Assurant, Inc., Bader Company, CoreLogic, Inc., Entrata, Yardi and a number of national insurance underwriters (including GEICO Corporation, The Allstate Corporation, State Farm Fire and Casualty Company, Farmers Insurance Exchange, Nationwide Mutual Insurance Company and United Services Automobile Association) that market renter's insurance. There are many smaller screening and insurance providers in the risk mitigation area that we encounter less frequently, but they nevertheless present a competitive presence in the market.

In the client relationship management (“CRM”) market, we compete with providers of contact center and call tracking services, including LeaseHawk LLC, Yardi, Entrata, and numerous regional and local contact centers. In addition, we compete with lead tracking solution providers, including LeaseHawk LLC, Lead Tracking Solutions (acquired by Yardi), Anyone Home, Inc., and Who’s Calling, Inc. In addition, we compete with content syndication providers VaultWare (owned by MRI Software LLC) and rentbits.com, Inc. Finally, we compete with companies providing web portal services, including Apartments24-7.com, Inc., Entrata, G5 Search Marketing, Inc., Spherexx.com and Yardi. Certain Internet listing services also offer websites for their clients, usually as a free value add to their listing service.

In the marketing and web portal services market, we compete with G5 Search Marketing, Inc., Spherexx LLC, ReachLocal, Inc., Entrata, Yodle, Inc., Yardi and many local or regional advertising agencies.

In the Internet listing service market, we compete with ForRent (a division of Dominium Enterprises), Apartment Guide (a division of RentPath, Inc.), Rent.com (owned by RentPath, Inc.), RentPath, Inc., Apartments.com (a division of CoStar Group, Inc.), Apartment Finder (a division of CoStar Group, Inc.), Move, Inc., Entrata, Rent Cafe (a division of Yardi), Zillow and many other companies in regional areas.

In the utility billing and energy management market, we compete at a national level with Conservice, LLC, Yardi (following its acquisitions of ista North America and Energy Billing Systems, Inc.), Entrata, Ocius LLC (recently acquired by PayLease) and Minol USA, L.P. Many other smaller utility billing companies compete for smaller rental properties or in regional areas.

In the revenue management market, we compete with Entrata, The Rainmaker Group, and Yardi. Certain market research companies such as CoStar Group, Inc. also offer products that present competitive pricing information in a manner that can be used as a tool to manage pricing.

In the market for multifamily housing market research, we compete with Reis, Inc., Pierce-Eislen, Inc. (owned by Yardi), CoStar Group, Inc. and Portfolio Research, Inc.

In the spend management market, we compete with Yardi, AvidXchange, Inc., Nexus Systems, Inc., Ariba, Inc., Oracle Corporation, Buyers Access LLC, and PAS Purchasing Solutions.

In the payment processing market, we compete with Chase Paymetech Solutions, LLC (a subsidiary of JPMorgan Chase & Co.), First Data Corporation, Fiserv, Inc., MoneyGram International, Inc., Entrata, PayLease LLC, RentPayment.com (a subsidiary of Yapstone, Inc.), Yardi, a number of national banking institutions and those that take payments directly from tenants.

In the affordable housing compliance and audit services market, we compete with Zeffert and Associates, Inc., Preferred Compliance Solutions, Inc., Spectrum Enterprises, Inc. and many other smaller local and regional compliance and audit services.

In the vacation rental market, we compete with LiveRez, Inc., HomeAway Software, Inc., Airbnb, and many other smaller local and regional companies. We partner with some competitors to syndicate vacation rental listings to their Internet listing sites.

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:
restrictions may be created that limit or otherwise impede our participation in or leverage of social media integration. As such, there is no assurance that our participation in social media integration will be risk free, as contractual, statutory or other legal services.

and integration, which may be modified, restricted or otherwise changed, affecting and possibly curtailing our ability to offer products and changes in industry practices. We are also subject to each social media platform’s terms and conditions for use, application development recently come under increased public scrutiny as various government agencies and consumer groups have called for new regulation and regarding the collection, use, storage, transmission and security of personal information by companies on social media platforms have framework for social media privacy and security issues is currently in flux and is likely to remain so for the foreseeable future. Practices utilizing of such personal information by our products and services via integration programs and data exchanges. The regulatory applications necessarily involves the disclosure of personal information by individuals participating in social media, and the corresponding practices regarding the collection, use, storage, transmission and security of personal information by companies on social media platforms have recently come under increased public scrutiny as various government agencies and consumer groups have called for new regulation and changes in industry practices. We are also subject to each social media platform’s terms and conditions for use, application development and integration, which may be modified, restricted or otherwise changed, affecting and possibly curtailing our ability to offer products and services.

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

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.

We face competition to attract consumers to our LeaseStar product websites and mobile applications, which could impair our ability to continue to grow the number of users who use our websites and mobile applications, which would harm our business, results of operations and financial condition.

The success of our LeaseStar product family depends on our ability to continue to attract additional consumers to our websites and mobile applications. Our existing and potential competitors include companies that could devote greater technical and other resources than we have available, have a more accelerated time frame for deployment and leverage their existing user bases and proprietary technologies to provide products and services that consumers might view as superior to our offerings. Any of our future or existing competitors may introduce different solutions that attract consumers or provide solutions similar to our own but with better branding or marketing resources. If we are unable to continue to grow the number of consumers who use our website and mobile applications, our business, results of operations and financial condition would be harmed.

We operate in a business environment in which social media integration is playing a significantly increasing role. Social media is a new and rapidly changing industry wherein the rules and regulations related to use and disclosure of personal information is unclear and evolving.

The operation and marketing of multi-tenant real estate developments is likely to become more dependent upon the use of and integration with social media platforms as communities attempt to reach their current and target clients through social applications such as Facebook, Twitter, Instagram, LinkedIn, Pinterest, Tumblr, Google+ and other current and emerging social applications. The use of these applications necessarily involves the disclosure of personal information by individuals participating in social media, and the corresponding utilization of such personal information by our products and services via integration programs and data exchanges. The regulatory framework for social media privacy and security issues is currently in flux and is likely to remain so for the foreseeable future. Practices regarding the collection, use, storage, transmission and security of personal information by companies on social media platforms have recently come under increased public scrutiny as various government agencies and consumer groups have called for new regulation and changes in industry practices. We are also subject to each social media platform’s terms and conditions for use, application development and integration, which may be modified, restricted or otherwise changed, affecting and possibly curtailing our ability to offer products and services.

These factors, many of which are beyond our control, present a high degree of uncertainty for the future of social media integration. As such, there is no assurance that our participation in social media integration will be risk free, as contractual, statutory or other legal restrictions may be created that limit or otherwise impede our participation in or leverage of social media integration.
We may be unable to compete successfully against our existing or future competitors in attracting advertisers, which could harm our business, results of operations and financial condition.

In our LeaseStar product family, we compete to attract advertisers with media sites, including websites dedicated to providing real estate listings and other rental housing related services to real estate professionals and consumers, major Internet portals, general search engines and social media sites as well as other online companies. We also compete for a share of advertisers’ overall marketing budgets with traditional media such as television, magazines, newspapers and home/apartment guide publications, particularly with respect to advertising dollars spent at the local level by real estate professionals to advertise their qualifications and listings. Large companies with significant brand recognition have large numbers of direct sales personnel and substantial proprietary advertising inventory and web traffic, which may provide a competitive advantage. To compete successfully for advertisers against future and existing competitors, we must continue to invest resources in developing our advertising platform and proving the effectiveness and relevance of our advertising products and services. Pressure from competitors seeking to acquire a greater share of our advertisers’ overall marketing budget could adversely affect our pricing and margins, lower our revenue and increase our research and development and marketing expenses. If we are unable to compete successfully against our existing or future competitors, our business, financial condition or results of operations would be harmed.

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.

If we do not effectively expand and train our sales force, we may be unable to add new clients or increase sales to our existing clients and our business will be harmed.

We continue to be substantially dependent on our sales force to obtain new clients and to sell additional solutions to our existing clients. We believe that there is significant competition for sales personnel with the skills and technical knowledge that we require. Our ability to achieve significant revenue growth will depend, in large part, on our success in recruiting, training and retaining sufficient numbers of sales personnel to support our growth. New hires require significant training and, in most cases, take significant time before they achieve full productivity. Our recent hires and planned hires may not become as productive as we expect, and we may be unable to hire or retain sufficient numbers of qualified individuals in the markets where we do business or plan to do business. If we are unable to hire and train sufficient numbers of effective sales personnel, or the sales personnel are not successful in obtaining new clients or increasing sales to our existing client base, our business will be harmed.

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;
Acquire in the future, typically rely on other payment processing service providers. We may encounter difficulty servicing, significant disruptions to our operations and adversely affect operating results. In addition, businesses that we have acquired, or may acquire in the future, may face difficulty in renewing contracts with us or fulfilling their contractual obligations and perform satisfactorily. The failure of these organizations and service providers to renew their contracts with us or fulfill their contractual obligations or choose to discontinue their services, our business and operations could be disrupted and our operating results would be harmed.

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 currently utilize equipment, software and services from Akami, Inc.; Avaya, Inc.; Brocade Communications Systems, Inc.; Cisco Systems, Inc.; Dell Inc.; EMC Corporation; Microsoft Corporation; Oracle Corporation; salesforce.com, Inc.; Amazon Web Services, a division of Amazon.com, Inc., as well as many other smaller 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 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. These organizations include Bank of America Merchant Services, Bank of America, N.A., Paymentech, LLC, Fiserv, Inc., Financial Transmission Network, Inc., Jack Henry & Associates, Inc., JPMorgan Chase Bank, N.A., Wells Fargo Merchant Services, and Wells Fargo, N.A. 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...
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. Currently, we rely on Bank of America, N.A., Wells Fargo, N.A. and JPMorgan Chase Bank, N.A. as our sponsor banks. In the future, we expect to enter into similar sponsor bank relationships with one or more other national banking institutions. The renter payments that we process for our clients at our sponsor banks are identified in our Condensed 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; and
- our inability to increase our fees at times when electronic payment partners or associations increase their transaction processing fees.

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 continually 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 EFT limits 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 Wells Fargo Merchant Services, LLC and Wells Fargo Bank, NA (“Wells Fargo”), effective January 1, 2014. Under the Service Provider Agreement, RealPage, Inc. is a registered independent sales organization, or ISO, of Wells Fargo. Wells Fargo acts as a merchant acquiring bank for processing RealPage client credit card and debit card payments (“Card Payments”), and RealPage serves as an ISO. As an ISO, RealPage assumes the underwriting risk for processing Card Payments on behalf of its clients. If RealPage experiences excessive chargebacks, either RealPage or Wells Fargo 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.

If our security measures are breached and unauthorized access is obtained to our software platform and infrastructure, or our clients’ or their renters’ or prospects’ data, we may incur significant liabilities, third parties may misappropriate our intellectual property, 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 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 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, may attempt to penetrate our service infrastructure from time to time. Hackers may consist of sophisticated organizations, competitors, governments or individuals who launch targeted attacks to gain unauthorized access to our systems. A hacker who is able to penetrate our service infrastructure could misappropriate proprietary or confidential information or cause interruptions in our services. We might be required to expend significant capital and resources to protect against, or to remedy, problems caused by hackers, 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.
If we are unable to cost-effectively scale or adapt our existing architecture to accommodate increased traffic, technological advances or changing client requirements, our operating results could be harmed.

As we continue to increase our client base and the number of products used by our clients to manage units, the number of users accessing our on demand software solutions over the Internet will continue to increase. Increased traffic could result in slow access speeds and response times. Since our client agreements typically include service availability commitments, slow speeds or our failure to accommodate increased traffic could result in breaches of our client agreements. In addition, the market for our solutions is characterized by rapid technological advances and changes in client requirements. In order to accommodate increased traffic and respond to technological advances and evolving client requirements, we expect that we will be required to make future investments in our network architecture. If we do not implement future upgrades to our network architecture cost-effectively, or if we experience prolonged delays or unforeseen difficulties in connection with upgrading our network architecture, our service quality may suffer and our operating results could be harmed.

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.

The market for on demand software solutions in the rental housing industry continues to develop, and if it does not develop further or develops more slowly than we expect, our business will be harmed.

The market for on demand SaaS software solutions in the rental housing industry delivered via the Internet through a web browser is rapidly growing but still relatively immature compared to the market for traditional on premise software installed on a client’s local personal computer or server. It is uncertain whether the on demand delivery model will achieve and sustain high levels of demand and market acceptance, making our business and future prospects difficult to evaluate and predict. While our existing client base has widely accepted this new model, our future success will depend, to a large extent, on the willingness of our potential clients to choose on demand software solutions for business processes that they view as critical. Many of our potential clients have invested substantial effort and financial resources to integrate traditional enterprise software into their businesses and may be reluctant or unwilling to switch to on demand software solutions. Some businesses may be reluctant or unwilling to use on demand software solutions because they have concerns regarding the risks associated with security capabilities, reliability and availability, among other things, of the on demand delivery model. If potential clients do not consider on demand software solutions to be beneficial, then the market for these solutions may not further develop, or it may develop more slowly than we expect, either of which would adversely affect our operating results.
If use of the Internet and mobile technology, particularly with respect to online rental housing products and services, does not continue to increase as rapidly as we anticipate, our business could be harmed.

Our future success is substantially dependent on the continued use of the Internet and mobile technology as effective media of business and communication by our clients and consumers. Internet and mobile technology use may not continue to develop at historical rates, and consumers may not continue to use the Internet or mobile technology as media for information exchange or we may not keep up with the latest technology. Further, these media may not be accepted as viable long-term outlets for rental housing information for a number of reasons, including actual or perceived lack of security of information and possible disruptions of service or connectivity. If consumers begin to access rental housing information through other media and we fail to innovate, our business may be negatively impacted.

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 intrinsically 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.

If clients and other advertisers reduce or end their advertising spending on our LeaseStar products and we are unable to attract new advertisers, our business would be harmed.

Some components of our LeaseStar product family depend on advertising generated through sales to real estate agents and brokerages, property owners and other advertisers relevant to rental housing. Our ability to attract and retain advertisers, and ultimately to generate advertising revenue, depends on a number of factors, including:

- increasing the number of consumers of our LeaseStar products and services;
- demonstrating lead generation value to our LeaseStar clients;
- competing effectively for advertising dollars with other online media companies;
- continuing to develop our advertising products and services;
- keeping pace with changes in technology and with our competitors; and
- offering an attractive return on investment to our advertiser clients for their advertising spending with us.

Reductions in lead generation could have a negative effect on our operating results.

We could face reductions in leads generated for our clients if third-party originators of such leads were to elect to suspend sending leads to us or our sources for such leads were reduced. Reductions in leads generated could reduce the value of our lead generation services, make it difficult for us to add new lead generation services clients, retain existing lead generation services clients and maintain or increase sales levels to our existing lead generation services clients and could adversely affect our operating results.

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 dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. We have recently amended our Credit Facility and increased our borrowing capacity and completed a convertible debt offering in which we sold $345 million of Convertible Notes. Debt financing secured by us in the future 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.

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 6 to the Condensed Consolidated Financial Statements under Item 1 and in “Contractual Obligations, Commitments, and Contingencies” in Management’s Discussion and Analysis of Financial Condition and Results of Operations under Item 2 of this Quarterly Report on Form 10-Q. As of September 30, 2017, 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.
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 no patents, we may not 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 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 significantly 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 no issued patents and no significant 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 advantage 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, administrative agencies, government regulators, or insurers.

In March 2015, we were named in a purported class action lawsuit in the United States District Court for the Eastern District of Pennsylvania, styled *Stokes v. RealPage, Inc.*, Case No. 2:15-cv-01520. The claims in this purported class action relate to alleged violations of the Fair Credit Reporting Act (“FCRA”) in connection with background screens of prospective tenants of our clients. On January 25, 2016, the court entered an order placing the case on hold until the United States Supreme Court issued its decision in *Spokeo, Inc. v. Robins*, which case addressed issues related to standing to bring claims related to the FCRA. On May 16, 2016, the U.S. Supreme Court issued its opinion in the *Spokeo* litigation, vacating the decision of the United States Court of Appeals for the Ninth Circuit, and remanding the case for further consideration by the U.S. Court of Appeals. Following the Supreme Court’s decision in *Spokeo*, the judge in the *Stokes* case lifted the stay. On June 24, 2016, we filed a motion to dismiss certain claims made in the case based upon the *Spokeo* decision. On October 19, 2016, the U.S. District Court denied the motion to dismiss.

In November 2014, we were named in a purported class action lawsuit in the United States District Court for the Eastern District of Virginia, styled *Jenkins v. RealPage, Inc.*, Case No. 3:14cv758. The claims in this purported class action relate to alleged violations of the FCRA in connection with background screens of prospective tenants of our clients. This case has since been transferred to the United States District Court for the Eastern District of Pennsylvania. On January 25, 2016, the court entered an order placing the case on hold until the United States Supreme Court issued its decision in the *Spokeo* case. Following the Supreme Court’s decision in *Spokeo*, the judge in the *Jenkins* case lifted the stay. On June 24, 2016, we filed a motion to dismiss certain claims made in the case based upon the *Spokeo* decision. On October 19, 2016, the U.S. District Court denied the motion to dismiss.

On June 19, 2017, the court in both the *Stokes* case and *Jenkins* case consolidated the cases for purposes of settlement. On June 30, 2017, the parties signed a Settlement Agreement and Release covering both cases and the plaintiffs in the consolidated cases filed an uncontested motion for preliminary approval of the class action settlement and the notice to the class. On August 3, 2017, the court issued a written order preliminarily approving the proposed class settlement. The final approval hearing is set for February 6, 2018.

On February 23, 2015, we received from the 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 are continuing to assess the matter and plan to have further discussions with the FTC. 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. However, we are unable to predict the outcome of this matter at this time.

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.

If we fail to develop our brands in a cost-effective manner, our financial condition and operating results could be harmed.

We market our solutions under discrete brand names. We believe that developing and maintaining awareness of our brands is critical to achieving widespread acceptance of our existing and future solutions and is an important element in attracting new clients and retaining our existing clients. Additionally, we believe that developing these brands in a cost-effective manner is critical in meeting our expected margins. In the past, our efforts to build our brands have involved significant expenses and we intend to continue to make expenditures on brand promotion. Brand promotion activities may not yield increased revenue, and even if they do, any increased revenue may not offset the expenses we incurred in building our brands. If we fail to build and maintain our brands in a cost-effective manner, we may fail to attract new clients or retain our existing clients, and our financial condition and results of operations could be harmed.

If we fail 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 reduce the trading price of our stock. Ensuring that we have adequate internal financial and accounting controls and procedures in place 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. If we fail 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, harm our ability to operate our business and reduce the trading price of our stock.
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 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 are continuing to assess the matter and plan to have further discussions with the

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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 FASB issued ASU 2014-09, Revenue from Contracts with Customers (Topic 606). ASU 2014-09, as amended by certain supplementary ASUs released in 2016, will replace all current GAAP guidance on this topic and eliminate all industry-specific guidance. Based on our preliminary analysis, we anticipate that commissions paid to our direct sales force will qualify as incremental costs of obtaining a contract and will be capitalized and subsequently amortized. Additionally, we anticipate limited changes in the timing of our revenue recognition and client accommodation credits. The standard will require a significant amount of new revenue disclosures in our Condensed Consolidated Financial Statements, and we are currently evaluating the impact of these new disclosure requirements. We continue to evaluate the new standard against our existing accounting policies and our contracts with clients to determine the effect the guidance will have on our financial statements and what changes to systems and controls may be warranted.

We have incurred, and will incur, increased costs and demands upon management as a result of complying with the laws and regulations affecting public companies, which could harm our operating results.

As a public company, we have incurred, and will incur, significant legal, accounting, investor relations and other expenses, including costs associated with public company reporting requirements. We also have incurred and will incur costs associated with current corporate governance requirements, including requirements under Section 404 and other provisions of the Sarbanes-Oxley Act, as well as rules implemented by the Securities Exchange Commission and The NASDAQ Stock Market LLC. We expect these rules and regulations to continue to affect our legal and financial compliance costs and to make some activities more time-consuming and costly. As a public company, it is expensive for us to maintain director and officer liability insurance and it may be difficult for us to attract and retain qualified individuals to serve on our board of directors or as our executive officers.

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 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 are continuing to assess the matter and plan to have further discussions with the
FTC. 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. However, we are unable to predict the outcome of this matter at this time.

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. 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.

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 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.

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.

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 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 may otherwise harm our business and operating results. This risk is greater with regard to solutions acquired through acquisitions.

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 in our effective tax rate could harm our future operating results.

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, certain non-deductible expenses arising from the requirement to expense stock options 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.

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.

Our corporate culture has contributed to our success, and if we cannot maintain this culture as we grow, we could lose the innovation,
creativity and teamwork fostered by our culture, and our business may be harmed.

We believe that a strong corporate culture that nurtures core values and philosophies is essential to our long-term success. We call
these values and philosophies the “RealPage Promise” and we seek to practice the RealPage Promise in our actions every day. The
RealPage Promise embodies our corporate values with respect to client service, investor communications, employee respect and
professional development and management decision-making and leadership. As our organization grows and we are required to implement
more complex organizational structures, we may find it increasingly difficult to maintain the beneficial aspects of our corporate culture
which could negatively impact our future success.

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 29.1% of our common
stock as of September 30, 2017. 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 26.8% of our common stock as of September 30, 2017. 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;
- announcements of technological innovations, new solutions or enhancements, strategic alliances or agreements by us or by our
  competitors;
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;
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;
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 of 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, 2017.

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 September 30, 2017, by RealPage, Inc. or any “affiliated purchaser” of RealPage, Inc. as defined in Rule 10b-18(a)(3) under the Exchange Act:

<table>
<thead>
<tr>
<th>Period</th>
<th>Total Number of Shares Purchased</th>
<th>Average Price Paid per Share</th>
<th>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1)</th>
<th>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017 through July 31, 2017</td>
<td>—</td>
<td>$ —</td>
<td>—</td>
<td>$ 44,894,113</td>
</tr>
<tr>
<td>August 1, 2017 through August 31, 2017</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>44,894,113</td>
</tr>
<tr>
<td>September 1, 2017 through September 30, 2017</td>
<td>—</td>
<td>$ —</td>
<td>—</td>
<td>44,894,113</td>
</tr>
</tbody>
</table>

(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.


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

Date: November 6, 2017

RealPage, Inc.

By: /s/ W. Bryan Hill

W. Bryan Hill
Executive Vice President, Chief Financial Officer and Treasurer
<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Exhibit Description</th>
<th>Incorporated by Reference</th>
<th>Filed Herewith</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1</td>
<td>Asset Purchase Agreement dated July 28, 2017 between the Registrant, RP Newco XXII LLC, a Delaware limited liability company and wholly owned subsidiary of Registrant, and On-Site Manager, Inc., a California corporation, Relocation Services, Inc., a Wyoming corporation and wholly owned subsidiary of On-Site, On-Site Data, Inc., a Wyoming corporation and wholly owned subsidiary of On-Site, certain other affiliated parties and significant stockholders of On-Site*</td>
<td>S-1/A 7/26/2010 3.2</td>
<td>X</td>
</tr>
<tr>
<td>2.3</td>
<td>Second Amendment dated August 1, 2017, to Asset Purchase Agreement dated February 27, 2017 between Registrant and The Rainmaker Group Holdings, Inc., a Georgia corporation, The Rainmaker Group Ventures, LLC, a Delaware limited liability company, The Rainmaker Group Real Estate, LLC, a Georgia limited liability company, The Rainmaker Group - Rent Jungle LLC, a Georgia limited liability company, and The Rainmaker Group Data, LLC, a Georgia limited liability company, Bruce Barfield, an individual, Tamara Farley, an individual, The Bruce Allen Barfield Trust, dated December 27, 2011, The Tamara Tanner Farley Trust, dated December 27, 2011, John C. Alexander, an individual</td>
<td>S-1/A 7/26/2010 4.1</td>
<td>X</td>
</tr>
<tr>
<td>3.1</td>
<td>Amended and Restated Certificate of Incorporation of the Registrant</td>
<td>S-1/A 7/26/2010 3.2</td>
<td></td>
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<tr>
<td>3.2</td>
<td>Amended and Restated Bylaws of the Registrant</td>
<td>S-1/A 7/26/2010 3.4</td>
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<tr>
<td>4.1</td>
<td>Form of Common Stock certificate of the Registrant</td>
<td>S-1/A 7/26/2010 4.1</td>
<td></td>
</tr>
<tr>
<td>4.3</td>
<td>Second Amended and Restated Registration Rights Agreement among the Registrant and certain stockholders, dated February 22, 2008</td>
<td>S-1 4/29/2010 4.3</td>
<td></td>
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<tr>
<td>4.5</td>
<td>Form of Global Note to represent the 1.50% Convertible Senior Notes due 2022, of the Registrant</td>
<td>10-Q 8/4/2017 4.5</td>
<td></td>
</tr>
<tr>
<td>4.6</td>
<td>Form of Warrant Confirmation in connection with 1.50% Convertible Senior Notes due 2022, of the Registrant</td>
<td>10-Q 8/4/2017 4.6</td>
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<tr>
<td>4.7</td>
<td>Form of Call Option Confirmation in connection with 1.50% Convertible Senior Notes due 2022, of the Registrant</td>
<td>10-Q 8/4/2017 4.7</td>
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<tr>
<td>10.1</td>
<td>Sixth Amendment to Credit 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 August 14, 2017</td>
<td>S-1/A 7/26/2010 3.2</td>
<td>X</td>
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<tr>
<td>31.1</td>
<td>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</td>
<td>S-1/A 7/26/2010 3.2</td>
<td>X</td>
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<tr>
<td>31.2</td>
<td>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</td>
<td>S-1/A 7/26/2010 3.2</td>
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<td>Exhibit Number</td>
<td>Exhibit Description</td>
<td>Incorporated by Reference</td>
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<tr>
<td>32.1</td>
<td>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</td>
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<tr>
<td>32.2</td>
<td>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</td>
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<td>Taxonomy Extension Labels</td>
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<td>101.PRE</td>
<td>Taxonomy Extension Presentation</td>
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<tr>
<td>101.DEF</td>
<td>Taxonomy Extension Definition</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

* Exhibits and schedules 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.
ASSET PURCHASE AGREEMENT

dated as of

July 28, 2017

by and among

REALPAGE, INC.
as Parent

RP NEWCO XXII LLC
as Buyer

ON-SITE MANAGER, INC.,
RELOCATION SERVICES, INC.,
and
ON-SITE DATA, INC.
as Sellers

EACH OF THE SELLER OWNERS LISTED ON THE SIGNATURE PAGES HERETO,
as Seller Owners

ON-SITE PLANT, LP,
solely for purposes of Sections 5.11 and 7.3(g) hereof

and

JONATHAN HARRINGTON
in his capacity as Sellers Representative
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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT, dated as of July 28, 2017 (this “Agreement”), is entered into by and among On-Site Manager, Inc., a California corporation (the “Company”), Relocation Services, Inc., a Wyoming corporation (“Relocation Services”), On-Site Data, Inc., a Wyoming corporation (“On-Site Data,” and together with the Company and Relocation Services, the “Sellers,” and each a “Seller”), On-Site Plant LP, a California limited partnership (“On-Site Plant”), solely for purposes of Sections 5.11 and 7.3(g) hereof, Thomas E. Harrington, an individual (“TH”), Jonathan T. Harrington, an individual (“JH”), the Harrington Family Trust FBO Jonathan T. Harrington (“HF-JTH Trust”), the Harrington Family Trust FBO Robin C. Quill (“HF-RCQ Trust”), the Harrington Family Trust FBO Katherine M. Harrington (“HF-KMH Trust”), Katherine M. Harrington (“KH”), Robin Quill (“RQ”), Scott Jones (“SJ”), Monte Jones (“MJ”), Kathy Arsenault (“KA,” and together with TH, JH, HF-JTH Trust, HF-RCQ Trust, HF-KMH Trust, KH, RQ, SJ and MJ, the “Seller Owners,” and each a “Seller Owner”), Jonathan Harrington, in his capacity as the Sellers Representative hereunder, RealPage, Inc., a Delaware corporation (“Parent”), and RP Newco XXII LLC (the “Buyer”), a Delaware limited liability company and wholly owned subsidiary of Parent (collectively, with Parent, the “Buyer Parties” and each individually a “Buyer Party”). Sellers and the Seller Owners may be referred to herein collectively as the “Seller Parties,” or individually as a “Seller Party.”

RECITALS

A. Sellers have engaged and currently engage in the development and commercialization of an online rental housing leasing platform and related software used by property managers and renters, including, without limitation, tenant screening, lead management, marketing automation, website creation and hosting, online profile management and search engine optimization, rental applications, automated leasing documentation and file management, rental payments, lease renewals, tenant service requests (including, without limitation, moving and maintenance services), custom community and property video production, pricing and security deposit alternatives and renters’ insurance (the “Business”).

B. Buyer desires to purchase the Purchased Assets (as defined below) and assume the Assumed Liabilities (as defined below) from Sellers, and Sellers desire to sell to Buyer the Purchased Assets and transfer to Buyer the Assumed Liabilities, upon the terms and subject to the conditions set forth in this Agreement.

C. Concurrently with the execution and delivery of this Agreement and as a condition to the willingness of the Buyer to enter into this Agreement, the Seller Owners and Sellers have entered into agreements with the Buyer, substantially in the forms set forth on Exhibit E-1 and Exhibit E-2, as applicable, pursuant to which such Persons have agreed, among other things, to certain non-competition, non-solicitation and no-hire restrictions (collectively, the “Significant Owner Agreements”).

D. The parties desire to make certain representations, warranties and agreements in connection with the transactions contemplated herein and to prescribe certain conditions to the transactions contemplated herein.

AGREEMENT

In consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the parties agree as follows:
ARTICLE I
DEFINITIONS

Section 1.1 Certain Defined Terms. For purposes of this Agreement:

“Action” means any claim, action, suit, inquiry, proceeding, audit or investigation by or before any Governmental Authority, or any other arbitration, mediation or similar proceeding.

“Affiliate” means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person For purposes of this Agreement, each of TH, JH, HF-JTH Trust, HF-RCQ Trust, HF- KMH Trust, KH and RQ shall be deemed to be “Affiliates” of one another.

“Ancillary Agreements” means the Employment Agreements, the Consulting Agreement, the Significant Owner Agreements, the Lease Agreement, the Independent Contractor Agreements, the Transfer Documents, and all other agreements, documents, certificates, schedules and instruments required to be delivered by any party pursuant to this Agreement.

“Available Cash” means, as of a specified date, the total Cash and Cash Equivalents as reflected on the balance sheet of the Company and its Subsidiaries minus Restricted Cash.

“Brokers’ and Finders’ Fees Liabilities” means any Liabilities related to a breach of Section 3.23 or any matter disclosed in a Schedule qualifying that Section.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in New York, New York.

“Business Intellectual Property” means any and all Intellectual Property, including Company Registered Intellectual Property, owned (in whole or in part) or purported to be owned (in whole or in part) by, licensed to or otherwise controlled by, or purported to be licensed to or otherwise controlled by, any Seller Party that is related to or used in, or developed for use or held for use in connection with, the Business.

“Buyer State Income Tax Liability” means 50% of the amount of any income, franchise or similar tax imposed at the Company-level by any state or local jurisdiction within the United States (including, for the avoidance of doubt, the Texas “margin” tax and the New York MTA surcharge) on the portion of the Company’s net gain (or similar measure as required by the specific tax jurisdiction) (1) that is apportioned to such state or local jurisdiction and (2) that directly and only relates to the sale of Purchased Assets by the Company to Buyer pursuant to this Agreement. For the avoidance of doubt, (i) Buyer State Income Tax Liability shall not include, and Buyer shall have no obligation under Section 6.2 or Section 8.3 to any Seller Party (other than the Company) with respect to, any income, franchise or similar Tax liability imposed on any Seller Party (other than the Company) by any state or local jurisdiction within the United States; (ii) in the case of any income, franchise or similar Tax that is imposed on the Company and another Seller Party on an affiliated, consolidated, combined, unitary or similar basis, the Buyer State Income Tax Liability shall be calculated as though the Company was subject to such income, franchise or similar Tax on a stand-alone basis; (iii) the amount that is apportioned to any state or local jurisdiction within the United States and that is directly attributable to the sale of the Purchased Assets by the Company to Buyer pursuant to this Agreement shall be determined without regard to any payment made by Buyer or any of its Affiliates under this Agreement with respect to the Buyer State Income Tax Liability; (iv) Buyer State Income Tax Liability shall not include any income, franchise or similar Tax that is borne directly by the Seller Owners rather than the Company; (v) Buyer State Income Tax Liability shall be calculated based on an assumption that the Company qualifies as an “S corporation” for purposes of any state or local jurisdiction where an election has been filed with the intent to treat the Company as an “S corporation” (regardless of whether such election was invalid or has otherwise been terminated), and shall not be increased if any such election was invalid or has otherwise been terminated; (vi) no Tax imposed by any state or local taxing jurisdiction other than the state and local taxing jurisdictions listed on Schedule 1.1(a) shall be taken into account in the calculation of the Buyer State
Income Tax Liability; and (vii) no U.S. federal income taxes or Transfer Taxes shall be included in the calculation of the Buyer State Income Tax Liability.

“Capture the Market Agreement” means that certain Asset Purchase Agreement by and among the Company, on the one hand, and Video Solution Worx, Ltd. DBA Capture The Market, a Texas Limited Partnership, (iii) CTM Video Marketing, LLC, a Texas limited liability company, (iv) Land Video Solutions Worx, LLC, a Texas Limited Partnership, (v) Ocean Video Worx, Ltd., a Texas Limited Partnership, (vi) Kimberly Scott; (vii) Janet Settle; and (viii) Wade B. Yeaman, on the other hand.

“Cash” means, as at a specified date, the aggregate amount of all cash and Cash Equivalents of the Company and its Subsidiaries required to be reflected as cash or Cash Equivalents on a consolidated balance sheet of the Company and its Subsidiaries as of such date prepared in accordance with GAAP, net of (i) any outstanding checks, wires and bank overdrafts of the Company or its Subsidiaries and (ii) any amounts relating to credit card receivables or Restricted Cash, in each case whether or not required to be reported as such under GAAP.

“Cash Equivalents” means, as at a specified date, the aggregate amount of all cash equivalents and liquid investments of the Company and its Subsidiaries, including readily marketable equity securities, government guaranteed debt obligations, time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank and commercial paper and variable or fixed rate notes.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act.

“Company Licensed Intellectual Property” means all Intellectual Property that the Company or the Subsidiaries are licensed or otherwise permitted by other Persons to use, except for Standard Software.

“Company Owned Intellectual Property” means all Intellectual Property owned or purported to be owned, in whole or in part, by the Company or any of its Subsidiaries.

“Company Registered Intellectual Property” means all registered Marks, issued Patents and registered Copyrights, including any pending applications to register any of the foregoing, owned or purported to be owned (in whole or in part) by the Company or any of its Subsidiaries.

“Competition Law” means any Law that prohibits, restricts or regulates actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

“Consulting Agreement” means the consulting agreement to be entered into between Buyer and Jonathan Harrington, substantially in the form set forth on Exhibit G.

“Contract” means any contract, agreement, arrangement or understanding, whether written or oral and whether express or implied.

“control,” including the terms “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, as trustee or executor, as general partner or managing member, by Contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

“Data Room” means the virtual data site maintained on behalf of the Company at https://dataroom.ansarada.com/Vista.Point.Advisors containing documents relating to the Company and its Subsidiaries on and as of the date of this Agreement.

“Debt Payoff Letter” means each payoff letter duly executed by a holder of Payoff Indebtedness and delivered to the Buyer at least two Business Days prior to the Closing, each in form and substance reasonably acceptable to the Buyer, in which the payee agrees that upon payment of the amount specified in such payoff letter: (i) all outstanding
obligations of the Company and its Subsidiaries arising under or related to the applicable Payoff Indebtedness shall be repaid, discharged and extinguished in full; (ii) all Encumbrances in connection therewith shall be released; (iii) the payee shall take all actions reasonably requested by the Buyer to evidence and record such discharge and release as promptly as practicable; and (iv) the payee shall return to the Company and its Subsidiaries all instruments evidencing the applicable Payoff Indebtedness (including all notes) and all collateral securing the applicable Payoff Indebtedness.

“DepositIQ” means DepositIQ & RentersIQ Insurance Agency, LLC, a Delaware limited liability company.

“Domains” means all registrations for Internet domain names and the corresponding Internet uniform resource locator addresses.

“Employment Agreements” mean the employment agreements, substantially in the forms set forth on Exhibit F, to be entered into between the Buyer or Parent and each of Monte Jones and Scott Jones.

“Employment Arrangement” means an offer letter providing for post-Closing employment with the Buyer, in form and substance reasonably satisfactory to the Buyer.

“Encumbrance” means any charge, claim, limitation, condition, mortgage, lien, option, pledge, security interest, easement, encroachment or restriction of any kind, including any restriction on transfer or assignment, or restriction relating to use, quiet enjoyment, voting, receipt of income or exercise of any other attribute of ownership, provided, however, that “Encumbrance” shall not include a non-exclusive license of Intellectual Property entered into by Seller in the ordinary course of business consistent with past practice.

“Enterprise Value” means $250,000,000.

“Environmental Laws” means any Laws of any Governmental Authority relating to (i) Releases or threatened Releases of Hazardous Substances or materials containing Hazardous Substances, (ii) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Substances or materials containing Hazardous Substances, or (iii) pollution or protection of the environment, health, safety or natural resources.

“Environmental Permits” means all Permits required under any Environmental Law.

“ERISA Affiliate” means any trade or business, whether or not incorporated, under common control with the Company or any of its Subsidiaries and that, together with the Company or any of its Subsidiaries, is treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“Estimated Purchase Price” means (i) the Enterprise Value, minus (ii) the Payoff Indebtedness, minus (iii) the Estimated Working Capital Adjustment, if any, minus (iv) the Holdback Amount, minus (v) the Transaction Expenses of the Sellers to be paid at Closing, minus (vi) the Expense Fund Contribution minus (vii) the Revenue True-Up Amount, if any.

“Estimated Working Capital Adjustment” means the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital.

“Expense Fund Contribution” means $150,000.

“FCRA Litigation Matters” means those matters described in Items 4 through 7 of Schedule 3.10 of the Disclosure Schedules.

“Flow-Through Income Tax Returns” means Tax Returns reporting income of the Company that is allocable to and reportable as income of the Seller Owners under applicable Tax Law, which for the avoidance of doubt includes the S corporation federal and state income Tax Returns of the Company.
“GAAP” means United States generally accepted accounting principles and practices as in effect on the date hereof.

“Governmental Authority” means any United States or non-United States federal, national, supranational, state, provincial, local or similar government, governmental, regulatory or administrative authority, branch, agency or commission or any court, tribunal, or arbitral or judicial body (including any grand jury).

“Hazardous Substances” means (i) those substances defined in or regulated under the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, CERCLA, the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Air Act, and their state counterparts, as each may be amended from time to time, and all regulations thereunder, (ii) petroleum and petroleum products, including crude oil and any fractions thereof, (iii) natural gas, synthetic gas, and any mixtures thereof, (iv) lead, polychlorinated biphenyls, asbestos and radon, and (v) any other pollutant or contaminant.

“Holdback Amount” means an amount in cash equal to $24,000,000.

“Immediate Family” means, with respect to any specified Person, such Person’s spouse, parents, children, grandparents, grandchildren and siblings, including adoptive relationships and relationships through marriage, or any other relative of such Person that shares such Person’s home.

“Inbound License Agreements” means all Contracts (other than Contracts relating to Standard Software) granting to the Company or any of its Subsidiaries any license or any other right under or with respect to any Intellectual Property owned by a third party.

“Indebtedness” means, without duplication (but before taking into account the consummation of the transactions contemplated hereby) the following: (i) the unpaid principal amount of accrued interest, premiums, penalties and other fees, expenses (if any), and other payment obligations and amounts due (including such amounts that would become due as a result of the consummation of the transactions contemplated by this Agreement) that would be required to be paid by a borrower to a lender pursuant to a customary payoff letter, in each case, in respect of (A) all indebtedness for borrowed money of the Company and its Subsidiaries, and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments; (ii) all obligations under capitalized leases with respect to which the Company or any of its Subsidiaries is liable, determined on a consolidated basis in accordance with GAAP; (iii) all liabilities upon which interest charges are customarily paid (excluding, for the avoidance of doubt, trade payables and accrued liabilities incurred in the ordinary course of business consistent with past practice); (iv) any amounts for the deferred purchase price of goods and services, including any earn-out liabilities associated with past acquisitions; and (v) all obligations of the type referred to in clauses (i) through (iv) of other Persons for the payment of which the Company or any of its Subsidiaries is responsible or liable, as obligor, guarantor, surety or otherwise, including any guarantee of such obligations.

“Independent Contractor Agreements” means the agreements, or amendments to an existing agreement, substantially in the form set forth on Exhibit H, to be entered into between the Buyer and each of Joseph Green, Shaun Davis, Jester Young, Rob Roberts/DataFast Software and Ann Baji.

“Intellectual Property” means all intellectual property rights arising from or associated with the following, whether protected, created or arising under the laws of the United States or any other jurisdiction: (i) trade names, trademarks, service marks, trade dress and other indicia of origin, all registrations and applications for all of the foregoing, including all extensions, modifications and renewals thereof and all goodwill associated with any of the foregoing (collectively, “Marks”); (ii) patents and patent applications, including amendments, certificates of correction, counterparts, continuations, continuations-in-parts, divisionals, extensions, non-provisional, provisional, reexaminations, reissues, renewals, reviews and substitutions thereof (collectively, “Patents”); (iii) works of authorship (including software), copyrights therein and thereto, and all registrations and applications for all of the foregoing, including all renewals, extensions, restorations and reversions thereof (collectively, “Copyrights”); (iv) trade secrets and know-how, including processes and processing instructions, technical data, specifications, research and
development information, product roadmaps, customer lists and any other information, in each case, to the extent any of the foregoing derives independent economic value (actual or potential) from not being generally known to, or not readily ascertainable through proper means by, other Persons, but excluding any Copyrights or Patents that may cover or protect any of the foregoing (collectively, “Trade Secrets”); and (v) moral rights, publicity rights, data base rights and any other proprietary or intellectual property rights of any kind or nature that do not comprise or are not protected by Marks, Patents, Copyrights or Trade Secrets.

“Knowledge of the Sellers” means the knowledge of the Persons listed on Schedule 1.11(c) and such knowledge as would be imputed to such persons upon due inquiry.

“Law” means any statute, law, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or order of any Governmental Authority.

“Lease Agreement” means an agreement, substantially in the form set forth on Exhibit D, providing for the lease to Buyer or an Affiliate of Buyer designated by Buyer of the lease for the property located at 307 Orchard City Drive Campbell, CA 95008.

“Leased Real Property” means all real property leased, subleased or licensed to the Company or any of its Subsidiaries or which the Company or any of its Subsidiaries otherwise has a right or option to use or occupy, together with all structures, facilities, fixtures, systems, improvements and items of property previously or hereafter located thereon, or attached or appurtenant thereto, and all easements, rights and appurtenances relating to the foregoing.

“Liabilities” shall mean any liabilities (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liabilities for Taxes.

“Litigation Obligations” means any matters or Liabilities related to a breach of Section 3.10 or any matters disclosed in Schedule 3.10 of the Disclosure Schedule.

“Material Adverse Effect” means any event, change, circumstance, occurrence, effect, result or state of facts that, considered together with all other events, changes, circumstances, occurrences or effects, (i) is or would reasonably be expected to be materially adverse to the business, assets, liabilities, condition (financial or otherwise) or results of operations of any Person and its Subsidiaries, taken as a whole, or (ii) materially impairs the ability of such Person (or, in the case of the Company and its Subsidiaries, the Sellers) to consummate, or prevents or materially delays, any of the transactions contemplated by this Agreement or the Ancillary Agreements or would reasonably be expected to do so, other than any event, change, circumstance, occurrence, effect, result or state of facts resulting from (A) general changes or developments in any of the industries in which such Person or any of its Subsidiaries operates or (B) changes in global, national, or regional political conditions (including the outbreak of war or acts of terrorism) or in general economic, business, regulatory, political or market conditions or in national or global financial markets, provided, that, in each case, the impact thereof is not disproportionately adverse to such Person and its Subsidiaries, taken as a whole, as compared to the adverse impact on the competitors of such Person and its Subsidiaries.

“Net Working Capital” means, as at a specified date and without duplication, an amount (which may be positive or negative) calculated in the manner set forth on the Sample Working Capital Statement and equal to (i) the consolidated current assets of the Company and its Subsidiaries, minus (ii) the consolidated current liabilities of the Company and its Subsidiaries, in each case before taking into account the consummation of the transactions contemplated hereby, and calculated in accordance with GAAP applied on a basis consistent with the preparation of the April 2017 Balance Sheet, subject to the Applicable Accounting Principles; provided, however, that for the avoidance of doubt, (x) Net Working Capital shall exclude (1) any amounts included in Available Cash, Restricted Cash, Indebtedness, Transaction Expenses to the extent such amounts are reflected in the calculation of the Purchase Price (to avoid any double-counting with any other adjustments) and (2) deferred Tax assets and deferred Tax liabilities, and (y) accrued sales taxes shall be excluded from the calculation of the consolidated current liabilities of the Company and its Subsidiaries.
“On-Site Labs” means On-Site Labs, Inc., a California corporation.

“Open Source Materials” means any software that is licensed, distributed or conveyed under a Contract that requires as a condition of its use, modification or distribution that such software, or other software into which such software is incorporated or with which such software is distributed or that is derived from such software, be disclosed or distributed in source code form, delivered at no charge or be licensed, distributed or conveyed under the same terms as such Contract, including software licensed under the Common Development and Distribution License (CDDL), GNU’s General Public License (GPL), GNU’s Lesser General Public License (LGPL), GNU’s Affero General Public License (AGPL), Mozilla Public License, Common Public License (CPL), Sun Public License (SPL) and any license listed at www.opensource.org.

“Option” means an outstanding option as of the date of this Agreement to purchase shares of Common Stock, all of which options, together with their respective holder, exercise price, vesting schedule, issue date and expiration date, are set forth on Schedule 3.5(a) of the Disclosure Schedules.

“Option Holder” means a Person that holds one or more Options, as of the date hereof.

“Organizational Documents” of an entity means such entity’s (i) certificate of incorporation, certificate of formation or certificate of limited partnership, and (ii) bylaws, operating agreement or limited partnership agreement, or, in each case, any equivalent organizational documents.

“Orrick” means Orrick, Herrington & Sutcliffe LLP.

“Orrick Records” means all documents and papers in the files of Orrick relating to this Agreement, any Ancillary Agreements, the transactions contemplated hereby and thereby, and any and all documents and papers in Orrick’s files relating to any prior representation of the Company with respect to any Excluded Assets or Excluded Liabilities, as well as any correspondence between Orrick and any of the Sellers’ shareholders, officers, directors, employees and other agents or any of the Seller Owners and all attorney work-product regarding this Agreement, any Ancillary Agreements, and the transactions contemplated hereby and thereby.

“Outbound License Agreements” means all Contracts under which the Company or any of its Subsidiaries grants to a third party a license or any other rights under or with respect to any Intellectual Property.

“Owned Real Property” means all real property owned by the Company or any of its Subsidiaries, together with all structures, facilities, fixtures, systems, improvements and items of property previously or hereafter located thereon, or attached or appurtenant thereto, and all easements, rights and appurtenances relating to the foregoing.

“Person” means an individual, corporation, partnership, limited liability company, limited liability partnership, syndicate, person, trust, association, organization or other entity, including any Governmental Authority, and including any successor, by merger or otherwise, of any of the foregoing.

“Personal Data” means any information with respect to which there is a reasonable basis to believe that the information can be used to identify an individual (including, but not limited to, name, address, telephone number, email address, social security number, bank account number, driver’s license number, credit card number, credit history and criminal history).

“Pre-Closing Taxes” means (i) any and all Taxes of the Seller Parties for any Tax Period (other than Transfer Taxes), (ii) any and all Taxes with respect to the Business or the Purchased Assets for any Pre-Closing Tax Period and, in the case of any Straddle Period, attributable to the portion of such Straddle Period ending on and including the Closing Date (determined in the manner described in Section 6.1), (iii) any and all Taxes of On-Site Labs for any Pre-Closing Tax Period and, in the case of any Straddle Period, attributable to the portion of such Straddle Period ending on and including the Closing Date (determined in the manner described in Section 6.1), (iv) any and all Taxes of DepositIQ for any Pre-Closing Tax Period and, in the case of any Straddle Period, attributable to the portion of such Straddle Period ending on and including the Closing Date (determined in the manner described in Section 6.1), (v) any
and all Taxes imposed on On-Site Labs or DepositIQ pursuant to Treasury Regulations Section 1.1502-6 or any similar provision of applicable Law as a result of On-Site Labs or DepositIQ having been a member of an affiliated, consolidated or combined group prior to the Closing; (vi) any and all Taxes arising out of or relating to any breach of, or inaccuracy in, any representation or warranty contained in Section 3.16 or any Seller Party’s breach of any covenants in Article VI; and (vii) the Seller’s portion of Transfer Taxes pursuant to Section 6.5. Notwithstanding the foregoing and anything to the contrary in this Agreement, Pre-Closing Taxes shall not include, and Buyer will be liable for, (i) any Taxes imposed on On-Site Labs or DepositIQ as a result of an election made by the Buyer under Code Section 338 or under any comparable provisions of any other state, local or foreign laws with respect to the transactions contemplated by this Agreement or (ii) any Taxes resulting from any transactions occurring on the Closing Date after the Closing that are outside the ordinary course of business (other than as explicitly contemplated by this Agreement) and that are consummated at the direction of the Buyer, or (iii) any Taxes that were taken into account as a current liability in the calculation of Net Working Capital.

“Pre-Closing Tax Period” means any Tax taxable period ending on or before the Closing Date.

“Procopio” means Procopio, Cory, Hargreaves & Savitch LLP.

“Procopio Records” means all documents and papers in the files of Procopio relating to this Agreement, any Ancillary Agreements, the transactions contemplated hereby and thereby, and any and all documents and papers in Procopio’s files relating to any prior representation of the Company with respect to any Excluded Assets or Excluded Liabilities, as well as any correspondence between Procopio and any of the Seller’s shareholders, officers, directors, employees and other agents or any of the Seller Owners and all attorney work-product regarding this Agreement, any Ancillary Agreements, and the transactions contemplated hereby and thereby.

“Purchase Price” means (i) the Estimated Purchase Price as adjusted in accordance with Section 2.4 plus (ii) any amounts paid to the Sellers out of the Holdback Amount.

“Related Party,” with respect to any specified Person, means (i) any Affiliate of such specified Person, or any director, executive officer, general partner or managing member of such Affiliate, (ii) any Person who serves as a director, executive officer, partner, member or in a similar capacity of such specified Person, (iii) any Immediate Family member of a Person described in clause (ii), or (iv) any other Person who holds, individually or together with any Affiliate of such other Person and any member(s) of such Person’s Immediate Family, more than five percent of the outstanding equity or ownership interests of such specified Person.

“Release” has the meaning set forth in Section 101(22) of CERCLA (42 U.S.C. § 9601(22)), but not subject to the exceptions in Subsections (A) and (D) of 42 U.S.C. § 9601(22).

“Remediation” means (i) any remedial action, remedy, response or removal action as those terms are defined in 42 U.S.C. § 9601, (ii) any corrective action as that term has been construed pursuant to 42 U.S.C. § 6924, and (iii) any measures or actions required or undertaken to investigate, assess, evaluate, monitor, or otherwise delineate the presence or Release of any Hazardous Material in or into the environment or to prevent, clean up or minimize a Release or threatened release of Hazardous Materials.

“Representatives” means, with respect to any Person, the officers, directors, principals, employees, agents, auditors, advisors, bankers and other representatives of such Person.

“Restricted Cash” means all Cash and Cash Equivalents that are not freely useable and available to the Company because they are subject to restrictions, limitations or taxes on use or distribution either by contract or for regulatory or legal purposes, or that constitute Cash and Cash Equivalents that are from customers in advance, are being held on behalf of customers and represent a liability to such customer (including any Cash in any DepositIQ accounts).

“Sales Tax Claims” means claims properly made by Buyer pursuant to Article VIII hereof for sales and use Taxes that are required to be paid by Buyer on behalf of any of the Sellers after the Closing Date as a result of

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any Seller’s failure to pay such sales and use Taxes prior to the Closing Date in states where it was otherwise required to do so.

“Sample Working Capital Statement” means the sample calculation of the Closing Net Working Capital attached as Exhibit A hereto.

“Section 1060 Forms” shall have the meaning set forth in Section 2.6.

“Shareholders’ Agreements” means the agreements set forth in Item 2 on Schedule 3.4 of the Disclosure Schedules.

“Shareholders’ Agreement Termination Agreement” means an agreement, in form and substance reasonably satisfactory to the Buyer, terminating a Shareholders’ Agreement.

“Special Claim” means any Third-Party Claim (or any action, suit, inquiry, proceeding, audit or investigation by a third party) that (i) involves any possibility of criminal liability or any action by any Governmental Authority, (ii) seeks injunctive relief, specific performance or other equitable relief against an Indemnified Party, (iii) involves Intellectual Property, (iv) involves any matter that could have a material precedential effect on an Indemnified Party, or (v) involves any customer of Parent, Buyer or their Subsidiaries.

“Specified Seller Owners” means MJ, SJ and KA.

“Standard Software” means commercially available non-customizable software which (1) any of the Company and/or its Subsidiaries licenses from a third party solely in executable or object code form pursuant to a non-exclusive internal use software license on standard terms for less than $10,000; and (2) is not incorporated into or used in the development, manufacturing, or distribution of any of the Company’s or its Subsidiaries’ products.

“Straddle Period” means any taxable period beginning on or before and ending after the Closing Date.

“Subsidiary” means, with respect to any Person, any other Person controlled by such first Person, directly or indirectly, through one or more intermediaries.

“Target Net Working Capital” means $0.

“Tax Return” means any return, declaration, report, claim for refund, election, certificate, statement, information statement and other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, filed or required to be filed with any Governmental Authority.

“Taxes” means (i) all federal, state, local, foreign and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, registration, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, abandoned property, escheat, or windfall profits tax, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever (and including any amounts resulting from the failure to file any Tax Return), to the extent the foregoing are in the nature of a tax, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, (ii) any liability for payment of amounts described in clause (i), whether as a result of successor or transferee liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law, and (iii) any liability for the payment of amounts described in clauses (i) or (ii) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person.

“Transaction Expenses” means all fees and expenses incurred and payable by the Sellers or the Seller Owners, and that remain unpaid as of the Closing, in connection with (i) the process of selling the Purchased Assets, the negotiation, preparation and execution of this Agreement and the Ancillary Agreements and the performance or consummation of the transactions contemplated hereby or thereby, including (for the avoidance of doubt, to the extent
such fees and expenses or other payments are unpaid as of the Closing) (A) fees and expenses associated with obtaining necessary or appropriate waivers, consents, or approvals of, or making any filings with, any Governmental Authority or third party, (B) fees and expenses associated with obtaining the release and termination of any Encumbrance, (C) brokers’, finders’ and similar fees, (D) fees and expenses of counsel, advisors, consultants, investment bankers, accountants, auditors and other experts, (E) fees and expenses of any data room provider, (F) payments payable by the Seller Parties to any officer, director or employee of the Sellers as a result of the entry into this Agreement, the Closing or the consummation of the transactions contemplated by this Agreement pursuant to any bonus, retention, severance, change of control or other similar payment obligation, together with any employer payroll taxes payable by the Seller associated with such payments, (G) costs, fees and expenses incurred in connection with purchasing the insurance policy as contemplated by Section 5.20, and (H) fees and expenses of the foregoing character of any third party (including any direct or indirect equity-holder of any Seller) that are paid or reimbursed by the Seller Parties or that any Seller Party is obligated to pay or reimburse and that remain unpaid as of the Closing.

“Transaction Expenses Payoff Instructions” means (i) documentation in form and substance reasonably satisfactory to the Buyer delivered to the Buyer at least two Business Days prior to the Closing Date setting forth an itemized list of all, and amounts of all, unpaid Transaction Expenses, including the identity of each payee, dollar amounts owed, wire transfer instructions and any other information necessary to effect the final payment in full thereof, and copies of final invoices from each such payee acknowledging the invoiced amounts as full and final payment for all services rendered to the Company or any of its Subsidiaries, and (ii) a duly executed invoice from each payee referred to in the preceding clause (i) in form and substance reasonably satisfactory to the Buyer in which the payee agrees that upon payment of the amounts specified in the Transaction Expenses Payoff Instructions, all obligations of the Company or its Subsidiary, as applicable, to such payee to date shall be repaid, discharged and extinguished in full.

Section 1.2 Table of Definitions. The following terms have the meanings set forth in the Sections referenced below:

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ARTICLE II
PURCHASE AND SALE

Section 2.1 Purchase and Sale

(a) Purchase and Sale of Purchased Assets. On the terms and subject to the conditions contained in this Agreement, at the Closing, Buyer shall purchase, and Sellers shall sell, convey, assign, transfer and deliver to Buyer, free and clear of any Encumbrances, by appropriate instruments of conveyance in substantially the forms attached hereto as Exhibits C-1 through C-4, all of Sellers’ assets, properties and rights, other than the Excluded Assets, that that relate to or are used, developed for use or held for use or useful in connection with, or necessary for the operation of, the Business, whether tangible or intangible, real, personal or mixed (collectively, the “Purchased Assets”). Without limiting the generality of the foregoing, the Purchased Assets shall include all right, title and interest of Sellers in and to the following:

(i) all Contracts that relate to or are used in, or held for use in connection with, the operation of the Business (collectively, the “Assumed Contracts”), including the Contracts identified in Schedule 2.1(a)(i), including any work in progress associated therewith, which shall include:

(A) all Contracts with customers and vendors relating to the Business (other than Excluded Contracts);

(B) all rights and interests of Sellers in and to all third party licenses or other agreements with respect to third party Intellectual Property rights that relate to or are used, developed for use, or held for use in the Business; and

(C) all employee non-disclosure, confidentiality, non-solicitation, employee noncompetition and assignment of Intellectual Property agreements relating to the Business or current or former Business Employees and executed in favor of any Seller;

(ii) all tangible personal property, leasehold interests and any associated rights and interests of any Seller in all equipment, fixtures, furniture, furnishings, laptops, computers, data processing hardware, servers, workstations, tools, parts, supplies and other tangible personal property leased by any Seller and used, useful or held for use in the Business;

(iii) all accounts receivable and unbilled revenue on the books and records of the Sellers as of the Closing Date which relate to services under or with respect to the Assumed Contracts, the Business or the Purchased Assets performed by any Seller on or prior to the Closing Date;

(iv) all prepaid rentals, deposits, advances and other prepaid expenses, to the extent relating to the Business, the Assumed Contracts or the Purchased Assets;

(v) all equipment, fixtures, furniture, furnishings, laptops, computers, workstations, tools, parts, supplies and other tangible personal property that relate to or are used in, or held for use in connection with, or necessary for the operation of, the Business (other than the Excluded Assets);

(vi) all rights and interests in any consents, approvals, Permits and other authorizations used or held for use in the Business;

(vii) all Business Intellectual Property, including all goodwill associated with such Business Intellectual Property and all rights of any Seller to sue for and receive damages or other relief in respect of any past infringement or other violation of any rights thereto;
(viii) all rights and interests of Sellers and Sellers’ Affiliates in the names “On-Site,” “On-Site Manager,” “On-Site Labs,” “On-Site Data,” “DepositIQ,” “RentersIQ,” and “Relocation Services,” including any derivatives thereof, together with all goodwill associated therewith and all rights to sue for and receive damages or other relief in respect of any past infringement or other violation of any rights thereto;

(ix) all telephone numbers, including all “800”, “888” and other toll-free and local telephone numbers, and facsimile numbers used in connection with the Business;

(x) all rights and interests of Sellers in the Internet domain names relating to, used or held for use in connection with the Business, including the domain names set forth on Schedule 2.1(a)(x);

(xi) except as provided in Section 2.1(b)(iii) and Section 2.1(b)(iv) below, all Books and Records of Sellers relating to the Business;

(xii) Sellers’ bank accounts, cash accounts, investment accounts, merchant accounts, lockboxes and other similar accounts;

(xiii) all Restricted Cash, amounts due to customers and net credit balances of the Sellers as of the Closing Date;

(xiv) all rights and claims (whether contingent or absolute, matured or unmatured and whether in tort, contract or otherwise) against any other Person which relate to the Business or the Purchased Assets, including any Encumbrances, judgments, causes of action and rights of recovery;

(xv) all documentation, sales and promotional literature, workplans, due diligence materials, market assessments, business development opportunities and materials, client lists, client work papers, services agreement drafts, other Contract drafts, strategies, logos, designs, proposals, requests for proposal, reports, plans and models used or held for use in the Business;

(xvi) all of Sellers’ respective client or customer engagements under the Assumed Contracts, including all client work and work product related to the Assumed Contracts that has been performed or is in the process of being performed on the Closing Date and all user or other data gathered, produced or captured pursuant to the Assumed Contracts;

(xv) all of the Company’s equity and other ownership interests in On-Site Labs; and

(xvi) all other properties, assets, claims, rights and entitlements of any kind, character and description whatsoever (whether or not reflected on the respective books of Sellers and whether real, personal or mixed, tangible or intangible, contingent or otherwise) that relate to or are used in, developed for use or held for use in connection with, or necessary for the operation of, the Business.

(b) Excluded Assets. Notwithstanding the foregoing, the following assets (the “Excluded Assets”) are expressly excluded from the purchase and sale contemplated in this Agreement and, as such, are not included in the Purchased Assets:

(i) Sellers’ Cash and Cash Equivalents (other than Restricted Cash);

(ii) Sellers’ rights under or pursuant to this Agreement and the documents, instruments and agreements executed in connection herewith and therewith (including the Ancillary Agreements);

(iii) Sellers’ general ledger, accounting records, minute books, statutory books, corporate seal, Tax Returns and taxpayer identification numbers, provided that Sellers shall provide to Buyer copies of the general ledger, accounting records, minute books and statutory books of the Business, including Tax Returns, as such documents exist as of the Closing Date;
iv) Sellers’ personnel records and any other records that any Seller is required by law to retain in its possession, provided that Sellers shall provide to Buyer copies of records relating to the Transferred Employees;

v) any right to receive mail and other communications addressed to Sellers (subject to Sellers’ obligation to forward to Buyer any mail, communications or other notices relating to the Business, Purchased Assets or Assumed Liabilities with respect to Contracts included in the Purchased Assets);

vi) all rights existing under each Contract or arrangement set forth on Schedule 2.1(b)(vi) (collectively, the “Excluded Contracts”);

vii) the personal property, equipment and furniture, if any, listed on Schedule 2.1(b)(vii);

viii) all shares, membership interests, partnership interests, participation interests or other equity interests or securities, or equivalents thereof, in any Person (including any other Seller and On-Site Plant), other than equity interests in On-Site Labs and DepositIQ;

ix) the Seller Benefit Plans and all documentation and materials related thereto and assets thereunder;

x) all insurance policies and rights thereunder, including rights as beneficiary or owner, and insurance claims for which Sellers may seek recovery under any of its existing policies;

xi) the assets described on Schedule 2.1(b)(xi); and

xii) any confidential or proprietary information, or custom interfaces, originating from a Specified Competitor (other than any Assumed Contract);

xiii) all estimated tax payments, deposits and prepayments of Taxes of Sellers, and any Tax attributes of the Sellers (rather than of the Business or the Purchased Assets) including credits, incentives and net operating losses; provided that, for the avoidance of doubt, no Buyer Party shall have any obligation under this Agreement to make any payment to any Seller Indemnified Party with respect to any of the items described in this Section 2.1(b)(xiii), except to the extent that such item results in a refund for which the Buyer is otherwise required to make a payment under Section 6.3 (in which case, Buyer’s obligation to make such payment shall be governed by Section 6.3);

xiv) the Procopio Records; and

xv) the Orrick Records.

(c) Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, at the Closing, Buyer shall assume, and thereafter shall pay, discharge and perform when due, as appropriate, the following Liabilities, to the extent related to the Business (individually and collectively, the “Assumed Liabilities”):

i) all Liabilities shown on the Preliminary Closing Statement and not discharged as of the Closing Date, in each case, solely to the extent that such Liabilities were incurred in connection with the operation of the Business in the ordinary course; and

ii) all Liabilities arising from performance following the Closing Date under each Assumed Contract, in each case, solely to the extent that such Liabilities were incurred in connection with the operation of the Business in the ordinary course but specifically excluding all Liabilities arising under any Excluded Contract; and
provided, however, that notwithstanding anything to the contrary in this Agreement, none of the Excluded Liabilities shall be included in the definition of Assumed Liabilities.

(d) **Excluded Liabilities.** Buyer has not agreed to pay, perform or discharge any Liability of Sellers, and shall not assume any Liability of Sellers, except to the extent this Agreement expressly provides that Buyer shall assume such Liability. Without limiting the generality of the preceding sentence, and notwithstanding anything else to the contrary herein, Sellers shall retain, and shall be responsible for paying, performing and discharging, when due, and Buyer shall not assume or have any responsibility for, any Liabilities of Sellers or any Liabilities related to the Business other than the Assumed Liabilities (individually and collectively, the “Excluded Liabilities”). Excluded Liabilities shall include, without limitation, the following:

(i) all Liabilities relating to, in connection with or arising out of the Excluded Assets;

(ii) all Liabilities relating to, in connection with or arising out of the Indebtedness of Sellers;

(iii) all legal, accounting, brokerage, investment banking, financial advisory and finder’s fees and other fees and expenses incurred by or on behalf of Sellers in connection with this Agreement, the Ancillary Agreements or the transactions contemplated herein or therein, including all Brokers’ and Finders’ Fees Liabilities;

(iv) all Liabilities related to, in connection with or arising out of any breach by any Seller or Seller Owner of this Agreement or any of the Ancillary Agreements;

(v) all Liabilities under any Contract that is not an Assumed Contract;

(vi) all Liabilities for Pre-Closing Taxes;

(vii) all Liabilities relating to, in connection with or arising out of any Seller Benefit Plan (whether or not disclosed on Schedule 3.11(a) of the Disclosure Schedules) or employee benefits;

(viii) all Liabilities to Sellers’ employees or consultants (including, for the avoidance of doubt, with respect to any of the items listed in Item 1 on Schedule 3.18(a)(vi) of the Disclosure Schedules) and any withholding or reporting obligations relating to compensation paid or payable to employees or consultants;

(ix) all Liabilities and any indemnification obligations related to directors, officers, members or managers of Sellers;

(x) all Liabilities relating to, in connection with or arising out of obligations to perform under the Assumed Contracts on or prior to the Closing Date;

(xi) all Liabilities relating to, in connection with or arising out of any breach or default (or any event or circumstance that would constitute a breach or default with or without notice, the passage of time or both), failure to perform or overcharges or underpayments, in each case arising from events, actions or inactions prior to the Closing, under the Assumed Contracts;

(xii) all Liabilities of Sellers to any current or former stockholder, member, option holder, profits interest holder, manager, officer or director of any Seller or any of Sellers’ Subsidiaries, including any Claims by any such Person arising out of, in connection with or relating to this Agreement, the Ancillary Agreements or the transactions contemplated herein or therein;

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all Liabilities relating to, or arising out of or in connection with any Claim with respect to the operation of the Business or the Purchased Assets prior to the Closing, whether such Claim is brought prior to, on or after the Closing Date;

all Litigation Obligations;

all Transaction Expenses; and

all Liabilities for amounts payable as “change of control,” sales, bonus, incentive or severance payments in connection with this Agreement or the transactions contemplated herein.

Section 2.2 Closing

(a) The sale and purchase of the Purchased Assets shall take place at a closing (the “Closing”) to be held at the offices of Procopio, Cory, Hargreaves & Savitch LLP, 12544 High Bluff Drive, Suite 300, San Diego, CA 92130, at 10:00 a.m., Pacific Standard Time on the second Business Day following the satisfaction or, to the extent permitted by applicable Law, waiver of all conditions to the obligations of the parties set forth in Article VII (other than such conditions as may, by their terms, only be satisfied at the Closing or on the Closing Date, but subject to the satisfaction or waiver of those conditions), or at such other place or at such other time or on such other date as the Sellers Representative and the Buyer mutually may agree in writing. The day on which the Closing takes place is referred to as the “Closing Date.”

(b) At the Closing:

(i) the Buyer shall deliver, or cause to be delivered, on the Closing Date, to the Company (for the benefit of the Sellers) an amount in cash equal to the Estimated Purchase Price;

(ii) the Buyer shall deliver, or cause to be delivered on behalf of the Company, the amount payable to each counterparty or holder of Indebtedness identified on Schedule 2.2(b)(ii) (the “Payoff Indebtedness”) in order to fully discharge such Payoff Indebtedness and terminate all applicable obligations and liabilities of the Company and any of its Affiliates related thereto, as specified in the Debt Payoff Letters and in accordance with this Agreement;

(iii) the Buyer shall deliver, or cause to be delivered on behalf of the Company, the amount payable to each Person who is owed a portion of the Estimated Transaction Expenses, as specified in the Transaction Expenses Payoff Instructions and in accordance with this Agreement;

(iv) the Sellers shall deliver to Buyer the Purchased Assets and retain the Excluded Assets and the Excluded Liabilities;

(v) the Sellers shall deliver, or cause to be delivered, to the a duly executed Employment Agreement from each of Monte Jones and Scott Jones and the duly executed Consulting Agreement from Jonathan Harrington;

(vi) the Sellers shall deliver, or cause to be delivered, to the Buyer a duly executed Significant Owner Agreement from each of the Persons set forth on Schedule 2.2(b)(vi);

(vii) each of the Sellers shall deliver a separate certificate of non-foreign status in form and substance reasonably satisfactory to the Buyer, satisfying the requirements of § 1.1445-2(b)(2) of the United States Treasury Regulations promulgated under the Code;
the Sellers shall deliver, or cause to be delivered, to the Buyer the third-party consents and approvals listed on Schedule 2.2(b)(viii);

the Sellers shall deliver, or cause to be delivered, to the Buyer, a duly executed copy of each Independent Contractor Agreement;

the parties shall deliver, or cause to be delivered, the Transfer Documents (in accordance with Section 2.2(e)) and the certificates and other documents and instruments required to be delivered by or on behalf of any party pursuant to Article VII; and

the Buyer will deliver, or cause to be delivered, by wire transfer of immediately available funds to a segregated client bank account maintained by the Sellers Representative, on the Closing Date, an amount equal to the Expense Fund Contribution (the "Expense Fund"), for the Sellers Representative to hold on behalf of the Sellers as a fund which will be used for the purposes of paying directly, or reimbursing the Sellers Representative for, any third party expenses pursuant to this Agreement. For applicable Tax purposes, the Expense Fund Contribution shall be treated in accordance with Section 2.5(f).

c) All payments hereunder, including payments made pursuant to Section 2.4 or 8.5, shall be made by wire transfer of immediately available funds in United States dollars to such account(s) as may be designated to the payor by Buyer or the Sellers Representative, as applicable, at least two Business Days prior to the applicable payment date.

d) Notwithstanding anything to the contrary herein, but without limiting the Buyer’s obligations hereunder (including the Buyer’s obligation to pay the Purchase Price), the Buyer shall be entitled at the Closing to direct that any of the Purchased Assets be transferred by the Sellers to one or more of the Buyer’s Affiliates in lieu of any such transfer to the Buyer itself.

e) Sellers, on the one hand, and Buyer, on the other hand, shall, pursuant to and in accordance with the terms and conditions of this Agreement, enter into, and cause their respective Subsidiaries, if applicable, to enter into, on the Closing Date, separate bills of sale and assignment and assumption agreements, including patent, trademark, copyright, domain name and contract assignments (collectively, the “Transfer Documents”) documenting the purchase and sale of each portion of the Purchased Assets and the Assumed Liabilities to be conveyed separately to Buyer. Such individual Transfer Documents will memorialize the transfer of the Purchased Assets to Buyer, Buyer’s assumption of the Assumed Liabilities, and Sellers’ retention of the Excluded Assets and Excluded Liabilities. The Transfer Documents shall be in substantially the applicable forms attached hereto as Exhibits C-1 through C-4, with such modifications as are necessary and appropriate as a result of differences in local laws or customs, in order to maintain substantially the same legal meaning and effect as provided for in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any Transfer Document, the terms and conditions of this Agreement shall prevail. During the period from the effective date of this Agreement through the Closing Date, if Buyer reasonably determines in good faith that any Excluded Contracts or other Contracts should be Assumed Contracts or that all or any portion of the Excluded Assets should be a Purchased Asset, then, at no additional expense to Buyer, the Parties will amend the Schedules hereto to reflect such changes and transfer such Contracts or assets, as applicable, to Buyer as if such Contracts or assets had been a “Purchased Asset” as of the date of this Agreement; provided, however, in no event shall (i) either of the items listed at Item 12 and Item 13 on Schedule 2.1(b)(vi) be an Assumed Contract or a Purchased Asset, (ii) either of the items listed at Items 1 and 2 on Schedule 2.1(b)(xi) be a Purchased Asset or (iii) the item listed at Item 2 on Schedule 2.1(b)(vii) be a Purchased Asset.

(f) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract if an attempted assignment thereof, without consent of a third party thereto, would constitute a breach or other contravention thereof or in any way adversely affect the rights of Buyer thereunder. Sellers will use reasonable best efforts (including payment of any reasonable third party costs) and Buyer will use its commercially reasonable efforts to assist Sellers to obtain the consent of the other parties to any such
Assumed Contract for the assignment thereof to Buyer, *provided, however*, that neither Buyer nor its Affiliates shall be obligated to pay any consideration therefor to any third party from whom any such consent is requested and any costs related to obtaining such consent shall be the sole responsibility of Sellers. Unless and until such consent is obtained, or if an attempted assignment thereof would be ineffective or would materially adversely affect the rights of Sellers thereunder so that Buyer would not in fact receive all rights and benefits under such Assumed Contract, then (i) such Seller shall continue to be bound by such Assumed Contract and (ii) unless not permitted by the terms thereof or applicable Law, Buyer shall, as agent or subcontractor for such Seller, pay, perform and discharge fully, or cause to be paid, transferred or discharged all the obligations or other Liabilities of such Seller under such Assumed Contract arising solely after the Closing Date (except to the extent expressly otherwise provided herein or in the Ancillary Agreements). Such Seller shall, without further consideration, pay and remit, or cause to be paid or remitted, to Buyer promptly all money, rights and other consideration received by such Seller in respect of such performance. If and when any such consent shall be obtained or such Assumed Contract shall otherwise become assignable, such Seller shall promptly assign all of such Seller's rights, obligations and other Liabilities under such Assumed Contract to Buyer without receipt of further consideration, and Buyer shall, without the payment of any further consideration, assume the rights, obligations and other Liabilities under such Assumed Contract arising solely from and after the Closing Date (except to the extent expressly otherwise provided herein or in the Ancillary Agreements).

Section 2.3 Closing Estimates and Adjustments.

(a) At least three Business Days prior to the anticipated Closing Date, the Sellers Representative shall prepare, or cause to be prepared, and deliver to the Buyer a written statement (the “Preliminary Closing Statement”) that shall include and set forth a good-faith estimate of Net Working Capital (the “Estimated Net Working Capital”) (determined as of 11:59 p.m. on the day immediately preceding the Closing Date and without giving effect to the transactions contemplated herein). Estimated Net Working Capital shall be calculated in accordance with GAAP applied on a basis consistent with the preparation of the April 2017 Balance Sheet (*provided*, that in the event of a conflict between GAAP and consistent application thereof, GAAP shall prevail), subject to such differences in accounting principles, policies and procedures as are set forth on Exhibit B (GAAP as so modified pursuant to Exhibit B, the “Applicable Accounting Principles”). All such estimates shall be subject to the Buyer’s approval, which shall not be unreasonably withheld, and shall control solely for purposes of determining the amounts payable at the Closing pursuant to Section 2.2 and shall not limit or otherwise affect the Buyer’s remedies under this Agreement or otherwise, or constitute an acknowledgement by the Buyer of the accuracy of the amounts reflected thereof.

(b) In addition, to the extent the gross revenue reflected in the June 2017 Audited Schedule of Revenues (to be delivered pursuant to Section 5.10(b)) for the period beginning July 1, 2016 and ending June 30, 2017 (the “Revenue True-Up Period”) is less than revenue reflected in the Interim Financial Statements for the Revenue True-Up Period, which is $45,765,226, by 3% or more, the Estimated Purchase Price will be reduced by an amount (the “Revenue True-Up Amount”) equal to (i) the gross revenue reflected in the Interim Financial Statements for the Revenue True-Up Period minus the gross revenue reflected in the June 2017 Audited Schedule of Revenues for the Revenue True-Up Period multiplied by (ii) five. For this purpose, DepositIQ revenue will be excluded in each of the June 2017 Audited Schedule of Revenues and the Interim Financial Statements for the Revenue True-Up Period.

Section 2.4 Post-Closing Adjustment of Purchase Price; Revenue True-Up Amount.

(a) Within 90 days after the Closing Date, the Buyer shall prepare, or cause to be prepared, and deliver to the Sellers Representative a written statement (the “Initial Closing Statement”) that shall include and set forth a calculation of the actual Net Working Capital (the “Closing Net Working Capital”) (determined as of 11:59 p.m. on the day immediately preceding the Closing Date and without giving effect to the transactions contemplated herein). Closing Net Working Capital shall be calculated in accordance with the Applicable Accounting Principles. If Buyer does not deliver the Initial Closing Statement to the Sellers Representative within 90 days after the Closing Date, then no downward adjustment to the Estimated Purchase Price shall be permitted, no amounts shall be due to the Buyer pursuant to this Section 2.4, and the Preliminary Closing Statement shall become final and binding upon the parties hereto.
(b) The Initial Closing Statement shall become final and binding (the “Final Closing Statement”) on the 30th day following delivery thereof unless, prior to the end of such period, the Sellers Representative delivers to the Buyer written notice of its disagreement (a “Notice of Disagreement”) specifying the nature and amount of any dispute as to the Closing Net Working Capital, as set forth in the Initial Closing Statement. The Sellers Representative shall be deemed to have agreed with all items and amounts of Closing Net Working Capital not specifically referenced in the Notice of Disagreement, and such items and amounts shall not be subject to review in accordance with Section 2.4(c). Any Notice of Disagreement may reference only disagreements based on mathematical errors or based on amounts of the Closing Net Working Capital as reflected on the Initial Closing Statement not being calculated in accordance with this Section 2.4. For the avoidance of doubt, the Sellers Representative shall be permitted to deliver only one Notice of Disagreement pursuant to this Section 2.4(b).

(c) During the 15-Business Day period following delivery of the Notice of Disagreement by the Sellers Representative to the Buyer, the Sellers Representative and the Buyer in good faith shall seek to resolve in writing any differences that they may have with respect to the computation of the Closing Net Working Capital as specified therein. Any disputed items resolved in writing between the Sellers Representative and the Buyer within such 15-Business Day period shall become part of the Final Closing Statement and be final and binding with respect to such items, and if the Sellers Representative and the Buyer agree in writing on the resolution of each disputed item specified by the Sellers Representative in the Notice of Disagreement and the amount of the Closing Net Working Capital the amounts so determined shall become part of the Final Closing Statement and be final and binding on the parties for all purposes hereunder. If the Sellers Representative and the Buyer have not resolved all such differences by the end of such 15-Business Day period, within five Business Days following the end of such 15-Business Day period, the Sellers Representative and the Buyer shall engage, pursuant to a standard engagement letter, Deloitte & Touche LLP or, if such firm is unable or unwilling to act or is, at such time, not independent of each of the Buyer Parties, the Sellers and the Sellers Representative, such other independent public accounting firm as shall be agreed in writing by the Sellers Representative and the Buyer (the “Independent Accounting Firm”), and, within 15 Business Days following engagement of the Independent Accounting Firm, shall submit, in writing, to the Independent Accounting Firm their briefs detailing their respective views as to the correct nature and amount of each item remaining in dispute and the amounts of the Closing Net Working Capital, and the Independent Accounting Firm shall make a written determination as to each such disputed item and the amount of the Closing Net Working Capital, which determination, along with the other amounts previously agreed to by the parties pursuant to this Section 2.4, shall comprise the Final Closing Statement and be final and binding on the parties for all purposes hereunder. The Independent Accounting Firm shall consider only those items and amounts in the Sellers Representative's and the Buyer’s respective calculations of the Closing Net Working Capital that are identified as being items and amounts to which the Sellers Representative and the Buyer have been unable to agree. In resolving any disputed item, the Independent Accounting Firm may not assign a value to any item greater than the greatest value for such item claimed by either party or less than the smallest value for such item claimed by either party. The Sellers Representative and the Buyer shall use their commercially reasonable efforts to cause the Independent Accounting Firm to render a written decision, which shall specify, with particularity, resolution of the matters submitted to it as promptly as practicable, and in any event within 30 Business Days following the submission thereof.

(d) The costs of any dispute resolution pursuant to Section 2.4(c), including the fees and expenses of the Independent Accounting Firm and of any enforcement of the determination thereof, shall be borne by the Sellers, on the one hand, and the Buyer, on the other hand, in inverse proportion as they may prevail on the matters resolved by the Independent Accounting Firm, which proportionate allocation shall be calculated on an aggregate basis based on the relative dollar values of the amounts in dispute and shall be determined by the Independent Accounting Firm at the time the determination of such firm is rendered on the merits of the matters submitted. The fees and disbursements of the Representatives of each party incurred in connection with the preparation or review of the Initial Closing Statement and preparation or review of any Notice of Disagreement, as applicable, shall be borne by such party.

(e) The Buyer will, and will cause the Company to afford the Sellers Representative and its Representatives reasonable access, during normal business hours and upon reasonable prior notice, to the personnel, properties, books and records of the Company and its Subsidiaries and to any other information reasonably requested
for purposes of preparing and reviewing the calculations contemplated by this Section 2.4. Each party shall authorize its accountants to
disclose work papers generated by such accountants in connection with preparing and reviewing the calculations of the Net Working
Capital as specified in this Section 2.4; provided, that such accountants shall not be obligated to make any work papers available except in
accordance with such accountants’ disclosure procedures and then only after the non-client party has signed an agreement relating to access
to such work papers in form and substance acceptable to such accountants and that no party shall be required to provide any attorney-client
privileged communications pursuant to this Section 2.4(e).

(f) In accordance with the Final Closing Statement, the Estimated Purchase Price shall be adjusted, upwards or downwards, as follows:

(i) For the purposes of this Agreement, the “Net Adjustment Amount” means an amount, which may be positive or negative, equal to (A) the Closing Net Working Capital, as finally determined pursuant to this Section 2.4, minus (B) the Estimated Net Working Capital.

(ii) If the Net Adjustment Amount is positive, (A) the Estimated Purchase Price shall be adjusted upwards in an amount equal to the Net Adjustment Amount and (B) the Buyer shall pay, or cause to be paid, to the Company (for the benefit of the Sellers) an amount in cash equal to the Net Adjustment Amount (not to exceed the initial downward adjustment, if any, from the Estimated Net Working Capital adjustment) within five (5) Business Days of the final determination of Closing Net Working Capital pursuant to this Section 2.4.

(iii) If the Net Adjustment Amount is negative (in which case the “Net Adjustment Amount” for purposes of this clause (iii) shall be deemed to be equal to the absolute value of such amount), (A) the Estimated Purchase Price shall be adjusted downwards in an amount equal to the Net Adjustment Amount and (B) the Buyer shall be entitled to permanently retain from the Holdback Amount an amount equal to the Net Adjustment Amount. In the event that the Holdback Amount is insufficient to cover the full amount of the Net Adjustment Amount, then the Sellers shall pay to the Buyer an amount in cash equal to the amount of such deficiency within five (5) Business Days of the final determination of Closing Net Working Capital pursuant to this Section 2.4.

Section 2.5 Sellers Representative

(a) Each Seller Party hereby consents to the terms of this Section and to the appointment of Jonathan Harrington as such Person’s representative and attorney-in-fact (the “Sellers Representative”), with full power of substitution to act on behalf of such Seller Party to the extent and in the manner set forth in this Agreement and any agreements ancillary to the foregoing. All decisions, actions, consents and instructions by the Sellers Representative with respect to this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby, including all decisions, actions, consents and instructions relating to the defense or settlement of any claims for indemnification, shall be binding upon all Seller Parties and no Seller Party shall have the right to object to, protest or otherwise contest any such decision, action, consent or instruction. The Buyer shall be entitled to conclusively rely on any decision, action, consent or instruction of the Sellers Representative in connection with this Agreement, the Ancillary Agreements and the transactions contemplated hereby and thereby as being the decision, action, consent or instruction of the Seller Parties, and the Buyer is hereby relieved from any liability to any Person for acts done by them in accordance with any such decision, act, consent or instruction. The provisions of this Section, including the power of attorney granted hereby, are independent and severable, are irrevocable and coupled with an interest and shall not be terminated by any act of any one or more Seller Parties, or by operation of Law, whether by death or other event.

(b) The Sellers Representative may resign at any time, and may be removed for any reason or no reason by the written consent of the Sellers; provided, however, in no event shall the Sellers Representative resign or be removed without the Sellers having first appointed a new Sellers Representative who shall assume such duties immediately upon the resignation or removal of the Sellers Representative. In the event of the death, incapacity, resignation or removal of the Sellers Representative, a new Sellers Representative shall be appointed by the written consent of the Sellers. Notice of such vote or a copy of the written consent appointing such new Sellers Representative
shall be sent to the Buyer, such appointment to be effective upon the later of the date indicated in such consent or the date such notice is received by the Buyer; provided, that until such notice is received, the Buyer shall be entitled to rely on the decisions, actions, consents and instructions of the prior Sellers Representative as described in paragraph (a) above. The Sellers Representative may charge a reasonable fee for its services; provided, that all fees and expenses incurred by the Sellers Representative in performing its duties hereunder and under any Ancillary Agreement (including legal fees and expenses related thereto) and any indemnification in favor of the Sellers Representative shall be borne solely by the Sellers.

(c) The Sellers Representative shall not be liable to the Seller Parties for actions taken pursuant to this Agreement or any Ancillary Agreement, except to the extent such actions shall have been determined by a court of competent jurisdiction to have involved fraud. Except in cases where a court of competent jurisdiction has made such a finding, the Seller Parties shall jointly and severally indemnify and hold harmless the Sellers Representative from and against any and all losses, liabilities, claims, actions, damages and expenses, including reasonable attorneys’ fees and disbursements, arising out of and in connection with its activities as Sellers Representative under this Agreement and the Ancillary Agreements. The Seller Parties shall promptly reimburse the Sellers Representative for any expenses or fees incurred in connection with the Sellers Representative’s obligations hereunder (“Sellers Representative Expenses”), and shall advance such Sellers Representative Expenses as reasonably requested by the Sellers Representative from time to time. If not paid directly to the Sellers Representative by the Seller Parties, any such Sellers Representative Expenses may be recovered, or advances may be drawn, by the Sellers Representative from the funds in the Expense Fund. The Seller Parties acknowledge that the Sellers Representative shall not be required to expend or risk its own funds or otherwise incur any financial liability in the exercise or performance of any of its powers, rights, duties or privileges or administration of its duties.

(d) In the event any notice or acknowledgement is required or permitted to be given by or to any Seller Party under this Agreement, including any notice under Section 8.4, such notice shall be given by, or delivered to, the Sellers Representative in lieu of such Seller Party.

(e) By his or her acceptance of the Purchase Price, each Seller Owner shall be deemed to have approved of all arrangements relating to the transactions contemplated hereby and to the provisions hereof binding upon the Seller Parties, including the indemnification provisions hereof.

(f) The Seller Parties will not receive any interest or earnings on the Expense Fund and the monies held in the Expense Fund will be invested in a non-interest bearing account. The Sellers Representative is not acting as a withholding agent or in any similar capacity in connection with the Expense Fund, and has no tax reporting or income distribution obligations hereunder. The Sellers Representative is not providing any investment supervision, recommendations or advice, and will not be liable for any loss of principal of the Expense Fund other than as a result of its gross negligence, willful misconduct or bad faith. The Sellers Representative will hold these funds separate from its personal or corporate (as applicable) funds, will not use these funds for its operating expenses or any other personal or corporate (as applicable) purposes and will not voluntarily make these funds available to its creditors in the event of bankruptcy. Contemporaneous with or as soon as practicable following the final release or retention of the Holdback Amount, the Sellers Representative will deliver the balance of the Expense Fund to the Sellers. For tax purposes, the Expense Fund will be treated as having been received and voluntarily set aside by the Seller Parties at the time of Closing in accordance with the amounts set forth in the Closing Payment Schedule. Any Tax withholding with respect to such deemed contribution by any Seller Party shall be satisfied from such Seller Party’s share of the Purchase Price payable to the Sellers on the Closing Date and shall not reduce the Expense Fund Contribution.

Section 2.6 Purchase Price Allocation. Within 150 days after the Closing, Buyer shall propose a purchase price allocation among the Purchased Assets and the Significant Owner Agreements (the “Purchase Price Allocation”) to Sellers Representative for its review and approval, which shall be prepared in a manner consistent with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Within thirty days following Buyer's delivery of the Purchase Price Allocation, the Sellers Representative shall inform the Buyer in writing whether it has approved the Purchase Price Allocation (and in the event that the Sellers Representative fails to respond in writing within such 30-day period, the Sellers Representative shall be deemed to have approved the Purchase Price Allocation). Provided that
the Sellers Representative approves the Purchase Price Allocation, all Tax Returns filed by the Sellers and the Buyer (such as IRS Form 8594 or any other forms or reports required to be filed pursuant to Section 1060 of the Code or any comparable provisions of applicable law (“Section 1060 Forms”)) shall be prepared in a manner consistent with the Purchase Price Allocation, except to the extent otherwise required by a determination (within the meaning of Section 1313(a) of the Code); provided, however, that (i) Buyer’s cost for the Purchased Assets and the Significant Owner Agreements may differ from the total amount allocated hereunder to reflect the inclusion in the total cost of items (for example, capitalized acquisition costs) not included in the amount so allocated, (ii) the amount realized by Sellers may differ from the total amount allocated hereunder to reflect transaction costs that reduce the amount realized for federal income Tax purposes, and (iii) neither Sellers or any of their Affiliates nor Buyer or any of its Affiliates will be obligated to litigate any challenge to the Purchase Price Allocation by a Governmental Authority. In the event of an adjustment to the Purchase Price, Sellers Representative and Buyer agree to adjust the Purchase Price Allocation in a reasonable manner to reflect such adjustment. If any Governmental Authority disputes the Purchase Price Allocation, the party receiving notice of the dispute shall promptly notify the other party and each party shall keep the other reasonably informed of material developments of any such dispute. Notwithstanding the foregoing, if Sellers Representative does not approve the Purchase Price Allocation then none of the Buyer, any Seller, nor any of their Affiliates shall be required, pursuant hereto, to file any Tax Returns or otherwise take any positions, in each case that are consistent with the Purchase Price Allocation or the allocation of the other party, but instead each party may allocate the consideration among the Purchased Assets and the Significant Owner Agreements in a manner it considers appropriate and file its Tax Returns in a manner consistent with its allocation. In addition, the parties hereto agree that to the extent there are any assets being transferred by the Sellers under this Agreement that are not eligible for installment reporting under Section 453 of the Code, such assets shall be treated as being transferred for the cash payable at Closing; provided, however, that Seller agrees that (1) Buyer has not made any representation or warranty to Seller as to the Tax consequences of agreeing to treat such assets as being transferred for the cash payable at Closing and (2) no Buyer Party shall have any liability to any Seller Indemnified Party under this Agreement arising from its agreement to treat such assets as being transferred for the cash payable at Closing.

Section 2.7 Withholding Rights. Each of the Buyer and its Affiliates, as the case may be, shall be entitled to deduct and withhold from any consideration otherwise payable to any Person pursuant to this Agreement such amounts as it is required to deduct and withhold under any provision of applicable Law with respect to the making of such payment. To the extent that such amounts are so withheld and paid over to the relevant Governmental Authority by the Buyer or its Affiliates, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the applicable Person in respect to which such deduction and withholding was made. Notwithstanding the foregoing, Buyer and Seller agree that no withholding shall be made by Buyer under any bulk sale laws with respect to any sales and use Taxes of the Sellers.

ARTICLE III
REPRESENTATIONS AND WARRANTIES
OF THE SELLER PARTIES

Except as set forth in the corresponding sections or subsections of the Disclosure Schedules attached hereto (collectively, the “Disclosure Schedules”), each Seller Party, on behalf of itself and, where applicable, the Sellers, jointly and severally hereby represents and warrants to the Buyer as set forth in this Article III. The Disclosure Schedules will be arranged in paragraphs corresponding to the numbered and lettered paragraphs contained in this Article III, and the disclosure in any such numbered and lettered section of the Disclosure Schedules shall qualify each corresponding Section in this Article III. Any matter disclosed in any section or subsection of the Disclosure Schedules shall be deemed disclosed and incorporated by reference with respect to any Section or subsection of this Article III to which the matter relates to the extent the relevance to each such Section or subsection is reasonably apparent from the face of such disclosure, whether or not a specific cross reference to any other Section or subsection is included. The information contained in the Disclosure Schedules is disclosed solely for the purposes of this Agreement, and the inclusion of any information in any portion of the Disclosure Schedules shall not be deemed to be an admission or acknowledgment by the Company, any Seller that such information is material to or outside the ordinary course of the business of the Company. No information contained in the Disclosure Schedules shall be deemed to be an admission
by the Company, any Seller to any third party of any matter whatsoever, including of any violation of Law or breach of any agreement.

Section 3.1 Organization and Qualification.

(a) Each of the Company and its Subsidiaries is (i) duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation as set forth in Schedule 3.1(a) of the Disclosure Schedules, and has full power and authority to own, lease and operate its properties and assets and to carry on its business as now conducted and as currently proposed to be conducted, and (ii) duly qualified or licensed as a foreign entity to do business, and is in good standing, in each jurisdiction where the character of the properties and assets occupied, owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary, except for any such failures to be so qualified or licensed and in good standing that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(b) DepositIQ does not maintain in effect any operating agreement(s) or equivalent organizational document(s), nor have any such documents ever been adopted or put into effect with respect to DepositIQ. Other than the Organizational Documents addressed in the preceding sentence, the Buyer has been furnished with a complete and correct copy of the Organizational Documents, each as amended to date, of the Company and each of its Subsidiaries. Such Organizational Documents are in full force and effect. Neither the Company nor any of its Subsidiaries is in material violation of any of the provisions of its Organizational Documents. The transfer books and minute books of each of the Company and its Subsidiaries have been made available for inspection by the Buyer prior to the date hereof, all of which are true and complete in all material respects.

Section 3.2 Authority. Each Seller Party has the legal capacity, full power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by each Seller Party of this Agreement and each of the Ancillary Agreements to which such Person will be a party and the consummation of the transactions contemplated hereof and thereby have been duly and validly authorized by all necessary corporate or other action. This Agreement has been, and upon their execution each of the Ancillary Agreements to which a Seller Party will be a party will have been, duly executed and delivered by such Seller Party, as applicable, and, assuming due execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and upon their execution each of the Ancillary Agreements to which a Seller Party will be a party will constitute, the legal, valid and binding obligations of such Persons, as applicable, enforceable against such Persons in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law).

Section 3.3 No Conflict; Required Filings and Consents.

(a) The execution, delivery and performance by the Seller Parties of this Agreement and each of the Ancillary Agreements to which a Seller Party will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not:

(i) conflict with or violate the Organizational Documents of any Seller Party;

(ii) conflict with or violate any Law applicable to any Seller Party, or by which any property or asset of any Seller Party is bound or affected in any material respect; or

(iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under, require any consent of or notice to any Person pursuant to, give to others any right of termination, amendment, modification, acceleration or cancellation of, allow the imposition of any fees or penalties, require the offering or making of any payment or redemption, give rise to
any increased, guaranteed, accelerated or additional rights or entitlements of any Person or otherwise adversely affect any rights of any Seller Party under, or result in the creation of any Encumbrance on any property, asset or right of any Seller Party pursuant to, any Contract to which any Seller Party is a party or by which any Seller Party any of their respective properties, assets or rights are bound or affected, except for any such breaches, defaults or other occurrences that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(b) None of the Seller Parties is required to file, seek or obtain any notice, authorization, approval, order, permit or consent of or with any Governmental Authority in connection with the execution, delivery and performance by the Seller Parties of this Agreement and each of the Ancillary Agreements to which the Seller Parties will be a party or the consummation of the transactions contemplated hereby or thereby or in order to prevent the termination of any right, privilege, license or qualification of the Sellers, except for (i) any filings required to be made under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “HSR Act”), (ii) such filings as may be required by any applicable federal or state securities or “blue sky” laws and (iii) such other authorizations, approvals, orders, permits, consents, registrations, declarations, filings or notices the failure of which to be obtained or made, individually or in the aggregate, would not reasonably be expected to materially impair, or prevent or materially delay, the ability of the Seller Parties to consummate the transactions contemplated by this Agreement or any Ancillary Agreement.

(c) No “fair price,” “interested shareholder,” “business combination” or similar provision of any state takeover Law is applicable to the transactions contemplated by this Agreement or the Ancillary Agreements.

Section 3.4 Shares. Each Seller Owner is the record and beneficial owner of the issued and outstanding shares (the “Shares”) of the voting and non-voting common stock (together, the “Common Stock”) of the Company listed as owned by such Seller Owner on Schedule 3.4 of the Disclosure Schedules, free and clear of any Encumbrances other than Encumbrances under the Shareholders’ Agreements set forth on Schedule 3.4 of the Disclosure Schedules, as applicable. Each Seller Owner has, and will have at the Closing, good, valid and marketable title to the Shares, free and clear of any Encumbrance. Other than its ownership of the Shares, such Seller Owner does not hold any assets, properties or rights that relate to or are used or useful in, developed for use, or held for use in connection with, or necessary for the operation of, the Business, whether tangible or intangible, real, personal or mixed.

Section 3.5 Capitalization.

(a) There are 21,716,786 shares of the Company’s Common Stock issued and outstanding, constituting the Shares. There are 85,000 shares of the Company’s Common Stock subject to outstanding Options and except for such Options, there are no outstanding warrants or other rights to purchase or acquire any Common Stock of the Company. No other classes of membership interests or other equity ownership interests exist, and no other membership interests are issued and outstanding. Schedule 3.5(a) of the Disclosure Schedules sets forth a complete and accurate list, as of the date of this Agreement, of (i) all record and beneficial owners of the issued and outstanding Shares, indicating the respective number of Shares held by each and (ii) all holders of Options, indicating the respective number, exercise price, vesting schedule, issue date and expiration date of each Option held by each Option Holder. The Buyer has been furnished with a true and complete copy of each Contract relating to the Options listed on Schedule 3.5(a) of the Disclosure Schedules.

(b) Schedule 3.5(b) of the Disclosure Schedules sets forth (i) the name, type of entity, jurisdiction of formation and federal income tax classification of each Subsidiary of the Company and (ii) for each Subsidiary of the Company, the amount of its authorized equity or ownership interests, the amount of its outstanding equity or ownership interests, and the record and beneficial owners of its outstanding equity or ownership interests.

(c) Each outstanding equity or ownership interest of the Company and each of its Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and in the case of its Subsidiaries, each such equity or ownership interest is owned by the Company or another Subsidiary, free and clear of any Encumbrance. All of the
equity or ownership interests have been offered, sold and delivered by the Company or a Subsidiary in compliance with all applicable federal and state securities laws. Except as set forth on Schedule 3.5(c) of the Disclosure Schedules, there are no outstanding obligations of the Company or any of its Subsidiaries to issue, sell or transfer or repurchase, redeem or otherwise acquire, or that relate to the holding, voting or disposition of or that restrict the transfer of, the issued or unissued equity or ownership interests of the Company or any of its Subsidiaries. No equity or ownership interests of the Company or any of its Subsidiaries have been issued in violation of any rights, agreements, arrangements or commitments under any provision of applicable Law, the Organizational Documents of the Company or any of its Subsidiaries or any Contract to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound. Except as set forth on Schedule 3.5(c) of the Disclosure Schedules, there are no voting trusts, shareholder agreements, proxies or other agreements in effect with respect to the voting or transfer of the Shares or other ownership interests of the Company or any of its Subsidiaries.

Section 3.6 Third-Party Ownership Interests; Subsidiaries.

(a) Except for the Subsidiaries listed in Schedule 3.5(b) of the Disclosure Schedules, neither the Company nor any of its Subsidiaries directly or indirectly owns any equity, partnership, membership or similar interest in, or any interest convertible into, exercisable for the purchase of or exchangeable for any such equity, partnership, membership or similar interest, or is under any current or prospective obligation to form or participate in, provide funds to, make any loan, capital contribution or other investment in or assume any liability or obligation of, any Person.

(b) Except as set forth on Schedule 3.6(b) of the Disclosure Schedules, other than organizational activities, each of On-Site Data and Relocation Services (i) has not conducted, and does not conduct, any business or operations, (ii) does not own any assets or properties, (iii) does not have any employees, (iv) does not have any liabilities or obligations of any kind or nature (including any Indebtedness), (v) has not been, and is not, a party to any Contract and (vi) has not been, and is not, a party to any transaction other than the transactions contemplated by this Agreement and the Ancillary Agreements.

(c) Other than ownership of the equity interests in DepositIQ, On-Site Labs (i) has not conducted, and does not conduct, any business or operations, (ii) does not own any assets or properties, (iii) does not have any employees, (iv) does not have any liabilities or obligations of any kind or nature (including any Indebtedness), (v) has not been, and is not, a party to any Contract and (vi) has not been, and is not, a party to any transaction.

Section 3.7 Financial Statements; No Undisclosed Liabilities.

(a) True and complete copies of the unaudited consolidated balance sheet of the Company and its Subsidiaries as at December 31, 2016 and December 31, 2015, and the related consolidated statements of income, retained earnings, stockholders’ equity and changes in financial position of the Company and its Subsidiaries, together with all related notes and schedules thereto (collectively referred to as the “Financial Statements”), an audited consolidated balance sheet of the Company and its Subsidiaries as of April 30, 2017 (such balance sheet, together with all related notes and schedules thereto, the “April 2017 Balance Sheet”) and the unaudited consolidated balance sheet of the Company and its Subsidiaries as at June 30, 2017, and the related consolidated statements of income, retained earnings, stockholders’ equity and changes in financial position of the Company and its Subsidiaries for the six months then-ended, together with all related notes and schedules thereto (collectively referred to as the “Interim Financial Statements”), are attached hereto as Schedule 3.7(a) of the Disclosure Schedules. Each of the Financial Statements, the April 2017 Balance Sheet, the Interim Financial Statements, and, when delivered pursuant to Section 5.10(a), each set of the Pre-Closing Monthly Financial Statements, (i) have been prepared in accordance with the books and records of the Company and its Subsidiaries, (ii) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto) and (iii) fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of the Company and its Subsidiaries as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein and subject, in the case of the Interim Financial Statements and each set of Pre-Closing Monthly Financial Statements (when
delivered pursuant to Section 5.10(a)), to normal and recurring year-end adjustments that will not, individually or in the aggregate, be material.

(b) As of the date hereof, except as and to the extent adequately accrued or reserved against in the consolidated balance sheet of the Company and its Subsidiaries as at April 30, 2017, neither the Company nor any of its Subsidiaries has any liability or obligation of any nature, whether accrued, absolute, contingent or otherwise, whether known or unknown and whether or not required by GAAP to be reflected in a consolidated balance sheet of the Company and its Subsidiaries or disclosed in the notes thereto, except for liabilities and obligations, incurred in the ordinary course of business consistent with past practice since the date of the April 2017 Balance Sheet, that are not, individually or in the aggregate, material to the Company or any of its Subsidiaries.

(c) As of the Closing Date, except as and to the extent adequately accrued or reserved against in April 2017 Balance Sheet, neither the Company nor any of its Subsidiaries will have any liability or obligation of any nature, whether accrued, absolute, contingent or otherwise, whether known or unknown and required by GAAP to be reflected in a consolidated balance sheet of the Company and its Subsidiaries or disclosed in the notes thereto, except for liabilities and obligations, incurred in the ordinary course of business consistent with past practice since the date of the April 2017 Balance Sheet, that are not, individually or in the aggregate, material to the Company or any of its Subsidiaries.

(d) The books of account and financial records of the Company and its Subsidiaries are true and correct in all material respects and have been prepared and are maintained in accordance with sound accounting practice. The Company has not made any changes to its accounting practice since the date of the April 2017 Balance Sheet.

(e) All accounts receivable and trade accounts of the Company and its Subsidiaries (the “Receivables”) are bona fide, legal, valid and binding obligations, and are enforceable in full at face value (net of 1.5% of the existing Receivables). All Receivables represent products delivered or services actually performed by Sellers in the conduct of the Business in the ordinary course and are fully collectible (net of 1.5% of the existing Receivables). Deferred revenues are presented on the Financial Statements and the April 2017 Balance Sheet, in accordance with GAAP, with respect to the Company’s and its Subsidiaries’ (a) billed but unearned Receivables; (b) previously billed and collected Receivables still unearned; and (c) unearned customer deposits. Schedule 3.7(e)(i) of the Disclosure Schedules lists all Receivables as of April 30, 2017. Schedule 3.7(e)(ii) of the Disclosure Schedules lists all accounts payable of the Business as of April 30, 2017, together with an aging thereof. At the Closing Date, all accounts payable will have been incurred in exchange for goods or services delivered or rendered to Company or its Subsidiaries in the ordinary course of the Business.

Section 3.8 Absence of Certain Changes or Events

Since the date of the April 2017 Balance Sheet, (a) the Company and its Subsidiaries have conducted their businesses only in the ordinary course consistent with past practice, (b) there has not been a Material Adverse Effect with respect to the Company and its Subsidiaries, (c) neither the Company nor any of its Subsidiaries has suffered any loss, damage, destruction or other casualty affecting any of its material properties or assets, whether or not covered by insurance, and (d) none of the Company or any of its Subsidiaries has taken any action that, if taken after the date of this Agreement, would constitute a breach of any of the covenants set forth in Section 5.1.

Section 3.9 Compliance with Law; Permits

(a) Each of the Company and each of its Subsidiaries is and has been in compliance in all material respects with all Laws applicable to it. None of the Company, any of its Subsidiaries or any of its or their executive officers has received since January 1, 2014 any written, or reasonably definitive oral, notice, order or complaint, or other written communication from any Governmental Authority or any other Person that the Company or any of its Subsidiaries is not in compliance in any material respect with any Law applicable to it. Without limiting
the generality of the foregoing, there has not been any citation, fine, or penalty imposed, asserted, or threatened in writing against the Company or any of its Subsidiaries under any foreign, federal, state, local, or other Law or regulation relating to employment, immigration (including but not limited to the employment and identity verification (Form I-9) requirements of 8 U.S.C. § 1324a), occupational safety, zoning, or environmental matters and no Seller is aware of any current circumstances likely to result in the imposition or assertion of such a citation, fine, or penalty.

(b) Schedule 3.9(b) of the Disclosure Schedules sets forth a true and complete list of all permits, licenses, franchises, approvals, certificates, consents, waivers, concessions, exemptions, orders, registrations, notices or other authorizations of any Governmental Authority necessary for each of the Company and each of its Subsidiaries to own, lease and operate its properties and to carry on its business in all material respects as currently conducted (the “Permits”). Each of the Company and each of its Subsidiaries is and has been in compliance in all material respects with all such Permits. No suspension, cancellation, modification, revocation or nonrenewal of any Permit is pending or, to the Knowledge of the Sellers threatened. The Buyer will have the use and benefit of all Permits following consummation of the transactions contemplated hereby. No Permit is held in the name of any employee, officer, director, shareholder or agent of the Company or any Subsidiary, or otherwise on behalf of the Company or any of its Subsidiaries.

Section 3.10 Litigation. Except as set forth on Schedule 3.10 of the Disclosure Schedules, there is no Action pending or, to the Knowledge of the Sellers threatened against the Company or any of its Subsidiaries, or any material property or asset of the Company or any of its Subsidiaries, or any of the directors or officers of the Company or any of its Subsidiaries in regards to their actions as such. There is no Action pending or, to the Knowledge of the Sellers, threatened seeking to specifically prevent, hinder, modify, delay or challenge the transactions contemplated by this Agreement or the Ancillary Agreements. There is no outstanding order, writ, judgment, injunction, decree, determination or award of, or pending or, to the Knowledge of the Sellers, threatened investigation by, any Governmental Authority relating to the Company, any of its Subsidiaries, any of their respective properties or assets, any of their respective officers or directors, or the transactions contemplated by this Agreement or the Ancillary Agreements. There is no Action by the Company or any of its Subsidiaries pending, or which the Company or any of its Subsidiaries has commenced preparations to initiate, against any other Person.

Section 3.11 Employee Benefit Plans.

(a) Schedule 3.11(a) of the Disclosure Schedules sets forth a true and complete list of the following:

(i) all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”)) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other benefit plans, programs or arrangements, and all employment, termination, severance or other contracts or agreements to which the Company or any of its Subsidiaries is a party, with respect to which the Company or any of its Subsidiaries has or could reasonably be expected to have any obligation or which are maintained, contributed to or sponsored by the Company or any of its Subsidiaries for the benefit of any current or former employee, officer or director of the Company or any of its Subsidiaries;

(ii) each employee benefit plan for which the Company or any of its Subsidiaries could reasonably be expected to incur liability under Section 4069 of ERISA in the event such plan has been or were to be terminated;

(iii) any plan in respect of which the Company or any of its Subsidiaries could reasonably be expected to incur liability under Section 4212(c) of ERISA; and

(iv) any Contracts between the Company or any of its Subsidiaries and any employee, officer or director of the Company or any of its Subsidiaries, including any Contracts relating in any way to a sale of the Company or any of its Subsidiaries ((i) - (iv) collectively, the “Seller Benefit Plans”).

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(b) Each Seller Benefit Plan referred to in Section 3.11(a) is in writing. The Buyer has been furnished with a true and complete copy of each such Seller Benefit Plan and each material document, if any, prepared in connection with each such Seller Benefit Plan, including (i) a copy of each trust or other funding arrangement, (ii) each summary plan description and summary of material modifications, (iii) the two most recently filed Internal Revenue Service ("IRS") Forms 5500, (iv) the most recently received IRS determination or opinion letter for each such Seller Benefit Plan and the application materials submitted in connection with such determination or opinion letter and (v) the most recently prepared actuarial report and financial statement in connection with each such Seller Benefit Plan. Neither the Company nor any of its Subsidiaries has any express or implied commitment (A) to create, incur liability with respect to or cause to exist any other employee benefit plan, program or arrangement, (B) to enter into any Contract to provide compensation or benefits to any individual or (C) to modify, change or terminate any Seller Benefit Plan, other than with respect to a modification, change or termination required by ERISA or the Internal Revenue Code of 1986, as amended (the “Code”).

(c) Neither the Company nor any ERISA Affiliate sponsors, maintains, contributes to, or has any obligation (contingent or otherwise) to contribute to, or has ever sponsored, maintained, contributed to, or had any obligation (contingent or otherwise) to contribute to, any multiemployer plan within the meaning of Section 3(37) or 4001(a)(3) of ERISA or a single employer pension plan within the meaning of Section 401(a)(15) of ERISA that is subject to Title IV of ERISA. None of the Seller Benefit Plans (i) provides for the payment of separation, severance, termination or similar-type benefits to any person, (ii) obligates the Company or any of its Subsidiaries to pay separation, severance, termination or similar-type benefits solely or partially as a result of the transactions contemplated by this Agreement or the Ancillary Agreements, or (iii) obligates the Company or any of its Subsidiaries to make any payment or provide any benefit as a result of the transactions contemplated by this Agreement or the Ancillary Agreements. None of the Seller Benefit Plans provides for or promises retiree medical, disability or life insurance benefits to any current or former employee, officer or director of the Company or any of its Subsidiaries. Each of the Seller Benefit Plans is maintained in the United States and is subject only to the Laws of the United States or a political subdivision thereof.

(d) Each Seller Benefit Plan has been operated in all respects in accordance with its terms and the requirements of all applicable Laws, including ERISA and the Code. Each of the Company and its Subsidiaries has performed all obligations required to be performed by it and is not in any respect in default under or in violation of any Seller Benefit Plan, nor, to the Knowledge of the Sellers, is any other party to any Seller Benefit Plan in such default or violation.

(e) Each Seller Benefit Plan that is intended to be qualified under Section 401(a) of the Code or Section 401(k) of the Code has received a timely favorable determination or opinion letter from the IRS, covering all of the provisions applicable to the Seller Benefit Plan for which determination letters are currently available, that the Seller Benefit Plan is so qualified. No fact or event has occurred since the date of such determination or opinion letter or letters from the IRS that could adversely affect the qualified status of any such Seller Benefit Plan.

(f) There has not been any prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, with respect to any Seller Benefit Plan.

(g) All contributions, premiums or payments required to be made with respect to any Seller Benefit Plan have been made on or before their due dates. All such contributions have been fully deducted for income tax purposes. No such deduction has been challenged or disallowed by any Governmental Authority and no fact or event exists that would give rise to any such challenge or disallowance.

(h) There are no Actions or claims (other than routine claims for benefits) pending or, to the Knowledge of the Sellers, threatened, anticipated or expected to be asserted with respect to any Seller Benefit Plan or any related trust or other funding medium thereunder or with respect to the Company, its Subsidiaries or any ERISA Affiliate as the sponsor or fiduciary thereof or with respect to any other fiduciary thereof.
(i) No Seller Benefit Plan or any related trust or other funding medium thereunder or any fiduciary thereof is, to the Knowledge of the Sellers, the subject of an audit, investigation or examination by any Governmental Authority.

(j) The Company and its Subsidiaries do not maintain any Seller Benefit Plan which is a “group health plan,” as such term is defined in Section 5000(b)(1) of the Code, that has not been administered and operated in all respects in compliance with the applicable requirements of Section 601 of ERISA, Section 4980B(b) of the Code and the applicable provisions of the Health Insurance Portability and Accountability Act of 1986. The Company and its Subsidiaries are not subject to any liability, including additional contributions, fines, penalties or loss of tax deduction as a result of such administration and operation.

(k) Each Seller Benefit Plan subject to Section 409A of the Code has complied in form and operation with the requirements of Section 409A of the Code as in effect from time-to-time.

(l) Neither the Company nor any Subsidiary thereof is obligated to make any payments, including under any Seller Benefit Plan, that reasonably could reasonably be expected to be “excess parachute payments” pursuant to Section 280G of the Code. The Company has no obligation to gross-up or reimburse any Person for any Tax incurred pursuant to Section 409A, 457A or 4999 of the Code.

Section 3.12 Labor and Employment Matters.

(a) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining Contract that pertains to employees of the Company or any of its Subsidiaries. There are no, and since January 1, 2014 there have been no, organizing activities or collective bargaining arrangements that could reasonably be expected to affect the Company or any of its Subsidiaries pending or under discussion with any labor organization or group of employees of the Company or any of its Subsidiaries. There is no, and since January 1, 2014 there has been no, labor dispute, strike, controversy, slowdown, work stoppage or lockout pending or, to the Knowledge of the Sellers, threatened against or affecting the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has breached or otherwise failed to comply with the provisions of any collective bargaining or union Contract. There are no pending or, to the Knowledge of the Sellers, threatened union grievances or union representation questions involving employees of the Company or any of its Subsidiaries.

(b) Each of the Company and each Subsidiary is in compliance in all material respects with, and since January 1, 2014 has complied in all material respects with, all applicable Laws respecting employment, including discrimination or harassment in employment, terms and conditions of employment, termination of employment, wages, overtime classification, hours, occupational safety and health, employee whistle-blowing, immigration, employee privacy, employment practices and classification of employees, consultants and independent contractors. Neither the Company nor any Subsidiary is engaged in any unfair labor practice, as defined in the National Labor Relations Act or other applicable Laws. No unfair labor practice or labor charge or complaint is pending or, to the Knowledge of the Sellers, threatened with respect to the Company or any of its Subsidiaries before the National Labor Relations Board, the Equal Employment Opportunity Commission or any other Governmental Authority.

(c) The Company and each of its Subsidiaries have withheld and paid to the appropriate Governmental Authority or are holding for payment not yet due to such Governmental Authority all amounts required to be withheld from employees of the Company or any of its Subsidiaries and are not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any applicable Laws relating to the employment of labor. The Company and each of its Subsidiaries have paid in full to all their respective employees or adequately accrued in accordance with GAAP for all wages, salaries, commissions, bonuses, benefits and other compensation due to or on behalf of such employees.

(d) Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices. None
of the Company, any of its Subsidiaries or any of its or their executive officers has received since January 1, 2014 any notice of intent by
any Governmental Authority responsible for the enforcement of labor or employment laws to conduct an investigation relating to the
Company or any of its Subsidiaries and, to the Knowledge of the Sellers, no such investigation is in progress. Neither the Company nor any
of its Subsidiaries is a federal contractor or subcontractor subject to Executive Order 11246. as amended, and the applicable regulations
contained in 41 C.F.R. Part 60-1 et seq.

(e) To the Knowledge of the Sellers, no current employee or officer of the Company or any of its Subsidiaries intends
to terminate his employment relationship with such entity following the consummation of the transactions contemplated hereby.

(f) Schedule 3.12(f) of the Disclosure Schedules sets forth (i) a complete list of all individuals employed by Sellers and
their Affiliates as of the date of this Agreement that are engaged in the Business (the individuals set forth on such schedule are each a
“Business Employee” and are collectively referred to as the “Business Employees”), (ii) first date of employment with the applicable Seller,
(iii) the current compensation of any kind or description whatsoever for each such employee, including but not limited to base salary or
hourly rate, severance arrangements or fringe or other benefits paid by any Seller and expected and maximum potential target bonuses or
other incentive compensation, whether payable in cash or in kind, (iv) wage and hour classification for each employee, (v) the name, title,
position and business unit that is applicable to such employee, (vi) visa status, (vii) whether such individual is currently employed, on leave
relating to work-related injuries and/or receiving disability benefits under any Seller Benefit Plan, and (viii) any payments or benefits
required or anticipated to be made or provided by such Seller to any such employee in connection with the transactions contemplated in this
Agreement or any other change of control transaction, including, without limitation, cash payments, forgiveness of indebtedness,
assumption of tax liability, severance benefits or vesting acceleration, and any agreement or understanding between or among such Seller
and any such employee relating to any such payment or benefit. On or immediately prior to the Closing Date, Sellers shall update Schedule
3.12(f) of the Disclosure Schedules of to reflect any new hires, terminations or departures of Business Employees (and the individuals
appearing on such updated schedule shall be deemed to be Business Employees for purposes of this Section 3.12 and Section 5.14). Except
as set forth in Schedule 3.12(f) of the Disclosure Schedules, no Business Employee is subject to any agreements under which he or she will
receive 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 Business Employee under the terms of any oral or written
agreement or commitment or any Law, custom, trade or practice as a result of the transactions contemplated in this Agreement or the Ancillary
Agreements.
Section 3.13  Title to, Sufficiency and Condition of Assets

(a) Sellers currently have good and marketable title to all of the Purchased Assets owned by Sellers, and a valid leasehold or other possessory interest in all other Purchased Assets used, operated or occupied by Sellers or located on Sellers’ premises. On or prior to the Closing Date, all of the Purchased Assets will be free and clear of any Encumbrances other than (i) liens for Taxes not yet past due and for which adequate reserves have been established in accordance with GAAP, (ii) mechanics’, workmen’s, repairmen’s, warehousemen’s and carriers’ liens arising in the ordinary course of business of the Company or such Subsidiary consistent with past practice and (iii) any such matters of record, Encumbrances and other imperfections of title that do not, individually or in the aggregate, materially impair the continued ownership, use and operation of the assets to which they relate in the business of the Company and its Subsidiaries as currently conducted (collectively, “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 constitute a breach of or a default under, any instrument, agreement or other document that creates, evidences or constitutes any Encumbrance or that evidences, secures or governs the terms of any indebtedness or obligation secured by any Encumbrance (any such instrument, agreement or other document is referred to herein as an “Encumbrance Instrument”). Assuming the timely receipt of all applicable consents, the sale of the Purchased Assets by Sellers to Buyer will not: (i) constitute a breach of or a default under any Encumbrance Instrument; (ii) permit, cause or result in (with or without notice, lapse of time or both) (A) the acceleration of any Indebtedness or other obligation evidenced, secured or governed by an Encumbrance Instrument, or (B) the foreclosure or other enforcement of any Encumbrance; (iii) permit or cause the terms of any Encumbrance Instrument to be renegotiated; or (iv) require the consent of any party to or holder of an Encumbrance Instrument or of any third party.

(b) Other than as set forth in Schedule 3.13(b) of the Disclosure Schedules, (i) the Purchased Assets, taking into account the Leased Real Property under the Lease Agreement, constitute all of the assets, properties, Contracts, permits, rights or other items (other than cash excluded under Section 2.2(a)) that are necessary for the operation of the Business immediately after the Closing in the same manner as currently conducted in all material respects, (ii) the Purchased Assets are adequate to enable Buyer to conduct the Business and use and operate the Purchased Assets in a manner consistent with the past conduct of the Business and use and operation of the Purchased Assets on the date of this Agreement on a stand-alone basis after the Closing and (iii) no Person other than the Sellers owns, or possesses any rights in, any assets, properties, contracts, Permits, rights (including Intellectual Property rights) or other items that are not included in the Purchased Assets but are necessary for the ongoing operation of the Business as such Business has been conducted and as such Business is currently contemplated to be conducted by Sellers. The Purchased Assets do not include or incorporate any photographs or other content that are owned by any Specified Competitor.

(c) All tangible Purchased Assets have been maintained in all material respects in accordance with generally accepted industry practice, are in all material respects in good operating condition and repair, ordinary wear and tear excepted, and are adequate for the uses to which they are being put.

Section 3.14  Real Property

(a) Schedule 3.14(a) of the Disclosure Schedules sets forth a true and complete list of all Owned Real Property and all Leased Real Property. Each of the Company and each of its Subsidiaries has, as applicable, (i) good and marketable title in fee simple to all Owned Real Property and (ii) good and marketable leasehold title to all Leased Real Property, in each case, free and clear of all Encumbrances except Permitted Encumbrances. No parcel of Owned Real Property or Leased Real Property is subject to any governmental decree or order to be sold or is being condemned, expropriated, rezoned or otherwise taken by any public authority with or without payment of compensation therefor, nor, to the Knowledge of the Sellers, has any such condemnation, expropriation or taking been proposed. All leases of Leased Real Property and all amendments and modifications thereto are in full force and effect, and there exists no default under any such lease by the Company, any of its Subsidiaries or, to the Knowledge of the Sellers, any other party thereto, nor any event which, with notice or lapse of time or both, would constitute a default thereunder by the Company, any of its Subsidiaries or, to the Knowledge of the Sellers, any other party thereto. No leases of Leased

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Real Property shall cease to be valid and binding in accordance with their terms as a result of the consummation of the transactions contemplated by this Agreement.

(b) There are no contractual or legal restrictions that preclude or restrict the ability to use any Owned Real Property or Leased Real Property by the Company or any of its Subsidiaries for the current use of such real property. There are, to the Knowledge of the Sellers, no material latent defects or material adverse physical conditions affecting the Owned Real Property or Leased Real Property. All structures and other buildings on the Owned Real Property or Leased Real Property are adequately maintained and are in good operating condition and repair for the requirements of the Business.

Section 3.15 Intellectual Property.

(a) Schedule 3.15(a) of the Disclosure Schedules sets forth a true and complete list of all Company Registered Intellectual Property and Domains, identifying for each whether it is owned by the Company or the relevant Subsidiary. Neither the Company nor any of its Subsidiaries has taken any action or failed to take any action that could reasonably be expected to result in the abandonment, cancellation, forfeiture or relinquishment, of any of the Company Registered Intellectual Property or Domains (including the failure to pay any filing, examination, issuance, post registration and maintenance fees, annuities and the like).

(b) No Action is pending, threatened or asserted in writing alleging that the Company Owned Intellectual Property has been violated or is invalid, unenforceable, not patentable, not registerable, cancellable, not owned or not owned exclusively by the Company or the Subsidiaries and no such action has been decided adversely against the Company or any of the Subsidiaries or with respect to the Company’s or the Subsidiaries’ rights to the Company Owned Intellectual Property. To the Knowledge of the Sellers, no valid basis for any such Action exists.

(c) The Company or its Subsidiaries exclusively own, free and clear of any and all Encumbrances, all Company Owned Intellectual Property and to the Knowledge of the Sellers has a valid and enforceable right to use all Company Licensed Intellectual Property.

(d) Each of the Company and its Subsidiaries has taken all reasonable steps to protect the secrecy, confidentiality and value of all Trade Secrets used in the businesses of the Company and its Subsidiaries, including entering into appropriate confidentiality agreements with all officers, directors, employees and other Persons with access to such Trade Secrets. To the Knowledge of the Sellers, none of such Trade Secrets has been disclosed or authorized to be disclosed to any Person other than to employees or agents of the Company or its Subsidiaries for use in connection with the businesses of the Company or its Subsidiaries or pursuant to a confidentiality or non-disclosure agreement that reasonably protects the interest of the Company and its Subsidiaries in and to such matters. To the Knowledge of the Sellers, no unauthorized disclosure of any such Trade Secrets has occurred.

(e) All Intellectual Property developed by or for the Company and the Subsidiaries was conceived, invented, reduced to practice, authorized or otherwise created solely by either employees of the Company or the applicable Subsidiary acting within the scope of their employment, or independent contractors of the Company or the applicable Subsidiary pursuant to agreements containing an assignment of Intellectual Property to the Company or the applicable Subsidiary.

(f) The development, manufacture, sale, distribution or other commercial exploitation of products, and the provision of any services, by or on behalf of the Company or any of its Subsidiaries, and all of the other activities or operations of the Company or any of its Subsidiaries, do not infringe upon, misappropriate, violate, dilute or constitute the unauthorized use of, and have not infringed upon, misappropriated, violated, diluted or constituted the unauthorized use of, any Intellectual Property of any third party, and neither the Company nor any of its Subsidiaries has received any (A) notice, claim or indemnification request asserting or suggesting that any such infringement, misappropriation, violation, dilution or unauthorized use is or may be occurring or has or may have occurred or (B) request that such Company or any of its Subsidiaries consider taking a license under any Patents owned by a third party.
To the Knowledge of the Sellers, no valid basis for any such infringement or misappropriation claim exists. To the Knowledge of the Sellers, no third party is misappropriating, infringing, diluting or violating any Company Owned Intellectual Property.

(g) Neither the Company nor any of its Subsidiaries has transferred ownership of, or granted any exclusive license with respect to, any Company Owned Intellectual Property. The Company Owned Intellectual Property and Company Licensed Intellectual Property constitutes all Intellectual Property necessary for the conduct of the Business.

(h) The execution, delivery and performance by each Seller of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby, will not give rise to any right of any third party to terminate or re-price or otherwise modify any of the Company’s or any of its Subsidiaries’ rights or obligations under any agreement under which any right or license of or under Intellectual Property is granted to or by the Company or any of its Subsidiaries.

(i) None of the Intellectual Property used in the commercial exploitation of products or the provision of services by or on behalf of the Company or its Subsidiaries is subject to any licensing terms requiring the distribution of source code of proprietary software of the Company or any of its Subsidiaries (“Proprietary Software”) in connection with the distribution of any of the Company’s or its Subsidiaries’ products (“Company Products”) or that prohibits the Company from charging a fee or otherwise limits the Company’s freedom of action with regard to seeking compensation in connection with sublicensing or distributing any Company Products (whether in source code or executable code form) or similar obligations that require the disclosure, redistribution or licensing of any source code of Proprietary Software underlying such Company Products. Except as set forth on Schedule 3.15(i) of the Disclosure Schedules, the Company and its Subsidiaries have not (i) incorporated Open Source Materials into, or combined Open Source Materials with, any proprietary software of the Company or any of its Subsidiaries or (ii) distributed Open Source Materials in conjunction with or for use with any proprietary software of the Company or any of its Subsidiaries.

(j) No source code of any software owned by the Company or any of its Subsidiaries has been licensed or otherwise provided to a third party other than to consultants and contractors performing work on behalf of the Company or any of its Subsidiaries who are bound by confidentiality obligations with respect to such source code. The Company has not disclosed or delivered to any escrow agent or any other Person any of the source code of any software owned by the Company or any of its Subsidiaries, and no Person has the right, contingent or otherwise, to obtain access to or use any such source code. The Company and its Subsidiaries have in their possession all of the source code and all related technical and other information required to enable their appropriately skilled employees to maintain and support the Company’s proprietary software.

(k) The Company or its Subsidiary, as the case may be, owns or has rights to access and use all Domains and all internal computer and technology systems used to process, store, maintain and operate data, information and functions used in connection with the Business or otherwise necessary for the conduct of the Business. The Company and its Subsidiaries have taken all reasonable steps to secure such internal computer and technology systems from unauthorized access or use by any Person, and to enable the continued, uninterrupted and error-free operation of such systems. Such systems are adequate for the operation of the Business, and to the Knowledge of the Sellers are in good working condition (normal wear and tear excepted), and to the Knowledge of the Sellers, are free of all viruses, worms, Trojan horses and other known contaminants and do not contain any bugs, errors or problems of a nature that would materially disrupt their operation or have a material adverse impact on the operation of such systems. There has not been any malfunction with respect to any of such systems since January 1, 2015 that has not been remedied or replaced in all material respects. No capital expenditures are necessary with respect to the use of such systems other than capital expenditures in the ordinary course of business that are consistent with the past practice of the Company.

(l) No government funding, facilities or resources of a university, college, other educational institution or research center was used in the development of any Company Owned Intellectual Property. To the Knowledge of the Sellers, no employee of the Company or any of its Subsidiaries who was involved in, or who contributed to, the creation or development of any Company Owned Intellectual Property, has performed services for
the government, university, college, or other educational institution or research center with respect to technology or inventions related to Company Owned Intellectual Property during a period of time during which such employee was also performing services for the Company or any of its Subsidiaries.

Section 3.16 Taxes.

(a) On-Site Manager, Inc. has been a validly electing S corporation within the meaning of Code Sections 1361 and 1362 at all times since January 1, 2007. DepositIQ is properly treated as a partnership for U.S. federal income tax purposes. On-Site Manager, Inc. will not be liable for any Tax under Code Section 1374 or 1375 or any similar provision of state, local or foreign Law in connection with the transactions contemplated by this Agreement.

(b) Since January 1, 2007, each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ has timely filed (or has had timely filed on its behalf) with the appropriate Governmental Authorities all Tax Returns required to be filed by it (taking into account for this purpose any extensions) by or with respect to any of the Company, On-Site Data, Relocation Services, On-Site Labs, DepositIQ, the Purchased Assets, or the Business, and such Tax Returns are true, correct and complete in all material respects.

(c) Since January 1, 2007, each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ has fully and timely paid all Taxes that have become due and payable in accordance with applicable Law. There are no unpaid Taxes of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ or relating or attributable to the Purchased Assets or the Business for which Buyer or its Affiliates could become liable as a result of the transactions contemplated in this Agreement. The reserve for Tax liability (not to include any reserve for deferred Taxes established to reflect timing differences between book and Tax income) reflected in the Interim Financial Statements, the June 2017 Audited Financial Statements (when delivered pursuant to Section 5.10(b)), and each set of the Pre-Closing Monthly Financial Statements (when delivered pursuant to Section 5.10(a)) is sufficient as of its date for the payment of any accrued and unpaid Taxes of any nature of On-Site Labs and DepositIQ. All Taxes of On-Site Labs and DepositIQ accrued following the end of the most recent period covered by the Interim Financial Statements, by the June 2017 Audited Financial Statements (when delivered pursuant to Section 5.10(b)), and by each set of the Pre-Closing Monthly Financial Statements (when delivered pursuant to Section 5.10(a)) have been accrued in the ordinary course of business.

(d) Since January 1, 2007, each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ has withheld or collected all Taxes required to be withheld or collected by it, and all such Taxes have been paid to the appropriate Governmental Authority or set aside in appropriate accounts for future payment when due.

(e) Since January 1, 2007, no claim has been made by any Governmental Authority in a jurisdiction where any of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ does not file a Tax Return that the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ is or may be subject to taxation by, or required to file any Tax Return in, that jurisdiction.

(f) Since January 1, 2007, none of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ has granted, and there are not currently in effect, any waivers of applicable statutes of limitations with respect to any Taxes owed by any of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ for any year.

(g) Since January 1, 2007, none of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ has received any written notice that it is a party to any Action by any Governmental Authority in respect of any Tax, nor does any of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ have knowledge of any pending or threatened Action by any Governmental Authority in respect of any Tax. There are (i)

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no outstanding asserted deficiencies or assessments of Taxes from any Governmental Authority with respect to the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ that have been received in writing by any of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ and (ii) no outstanding closing agreement, ruling request, or request to consent to change a method of accounting made by the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ with respect to Taxes.

(h) All deficiencies asserted or assessments made against the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ have been fully paid.

(i) There are no Tax liens on any of the Purchased Assets or on the assets of On-Site Labs or DepositIQ other than, in each case, liens for Taxes not yet past due or payable.

(j) None of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ is a party to or bound by any Tax allocation, sharing, indemnity or similar agreement or has any liability for the Taxes of any Person as a transferee or successor, by contract or otherwise.

(k) Since January 1, 2007, none of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ has been a member of an affiliated group of corporations, within the meaning of Section 1504 of the Code, or a member of a combined, consolidated or unitary group for state, local or foreign Tax purposes. None of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ has any liability for Taxes of any Person under Treasury Regulations Section 1.1502-6 or any corresponding provision of state, local or foreign income Tax Law.

(l) Neither On-Site Labs nor DepositIQ will be required to include any item of income in, or exclude any item of deduction from, taxable income for any period ending after the Closing Date as a result of (i) any change in method of accounting made prior the Closing, (ii) any “closing agreement” as described in section 7121 of the Code (or any corresponding or similar provision of state, local or foreign law) executed prior to the Closing, (iii) the installment method of accounting, the completed contract method of accounting, the cash method of accounting with respect to a transaction that occurred prior to the Closing Date, (iv) any prepaid amount or deferred revenue received prior to the Closing, (v) the discharge of any Indebtedness made prior to the Closing under section 108(i) of the Code (or any corresponding or similar provision of state, local or foreign Law), (vi) any debt instrument held prior to the Closing that was acquired with “original issue discount” as defined in section 1273(a) of the Code or subject to the rules set forth in section 1276, (vii) any open transaction disposition made prior to the Closing or (viii) any intercompany transaction or excess loss account described in Treasury Regulations under Code Section 1502 (or any corresponding or similar provision of state, local or non-U.S. income Tax Law).

(m) Neither On-Site Labs nor DepositIQ is a party to any Contract or plan that (i) in the case of On-Site Labs, has resulted or would result, separately or in the aggregate, in connection with this Agreement or any change of control of On-Site Labs, in the payment of any “excess parachute payments” within the meaning of Section 280G of the Code, (ii) could entitle an individual to any gross-up, make-whole or other additional payment from On-Site Labs nor DepositIQ in respect of any Tax (including Taxes imposed under Section 409A and 4999 of the Code) or interest or penalty related thereto, or (iii) could obligate it to make any payments that would be includible in gross income pursuant to Section 457A of the Code.

(n) Since January 1, 2007, none of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ has entered into or participated in any “reportable transaction” for purposes of Treasury Regulations Section 1.6011-4(b) or Section 6111 of the Code or any analogous provisions of state or local Law. Each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ has disclosed on its federal Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code.
(o) None of the Company, On-Site Data, or Relocation Services is a “foreign person” within the meaning of Section 1445 of the Code.

(p) Schedule 3.16(p) of the Disclosure Schedules sets forth the name, type of entity, jurisdiction of formation, and tax classification of each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ and all foreign jurisdictions in which any of the Company, On-Site Data, Relocation Services, On-Site Labs, or DepositIQ is subject to Tax, engaged in business or has a permanent establishment. Neither On-Site Labs nor DepositIQ has entered into a gain recognition agreement pursuant to Treasury Regulations Section 1.367(a)-8. Neither On-Site Labs nor DepositIQ has transferred an intangible the transfer of which would be subject to the rules of Section 367(d) of the Code.

(q) None of the Purchased Assets is owned (or deemed to be owned) by any Tax partnership, as defined in Section 761 of the Code and the related Treasury Regulations, or any analogous provision of applicable Tax Law.

(r) Each of the Company, On-Site Data, Relocation Services, On-Site Labs, and DepositIQ is in compliance with all terms and conditions of any Tax holiday, Tax exemption or other Tax reduction agreement or order applicable to the Purchased Assets or the Business (each a “Tax Incentive”), and the consummation of the transactions contemplated in this Agreement will not have any adverse effect on the continued validity and effectiveness of any such Tax Incentive.

Section 3.17 Environmental Matters.

(a) Each of the Company and its Subsidiaries is and has been in compliance in all material respects with all applicable Environmental Laws. None of the Company, any of its Subsidiaries or any of its or their executive officers has received since January 1, 2014, nor, to the Knowledge of the Sellers, is there any basis for, any notice, request for information, communication or complaint from a Governmental Authority or other Person alleging that the Company or any of its Subsidiaries has any material liability under any Environmental Law or is not in compliance in any material respect with any Environmental Law.

(b) No Hazardous Substances are or, to the Knowledge of the Sellers, have been present, and there is and, to the Knowledge of the Sellers, has been no Release or threatened Release of Hazardous Substances nor any Remediation or corrective action of any kind relating thereto, on, in, at or under any properties (including any buildings, structures, improvements, soils or subsurface strata, surface water bodies or drainage ways, and ground waters thereof) (i) currently or formerly owned, leased or operated by or for the Company or any of its Subsidiaries or any predecessor company; (ii) to which the Company or any of its Subsidiaries has sent any Hazardous Substances; or (iii) with respect to which the Company or any of its Subsidiaries may reasonably be expected to have any material liability. No underground improvement, including any treatment or storage tank or water, gas or oil well, is or, to the Knowledge of the Sellers, has been located on any property described in the foregoing sentence.

(c) There is no pending or, to the Knowledge of the Sellers, threatened investigation by any Governmental Authority, nor any pending or, to the Knowledge of the Sellers, threatened Action with respect to the Company or any of its Subsidiaries relating to Hazardous Substances or otherwise under any Environmental Law.

(d) Each of the Company and its Subsidiaries holds all Environmental Permits that are required to be held by it under applicable Law, and is and has been in compliance therewith in all material respects. Neither the execution, delivery or performance of this Agreement nor the consummation of the transactions contemplated hereby will (i) require any notice to or consent of any Governmental Authority or other Person pursuant to any applicable Environmental Law or Environmental Permit or (ii) subject any Environmental Permit to suspension, cancellation, modification, revocation or nonrenewal.
The Company and its Subsidiaries have provided to the Buyer all Permits, audits and other reports pertaining to compliance with Environmental Law and all “Phase I,” “Phase II” or other environmental reports in their possession, or to which they have reasonable access, addressing every location ever owned, operated or leased by the Company or any of its Subsidiaries or at which the Company or any of its Subsidiaries actually or may reasonably be expected to have liability under any Environmental Law.

Section 3.18 Material Contracts

(a) Except as set forth in Schedule 3.18(a) of the Disclosure Schedules, neither the Company nor any of its Subsidiaries is a party to or is bound by any Contract of the following nature (such Contracts as are required to be set forth in Schedule 3.18(a) of the Disclosure Schedules being “Material Contracts”):

(i) any Contract for the sale of goods or services or the purchase of goods or services by the Company or any of the Subsidiaries involving receipts or payments in excess of $100,000 in the aggregate, which goods or services have not been fully delivered or performed as of the date hereof;

(ii) any Contract relating to or evidencing Indebtedness in excess of $100,000;

(iii) any Contract pursuant to which the Company or any of its Subsidiaries has provided funds to or made any loan, capital contribution or other investment in, or assumed, guaranteed or agreed to act as surety for, any liability or obligation of, any Person, including take-or-pay contracts or keepwell agreements;

(iv) any Contract with any Governmental Authority (excluding customer contracts with governmental housing providers entered into in the ordinary course of business involving receipts or payments of less than $100,000 in the aggregate);

(v) any Contract with any Related Party of the Company or any of its Subsidiaries;

(vi) any employment or consulting Contract, other than Contracts for employment covered in clause (v);

(vii) any Contract that limits, or purports to limit, the ability of the Company or any of its Subsidiaries to compete in any line of business or with any Person or in any geographic area or during any period of time, or that restricts the right of the Company and its Subsidiaries to sell to or purchase from any Person or to hire any Person, contains any other provision granting “exclusivity”;

(viii) any Contract that grants the counterparty or any third party (A) “most favored nation” status, (B) any rebate, credit or other analogous benefit (whether upon the satisfaction of milestones or otherwise), or (C) any other price protection, price adjustment or discount rights;

(ix) any Contract that requires a consent to or otherwise contains a provision relating to a “change of control” or that requires a consent to the transactions contemplated by this Agreement or the Ancillary Agreements;

(x) any Contract pursuant to which the Company or any of its Subsidiaries is the lessee or lessor of, or holds, uses, or makes available for use to any Person (other than the Company or a Subsidiary thereof), (A) any real property or (B) any tangible personal property and, in the case of clause (B), that involves an aggregate future or potential liability or receivable, as the case may be, in excess of $25,000;

(xi) any Contract for the sale or purchase of any real property, or for the sale or purchase of any tangible personal property in an amount in excess of $25,000;
(xii) any Contract providing for material indemnification rights or obligations to or from any Person with respect to liabilities relating to the Company, other than Contracts entered into in the ordinary course of business;

(xiii) (A) Inbound License Agreement; (B) Outbound License Agreement (other than customer contracts entered into in the Company’s ordinary course of business); (C) Contract that limits the Company’s rights to use, or enforce or register Intellectual Property owned, used, or held for use by the Company, including covenants not to sue and coexistence agreements; or (D) other material Contract relating to Intellectual Property;

(xiv) any joint venture or partnership, merger, asset or stock purchase or divestiture Contract relating to the Company or any of its Subsidiaries and any letter of intent or term sheet relating to any prospective future joint venture, partnership, acquisition or divestiture;

(xv) any Contract with any labor union or providing for benefits under any Plan;

(xvi) any hedging, futures, options or other derivative Contract;

(xvii) any Contract for the purchase of any debt or equity security or other ownership interest of any Person, or for the issuance of any debt or equity security or other ownership interest, or the conversion of any obligation, instrument or security into debt or equity securities or other ownership interests of, the Company or any of its Subsidiaries;

(xviii) any Contract relating to settlement of any administrative or judicial proceedings since January 1, 2014;

(xix) any Contract that results in any Person holding a power of attorney from the Company or any of its Subsidiaries that relates to the Company, any of its Subsidiaries or any of their respective businesses; and

(xx) any other Contract, whether or not made in the ordinary course of business that (A) involves a future or potential liability or receivable, as the case may be, in excess of $100,000 on an annual basis or in excess of $100,000 over the current Contract term, (B) has a term greater than one year and, except for customer Contracts of the Company and/or any of its Subsidiaries, cannot be cancelled by the Company or a Subsidiary of the Company without penalty or further payment and without more than 30 days’ notice or (C) is material to the business, operations, assets, financial condition, results of operations or prospects of the Company and its Subsidiaries, taken as a whole.

(b) Each Material Contract is a legal, valid, binding and enforceable agreement of the Company or Subsidiary party thereto (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors’ rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law)) and, to the Knowledge of the Sellers, each other party thereto, and is in full force and effect and, except as set forth on Schedule 3.18(b) of the Disclosure Schedules, will continue to be in full force and effect on identical terms immediately following the Closing Date. None of the Company or any of its Subsidiaries or, to the Knowledge of the Sellers, any other party is in breach or violation of, or (with or without notice or lapse of time or both) default under, any Material Contract, nor has the Company or any of its Subsidiaries received any written, or reasonably definitive oral indication of a, claim of any such breach, violation or default. The Sellers have delivered or made available to the Buyer true and complete copies of all Material Contracts, including any amendments thereto. For the avoidance of doubt, all documents and other materials posted in the Data Room and available for review by Buyer or its Representatives for at least ten Business Days prior to the date hereof shall be deemed delivered and made available to Buyer and its Representatives for purposes of this Agreement.
Section 3.19  **Affiliate Interests and Transactions.** Except for this Agreement, the Significant Owner Agreements, Lease Agreement, the Independent Contractor Agreements, the Consulting Agreement, the Employment Agreements and the Employment Arrangements, there are no Contracts by and between the Sellers, on the one hand, and any Related Party of the Sellers, on the other hand, pursuant to which such Related Party provides or receives any information, assets, properties, support or other services to or from the Sellers (including Contracts relating to billing, financial, tax, accounting, data processing, human resources, administration, legal services, information technology and other corporate overhead matters), excluding any such Contracts entered into in such Related Party’s capacity as a director or officer and listed on Schedule 3.19 of the Disclosure Schedules.

Section 3.20  **Insurance.** Schedule 3.20 of the Disclosure Schedules sets forth a true and complete list of all casualty, directors and officers liability, general liability, product liability and all other types of insurance policies maintained with respect to the Company or any of its Subsidiaries, together with the carriers and liability limits for each such policy. All such policies are in full force and effect. All premiums with respect thereto have been paid to the extent due. None of the Company or its Subsidiaries have received written notice, or a reasonably definitive oral indication, of, nor to the Knowledge of the Sellers, is there threatened, any cancellation, termination, reduction of coverage or material premium increases with respect to any such policy. The types and amounts of coverage provided in such insurance policies are usual and customary in the context of the Business.

Section 3.21  **Privacy and Security.**

(a) The Company and each of its Subsidiaries are, and have at all times been, in compliance with (i) all Laws regarding the protection, storage, use, and disclosure of Personal Data; (ii) the privacy policies and other Contracts (or portions thereof) in effect between such Company and customers and end users of such Company’s products and services, and (iii) Contracts (or portions thereof) between such Company or any of its Subsidiaries, and vendors, marketing affiliates, and other business partners, in each case in clauses (ii) and (iii), that are applicable to the use and disclosure of Personal Data (such policies and Contracts being hereinafter referred to as “Privacy Agreements”). The Company has delivered or made available to Buyer accurate and complete copies of all of the Privacy Agreements of such Company and its Subsidiaries. The Privacy Agreements do not require the delivery of any notice to or consent from any Person, or prohibit the transfer of Personal Data collected and in the possession or control of such Company to Buyer, in connection with the execution, delivery, or performance of this Agreement or the consummation of any of the transactions contemplated by this Agreement. The Company and its Affiliates have confidentiality agreements in place with all vendors or other Persons whose relationship with such Company or any of its Affiliates involves the collection, use, disclosure, storage, or processing of Personal Data on behalf of such Company or any of its Affiliates, which agreements require such Persons to protect such Personal Data in a manner consistent with such Company’s and its Affiliates’ obligations in the Privacy Agreements and in compliance with applicable Laws. Neither the execution, delivery or performance of this Agreement, nor the consummation of any of the transactions contemplated by this Agreement will result in any violation of any Privacy Agreements or any Law pertaining to privacy or Personal Data. The Company and its Subsidiaries have safeguards in place to protect Personal Data in the Company’s or any of its Subsidiaries’ possession or control from unauthorized access by third parties, including the Company’s and its Subsidiaries’ employees and contractors that are, to the Knowledge of the Sellers, reasonable. No Person has made any illegal or unauthorized use of Personal Data that was collected by or on behalf of the Company or its Subsidiaries and is in the possession or control of any Company or any of its Subsidiaries. Further, there has not been any data security breach in connection with Personal Data that would require the Company or any of its Subsidiaries to notify a Person or Governmental Authority of such breach. There is no pending Action, and, to the Knowledge of the Sellers, no Person has threatened to commence any Action alleging that any Person has made any illegal or unauthorized use of Personal Data that was collected by or behalf of the Company or any of its Subsidiaries and is in the possession or control of the Company or any of its Subsidiaries.

(b) The Company and its Subsidiaries post policies with respect to the matters set forth in Section 3.21(a) on any websites used by the Company or its Subsidiaries in connection with the Business in conformance with Laws regarding Personal Data. The Company’s and its Subsidiaries’ privacy policies disclose how the Company and its Subsidiaries use, collect and receive Personal Data and sensitive non-personally identifiable information and the Company and its Subsidiaries are in compliance in all material respects with the terms of their published privacy policy.
(c) (i) To the Knowledge of the Sellers, the advertisers and other Persons with which the Company or its Subsidiaries have entered into Privacy Agreements have not breached any such Privacy Agreements or any Laws regarding Personal Data, (ii) the Company and its Subsidiaries do not serve advertisements into advertising inventory created by downloadable software that launches without a user’s express activation and (iii) the Company and its Subsidiaries have not received, to the Knowledge of the Sellers, a material volume of consumer complaints relative to software downloads that resulted in the installation of any of the Company’s or its Subsidiaries’ tracking technologies.

(d) Each of the Company and each of its Subsidiaries, is in compliance, in all material respects, with and has at all times complied, in all material respects, with all applicable requirements contained in the Payment Card Industry Data Security Standards (“PCI DSS”) relating to “cardholder data” (as such term is defined in the PCI DSS, as amended from time to time) with respect to all such cardholder data that has come into its possession. Neither the Company nor any of its Subsidiaries has received written, or reasonably definitive oral, notice that it is in non-compliance with any PCI DSS standards. To the Knowledge of the Sellers, the Company and its Subsidiaries are in compliance with all PCI DSS standards that are expected to be implemented in the 12 months following the date hereof. Neither the Company nor any of its Subsidiaries has ever experienced a security breach involving any such cardholder data.

Section 3.22 Customers and Suppliers

(a) Schedule 3.22(a) of the Disclosure Schedules sets forth a true and complete list of (i) the names and addresses of all customers of the Company and its Subsidiaries with a billing for each such client of $100,000 or more during the 12 months ended March 31, 2017, (ii) the amount for which each such client was invoiced during such period and (iii) the percentage of the consolidated total sales of the Company and its Subsidiaries represented by sales to each such customer during such period. None of the Company and its Subsidiaries have received any written, or reasonably definitive oral, notice or has any reason to believe that any of such clients (A) has ceased or substantially reduced, or will cease or substantially reduce, use of products or services of the Company or its Subsidiaries or (B) has sought, or is seeking, to reduce the price it will pay for the services of the Company or its Subsidiaries. For avoidance of doubt, the prior sentence shall not require disclosure of cancellations by clients with respect to individual properties for which the annual revenues are less than $50,000 as long as the aggregate annual revenues of properties of the same client that are the subject of cancellations does not exceed $100,000.

(b) Schedule 3.22(b) of the Disclosure Schedules sets forth a true and complete list of (i) all suppliers and service providers of the Company and its Subsidiaries from which the Company or a Subsidiary ordered products or services with an aggregate purchase price for each such supplier or service provider of $100,000 or more during for the 12 months ended March 31, 2017 and (ii) the amount for which each such supplier or service provider invoiced the Company or such Subsidiary during such period. None of the Company and its Subsidiaries have received any written, or reasonably definitive oral, notice or has any reason to believe that there will be any material adverse change in the provision or price of such supplies or services.

Section 3.23 Brokers. Except as set forth on Schedule 3.23 of the Disclosure Schedules, the fees and expenses of which will constitute Transaction Expenses and be paid at Closing, no broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of the Sellers or the Company or any of its Subsidiaries. The Buyer has been furnished with a complete and correct copy of all agreements set forth on Schedule 3.23 of the Disclosure Schedules.

Section 3.24 No Competitor Technology; No Violation of Agreements with Certain Competitors.

(a) Without limiting the generality of any other representations or warranties contained in this Agreement, the Purchased Assets will not contain, in any electronic or hard copy form, any technology or other confidential or proprietary information or property originating from Yardi Systems, Inc., MRI Software LLC,
Entrata Inc., CoStar Group, Inc., or any of their respective predecessors, successors, assigns, parent companies, subsidiaries, or affiliated organizations, or any past or present officers, directors, partners, shareholders, agents, representatives, servants or employees of any of them (each, a “Specified Competitor”) (any such technology or other confidential or proprietary information or property originating from a Specified Competitor is referred to as “Competitor Technology”). No Seller has breached any contract between such Seller and any of the Specified Competitors.

(b) No Competitor Technology is required to operate the Business as currently conducted by Sellers and as contemplated to be conducted in the future by Buyer.

c) In the operation of its Business as currently conducted by Sellers and as contemplated to be conducted in the future by Buyer, Sellers' products and services interface with Specified Competitor software applications and databases only through standard interfaces, generally made available by such Specified Competitors to their customers, and not through a custom-built interface.

d) Except as set forth in Schedule 3.24 of the Disclosure Schedules, since January 1, 2012, no Seller has, directly or through any subcontractor or other third party, provided any consulting or similar services regarding Competitor Technology, or otherwise operated as a member of any consultant network of a Specified Competitor.

Section 3.25 No Other Representations of Seller Parties. The representations and warranties made by the Seller Parties in this Agreement (as modified by the Disclosure Schedule) are the exclusive representations and warranties made by the Seller Parties in connection with the transactions contemplated by this Agreement. The Seller Parties hereby disclaim any other express or implied representations or warranties with respect to such matters. Except for the representations and warranties in this Agreement (as modified by the Disclosure Schedule), the Seller Parties hereby disclaim, on behalf of themselves, their respective Affiliates and their respective representatives (a) any other representations or warranties, whether made by any Seller Party or their respective Affiliates or any of their respective Representatives or any other Person and (b) all liability and responsibility for any other representation, warranty, opinion, projection, forecast, advice, statement or information made, communicated, or furnished (orally or in writing) to the Buyer Parties or their Affiliates or Representatives (including any opinion, projection, forecast, advice, statement or information that may have been or may be provided to the Buyer Parties or their Affiliates or their respective Representatives by any Seller Party, their respective Representatives or any of their respective Affiliates). For the avoidance of doubt, except for the representations and warranties contained in this Agreement, none of the Seller Parties nor any of their respective Affiliates or Representatives makes any representations or warranties to the Buyer Parties or any other Person regarding the probable success or profitability of the Business after the date hereof. Notwithstanding the foregoing, the Seller Parties hereby expressly agree and acknowledge that the Buyer Parties may rely, and are relying, on the representations and warranties in this Agreement (as modified by the Disclosure Schedule).

Section 3.26 No Other Representations of Buyer Parties; Non-Reliance.

. Except for the specific representations and warranties made by the Buyer Parties in this Agreement (as modified by the applicable schedule(s), if any), (a) each Seller Party acknowledges and agrees that (i) none of the Buyer Parties or any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Buyer Parties or any of their Affiliates and Subsidiaries, in respect of its or their business, the Buyer, the Buyer's Affiliates, the Buyer's subsidiaries, or any of the Buyer's or its Affiliates' and Subsidiaries' respective businesses, assets, liabilities, operations, prospects, or condition (financial or otherwise), and (ii) no officer, agent, representative or employee of the Buyer or any of its Affiliates and Subsidiaries has any authority, express or implied, to make any representations, warranties or agreements not specifically set forth in this Agreement and subject to the limited remedies herein provided; and (b) each Seller Party specifically disclaims that it is relying upon or has relied upon any such other representations or warranties that may have been made by any Person, and acknowledges and agrees that the Buyer Parties have specifically disclaimed and does hereby specifically disclaim any such other representation or warranty made by any Person.
ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE BUYER

Each Buyer Party hereby represents and warrants to the Seller Parties as follows, jointly and severally:

Section 4.1 Organization. The Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. Parent is a corporation duly organized, validly existing and in good standing under the laws of Delaware and has full corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted.

Section 4.2 Authority. Each Buyer Party has full power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by each Buyer Party of this Agreement and each of the Ancillary Agreements to which it will be a party and the consummation by such Buyer Party of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate or limited liability company action. This Agreement has been, and upon their execution each of the Ancillary Agreements to which a Buyer Party will be a party will have been, duly executed and delivered by such Buyer Party and, assuming due execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and upon their execution each of the Ancillary Agreements to which a Buyer Party will be a party will constitute, the legal, valid and binding obligations of such Buyer Party, enforceable against such Buyer Party in accordance with their respective terms.

Section 4.3 No Conflict; Required Filings and Consents.

(a) The execution, delivery and performance by each Buyer Party of this Agreement and each of the Ancillary Agreements to which such Buyer Party will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not:

(i) conflict with or violate the certificate of incorporation or bylaws of the Parent or the certificate of formation or limited liability company agreement of the Buyer;

(ii) conflict with or violate any Law applicable to the Buyer Parties; or

(iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other Contract to which any Buyer Party is a party;

except for any such conflicts, violations, breaches, defaults or other occurrences that do not, individually or in the aggregate, materially impair the ability of the Buyer Parties to consummate, or prevent or materially delay, any of the transactions contemplated by this Agreement or the Ancillary Agreements or would reasonably be expected to do so.

(b) No Buyer Party is required to file, seek or obtain any notice, authorization, approval, order, permit or consent of or with any Governmental Authority in connection with the execution, delivery and performance by each Buyer Party of this Agreement and each of the Ancillary Agreements to which it will be party or the consummation of the transactions contemplated hereby or thereby, except for (i) any filings required to be made under the HSR Act, (ii) such filings as may be required by any applicable federal or state securities or “blue sky” laws and (iii) such notices, authorizations, approvals, orders, permits or consents, the failure of which to be obtained or made, individually or in the aggregate, have not and would not reasonably be expected to materially impair, or prevent or materially delay, the ability of the Buyer Parties to consummate any of the transactions contemplated by this Agreement or any Ancillary Agreement.

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Section 4.4  **Financing.** The Buyer or Parent has, or will have at the Closing, sufficient funds to permit the Buyer Parties to consummate the transactions contemplated by this Agreement. The Buyer or Parent has, or will have at and as of each Release Date, sufficient funds to pay to the Sellers the respective Holdback Amount to be paid to the Sellers in accordance with the provisions of Section 8.5(a)(i) and Section 8.5(a)(ii) hereof.

Section 4.5  **Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of the Buyer Parties.

Section 4.6  **Litigation.** There is no Action pending or, to the Buyer Parties’ knowledge, threatened against Buyer, Parent or any of its Affiliates seeking to specifically prevent, hinder, modify, delay or challenge the transactions contemplated by this Agreement or the Ancillary Agreements.

Section 4.7  **No Other Representations of Buyer Parties.** The representations and warranties made by the Buyer Parties in this Agreement (as modified by the applicable schedule(s), if any) are the exclusive representations and warranties made by the Buyer Parties in connection with the transactions contemplated by this Agreement. The Buyer Parties hereby disclaim any other express or implied representations or warranties with respect to such matters. Except for the representations and warranties made by the Buyer Parties in this Agreement (as modified by the applicable schedule(s), if any), each Buyer Parties hereby disclaims, on behalf of itself, its Affiliates and Subsidiaries and its and their respective representatives (a) any other representations or warranties, whether made by any Buyer Party, its Affiliates and Subsidiaries and its and their respective representatives or any other Person and (b) all liability and responsibility for any other representation, warranty, opinion, projection, forecast, advice, statement or information made, communicated, or furnished (orally or in writing) to any Seller Party, its Affiliates or any of their respective representatives (including any opinion, projection, forecast, advice, statement or information that may have been or may be provided to any Seller Party, its Affiliates or any of their respective representatives by any Buyer Party, its representatives or any of their respective Affiliates). Notwithstanding the foregoing, the Buyer Parties hereby expressly agree and acknowledge that the Seller Parties may rely, and are relying, on the representations and warranties in this Agreement (as modified by the applicable schedule(s), if any).

Section 4.8  **Non-Reliance.** Except for the specific representations and warranties made by the Seller Parties in this Agreement (as modified by the Disclosure Schedule), (a) Buyer acknowledges and agrees that (i) none of any Seller, any Seller Owner or any other Person has made or makes any other express or implied representation or warranty, either written or oral, at law or in equity, on behalf of any Seller Party, in respect of the Business, the Sellers, the Company, the Company’s Subsidiaries, or any of the Company’s or its Subsidiaries’ respective businesses, assets, liabilities, operations, prospects, or condition (financial or otherwise), including with respect to merchantability or fitness for any particular purpose of any assets, the nature or extent of any liabilities, the prospects of the Company’s business, the effectiveness or the success of any operations, or the accuracy or completeness of any confidential information memorandum, documents, projections, material or other information (financial or otherwise) regarding the Sellers furnished to Buyer or its representatives or made available to the Buyer Parties and their Representatives in any “data rooms,” “virtual data rooms,” management presentations or in any other form in expectation of, or in connection with, the transactions contemplated hereby, or in respect of any other matter or thing whatsoever, and (ii) no officer, agent, representative or employee of any of the Sellers or the Seller Owners has any authority, express or implied, to make any representations, warranties or agreements not specifically set forth in this Agreement and subject to the limited remedies herein provided; (b) each Buyer Party specifically disclaims that it is relying upon or has relied upon any such other representations or warranties that may have been made by any Person, and acknowledges and agrees that the Seller Parties have specifically disclaimed and do hereby specifically disclaim any such other representation or warranty made by any Person; and (c) each Buyer Party specifically disclaims any obligation or duty by the Sellers or the Seller Owners to make any disclosures of any fact not required to be disclosed pursuant to the specific representations and warranties set forth in Article III of this Agreement.
ARTICLE V
COVENANTS

Section 5.1 Conduct of Business Prior to the Closing. Except as otherwise set forth on Schedule 5.1, between the date of this Agreement and the Closing, unless the Buyer shall otherwise agree in writing, each Seller shall, and each Seller Owner shall cause each Seller to, operate and conduct the Business only in the ordinary course of business consistent with past practice, and (w) preserve substantially intact the Business and their business organization and assets; (x) keep available the services of the current officers, employees and consultants of the Company and its Subsidiaries; (y) preserve the current relationships of the Company and its Subsidiaries with customers, suppliers and other persons with which the Company or any of its Subsidiaries has significant business relations; and (z) keep and maintain their assets and properties in good repair and normal operating condition, ordinary wear and tear excepted. By way of amplification and not limitation, between the date of this Agreement and the Closing Date, each Seller Party, in respect of the Company or any of its Subsidiaries, shall not, and shall cause each of the Company and its Subsidiaries not to, do or propose to do, directly or indirectly, any of the following, except as expressly contemplated by this Agreement or with the prior written consent of the Buyer (such consent not to be unreasonably withheld, conditioned or delayed):

(a) sell, lease, license or otherwise dispose of (i) any of the Purchased Assets, other than in the ordinary course of business, or (ii) any of the capital stock of or other member or equity interests in any Seller;

(b) mortgage or pledge any of the Purchased Assets or subject any of the Purchased Assets to any Encumbrance;

(c) enter into or amend any Assumed Contract other than in the ordinary course of the Business consistent with past practice;

(d) except as required pursuant to new Contracts entered into in the ordinary course of business, make or commit to make capital expenditures relating to the Business in excess of $100,000 in the aggregate;

(e) (i) make, revoke or modify any Tax election (except as expressly contemplated by this Agreement) with respect to DepositIQ or the Company, (ii) take any action that would result in the termination of On-Site Manager, Inc.’s status as a validly electing S corporation within the meaning of Sections 1361 and 1362 of the Code, (iii) take or permit any action that would result in DepositIQ being treated as a corporation for purposes of U.S. federal income Taxes and any applicable state income Taxes, and (iv) with respect to DepositIQ or the Company, change any annual Tax accounting period, change any Tax method of accounting, enter into any closing agreement with respect to any Tax, settle or compromise any Tax liability or Tax claim, surrender any right to claim a Tax refund, offset or other reduction in Tax, or file or amend any Tax Return other than as permitted pursuant to Section 6.2 hereof;

(f) authorize, recommend, propose or announce an intention to adopt a plan of complete or partial liquidation or dissolution of any Seller; or

(g) announce an intention, enter into any formal or informal agreement, or otherwise make a commitment to do any of the foregoing.

Section 5.2 Covenants Regarding Information.

(a) From the date hereof until the Closing Date, each Seller Party shall, and shall cause the Company and its Subsidiaries, and their respective Representatives to, afford the Buyer Parties and their Representatives complete access (including for inspection and copying) at all reasonable times during normal business hours, and with reasonable prior notice to the Representatives, properties, offices, plants and other facilities, books and records of the
Company and each of its Subsidiaries, and shall furnish the Buyer Parties with such financial, operating and other data and information as the Buyer Parties may reasonably request. Notwithstanding anything in this Section to the contrary, no such investigation or examination shall be permitted to the extent that it would require the Seller Parties to disclose (i) due diligence questions, lists or investigations conducted by others, names, bids, letters of intent, expressions of interest, or other proposals received from others in connection with the proposed sale of the Company and its Subsidiaries solicited by VistaPoint Advisors, LLC or other information and analyses relating to such communications or (ii) information (w) subject to attorney-client privilege, (x) which would conflict with any confidentiality obligations to which the Seller Parties are bound (y) in violation of applicable Law, or (z) that forms a part of the analysis of this Agreement and the transactions contemplated hereby by the Seller Parties.

(b) On the Closing Date, each Seller will deliver, or cause to be delivered, to the Buyer all original (and any and all copies of) agreements, documents, and books and records and all computer disks, records or tapes or any other storage medium on which agreements, documents, books and records, files and other information relating to the business and operations of the Company and its Subsidiaries are stored, in each case, that are in the possession or under the control of any Seller. Following the Closing Date, no Seller Party shall retain in its possession or under its control, in any form, any agreements, documents, or books and records, or any computer disks, records or tapes or any other storage medium that contains copies of any agreements, documents, books and records, files and other information relating to the business and operations of the Company and its Subsidiaries (including any personal or other information stored on any media by any employees of the Company or any of its Subsidiaries), including any of the foregoing that is stored on any server or other storage media maintained by a third party on behalf of any Seller Party (including any “cloud” storage platform). If, notwithstanding the foregoing, any Seller Party discovers following the Closing Date that he, she or it is in possession of or has under his, her or its control any agreements, documents, or books and records or any computer disks, records or tapes or any other storage medium on which any agreements, documents, books and records, files and other information relating to the Business and operations of the Company and its Subsidiaries are stored, such Seller Parties shall (x) deliver to the Buyer any such information which may not have been previously delivered pursuant to the first sentence of this Section 5.2(b) and (y) thereafter permanently delete and erase all such information (including all copies thereof) in its possession or under its control as soon as reasonably practicable.

(c) Notwithstanding the provisions of Section 5.2(b), the Seller Parties shall not be required to deliver information to the Buyer to the extent disclosure of such information would (i) jeopardize any attorney-client privilege, protection under the work product doctrine or other legal privilege, (ii) contravene any applicable Laws, fiduciary duty or binding agreement entered into prior to the date hereof or (iii) relate to any consolidated, combined or unitary Return filed by the Sellers or any of their respective Affiliates or any of their respective predecessor entities.

Section 5.3 Exclusivity. Each Seller Party agrees that between the date of this Agreement and the earlier of the Closing and the termination of this Agreement, he, she or it shall not, and shall take all action necessary to ensure that none of the Sellers or any of their respective Affiliates or Representatives shall, directly or indirectly:

(a) solicit, initiate, knowingly encourage or accept any other proposals or offers from any Person (i) relating to any direct or indirect acquisition or purchase of all or any portion of the capital stock or other equity or ownership interest of the Company or any of its Subsidiaries or assets of the Company or any of its Subsidiaries, other than inventory to be sold in the ordinary course of business consistent with past practice, (ii) to enter into any merger, consolidation or other business combination relating to the Company or any of its Subsidiaries or (iii) to enter into a recapitalization, reorganization or any other extraordinary business transaction involving or otherwise relating to the Company or any of its Subsidiaries (each, an “Alternate Transaction”); or

(b) with the intention of doing so, participate in any discussions, conversations, negotiations or other communications regarding, or furnish to any other Person any information with respect to, or otherwise cooperate in any way, assist or participate in, facilitate or encourage any effort or attempt by any other Person to seek to do any of the foregoing. Each Seller Party immediately shall cease and cause to be terminated all existing discussions, conversations, negotiations and other communications with any Persons conducted heretofore with respect to any of the foregoing.
The Sellers Representative shall notify the Parent promptly, but in any event within 24 hours, orally and in writing if any such proposal or offer, or any inquiry or other contact with any Person with respect thereto, is made. Any such notice to the Parent shall indicate in reasonable detail the identity of the Person making such proposal, offer, inquiry or other contact and, to the extent known, the terms and conditions of such proposal, offer, inquiry or other contact. No Seller Party shall, and each such Person shall cause the Sellers not to, release any Person from, or waive any provision of, any confidentiality or standstill agreement to which any Seller Party is a party, without the prior written consent of the Buyer.

Section 5.4 Notification of Certain Matters. The Sellers Representative shall give prompt written notice to Parent of (a) the occurrence or non-occurrence of any change, condition or event, the occurrence or non-occurrence of which would render any representation or warranty of a Seller Party contained in this Agreement or any Ancillary Agreement, if made on or immediately following the date of such event, untrue or inaccurate, (b) the occurrence of any change, condition or event that has had or is reasonably likely to have a Material Adverse Effect, (c) any failure of a Seller Party or any of their respective Affiliates to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder or any event or condition that would otherwise result in the nonfulfillment of any of the conditions to the Buyer Parties’ obligations hereunder, (d) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements or (e) any Action pending or, to the Knowledge of the Sellers, threatened against a party or the parties relating to the transactions contemplated by this Agreement or the Ancillary Agreements. No notice to Parent of the matters set forth in clauses (a) through (e) of this Section 5.4 with respect to any material matter, condition or occurrence hereunder arising, which, if existing or occurring on any date prior to the date of this Agreement, would have been required to be set forth or described in the Disclosure Schedule (“Updated Schedules”), shall be deemed to cure any breach of or alter any representation or warranty made in this Agreement so as to (i) permit the Closing to occur or (ii) affect any Indemnified Party’s right to indemnification pursuant to ARTICLE VIII, unless the Sellers Representative can demonstrate any such Updated Schedule relates solely to matters, conditions or occurrences that arose after the date of this Agreement, in which case the Indemnified Parties shall only be entitled to indemnification for Losses arising out of the disclosure on such Updated Schedule in an aggregate amount of up to $150,000. In addition, if, following delivery of the Updated Schedules, Parent reasonably determines that the amount of potential Losses resulting from the updated matters set forth on the Updated Schedules is reasonably likely to exceed $150,000, individually or in the aggregate, Parent shall be entitled to immediately terminate this Agreement upon written notice to Sellers Representative.

Section 5.5 Release of Indemnity Obligations. Effective as of the Closing, each Seller Party does hereby, for itself and each of its Affiliates (excluding the Company and its Subsidiaries other than On-Site Plant) and each of its and their Related Parties (each, a “Seller Releasing Party”), irrevocably release, waive and absolutely forever discharge the Company and each of its Subsidiaries and all of their respective, past, present and future officers, directors, agents, representatives, successors and assigns (collectively, the “Released Persons”), from any and all actions, causes of action, suits, debts, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands of every type and nature whatsoever, known or unknown, at law or in equity (each a “Claim” and collectively, the “Claims”), that any Seller Releasing Party has had, may now have or may hereinafter have against any Released Person relating to, arising out of or resulting from any matter, act or omission whatsoever during all periods through the Closing and whether or not first asserted before or after the Closing (together, the “Released Matters”). The Released Matters shall not include (i) any agreement listed on Schedule 5.5 of the Disclosure Schedules or (ii) this Agreement or any Ancillary Agreement. It is the intention of each Seller Party in providing this release to the Released Persons, and in giving and receiving the consideration called for in this Agreement, that this release shall be effective as a full and final accord and satisfaction and general release of and from all Released Matters and the final resolution by the applicable Seller Releasing Party, the Company and its Subsidiaries of all Released Matters.

Section 5.6 Confidentiality.

(a) Each of the parties shall hold, and shall cause its Representatives to hold, in confidence all documents and information furnished to it by or on behalf of the other party in connection with the transactions
contemplated hereby pursuant to the terms of the confidentiality agreement dated December 16, 2013 between Parent and the Company, (the “Confidentiality Agreement”), which shall continue in full force and effect until the Closing Date, at which time such Confidentiality Agreement and the obligations of the parties under this Section 5.6(a) shall terminate. If for any reason this Agreement is terminated prior to the Closing Date, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms.

(b) For a period of five years following the Closing Date, each Seller Party shall not, and each Seller Party shall cause its Affiliates and its and their respective Representatives not to, use for its or their own benefit or divulge or convey to any third party, any Confidential Information; provided, however, that any Seller Party or its Affiliates may furnish such portion (and only such portion) of the Confidential Information as such Seller Party or such Affiliate reasonably determines is legally obligated to disclose if: (i) it receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena, civil investigative demand or order issued by a Governmental Authority; (ii) to the extent not inconsistent with such request, it notifies the Parent of the existence, terms and circumstances surrounding such request and consults with the Parent on the advisability of taking steps available under applicable Law to resist or narrow such request; (iii) it exercises its commercially reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information at Buyer’s expense; and (iv) disclosure of such Confidential Information is required to prevent such Seller Party or such Affiliate from being held in contempt or becoming subject to any other penalty under applicable Law. Furthermore, any Seller Party or its Affiliates may furnish such portion (and only such portion) of the Confidential Information as such Seller Party or such Affiliate reasonably determines it is reasonably necessary or appropriate in order to narrow or oppose the efforts of a third party with respect to any subpoena, civil investigative demand or order issued by a Governmental Authority. For purposes of this Agreement, “Confidential Information” consists of all information and data relating to the Company or its Subsidiaries or the transactions contemplated hereby (other than data or information that (w) is known or available through other lawful sources not known by the Seller Parties to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, the Sellers; (x) is or becomes publicly known or generally known in the industry through no fault of the Seller Parties or their Representatives; (y) relates to the Tax aspects and consequences of the transactions contemplated by this Agreement, or (z) is released as part of a public announcement of this Agreement and the transactions contemplated hereby, as permitted by this Agreement). Furthermore, any Seller Party or its Affiliates may furnish Confidential Information to its legal, financial and tax advisors as reasonably necessary for such advisors to perform their duties to such Person, and as reasonably necessary to enable any such Person enforce their obligations under this Agreement.

Section 5.7 Consents and Filings; Further Assurances.

(a) As soon as reasonably practicable, but in no event later than 20 Business Days following the date hereof or, if earlier, the deadline prescribed by Law, the Buyer and the Sellers shall file, or cause their respective Affiliates to file, with the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice Notification and Report Forms relating to the transactions contemplated herein to the extent required by the HSR Act (which forms shall specifically request early termination of applicable waiting periods prescribed by the HSR Act), as well as comparable pre-merger notification forms or other filings required by the Competition Laws of any applicable jurisdiction, as agreed to by the Buyer and the Sellers Representative. All filing fees incurred in connection with regulatory filings made pursuant to this Section 5.7 shall be paid one-half by the Buyer, on the one hand, and one-half by the Sellers, on the other hand.

(b) The Buyer Parties and each Seller Party shall use their good faith efforts to furnish to each other all information required for any HSR Act filing or other filing to be made under any applicable Law in connection with the transactions contemplated by this Agreement. The Buyer and the Sellers Representative shall promptly inform each other of any oral communication with, and provide copies of written communications with, any Governmental Authority regarding any HSR Act filing or other filing or investigation. Neither the Buyer nor any Seller shall independently participate in any meeting or discussion, either in person or by telephone, with any Governmental Authority in respect of any such filings, investigation, or other inquiry without giving the other prior notice of the meeting and, to the extent permitted by such Governmental Authority, the opportunity to attend and/or participate. Subject to applicable Law and the Confidentiality Agreement, the Buyer and the Sellers Representative will consult
and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party relating to any HSR Act filing or other filing or investigation; provided, however, that notwithstanding the foregoing, the Buyer shall be entitled, after consultation with the Sellers Representative, to make all strategic and tactical decisions as to the manner in which to obtain any such consents, including any decision to make any filing or to enter into any agreement with a Governmental Authority regarding the timing of any investigation or waiting period relating to the transactions contemplated by this Agreement. Notwithstanding anything to the contrary contained in this Agreement, each party reserves the right to limit disclosure of any document, or portion thereof, submitted to any Governmental Authority with respect to any HSR Act filing or other filing to Buyer’s and the Sellers Representative’s respective outside counsel only.

(c) Except as otherwise set forth in this Section 5.7, each Seller and the Buyer shall use their reasonable best efforts to take, or cause to be taken, all appropriate action to do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements as promptly as practicable, including to (i) obtain from Governmental Authorities and other Persons all consents, approvals, authorizations, qualifications and orders as are necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements, and (ii) promptly make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement required under the HSR Act or any other applicable Law. In furtherance and not in limitation of the foregoing, the Sellers shall permit the Buyer reasonably to participate in the defense and settlement of any claim, suit or cause of action relating to this Agreement or the transactions contemplated hereby, and the Sellers shall not settle or compromise any such claim, suit or cause of action without the Buyer’s written consent.

(d) The Company and its Subsidiaries shall give promptly such notice to third parties and obtain such third-party consents and estoppel certificates as are explicitly required by this Agreement. The Buyer shall cooperate with and assist the Sellers in giving such notices and obtaining such consents and estoppel certificates; provided, however, that the Buyer shall have no obligation to give any guarantee or other consideration of any nature in connection with any such notice, consent or estoppel certificate or consent to any change in the terms of any agreement or arrangement that the Buyer in its sole discretion may deem adverse to the interests of the Buyer or the Company or any of its Subsidiaries. The Sellers Representative shall provide the Buyer with copies of any consents or estoppel certificates obtained pursuant to this Section 5.7(d).

(e) The Buyer on the one hand and the Sellers on the other hand shall each be responsible for paying any fees and other costs (including, but not limited to, legal and consultant fees) incurred by that party relating to any third-party consents, including but not limited to fees and other costs relating to the preparation of any filings or submissions to any Governmental Authority (other than filing fees incurred in connection with regulatory filings made pursuant to this Section 5.7, which shall be paid one-half by the Buyer, on the one hand, and one-half by the Sellers, on the other hand); provided, however, that no party shall be required to pay any fees or other payments to any Governmental Authority in order to obtain any such consent (other than filing fees incurred in connection with regulatory filings made pursuant to this Section 5.7, which shall be paid one-half by the Buyer, on the one hand, and one-half by the Sellers, on the other hand). If any objections are asserted with respect to the transactions contemplated hereby under any Competition Law or if any suit or proceeding is instituted or threatened by any Governmental Authority or any private party challenging any of the transactions contemplated hereby as violating any Competition Law, the Buyer and each Seller shall use their reasonable best efforts to promptly resolve such objections in order to enable the transactions contemplated by this Agreement to be consummated as promptly as practicable, provided, however, that notwithstanding the foregoing, that each party hereto shall have the right, but not the obligation, to defend any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated by this Agreement under any Competition Law, including but not limited to seeking to have any stay, injunction, or temporary restraining order entered by any court or other Governmental Authority vacated or reversed.

(f) Each Seller and the Buyer agree that, in the event that any consent, approval or authorization necessary or desirable to preserve for the Company or any of its Subsidiaries any right or benefit under any lease, license, commitment or other Contract to which the Company or any Subsidiary is a party is not obtained prior to the
Closing, each Seller will, subsequent to the Closing, cooperate with the Buyer, the Company or any such Subsidiary in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable.

(g) From time to time after the Closing, and for no further consideration, each of the Parties shall, and shall cause its Subsidiaries to, execute, acknowledge and deliver such assignments, transfers, consents, assumptions and other documents and instruments and take such other actions as may be necessary or desirable to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

(h) Notwithstanding anything herein to the contrary, the Buyer Parties shall not be required by this Section 5.7 to take or agree to undertake any action, including entering into any consent decree, hold separate order or other arrangement, that would (i) require the divestiture of any assets of the Buyer Parties or any of their respective Affiliates, (ii) limit the Buyer Parties’ freedom of action with respect to, or its ability to consolidate and control, the Business or the Purchased Assets or any of the Buyer's or its Affiliates' other assets or businesses, or (iii) limit the Buyer Parties’ ability to acquire or hold, or exercise full rights of ownership with respect to, the Purchased Assets.

Section 5.8 Termination of Indebtedness. Each Seller shall cause Debt Payoff Letters to be negotiated for all Payoff Indebtedness. Each Seller Party shall cause the Company and its Subsidiaries to deliver all notices and take all other actions reasonably requested by the Buyer Parties to facilitate the termination of all Contracts relating to Payoff Indebtedness, the termination of the commitments provided thereunder, the repayment in full of all obligations then outstanding thereunder (using funds provided by the Buyer) and the release of all Encumbrances in connection therewith on the Closing Date; provided, however, that in no event shall this Section 5.8 require any of the Sellers to cause the termination of any Contracts relating to Payoff Indebtedness other than as part of the Closing.

Section 5.9 Public Announcements. The Sellers Representative shall consult with Parent before issuing, and provide Parent the opportunity to review, comment upon and approve, any press release or other public statement with respect to the transactions contemplated hereby, and no Seller Party shall, or shall cause the Company or its Subsidiaries to, issue any such press release or make any such public statement prior to receiving such approval from Parent, except as may be required by applicable Law.

Section 5.10 Delivery of Additional Financial Statements.

(a) Between the date hereof and the Closing, each Seller shall cause to be delivered to the Buyer within 10 days after the end of each calendar month an unaudited consolidated balance sheet of the Company and its Subsidiaries, and the related consolidated statements of income, retained earnings, stockholders’ equity and changes in financial position of the Company and its Subsidiaries, together with all related notes and schedules thereto, in each case, prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto) (such sets of monthly financial statements, the “Pre-Closing Monthly Financial Statements”). To the extent that an independent auditor or accountant shall be engaged to prepare such financial statements contemplated pursuant to this Section 5.10(a), Buyer shall bear the costs thereof.

(b) Sellers shall, at the expense of Buyer, promptly engage an auditor selected by Buyer to commence preparation of, and shall cooperate with the Buyer and such auditor in the preparation of, (i) audited financial statements of the Company and its Subsidiaries for the fiscal year ended December 31, 2016 (the “2016 Audited Financial Statements”), (ii) audited financial statements of the Company and its Subsidiaries for the six months ended June 30, 2017 (the “June 2017 Audited Financial Statements”) and (iii) an audited Schedule of Revenues of the Company and its Subsidiaries for the twelve months ended June 30, 2017 (the “June 2017 Audited Schedule of Revenues”), in each case prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (which shall be completed on or before Closing) and any other document or materials required to satisfy any public filing requirements of the Buyer arising out of or otherwise relating to the consummation of the transactions contemplated in this Agreement.
Section 5.11 Lease Obligations of On-Site Plant. On or prior to the Closing, On-Site Plant shall, and each Seller shall cause On-Site Plant to, take all actions necessary to enter into the Lease Agreement. For the avoidance of doubt and notwithstanding anything herein to the contrary, the Purchased Assets shall not include (i) any real property owned by On-Site Plant or (ii) any shares, membership interests, partnership interests, participation interests or other equity interests or securities, or equivalents, of On-Site Plant.

Section 5.12 Data Room Contents. The Buyer and the Sellers Representative shall cooperate to ensure that each of the Buyer and the Sellers Representative receives a copy, on one or more DVDs, of the true, correct and complete contents of the Data Room as of the Closing Date, as promptly as practicable after the Closing Date.

Section 5.13 Record Retention. From and after the Closing until the seventh anniversary of the Closing, each party shall provide, or cause to be provided, to each other, as soon as reasonably practicable after written request therefor and at the requesting party’s sole expense, reasonable access (including using commercially reasonable efforts to give access to Sellers’ auditors, accountants and other advisors reasonably requested by each party), during normal business hours, to the other party’s representatives and to any books, records, files, documents, instruments, accounts, correspondence, writings, evidences of title and other papers relating to the Business and the Purchased Assets (the “Books and Records”) in the possession or under the control of the other Party with respect to periods prior to the Closing that the requesting Party reasonably needs (i) to comply with reporting, disclosure, filing, auditing or other requirements imposed on the requesting party (including under applicable securities laws) by a Governmental Authority having jurisdiction over the requesting party in connection with the transactions contemplated herein, (ii) for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation or other similar requirements arising from the transactions contemplated in this Agreement, or (iii) to comply with its obligations under this Agreement; provided, however, that no party shall be required under this provision to provide access to or disclose information if the parties are in a dispute with each other regarding matters related to such information request or where such access or disclosure would violate any Law, protective order or confidentiality agreement, or waive any attorney-client, attorney work product or other similar privilege, and each party may redact information regarding itself or its affiliates or otherwise not relating to the other party and its affiliates, to the extent such redaction is not related to the Business, and, in the event such provision of information could reasonably be expected to violate any Law, protective order or confidentiality agreement or waive any attorney-client, attorney work product or other similar privilege, the parties shall take commercially reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence, to the extent practicable.

Each Party shall retain the Books and Records relating to the Business in such party’s respective possession or control for the greater of (i) seven years following the Closing Date or (ii) such period of time as may be required by applicable Law. Notwithstanding the foregoing, any party may destroy or otherwise dispose of any Books and Records not in accordance with its retention policy, provided that, prior to such destruction or disposal (i) such party shall provide no less than 30 days’ prior written notice to the other party of any such proposed destruction or disposal (which notice shall specify in detail which of the Books and Records is proposed to be so destroyed or disposed of), and (ii) if a recipient of such notice shall request in writing prior to the scheduled date for such destruction or disposal that any of the information proposed to be destroyed or disposed of be delivered to such recipient, such party proposing the destruction or disposal shall, as promptly as practicable, arrange for the delivery of such of the Books and Records as was requested by the recipient (it being understood that all reasonable out-of-pocket costs associated with the delivery of the requested Books and Records shall be paid by such recipient).

Section 5.14 Employment and Benefit Matters.

(a) Buyer shall in its sole discretion offer employment to certain Business Employees as of the Closing Date, each such offer to be pursuant to an offer letter on Parent’s standard form (and conditioned upon execution by such employee of Parent’s standard employment documentation) for an indeterminate period of time with Buyer, conditioned on the occurrence of the Closing; provided, that such offers of employment shall be with respect to base salary and cash bonus eligibility in such amounts as are determined by Buyer in its sole discretion based upon Buyer’s review of duties performed by each employee, and the start date for each such Business Employee shall be on the Closing Date (the “Offers”). Any such Business Employee who accepts Buyer’s offer of employment and commences employment with Buyer shall be referred to, individually, as a “Transferred Employee” and, collectively, as the

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“Transferred Employees.” Buyer’s employment of each such Business Employee in accordance with this Section 5.14(a) shall begin as of the commencement of the applicable date of hire (the “Hire Date”), and the employment and other relationships of such Business Employee with Sellers and their Affiliates shall end immediately prior to such date. Sellers shall use their commercially reasonable best efforts to assist Buyer in employing as new employees of Buyer all such Transferred Employees. Buyer shall in no way be obligated to continue to employ any Transferred Employee for any specific period of time, except to the extent otherwise provided in any written agreement entered into by Buyer and/or any Subsidiary thereof and any Transferred Employee after the Closing.

(b) Sellers shall be liable for, or for causing, the administration and payment of all workers’ compensation and health and welfare Liabilities and benefits (including Liabilities arising out of the termination of employment of any Business Employee) with respect to any Transferred Employees to the extent resulting from claims arising prior to the Hire Date. For purposes of the preceding sentence, claims shall be considered incurred on the date when medical/dental services are rendered or medical/dental supplies provided, and not when the condition arose or the course of treatment began. Sellers shall be liable for the administration and provision of benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) with respect to Business Employees and/or any former employees of Sellers or other qualified beneficiaries associated with any Business Employees or former employees of Sellers with respect to qualifying events that occur before the Hire Date or in connection with the transactions contemplated herein. Sellers further agree and acknowledge that in the event any Seller ceases to provide, or ceases to cause the provision of, any group health plan to any employee prior to the expiration of the COBRA continuation coverage period for all M&A qualified beneficiaries (as defined by Treasury Regulation Section 54.4980B-9, Q&A-4(a)) with respect to the transactions contemplated herein, then the Sellers shall provide Buyer written notice of such cessation at least 10 days in advance thereof and shall provide all information necessary for Buyer to offer COBRA continuation coverage to such M&A qualified beneficiaries in accordance with Treasury Regulation Section 54.4980B-9, Q&A-8(c); provided, that Buyer shall be obligated to offer such coverage only to the extent required by applicable law. The Sellers shall be responsible for 100% of the costs of any such COBRA benefits required to be paid by Buyer (including administrative costs) as a result of the preceding sentence. Buyer will be responsible for COBRA coverage for Transferred Employees (and each such employee’s qualified beneficiaries) whose qualifying event occurs on or after the applicable Hire Date, to the extent required by law.

(c) Except as expressly set forth in this Section 5.14 with respect to Transferred Employees, Buyer shall have no obligation or Liability with respect to any Business Employee (including any beneficiary or dependent thereof) up to and including the Closing Date and Sellers shall remain responsible for any obligation or Liability, whether contractual or statutory, arising out of Sellers’ employment or termination of Business Employees. Nothing in this Agreement confers upon any Business Employee or Transferred Employee any rights or remedies of any nature or kind whatsoever under or by reason of this Section 5.14.

(d) Pursuant to the “Standard Procedure” provided in Section 4 of Revenue Procedure 2004-53, 2004-34 I.R.B. 320, (i) Buyer and Sellers shall report on a predecessor / successor basis as set forth therein, (ii) Sellers will not be relieved from filing, or causing the filing of, a Form W-2 with respect to any Transferred Employees, and (iii) Buyer will undertake to file, or cause to be filed, a Form W-2 for each such Transferred Employee only with respect to the portion of the year during which such Transferred Employees are employed by Buyer that includes the Closing Date, excluding the portion of such year that such Transferred Employee was employed by Sellers.

(e) This Section 5.14 shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Section 5.14, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 5.14. Nothing contained herein, express or implied, shall be construed to establish, amend, or modify any benefit plan, program, agreement, or arrangement. The Parties acknowledge and agree that the terms set forth in this Section 5.14 shall not create any right of any employee or any other Person to any continued employment with Sellers, Buyer or any of their respective Affiliates or compensation or benefits of any nature or kind whatsoever.

Section 5.15 Name Change. Within 10 days after the Closing Date, Sellers shall, or shall cause their respective Subsidiaries, as applicable, to, file all documents, records, and notices with, and provide all required
information to all applicable Governmental Bodies to effect a change in the name(s) of On-Site Manager, Inc., Relocation Services, Inc., On-Site Data, Inc. and On-Site Plant, Inc. (the “Name Change”) from “On-Site Manager, Inc.,” “Relocation Services, Inc.,” “On-Site Data, Inc.” and “On-Site Plant, Inc.” to names (i) not similar to “On-Site Manager, Inc.,” “Relocation Services, Inc.,” “On-Site Data, Inc.” and “On-Site Plant, Inc.,” and (ii) that creates no association with the Business or the business of the Business.

Section 5.16 Notification. Promptly after the Closing Date, Sellers will send a communication, the form and content of which will be subject to the review and approval of Buyer, which approval will not be unreasonably withheld, conditioned or delayed, to all existing customers of the Business notifying them of the consummation of the sale of the Purchased Assets and Assumed Liabilities to Buyer.

Section 5.17 Post-Closing Collection; Mail Handling. Each Seller Party agrees to hold any cash receipts or proceeds of Purchased Assets that come into its possession or control following the Closing Date in trust for the sole benefit of Buyer and will, as soon as administratively feasible, but in no event more than five Business Days following receipt, deliver such cash receipts or proceeds to Buyer. To the extent any Seller Party receives any payments or refunds or any other proceeds in respect of the Purchased Assets or any Assumed Contract or otherwise arising out of the Business, such Seller shall cause such amounts to be remitted promptly to Buyer. To the extent any Seller Party receives any mail, email, faxes or packages addressed to such Seller Party but relating to the Business, the Purchased Assets or the Assumed Liabilities, such Seller Party shall promptly deliver such materials to Buyer.

Section 5.18 Cloudfile. Each of the Seller Parties acknowledge that the Parent and its Subsidiaries are acquiring all right, title and interest in and to the “Cloudfile” name in connection with the Business or any products or services, along with any derivatives thereof, together with all goodwill associated therewith and all rights to sue for and receive damages or other relief in respect of any past infringement or other violation of any rights thereto. Seller Parties acknowledge that, following the Closing, the Buyer Parties will own all right, title and interest in and to cloudfile.com and cloudfile.net. Following the Closing, the Buyer Parties agree to grant to the Seller Parties, for no consideration, a limited license to use the Cloudfile domain names, on terms reasonably acceptable to the Buyer Parties, to the extent not used in connection with the Business or any business competitive with the Business.

Section 5.19 Bulk Sale Waiver. Buyer and Sellers hereby waive compliance with the bulk-transfer provisions of the Uniform Commercial Code (or any similar law) in connection with the transactions contemplated by this Agreement.

Section 5.20 Insurance. The Company may, at its election, purchase an insurance policy with respect to the matters set forth on Exhibit I hereto, in such amount and with such other terms as are acceptable to the Company.

ARTICLE VI TAX MATTERS

Section 6.1 Apportionment. For the sole purpose of appropriately apportioning any Taxes relating to a Straddle Period, the portion of such Tax that is attributable to the part of such Straddle Period that ends on the Closing Date shall be (i) in the case of a Tax that is not transaction-based, the total amount of such Tax for the full Tax period that includes the Closing Date multiplied by a fraction, the numerator of which is the number of days from the beginning of such Tax period up to and including the Closing Date and the denominator of which is the total number of days in such full Tax period, and (ii) in the case of transaction-based Taxes, the Tax that would be due with respect to such partial period based on an interim closing of the books as of the end of the Closing Date.

Section 6.2 Tax Returns.
(a) **Seller Responsibility.** The Company, at its own cost and expense, will prepare or cause to be prepared and timely file or cause to be timely filed all Tax Returns (excluding Tax Returns with respect to Transfer Taxes, which shall be handled pursuant to Section 6.5) of (i) any Seller that are required to be filed for any Tax period, including all Tax Returns required to be filed with respect to the Business or the Purchased Assets for any Pre-Closing Tax Period and (ii) On-Site Labs and DepositIQ with respect to any Pre-Closing Tax Period (collectively, the Tax Returns described in (i) and (ii), the “Seller Prepared Tax Returns”). Such Tax Returns will be prepared in a manner consistent with the prior practice of the relevant Seller unless otherwise required by applicable Law. In the case of (x) Seller Prepared Tax Returns that are relevant to the calculation of the Buyer State Income Tax Liability (the “Seller State Income Tax Returns”) and (y) any Seller Prepared Tax Return with respect to On-Site Labs or DepositIQ (collectively, the Tax Returns referred to in (x) and (y), the “Reviewable Seller Tax Returns”), no later than thirty (30) days prior to filing, the Sellers Representative will deliver to Buyer a draft of such Reviewable Seller Tax Returns (along with a statement detailing the Sellers Representative’s calculation of the Buyer State Income Tax Liability, including the portion of such liability that is attributable to each applicable state or local jurisdiction, and the amount, if any, of any Tax reflected on such Reviewable Seller Tax Return for which the Sellers Representative claims the Buyer is liable under the definition of Pre-Closing Tax in Article I) for Buyer’s review and comment, and Sellers Representative shall consider in good faith any revisions to such Reviewable Seller Tax Returns as are reasonably requested by Buyer. In the event that Buyer and Sellers Representative have not resolved any dispute relating to (i) the calculation of the Buyer State Income Tax Liability (or the apportionment of the Buyer State Income Tax Liability among the applicable state and local jurisdictions) or (ii) the amount of any Tax reflected on such Reviewable Seller Tax Return for which the Buyer is liable under the definition of Pre-Closing Tax in Article I, in each case at least fifteen (15) days prior to the due date for filing the Seller State Income Tax Returns, any disputed issues relating to the calculation of the Buyer State Income Tax Liability or the amount of any Tax reflected on such Reviewable Seller Tax Return for which the Buyer is liable under the definition of Pre-Closing Tax in Article I shall be resolved by the Independent Accounting Firm (with the Buyer and the Company sharing equally the costs of the Independent Accounting Firm). The Company will be responsible for and shall timely pay (or cause to be timely paid) any Taxes reported on any Seller Prepared Tax Returns to the extent such Taxes are the responsibility of the Seller Parties under this Agreement; provided that, Buyer shall make a payment to the Company in an amount equal to the amount of any Taxes that Buyer is liable for under the definition of Pre-Closing Tax in Article I (plus, in the case of a Seller State Income Tax Return, the portion of the Buyer State Income Tax Liability) and that is reflected on a Seller Prepared Tax Return within five (5) days after the Sellers Representative has provided written evidence to the Buyer that such Seller Prepared Tax Return has been filed and that the Taxes reflected on such Seller Prepared Tax Return have been paid in full; provided, further, that notwithstanding anything else to the contrary in this Agreement, (1) no Seller other than the Company shall have any claim under this Agreement for any Losses with respect to Buyer State Income Tax Liability and (2) in the case of the Company, any claim with respect to Buyer’s payment of Taxes for a Seller State Income Tax Return under this Section 6.2(a) shall be limited to the applicable portion of the Buyer State Income Tax Liability and the amount of Taxes that Buyer is liable for under the definition of Pre-Closing Tax in Article I and that have not been paid by Buyer to the Company under this Section 6.2(a); and provided, further, that no Buyer Party has assumed, and nothing in this Section 6.2 or otherwise in this Agreement shall be construed as an agreement by any Buyer Party to assume, any income, franchise or similar Tax liability of the Company or any other Seller Party. For the avoidance of doubt, if any adjustment is made to any Seller State Income Tax Return after it is initially filed (whether as a result of an audit or other Tax proceeding or otherwise), no additional amount shall be required to be paid between the parties with respect to the Buyer State Income Tax Liability as a result of such adjustment.

(b) **Buyer Responsibility.** Buyer, at its own cost and expense, will prepare or cause to be prepared and timely file all Tax Returns of On-Site Labs and DepositIQ for any Straddle Period (“Buyer Prepared Tax Returns”). To the extent that a Buyer Prepared Tax Return relates solely to the business of On-Site Labs and/or DepositIQ (i.e., does not include Tax information related to the assets, operations or activities of the Buyer or any of its Affiliates other than On-Site Labs and DepositIQ) and reflects a liability for Taxes in excess of $50,000 (such Buyer Prepared Tax Return, a “Reviewable Buyer Tax Return”), such Reviewable Buyer Tax Returns will be prepared in a manner consistent with the prior practice of On-Site Labs and DepositIQ (except to the extent otherwise required by applicable Law). No later than twenty (20) days prior to filing, the Buyer will deliver to Sellers Representative such Reviewable Buyer Tax Return for Sellers Representative’s review and comment, and Buyer shall consider in good faith any revisions to such Reviewable Buyer Tax Returns as are reasonably requested by Sellers Representative. On-Site Labs and DepositIQ
Section 6.3 Tax Refunds. Any Tax refunds received by the Buyer (or its Affiliates) with respect to Pre-Closing Taxes that were actually paid or otherwise borne by the Seller Parties shall be for the account of the Company in an amount up to $2,000,000 and the Buyer shall pay over such amount to the Sellers Representative within ten (10) Business Days of receipt; provided, however, that the foregoing provision shall not apply to any portion of any refund that (i) arises as a result of the carryback of Tax items accruing or otherwise generated in a Tax period beginning after the Closing or by Buyer or any of its Affiliates or (ii) was taken into account as a current asset in the calculation of Net Working Capital. If requested by the Sellers Representative, Buyer shall reasonably cooperate with the Sellers Representative (at the Seller Parties’ expense) in filing any Tax Return necessary to claim such Tax refunds. Notwithstanding anything to the contrary, in the event that a Tax refund is subsequently determined by any Governmental Authority to be less than the amount paid by Buyer to the Sellers Representative, the Seller Parties shall promptly return any such disallowed amounts (plus any interest charged by the Governmental Authority in respect of such disallowed Tax refunds owed to the Governmental Authority) to Buyer. The Buyer shall promptly pay any such disallowed amounts and interest to the Governmental Authority and provide evidence of such payment to the Sellers Representative. The Buyer may set off any amount owed by the Buyer under this Section 6.3 against any amount owed to any Buyer Indemnified Party by any Seller Party under this Agreement.

Section 6.4 Maintenance of Tax Books and Records. The Seller Parties and Buyer agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Business, the Purchased Assets and Assumed Liabilities (including access to Books and Records) as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any taxing authority, and the prosecution or defense of any action, suit or proceeding, claim, arbitration, litigation or investigation relating to any Tax. Any expenses incurred in furnishing such information or assistance shall be borne by the party requesting it. Sellers shall preserve all Tax information, records, and documents relating to Taxes for periods beginning prior to the Closing Date until the expiration of any applicable statutes of limitation or extensions thereof and as otherwise required by Law. Sellers shall provide timely notice to Buyer in writing of any pending or threatened Tax audits, actions, claims, assessments or information request related to (i) the Purchase Price Allocation (ii) the Purchased Assets for periods beginning prior to the Closing Date, or (iii) Transfer Taxes, and in each case furnish the other with copies of all correspondence (or applicable portions thereof) received from any taxing authority in connection with any such Tax audit, action, claim, assessment or information request.

Section 6.5 Transfer Taxes. All transfer, documentary, sales, use, stamp, recording, property, registration, and other similar transfer Taxes, and all conveyance fees, recording charges and other charges and fees (including any penalties and interest) incurred in connection with consummation of the transactions contemplated by this Agreement (“Transfer Taxes”) shall be paid 50% by Buyer and 50% by the Sellers when due. All necessary Tax Returns and other documentation with respect to all Transfer Taxes shall be prepared and filed by the party required by law to file such Tax Returns, with the reasonable expenses of preparing and filing such Tax Returns shared equally by Buyer and the Sellers. Each party shall provide the other party with copies of all Tax Returns and other documentation for Transfer Taxes and evidence that such Transfer Taxes have been paid. The parties hereto shall cooperate in connection with the filing of any such Tax Returns for Transfer Taxes including joining in the execution of such Tax Returns. To the extent permitted by Law, Buyer and Sellers shall reasonably cooperate with each other in minimizing such Transfer Taxes, including without limitation, through the electronic transfer of software and other assets where reasonably possible to obtain an exemption from such Transfer Taxes.

Section 6.6 Tax Contests. Buyer shall have the right but not the obligation to control the defense of any Third-Party Claim with respect to Taxes of On-Site Labs or DepositIQ, and all reasonable fees and expenses of the Buyer’s counsel shall be borne by the Seller Parties. The Sellers Representative shall have the right to employ

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counsel separate from counsel employed by Buyer in any such action and to participate in (but not control) the defense of such action at its sole expense. If the Buyer assumes the defense of any such Third-Party Claim, the Buyer will select counsel to conduct the defense of such claim or proceeding, will take all steps necessary in the defense or settlement thereof and will at all times diligently and promptly pursue the resolution thereof. If the Buyer assumed the defense of any claim or proceeding in accordance with this Section 6.6, the Buyer will be authorized to consent to a settlement of, or the entry of any judgment arising from, any such claim or proceeding, with the prior written consent of the Sellers Representative (which shall not be unreasonably withheld). To the extent of any conflict between the provisions of this Section 6.6 and the provisions of Section 8.4(b), the provisions of this Section 6.6 shall govern.

ARTICLE VII
CONDITIONS TO CLOSING

Section 7.1 General Conditions. The respective obligations of the Buyer Parties, on the one hand, and the Seller Parties, on the other hand, to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may, to the extent permitted by applicable Law, be waived in writing by a party hereto in its sole discretion (provided, that such waiver shall only be effective as to the obligations of such party):

(a) No Injunction or Prohibition. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law (whether temporary, preliminary or permanent) that is then in effect and that enjoins, restrains, conditions, makes illegal or otherwise prohibits the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) HSR Act. Any waiting period (and any extension thereof) under the HSR Act applicable to the transactions contemplated by this Agreement and the Ancillary Agreements shall have expired or shall have been terminated.

Section 7.2 Conditions to Obligations of the Sellers. The obligations of the Seller Parties to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Sellers Representative in his or her sole discretion:

(a) Representations, Warranties and Covenants. The representations and warranties of the Buyer Parties contained in this Agreement or any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby shall be true and correct both when made and as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date. The Buyer Parties shall have performed all obligations and agreements and complied with all covenants and conditions required by this Agreement or any Ancillary Agreement to be performed or complied with by them prior to or at the Closing.

(b) Buyer Certificate. The Sellers Representative shall have received from the Buyer a certificate dated as of the Closing Date certifying the fulfillment of the conditions specified in Sections 7.2(a), signed by a duly authorized officer of the Buyer.

Section 7.3 Conditions to Obligations of the Buyer Parties. The obligations of the Buyer Parties to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Buyer in its sole discretion:

(a) Representations, Warranties and Covenants.
(i) The representations and warranties of each Seller Party contained in Section 3.1 relating to organization and existence, Section 3.2 relating to authority, Section 3.4 relating to the Shares, Section 3.5 relating to capitalization, Section 3.6 relating to third-party ownership interests, Section 3.13 relating to title, sufficiency and condition of Purchased Assets and Section 3.23 relating to brokers (Sections 3.1, 3.2, 3.4, 3.5, 3.6, 3.13 and 3.23 collectively referred to herein as the “Fundamental Representations”) shall be true and correct in all respects both when made and as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date, in each case other than de minimis exceptions;

(ii) The other representations and warranties of each Seller Party contained in this Agreement, any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby shall be true and correct (other than representations and warranties that are qualified as to materiality or Material Adverse Effect, which representations and warranties shall be true in all respects) both when made and as of the Closing Date (or in the case of representations and warranties that are made as of a specified date, as of such specified date), except where the failure of such representations and warranties to be true and correct (without giving effect to any “materiality” or “Material Adverse Effect” qualifiers set forth therein) would not, individually or in the aggregate, have a Material Adverse Effect;

(iii) each Seller Party shall have performed all obligations and agreements and complied with all covenants and conditions required by this Agreement or any Ancillary Agreement to be performed or complied with by such Person prior to or at the Closing; and

(iv) the Buyer shall have received from the Sellers Representative a certificate to the effect set forth in the foregoing clauses (i), (ii) and (iii), signed by the Sellers Representative.

(b) Consents and Approvals. The third-party consents listed on Schedule 2.2(b)(viii) shall have been received and shall be satisfactory in form and substance to the Buyer.

(c) Employment Agreements, Employment Arrangements and Consulting Agreement. The Buyer shall have received (i) duly executed Employment Arrangements, signed by each Transferred Employee, (ii) duly executed Employment Agreements, signed by each of Monty Jones and Scott Jones, and (iii) the Consulting Agreement, duly executed by Jonathan Harrington.

(d) Significant Owner Agreements. The Buyer shall have received duly executed Significant Owner Agreements, in the forms attached hereto as Exhibit E-1 and Exhibit E-2, as applicable, from each of the Sellers and the Seller Owners.

(e) Transfer Documents. The Buyer shall have received from each Seller countersigned copies of the Transfer Documents in the forms attached hereto as Exhibit C-1 through C-4.

(f) Independent Contractor Agreements. The Buyer shall have received duly executed copies of each Independent Contractor Agreement.

(g) Lease Agreement. Prior to the Closing, Buyer shall have received the Lease Agreement, in the form attached hereto as Exhibit D, duly executed by On-Site Plant, as Landlord.

(h) Officer’s Certificate. The Buyer Parties shall have received a copy of all resolutions or consents from the board of directors or manager(s), as applicable, of each Seller Party (except with respect to any Seller Party that is a natural person) authorizing, and consent of those Persons holding at least the minimum number of equity interests necessary to authorize, in each case, the execution, delivery and performance of this Agreement and the Ancillary Agreements by each such Seller Party, and the consummation of the transactions contemplated herein and therein, accompanied by the certification by an authorized officer or manager, as applicable, of each such Seller Party

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(i) to the effect that such resolutions are in full force and effect and have not been amended, modified or rescinded and (ii) of the incumbency and signature of the Persons executing this Agreement and any Ancillary Agreements on behalf of such Seller Party.

(i) Audited Financial Statements. Prior to the Closing, the Buyer shall have received the 2016 Audited Financial Statement, the June 2017 Audited Financial Statements and the June 2017 Audited Schedule of Revenues, as contemplated by Section 5.10(b).

(j) Termination of Certain Intercompany Agreements. Each of the agreements set forth on Schedule 7.3(j) shall have been terminated, and the Buyer shall have received evidence of such terminations reasonably satisfactory to Buyer.

(k) No Material Adverse Effect. There shall not have occurred a Material Adverse Effect with respect to the Sellers.

(l) Available Cash and Restricted Cash. Immediately prior to Closing, the Sellers will deliver to Buyer Parties a reconciliation and proof of Available Cash and Restricted Cash as of the Closing Date.

ARTICLE VIII
INDEMNIFICATION

Section 8.1 Survival.

(a) The representations and warranties of the Seller Parties and the Buyer Parties contained in this Agreement and the Ancillary Agreements and any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby shall survive the Closing until the 12-month anniversary of the Closing Date; provided, however, that:

(i) the Fundamental Representations and any representation in the case of fraud or intentional misrepresentation shall survive until the 10-year anniversary of the Closing Date;

(ii) the representations and warranties set forth in Section 3.16 relating to Taxes shall survive until the close of business on the 60th day following the expiration of the applicable statute of limitations with respect to the Tax liabilities in question (giving effect to any waiver, mitigation or extension thereof); and

(iii) the representations and warranties set forth in Section 3.15 relating to Intellectual Property and Section 3.21 relating to privacy and security shall survive until the 18 month anniversary of the Closing Date.

(b) The respective covenants and agreements of the Seller Parties and the Buyer Parties contained in this Agreement shall survive the Closing until the expiration of the statute of limitations following the date all performance thereunder was due to be performed.

(c) The parties specifically and unambiguously intend that the survival periods set forth in this Section 8.1 for the representations and warranties contained herein shall replace any statute of limitations for such representations or warranties that would otherwise be applicable (including, without limitation, the statute of limitations prescribed by the law of the State of California) and the parties acknowledge that the survival periods set forth in this Section 8.1 for the assertion of claims under this Agreement are the result of arms'-length negotiation among the parties and that they intend for the survival periods to be enforced as agreed to by the parties.
None of the Seller Parties or the Buyer Parties shall have any liability with respect to any representations, warranties, covenants or agreements unless written notice of an actual or threatened claim, or of discovery of any facts or circumstances that the Seller Parties or the Buyer Parties, as the case may be, reasonably believes may result in a claim, hereunder is given to the other party prior to the expiration of the applicable survival period, if any, for such representation, warranty, covenant or agreement, in which case such representation, warranty, covenant or agreement shall survive as to such claim until such claim has been finally resolved, without the requirement of commencing any Action in order to extend such survival period or preserve such claim.

Section 8.2 Indemnification by the Seller Parties. The Seller Parties shall save, defend, indemnify and hold harmless the Buyer Parties and their Affiliates and the respective Representatives, successors and assigns of each of the foregoing (collectively, the “Buyer Indemnified Parties”), from and against, and shall compensate and reimburse each of the foregoing for, any and all losses, damages, liabilities, deficiencies, interest, awards, judgments, penalties, costs and expenses, including reasonable attorneys’ fees, costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing (hereinafter collectively, “Losses”), incurred, sustained or suffered by any of the foregoing as a result of, arising out of or relating to:

(a) any breach of any representation or warranty made by any Seller Party contained in this Agreement or any Transfer Documents or any Significant Owner Agreement;
(b) any breach of any covenant or agreement by any Seller Party contained in this Agreement or any Transfer Document or the Lease Agreement (other than, in the case of the Lease Agreement, if such breach occurs following, and as a result of, the Buyer Parties’ failure to pay the lease amounts when due under the Lease Agreement);
(c) any breach of any covenant or agreement by any Seller Party contained in any Significant Owner Agreement;
(d) any Transaction Expenses or Indebtedness of the Seller Parties that are not paid or satisfied as of the Closing Date;
(e) any Excluded Liability;
(f) any Pre-Closing Taxes;
(g) all Litigation Obligations;
(h) the Capture the Market Agreement, to the extent not accrued or reserved against in April 2017 Balance Sheet; and
(i) the failure of any Seller Releasing Party to comply with any provision of Section 5.5 or the assertion or maintenance of any Claim by any Seller Releasing Party against any Released Person from and after the date hereof.

The obligations of the Seller Parties under this Article VIII shall be joint and several.

Section 8.3 Indemnification by the Buyer Parties. The Buyer Parties shall, jointly and severally, save, defend, indemnify and hold harmless the Seller Parties and their Affiliates and the respective Representatives, successors and assigns of each of the foregoing from and against, and shall compensate and reimburse each of the foregoing for, any and all Losses asserted against, incurred, sustained or suffered by any of the foregoing as a result of, arising out of or relating to:
(a) any breach of any representation or warranty made by any Buyer Party contained in this Agreement or any Ancillary Agreement;

(b) any breach of any covenant or agreement by any Buyer Party contained in this Agreement or any Ancillary Agreement;

(c) the ownership, control or operation of the Purchased Assets or the Business from and after the Closing; and

(d) any Assumed Liability.

Section 8.4 Procedures.

(a) A party seeking indemnification (the “Indemnified Party”) in respect of, arising out of or involving a Loss or a claim or demand made by any person against the Indemnified Party (a “Third-Party Claim”) shall deliver notice (a “Claim Notice”) in respect thereof to the party against whom indemnity is sought (the “Indemnifying Party”) with reasonable promptness after receipt by such Indemnified Party of notice of the Third-Party Claim, and shall promptly provide the Indemnifying Party with such information with respect thereto as the Indemnifying Party may reasonably request. The failure to deliver a Claim Notice, however, shall not release the Indemnifying Party from any of its obligations under this Article VIII except to the extent that the Indemnifying Party is materially prejudiced by such failure. In furtherance and not in limitation of the foregoing or anything herein contained to the contrary, any Claim Notices delivered shall specify, with reasonable detail and particularity, the nature of the Claim, the section or sections of the Agreement to which the Claim relates, and the amount of such Losses (if known) or a good faith, reasonable estimate of such Losses (to the extent ascertainable at such time) (the “Claimed Losses” ) and the basis upon which such calculation or estimate has been determined (together with reasonable supporting documentation therefor).

(b) Except with respect to any Special Claim, the Indemnifying Party shall have the right (by notifying the Indemnified Party in writing of its intent within 20 days after receipt of the Third-Party Claim Notice) but not the obligation to control the defense of any Third-Party Claim, and all reasonable fees and expenses of the Indemnifying Party’s counsel shall be borne by the Indemnifying Parties. If the Indemnifying Party is controlling the defense of a Third-Party Claim, the Indemnified Party shall have the right to employ counsel separate from counsel employed by the Indemnifying Party in any such action and to participate in (but not control) the defense of such action at its sole expense. If the Indemnifying Party assumes the defense of any such Third-Party Claim, the Indemnifying Party will select counsel to conduct the defense of such claim or proceeding, will take all steps necessary in the defense or settlement thereof and will at all times diligently and promptly pursue the resolution thereof. If the Third-Party Claim is a Special Claim, or if the Indemnifying Party does not assume the defense of such Third-Party Claim or proceeding resulting therefrom in accordance with the terms of this Section 8.4, the Indemnified Party may defend against such claim or proceeding, and shall be reimbursed by the Indemnifying Party for such reasonable costs and expenses, in the manner the Indemnified Party may deem appropriate, including settling such claim or proceeding on such terms as the Indemnified Party may deem appropriate, with the prior written consent of the Indemnifying Party (which shall not be unreasonably withheld, conditioned or delayed). All parties to this Agreement shall cooperate in the defense or prosecution of such Third Party Claim 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 Claim; provided, that no party shall 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 a party and/or its 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. If the Indemnifying Party assumed the defense of any claim or proceeding in accordance with this Section 8.4, the Indemnifying Party will be authorized to consent to a settlement of, or the entry of any judgment arising from, any such claim or proceeding.
with the prior written consent of each relevant Indemnified Party (which shall not be unreasonably withheld); provided, however, that the Indemnifying Party will pay or cause to be paid all amounts arising out of such settlement or judgment concurrent with the effectiveness thereof; provided further, that the Indemnifying Party is not authorized to encumber any of the assets of any Indemnified Party or to agree to any restriction that would not apply to any Indemnified Party or to its conduct of business; and provided further, that a condition to any such settlement is a complete release of each relevant Indemnified Party and its Affiliates, directors, officers, employees and agents with respect to the claim made.

(c) An Indemnified Party seeking indemnification in respect of, arising out of or involving a Loss or a claim or demand hereunder that does not involve a Third-Party Claim being asserted against or sought to be collected from such Indemnified Party (a "Direct Claim") shall deliver a Claim Notice in respect thereof to the Indemnifying Party with reasonable promptness after becoming aware of facts supporting such Direct Claim, and shall provide the Indemnifying Party with such information with respect thereto as the Indemnifying Party may reasonably request. The failure to deliver a Claim Notice shall not release the Indemnifying Party from any of its obligations under this Article VIII except to the extent that the Indemnifying Party is materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or liability that it may have to the Indemnified Party or otherwise than pursuant to this Article VIII. If the Indemnifying Party does not notify the Indemnified Party within 20 days following its receipt of a Claim Notice in respect of a Direct Claim that the Indemnifying Party disputes its liability (in whole or in part) to the Indemnified Party hereunder, which may consist of, for the avoidance of doubt, an objection based on the inability to determine (i) the propriety of indemnification of any or all claims contained in the Claim Notice, (ii) the accuracy of any statement of fact or Losses set forth in the Claim Notice and/or (iii) to the extent the Claim Notice seeks indemnification under Section 8.2(a) or Section 8.3(a), the fact that the claims alleged in the Claim Notice do not constitute a breach of a representation or warranty for which indemnification is available pursuant to Section 8.2(a) or Section 8.3(a), as applicable (any such notice, an “Objection Notice”), such Direct Claim specified by the Indemnified Party in such Claim Notice shall be conclusively deemed a liability of the Indemnifying Party hereunder and the Indemnifying Party shall pay the amount of such liability to the Indemnified Party on demand. If the Indemnifying Party timely disputes (in whole or in part) its liability to the Indemnified Party hereunder in accordance with the terms hereof, the Indemnifying Party and the Indemnified Party will, for a period of 30 days following delivery of the Objection Notice, negotiate in good faith to resolve the items disputed in the Objection Notice. During such 30-day period each of such parties shall promptly provide the other with such information regarding the Direct Claim as such other party may reasonably request. If the Indemnified Party and the Indemnifying Party are unable to fully resolve the items disputed in the Objection Notice during such 30-day period, the Indemnified Party and the Indemnifying Party will be entitled to initiate such proceedings and seek such remedies as may be permitted under the terms of this Agreement.

(d) Subject to Section 8.5, the indemnification required hereunder shall be made by prompt payment by the Indemnifying Party of the amount of actual Losses in connection therewith, promptly following agreement between the Indemnifying Party and the Indemnified Party of the amount of Losses incurred or if no such agreement, upon receipt of a final, non-appealable court order determining the amount of such Losses.

(e) The Indemnifying Party shall not be entitled to require that any action be made or brought against any other Person before action is brought or claim is made against it hereunder by the Indemnified Party.

(f) Notwithstanding the foregoing, following the Closing, the Buyer shall not initiate any discussions, proceedings, audits, examinations or any other contacts relating to sales and use Taxes of the Company with any Governmental Authority for a Pre-Closing Tax Period, without the consent of Sellers Representative (not to be unreasonably withheld, delayed or conditioned). Sellers Representative shall have the right to determine which Governmental Authority to initiate discussions with regarding resolution, including voluntary disclosure agreements, of outstanding sales and use Tax liability of Seller for a Pre-Closing Tax Period. The rights of the parties to control and participate in the process and defense of any such sales and use Tax matters (including with respect to settlement) shall be governed in the same manner as Third Party Claims under Section 8.4(b). For the avoidance of doubt, and notwithstanding anything else to the contrary in this Agreement, (i) Buyer shall have the right to initiate any discussions, proceedings, audits, examinations, voluntary disclosure agreements, or any other contacts relating to sales and use Taxes of On-Site Labs and DepositIQ with any Governmental Authority for any Pre-Closing Tax Period or Straddle
Period, without the consent of Sellers Representative, (ii) the Sellers Representative shall have the right to participate (at its own expense) in the process and defense of any such sales and use Tax matters and Buyer shall not consent to settlement of any such matter without the consent of the Sellers Representative (which shall not be unreasonably withheld), and (iii) nothing in this Agreement shall be construed to limit Buyer’s ability after the Closing to file Tax Returns with any Governmental Authority with respect to any sales or use Taxes of On-Site Labs, Deposit IQ, or Buyer (or any of its Affiliates) for any Tax period that is a Straddle Period or that begins after the Closing Date. No action by Buyer or any of its Affiliates that is authorized in this Section 8.4(f) shall result in any limitation on any Seller Party’s obligation to indemnify any Buyer Indemnified Party with respect to Losses for any Sales Tax Claim pursuant to this Agreement.

(g) To the extent any provision of this Section 8.4 is in conflict with or inconsistent with the provisions of Article VI, Article VI shall govern.

Section 8.5 Holdback.

(a) At the Closing, Buyer shall retain an amount equal to the Holdback Amount, which will constitute partial security for the satisfaction of the Seller Parties’ indemnity and other obligations under this Agreement. Buyer shall retain and shall have the right to subtract from the Holdback Amount (x) the amount, if any, to which Buyer is determined to be entitled pursuant to Section 2.4(f) and (y) any and all Losses for which any Buyer Indemnified Party is entitled to indemnification under this Article VIII. To the extent any portion of the Holdback Amount is available to satisfy indemnification claims under this Article VIII, the Buyer shall use the Holdback Amount to satisfy such claims prior to pursuing amounts directly from the Seller Parties. Buyer shall pay the balance of the Holdback Amount to the Company (for the benefit of the Sellers) on two release dates (each a “Release Date”) as follows:

(i) On the 12-month anniversary of the Closing Date (the “12-Month Anniversary”), Buyer shall pay to the Company (for the benefit of the Sellers) an aggregate amount equal to (A) $20,000,000, minus (B) the amount, if any, subtracted by Buyer from the Holdback Amount pursuant to Section 2.4(f), minus (C) the amount of all Losses that have been subtracted by Buyer from the Holdback Amount pursuant to Article VIII as of such date (subject to the provisions of Section 8.4), minus (D) any amounts described in Section 8.5(a)(iii) below.

(ii) On the 36-month anniversary of the Closing Date (the “36-Month Anniversary”), Buyer shall pay to the Company (for the benefit of the Sellers) an aggregate amount equal to (A) the remaining balance, if any, of the Holdback Amount, minus (B) the amount of all Losses that have been subtracted by Buyer from the Holdback Amount pursuant to Article VIII as of such date (subject to the provisions of Section 8.4) to the extent such Losses (i) were not taken into account when calculating the distribution of Holdback Amount pursuant to Section 8.5(a)(i) or (ii) were taken into account when calculating the distribution of Holdback Amount pursuant to Section 8.5(a)(i) and would have caused such distribution to be less than zero, minus (C) any amounts described in Section 8.5(a)(iii) below.

(iii) To the extent that as of the 12-Month Anniversary or the 36-Month Anniversary (1) there are claims properly and timely made by the Buyer Indemnified Parties for indemnification against the Seller Parties pursuant to Article VIII pending, (2) any Seller Party’s obligations under this Agreement has been breached or has not been performed, or (3) Buyer has determined (based on the operations of the Business prior to Closing, the Tax Returns filed with respect to Pre-Closing Tax Periods and Straddle Periods (as well as any other information provided by the Seller or otherwise available to the Buyer)) (x) that sales and use Taxes that were required to have been paid by the Company, On-Site Labs, or DepositIQ in full, Buyer shall retain from the payment of the Holdback Amount only that portion that constitutes the Claimed Losses (as any such estimated Claimed Losses may be reasonably updated by the Buyer as of any Release Date; provided, in the event of such an update, Buyer shall provide to the Sellers Representative reasonable supporting documentation in the Buyer Parties’ possession or reasonably available to the Buyer Parties) and (in the case of any unpaid sales or use Taxes described in (3) above)
the estimated amount of future Claimed Losses that would arise if such Taxes were imposed on the Buyer immediately prior to the expiration of the applicable statute of limitations, and shall release to the Company (for the benefit of the Sellers) the balance of the applicable Holdback Amount, to cover potential costs, expenses or damages to be incurred by the Buyer Indemnified Parties, as determined by Buyer in the reasonable exercise of its discretion, until such time as such claims have been dismissed, adjudicated or settled, or such breaches have been cured or compensated, or (in the case of any unpaid sales or use Taxes described in (3) above) the applicable statute of limitations with respect to such unpaid sales or use Taxes has expired, as applicable.

Section 8.6 Limits on Indemnification.

(a) Subject to Section 8.6(f), the Seller Parties shall not be liable for any claim for indemnification pursuant to Section 8.2(a) unless and until the aggregate amount of indemnifiable Losses which may be recovered from the Seller Parties equals or exceeds $1,500,000 (the “Deductible”), in which case the Seller Parties shall be liable for the amount of such Losses in excess of the Deductible, subject to the limitations set forth in this Section.

(b) Subject to Section 8.6(f), the maximum aggregate amount of indemnifiable Losses which may be recovered from the Seller Parties arising out of or relating to the causes set forth in Section 8.2(a) shall be an amount equal to the Holdback Amount (the “Cap”), which shall constitute the sole and exclusive remedy with respect to any such Losses except for (i) the rights of the parties hereto pursuant to Section 10.11 and (ii) claims grounded in fraud.

(c) Other than claims grounded in fraud or intentional misrepresentation, the amount in respect of which any Seller Owner shall be liable for indemnification under Section 8.2 (other than Section 8.2(c)) shall not exceed the gross proceeds attributable (based on the portion of the Purchase Price allocable to such Seller Owner as a result of such Seller Owner’s ownership of the Company) to such Seller Owner and its Affiliates.

(d) Other than claims grounded in fraud or intentional misrepresentation, the maximum aggregate amount of indemnifiable Losses that may be recovered from the Seller Owners arising out of or relating to the causes set forth in Section 8.2(c) as a result of a breach by a Specified Seller Owner shall be an amount equal to $50,000,000; provided, however, that this Section 8.6(b) shall not operate to limit the indemnifiable Losses which may be recovered from any Specified Seller Owner as a result of a breach of its own Significant Owner Agreement.

(e) The Seller Parties shall not be obligated to indemnify the Buyer Indemnified Parties or any other Person with respect to any Loss to the extent that a specific accrual or reserve for the amount of such Loss was taken into account in calculating the Net Adjustment Amount or if such Loss was taken into account in calculating the Revenue True-Up Amount.

(f) Notwithstanding anything to the contrary contained in this Agreement, the Deductible and the Cap shall not apply to Losses arising out of or relating to the inaccuracy or breach of any Fundamental Representation, any representation or warranty set forth in Section 3.16 relating to Taxes, or to any representation or warranty in the event of fraud or intentional misrepresentation. In addition, the Deductible shall not apply to Losses arising out of or relating to the inaccuracy or breach of the representation and warranty set forth in Section 3.7(e).

(g) No party hereto shall have any liability to any other party under this Agreement or the Ancillary Agreements or with respect to the transactions contemplated hereby or thereby for any consequential damages or punitive damages (other than (i) natural, probable and reasonably foreseeable consequential damages or (ii) consequential or punitive damages payable to a third party pursuant to a Third-Party Claim).

(h) For purposes of calculating the amount of any Loss arising from a breach of any representation or warranty subject to indemnification under Section 8.2(a), all “material,” “materially,” “in all material respects,” “Material Adverse Effect,” and other like qualifications shall be disregarded. For purposes of determining
whether there has been a breach of any such representation or warranty, all “material,” “materially,” “in all material respects,” “Material Adverse Effect,” and other like qualifications shall be respected.

(i) The parties agree to treat any amounts payable pursuant to this Article VIII as an adjustment to the purchase price for all Tax purposes to the extent permitted by Law.

(j) Each Indemnified Party shall use its commercially reasonable efforts to seek recovery under any insurance policy that would reasonably be expected to be available to reimburse any Losses. The amount of any indemnifiable Losses shall be net of any amounts actually received by the Indemnified Party under insurance policies, indemnities, reimbursement arrangements, or contracts (including with respect to any breaches thereof) pursuant to which or under which such Person or such Person’s Affiliates is a party or has rights with respect to such Losses. If the Indemnified Party receives any payment from an Indemnifying Party in respect of any Losses pursuant to this Agreement and subsequently recovers all or a part of such Losses from a third party under any insurance policy, indemnity, reimbursement arrangement, or contract, such payment from the third party shall be distributed: (i) first, to the Indemnified Party in the amount of any deductible or similar amount required to be paid by the Indemnified Party in connection with such insurance policy, indemnity, reimbursement arrangement or contract, plus reasonable attorney’s fees and other expenses incurred in connection with such recovery, (ii) second, to the Indemnifying Party the amount paid to the Indemnified Party by the Indemnifying Party in respect of such Losses, and (iii) the balance, if any, to the Indemnified Party. No payment shall be due under this Section to the Indemnifying Party to the extent that the Losses with respect to which the payment was received from the third party were determined net of insurance or other recoveries pursuant to this Section.

(k) Exclusive Remedy. The parties hereto acknowledge and agree that, following the Closing, the indemnification provisions of Article VIII shall be the sole and exclusive remedies of the parties hereto with respect to or in connection with this Agreement or the transactions contemplated hereby, including any breach of any representation or warranty in this Agreement or otherwise by any party, or any failure by any party to perform or comply with any covenant or agreement that, by its terms, was to have been performed, or complied with, under this Agreement, regardless of the applicable Law or legal theory under which such liability or obligation may be sought to be imposed, whether sounding in contract, tort or equity, except (i) the rights of the parties hereto pursuant to Section 10.11, (ii) claims grounded in fraud, and (iii) claims based on the purchase price adjustment provisions included in Article II. Notwithstanding anything contained in this Agreement to the contrary, the Indemnifying Party shall not be liable for any Losses to an Indemnified Party, including by means of indemnification pursuant to Section 8.2 or Section 8.3, to the extent such liability or obligation is directly attributable to any willful misconduct of any Indemnified Party. The provisions of this Section 8.6, together with the provisions of Section 8.1, were specifically bargained-for between Buyer and the Sellers and were taken into account by the Sellers in arriving at the Purchase Price and agreeing to enter into the transactions contemplated by this Agreement. The Sellers have specifically relied upon the provisions of Section 8.1 and Section 8.6, in agreeing to the Purchase Price and in agreeing to provide the specific representations, warranties, covenants and indemnities set forth herein.

(l) No Duplication. This Agreement shall not permit duplicative indemnification in respect of the same Losses or any component thereof if more than one provision of this Agreement gives rise to an indemnification obligation with respect to the same Losses.

ARTICLE IX
TERMINATION

Section 9.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Parent (on behalf of the Buyer Parties), on the one hand, and the Sellers Representative (on behalf of the Seller Parties), on the other;
(b) (i) by the Sellers Representative (on behalf of the Seller Parties), if the Seller Parties are not then in material breach of their obligations under this Agreement and any Buyer Party breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2, (B) cannot be or has not been cured within 15 days following delivery to the Buyer Parties of written notice of such breach or failure to perform and (C) has not been waived by the Sellers Representative on behalf of the Seller Parties or (ii) by Parent (on behalf of the Buyer Parties), if each Buyer Party is not then in material breach of its obligations under this Agreement and any Seller Party breaches or fails to perform in any respect any of such Person’s representations, warranties or covenants contained in this Agreement and such breach or failure to perform (x) would give rise to the failure of a condition set forth in Section 7.3, (y) cannot be or has not been cured within 15 days following delivery to the Sellers Representative of written notice of such breach or failure to perform and (z) has not been waived by the Buyer Parties;

(c) (i) by the Sellers Representative (on behalf of the Seller Parties), if any of the conditions set forth in Section 7.1 or Section 7.2 shall have become incapable of being fulfilled prior to, or the Closing shall not have occurred by, the date that is 60 days after the date of this Agreement (the “Outside Date”) or (ii) by Parent (on behalf of the Buyer Parties), if any of the conditions set forth in Section 7.1 or Section 7.3 shall have become incapable of being fulfilled prior to, or the Closing shall not have occurred by, the Outside Date; provided, that if the condition set forth in Section 7.1(b) has not been satisfied on or before the Outside Date, the Outside Date shall be automatically extended until the earlier to occur of (A) the date that is 180 days after the Outside Date and (B) five Business Days following the lapse of the waiting period required by the HSR Act, as may be extended pursuant to a request for additional information or documentary material as described in 16 CFR 803.20; and provided further, that the right to terminate this Agreement pursuant to this Section 9.1(c) shall not be available if the failure of the party so requesting termination to fulfill any obligation under this Agreement shall have been the primary cause of the failure of such condition to be satisfied on or prior to such date;

(d) by either the Sellers Representative (on behalf of the Seller Parties), on the one hand, or Parent (on behalf of the Buyer Parties), on the other hand, in the event that any Governmental Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and non-appealable; provided, that the party so requesting termination shall have used its commercially reasonable efforts, in accordance with Section 5.7, to have such order, decree, ruling or other action vacated;

(e) by Parent (on behalf of the Buyer Parties), if between the date hereof and the Closing, a Material Adverse Effect has occurred with respect to the Company and its Subsidiaries; or

(f) by Parent (on behalf of the Buyer Parties), for any reason, at any time prior to 5:00 p.m. Pacific time on August 2, 2017, upon delivery of written notice (which, notwithstanding anything to the contrary herein, shall be by e-mail transmission to jake@on-site.com) to the Sellers Representative, stating the Buyer Parties’ unequivocal decision to terminate this Agreement.

The party seeking to terminate this Agreement pursuant to this Section 9.1 (other than Section 9.1(a)) shall give prompt written notice of such termination to the other party.

Section 9.2 Effect of Termination. In the event of termination of this Agreement as provided in Section 9.1, this Agreement shall forthwith become void and there shall be no liability on the part of either party except (a) for the provisions of Sections 3.23 and 4.5 relating to brokers, Section 5.6 relating to confidentiality, Section 5.9 relating to public announcements, Section 10.1 relating to fees and expenses, Section 10.4 relating to notices, Section 10.7 relating to third-party beneficiaries, Section 10.8 relating to governing law, Section 10.9 relating to submission to jurisdiction and this Section 9.2 and (b) that nothing herein shall relieve any party from liability for any breach of this Agreement or any agreement made as of the date hereof or subsequent thereto pursuant to this Agreement.

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ARTICLE X
GENERAL PROVISIONS

Section 10.1 Fees and Expenses. Except as otherwise provided herein, all fees and expenses incurred in connection with or related to this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby shall be paid by the party incurring such fees or expenses, whether or not such transactions are consummated; provided, that if the transactions contemplated hereby are consummated, Transaction Expenses shall be borne by the Sellers and paid as provided in this Agreement. In the event of termination of this Agreement, the obligation of each party to pay its own expenses will be subject to any rights of such party arising from a breach of this Agreement by the other.

Section 10.2 Amendment and Modification. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing specifically designated as an amendment hereto, signed on behalf of Parent and the Sellers Representative.

Section 10.3 Waiver. No failure or delay of either party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. Subject to Section 8.6(j), the rights and remedies of the parties hereunder are cumulative and are not exclusive of any rights or remedies which they would otherwise have hereunder. Any agreement on the part of either party to any such waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such party.

Section 10.4 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly given (a) on the date of delivery if delivered personally, or if by facsimile or e-mail, upon written confirmation of receipt by facsimile, e-mail or otherwise, (b) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice:

(i) if to the Sellers Representative, on behalf of the Seller Parties, to:

Jonathan Harrington
Facsimile: 646-619-4733
E-mail: jake@on-site.com
with a copy (which shall not constitute notice) to:

Procopio, Cory, Hargreaves & Savitch LLP
1117 California Ave., Suite 200
Palo Alto, CA 94304
Attention: Roger C. Rappoport and Dennis J. Doucette
Facsimile: (619) 744-5456
E-mail: roger.rappoport@procopio.com
dennis.doucette@procopio.com

(ii) if to the Buyer Parties, to:

RealPage, Inc.
2201 Lakeside Boulevard
Richardson, TX 75082
Attention: Chief Executive Officer
Facsimile: (972) 820-3052
Email: steve.winn@realpage.com

with copies (which shall not constitute notice) to:

RealPage, Inc.
2201 Lakeside Boulevard
Richardson, TX 75082
Attention: Chief Legal Officer
Facsimile: (972) 820-3052
Email: david.monk@realpage.com

and

Baker Botts L.L.P.
2001 Ross Avenue, Suite 700
Dallas, TX 75201
Attention: DonMcDermett and CourtneyYork
Email: don.mcdermett@bakerbotts.com;
courtney.york@bakerbotts.com

Section 10.5 Interpretation. When a reference is made in this Agreement to a Section, Article, Exhibit or Schedule such reference shall be to a Section, Article, Exhibit or Schedule of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement or in any Exhibit or Schedule are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein shall have the meaning as defined in this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word “including” and words of similar import when used in this Agreement will mean “including, without limitation,” unless otherwise specified. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to the Agreement as a whole and not to any particular provision in this Agreement. The term “or” is not exclusive. The word “will” shall be construed to have the same meaning and effect as the word “shall.” References to days mean calendar days unless otherwise specified.

Section 10.6 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto), the Ancillary Agreements and the Confidentiality Agreement constitute the entire agreement, and supersede all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings between the parties with respect to the subject matter hereof and thereof. Notwithstanding any oral agreement or course of conduct of the parties or their Representatives to the contrary, no party to this Agreement shall be under any legal obligation to enter into or complete the transactions contemplated hereby unless and until this Agreement shall have been executed and delivered by each of the parties. The parties hereto have voluntarily agreed to define their rights, liabilities and obligations respecting the sale and purchase of the Company exclusively in contract pursuant to the express terms and provisions of this Agreement; and the parties hereto expressly disclaim that they are owed any duties or are entitled to any remedies not expressly set forth in this Agreement. Furthermore, the parties hereto each hereby acknowledge that this Agreement embodies the justifiable expectations of sophisticated parties derived from arm’s-length negotiations; all parties to this Agreement specifically acknowledge that no party has any special relationship with another party that would justify any expectation beyond that of an ordinary buyer and an ordinary seller in an arm’s-length transaction. The sole and exclusive remedies for any breach of the terms and provisions of this Agreement (including any representations and warranties set forth herein, made in connection herewith or as an inducement to enter into this Agreement) or any claim or cause of action otherwise arising out of or related to the sale and purchase of the Company shall be those remedies available at law or in equity for breach of contract only (as such contractual remedies have been further limited or excluded pursuant to the express terms of this

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Agreement); and the parties hereto hereby agree that no party hereto shall have any remedies or cause of action (whether in contract or in tort) for any statements, communications, disclosures, failures to disclose, representations or warranties not set forth in this Agreement.

Section 10.7 No Third-Party Beneficiaries. Except as provided in Article VIII, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

Section 10.8 Governing Law. This Agreement and all disputes or controversies arising out of or relating to this Agreement or the transactions contemplated hereby shall be governed by, and construed in accordance with, the internal laws of the State of Delaware, without regard to the laws of any other jurisdiction that might be applied because of the conflicts of laws principles of the State of Delaware.

Section 10.9 Submission to Jurisdiction. Each of the parties irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by any party or its successors or assigns against the other party shall be brought and determined in the Court of Chancery of the State of Delaware, provided, that if jurisdiction is not then available in the Court of Chancery of the State of Delaware, then any such legal action or proceeding may be brought in any federal court located in the State of Delaware or any other Delaware state court, and each of the parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby. Each of the parties agrees not to commence any action, suit or proceeding relating thereto except in the courts described above in Delaware, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in Delaware as described herein. Each of the parties further agrees that notice as provided herein shall constitute sufficient service of process and the parties further waive any argument that such service is insufficient. Each of the parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in Delaware as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the suit, action or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Notwithstanding the foregoing, the parties agree that disputes with respect to the matters referenced in Section 2.4 shall be resolved by the Independent Accounting Firm as provided therein.

Section 10.10 Assignment; Successors. Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise, by either party without the prior written consent of the other party, and any such assignment without such prior written consent shall be null and void; provided, however, the Buyer may assign its rights, interests and obligations under this Agreement to any Affiliate of the Buyer without the prior consent of the Sellers Representative; provided further, that no assignment shall limit the assignor’s obligations hereunder. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 10.11 Enforcement. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Court of Chancery of the State of Delaware, provided, that if jurisdiction is not then available in the Court of Chancery of the State of Delaware, then in any state or federal court located in the State of Delaware, this being in addition to any other remedy to which such party is entitled at law or in equity. Each of the parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security as a prerequisite to obtaining equitable relief.
Section 10.12 Currency. All references to “dollars” or “$” or “US$” in this Agreement or any Ancillary Agreement refer to United States dollars, which is the currency used for all purposes in this Agreement and any Ancillary Agreement.

Section 10.13 Severability. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable Law. In case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such a determination, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a reasonably acceptable manner so that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

Section 10.14 Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 10.15 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

Section 10.16 Facsimile or .pdf Signature. This Agreement may be executed by facsimile or .pdf signature and a facsimile or .pdf signature shall constitute an original for all purposes.

Section 10.17 Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

Section 10.18 No Presumption Against Drafting Party. Each Buyer Party and each Seller Party acknowledges that each party to this Agreement has been represented by legal counsel (or has had the opportunity to be represented by legal counsel, and decided not to engage legal counsel) in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived.

Section 10.19 Attorney-Client Matters.

(a) Each Seller Party acknowledges and agrees that Procopio has represented only the Sellers in connection with the transactions contemplated by this Agreement and that Procopio has not represented the interests of any Seller Owner.

(b) Parent, on its own behalf and on behalf of the Buyer Indemnified Parties, agrees that, following the Closing, Procopio may serve as counsel to any of the Seller Parties, the Sellers Representative and/or their respective Affiliates, in connection with any and all matters, to the extent related to this Agreement and the transactions contemplated hereby, including any litigation, claim or obligation arising out of or relating to this Agreement or the transactions contemplated hereby, notwithstanding the representation by Procopio of the Sellers prior to the Closing Date. Parent (on behalf of itself and its Affiliates) hereby (i) waives any claim it has or may have that Procopio has a conflict of interest or is otherwise prohibited from engaging in any such representation and (ii) agrees that, in the event that a dispute arises after the Closing between any Buyer Party, or any indemnitee under this Agreement, or any Affiliate of Buyer, on the one hand, and any of the Seller Parties, the Sellers Representative or any of their Affiliates,
on the other hand, Procopio may represent any of the Seller Parties, the Sellers Representative or any of their Affiliates in such dispute even though the interests of such Person(s) may be directly adverse to the Buyer Parties or Buyer’s Affiliates.

(c) Parent (on behalf of itself and its Affiliates) also further agree that, as to all confidential communications among Procopio and the Seller Parties and the Sellers Representative, or such parties' Affiliates and Representatives, that relate in any way to the transactions contemplated by this Agreement (including, without limitation, the negotiation, documentation and consummation of the transactions contemplated by this Agreement or any pre-Closing dispute arising under this Agreement), the attorney-client privilege and the expectation of client confidence belongs to the Seller Parties and the Sellers Representative, as applicable, and may be controlled by the Seller Parties and the Sellers Representative, as applicable, and shall not pass to or be claimed by the Buyer Parties or their Affiliates; provided, however, that notwithstanding the foregoing, Procopio shall not disclose any such attorney-client communications to any third parties (other than representatives, accountants and advisors of the Seller Parties or Sellers Representative who agree to maintain the confidence of such attorney-client communications).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

REALPAGE, INC.

By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer

BUYER:

RP NEWCO XXII LLC

By: RealPage, Inc., its sole member

By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer
Sellers Representative:
Jonathan Harrington, solely in his capacity as the Sellers Representative

By: /s/ Jonathan T. Harrington
Jonathan T. Harrington

Sellers:

ON-SITE MANAGER, INC.

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Chief Executive Officer

RELOCATION SERVICES, INC.

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Chief Executive Officer and President

ON-SITE DATA, INC.

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Chief Executive Officer and President
On-Site Plant (solely for purposes of Sections 5.11 and 7.3(g) hereof):

ON-SITE PLANT LP

By: /s/ Thomas E. Harrington
Name: Thomas E. Harrington, President
Title: Harprop, Inc., Gen. Part.

Seller Owners:

/s/ Thomas E. Harrington
Thomas E. Harrington

/s/ Jonathan T. Harrington
Jonathan T. Harrington

HARRINGTON FAMILY TRUST FBO JONATHAN T. HARRINGTON

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Trustee

HARRINGTON FAMILY TRUST FBO ROBIN C. QUILL

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Trustee

HARRINGTON FAMILY TRUST FBO KATHERINE M. HARRINGTON

By: /s/ Jonathan T. Harrington
Name: Jonathan T. Harrington
Title: Trustee

/s/ Katherine M. Harrington
Katherine M. Harrington

/s/ Robin Quill
Robin Quill
/s/ Scott Jones
Scott Jones

/s/ Monte Jones
Monte Jones

/s/ Kathy Arsenault
Kathy Arsenault
AMENDMENT NO. 1
TO
ASSET PURCHASE AGREEMENT

This Amendment No. 1 to Asset Purchase Agreement (this “Amendment”), dated as of May 11, 2017, is entered into by and among the parties named on the signature pages hereto (the “Parties”).

RECITALS

WHEREAS, the Parties previously entered into that certain Asset Purchase Agreement dated as of February 27, 2017 (the “Agreement”) providing for the transactions contemplated therein; and

WHEREAS, the Parties wish to amend the Agreement in the manner hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Effective immediately, Section 8.1(c) of the Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof:

“(c) by either Parent (on behalf of itself and the Buyer Parties) or the Representative (on behalf of the Sellers and Seller Owners) if the Closing shall not have occurred on or before December 31, 2017 (the “Termination Date”); provided, however, that the right to terminate this Agreement under this Section 8.1(c) shall not be available to any Party if the breach or failure to perform by such Party of its obligations under this Agreement, or the failure to act in good faith, is the principal cause of, or resulted in, the failure of the transactions contemplated herein to be consummated on or before such date;”

Section 2. As amended hereby, the Agreement is hereby ratified, confirmed and approved in all respects.

Section 3. This Amendment may be executed and delivered by facsimile or other electronic means and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature pages follow.]
IN WITNESS WHEREOF, each of the Parties has signed this Amendment, or has caused this Amendment to be signed by its duly authorized officer, as of the date first above written.

**PARENT:**
REALPAGE, INC.
By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer

**BUYER:**
RP NEWCO XX LLC
By: RealPage, Inc., its sole member
By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer
SELLERS:
THE RAINMAKER GROUP HOLDINGS, INC.

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP VENTURES, LLC

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: Chief Executive Officer

THE RAINMAKER GROUP REAL ESTATE, LLC

By: The Rainmaker Group Holdings, Inc., its Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP - RENT JUNGLE LLC

By: The Rainmaker Group Holdings, Inc., its Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP DATA, LLC
By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

SELLER OWNERS:

/s/ Bruce A. Barfield
Bruce A. Barfield

/s/ Tamara Farley
Tamara Farley

THE BRUCE ALAN BARFIELD TRUST, dated as of December 27, 2011

By: /s/ Douglas P. Krevolin
Name: Douglas P. Krevolin
Title: Trustee

THE TAMARA TANNER FARLEY TRUST, dated as of December 27, 2011

By: /s/ Douglas P. Krevolin
Name: Douglas P. Krevolin
Title: Trustee
/s/ John C. Alexander  
John C. Alexander

**REPRESENTATIVE:**

/s/ Bruce A. Barfield  
Bruce A. Barfield, in his capacity as Representative

**HOSPITALITY SUBSIDIARIES:**

THE RAINMAKER GROUP LAS VEGAS, LLC

By: The Rainmaker Group Holdings, Inc., its Manager

By: /s/ Bruce A. Barfield  
Name: Bruce A. Barfield  
Title: President

THE RAINMAKER GROUP REVCASTER, LLC

By: The Rainmaker Group Holdings, Inc., its Manager

By: /s/ Bruce A. Barfield  
Name: Bruce A. Barfield  
Title: President

RAINMAKER GROUP ASIA PACIFIC, PTE. LTD.
By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: Director

By: /s/ Tamara T. Farley
Name: Tamara T. Farley
Title: Director
AMENDMENT NO. 2
TO
ASSET PURCHASE AGREEMENT

This Amendment No. 2 to Asset Purchase Agreement (this “Amendment”), dated as of August 1, 2017, is entered into by and among the parties named on the signature pages hereto (the “Parties”).

RECITALS

WHEREAS, the Parties previously entered into that certain Asset Purchase Agreement dated as of February 27, 2017 (the “Agreement”) providing for the transactions contemplated therein;
WHEREAS, the parties previously entered into Amendment No. 1 to Asset Purchase Agreement on May 11, 2017; and
WHEREAS, the Parties wish to amend the Agreement in the manner hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Effective immediately, Section 8.1(c) of the Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof:

“(c)(i) by either Parent (on behalf of itself and the Buyer Parties) or the Representative (on behalf of the Sellers and Seller Owners) if the Closing shall not have occurred on or before December 31, 2017 (the “Termination Date”); provided, however, that if the U.S. Department of Justice files a complaint prior to December 31, 2017 seeking to enjoin or prevent the Closing, or otherwise to declare the Transaction impermissible under the Antitrust Laws (“Complaint”), within 10 days of the filing of any such Complaint, Parent, after consultation with counsel regarding the likelihood of a successful outcome of the litigation, may unilaterally cause the Termination Date to be extended by notifying the Representative that Parent elects to extend the Termination Date, and upon such notice the Termination Date shall be extended (“Litigation Extension”) by six months or the earlier of (i) such date as any court of competent jurisdiction in the United States shall have issued a final non-appealable order or taken any other action permanently restraining, enjoining or otherwise prohibiting the Closing, or otherwise declaring the Transaction impermissible under the Antitrust Laws; or (ii) such date as Parent notifies the Representative that it elects to terminate such Litigation Extension; provided further, however that if Parent does not trigger the Litigation Extension, either Party shall have the right to terminate this Agreement within not less than 20 days after the filing of any such Complaint by notice to the other Party, notwithstanding any other provision of this Agreement to the contrary; provided further, however that the right to terminate this Agreement under this Section 8.1(c) shall not be available to any Party if the breach or failure to perform by such Party of its obligations under this Agreement, or the failure to act in good faith, is the principal cause of, or resulted in, the failure of the transactions contemplated herein to be consummated on or before such date;

(c)(ii) In the event the Termination Date is extended by Parent pursuant Section 8.1(c)(i), Parent shall reimburse one-half of all Sellers’ antitrust and/or litigation counsel’s fees and expenses, expert consultant fees and expenses, and any litigation-related vendor fees and expenses reasonably related to the defense of the Agreement in respect of the Complaint from the date of the Litigation Extension to the Termination Date. Parent shall effect such reimbursement as promptly as possible following receipt of reasonable supporting documentation with respect to such fees and expenses.”

Section 2. As amended hereby, the Agreement is hereby ratified, confirmed and approved in all respects.

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Section 3. This Amendment may be executed and delivered by facsimile or other electronic means and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature pages follow.]
IN WITNESS WHEREOF, each of the Parties has signed this Amendment, or has caused this Amendment to be signed by its duly authorized officer, as of the date first above written.

**PARENT:**
REALPAGE, INC.

By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer

**BUYER:**
RP NEWCO XX LLC

By: RealPage, Inc., its sole member
By: /s/ Stephen T. Winn
Name: Stephen T. Winn
Title: Chief Executive Officer
SELLERS:
THE RAINMAKER GROUP HOLDINGS, INC.

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP VENTURES, LLC

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: Chief Executive Officer

THE RAINMAKER GROUP REAL ESTATE, LLC

By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP - RENT JUNGLE LLC

By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President
THE RAINMAKER GROUP DATA, LLC

By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

SELLER OWNERS:

/s/ Bruce A. Barfield
Bruce A. Barfield

/s/ Tamara Farley
Tamara Farley

THE BRUCE ALAN BARFIELD TRUST, dated as of December 27, 2011

By: /s/ Douglas P. Krevolin
Name: Douglas P. Krevolin
Title: Trustee

THE TAMARA TANNER FARLEY TRUST, dated as of December 27, 2011

By: /s/ Douglas P. Krevolin
Name: Douglas P. Krevolin
Title: Trustee

/s/ John C. Alexander

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REPRESENTATIVE:

/s/ Bruce A. Barfield

Bruce A. Barfield, in his capacity as Representative

HOSPITALITY SUBSIDIARIES:

THE RAINMAKER GROUP LAS VEGAS, LLC

By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

THE RAINMAKER GROUP REVCASTER, LLC

By: The Rainmaker Group Holdings, Inc., it Manager

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: President

RAINMAKER GROUP ASIA PACIFIC, PTE. LTD.

By: /s/ Bruce A. Barfield
Name: Bruce A. Barfield
Title: Director

By: /s/ Tamara T. Farley

Name: Tamara T. Farley
Title: Director
SIXTH AMENDMENT TO CREDIT AGREEMENT

This SIXTH AMENDMENT TO CREDIT AGREEMENT (this “Amendment”) is dated as of August 14, 2017, and effective in accordance with Section 3 below, by and among REALPAGE, INC., a Delaware corporation (the “Borrower”), certain subsidiaries of the Borrower party hereto, certain 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 certain amendments to the Credit 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 Sixth Amendment Effective Date (as defined below) and subject to the terms and conditions set forth herein and in reliance upon representations and warranties set forth herein, the parties hereto agree that the Credit Agreement is amended as follows:

(a) The definition of “Delayed Draw Funding Deadline” set forth in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety as follows:

“Delayed Draw Funding Deadline” means December 31, 2017."

(b) Section 5.3(b) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(b) Delivered Draw Ticking Fees. The Borrower shall pay to the Administrative Agent, for the account of each Term Loan Lender with a Delayed Draw Term Loan Commitment, non-refundable ticking fees (each, a “Delayed Draw Ticking Fee”) (i) from and including June 1, 2017 to the earlier to occur of (A) the Delayed Draw Funding Date and (B) the Delayed Draw Funding Deadline (which shall (x) in the case of the Delayed Draw Funding Date, exclude the Delayed Draw Funding Date and (y) in the case of the Delayed Draw Funding Deadline, include the Delayed Draw Funding Deadline), in each case, at a rate per annum equal to the Applicable Margin on the Delayed Draw Term Loan Commitment. Each Delayed Draw Ticking Fee shall be payable in arrears, to the extent that the Delayed Draw Funding Date shall not have occurred on or prior to such date, on (i) August 31, 2017, (ii) September 30, 2017 and (iii) December 31, 2017 (in each case, such accrued amount shall include such date). Each Delayed Draw Ticking Fee shall be distributed by the Administrative Agent to each Term Loan Lender pro rata in accordance with such Term Loan Lender’s respective Delayed Draw Term Loan Commitment (as in effect immediately prior to the payment date for such Delayed Draw Ticking Fee)."

Section 3. 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 “Sixth Amendment Effective Date”):

1
(a) The Administrative Agent’s receipt of this Amendment, duly executed by each of the Credit Parties, the Administrative Agent, and the Required Lenders.

(b) Payment of all fees and expenses of the Administrative Agent, and in the case of expenses, to the extent invoiced at least two (2) Business Days prior to the Sixth Amendment Effective Date (except as otherwise reasonably agreed to by the Borrower), required to be paid on the Sixth Amendment Effective Date.

(c) The representations and warranties in Section 4 of this Amendment shall be true and correct as of the Sixth Amendment Effective Date.

For purposes of determining compliance with the conditions specified in this Section 3, 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 Sixth Amendment Effective Date specifying its objection thereto.

Section 4. 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, 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 5. Effect of this Amendment. On and after the Sixth 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 6. 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 7. 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 8. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

Section 9. 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 10. 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 11. Nature of Agreement. For purposes of determining withholding Taxes imposed under FATCA from and after the Sixth 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
VELOCITY UTILITY SOLUTIONS LLC
LEASESTAR LLC
RP NEWCO XV LLC
RP AXIOMETRICS LLC
RP AUM 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

NWP SERVICES CORPORATION

By: /s/ W. Bryan Hill
Name: W. Bryan Hill
Title: Vice President, Chief Financial Officer and Treasurer

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
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

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
FIFTH THIRD BANK, as Lender

By: /s/ Glen Mastey
Name: Glen Mastey
Title: Director

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
COMERICA BANK, as Lender

By: /s/ Charles Fell
Name: Charles Fell
Title: Vice President

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
BANK OF AMERICA, N.A., as Lender

By: /s/ Jennifer Yan
Name: Jennifer Yan
Title: Senior Vice President

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
JPMORGAN CHASE BANK, N.A., as Lender

By: /s/ Daglas Panchal
Name: Daglas Panchal
Title: Executive Director

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
CAPITAL ONE, NATIONAL ASSOCIATION, as Lender

By: /s/ Nirmal Bivek
Name: Nirmal Bivek
Title: Duly Authorized Signatory

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
MORGAN STANLEY SENIOR FUNDING, INC.,
as Lender

By: /s/ John Ragusa
Name: John Ragusa
Title: Authorized Signatory

RealPage, Inc.
Sixth Amendment to Credit Agreement
Signature Page
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 September 30, 2017 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: November 6, 2017

/s/ Stephen T. Winn
Stephen T. Winn
Chairman of the Board of Directors, Chief Executive Officer,
President and Director
I, W. Bryan Hill, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ending September 30, 2017 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: November 6, 2017

/s/ W. Bryan Hill

W. Bryan Hill
Executive Vice President, Chief Financial Officer and Treasurer
In connection with the Quarterly Report of RealPage, Inc. (the “Company”) on Form 10-Q for the period ending September 30, 2017 (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: November 6, 2017

/s/ 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.
In connection with the Quarterly Report of RealPage, Inc. (the “Company”) on Form 10-Q for the period ending September 30, 2017 (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: November 6, 2017

/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.